

# As Introduced

**128th General Assembly  
Regular Session  
2009-2010**

**H. B. No. 395**

**Representatives Bacon, Harwood**

**Cosponsors: Representatives Combs, Murray, Domenick, Evans,  
Williams, B., Grossman, DeGeeter, Book, Fende, Mecklenborg, Letson,  
Stebelton**

—

## **A B I L L**

To amend sections 141.07, 2101.01, 2101.02, 2101.021,	1
2101.03, 2101.04, 2101.06, 2101.07, 2101.08,	2
2101.09, 2101.10, 2101.11, 2101.13, 2101.15,	3
2101.16, 2101.162, 2101.19, 2101.20, 2101.22,	4
2101.23, 2101.24, 2101.27, 2101.30, 2101.34,	5
2101.38, 2101.41, 2101.43, 2103.01, 2105.051,	6
2105.06, 2105.09, 2105.10, 2105.11, 2105.13,	7
2105.14, 2105.15, 2105.16, 2105.19, 2106.01,	8
2106.08, 2106.11, 2107.01, 2107.02, 2107.03,	9
2107.04, 2107.05, 2107.07, 2107.08, 2107.081,	10
2107.082, 2107.083, 2107.084, 2107.085, 2107.09,	11
2107.10, 2107.11, 2107.15, 2107.17, 2107.18,	12
2107.20, 2107.21, 2107.22, 2107.29, 2107.32,	13
2107.34, 2107.35, 2107.36, 2107.38, 2107.46,	14
2107.47, 2107.49, 2107.50, 2107.501, 2107.51,	15
2107.52, 2107.53, 2107.54, 2107.55, 2107.56,	16
2107.58, 2107.59, 2107.60, 2107.61, 2107.65,	17
2107.71, 2107.73, 2107.75, 2108.51, 2109.02,	18
2109.021, 2109.03, 2109.04, 2109.05, 2109.06,	19
2109.07, 2109.09, 2109.10, 2109.11, 2109.12,	20
2109.14, 2109.17, 2109.19, 2109.20, 2109.21,	21

2109.22, 2109.24, 2109.25, 2109.26, 2109.302,	22
2109.303, 2109.32, 2109.33, 2109.34, 2109.35,	23
2109.36, 2109.361, 2109.37, 2109.371, 2109.372,	24
2109.38, 2109.39, 2109.40, 2109.42, 2109.43,	25
2109.44, 2109.45, 2109.46, 2109.47, 2109.48,	26
2109.49, 2109.50, 2109.51, 2109.52, 2109.53,	27
2109.54, 2109.55, 2109.56, 2109.57, 2109.58,	28
2109.59, 2109.60, 2109.61, 2109.62, 2111.02,	29
2111.021, 2111.031, 2111.04, 2111.041, 2111.05,	30
2111.06, 2111.07, 2111.09, 2111.091, 2111.10,	31
2111.12, 2111.131, 2111.14, 2111.141, 2111.16,	32
2111.17, 2111.18, 2111.181, 2111.19, 2111.20,	33
2111.21, 2111.22, 2111.25, 2111.26, 2111.27,	34
2111.28, 2111.29, 2111.30, 2111.31, 2111.33,	35
2111.34, 2111.35, 2111.36, 2111.37, 2111.38,	36
2111.39, 2111.40, 2111.41, 2111.44, 2111.46,	37
2111.48, 2111.50, 2113.01, 2113.03, 2113.04,	38
2113.05, 2113.06, 2113.07, 2113.12, 2113.13,	39
2113.14, 2113.15, 2113.16, 2113.18, 2113.19,	40
2113.20, 2113.21, 2113.22, 2113.25, 2113.30,	41
2113.31, 2113.311, 2113.33, 2113.34, 2113.35,	42
2113.36, 2113.39, 2113.40, 2113.41, 2113.45,	43
2113.46, 2113.48, 2113.49, 2113.50, 2113.51,	44
2113.52, 2113.54, 2113.58, 2113.61, 2113.62,	45
2113.67, 2113.68, 2113.69, 2113.70, 2113.72,	46
2113.73, 2113.74, 2113.75, 2113.81, 2113.82,	47
2113.85, 2113.86, 2113.87, 2113.88, 2115.02,	48
2115.03, 2115.06, 2115.09, 2115.10, 2115.11,	49
2115.12, 2115.16, 2115.17, 2117.01, 2117.02,	50
2117.03, 2117.04, 2117.08, 2117.09, 2117.10,	51
2117.13, 2117.15, 2117.17, 2117.18, 2117.30,	52
2117.31, 2117.34, 2117.35, 2117.36, 2117.37,	53
2117.41, 2117.42, 2119.01, 2119.02, 2119.03,	54

2119.04, 2119.05, 2121.01, 2121.02, 2121.05,	55
2121.06, 2121.08, 2121.09, 2123.02, 2123.03,	56
2123.05, 2123.06, 2127.011, 2127.02, 2127.04,	57
2127.05, 2127.06, 2127.07, 2127.08, 2127.09,	58
2127.10, 2127.11, 2127.12, 2127.13, 2127.14,	59
2127.15, 2127.16, 2127.17, 2127.18, 2127.19,	60
2127.21, 2127.22, 2127.23, 2127.24, 2127.27,	61
2127.28, 2127.29, 2127.30, 2127.32, 2127.33,	62
2127.34, 2127.35, 2127.36, 2127.37, 2127.38,	63
2127.39, 2127.40, 2127.41, 2127.42, 2127.43,	64
2129.02, 2129.05, 2129.08, 2129.11, 2129.13,	65
2129.14, 2129.15, 2129.17, 2129.18, 2129.19,	66
2129.23, 2129.25, 2129.26, 2129.28, 2129.29,	67
2129.30, 2131.08, 2131.11, 2133.04, 2133.05,	68
2133.06, 2133.08, 2133.09, 3101.02, 3101.03,	69
3101.10, 3101.13, 3101.14, 3313.85, and 5111.113;	70
to enact new sections 2113.17 and 2113.26; and to	71
repeal sections 2101.36, 2101.37, 2113.02,	72
2113.17, 2113.24, 2113.26, 2113.27, 2113.28,	73
2113.29, 2113.57, and 2113.63 of the Revised Code	74
to make changes relative to the Probate Code and	75
the marriage license law.	76

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

<b>Section 1.</b> That sections 141.07, 2101.01, 2101.02, 2101.021,	77
2101.03, 2101.04, 2101.06, 2101.07, 2101.08, 2101.09, 2101.10,	78
2101.11, 2101.13, 2101.15, 2101.16, 2101.162, 2101.19, 2101.20,	79
2101.22, 2101.23, 2101.24, 2101.27, 2101.30, 2101.34, 2101.38,	80
2101.41, 2101.43, 2103.01, 2105.051, 2105.06, 2105.09, 2105.10,	81
2105.11, 2105.13, 2105.14, 2105.15, 2105.16, 2105.19, 2106.01,	82
2106.08, 2106.11, 2107.01, 2107.02, 2107.03, 2107.04, 2107.05,	83
2107.07, 2107.08, 2107.081, 2107.082, 2107.083, 2107.084,	84

2107.085, 2107.09, 2107.10, 2107.11, 2107.15, 2107.17, 2107.18,	85
2107.20, 2107.21, 2107.22, 2107.29, 2107.32, 2107.34, 2107.35,	86
2107.36, 2107.38, 2107.46, 2107.47, 2107.49, 2107.50, 2107.501,	87
2107.51, 2107.52, 2107.53, 2107.54, 2107.55, 2107.56, 2107.58,	88
2107.59, 2107.60, 2107.61, 2107.65, 2107.71, 2107.73, 2107.75,	89
2108.51, 2109.02, 2109.021, 2109.03, 2109.04, 2109.05, 2109.06,	90
2109.07, 2109.09, 2109.10, 2109.11, 2109.12, 2109.14, 2109.17,	91
2109.19, 2109.20, 2109.21, 2109.22, 2109.24, 2109.25, 2109.26,	92
2109.302, 2109.303, 2109.32, 2109.33, 2109.34, 2109.35, 2109.36,	93
2109.361, 2109.37, 2109.371, 2109.372, 2109.38, 2109.39, 2109.40,	94
2109.42, 2109.43, 2109.44, 2109.45, 2109.46, 2109.47, 2109.48,	95
2109.49, 2109.50, 2109.51, 2109.52, 2109.53, 2109.54, 2109.55,	96
2109.56, 2109.57, 2109.58, 2109.59, 2109.60, 2109.61, 2109.62,	97
2111.02, 2111.021, 2111.031, 2111.04, 2111.041, 2111.05, 2111.06,	98
2111.07, 2111.09, 2111.091, 2111.10, 2111.12, 2111.131, 2111.14,	99
2111.141, 2111.16, 2111.17, 2111.18, 2111.181, 2111.19, 2111.20,	100
2111.21, 2111.22, 2111.25, 2111.26, 2111.27, 2111.28, 2111.29,	101
2111.30, 2111.31, 2111.33, 2111.34, 2111.35, 2111.36, 2111.37,	102
2111.38, 2111.39, 2111.40, 2111.41, 2111.44, 2111.46, 2111.48,	103
2111.50, 2113.01, 2113.03, 2113.04, 2113.05, 2113.06, 2113.07,	104
2113.12, 2113.13, 2113.14, 2113.15, 2113.16, 2113.18, 2113.19,	105
2113.20, 2113.21, 2113.22, 2113.25, 2113.30, 2113.31, 2113.311,	106
2113.33, 2113.34, 2113.35, 2113.36, 2113.39, 2113.40, 2113.41,	107
2113.45, 2113.46, 2113.48, 2113.49, 2113.50, 2113.51, 2113.52,	108
2113.54, 2113.58, 2113.61, 2113.62, 2113.67, 2113.68, 2113.69,	109
2113.70, 2113.72, 2113.73, 2113.74, 2113.75, 2113.81, 2113.82,	110
2113.85, 2113.86, 2113.87, 2113.88, 2115.02, 2115.03, 2115.06,	111
2115.09, 2115.10, 2115.11, 2115.12, 2115.16, 2115.17, 2117.01,	112
2117.02, 2117.03, 2117.04, 2117.08, 2117.09, 2117.10, 2117.13,	113
2117.15, 2117.17, 2117.18, 2117.30, 2117.31, 2117.34, 2117.35,	114
2117.36, 2117.37, 2117.41, 2117.42, 2119.01, 2119.02, 2119.03,	115
2119.04, 2119.05, 2121.01, 2121.02, 2121.05, 2121.06, 2121.08,	116

2121.09, 2123.02, 2123.03, 2123.05, 2123.06, 2127.011, 2127.02, 117  
2127.04, 2127.05, 2127.06, 2127.07, 2127.08, 2127.09, 2127.10, 118  
2127.11, 2127.12, 2127.13, 2127.14, 2127.15, 2127.16, 2127.17, 119  
2127.18, 2127.19, 2127.21, 2127.22, 2127.23, 2127.24, 2127.27, 120  
2127.28, 2127.29, 2127.30, 2127.32, 2127.33, 2127.34, 2127.35, 121  
2127.36, 2127.37, 2127.38, 2127.39, 2127.40, 2127.41, 2127.42, 122  
2127.43, 2129.02, 2129.05, 2129.08, 2129.11, 2129.13, 2129.14, 123  
2129.15, 2129.17, 2129.18, 2129.19, 2129.23, 2129.25, 2129.26, 124  
2129.28, 2129.29, 2129.30, 2131.08, 2131.11, 2133.04, 2133.05, 125  
2133.06, 2133.08, 2133.09, 3101.02, 3101.03, 3101.10, 3101.13, 126  
3101.14, 3313.85, and 5111.113 be amended and new sections 2113.17 127  
and 2113.26 of the Revised Code be enacted to read as follows: 128  
129

**Sec. 141.07.** In addition to the annual salary and expenses 130  
provided for in sections 141.04 and 141.05 of the Revised Code, 131  
each judge of the probate court, and of the juvenile court, while 132  
holding court in a county in which the judge does not reside, by 133  
assignment of the chief justice of the supreme court under section 134  
~~2101.37~~, 2101.39, or 2151.07 of the Revised Code, and each judge 135  
of the common pleas court while holding court in a county in which 136  
the judge does not reside, by assignment of the chief justice of 137  
the supreme court under section 2701.03 of the Revised Code, or 138  
without any assignment, shall receive the actual and necessary 139  
expenses that the judge incurred while so holding court in that 140  
county, to be paid from the treasury of that county upon the 141  
warrant of the county auditor. Each judge of the court of common 142  
pleas, of the probate court, and of the juvenile court, who is 143  
assigned by the chief justice by virtue of section 2503.04 of the 144  
Revised Code, each judge of the probate court who is assigned by 145  
the chief justice by virtue of ~~sections 2101.37~~ and section 146  
2101.39 of the Revised Code, and each judge of the juvenile court 147

who is assigned by the chief justice by virtue of section 2151.07 148  
of the Revised Code, to aid in disposing of business of some 149  
county other than that in which the judge resides shall receive 150  
fifty dollars for each day of the assignment and the actual and 151  
necessary expenses that the judge incurred in holding court under 152  
the assignment, together with the judge's actual transportation 153  
expenses, to be paid from the treasury of the county to which the 154  
judge is so assigned upon the warrant of the auditor of that 155  
county. 156

**Sec. 2101.01.** (A) A probate division of the court of common 157  
pleas shall be held at the county seat in each county in an office 158  
furnished by the board of county commissioners, in which the 159  
books, records, and papers pertaining to the probate division 160  
shall be deposited and safely kept by the probate judge. The board 161  
shall provide suitable ~~cases~~ equipment or other necessary items 162  
for the safekeeping and preservation of the books, records, and 163  
papers of the court and shall furnish any ~~blankbooks, blanks~~ 164  
books, forms, and stationery, and any machines, equipment, and 165  
materials for the keeping or examining of records, that the 166  
probate judge requires in the discharge of official duties. The 167  
board also shall authorize expenditures for accountants, financial 168  
consultants, and other agents required for auditing or financial 169  
consulting by the probate division whenever the probate judge 170  
considers these services and expenditures necessary for the 171  
efficient performance of the division's duties. The probate judge 172  
shall employ and supervise all clerks, deputies, magistrates, and 173  
other employees of the probate division. The probate judge shall 174  
supervise all probate court investigators and assessors in the 175  
performance of their duties as investigators and assessors and 176  
shall employ, appoint, or designate all probate court 177  
investigators and assessors in the manner described in divisions 178  
(A)(2) and (3) of section 2101.11 of the Revised Code. 179

(B) As used in the Revised Code: 180

(1) Except as provided in division (B)(2) of this section, 181  
"probate court" means the probate division of the court of common 182  
pleas, and "probate judge" means the judge of the court of common 183  
pleas who is judge of the probate division. 184

(2) With respect to Lorain county: 185

(a) From February 9, 2009, through September 28, 2009, 186  
"probate court" means the domestic relations division of the court 187  
of common pleas, and "probate judge" means each of the judges of 188  
the court of common pleas who are judges of the domestic relations 189  
division. 190

(b) The judge of the court of common pleas, division of 191  
domestic relations, whose term begins on February 9, 2009, and 192  
successors, shall be the probate judge beginning September 29, 193  
2009, and shall be elected and designated as judge of the court of 194  
common pleas, probate division. 195

(C) Except as otherwise provided in this division, all 196  
pleadings, forms, journals, and other records filed or used in the 197  
probate division shall be entitled "In the Court of Common Pleas, 198  
Probate Division," but are not defective if entitled "In the 199  
Probate Court." In Lorain county, from February 9, 2009, through 200  
September 28, 2009, all pleadings, forms, journals, and other 201  
records filed or used in probate matters shall be entitled "In the 202  
Court of Common Pleas, Domestic Relations Division," but are not 203  
defective if entitled "In the Probate Division" or "In the Probate 204  
Court." 205

**Sec. 2101.02.** Every six years, in each county having a 206  
separate judge of the probate division of the court of common 207  
pleas, one probate judge shall be elected who is qualified as 208  
required by section 2301.01 of the Revised Code. ~~He~~ The probate 209

judge shall hold office for six years, commencing on the ninth day 210  
of February next following ~~his~~ the judge's election. 211

**Sec. 2101.021.** There shall be one additional probate judge 212  
for the probate court of Cuyahoga County. 213

~~Such~~ The additional judge shall be elected at the general 214  
election to be held in 1954 and every six years thereafter, for a 215  
term of six years commencing on the first day of January next 216  
following ~~his~~ the additional judge's election. 217

The judge elected pursuant to this section shall comply with 218  
the qualifications provided for in section 2101.02 of the Revised 219  
Code. 220

The probate judge who is senior in point of service shall be 221  
the presiding judge and shall have the care and custody of the 222  
files, papers, books and records belonging to the probate court of 223  
Cuyahoga county and shall have all the other powers and duties of 224  
the judge as provided in section 2101.11 of the Revised Code. 225

**Sec. 2101.03.** Before entering upon the discharge of ~~his~~ 226  
official duties, the probate judge shall give a bond to the state 227  
in a sum not less than five thousand dollars. ~~Such~~ The bond shall 228  
have sufficient surety, shall be approved by the board of county 229  
commissioners, or by the county auditor and county recorder in the 230  
absence from the county of two of the members of the board, and 231  
shall be conditioned that ~~such~~ the judge will faithfully pay over 232  
all moneys received by ~~him~~ the judge in ~~his~~ the judge's official 233  
capacity, enter and record the orders, judgments, and proceedings 234  
of the court, and faithfully and impartially perform all the 235  
duties of ~~his~~ the judge's office. ~~Such~~ The bond, with the oath of 236  
office required by sections 3.22 and 3.23 of the Revised Code 237  
indorsed ~~thereon~~ on it, shall be deposited with the county 238  
treasurer and kept in ~~his~~ the treasurer's office. As the state of 239



business in ~~his~~ the probate judge's office renders it necessary, 240  
the board may require the probate judge to give additional bond. 241

**Sec. 2101.04.** The ~~several~~ judge or judges of the probate 242  
court shall make rules regulating the practice and conducting the 243  
business of the court, ~~which they~~ and the judge or judges shall 244  
submit those rules to the supreme court. In order to maintain 245  
regularity and uniformity in the proceedings of all the probate 246  
courts, the supreme court may alter and amend ~~such~~ the rules 247  
submitted by the judge or judges of a probate court and make other 248  
rules. 249

**Sec. 2101.06.** The probate judge, upon the motion of a party 250  
or ~~his~~ the judge's own motion, may appoint a special master 251  
commissioner in any matter pending before ~~such~~ the judge. ~~Such~~ The 252  
commissioner shall be an attorney at law, and shall be sworn 253  
faithfully to discharge ~~his~~ the commissioner's duties. When 254  
requested by the probate judge, ~~such~~ the commissioner shall 255  
execute a bond to the state in ~~such~~ the sum ~~as~~ that the court 256  
directs, with surety approved by the court, and conditioned that 257  
~~such~~ the commissioner ~~will~~ shall faithfully discharge ~~his~~ the 258  
commissioner's duties and pay over all money received by ~~him~~ the 259  
commissioner in that capacity. ~~Such~~ The bond shall be for the 260  
benefit of anyone aggrieved and shall be filed in the probate 261  
court. 262

~~Such~~ The commissioner shall take the testimony and report 263  
~~such~~ the testimony to the court with ~~his~~ the commissioner's 264  
conclusions on the law and the facts involved ~~therein, which.~~ The 265  
report may be excepted to by the parties, and confirmed, modified, 266  
or set aside by the court. 267

**Sec. 2101.07.** A special master commissioner of the probate 268  
court may administer all oaths required in the discharge of ~~his~~ 269

the commissioner's duties, may summon and enforce the attendance 270  
of witnesses, may compel the production of books and papers, and 271  
may grant adjournments the same as the court, and, when the court 272  
directs, ~~such~~ the commissioner shall require the witnesses 273  
severally to subscribe ~~their~~ the witnesses' testimony. 274

All process and orders issued by ~~such~~ the commissioner, shall 275  
be directed to the sheriff ~~and~~, shall be served, and return 276  
~~thereof~~ of the process and orders shall be made, as if issued by 277  
the probate judge. 278

The court shall allow ~~such~~ the commissioner ~~such~~ those fees 279  
~~as~~ that are allowed to other officers for similar services, ~~which~~ 280  
and the court shall tax those fees ~~shall be taxed~~ with the costs. 281

**Sec. 2101.08.** The probate judge may appoint a ~~stenographic~~ 282  
~~reporter~~ court reporters and fix ~~his~~ their compensation in the 283  
manner provided for the court of common pleas in sections 2301.18 284  
to 2301.26, ~~inclusive~~, of the Revised Code. 285

**Sec. 2101.09.** When required by the probate judge, sheriffs, 286  
coroners, and constables shall attend ~~his~~ the judge's court and 287  
shall serve and return process directed and delivered to them by 288  
~~such~~ the judge. No ~~such~~ officer of that type shall neglect or 289  
refuse to serve and return ~~such~~ any process as required by this 290  
section. If ~~such~~ an officer does neglect or refuse to serve and 291  
return ~~such~~ process as required by this section, the judge shall 292  
issue a summons specifying the cause for amercement, directed to 293  
the officer, ~~therein~~ named in the summons, commanding ~~him~~ the 294  
named officer to summon the officer guilty of ~~such~~ the misconduct 295  
to appear within two days after the service of summons and show 296  
cause why ~~he~~ the latter officer should not be amerced. In addition 297  
to a fine, as provided by section 2101.99 of the Revised Code, 298  
that is to be paid into the county treasury, ~~such~~ the officer and 299

~~his~~ the officer's sureties shall be liable upon ~~his~~ the officer's 300  
official bond for damages sustained by any person by reason of 301  
~~such~~ the officer's misconduct. 302

**Sec. 2101.10.** No sheriff, coroner, or constable shall refuse 303  
to pay moneys, collected by ~~him~~, that officer to the probate judge 304  
or other person, when so directed by the judge. For refusal to pay 305  
over moneys collected, ~~such~~ the officer shall be summoned as 306  
provided in section 2101.09 of the Revised Code and amerced for 307  
the use of the parties interested, in the amount required to be 308  
collected by ~~such~~ the process, with ten per cent ~~thereon~~ on the 309  
amount to be collected. The judge may enforce the collection of 310  
~~such~~ the amercement by execution or other process, by imprisonment 311  
as for contempt of court, or both. The delinquent officer and ~~his~~ 312  
the officer's sureties shall also be liable on ~~his~~ the officer's 313  
official bond for the amount of the amercement at the suit of the 314  
person interested. 315

**Sec. 2101.11.** (A)(1) The probate judge shall have the care 316  
and custody of the files, papers, books, and records belonging to 317  
the probate court. The probate judge is authorized to perform the 318  
duties of clerk of the judge's court. The probate judge may 319  
appoint deputy clerks, ~~stenographers~~ court reporters, a bailiff, 320  
and any other necessary employees, each of whom shall take an oath 321  
of office before entering upon the duties of the employee's 322  
appointment and, when so qualified, may perform the duties 323  
appertaining to the office of clerk of the court. 324

(2)(a) The probate judge shall provide for one or more 325  
probate court investigators to perform the duties that are 326  
established for a probate court investigator by the Revised Code 327  
or the probate judge. The probate judge may provide for an 328  
investigator in any of the following manners, as the court 329  
determines is appropriate: 330

(i) By appointing a person as a full-time or part-time 331  
employee of the probate court to serve as investigator, or by 332  
designating a current full-time or part-time employee of the 333  
probate court to serve as investigator; 334

(ii) By contracting with a person to serve and be compensated 335  
as investigator only when needed by the probate court, as 336  
determined by the court, and by designating that person as a 337  
probate court investigator during the times when the person is 338  
performing the duties of an investigator for the court; 339

(iii) By entering into an agreement with another department 340  
or agency of the county, including, but not limited to, the 341  
sheriff's department or the county department of job and family 342  
services, pursuant to which an employee of the other department or 343  
agency will serve and perform the duties of investigator for the 344  
court, upon request of the probate judge, and designating that 345  
employee as a probate court investigator during the times when the 346  
person is performing the duties of an investigator for the court. 347

(b) Each person appointed or otherwise designated as a 348  
probate court investigator shall take an oath of office before 349  
entering upon the duties of the person's appointment. When so 350  
qualified, an investigator may perform the duties that are 351  
established for a probate court investigator by the Revised Code 352  
or the probate judge. 353

(c) Except as otherwise provided in this division, a probate 354  
court investigator shall hold at least a bachelor's degree in 355  
social work, psychology, education, special education, or a 356  
related human services field. A probate judge may waive the 357  
education requirement of this division for a person the judge 358  
appoints or otherwise designates as a probate court investigator 359  
if the judge determines that the person has experience in family 360  
services work that is equivalent to the required education. 361

(d) Within one year after appointment or designation, a 362  
probate court investigator shall attend an orientation course of 363  
at least six hours, and each calendar year after the calendar year 364  
of appointment or designation, a probate court investigator shall 365  
satisfactorily complete at least six hours of continuing 366  
education. 367

(e) For purposes of divisions (A)(4), (B), and (C) of this 368  
section, a person designated as a probate court investigator under 369  
division (A)(2)(a)(ii) or (iii) of this section shall be 370  
considered an appointee of the probate court at any time that the 371  
person is performing the duties established under the Revised Code 372  
or by the probate judge for a probate court investigator. 373

(3)(a) The probate judge may provide for one or more persons 374  
to perform the duties of an assessor under sections 3107.031, 375  
3107.032, 3107.082, 3107.09, 3107.101, and 3107.12 of the Revised 376  
Code or may enter into agreements with public children services 377  
agencies, private child placing agencies, or private noncustodial 378  
agencies under which the agency provides for one or more persons 379  
to perform the duties of an assessor. A probate judge who provides 380  
for an assessor shall do so in either of the following manners, as 381  
the judge considers appropriate: 382

(i) By appointing a person as a full-time or part-time 383  
employee of the probate court to serve as assessor, or by 384  
designating a current full-time or part-time employee of the 385  
probate court to serve as assessor; 386

(ii) By contracting with a person to serve and be compensated 387  
as assessor only when needed by the probate court, as determined 388  
by the court, and by designating that person as an assessor during 389  
the times when the person is performing the duties of an assessor 390  
for the court. 391

(b) Each person appointed or designated as a probate court 392

assessor shall take an oath of office before entering on the 393  
duties of the person's appointment. 394

(c) A probate court assessor must meet the qualifications for 395  
an assessor established by section 3107.014 of the Revised Code. 396

(d) A probate court assessor shall perform additional duties, 397  
including duties of an investigator under division (A)(2) of this 398  
section, when the probate judge assigns additional duties to the 399  
assessor. 400

(e) For purposes of divisions (A)(4), (B), and (C) of this 401  
section, a person designated as a probate court assessor shall be 402  
considered an appointee of the probate court at any time that the 403  
person is performing assessor duties. 404

(4) Each appointee of the probate judge may administer oaths 405  
in all cases when necessary, in the discharge of official duties. 406

(B)(1)(a) Subject to the appropriation made by the board of 407  
county commissioners pursuant to this division, each appointee of 408  
a probate judge under division (A) of this section shall receive 409  
such compensation and expenses as the judge determines and shall 410  
serve during the pleasure of the judge. The compensation of each 411  
appointee shall be paid in semimonthly installments by the county 412  
treasurer from the county treasury, upon the warrants of the 413  
county auditor, certified to by the judge. 414

(b) Except as otherwise provided in the Revised Code, the 415  
total compensation paid to all appointees of the probate judge in 416  
any calendar year shall not exceed the total fees earned by the 417  
probate court during the preceding calendar year, unless the board 418  
of county commissioners approves otherwise. 419

(2) The probate judge annually shall submit a written request 420  
for an appropriation to the board of county commissioners that 421  
shall set forth estimated administrative expenses of the court, 422  
including the salaries of appointees as determined by the judge 423

and any other costs, fees, and expenses, including, but not 424  
limited to, those enumerated in section 5123.96 of the Revised 425  
Code, that the judge considers reasonably necessary for the 426  
operation of the court. The board shall conduct a public hearing 427  
with respect to the written request submitted by the judge and 428  
shall appropriate such sum of money each year as it determines, 429  
after conducting the public hearing and considering the written 430  
request of the judge, is reasonably necessary to meet all the 431  
administrative expenses of the court, including the salaries of 432  
appointees as determined by the judge and any other costs, fees, 433  
and expenses, including, but not limited to, the costs, fees, and 434  
expenses enumerated in section 5123.96 of the Revised Code. 435

If the judge considers the appropriation made by the board 436  
pursuant to this division insufficient to meet all the 437  
administrative expenses of the court, the judge shall commence an 438  
action under Chapter 2731. of the Revised Code in the court of 439  
appeals for the judicial district for a determination of the duty 440  
of the board of county commissioners to appropriate the amount of 441  
money in dispute. The court of appeals shall give priority to the 442  
action filed by the probate judge over all cases pending on its 443  
docket. The burden shall be on the probate judge to prove that the 444  
appropriation requested is reasonably necessary to meet all 445  
administrative expenses of the court. If, prior to the filing of 446  
an action under Chapter 2731. of the Revised Code or during the 447  
pendency of the action, the judge exercises the judge's contempt 448  
power in order to obtain the sum of money in dispute, the judge 449  
shall not order the imprisonment of any member of the board of 450  
county commissioners notwithstanding sections 2705.02 to 2705.06 451  
of the Revised Code. 452

(C) The probate judge may require any of the judge's 453  
appointees to give bond in the sum of not less than one thousand 454  
dollars, conditioned for the honest and faithful performance of 455

the appointee's duties. The sureties on the bonds shall be 456  
approved in the manner provided in section 2101.03 of the Revised 457  
Code. 458

The judge is personally liable for the default, malfeasance, 459  
or nonfeasance of any such appointee, but, if a bond is required 460  
of the appointee, the liability of the judge is limited to the 461  
amount by which the loss resulting from the default, malfeasance, 462  
or nonfeasance exceeds the amount of the bond. 463

All bonds required to be given in the probate court, on being 464  
accepted and approved by the probate judge, shall be filed in the 465  
judge's office. 466

**Sec. 2101.13.** When a probate judge, whether elected or 467  
appointed, enters upon the discharge of ~~his~~ the judge's official 468  
duties, ~~he~~ the judge shall make, in the books and other 469  
record-keeping materials of ~~his~~ the judge's office, the proper 470  
records, entries, and indexes omitted by ~~his~~ the judge's 471  
predecessors in office. When made, the entries shall have the same 472  
validity and effect as though they had been made at the proper 473  
time and by the officer whose duty it was to make them, and the 474  
judge shall sign all entries and records made by ~~him~~ the judge as 475  
though the entries, proceedings, and records had been commenced, 476  
prosecuted, determined, and made by or before ~~him~~ the judge. 477

**Sec. 2101.15.** In each case, examination, or proceeding, the 478  
probate judge shall file an itemized account of fees received or 479  
charged by ~~him~~ the judge. On the first day of January, in each 480  
year, ~~he~~ the judge shall file with the county auditor an account, 481  
certified by ~~such~~ the judge, of all fees received by ~~him~~ the judge 482  
during the preceding year. No judge shall fail to perform the 483  
duties imposed in this section. At the instance of any person, ~~an~~ 484  
~~action shall be instituted and prosecuted by~~ the prosecuting 485



attorney shall institute and prosecute an action against ~~any such~~ 486  
the defaulting judge. 487

**Sec. 2101.16.** (A) Except as provided in section 2101.164 of 488  
the Revised Code, the fees enumerated in this division shall be 489  
charged and collected, if possible, by the probate judge and shall 490  
be in full for all services rendered in the respective 491  
proceedings: 492

- (1) Account, in addition to advertising charges 493
  - ..... \$ 12.00 494
  - Waivers and proof of notice of hearing on account, 495
  - per page, minimum one dollar
  - ..... \$ 1.00 496
- (2) Account of distribution, in addition to advertising 497  
charges
  - ..... \$ 7.00 498
- (3) Adoption of child, petition for 499
  - ..... \$ 50.00 500
- (4) Alter or cancel contract for sale or purchase of real 501  
estate property, petition complaint to
  - ..... \$ 20.00 502
- (5) Application and order not otherwise provided for in 503  
this section or by rule adopted pursuant to division  
(E) of this section
  - ..... \$ 5.00 504
- (6) Appropriation suit, per day, hearing in 505
  - ..... \$ 20.00 506
- (7) Birth, application for registration of 507
  - ..... \$ 7.00 508
- (8) Birth record, application to correct 509
  - ..... \$ 5.00 510
- (9) Bond, application for new or additional 511
  - ..... \$ 5.00 512

(10) Bond, application for release of surety or reduction of	513
..... \$ 5.00	514
(11) Bond, receipt for securities deposited in lieu of	515
..... \$ 5.00	516
(12) Certified copy of journal entry, record, or proceeding, per page, minimum fee one dollar	517
..... \$ 1.00	518
(13) Citation and issuing citation, application for	519
..... \$ 5.00	520
(14) Change of name, petition for	521
..... \$ 20.00	522
(15) Claim, application of administrator or executor for allowance of administrator's or executor's own	523
..... \$ 10.00	524
(16) Claim, application to compromise or settle	525
..... \$ 10.00	526
(17) Claim, authority to present	527
..... \$ 10.00	528
(18) Commissioner, appointment of	529
..... \$ 5.00	530
(19) Compensation for extraordinary services and attorney's fees for fiduciary, application for	531
..... \$ 5.00	532
(20) Competency, application to procure adjudication of	533
..... \$ 20.00	534
(21) Complete contract, application to	535
..... \$ 10.00	536
(22) Concealment of assets, citation for	537
..... \$ 10.00	538
(23) Construction of will, <del>petition</del> <u>complaint</u> for	539
..... \$ 20.00	540
(24) Continue decedent's business, application to	541

.....	\$ 10.00	542
Monthly reports of operation		543
.....	\$ 5.00	544
(25) Declaratory judgment, <del>petition</del> <u>complaint</u> for		545
.....	\$ 20.00	546
(26) Deposit of will		547
.....	\$ 5.00	548
(27) Designation of heir		549
.....	\$ 20.00	550
(28) Distribution in kind, application, assent, and order for		551
.....	\$ 5.00	552
(29) Distribution under section 2109.36 of the Revised Code, application for an order of		553
.....	\$ 7.00	554
(30) Docketing and indexing proceedings, including the filing and noting of all necessary documents, maximum fee, fifteen dollars		555
.....	\$ 15.00	556
(31) Exceptions to any proceeding named in this section, contest of appointment or		557
.....	\$ 10.00	558
(32) Election of surviving partner to purchase assets of partnership, proceedings relating to		559
.....	\$ 10.00	560
(33) Election of surviving spouse under will		561
.....	\$ 5.00	562
(34) Fiduciary, including an assignee or trustee of an insolvent debtor or any guardian or conservator accountable to the probate court, appointment of		563
.....	\$ 35.00	564
(35) Foreign will, application to record		565
.....	\$ 10.00	566

Record of foreign will, additional, per page		567
.....	\$ 1.00	568
(36) Forms when supplied by the probate court, not to exceed		569
.....	\$ 10.00	570
(37) Heirship, <del>petition</del> <u>complaint</u> to determine		571
.....	\$ 20.00	572
(38) Injunction proceedings		573
.....	\$ 20.00	574
(39) Improve real <del>estate</del> <u>property</u> , petition to		575
.....	\$ 20.00	576
(40) Inventory with appraisalment		577
.....	\$ 10.00	578
(41) Inventory without appraisalment		579
.....	\$ 7.00	580
(42) Investment or expenditure of funds, application for		581
.....	\$ 10.00	582
(43) Invest in real <del>estate</del> <u>property</u> , application to		583
.....	\$ 10.00	584
(44) Lease for oil, gas, coal, or other mineral, petition to		585
.....	\$ 20.00	586
(45) Lease or lease and improve real <del>estate</del> <u>property</u> , petition to		587
.....	\$ 20.00	588
(46) Marriage license		589
.....	\$ 10.00	590
Certified abstract of each marriage		591
.....	\$ 2.00	592
(47) Minor or mentally ill person, etc., disposal of estate under ten thousand dollars of		593
.....	\$ 10.00	594
(48) Mortgage or mortgage and repair or improve real		595

estate <u>property</u> , <del>petition</del> <u>complaint</u> to		
.....	\$ 20.00	596
(49) Newly discovered assets, report of		597
.....	\$ 7.00	598
(50) Nonresident executor or administrator to bar		599
creditors' claims, proceedings by		
.....	\$ 20.00	600
(51) Power of attorney or revocation of power, bonding		601
company		
.....	\$ 10.00	602
(52) Presumption of death, petition to establish		603
.....	\$ 20.00	604
(53) Probating will		605
.....	\$ 15.00	606
Proof of notice to beneficiaries		607
.....	\$ 5.00	608
(54) Purchase personal property, application of surviving		609
spouse to		
.....	\$ 10.00	610
(55) Purchase real <del>estate</del> <u>property</u> at appraised value,		611
petition of surviving spouse to		
.....	\$ 20.00	612
(56) Receipts in addition to advertising charges,		613
application and order to record		
.....	\$ 5.00	614
Record of those receipts, additional, per page		615
.....	\$ 1.00	616
(57) Record in excess of fifteen hundred words in any		617
proceeding in the probate court, per page		
.....	\$ 1.00	618
(58) Release of estate by mortgagee or other lienholder		619
.....	\$ 5.00	620
(59) Relieving an estate from administration under section		621

2113.03 of the Revised Code or granting an order for a summary release from administration under section 2113.031 of the Revised Code	..... \$ 60.00	622
(60) Removal of fiduciary, application for		623
.....	\$ 10.00	624
(61) Requalification of executor or administrator		625
.....	\$ 10.00	626
(62) Resignation of fiduciary		627
.....	\$ 5.00	628
(63) Sale bill, public sale of personal property		629
.....	\$ 10.00	630
(64) Sale of personal property and report, application for		631
.....	\$ 10.00	632
(65) Sale of real <del>estate</del> <u>property</u> , petition for		633
.....	\$ 25.00	634
(66) Terminate guardianship, petition to		635
.....	\$ 10.00	636
(67) Transfer of real <del>estate</del> <u>property</u> , application, entry, and certificate for		637
.....	\$ 7.00	638
(68) Unclaimed money, application to invest		639
.....	\$ 7.00	640
(69) Vacate approval of account or order of distribution, motion to		641
.....	\$ 10.00	642
(70) Writ of execution		643
.....	\$ 5.00	644
(71) Writ of possession		645
.....	\$ 5.00	646
(72) Wrongful death, application and settlement of claim for		647
.....	\$ 20.00	648

(73) Year's allowance, petition to review	649
..... \$ 7.00	650
(74) Guardian's report, filing and review of	651
..... \$ 5.00	652
(B)(1) In relation to an application for the appointment of a guardian or the review of a report of a guardian under section 2111.49 of the Revised Code, the probate court, pursuant to court order or in accordance with a court rule, may direct that the applicant or the estate pay any or all of the expenses of an investigation conducted pursuant to section 2111.041 or division (A)(2) of section 2111.49 of the Revised Code. If the investigation is conducted by a public employee or investigator who is paid by the county, the fees for the investigation shall be paid into the county treasury. If the court finds that an alleged incompetent or a ward is indigent, the court may waive the costs, fees, and expenses of an investigation.	653 654 655 656 657 658 659 660 661 662 663 664
(2) In relation to the appointment or functioning of a guardian for a minor or the guardianship of a minor, the probate court may direct that the applicant or the estate pay any or all of the expenses of an investigation conducted pursuant to section 2111.042 of the Revised Code. If the investigation is conducted by a public employee or investigator who is paid by the county, the fees for the investigation shall be paid into the county treasury. If the court finds that the guardian or applicant is indigent, the court may waive the costs, fees, and expenses of an investigation.	665 666 667 668 669 670 671 672 673
(C) Thirty dollars of the thirty-five-dollar fee collected pursuant to division (A)(34) of this section and twenty dollars of the sixty-dollar fee collected pursuant to division (A)(59) of this section shall be deposited by the county treasurer in the indigent guardianship fund created pursuant to section 2111.51 of the Revised Code.	674 675 676 677 678 679
(D) The fees of witnesses, jurors, sheriffs, coroners, and	680

constables for services rendered in the probate court or by order 681  
of the probate judge shall be the same as provided for ~~like~~ 682  
similar services in the court of common pleas. 683

(E) The probate court, by rule, may require an advance 684  
deposit for costs, not to exceed one hundred twenty-five dollars, 685  
at the time application is made for an appointment as executor or 686  
administrator or at the time a will is presented for probate. 687

(F) The probate court, by rule, shall establish a reasonable 688  
fee, not to exceed fifty dollars, for the filing of a petition for 689  
the release of information regarding an adopted person's name by 690  
birth and the identity of the adopted person's biological parents 691  
and biological siblings pursuant to section 3107.41 of the Revised 692  
Code, all proceedings relative to the petition, the entry of an 693  
order relative to the petition, and all services required to be 694  
performed in connection with the petition. The probate court may 695  
use a reasonable portion of a fee charged under authority of this 696  
division to reimburse any agency, as defined in section 3107.39 of 697  
the Revised Code, for any services it renders in performing a task 698  
described in section 3107.41 of the Revised Code relative to or in 699  
connection with the petition for which the fee was charged. 700

(G)(1) Thirty dollars of the fifty-dollar fee collected 701  
pursuant to division (A)(3) of this section shall be deposited 702  
into the "putative father registry fund," which is hereby created 703  
in the state treasury. The department of job and family services 704  
shall use the money in the fund to fund the department's costs of 705  
performing its duties related to the putative father registry 706  
established under section 3107.062 of the Revised Code. 707

(2) If the department determines that money in the putative 708  
father registry fund is more than is needed for its duties related 709  
to the putative father registry, the department may use the 710  
surplus moneys in the fund as permitted in division (C) of section 711  
2151.3529, division (B) of section 2151.3530, or section 5103.155 712



of the Revised Code. 713

**Sec. 2101.162.** (A)(1) The probate judge may determine that, 714  
for the efficient operation of the probate court, additional funds 715  
are required to computerize the court, make available computerized 716  
legal research services, or to do both. Upon making a 717  
determination that additional funds are required for either or 718  
both of those purposes, the probate judge shall charge a fee not 719  
to exceed three dollars or authorize and direct a deputy clerk of 720  
~~his~~ the probate court to charge a fee not to exceed three dollars, 721  
in addition to the fees specified in divisions (A)(1), (3), (4), 722  
(6), (14) to (17), (20) to (25), (27), (30) to (32), (34), (35), 723  
(37) to (48), (50) to (55), (59) to (61), (63) to (66), (69), and 724  
(72) of section 2101.16 of the Revised Code, the fee adopted 725  
pursuant to division (F) of that section, and the fee charged in 726  
connection with the docketing and indexing of an appeal. 727

(2) All moneys collected under division (A)(1) of this 728  
section shall be paid to the county treasurer. The treasurer shall 729  
place the moneys from the fees in a separate fund to be disbursed, 730  
upon an order of the probate judge, in an amount no greater than 731  
the actual cost to the court of procuring and maintaining 732  
computerization of the court, computerized legal research 733  
services, or both. 734

(3) If the court determines that the funds in the fund 735  
described in division (A)(2) of this section are more than 736  
sufficient to satisfy the purpose for which the additional fee 737  
described in division (A)(1) of this section was imposed, the 738  
court may declare a surplus in the fund and expend those surplus 739  
funds for other appropriate technological expenses of the court. 740

(B)(1) The probate judge may determine that, for the 741  
efficient operation of ~~his~~ the probate court, additional funds are 742  
required to computerize the office of the clerk of the court and, 743

upon that determination, may charge a fee, not to exceed ten 744  
dollars, or authorize and direct a deputy clerk of the probate 745  
court to charge a fee, not to exceed ten dollars, in addition to 746  
the fees specified in divisions (A)(1), (3), (4), (6), (14) to 747  
(17), (20) to (25), (27), (30) to (32), (34), (35), (37) to (48), 748  
(50) to (55), (59) to (61), (63) to (66), (69), and (72) of 749  
section 2101.16 of the Revised Code, the fee adopted pursuant to 750  
division (F) of that section, and the fee charged in connection 751  
with the docketing and indexing of an appeal. Subject to division 752  
(B)(2) of this section, all moneys collected under this division 753  
shall be paid to the county treasurer to be disbursed, upon an 754  
order of the probate judge and subject to appropriation by the 755  
board of county commissioners, in an amount no greater than the 756  
actual cost to the probate court of procuring and maintaining 757  
computer systems for the office of the clerk of the court. 758

(2) If the probate judge makes the determination described in 759  
division (B)(1) of this section, the board of county commissioners 760  
may issue one or more general obligation bonds for the purpose of 761  
procuring and maintaining the computer systems for the office of 762  
the clerk of the probate court. In addition to the purposes stated 763  
in division (B)(1) of this section for which the moneys collected 764  
under that division may be expended, the moneys additionally may 765  
be expended to pay debt charges on and financing costs related to 766  
any general obligation bonds issued pursuant to this division as 767  
they become due. General obligation bonds issued pursuant to this 768  
division are Chapter 133. securities. 769

**Sec. 2101.19.** (A) No probate judge or his probate judge's 770  
deputy clerk shall sell or offer for sale for more than one dollar 771  
any merchandise to be used in connection with any license, order, 772  
or document issued by the probate court, or make any charge in 773  
connection with the issuance of any license, order, or document 774  
except that specifically provided by law. 775

(B) All moneys obtained from the sale of merchandise to be 776  
used in connection with any license, order, or document issued by 777  
a probate court shall be paid by the probate judge or the deputy 778  
clerk of the court into the county treasury. The moneys shall be 779  
credited to a fund to be known as the probate court conduct of 780  
business fund. The moneys so credited shall be used solely for the 781  
conduct of the business of the probate court. 782

(C) Upon receipt of an order of the probate judge for the 783  
payment of moneys from the fund for the conduct of the business of 784  
the court, the county auditor shall draw a warrant on the county 785  
treasurer for the amount of money specified in the order, but not 786  
exceeding the balance of the moneys in the fund, which warrant 787  
shall be made payable to the probate judge or another person 788  
designated in the order. 789

**Sec. 2101.20.** When the aggregate amount of fees and 790  
allowances collected by the probate judge in any calendar year 791  
exceeds by more than ten per cent the amount necessary to pay the 792  
salaries of ~~said the~~ judge and the employees of the probate court, 793  
including court constables, for the same calendar year, ~~such the~~ 794  
judge may, by an order entered on ~~his the judge's~~ journal, provide 795  
for a discount of all the fees and allowances ~~he the judge~~ is 796  
required to charge and collect for the use of the county by fixing 797  
a per cent of discount ~~which that~~ shall be applied to all the 798  
earnings of ~~said the~~ office for the ensuing year and shall 799  
constitute the legal fees of ~~said the~~ office for ~~said that~~ year. 800

**Sec. 2101.22.** The probate judge shall issue any process, 801  
notices, commissions, rules, and orders that are necessary to 802  
carry into effect the powers granted to ~~him the judge~~. 803

**Sec. 2101.23.** The probate judge may keep order in ~~his the~~ 804  
judge's court and has authority throughout the state to compel 805

performance of any duty incumbent upon any fiduciary appointed by 806  
or accounting to ~~him~~ the judge. The probate judge may punish any 807  
contempt of ~~his~~ the judge's authority as ~~such~~ that contempt might 808  
be punished in the court of common pleas. 809

If a person neglects or refuses to perform an order or 810  
judgment of a probate court, other than for the payment of money, 811  
~~he shall be~~ the person is guilty of a contempt of court, and the 812  
judge shall issue a summons directing ~~such~~ the person to appear 813  
before the court, within two days from the service ~~thereof,~~ of the 814  
summons and show cause why ~~he~~ the person should not be punished 815  
for contempt. If it appears to the judge that ~~such~~ the person is 816  
~~secreting himself~~ attempting to avoid the process of the court, or 817  
is about to leave the county for that purpose, the judge may issue 818  
an attachment instead of the summons, commanding the officer, to 819  
whom it is directed, to bring ~~such~~ the person before ~~such~~ the 820  
judge to answer for contempt. If no sufficient excuse is shown, 821  
~~such~~ the person shall be punished for contempt. 822

**Sec. 2101.24.** (A)(1) Except as otherwise provided by law, the 823  
probate court has exclusive jurisdiction: 824

(a) To take the proof of wills and to admit to record 825  
authenticated copies of wills executed, proved, and allowed in the 826  
courts of any other state, territory, or country. If the probate 827  
judge is unavoidably absent, any judge of the court of common 828  
pleas may take proof of wills and approve bonds to be given, but 829  
the record of these acts shall be preserved in the usual records 830  
of the probate court. 831

(b) To grant and revoke letters testamentary and of 832  
administration; 833

(c) To direct and control the conduct and settle the accounts 834  
of executors and administrators and order the distribution of 835  
estates; 836

(d) To appoint the attorney general to serve as the administrator of an estate pursuant to section 2113.06 of the Revised Code;	837 838 839
(e) To appoint and remove guardians, conservators, and testamentary trustees, direct and control their conduct, and settle their accounts;	840 841 842
(f) To grant marriage licenses;	843
(g) To make inquests respecting persons who are so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that they are unable to manage their property and affairs effectively, subject to guardianship;	844 845 846 847 848
(h) To qualify assignees, appoint and qualify trustees and commissioners of insolvents, control their conduct, and settle their accounts;	849 850 851
(i) To authorize the sale of lands, equitable estates, or interests in lands or equitable estates, and the assignments of inchoate dower in such cases of sale, on petition by executors, administrators, and guardians;	852 853 854 855
(j) To authorize the completion of real <del>estate</del> <u>property</u> contracts on petition of executors and administrators;	856 857
(k) To construe wills;	858
(l) To render declaratory judgments, including, but not limited to, those rendered pursuant to section 2107.084 of the Revised Code;	859 860 861
(m) To direct and control the conduct of fiduciaries and settle their accounts;	862 863
(n) To authorize the sale or lease of any estate created by will if the estate is held in trust, on petition by the trustee;	864 865
(o) To terminate a testamentary trust in any case in which a	866

court of equity may do so;	867
(p) To hear and determine actions to contest the validity of wills;	868 869
(q) To make a determination of the presumption of death of missing persons and to adjudicate the property rights and obligations of all parties affected by the presumption;	870 871 872
(r) To hear and determine an action commenced pursuant to section 3107.41 of the Revised Code to obtain the release of information pertaining to the birth name of the adopted person and the identity of the adopted person's biological parents and biological siblings;	873 874 875 876 877
(s) To act for and issue orders regarding wards pursuant to section 2111.50 of the Revised Code;	878 879
(t) To hear and determine actions against sureties on the bonds of fiduciaries appointed by the probate court;	880 881
(u) To hear and determine actions involving informed consent for medication of persons hospitalized pursuant to section 5122.141 or 5122.15 of the Revised Code;	882 883 884
(v) To hear and determine actions relating to durable powers of attorney for health care as described in division (D) of section 1337.16 of the Revised Code;	885 886 887
(w) To hear and determine actions commenced by objecting individuals, in accordance with section 2133.05 of the Revised Code;	888 889 890
(x) To hear and determine complaints that pertain to the use or continuation, or the withholding or withdrawal, of life-sustaining treatment in connection with certain patients allegedly in a terminal condition or in a permanently unconscious state pursuant to division (E) of section 2133.08 of the Revised Code, in accordance with that division;	891 892 893 894 895 896

(y) To hear and determine applications that pertain to the 897  
withholding or withdrawal of nutrition and hydration from certain 898  
patients allegedly in a permanently unconscious state pursuant to 899  
section 2133.09 of the Revised Code, in accordance with that 900  
section; 901

(z) To hear and determine applications of attending 902  
physicians in accordance with division (B) of section 2133.15 of 903  
the Revised Code; 904

(aa) To hear and determine actions relative to the use or 905  
continuation of comfort care in connection with certain principals 906  
under durable powers of attorney for health care, declarants under 907  
declarations, or patients in accordance with division (E) of 908  
either section 1337.16 or 2133.12 of the Revised Code; 909

(bb) To hear and determine applications for an order 910  
relieving an estate from administration under section 2113.03 of 911  
the Revised Code; 912

(cc) To hear and determine applications for an order granting 913  
a summary release from administration under section 2113.031 of 914  
the Revised Code; 915

(dd) To hear and determine actions relating to the exercise 916  
of the right of disposition, in accordance with section 2108.90 of 917  
the Revised Code; 918

(ee) To hear and determine actions relating to the 919  
disinterment and reinterment of human remains under section 517.23 920  
of the Revised Code. 921

(2) In addition to the exclusive jurisdiction conferred upon 922  
the probate court by division (A)(1) of this section, the probate 923  
court shall have exclusive jurisdiction over a particular subject 924  
matter if both of the following apply: 925

(a) Another section of the Revised Code expressly confers 926

jurisdiction over that subject matter upon the probate court.	927
(b) No section of the Revised Code expressly confers jurisdiction over that subject matter upon any other court or agency.	928 929 930
(B)(1) The probate court has concurrent jurisdiction with, and the same powers at law and in equity as, the general division of the court of common pleas to issue writs and orders, and to hear and determine actions as follows:	931 932 933 934
(a) If jurisdiction relative to a particular subject matter is stated to be concurrent in a section of the Revised Code or has been construed by judicial decision to be concurrent, any action that involves that subject matter;	935 936 937 938
(b) Any action that involves an inter vivos trust; a trust created pursuant to section 5815.28 of the Revised Code; a charitable trust or foundation; subject to divisions (A)(1)(u) and (z) of this section, a power of attorney, including, but not limited to, a durable power of attorney; the medical treatment of a competent adult; or a writ of habeas corpus.	939 940 941 942 943 944
(2) Any action that involves a concurrent jurisdiction subject matter and that is before the probate court may be transferred by the probate court, on its order, to the general division of the court of common pleas.	945 946 947 948
(C) The probate court has plenary power at law and in equity to dispose fully of any matter that is properly before the court, unless the power is expressly otherwise limited or denied by a section of the Revised Code.	949 950 951 952
(D) The jurisdiction acquired by a probate court over a matter or proceeding is exclusive of that of any other probate court, except when otherwise provided by law.	953 954 955
<b>Sec. 2101.27.</b> (A) A probate judge has jurisdiction and	956



authority to solemnize marriages within the county and may charge 957  
a fee for providing the service in accordance with division (B) of 958  
this section. The fee charged is subject to disposition in 959  
accordance with division (C) of this section. 960

(B)(1) If a probate judge intends to charge a fee for 961  
solemnizing any marriage in accordance with division (A) of this 962  
section, prior to doing so, the probate judge, by rule, shall 963  
establish a reasonable fee for providing the service. 964

(2) Division (B)(1) of this section does not do either of the 965  
following: 966

(a) Require a probate judge who, by rule, has established a 967  
reasonable fee for solemnizing marriages to charge that fee for 968  
every marriage that ~~he~~ the probate judge solemnizes; 969

(b) Affect specific fees to which the probate judge is 970  
entitled under section 2101.16 or any other section of the Revised 971  
Code for issuing marriage licenses, recording returns of 972  
solemnized marriages, providing certified abstracts of marriages, 973  
or performing any other task related to a marriage other than its 974  
solemnization. 975

(C) If, in accordance with division (B) of this section, a 976  
reasonable fee is charged by a probate judge for solemnizing any 977  
marriage, the probate judge shall not retain any portion of that 978  
fee and instead shall pay the entire fee into the county treasury. 979  
The county treasurer shall credit the fee to the general fund of 980  
the county. 981

**Sec. 2101.30.** Whenever a jury is required in the probate 982  
court, the probate judge shall ~~forthwith~~ notify the commissioners 983  
of jurors, who shall cause to be drawn from the jury wheel, or to 984  
be drawn by use of the automation data processing equipment and 985  
procedures described in section 2313.07 of the Revised Code, the 986

names of sixteen persons as ~~jurymen~~ jurypersons. Additional names 987  
may be drawn if required. The clerk of the court of common pleas 988  
or one of ~~his~~ the clerk's deputies shall make a list of ~~such~~ those 989  
names in the order drawn and certify ~~it~~ the list to the probate 990  
court, and ~~such~~ the court shall issue a venire commanding the 991  
persons whose names were drawn to appear on the day and at the 992  
hour set for trial. The probate court shall deliver the venire to 993  
the sheriff, who shall serve it within five days ~~thereafter~~ of 994  
delivery and make prompt return of ~~such~~ the service. 995

**Sec. 2101.34.** If the judges of the court of common pleas are 996  
absent from the county or are under a disability, the probate 997  
judge of the county may enter judgments by confession in cases 998  
pending in the court of common pleas of ~~his~~ the judge's county. 999

**Sec. 2101.38.** Letters testamentary, of administration, or of 1000  
guardianship shall not be issued to a person after ~~his~~ the 1001  
person's election to the office of probate judge and before the 1002  
expiration of ~~his~~ the person's term. If a probate judge is 1003  
interested, ~~as heir, legatee, devisee, or other manner in an~~ 1004  
estate ~~which~~ that would otherwise be settled in the probate court 1005  
of the county where ~~he~~ the judge resides, ~~such~~ the estate, and all 1006  
of the accounts of guardians in which the judge is interested, 1007  
shall be settled by the court of common pleas of the county. In 1008  
~~such~~ those matters and cases in which the judge is interested, the 1009  
judge shall certify the original papers ~~shall be by him forthwith~~ 1010  
~~certified~~ to the court of common pleas. In other matters and 1011  
proceedings in a probate court in which the judge ~~thereof~~ of the 1012  
probate court is interested or in which ~~he~~ the judge is required 1013  
to be a witness to a will, ~~such~~ the judge shall, upon the motion 1014  
of a party interested in the proceedings, ~~or upon~~ his the judge's 1015  
own motion, certify the matters and proceedings to the court of 1016  
common pleas and ~~forthwith~~ file with the clerk of the court of 1017

common pleas all original papers connected ~~therewith~~ with those 1018  
matters and proceedings. 1019

When a matter or proceeding is so certified, a judge of the 1020  
court of common pleas, ~~at chambers, by a judge thereof, or in open~~ 1021  
~~court~~ shall hear and determine it the matter or proceeding in 1022  
chambers or in open court as though ~~such~~ the court had original 1023  
jurisdiction of the subject matter. Upon final decision of the 1024  
questions involved in ~~such~~ the matter or proceedings, the final 1025  
settlement of the estate in which the judge is interested as 1026  
executor, administrator, or guardian, or when ~~his~~ the judge's 1027  
interest ~~therein in the estate~~ ceases, the clerk shall deliver the 1028  
original papers to the probate court ~~from which they came in which~~ 1029  
the original papers were filed and make and file ~~therein in that~~ 1030  
court an authenticated transcript of the orders, judgments, and 1031  
proceedings of the court of common pleas. ~~Thereupon the~~ The 1032  
probate judge shall record ~~such~~ the orders, judgments, and 1033  
proceedings in the proper records. 1034

**Sec. 2101.41.** No probate judge shall practice law, be 1035  
associated with another as partner in the practice of law in a 1036  
court or tribunal of this state, prepare a complaint or answer, 1037  
make out an account required for the settlement of an estate 1038  
committed to the care or management of another, or appear as 1039  
attorney before a court or judicial tribunal. Whoever violates 1040  
this section shall forfeit ~~his~~ the office of probate judge. 1041

The deputy clerk of a probate court may engage in the 1042  
practice of law if ~~his~~ the deputy's practice is not related in any 1043  
way to probate law or practice. The deputy may engage in the 1044  
practice of law only with the continued consent and approval of 1045  
all of the judges of the probate court. 1046

A ~~referee~~ magistrate appointed solely to conduct hearings 1047  
under Chapters 5122. and 5123. of the Revised Code may engage in 1048

the practice of law, including probate law, except that ~~he~~ the 1049  
magistrate shall not practice law under ~~these~~ those chapters other 1050  
than as a ~~referee~~ magistrate and shall not knowingly accept any 1051  
business arising out of or otherwise connected with a proceeding 1052  
in which ~~he~~ the magistrate served as a ~~referee~~ magistrate under 1053  
~~these~~ those chapters. 1054

The prosecuting attorney shall file ~~his~~ the prosecuting 1055  
attorney's information against a judge or deputy clerk who 1056  
practices law in violation of this section in the court of common 1057  
pleas, and proceed as upon indictment. 1058

This section does not prevent a probate judge or deputy clerk 1059  
from finishing business commenced by ~~him~~ the judge or deputy clerk 1060  
prior to ~~his~~ the judge's or clerk's election or appointment, 1061  
provided it is not connected with ~~his~~ the official ~~duty~~ duties of 1062  
the judge or clerk. 1063

**Sec. 2101.43.** Whenever ten per cent of the number of electors 1064  
voting for governor at the most recent election in any county 1065  
having less than sixty thousand population, as determined by the 1066  
most recent federal census, petition a judge of the court of 1067  
common pleas of ~~such~~ the county, not less than seventy-five days 1068  
before any general election for county officers, for the 1069  
submission to the electors of ~~such~~ the county the question of 1070  
combining the probate court with the court of common pleas, ~~such~~ 1071  
the judge shall place upon the journal of ~~said~~ the court an order 1072  
requiring the sheriff to make a proclamation that at the next 1073  
general election there will be submitted to the electors the 1074  
question of combining the probate court with the court of common 1075  
pleas. The clerk of the court of common pleas shall, ~~thereupon,~~ 1076  
make and deliver a certified copy of ~~such~~ the order to the 1077  
sheriff, and the sheriff shall include notice of the submission of 1078  
~~such~~ the question in ~~his~~ the sheriff's proclamation of election 1079

for the next general election. 1080

Each elector joining in a petition for the submission of ~~said~~ 1081  
the question of combining the probate court with the court of 1082  
common pleas shall sign ~~such~~ the petition in the elector's own 1083  
handwriting, unless the elector cannot write and the elector's 1084  
signature is made by mark, and shall ~~add thereto~~ include in the 1085  
petition the township, precinct, or ward of which the elector is a 1086  
resident. ~~Such~~ The petition may consist of as many parts as are 1087  
convenient. One of the signers to each separate paper shall swear 1088  
before ~~some~~ an officer who is qualified to administer the oath 1089  
that the petition is bona fide to the best of the signer's 1090  
knowledge and belief. ~~Such~~ The oath shall be a part of or attached 1091  
to ~~such~~ the paper. The judge upon receipt of ~~such~~ the petition 1092  
shall deposit it with the clerk of the court of common pleas. 1093

No signature shall be taken from or added to ~~such~~ the 1094  
petition after it has been filed with the judge. When deposited 1095  
~~such~~ the petition shall be preserved and open to public 1096  
inspection, and, if it is in conformity with this section, it 1097  
shall be valid, unless an objection ~~thereto~~ to the petition is 1098  
made in writing by an elector of the county within five days after 1099  
the filing ~~thereof~~ of the petition. ~~Such~~ The objections, or any 1100  
other questions arising in the course of the submission of the 1101  
question of combining ~~said courts~~ the probate court with the court 1102  
of common pleas, shall be considered and determined by the judge, 1103  
and ~~his~~ the judge's decision shall be final. 1104

**Sec. 2103.01.** ~~In~~ As used in sections 2103.01 to 2103.09, 1105  
~~inclusive,~~ of the Revised Code, unless the context shows that 1106  
another sense ~~was~~ is intended, "property" includes ~~lands,~~ 1107  
~~tenements, hereditaments~~ real property, money, ~~chattels,~~ choses in 1108  
action, ~~and~~ evidences of debt, and other personal property. 1109

**Sec. 2105.051.** When a person dies, property that ~~he~~ the 1110  
person gave during ~~his~~ the person's lifetime to an heir shall be 1111  
treated as an advancement against the heir's share of the estate 1112  
only if declared in a contemporaneous writing by the decedent, or 1113  
acknowledged in writing by the heir to be an advancement. For this 1114  
purpose, property advanced is valued as of the time the heir came 1115  
into possession or enjoyment of the property, or as of the time of 1116  
death of the decedent, whichever occurs first. If the heir does 1117  
not survive the decedent, the property shall not be taken into 1118  
account in computing the intestate share to be received by the 1119  
heir's issue, unless the declaration or acknowledgment provides 1120  
otherwise. 1121

**Sec. 2105.06.** When a person dies intestate having title or 1122  
right to any personal property, or to any real ~~estate~~ property or 1123  
inheritance, in this state, the personal property shall be 1124  
distributed, and the real ~~estate~~ property or inheritance shall 1125  
descend and pass in parcenary, except as otherwise provided by 1126  
law, in the following course: 1127

(A) If there is no surviving spouse, to the children of the 1128  
intestate or their lineal descendants, per stirpes; 1129

(B) If there is a spouse and one or more children of the 1130  
decedent or their lineal descendants surviving, and all of the 1131  
decedent's children who survive or have lineal descendants 1132  
surviving also are children of the surviving spouse, then the 1133  
whole to the surviving spouse; 1134

(C) If there is a spouse and one child of the decedent or the 1135  
child's lineal descendants surviving and the surviving spouse is 1136  
not the natural or adoptive parent of the decedent's child, the 1137  
first twenty thousand dollars plus one-half of the balance of the 1138  
intestate estate to the spouse and the remainder to the child or 1139

the child's lineal descendants, per stirpes; 1140

(D) If there is a spouse and more than one child or their 1141  
lineal descendants surviving, the first sixty thousand dollars if 1142  
the spouse is the natural or adoptive parent of one, but not all, 1143  
of the children, or the first twenty thousand dollars if the 1144  
spouse is the natural or adoptive parent of none of the children, 1145  
plus one-third of the balance of the intestate estate to the 1146  
spouse and the remainder to the children equally, or to the lineal 1147  
descendants of any deceased child, per stirpes; 1148

(E) If there are no children or their lineal descendants, 1149  
then the whole to the surviving spouse; 1150

(F) If there is no spouse and no children or their lineal 1151  
descendants, to the parents of the intestate equally, or to the 1152  
surviving parent; 1153

(G) If there is no spouse, no children or their lineal 1154  
descendants, and no parent surviving, to the brothers and sisters, 1155  
whether of the whole or of the half blood of the intestate, or 1156  
their lineal descendants, per stirpes; 1157

(H) If there are no brothers or sisters or their lineal 1158  
descendants, one-half to the paternal grandparents of the 1159  
intestate equally, or to the survivor of them, and one-half to the 1160  
maternal grandparents of the intestate equally, or to the survivor 1161  
of them; 1162

(I) If there is no paternal grandparent or no maternal 1163  
grandparent, one-half to the lineal descendants of the deceased 1164  
grandparents, per stirpes; if there are no such lineal 1165  
descendants, then to the surviving grandparents or their lineal 1166  
descendants, per stirpes; if there are no surviving grandparents 1167  
or their lineal descendants, then to the next of kin of the 1168  
intestate, provided there shall be no representation among ~~such~~ 1169  
the next of kin; 1170

(J) If there are no next of kin, to stepchildren or their 1171  
lineal descendants, per stirpes; 1172

(K) If there are no stepchildren or their lineal descendants, 1173  
escheat to the state. 1174

**Sec. 2105.09.** (A) The county auditor, unless ~~he~~ the auditor 1175  
acts pursuant to division (C) of this section, shall take 1176  
possession of real property escheated to the state that is located 1177  
in ~~his~~ the auditor's county and outside the incorporated area of a 1178  
city. The auditor shall take possession in the name of the state 1179  
and sell the property at public auction, at the county seat of the 1180  
county, to the highest bidder, after having given thirty days' 1181  
notice of the intended sale in a newspaper published within the 1182  
county. 1183

On the application of the auditor, the court of common pleas 1184  
shall appoint three disinterested freeholders of the county to 1185  
appraise the real property. The freeholders shall be governed by 1186  
the same rule as appraisers in sheriffs' or administrators' sales. 1187  
The auditor shall sell the property at not less than two thirds of 1188  
its appraised value and may sell it for cash, or for one-third 1189  
cash and the balance in equal annual payments, the deferred 1190  
payments to be amply secured. Upon payment of the whole 1191  
consideration, the auditor shall execute a deed to the purchaser, 1192  
in the name and on behalf of the state. The proceeds of the sale 1193  
shall be paid by the auditor to the county treasurer. 1194

If there is a regularly organized agricultural society within 1195  
the county, the treasurer shall pay the greater of six hundred 1196  
dollars or five per cent of the proceeds, in any case, to the 1197  
society. The excess of the proceeds, or the whole ~~thereof~~ proceeds 1198  
if there is no regularly organized agricultural society within the 1199  
county, shall be distributed as follows: 1200

(1) Twenty-five per cent shall be paid equally to the 1201



townships of the county; 1202

(2) Seventy per cent shall be paid into the state treasury to 1203  
the credit of the agro Ohio fund created under section 901.04 of 1204  
the Revised Code; 1205

(3) Five per cent shall be credited to the county general 1206  
fund for ~~such~~ any lawful purposes ~~as~~ that the board of county 1207  
commissioners provides. 1208

(B) The legislative authority of a city within which are 1209  
lands escheated to the state, unless it acts pursuant to division 1210  
(C) of this section, shall take possession of the lands for the 1211  
city, and the title to the lands shall vest in the city. The city 1212  
shall use the premises primarily for health, welfare, or 1213  
recreational purposes, or may lease them at ~~such~~ the prices and 1214  
for ~~such~~ the purposes ~~as~~ that it considers proper. With the 1215  
approval of the tax commissioner, the city may sell the lands or 1216  
any undivided interest in the lands, in the same manner as is 1217  
provided in the sale of land not needed for any municipal 1218  
purposes; provided, that the net proceeds from the rent or sale of 1219  
the premises shall be devoted to health, welfare, or recreational 1220  
purposes. 1221

(C) As an alternative to the procedure prescribed in 1222  
divisions (A) and (B) of this section, the county auditor, or if 1223  
the real property is located within the incorporated area of a 1224  
city, the legislative authority of that city by an affirmative 1225  
vote of at least a majority of its members, may request the 1226  
probate court to direct the administrator or executor of the 1227  
estate that contains the escheated property to commence an action 1228  
in the probate court for authority to sell the real property in 1229  
the manner provided in Chapter 2127. of the Revised Code. The 1230  
proceeds from the sale of real property that is located outside 1231  
the incorporated area of a city shall be distributed by the court 1232  
in the same manner as the proceeds are distributed under division 1233

(A) of this section. The proceeds from the sale of real property 1234  
that is located within the incorporated area of a city shall be 1235  
distributed by the court in the same manner as the proceeds are 1236  
distributed under division (B) of this section. 1237

**Sec. 2105.10.** (A) As used in this section: 1238

(1) "Abandoned" means that a parent of a minor failed without 1239  
justifiable cause to communicate with the minor, care for ~~him~~ the 1240  
minor, and provide for ~~his~~ the minor's maintenance or support as 1241  
required by law or judicial decree for a period of at least one 1242  
year immediately prior to the date of the death of the minor. 1243

(2) "Minor" means a person who is less than eighteen years of 1244  
age. 1245

(B) Subject to divisions (C), (D), and (E) of this section, a 1246  
parent who has abandoned ~~his~~ the parent's minor child who 1247  
subsequently dies intestate as a minor shall not inherit the real 1248  
or personal property of the deceased child pursuant to section 1249  
2105.06 of the Revised Code. If a parent is prohibited by this 1250  
division from inheriting from ~~his~~ the parent's deceased child, the 1251  
real or personal property of the deceased child shall be 1252  
distributed, or shall descend and pass in parcenary, pursuant to 1253  
section 2105.06 of the Revised Code as if the parent had 1254  
predeceased the deceased child. 1255

(C) Subject to divisions (D) and (E) of this section, a 1256  
parent who is alleged to have abandoned a child who died as an 1257  
intestate minor shall be considered as a next of kin or an heir at 1258  
law of the deceased child only for the following purposes: 1259

(1) To receive any notice required to be given to the heirs 1260  
at law of a decedent in connection with an application for release 1261  
of an estate from administration under section 2113.03 of the 1262  
Revised Code; 1263

(2) To be named as a next of kin in an application for the appointment of a person as the administrator of the estate of the deceased child, if the parent is known to the person filing the application pursuant to section 2113.07 of the Revised Code, and to receive a citation issued by the probate court pursuant to that section.

(D)(1) The prohibition against inheritance set forth in division (B) of this section shall be enforceable only in accordance with a probate court adjudication rendered pursuant to this division.

(2) If the administrator of the estate of an intestate minor has actual knowledge, or reasonable cause to believe, that the minor was abandoned by a parent, the administrator shall file a petition pursuant to section 2123.02 of the Revised Code to obtain an adjudication that the parent abandoned the child and that, because of the prohibition against inheritance set forth in division (B) of this section, the parent shall not be considered to be an heir at law of, and shall not be entitled to inherit the real and personal property of, the deceased child pursuant to section 2105.06 of the Revised Code. That parent shall be named as a defendant in the petition and, whether or not that parent is a resident of this state, shall be served with a summons and a copy of the petition in accordance with the Rules of Civil Procedure. In the heirship determination proceeding, the administrator has the burden of proving, by a preponderance of the evidence, that the parent abandoned the child. If, after the hearing, the probate court finds that the administrator has sustained that burden of proof, the probate court shall include in its adjudication described in section 2123.05 of the Revised Code its findings that the parent abandoned the child and, because of the prohibition against inheritance set forth in division (B) of this section, the parent shall not be considered to be an heir at law of, and shall

not be entitled to inherit the real and personal property of, the 1296  
deceased child pursuant to section 2105.06 of the Revised Code. If 1297  
the probate court so finds, then, upon the entry of its 1298  
adjudication on its journal, the administrator may make a final 1299  
distribution of the estate of the deceased child in accordance 1300  
with division (B) of this section. 1301

(3) An heirship determination proceeding resulting from the 1302  
filing of a petition pursuant to this division shall be conducted 1303  
in accordance with Chapter 2123. of the Revised Code, except to 1304  
the extent that a provision of this section conflicts with a 1305  
provision of that chapter, in which case the provision of this 1306  
section shall control. 1307

(E) If the administrator of the estate of an intestate minor 1308  
has not commenced an heirship determination proceeding as 1309  
described in division (D) of this section within four months from 1310  
the date that ~~he~~ the administrator receives ~~his~~ the 1311  
administrator's letters of administration, then ~~such a~~ that 1312  
proceeding may not be commenced subsequently, no parent of the 1313  
deceased child shall be prohibited from inheriting the real or 1314  
personal property of the deceased child pursuant to division (B) 1315  
of this section, and the probate of the estate of the deceased 1316  
child in accordance with section 2105.06 and other relevant 1317  
sections of the Revised Code shall be forever binding. 1318

**Sec. 2105.11.** When a person dies intestate leaving children 1319  
and none of the children of ~~such~~ the intestate have died leaving 1320  
children or their lineal descendants, ~~such~~ the estate shall 1321  
descend to the children of ~~such~~ the intestate, living at the time 1322  
of ~~his~~ the intestate's death, in equal proportions. 1323

**Sec. 2105.13.** If some of the children of an intestate are 1324  
living and others are dead, the estate shall descend to the 1325

children who are living and to the lineal descendants of ~~such the~~ 1326  
children ~~as~~ who are dead, so that each child who is living will 1327  
inherit the share to which ~~he~~ the child who is living would have 1328  
been entitled if all the children of the intestate were living, 1329  
and the lineal descendants of the deceased child will inherit 1330  
equal parts of that portion of the estate to which ~~such the~~ 1331  
deceased child would be entitled if ~~he~~ the deceased child were 1332  
living. 1333

This section shall apply in all cases in which the 1334  
descendants of the intestate, not more remote than lineal 1335  
descendants of grandparents, entitled to share in the estate, are 1336  
of unequal degree of consanguinity to the intestate, so that those 1337  
who are of the nearest degree of consanguinity will take the share 1338  
to which they would have been entitled, had all the descendants in 1339  
the same degree of consanguinity with them who died leaving issue, 1340  
been living. 1341

**Sec. 2105.14.** Descendants of an intestate begotten before ~~his~~ 1342  
the intestate's death, but born ~~thereafter~~ after the intestate's 1343  
death, in all cases will inherit as if born in the lifetime of the 1344  
intestate and surviving ~~him~~ the intestate; but in no other case 1345  
can a person inherit unless living at the time of the death of the 1346  
intestate. 1347

**Sec. 2105.15.** A person of sound mind and memory may appear 1348  
before the probate judge of ~~his~~ the person's county and in the 1349  
presence of ~~such the~~ judge and two disinterested persons of ~~such~~ 1350  
that person's acquaintance, file a written declaration declaring 1351  
that, as ~~his~~ the person's free and voluntary act, ~~he~~ the person 1352  
did designate and appoint another, stating the name and place of 1353  
residence of ~~such the other~~ person specifically, to stand toward 1354  
~~him~~ the person in the relation of an heir at law in the event of 1355  
~~his~~ the person's death. ~~Such~~ The declaration ~~must~~ shall be 1356

attested by the two disinterested persons and subscribed by the 1357  
declarant. If satisfied that ~~such~~ the declarant is of sound mind 1358  
and memory and free from restraint, the judge ~~thereupon~~ shall 1359  
enter that fact upon ~~his~~ the judge's journal and make a complete 1360  
record of ~~such~~ the proceedings. ~~Thenceforward~~ From then on the 1361  
person designated will stand in the same relation, for all 1362  
purposes, to ~~such~~ the declarant as ~~he~~ the person designated could 1363  
if a child born in lawful wedlock. The rules of inheritance will 1364  
be the same between ~~him~~ the person designated and the relations by 1365  
blood of the declarant, as if so born. A certified copy of ~~such~~ 1366  
the record will be prima-facie evidence of the fact stated ~~therein~~ 1367  
in the record, and conclusive evidence, unless impeached for 1368  
actual fraud or undue influence. After a lapse of one year from 1369  
the date of ~~such~~ the designation, ~~such~~ the declarant may have ~~such~~ 1370  
the designation vacated or changed by filing in ~~said~~ that probate 1371  
court an application to vacate or change ~~such~~ the designation of 1372  
heir; provided, that there is compliance with the procedure, 1373  
conditions, and prerequisites required in the making of the 1374  
original declaration. 1375

**Sec. 2105.16.** No person who is capable of inheriting shall be 1376  
deprived of the inheritance by reason of any of ~~his~~ the person's 1377  
ancestors having been aliens. Aliens may hold, possess, and enjoy 1378  
~~lands, tenements, and hereditaments~~ real property within this 1379  
state, either by descent, devise, gift, or purchase, as fully as 1380  
any citizen of the United States or of this state may do. 1381

**Sec. 2105.19.** (A) Except as provided in division (C) of this 1382  
section, no person who is convicted of, pleads guilty to, or is 1383  
found not guilty by reason of insanity of a violation of or 1384  
complicity in the violation of section 2903.01, 2903.02, or 1385  
2903.03 of the Revised Code or of an existing or former law of any 1386  
other state, the United States, or a foreign nation, substantially 1387

equivalent to a violation of or complicity in the violation of any 1388  
of these sections, no person who is indicted for a violation of or 1389  
complicity in the violation of any of those sections or laws and 1390  
subsequently is adjudicated incompetent to stand trial on that 1391  
charge, and no juvenile who is found to be a delinquent child by 1392  
reason of committing an act that, if committed by an adult, would 1393  
be a violation of or complicity in the violation of any of those 1394  
sections or laws, shall in any way benefit by the death. All 1395  
property of the decedent, and all money, insurance proceeds, or 1396  
other property or benefits payable or distributable in respect of 1397  
the decedent's death, shall pass or be paid or distributed as if 1398  
the person who caused the death of the decedent had predeceased 1399  
the decedent. 1400

(B) A person prohibited by division (A) of this section from 1401  
benefiting by the death of another is a constructive trustee for 1402  
the benefit of those entitled to any property or benefit that the 1403  
person has obtained, or over which ~~he~~ the person has exerted 1404  
control, because of the decedent's death. A person who purchases 1405  
any such property or benefit from the constructive trustee, for 1406  
value, in good faith, and without notice of the constructive 1407  
trustee's disability under division (A) of this section, acquires 1408  
good title, but the constructive trustee is accountable to the 1409  
beneficiaries for the proceeds or value of the property or 1410  
benefit. 1411

(C) A person who is prohibited from benefiting from a death 1412  
pursuant to division (A) of this section either because ~~he~~ the 1413  
person was adjudicated incompetent to stand trial or was found not 1414  
guilty by reason of insanity, or ~~his~~ the person's guardian 1415  
appointed pursuant to Chapter 2111. of the Revised Code or other 1416  
legal representative, may file a complaint to declare ~~his~~ the 1417  
person's right to benefit from the death in the probate court in 1418  
which the decedent's estate is being administered or ~~which~~ that 1419

released the estate from administration. The complaint shall be 1420  
filed no later than sixty days after the person is adjudicated 1421  
incompetent to stand trial or found not guilty by reason of 1422  
insanity. The court shall notify each person who is a devisee or 1423  
legatee under the decedent's will, or if there is no will, each 1424  
person who is an heir of the decedent pursuant to section 2105.06 1425  
of the Revised Code that ~~such~~ a complaint of that nature has been 1426  
filed within ten days after the filing of ~~such a~~ the complaint. 1427  
The person who files the ~~motion~~ complaint, and each person who is 1428  
required to be notified of the filing of the ~~motion~~ complaint 1429  
under this division, is entitled to a jury trial in the action. To 1430  
assert the right, the person desiring a jury trial shall demand a 1431  
jury in the manner prescribed in the Civil Rules. 1432

A person who files a complaint pursuant to this division 1433  
shall be restored to ~~his~~ the person's right to benefit from the 1434  
death unless the court determines, by a preponderance of the 1435  
evidence, that the person would have been convicted of a violation 1436  
of, or complicity in the violation of, section 2903.01, 2903.02, 1437  
or 2903.03 of the Revised Code, or of a law of another state, the 1438  
United States, or a foreign nation that is substantially similar 1439  
to any of those sections, if ~~he~~ the person had been brought to 1440  
trial in the case in which ~~he~~ the person was adjudicated 1441  
incompetent or if ~~he~~ the person were not insane at the time of the 1442  
commission of the offense. 1443

**Sec. 2106.01.** (A) After the initial appointment of an 1444  
administrator or executor of the estate, the probate court shall 1445  
issue a citation to the surviving spouse, if any is living at the 1446  
time of the issuance of the citation, to elect whether to exercise 1447  
the surviving spouse's rights under Chapter 2106. of the Revised 1448  
Code, including, after the probate of a will, the right to elect 1449  
to take under the will or under section 2105.06 of the Revised 1450  
Code. 1451



A surviving spouse may waive the service of the citation 1452  
required under this division by filing in the probate court a 1453  
written waiver of the citation. The waiver shall include an 1454  
acknowledgment of receipt of the description of the general rights 1455  
of the surviving spouse required by division (B) of section 1456  
2106.02 of the Revised Code. 1457

(B) If the surviving spouse elects to take under section 1458  
2105.06 of the Revised Code and if the value of the property that 1459  
the surviving spouse is entitled to receive is equal to or greater 1460  
than the value of the decedent's interest in the mansion house as 1461  
determined under section 2106.10 of the Revised Code, the 1462  
surviving spouse also is entitled to make an election pursuant to 1463  
division (A) of section 2106.10 of the Revised Code. 1464

(C) If the surviving spouse elects to take under section 1465  
2105.06 of the Revised Code, the surviving spouse shall take not 1466  
to exceed one-half of the net estate, unless two or more of the 1467  
decedent's children or their lineal descendants survive, in which 1468  
case the surviving spouse shall take not to exceed one-third of 1469  
the net estate. 1470

For purposes of this division, the net estate shall be 1471  
determined before payment of federal estate tax, estate taxes 1472  
under Chapter 5731. of the Revised Code, or any other tax that is 1473  
subject to apportionment under section 2113.86 or 2113.861 of the 1474  
Revised Code. 1475

(D) Unless the will expressly provides that in case of an 1476  
election under division (A) of this section there shall be no 1477  
acceleration of remainder or other interests bequeathed or devised 1478  
by the will, the balance of the net estate shall be disposed of as 1479  
though the surviving spouse had predeceased the testator. If there 1480  
is a disposition by a will to an inter vivos trust that was 1481  
created by the testator, if under the terms of the trust the 1482  
surviving spouse is entitled to any interest in the trust or is 1483

granted any power or nomination with respect to the trust, and if 1484  
the surviving spouse makes an election to take under section 1485  
2105.06 of the Revised Code, then, unless the trust instrument 1486  
provides otherwise, the surviving spouse is ~~deemed~~ considered for 1487  
purposes of the trust to have predeceased the testator, and there 1488  
shall be an acceleration of remainder or other interests in all 1489  
property bequeathed or devised to the trust by the will, in all 1490  
property held by the trustee at the time of the death of the 1491  
decedent, and in all property that comes into the ~~hands~~ possession 1492  
or under the control of the trustee by reason of the death of the 1493  
decedent. 1494

(E) The election of a surviving spouse to take under a will 1495  
or under section 2105.06 of the Revised Code may be made at any 1496  
time after the death of the decedent, but the surviving spouse 1497  
shall not make the election later than five months from the date 1498  
of the initial appointment of an administrator or executor of the 1499  
estate. On a motion filed before the expiration of the five-month 1500  
period, and for good cause shown, the court may allow further time 1501  
for the making of the election. If no action is taken by the 1502  
surviving spouse before the expiration of the five-month period, 1503  
it is conclusively presumed that the surviving spouse elects to 1504  
take under the will. The election shall be entered on the journal 1505  
of the court. 1506

When proceedings for advice or to contest the validity of a 1507  
will are begun within the time allowed by this division for making 1508  
the election, the election may be made within three months after 1509  
the final disposition of the proceedings, if the will is not set 1510  
aside. 1511

(F) When a surviving spouse succeeds to the entire estate of 1512  
the testator, having been named the sole devisee and legatee, it 1513  
shall be presumed that the spouse elects to take under the will of 1514  
the testator, unless the surviving spouse manifests a contrary 1515

intention. 1516

**Sec. 2106.08.** If, because of a legal disability, a surviving 1517  
spouse is unable to make an election as provided by section 1518  
2106.01 of the Revised Code, as soon as the facts come to the 1519  
knowledge of the probate court, the probate court shall appoint 1520  
some suitable person to ascertain the value of the provision made 1521  
for the surviving spouse by the testator, the value of the rights 1522  
of the surviving spouse in the estate of the testator under 1523  
Chapter 2105. of the Revised Code, and the adequate support needs 1524  
of the surviving spouse after taking into consideration the other 1525  
available resources and the age, probable life expectancy, 1526  
physical and mental condition, and present and reasonably 1527  
anticipated future needs of the surviving spouse. The appointment 1528  
by the court shall be made at any time within the times described 1529  
in division (E) of section 2106.01 of the Revised Code for making 1530  
an election under that section. 1531

When the person so appointed returns the report of ~~his~~ the 1532  
person's investigation, the court may elect for the surviving 1533  
spouse to take under section 2105.06 of the Revised Code only if 1534  
it finds, after taking into consideration the other available 1535  
resources and the age, probable life expectancy, physical and 1536  
mental condition, and present and reasonably anticipated future 1537  
needs of the surviving spouse, that the election to take under 1538  
section 2105.06 of the Revised Code is necessary to provide 1539  
adequate support for the surviving spouse during ~~his~~ the surviving 1540  
spouse's life expectancy. 1541

After making its determination under this section, the court 1542  
shall record upon its journal the election made for the surviving 1543  
spouse. The election, when so entered, shall have the same effect 1544  
as an election made by one not under legal disability. 1545

**Sec. 2106.11.** Subject to the right of the surviving spouse to 1546  
elect to receive the decedent's interest in the mansion house 1547  
pursuant to section 2106.10 of the Revised Code, the specific 1548  
monetary share payable to a surviving spouse under division (B), 1549  
(C), or (D) of section 2105.06 of the Revised Code shall be paid 1550  
out of the tangible and intangible personal property in the 1551  
intestate estate to the extent that the personal property is 1552  
available for distribution. The personal property distributed to 1553  
the surviving spouse, other than cash, shall be valued at the 1554  
appraised value. 1555

Before tangible and intangible personal property is 1556  
transferred to the surviving spouse in payment or part payment of 1557  
the specific monetary share, the administrator or executor shall 1558  
file an application that includes an inventory of the personal 1559  
property intended to be distributed in kind to the surviving 1560  
spouse, together with a statement of the appraised value of each 1561  
item of personal property included. The court shall examine the 1562  
application and make a finding of the amount of personal property 1563  
to be distributed to the surviving spouse, and shall order that 1564  
the personal property be distributed to the surviving spouse. The 1565  
court concurrently shall make a finding of the amount of money 1566  
that remains due and payable to the surviving spouse in 1567  
satisfaction of the specific monetary share to which the surviving 1568  
spouse is entitled under division (B), (C), or (D) of section 1569  
2105.06 of the Revised Code. Any amount that remains due and 1570  
payable shall be a charge on the title to any real property in the 1571  
estate but the charge does not bear interest. This charge may be 1572  
conveyed or released in the same manner as any other interest in 1573  
real ~~estate~~ property and may be enforced by foreclosure or any 1574  
other appropriate remedy. 1575

**Sec. 2107.01.** ~~In~~ As used in Chapters 2101. to 2131. of the 1576

Revised Code, ~~"will":~~ 1577

(A) "Will" includes codicils to wills admitted to probate, 1578  
lost, spoliated, or destroyed wills, and instruments admitted to 1579  
probate under section 2107.081 of the Revised Code, but "will" 1580  
does not include inter vivos trusts or other instruments that have 1581  
not been admitted to probate. 1582

(B) "Testator" means any person who makes a will. 1583

**Sec. 2107.02.** A person ~~of the age of~~ who is eighteen years, 1584  
~~of age~~ or ~~ever~~ older, of sound mind and memory, and not under 1585  
restraint may make a will. 1586

**Sec. 2107.03.** Except oral wills, every ~~last will and~~ 1587  
~~testament~~ shall be in writing, but may be handwritten or 1588  
typewritten. The will shall be signed at the end by the testator 1589  
~~making it~~ or by some other person in the testator's conscious 1590  
presence and at the testator's express direction, ~~and~~. The will 1591  
shall be attested and subscribed in the conscious presence of the 1592  
testator, by two or more competent witnesses, who saw the testator 1593  
subscribe, or heard the testator acknowledge the testator's 1594  
signature. 1595

For purposes of this section, "conscious presence" means 1596  
within the range of any of the testator's senses, excluding the 1597  
sense of sight or sound that is sensed by telephonic, electronic, 1598  
or other distant communication. 1599

**Sec. 2107.04.** No agreement to make a will or to make a devise 1600  
or bequest by will shall be enforceable unless it is in writing. 1601  
~~Such~~ The agreement ~~must~~ shall be signed by the maker or by some 1602  
other person at ~~such~~ the maker's express direction. If signed by a 1603  
person other than ~~such~~ the maker, the instrument ~~must~~ shall be 1604  
subscribed by two or more competent witnesses who heard ~~such~~ the 1605

maker acknowledge that it was signed at ~~his~~ the maker's direction. 1606  
1607

**Sec. 2107.05.** An existing document, book, record, or 1608  
memorandum may be incorporated in a will by reference, if referred 1609  
to as being in existence at the time the will is executed. ~~Such~~ 1610  
That document, book, record, or memorandum shall be deposited in 1611  
the probate court when the will is probated or within thirty days 1612  
~~thereafter~~ after the will is probated, unless the court grants an 1613  
extension of time for good cause shown. A copy may be substituted 1614  
for the original document, book, record, or memorandum if ~~such~~ the 1615  
copy is certified to be correct by a person authorized to take 1616  
acknowledgments ~~on deeds~~. 1617

**Sec. 2107.07.** A will may be deposited by the ~~maker~~ testator, 1618  
or by some person for the ~~maker~~ testator, in the office of the 1619  
judge of the probate court in the county in which the testator 1620  
lives. ~~Such~~ That will shall be safely kept until delivered or 1621  
disposed of as provided by section 2107.08 of the Revised Code. 1622  
The judge, on being paid the fee of ~~one dollar~~ five dollars, shall 1623  
receive, keep, and give a certificate of deposit for ~~such~~ the 1624  
will. 1625

Every will ~~which~~ that is ~~to be~~ so deposited shall be enclosed 1626  
in a sealed ~~wrapper, which~~ envelope that shall be indorsed with 1627  
the name of the testator. The judge shall indorse ~~thereon~~ on the 1628  
envelope the date of delivery and the person by whom ~~such~~ the will 1629  
was delivered. The ~~wrapper~~ envelope may be indorsed with the name 1630  
of a person to whom it is to be delivered after the death of the 1631  
testator. ~~Such~~ The will shall not be opened or read until 1632  
delivered to a person entitled to receive it, until the ~~maker~~ 1633  
~~petitioner~~ testator files a complaint in the probate court for a 1634  
declaratory judgment of the validity of the will pursuant to 1635  
section 2107.081 of the Revised Code, or until otherwise disposed 1636

of as provided in section 2107.08 of the Revised Code. 1637

**Sec. 2107.08.** During the lifetime of a testator, the 1638  
testator's will, deposited according to section 2107.07 of the 1639  
Revised Code, shall be delivered only to ~~him~~ the testator, to some 1640  
person authorized by ~~him~~ the testator by a written order, or to a 1641  
probate court for a determination of its validity when the 1642  
testator so requests. After the testator's death, the will shall 1643  
be delivered to the person named in the indorsement on the ~~wrapper~~ 1644  
envelope of the will, if there is a person named who demands it. 1645  
If the testator has ~~petitioned~~ filed a complaint in the probate 1646  
court for a judgment declaring the validity of the will pursuant 1647  
to section 2107.081 of the Revised Code and the court has rendered 1648  
the judgment, the probate judge with possession shall deliver the 1649  
will to the proper probate court as determined under section 1650  
2107.11 of the Revised Code, upon the death of the testator, for 1651  
probate. 1652

If no person named in the indorsement demands the will and it 1653  
is not one that has been declared valid pursuant to section 1654  
2107.084 of the Revised Code, it shall be publicly opened in the 1655  
probate court within ~~two months~~ one month after notice of the 1656  
testator's death and retained in the office of the probate judge 1657  
until offered for probate. If the jurisdiction belongs to any 1658  
other probate court, the will shall be delivered to the person 1659  
entitled to its custody, to be presented for probate in the other 1660  
court. If the probate judge who opens the will has jurisdiction of 1661  
it, ~~he~~ the probate judge immediately shall give notice of its 1662  
existence to the executor named in the will or, if any, to the 1663  
persons holding a power to nominate an executor as described in 1664  
section 2107.65 of the Revised Code, or, if it is the case, to the 1665  
executor named in the will and to the persons holding a power to 1666  
nominate a coexecutor as described in that section. If no executor 1667  
is named and no persons hold a power to nominate an executor as 1668

described in that section, the probate judge shall give notice to 1669  
other persons immediately interested. 1670

**Sec. 2107.081.** (A) A person who executes a will allegedly in 1671  
conformity with the laws of this state may ~~petition~~ file a 1672  
complaint in the probate court of the county in which ~~he~~ the 1673  
person is domiciled, if ~~he~~ the person is domiciled in this state, 1674  
or in the probate court of the county in which any of ~~his~~ the 1675  
person's real property is located, if ~~he~~ the person is not 1676  
domiciled in this state, for a judgment declaring the validity of 1677  
the will. 1678

The ~~petition~~ complaint may be filed in the form determined by 1679  
the probate court of the county in which it is filed. 1680

The ~~petition~~ complaint shall name as parties defendant all 1681  
persons named in the will as beneficiaries, and all of the persons 1682  
who would be entitled to inherit from the testator under Chapter 1683  
2105. of the Revised Code had the testator died intestate on the 1684  
date the ~~petition~~ complaint was filed. 1685

For the purposes of this section, "domicile" shall be 1686  
determined at the time of filing the ~~petition~~ complaint with the 1687  
probate court. 1688

(B) The failure of a testator to file a ~~petition~~ complaint 1689  
for a judgment declaring the validity of a will ~~he~~ the testator 1690  
has executed shall not be construed as evidence or an admission 1691  
that the will was not properly executed pursuant to section 1692  
2107.03 of the Revised Code or any prior law of this state in 1693  
effect at the time of execution or as evidence or an admission 1694  
that the testator did not have the requisite testamentary capacity 1695  
~~and freedom from undue influence under section 2107.02 of the~~ 1696  
~~Revised Code~~ or was under any restraint. 1697

**Sec. 2107.082.** Service of process in an action authorized by 1698



section 2107.081 of the Revised Code shall be made on every party 1699  
defendant named in ~~that action~~ the complaint filed under that 1700  
section by the following methods: 1701

(A) By certified mail, or any other valid personal service 1702  
permitted by the Rules of Civil Procedure, if the party is an 1703  
inhabitant of this state or is found within this state; 1704

(B) By certified mail, with a copy of the summons and 1705  
~~petition~~ complaint, to the party at ~~his~~ the party's last known 1706  
address or any other valid personal service permitted by the Rules 1707  
of Civil Procedure, if the party is not an inhabitant of this 1708  
state or is not found within this state; 1709

(C) By publication, according to Civil Rule 4.4, in a 1710  
newspaper of general circulation published in the county where the 1711  
~~petition~~ complaint was filed, for three consecutive weeks, if the 1712  
address of the party is unknown, if all methods of personal 1713  
service permitted under division (B) of this section were 1714  
attempted without success, or if the interest of the party under 1715  
the will or in the estate of the testator should the will be 1716  
declared invalid is unascertainable at that time. 1717

**Sec. 2107.083.** When a ~~petition~~ complaint is filed pursuant to 1718  
section 2107.081 of the Revised Code, the probate court shall 1719  
conduct a hearing on the validity of the will. The hearing shall 1720  
be adversary in nature and shall be conducted pursuant to section 1721  
2721.10 of the Revised Code, except as otherwise provided in 1722  
sections 2107.081 to 2107.085 of the Revised Code. 1723

**Sec. 2107.084.** (A) The probate court shall declare the will 1724  
valid if, after conducting a proper hearing pursuant to section 1725  
2107.083 of the Revised Code, it finds that the will was properly 1726  
executed pursuant to section 2107.03 of the Revised Code or under 1727  
any prior law of this state that was in effect at the time of 1728

execution and that the testator had the requisite testamentary 1729  
capacity and ~~freedom from undue influence pursuant to section~~ 1730  
~~2107.02 of the Revised Code~~ was not under any restraint. 1731

Any ~~such~~ judgment under this section declaring a will valid 1732  
is binding in this state as to the validity of the will on all 1733  
facts found, unless provided otherwise in this section, section 1734  
2107.33 of the Revised Code, or division (B) of section 2107.71 of 1735  
the Revised Code, and, if the will remains valid, shall give the 1736  
will full legal effect as the instrument of disposition of the 1737  
testator's estate, unless the will has been modified or revoked 1738  
according to law. 1739

(B) Any declaration of validity issued as a judgment pursuant 1740  
to this section shall be sealed in an envelope along with the will 1741  
to which it pertains, and filed by the probate judge or ~~his~~ 1742  
~~designated officer~~ the probate judge's designee in the offices of 1743  
that probate court. The filed will shall be available during the 1744  
testator's lifetime only to the testator. If the testator removes 1745  
a filed will from the possession of the probate judge, the 1746  
declaration of validity rendered under division (A) of this 1747  
section no longer has any effect. 1748

(C) A testator may revoke or modify a will declared valid and 1749  
filed with a probate court pursuant to this section by ~~petitioning~~ 1750  
filing a complaint in the probate court in possession of the will 1751  
and asking that the will be revoked or modified. The ~~petition~~ 1752  
complaint shall include a document executed pursuant to sections 1753  
2107.02 and 2107.03 of the Revised Code, and shall name as parties 1754  
defendant those persons who were parties defendant in any previous 1755  
action declaring the will valid, those persons who are named in 1756  
any modification as beneficiaries, and those persons who would be 1757  
entitled because of the revocation or modification, to inherit 1758  
from the testator under Chapter 2105. of the Revised Code had the 1759  
testator died intestate on the date the ~~petition~~ complaint was 1760

filed. Service of the ~~petition~~ complaint and process shall be made 1761  
on these parties by the methods authorized in section 2107.082 of 1762  
the Revised Code. 1763

Unless waived by all parties, the court shall conduct a 1764  
hearing on the validity of the revocation or modification 1765  
requested under this division in the same manner as it would on 1766  
any initial ~~petition~~ complaint for a judgment declaring a will to 1767  
be valid under this section. If the court finds that the 1768  
revocation or modification is valid, ~~as defined~~ under the 1769  
procedure described in division (A) of this section, the 1770  
revocation or modification shall take full effect and be binding, 1771  
and shall revoke the will or modify it to the extent of the valid 1772  
modification. The revocation or modification, the judgment 1773  
declaring it valid, and the will itself shall be sealed in an 1774  
envelope and filed with the probate court, and shall be available 1775  
during the testator's lifetime only to the testator. 1776

(D) A ~~testator may also modify a will by any later will or~~ 1777  
that has been declared valid under division (A) of this section 1778  
and is in the possession of the probate judge may be modified by 1779  
~~codicil executed according to the laws of this state or any other~~ 1780  
~~state and if the codicil is declared valid by the same procedure~~ 1781  
as the will. A testator may revoke a will by any method permitted 1782  
under section 2107.33 of the Revised Code. 1783

(E) A declaration of validity of a will, ~~or~~ of a codicil to a 1784  
will previously declared valid, or of a revocation or modification 1785  
of a will previously determined to be valid, that is given under 1786  
division (A) or (C) of this section, whichever is applicable, is 1787  
not subject to collateral attack, except by a person and in the 1788  
manner specified in division (B) of section 2107.71 of the Revised 1789  
Code, but is appealable subject to the terms of Chapter 2721. of 1790  
the Revised Code. 1791

**Sec. 2107.085.** The finding of facts by a probate court in a proceeding brought under sections 2107.081 to 2107.085 of the Revised Code is not admissible as evidence in any proceeding other than one brought to determine the validity of a will.

The determination or judgment rendered in a proceeding under ~~these~~ those sections is not binding upon the parties to ~~such a~~ that proceeding in any action not brought to determine the validity of a will.

The failure of a testator to file a ~~petition~~ complaint for a judgment declaring the validity of a will ~~he~~ the testator has executed is not admissible as evidence in any proceeding to determine the validity of that will or any other will executed by the testator.

**Sec. 2107.09.** (A) If real ~~or personal estate~~ property is devised or personal property is bequeathed by a ~~last~~ will, the executor, or any interested person, may cause ~~such the~~ the will to be brought before the probate court of the county in which the decedent was domiciled. By ~~citation, attachment, or warrant or, if circumstances require it, by warrant or attachment in the first instance~~ judicial order, ~~such the~~ the court may compel the person having the custody or control of ~~such the~~ the will to produce it before the court for the purpose of being proved.

If the person having the custody or control of the will intentionally conceals or withholds it or neglects or refuses to produce it for probate without reasonable cause, ~~he~~ the person may be committed to the county jail and kept in ~~close~~ custody until ~~he produces~~ the will is produced. ~~This~~ The person also shall be liable to any party aggrieved for the damages sustained by ~~such that~~ that neglect or refusal.

Any ~~citation, attachment, or warrant~~ judicial order issued

pursuant to this section may be issued into any county in the 1822  
state and shall be served and returned by the officer to whom it 1823  
is delivered. 1824

The officer to whom ~~such~~ the process is delivered shall be 1825  
liable for neglect in its service or return in ~~like~~ the same 1826  
manner as sheriffs are liable for neglect in not serving or 1827  
returning a capias issued upon an indictment. 1828

(B) In the case of a will that has been declared valid 1829  
pursuant to section 2107.084 of the Revised Code, the probate 1830  
judge who made the declaration or who has possession of the will 1831  
shall cause the will and the judgment declaring validity to be 1832  
brought before the proper probate court as determined by section 1833  
2107.11 of the Revised Code at a time after the death of the 1834  
testator. If the death of the testator is brought to the attention 1835  
of the probate judge by an interested party, the judge shall cause 1836  
the will to be brought before the proper probate court at that 1837  
time. 1838

**Sec. 2107.10.** (A) No property or right, testate or intestate, 1839  
shall pass to a beneficiary named in a will who knows of the 1840  
existence of the will for ~~three years~~ one year after the death of 1841  
the testator and has the power to control it, and, without 1842  
reasonable cause, intentionally conceals or withholds it or 1843  
neglects or refuses within ~~the three years~~ that one year to cause 1844  
it to be offered for or admitted to probate. The ~~estate~~ property 1845  
devised or bequeathed to ~~such devisee~~ that beneficiary shall 1846  
descend to the heirs of the testator, not including any heir who 1847  
has concealed or withheld the will. 1848

(B) No property or right, testate or intestate, passes to a 1849  
beneficiary named in a will when the will was declared valid and 1850  
filed with a probate judge pursuant to section 2107.084 of the 1851  
Revised Code, the declaration and filing took place in a county 1852

different from the county in which the will of the testator would 1853  
be probated under section 2107.11 of the Revised Code, and the 1854  
named beneficiary knew of the declaration and filing and of the 1855  
death of the testator and did not notify the probate judge with 1856  
whom the will was filed. This division does not preclude a named 1857  
beneficiary from acquiring property or rights from the estate of 1858  
the testator for failing to notify a probate judge if ~~it is his~~ 1859  
~~reasonable belief~~ the named beneficiary reasonably believes that 1860  
the judge has previously been notified of the testator's death. 1861

**Sec. 2107.11. (A)** A will shall be admitted to probate: 1862

~~(A)(1)~~ In the county in this state in which the testator was 1863  
domiciled ~~if,~~ at the time of ~~his~~ the testator's death, ~~he was~~ 1864  
~~domiciled in this state;~~ 1865

~~(B)(2)~~ In any county of this state where any real property or 1866  
personal property of ~~such~~ the testator is located if, at the time 1867  
of ~~his~~ the testator's death, ~~he~~ the testator was not domiciled in 1868  
this state, and provided that ~~such~~ the will has not previously 1869  
been admitted to probate in this state or in the state of ~~such~~ the 1870  
testator's domicile; 1871

~~(C)(3)~~ In the county of this state in which a probate court 1872  
rendered a judgment declaring that the will was valid and ~~where~~ in 1873  
which the will was filed with the probate court. 1874

(B) For the purpose of division (A)(2) of this section, 1875  
intangible personal property is located in the place where the 1876  
instrument evidencing a debt, obligation, stock, or chose in 1877  
action is located or if there is no such instrument where the 1878  
debtor resides. 1879

**Sec. 2107.15.** If a devise or bequest is made to a person who 1880  
is one of only two witnesses to a will, the devise or bequest is 1881  
void. The witness shall then be competent to testify to the 1882

execution of the will, as if the devise or bequest had not been 1883  
made. If the witness would have been entitled to a share of the 1884  
testator's estate in case the will was not established, ~~he~~ the 1885  
witness takes so much of that share that does not exceed the 1886  
bequest or devise to ~~him~~ the witness. The devisees and legatees 1887  
shall contribute for that purpose as for an absent or afterborn 1888  
child under section 2107.34 of the Revised Code. 1889

**Sec. 2107.17.** When a witness to a will, or other witness 1890  
competent to testify at a probate or declaratory judgment 1891  
proceeding, resides out of its jurisdiction, or resides within it 1892  
but is infirm and unable to attend court, the probate court may 1893  
issue a commission with the will annexed directed to any suitable 1894  
person. In lieu of the original will, the probate court, in its 1895  
discretion, may annex to the commission a photocopy of the will or 1896  
a copy of the will made by photostatic or any similar process. The 1897  
person to whom the commission is directed shall take the 1898  
deposition or authorize the taking of the deposition of the 1899  
witness as provided by the Rules of Civil Procedure. The 1900  
testimony, certified and returned, shall be admissible and have 1901  
the same effect in the proceedings as if taken in open court. 1902

**Sec. 2107.18.** The probate court shall admit a will to probate 1903  
if it appears from the face of the will, or if the probate court 1904  
requires, in its discretion, the testimony of the witnesses to a 1905  
will and it appears from that testimony, that the execution of the 1906  
will complies with the law in force at the time of the execution 1907  
of the will in the jurisdiction in which it was executed, ~~or~~ with 1908  
the law in force in this state at the time of the death of the 1909  
testator, or with the law in force in the jurisdiction in which 1910  
the testator was domiciled at the time of ~~his~~ the testator's 1911  
death. 1912

The probate court shall admit a will to probate when there 1913

has been a prior judgment by a probate court declaring that the will is valid, rendered pursuant to section 2107.084 of the Revised Code, if the will has not been removed from the possession of the probate judge and has not been modified or revoked under division (C) or (D) of section 2107.084 of the Revised Code.

**Sec. 2107.20.** When admitted to probate every will shall be filed in the office of the probate judge and recorded, together with any testimony or prior judgment of a probate court declaring the will valid, by ~~him~~ the judge or the clerk of the probate court in a book to be kept for that purpose.

A copy of ~~such~~ the recorded will, with a copy of the order of probate annexed ~~thereto~~ to the copy of the recorded will, certified by the judge under seal of ~~his~~ the judge's court, shall be as effectual in all cases as the original would be, if established by proof.

**Sec. 2107.21.** If real estate property devised by will is situated in any county other than that in which the will is proved, declared valid, or admitted to probate, an authenticated copy of the will and the order of probate or the judgment declaring validity shall be admitted to the record in the office of the probate judge of each county in which ~~such~~ the real estate property is situated upon the order of ~~such~~ that judge. The authenticated copy shall have the same validity ~~therein~~ in the county in which the real property is situated as if probate had been had in ~~such~~ that county.

**Sec. 2107.22.** (A)(1)(a) When a will has been admitted to probate by a probate court and another will of later date is presented to the same court for probate, notice of the will of later date shall be given to those persons required to be notified under section 2107.19 of the Revised Code, and to the fiduciaries



and beneficiaries under the will of earlier date. The probate 1944  
court may admit the will of later date to probate the same as if 1945  
no earlier will had been so admitted if it appears from the face 1946  
of the will of later date, or if an interested person makes a 1947  
demand as described in division (A)(1)(b) of this section and it 1948  
appears from the testimony of the witnesses to the will given in 1949  
accordance with that division, that the execution of the will 1950  
complies with the law in force at the time of the execution of the 1951  
will in the jurisdiction in which it was executed, ~~or~~ with the law 1952  
in force in this state at the time of the death of the testator, 1953  
or with the law in force in the jurisdiction in which the testator 1954  
was domiciled at the time of ~~his~~ the testator's death. 1955

(b) Upon the demand of a person interested in having a will 1956  
of later date admitted to probate, the probate court shall cause 1957  
at least two of the witnesses to the will of later date, and any 1958  
other witnesses that the interested person desires to have appear, 1959  
to come before the probate court and provide testimony. If the 1960  
interested person so requests, the probate court shall issue a 1961  
subpoena to compel the presence of any such witness before the 1962  
probate court to provide testimony. 1963

Witnesses before the probate court pursuant to this division 1964  
shall be examined, and may be cross-examined, in open court, and 1965  
their testimony shall be reduced to writing and then filed in the 1966  
records of the probate court pertaining to the testator's estate. 1967

(2) When an authenticated copy of a will has been admitted to 1968  
record by a probate court, and an authenticated copy of a will of 1969  
later date that was executed and proved as required by law, is 1970  
presented to the same court for record, it shall be admitted to 1971  
record in the same manner as if no authenticated copy of the will 1972  
of earlier date had been so admitted. 1973

(3) If a probate court admits a will of later date to 1974  
probate, or an authenticated copy of a will of later date to 1975

record, its order shall operate as a revocation of the order 1976  
admitting the will of earlier date to probate, or shall operate as 1977  
a revocation of the order admitting the authenticated copy of the 1978  
will of earlier date to record. The probate court shall enter on 1979  
the record of the earlier will a marginal note "later will 1980  
admitted to probate ..." (giving the date admitted). 1981

(B) When a will that has been declared valid pursuant to 1982  
section 2107.084 of the Revised Code has been admitted to probate 1983  
by a probate court, and an authenticated copy of another will of 1984  
later date that was executed and proved as required by law is 1985  
presented to the same court for record, the will of later date 1986  
shall be admitted the same as if no other will had been admitted 1987  
and the proceedings shall continue as provided in this section. 1988

**Sec. 2107.29.** When the record of a will is destroyed, a copy 1989  
of ~~such the~~ will or a copy of ~~such the~~ will and its probate may be 1990  
recorded by the probate court if it appears to the court's 1991  
satisfaction that ~~such the~~ record has been destroyed and if it 1992  
appears, by reason of a certificate signed and sealed by the 1993  
probate judge, ~~or by the clerk of the court of common pleas,~~ that 1994  
~~such the~~ copy is a true copy of the original will or a true copy 1995  
of the original will and its probate. 1996

**Sec. 2107.32.** Every probate judge who admits a will or copy 1997  
of a will to record under sections 2107.29 to 2107.31, ~~inclusive,~~ 1998  
of the Revised Code, shall immediately ~~thereafter shall~~ after 1999  
admitting the will or copy to record give notice for three 2000  
consecutive weeks in two weekly newspapers of ~~his~~ the probate 2001  
judge's county if two are published ~~therein in the county,~~ or if 2002  
not, in one newspaper of general circulation in the county, 2003  
stating the name of the person the record of whose will has been 2004  
destroyed and the day when ~~such the~~ record was supplied under 2005  
those sections. All persons interested in the record, at any time 2006

within five years from the making of ~~such the~~ record, may come 2007  
into the probate court and contest the question whether the record 2008  
~~thus that was~~ supplied is the same as the destroyed record 2009  
destroyed. 2010

**Sec. 2107.34.** If, after making a ~~last will and testament~~, a 2011  
testator has a child born alive, ~~or~~ adopts a child, or designates 2012  
an heir in the manner provided by section 2105.15 of the Revised 2013  
Code, or if a child or designated heir who is absent and reported 2014  
to be dead proves to be alive, and no provision has been made in 2015  
~~such the~~ will or by settlement for ~~such the~~ pretermitted child or 2016  
heir, or for ~~the that child's or heir's issue thereof~~, the will 2017  
shall not be revoked; ~~but unless~~. Unless it appears by ~~such the~~ 2018  
will that it was the intention of the testator to disinherit ~~such~~ 2019  
~~the~~ pretermitted child or heir, the devises and legacies granted 2020  
by ~~such the~~ will, except those to a surviving spouse, shall be 2021  
abated proportionately, or in ~~such any~~ other manner ~~as that~~ is 2022  
necessary to give effect to the intention of the testator as shown 2023  
by the will, so that ~~such the~~ pretermitted child or heir will 2024  
receive a share equal to that which ~~such the~~ person would have 2025  
been entitled to receive out of the estate if ~~such the~~ testator 2026  
had died intestate with no surviving spouse, owning only that 2027  
portion of the testator's estate not devised or bequeathed to or 2028  
for the use and benefit of a surviving spouse. If ~~such the~~ 2029  
pretermitted child or heir dies prior to the death of the 2030  
testator, the issue of ~~such the~~ deceased child or heir shall 2031  
receive the share the parent would have received if living. 2032

If ~~such~~ pretermitted child or heir supposed to be dead at the 2033  
time of executing the will has lineal descendants, provision for 2034  
whom is made by the testator, the other legatees and devisees need 2035  
not contribute, but ~~such the~~ pretermitted child or heir shall take 2036  
the provision made for the pretermitted child's or heir's lineal 2037  
descendants or ~~such that~~ part of it as, in the opinion of the 2038

probate judge, may be equitable. In settling the claim of a 2039  
pretermitted child or heir, any portion of the testator's estate 2040  
received by a party interested, by way of advancement, is a 2041  
portion of the estate and shall be charged to the party who has 2042  
received it. 2043

Though measured by Chapter 2105. of the Revised Code, the 2044  
share taken by a pretermitted child or heir shall be considered as 2045  
a testate succession. This section does not prejudice the right of 2046  
any fiduciary to act under any power given by the will, nor shall 2047  
the title of innocent purchasers for value of any of the property 2048  
of the testator's estate be affected by any right given by this 2049  
section to a pretermitted child or heir. 2050

**Sec. 2107.35.** An encumbrance upon real or personal estate 2051  
property for the purpose of securing the payment of money or the 2052  
performance of a covenant shall not revoke a ~~will~~ previously 2053  
executed ~~and will~~ relating to ~~such estate~~ that property. 2054

**Sec. 2107.36.** An act of a testator ~~which~~ that alters but does 2055  
not wholly divest ~~such~~ the testator's interest in property 2056  
previously devised or bequeathed by ~~him~~ the testator does not 2057  
revoke the devise or bequest of ~~such~~ the property, ~~but such~~. The 2058  
devise or bequest shall pass to the devisee or legatee the actual 2059  
interest of the testator, ~~which~~ that would otherwise descend to 2060  
~~his~~ the testator's heirs or pass to ~~his~~ the testator's next of 2061  
kin, unless, ~~in~~ the instrument by which ~~such~~ the alteration is 2062  
made, declares the testator's intention ~~is declared~~ that it shall 2063  
operate as a revocation of ~~such~~ the previous devise or bequest. 2064

If the instrument by which ~~such~~ the alteration is made is 2065  
wholly inconsistent with the previous devise or bequest, ~~such~~ the 2066  
instrument ~~will~~ shall operate as a revocation ~~thereof~~ of the 2067  
devise or bequest, unless ~~such~~ the instrument depends on a 2068

condition or contingency, and ~~such the~~ condition is not performed 2069  
or ~~such the~~ contingency does not happen. 2070

**Sec. 2107.38.** If a testator executes a second will, the 2071  
destruction, cancellation, or revocation of the second will shall 2072  
not revive the first will unless the terms of ~~such the~~ revocation 2073  
show that it was ~~such the~~ testator's intention to revive and give 2074  
effect to ~~his the testator's~~ first will or unless, after ~~such the~~ 2075  
destruction, cancellation, or revocation of the second will, ~~such~~ 2076  
the testator republishes ~~his the testator's~~ first will. 2077

**Sec. 2107.46.** Any fiduciary may ~~maintain~~ file an action in 2078  
the probate court against creditors, legatees, distributees, or 2079  
other parties, and ask the direction or judgment of the court in 2080  
any matter respecting the trust, estate, or property to be 2081  
administered, and the rights of the parties in interest. 2082

If any fiduciary fails for thirty days to ~~bring such~~ file an 2083  
action under this section after a written request from a party in 2084  
interest, the party making the request may ~~institute~~ file the ~~suit~~ 2085  
action. 2086

**Sec. 2107.47.** (A) The title, estate, or interest of a bona 2087  
fide purchaser, lessee, or encumbrancer, for value, in ~~land~~ real 2088  
property situated in this state, that is derived from an heir of a 2089  
decedent and acquired without knowledge of a will of the decedent 2090  
that effectively disposes of it to another person, shall not be 2091  
defeated by the production of a will of the decedent, unless, in 2092  
the case of a resident decedent, the will is offered for probate 2093  
within three months after the death of the decedent, or unless, in 2094  
the case of a nonresident decedent, the will is offered for record 2095  
in this state within three months after the death of the decedent. 2096

(B) The title, estate, or interest of a bona fide purchaser, 2097  
lessee, or encumbrancer, for value, in ~~land~~ real property situated 2098

in this state, that is derived from a beneficiary under a will of 2099  
a decedent and acquired without knowledge of a later will of the 2100  
decedent that effectively disposes of it to another person, shall 2101  
not be defeated by the production of a later will of the decedent, 2102  
unless, in the case of a resident decedent, the later will is 2103  
offered for probate within three months after the death of the 2104  
decedent, or unless, in the case of a nonresident decedent, the 2105  
later will is offered for record in this state within three months 2106  
after the death of the decedent. 2107

**Sec. 2107.49.** When ~~lands, tenements, or hereditaments~~ 2108  
interests in real property are given by deed or will to a person 2109  
for ~~his~~ the person's life, and after ~~his~~ the person's death to ~~his~~ 2110  
the person's heirs in fee, the conveyance shall vest an estate for 2111  
life only in ~~such~~ the first taker and a remainder in fee simple in 2112  
~~his~~ the heirs of the first taker. If the remainder is given to the 2113  
heirs of the body of the life tenant, the conveyance shall vest an 2114  
estate for life only in ~~such~~ the first taker and a remainder in 2115  
fee simple in the heirs of ~~his~~ the body of the life tenant. The 2116  
rule in Shelley's case is abolished by this section and shall not 2117  
be given effect. 2118

**Sec. 2107.50.** Any estate, right, or interest in any property 2119  
of which a decedent ~~was possessed~~ had an interest at ~~his decease~~ 2120  
the time of the decedent's death shall pass under ~~his~~ the 2121  
decedent's will unless ~~such~~ the will manifests a different 2122  
intention. 2123

**Sec. 2107.501.** (A) A specific devisee or legatee has the 2124  
right ~~of~~ to the remaining specifically devised or bequeathed 2125  
property, and the following: 2126

(1) Any balance on the purchase price, together with any 2127  
security interest owing from a purchaser to the testator at death 2128

by reason of sale of the property;	2129
(2) Any amount of condemnation award unpaid at death for the taking of the property;	2130 2131
(3) Any proceeds unpaid at death on fire or casualty insurance on the property;	2132 2133
(4) Property owned by the testator at death as a result of foreclosure, or obtained in lieu of foreclosure, of the security for a specifically devised or bequeathed obligation.	2134 2135 2136
(B) If specifically devised or bequeathed property is sold by a guardian, by an agent acting within the authority of a power of attorney, or by an agent acting within the authority of a durable power of attorney, or if a condemnation award or insurance proceeds are paid to a guardian, to an agent acting within the authority of a power of attorney, or to an agent acting within the authority of a durable power of attorney as a result of condemnation, fire, or casualty to the property, the specific devisee or legatee has the right to a general pecuniary devise or bequest equal to the net proceeds of sale, the condemnation award, or the insurance proceeds, and <del>such a</del> <u>that</u> devise or bequest shall be treated as property subject to section 2107.54 of the Revised Code. This section does not apply if subsequent to the sale, condemnation, fire, or casualty, it is adjudicated that the disability of the testator has ceased and the testator survives the adjudication by one year. The right of the specific devisee or legatee is reduced by any right <del>the specific devisee or legatee has acquired</del> <u>has acquired</u> under division (A) of this section.	2137 2138 2139 2140 2141 2142 2143 2144 2145 2146 2147 2148 2149 2150 2151 2152 2153 2154
<b>Sec. 2107.51.</b> Every devise of <del>lands, tenements, or hereditaments</del> <u>an interest in real property</u> in a will shall convey all the estate of the devisor <del>therein in the property</del> , unless it clearly appears by the will that the devisor intended to convey a less estate.	2155 2156 2157 2158 2159

**Sec. 2107.52.** (A) As used in this section, "relative" means 2160  
an individual who is related to a testator by consanguinity and an 2161  
heir at law designated pursuant to section 2105.15 of the Revised 2162  
Code. 2163

(B) Unless a contrary intention is manifested in the will, if 2164  
a devise of real property or a bequest of personal property is 2165  
made to a relative of a testator and the relative was dead at the 2166  
time the will was made or dies after that time, leaving issue 2167  
surviving the testator, those issue shall take by representation 2168  
the devised or bequeathed property as the devisee or legatee would 2169  
have done if ~~he~~ the devisee or legatee had survived the testator. 2170  
If the testator devised or bequeathed a residuary estate or the 2171  
entire estate after debts, other general or specific devises and 2172  
bequests, or an interest less than a fee or absolute ownership to 2173  
that devisee or legatee and relatives of the testator and if that 2174  
devisee or legatee leaves no issue, the estate devised or 2175  
bequeathed shall vest in the other devisees or legatees surviving 2176  
the testator in ~~such~~ the proportions ~~as that~~ the testamentary 2177  
share of each devisee or legatee in the devised or bequeathed 2178  
property bears to the total of the shares of all of the surviving 2179  
devisees or legatees, unless a different disposition is made or 2180  
required by the will. 2181

**Sec. 2107.53.** When part of the real estate property of a 2182  
testator descends to ~~his~~ the testator's heirs because it was not 2183  
disposed of by ~~his~~ the testator's will, and ~~his~~ the testator's 2184  
personal estate property is insufficient to pay ~~his~~ the testator's 2185  
debts, the undevised real estate property shall be chargeable 2186  
first with the debts, as far as it will go, in exoneration of the 2187  
real estate property that is devised, unless it appears from the 2188  
will that a different arrangement of assets was made for the 2189  
payment of ~~such~~ the testator's debts, in which case ~~such~~ the 2190



assets shall be applied for that purpose in conformity with the 2191  
will. 2192

**Sec. 2107.54.** (A) When real or personal property, devised or 2193  
bequeathed, is taken from the devisee or legatee for the payment 2194  
of a debt of the testator, the other devisees and legatees shall 2195  
contribute their respective proportions of the loss to the person 2196  
from whom ~~such~~ the payment was taken so that the loss will fall 2197  
equally on all the devisees and legatees according to the value of 2198  
the property received by each of them. 2199

If, by making a specific devise or bequest, the testator has 2200  
exempted a devisee or legatee from liability to contribute to the 2201  
payment of debts, or if the will makes a different provision for 2202  
the payment of debts than the one prescribed in this section, the 2203  
estate shall be applied in conformity with the will. 2204

(B) A devisee or legatee shall not be prejudiced by the fact 2205  
that the holder of a claim secured by lien on the property devised 2206  
or bequeathed failed to present ~~such~~ the claim to the executor or 2207  
administrator for allowance within the time allowed by sections 2208  
2117.06 and 2117.07 of the Revised Code, and the devisee or 2209  
legatee shall be restored by right of contribution, exoneration, 2210  
or subrogation, to the position ~~he~~ the devisee or legatee would 2211  
have occupied if ~~such~~ the claim had been presented and allowed for 2212  
~~such~~ the sum ~~as~~ that is justly owing on it. 2213

(C) A devisee of real estate property that is subject to a 2214  
mortgage lien that exists on the date of the testator's death, who 2215  
does not have a right of exoneration that extends to that lien 2216  
because of the operation of division (B) of section 2113.52 of the 2217  
Revised Code, has a duty to contribute under this section to 2218  
devisees and legatees who are burdened if the claim secured by the 2219  
lien is presented and allowed pursuant to Chapter 2117. of the 2220  
Revised Code. 2221

(D) This section does not affect the liability of the whole 2222  
estate of the testator for the payment of ~~his~~ the testator's 2223  
debts. This section applies only to the marshaling of the assets 2224  
as between those who hold or claim under the will. 2225

**Sec. 2107.55.** When a part of the estate of a testator 2226  
descends to a child born or adopted, or to an heir designated, 2227  
after the execution of the will, or to a child absent and reported 2228  
to be dead at the time of execution of the will but later found to 2229  
be alive, or to a witness to a will who is a devisee or legatee, 2230  
~~such~~ the estate and the advancement made to ~~such~~ the child, heir, 2231  
or witness for all the purposes mentioned in section 2107.54 of 2232  
the Revised Code shall be considered as if it had been devised to 2233  
~~such~~ that child, heir, or witness and ~~he~~ the child, heir, or 2234  
witness shall be bound to contribute with the devisees and 2235  
legatees, as provided by ~~such~~ that section, and may claim 2236  
contribution from them accordingly. 2237

**Sec. 2107.56.** When any of the persons liable to contribute 2238  
toward the discharge of a testator's debt according to sections 2239  
2107.54 and 2107.55 of the Revised Code, is insolvent, the others 2240  
shall be severally liable to each other for the loss occasioned by 2241  
~~such~~ the insolvency, each being liable in proportion to the value 2242  
of the property received by ~~him~~ the person from the estate of the 2243  
deceased. If any one of the persons liable dies without paying ~~his~~ 2244  
the person's proportion of ~~such~~ the debt, ~~his~~ the executors and 2245  
administrators of the person's estate shall be liable ~~therefor~~ for 2246  
that proportion to the extent to which ~~he~~ the person would have 2247  
been liable if living. 2248

**Sec. 2107.58.** When a sale of ~~lands~~ real property alienated or 2249  
unalienated by a devisee or heir is ordered for the payment of the 2250  
debts of an estate, sections 2107.53 to 2107.57, ~~inclusive,~~ of the 2251

Revised Code do not prevent the probate court from making ~~such an~~ 2252  
order and decree for the sale of any portion of the alienated or 2253  
unaliened ~~land as~~ real property that is equitable ~~between~~ among 2254  
the ~~several~~ parties, and making an order of contribution and 2255  
further order and decree to settle and adjust the various rights 2256  
and liabilities of the parties. 2257

**Sec. 2107.59.** When a ~~last will and testament~~ is admitted to 2258  
probate, or a will made out of this state is admitted to record as 2259  
provided by sections 2129.05 to 2129.07 of the Revised Code, and 2260  
~~lands, tenements, or hereditaments~~ interests in real property are 2261  
given or devised by ~~such the~~ will to the executors named in the 2262  
will, or nominated pursuant to a power as described in section 2263  
2107.65 of the Revised Code, to be sold or conveyed, or ~~such~~ 2264  
~~estate~~ the interests in real property thereby ~~is~~ are ordered to be 2265  
sold by ~~such the~~ executors and one or more of the executors dies, 2266  
refuses to act, or neglects to take upon ~~himself~~ self the 2267  
execution of the will, then all sales and conveyances of ~~such~~ 2268  
~~estate~~ the interests in real property by the executors who took 2269  
upon themselves in this state the execution of the will, or the 2270  
survivor of them, shall be as valid as if the remaining executors 2271  
had joined in the sale and conveyance. But if none of ~~such the~~ 2272  
executors take upon themselves the execution of the will, or if 2273  
all the executors who take out letters testamentary die, resign, 2274  
or are removed before the sale and conveyance of ~~such estate~~ the 2275  
interests in real property, or die, resign, or are removed after 2276  
the sale and before the conveyance is made, the sale or 2277  
conveyance, or both, shall be made by the administrator with the 2278  
will annexed or, if any, by a successor executor or successor 2279  
coexecutor nominated pursuant to a power as described in section 2280  
2107.65 of the Revised Code. 2281

**Sec. 2107.60.** An oral will, made in the last sickness, shall 2282

be valid in respect to personal ~~estate~~ property if reduced to 2283  
writing and subscribed by two competent disinterested witnesses 2284  
within ten days after the speaking of the testamentary words. ~~Such~~ 2285  
The witnesses ~~must~~ shall prove that the testator was of sound mind 2286  
and memory, not under restraint, and that ~~he~~ the testator called 2287  
upon some person present at the time the testamentary words were 2288  
spoken to bear testimony to ~~such~~ the disposition as ~~his~~ the 2289  
testator's will. 2290

No oral will shall be admitted to record unless it is offered 2291  
for probate within ~~six~~ three months after the death of the 2292  
testator. 2293

**Sec. 2107.61.** Unless it has been admitted to probate or 2294  
record, as provided in sections 2107.01 to 2107.62, ~~inclusive, and~~ 2295  
or 2129.05 to 2129.07, ~~inclusive,~~ of the Revised Code, no will is 2296  
effectual to ~~pass~~ transfer real or personal estate property. 2297

**Sec. 2107.65.** A testator may confer in ~~his~~ the testator's 2298  
will, upon one or more persons, the power to nominate, in writing, 2299  
an executor, coexecutor, successor executor, or successor 2300  
coexecutor, and also may provide in ~~his~~ the will that the person 2301  
or persons so nominated may serve without bond. If a will confers 2302  
~~such a~~ that power, the holders of it have the authority to 2303  
nominate themselves as executor, coexecutor, successor executor, 2304  
or successor coexecutor unless the will provides to the contrary. 2305

**Sec. 2107.71.** (A) A person interested in a will or codicil 2306  
admitted to probate in the probate court, ~~which will or codicil~~ 2307  
that has not been declared valid by judgment of a probate court 2308  
pursuant to section 2107.084 of the Revised Code, ~~or which will or~~ 2309  
~~codicil~~ that has been declared valid by judgment of a probate 2310  
court pursuant to section 2107.084 of the Revised Code, ~~but which~~ 2311  
has been removed from the possession of the probate judge, may 2312

contest its validity by filing a ~~civil action~~ complaint in the 2313  
probate court in the county in which ~~such~~ the will or codicil was 2314  
admitted to probate. 2315

(B) Except as otherwise provided in this division, no person 2316  
may contest the validity of any will or codicil as to facts 2317  
decided if it was submitted to a probate court by ~~its maker~~ the 2318  
testator during ~~his~~ the testator's lifetime and declared valid by 2319  
judgment of the probate court and filed with the judge of the 2320  
probate court pursuant to section 2107.084 of the Revised Code and 2321  
if the will was not removed from the possession of the probate 2322  
judge. A person may contest the validity of ~~such a~~ that will, 2323  
modification, or codicil as to ~~such~~ those facts if the person is 2324  
one who should have been named a party defendant in the action in 2325  
which the will, modification, or codicil was declared valid, 2326  
pursuant to section 2107.081 or 2107.084 of the Revised Code, and 2327  
if the person was not named a defendant and properly served in 2328  
~~such~~ that action. Upon the filing of ~~an action~~ a complaint 2329  
contesting the validity of a will or codicil that is authorized by 2330  
this division, the court shall proceed with the action in the same 2331  
manner as if the will, modification, or codicil had not been 2332  
previously declared valid under sections 2107.081 to 2107.085 of 2333  
the Revised Code. 2334

(C) No person may introduce, as evidence in an action 2335  
authorized by this section contesting the validity of a will, the 2336  
fact that the testator of the will did not file a ~~petition~~ 2337  
complaint for a judgment declaring its validity under section 2338  
2107.081 of the Revised Code. 2339

**Sec. 2107.73.** Persons who are necessary parties to a will 2340  
contest action are as follows: 2341

(A) Any person designated in a will to receive a testamentary 2342  
disposition of real or personal property; 2343

(B) Heirs who would take property pursuant to section 2105.06 2344  
of the Revised Code had the testator died intestate; 2345

(C) The executor or the administrator with the will annexed; 2346

(D) The attorney general as provided by section 109.25 of the 2347  
Revised Code; 2348

(E) Other interested parties. 2349

**Sec. 2107.75.** When the jury or the court finds that the 2350  
writing produced is not the ~~last will and testament~~ or codicil of 2351  
the testator, the trial court shall allow as part of the costs of 2352  
administration ~~such the~~ amounts to the fiduciary and to the 2353  
attorneys defending ~~such the~~ purported ~~last~~ will or purported 2354  
codicil ~~as that~~ the trial court finds to be reasonable 2355  
compensation for the services rendered in ~~such the will~~ contest 2356  
action. The court shall order ~~such the~~ amounts allowed to be paid 2357  
out of the estate of the decedent. 2358

**Sec. 2108.51.** Any licensed physician or surgeon who, in good 2359  
faith and acting in reliance upon an instrument of consent for an 2360  
autopsy or post-mortem examination executed under section 2108.50 2361  
of the Revised Code and without actual knowledge of revocation of 2362  
~~such that~~ consent, performs an autopsy or post-mortem examination 2363  
is not liable in a civil or criminal action brought against ~~him~~ 2364  
the licensed physician or surgeon for ~~such that~~ act. 2365

**Sec. 2109.02.** Every fiduciary, before entering upon the 2366  
execution of a trust, shall receive letters of appointment from a 2367  
probate court having jurisdiction of the subject matter of the 2368  
trust. 2369

The duties of a fiduciary shall be those required by law, and 2370  
such additional duties as the court orders. Letters of appointment 2371  
shall not issue until a fiduciary has executed a written 2372

acceptance of the fiduciary's duties, acknowledging that the 2373  
fiduciary is subject to removal for failure to perform the 2374  
fiduciary's duties, and that the fiduciary is subject to possible 2375  
penalties for conversion of property the fiduciary ~~holds~~ held as a 2376  
fiduciary. The written acceptance may be filed with the 2377  
application for appointment. 2378

No act or transaction by a fiduciary is valid prior to the 2379  
issuance of letters of appointment to the fiduciary. This section 2380  
does not prevent an executor named in a will, an executor 2381  
nominated pursuant to a power as described in section 2107.65 of 2382  
the Revised Code, or a person with the right of disposition under 2383  
section 2108.70 or 2108.81 of the Revised Code from paying funeral 2384  
expenses, or prevent necessary acts for the preservation of the 2385  
trust estate prior to the issuance of ~~such~~ those letters. 2386

**Sec. 2109.021.** After letters of appointment are issued to a 2387  
fiduciary, the court shall accept filings by mail in matters of 2388  
estates, guardianships, or trusts, unless the court in writing 2389  
notifies the fiduciary or attorney of record that a personal 2390  
appearance is necessary, or a personal appearance is otherwise 2391  
required by law. ~~An~~ The court shall reject an improper or 2392  
incomplete filing ~~shall be rejected,~~ and ~~that court~~ shall return 2393  
it to the sender, ~~and impose a cost of two dollars and fifty cents~~ 2394  
~~per improper or incomplete filing, chargeable against the estate.~~ 2395

**Sec. 2109.03.** At the time of the appointment of a fiduciary, 2396  
~~such~~ the fiduciary shall file in the probate court the name of the 2397  
attorney, if any, who will represent ~~him~~ the fiduciary in matters 2398  
relating to the trust. After the name of an attorney has been 2399  
filed, notices sent to ~~such~~ that fiduciary in ~~his~~ the fiduciary's 2400  
official capacity shall also be sent by the court to ~~such~~ that 2401  
attorney who may sign waiver of service of any or all of ~~such~~ the 2402  
notices upon ~~him~~ the attorney. If the fiduciary is absent from the 2403

state, ~~such~~ the attorney shall be the agent of the fiduciary upon 2404  
whom summonses, citations, and notices may be served. Any summons, 2405  
citation, or notice may be served upon the fiduciary by delivering 2406  
duplicate copies ~~thereof~~ of the summons, citation, or notice to 2407  
the attorney designated by ~~him~~ the fiduciary. No probate judge 2408  
shall permit any person to practice law in the probate court for 2409  
compensation, unless ~~he~~ the person has been admitted to the 2410  
practice of law within the state. This section does not prevent 2411  
any person from representing ~~his~~ the person's own interest in any 2412  
estate, matter, action, or proceeding. 2413

**Sec. 2109.04.** (A)(1) Unless otherwise provided by law, order, 2414  
or local rule, every fiduciary, prior to the issuance of the 2415  
fiduciary's letters as provided by section 2109.02 of the Revised 2416  
Code, shall file in the probate court in which the letters are to 2417  
be issued a bond with a penal sum in ~~such an amount as may be that~~ 2418  
is fixed by the court, but in no event less than double the 2419  
probable value of the personal ~~estate~~ property and of the annual 2420  
real ~~estate~~ property rentals ~~which that~~ will come into ~~such~~ 2421  
~~person's hands~~ the possession or under the control of the person 2422  
as a fiduciary. The bond of a fiduciary shall be in a form 2423  
approved by the court and signed by two or more personal sureties 2424  
or by one or more corporate sureties approved by the court. It 2425  
shall be conditioned that the fiduciary faithfully and honestly 2426  
will discharge the duties devolving upon the person as fiduciary, 2427  
and shall be conditioned further as may be provided by law. 2428

(2) Except as otherwise provided in this division, if the 2430  
instrument creating the trust dispenses with the giving of a bond, 2431  
the court shall appoint a fiduciary without bond, unless the court 2432  
is of the opinion that the interest of the trust demands it. If 2433  
the court is of that opinion, it may require bond to be given in 2434  
any amount it fixes. If a parent nominates a guardian for the 2435



parent's child in a will and provides in the will that the guardian may serve without giving bond, the court may appoint the guardian without bond or require the guardian to give bond in accordance with division (A)(1) of this section.

(3) A guardian of the person only does not have to give bond unless, for good cause shown, the court considers a bond to be necessary. When a bond is required of a guardian of the person only, it shall be determined and filed in accordance with division (A)(1) of this section. This division does not apply to a guardian of the person only nominated in a parent's will if the will provides that the guardian may serve without giving bond.

(4) When the probable value of the personal ~~estate~~ property and of the annual real ~~estate~~ property rentals that will come into the ~~guardian's hands~~ possession or under the control of the guardian as a fiduciary is less than ten thousand dollars, the court may waive or reduce a bond required by division (A)(1) of this section.

(B) When an executive director who is responsible for the administration of children services in the county is appointed as trustee of the estate of a ward pursuant to section 5153.18 of the Revised Code and has furnished bond under section 5153.13 of the Revised Code, or when an agency under contract with the department of developmental disabilities for the provision of protective service under sections 5123.55 to 5123.59 of the Revised Code is appointed as trustee of the estate of a ward under ~~such~~ sections 5123.55 to 5123.59 of the Revised Code and any employees of the agency having custody or control of funds or property of ~~such a~~ that ward have furnished bond under section 5123.59 of the Revised Code, the court may dispense with the giving of a bond.

(C) When letters are granted without bond, at any later period on its own motion or upon the application of any party interested, the court may require bond to be given in ~~such an~~ an

amount ~~as may be~~ that is fixed by the court. On failure to give 2468  
~~such~~ that bond, the defaulting fiduciary shall be removed. 2469

No instrument authorizing a fiduciary whom it names to serve 2470  
without bond shall be construed to relieve a successor fiduciary 2471  
from the necessity of giving bond, unless the instrument clearly 2472  
evidences ~~such~~ that intention. 2473

The court ~~by which~~ that appoints a fiduciary ~~is appointed~~ may 2474  
reduce the amount of the bond of ~~such~~ the fiduciary at any time 2475  
for good cause shown. 2476

When two or more persons are appointed as joint fiduciaries, 2477  
the court may take a separate bond from each or a joint bond from 2478  
all. 2479

**Sec. 2109.05.** When ~~deemed~~ considered necessary by the probate 2480  
court and not otherwise directed in the will, a bond, as provided 2481  
by sections 2109.01 to 2109.58, ~~inclusive,~~ of the Revised Code, 2482  
shall be required in all trusts created by will and not fully 2483  
discharged, on the petition of an interested person and after 2484  
notice to the trustee. 2485

If ~~such a~~ the trustee fails to give bond within the time 2486  
ordered by the court, ~~he shall be removed~~ the court shall remove  
the trustee from ~~his~~ the trust or be considered to have declined 2488  
it. ~~Another person may be appointed in his stead upon giving the~~  
~~required bond.~~ 2489  
2490

**Sec. 2109.06.** The probate court by which a fiduciary is 2491  
appointed may, on its own motion or on the application of any 2492  
interested party, and after notice to the fiduciary, require a new 2493  
bond or sureties or an additional bond or sureties, whenever, in 2494  
the opinion of ~~such~~ the court, the interests of the trust demand 2495  
it. 2496

Immediately upon the filing of the inventory by a fiduciary, 2497

the court shall determine whether the amount of the bond of ~~such~~ 2498  
the fiduciary is sufficient and shall require new or additional 2499  
bond if in the opinion of the court the interests of the trust 2500  
demand it. 2501

When a new bond is required as provided in this section, the 2502  
sureties in the prior bond shall nevertheless be liable for all 2503  
breaches of the conditions set forth in ~~such the bond which that~~ 2504  
are committed before the new bond is approved by the court. 2505

A The court shall remove a fiduciary who fails within the 2506  
time fixed by the court to furnish new or additional bond or 2507  
sureties ~~shall be removed, and some other person appointed in his~~ 2508  
~~stead, as the circumstances of the case require~~ the court shall 2509  
appoint a successor fiduciary. 2510

**Sec. 2109.07.** (A) The bond required of an administrator by 2511  
section 2109.04 of the Revised Code shall not be required in 2512  
either of the following cases: 2513

(1) It shall not be required of a surviving spouse to 2514  
administer the deceased spouse's estate if the surviving spouse is 2515  
entitled to the entire net proceeds of the estate. 2516

(2) It shall not be required of an administrator to 2517  
administer an estate if there is no will, if the administrator is 2518  
the next of kin, and if the administrator is entitled to the 2519  
entire net proceeds of the estate. 2520

(B) The bond otherwise required by section 2109.04 of the 2521  
Revised Code of an administrator shall be conditioned as follows: 2522

(1) To file with the probate court within the time required 2523  
by section 2115.02 of the Revised Code an inventory of all 2524  
tangible and intangible personal property of the deceased that is 2525  
to be administered and that comes to the administrator's 2526  
possession or knowledge and an inventory of the deceased's 2527

interest in real ~~estate~~ property located in this state; 2528

(2) To administer and distribute according to law all 2529  
tangible and intangible personal property of the deceased, the 2530  
proceeds of any action for wrongful death or of any settlement, 2531  
with or without suit, of a wrongful death claim, and the proceeds 2532  
of all real ~~estate~~ property in which the deceased had an interest, 2533  
that is located in this state, and that is sold, when the property 2534  
or proceeds have come to the possession of the administrator or to 2535  
the possession of a person for the administrator; 2536

(3) To render a just and true account of the administrator's 2537  
administration at the times required by section 2109.301 of the 2538  
Revised Code; 2539

(4) To deliver the letters of administration into court if a 2540  
will of the deceased is proved and allowed. 2541

**Sec. 2109.09.** (A) Unless the testator has specified otherwise 2542  
in the will, the bond required of an executor by section 2109.04 2543  
of the Revised Code shall not be required of the executor to 2544  
administer an estate in accordance with the will of the testator 2545  
if the executor is the next of kin and if the executor is entitled 2546  
to the entire net proceeds of the estate. 2547

(B) The bond otherwise required of an executor by section 2548  
2109.04 of the Revised Code shall be conditioned as follows: 2549

(1) To file with the probate court within the time required 2550  
by section 2115.02 of the Revised Code an inventory of all the 2551  
tangible and intangible personal property of the testator that is 2552  
to be administered and that comes to the executor's possession or 2553  
knowledge and an inventory of the testator's interest in real 2554  
~~estate~~ property located in this state; 2555

(2) To administer and distribute according to law and the 2556  
will of the testator all the testator's tangible and intangible 2557

personal property, the proceeds of any action for wrongful death 2558  
or of any settlement, with or without suit, of a wrongful death 2559  
claim, and the proceeds of all real ~~estate~~ property in which the 2560  
testator had an interest, that is located in this state, and that 2561  
is sold, when the property or proceeds have come to the possession 2562  
of the executor or to the possession of another person for the 2563  
executor; 2564

(3) To render a just and true account of the executor's 2565  
administration at the times required by section 2109.301 of the 2566  
Revised Code. 2567

**Sec. 2109.10.** If an executor or administrator is sole 2568  
residuary legatee or distributee and if division (A) of section 2569  
2109.07 or division (A) of section 2109.09 of the Revised Code 2570  
does not apply, instead of giving the bond prescribed by section 2571  
2109.04 of the Revised Code, the executor or administrator may 2572  
give a bond to the satisfaction of the probate court conditioned 2573  
as follows: 2574

(A) To pay the costs of administration and all the debts and 2575  
legacies of the decedent to the extent of the assets of the 2576  
estate; 2577

(B) If there is a will, to pay over the testator's estate to 2578  
the person entitled to the testator's estate if the will is set 2579  
aside; 2580

(C) If there is no will offered at the opening of the estate, 2581  
to pay over the testator's estate to the person entitled to the 2582  
testator's estate if a will is probated after the administrator's 2583  
initial appointment. 2584

The giving of ~~such~~ that bond shall not discharge the lien on 2585  
the decedent's real ~~estate~~ property for the payment of the 2586  
decedent's debts, except that part ~~which~~ that has been lawfully 2587

sold by the executor or administrator. 2588

**Sec. 2109.11.** The bond required by section 2109.04 of the 2589  
Revised Code of a testamentary trustee shall be conditioned as 2590  
follows: 2591

(A) To make and return to the probate court within the time 2592  
required by section 2109.58 of the Revised Code a true inventory 2593  
of all moneys, ~~chattels,~~ rights, credits, other personal property, 2594  
and real ~~estate~~ property belonging to the trust that come to the 2595  
trustee's possession or knowledge; 2596

(B) To administer and distribute according to law and the 2597  
will of the testator all moneys, ~~chattels,~~ rights, credits, other 2598  
personal property and real ~~estate~~ property belonging to the trust 2599  
that come to the possession of the trustee or to the possession of 2600  
any other person for the trustee; 2601

(C) To render a just and true account of the trustee's 2602  
administration at the times required by section 2109.303 of the 2603  
Revised Code. 2604

**Sec. 2109.12.** Any bond required by or pursuant to section 2605  
2109.04 of the Revised Code of a guardian shall be conditioned as 2606  
follows: 2607

(A) If applicable, to make and return to the probate court 2608  
within the time required by section 2111.14 of the Revised Code a 2609  
true inventory of all moneys, ~~chattels,~~ rights, credits, other 2610  
personal property, and real ~~estate~~ property belonging to the ward 2611  
that come to the guardian's possession or knowledge; 2612

(B) To administer and distribute according to law all moneys, 2613  
~~chattels,~~ rights, credits, other personal property, and real 2614  
~~estate~~ property belonging to the ward that come to the possession 2615  
of the guardian or to the possession of any other person for the 2616  
guardian; 2617

(C) To render a just and true account of the guardian's 2618  
administration at any times required by or pursuant to section 2619  
2109.302 of the Revised Code. 2620

**Sec. 2109.14.** If the estate held by a fiduciary consists in 2621  
whole or in part of works of nature or of art ~~which~~ that are 2622  
suitable for preservation and exhibition in a museum or other 2623  
similar institution, the probate court may authorize and direct 2624  
that any or all of ~~such~~ those works be deposited with a 2625  
corporation conducting ~~such a~~ the museum or other similar 2626  
institution; provided that no such deposit shall be authorized or 2627  
directed except with a corporation having a net worth of at least 2628  
ten times the value of the works to be deposited. ~~Such~~ The deposit 2629  
shall be made in the name of the fiduciary, and the property 2630  
deposited shall not be withdrawn from the custody of ~~such~~ the 2631  
depository or otherwise deposited except upon the special order of 2632  
the court. The probate judge may impose ~~such~~ any conditions 2633  
relative to insurance and the care and protection of the property 2634  
deposited ~~as~~ that the court thinks best for the interests of the 2635  
estate and the beneficiaries ~~thereof~~ of the estate. After ~~such~~ the 2636  
deposit has been made, a receipt for ~~said~~ that property executed 2637  
by ~~said~~ that corporation shall be filed with the court, ~~which~~ and 2638  
the receipt shall acknowledge that ~~said~~ the property is held by 2639  
~~said~~ that corporation subject to the order of the court. When ~~such~~ 2640  
the receipt is filed, the court may fix or reduce the amount of 2641  
the bond so that the amount of the penalty ~~thereof~~ of the bond is 2642  
determined with respect to the value of the remainder only of the 2643  
estate or fund, without including the value of the property 2644  
deposited. Neither the fiduciary nor ~~his~~ the fiduciary's sureties 2645  
shall be liable for any loss to the trust estate resulting from a 2646  
deposit authorized and directed by the court pursuant to this 2647  
section, provided ~~such~~ the fiduciary has acted in good faith. 2648

**Sec. 2109.17.** If the bond of a fiduciary is executed by 2649  
personal sureties, one or more of ~~such~~ the sureties shall be a 2650  
resident of the county in which ~~such~~ the fiduciary applies for 2651  
appointment. The sureties shall own real property worth double the 2652  
sum to be secured, over and above all encumbrances, and shall have 2653  
property in this state liable to execution equal to the sum to be 2654  
secured. When two or more sureties are offered on the same bond 2655  
they must have in the aggregate the qualifications prescribed in 2656  
this section. ~~Such~~ The sureties shall qualify under oath and may 2657  
be required to exhibit to the probate court satisfactory evidence 2658  
of the ownership of ~~such~~ the real property. 2659

No corporate surety shall be acceptable on a fiduciary's bond 2660  
in ~~such~~ the probate court unless ~~such~~ the surety is acceptable to 2661  
the United States government on surety bonds in ~~like~~ the same 2662  
amount, as shown by the regulations issued by the secretary of the 2663  
treasury of the United States, or in any other manner, to the 2664  
satisfaction of the court. ~~Such~~ The surety shall also be qualified 2665  
to do business in this state. 2666

A surety on the bond of a fiduciary shall not be held liable 2667  
for any debt of ~~such~~ the fiduciary to the estate represented by 2668  
~~him~~ the fiduciary existing at the time ~~such~~ the fiduciary was 2669  
appointed; but ~~such~~ the surety shall be liable to the extent that 2670  
~~such~~ the debt has been made uncollectible by wrongful act of ~~such~~ 2671  
the fiduciary after appointment. 2672

**Sec. 2109.19.** If a fiduciary wastes or unfaithfully 2673  
administers an estate, on the application of a surety on the 2674  
fiduciary's bond the probate court granting letters of appointment 2675  
to ~~such~~ the fiduciary may order ~~him~~ the fiduciary to render an 2676  
account and to execute to ~~such~~ the surety a bond of indemnity with 2677  
sureties approved by the court. Upon neglect or refusal to execute 2678  
~~such~~ the bond within the time ordered, the court may remove ~~such~~ 2679



the fiduciary, revoke ~~his~~ the fiduciary's letters of appointment, 2680  
and appoint another fiduciary in ~~his~~ the fiduciary's place. 2681

**Sec. 2109.20.** Instead of the sureties required on ~~his~~ a 2682  
guardian's bond by section 2109.04 of the Revised Code, a guardian 2683  
of the person and estate or of the estate only of any ward may 2684  
execute to the ward a mortgage upon unencumbered real ~~estate~~ 2685  
property. The guardian first shall furnish to the probate court a 2686  
title guarantee or a mortgagee's title insurance policy for the 2687  
benefit of the guardianship, with respect to the real ~~estate~~ 2688  
property, and it shall be shown to the court's satisfaction that, 2689  
exclusive of improvements on the real ~~estate~~ property, the real 2690  
~~estate~~ property is of a value sufficient to secure the bond. The 2691  
mortgage shall be recorded in the county in which the property is 2692  
situated and filed with the court. 2693

**Sec. 2109.21.** (A) An administrator, special administrator, 2694  
administrator de bonis non, or administrator with the will annexed 2695  
shall be a resident of this state and shall be removed on proof 2696  
that the administrator is no longer a resident of this state. 2697

(B)(1) To qualify for appointment as executor or trustee, an 2698  
executor or a trustee named in a will or nominated in accordance 2699  
with any power of nomination conferred in a will, may be a 2700  
resident of this state or, as provided in this division, a 2701  
nonresident of this state. To qualify for appointment, a 2702  
nonresident executor or trustee named in, or nominated pursuant 2703  
to, a will shall be an individual who is related to the maker of 2704  
the will by consanguinity or affinity, or a person who resides in 2705  
a state that has statutes or rules that authorize the appointment 2706  
of a nonresident person who is not related to the maker of a will 2707  
by consanguinity or affinity, as an executor or trustee when named 2708  
in, or nominated pursuant to, a will. No such executor or trustee 2709  
shall be refused appointment or removed solely because the 2710

executor or trustee is not a resident of this state. 2711

The court may require that a nonresident executor or trustee 2712  
named in, or nominated pursuant to, a will assure that all of the 2713  
assets of the decedent that are in the county at the time of the 2714  
death of the decedent will remain in the county until distribution 2715  
or until the court determines that the assets may be removed from 2716  
the county. 2717

(2) In accordance with this division and section 2129.08 of 2718  
the Revised Code, the court shall appoint as an ancillary 2719  
administrator a person who is named in the will of a nonresident 2720  
decedent, or who is nominated in accordance with any power of 2721  
nomination conferred in the will of a nonresident decedent, as a 2722  
general executor of the decedent's estate or as executor of the 2723  
portion of the decedent's estate located in this state, whether or 2724  
not the person so named or nominated is a resident of this state. 2725

To qualify for appointment as an ancillary administrator, a 2726  
person who is not a resident of this state and who is named or 2727  
nominated as described in this division, shall be an individual 2728  
who is related to the maker of the will by consanguinity or 2729  
affinity, or a person who resides in a state that has statutes or 2730  
rules that authorize the appointment of a nonresident of that 2731  
state who is not related to the maker of a will by consanguinity 2732  
or affinity, as an ancillary administrator when the nonresident is 2733  
named in a will or nominated in accordance with any power of 2734  
nomination conferred in a will. If a person who is not a resident 2735  
of this state and who is named or nominated as described in this 2736  
division so qualifies for appointment as an ancillary 2737  
administrator and if the provisions of section 2129.08 of the 2738  
Revised Code are satisfied, the court shall not refuse to appoint 2739  
the person, and shall not remove the person, as ancillary 2740  
administrator solely because the person is not a resident of this 2741  
state. 2742

The court may require that an ancillary administrator who is not a resident of this state and who is named or nominated as described in this division, assure that all of the assets of the decedent that are in the county at the time of the death of the decedent will remain in the county until distribution or until the court determines that the assets may be removed from the county.

(C)(1) A guardian shall be a resident of the county, except that the court may appoint a nonresident of the county who is a resident of this state as guardian of ~~the person~~, the estate, ~~or both~~; that a nonresident of the county or of this state may be appointed a guardian, if named in a will by a parent of a minor or if selected by a minor over the age of fourteen years as provided by section 2111.12 of the Revised Code; and that a nonresident of the county or of this state may be appointed a guardian if nominated in or pursuant to a durable power of attorney as described in division (D) of section 1337.09 of the Revised Code or a writing as described in division (A) of section 2111.121 of the Revised Code. A guardian, other than a guardian named in a will by a parent of a minor, selected by a minor over the age of fourteen years, or nominated in or pursuant to ~~such~~ a durable power of attorney or writing, may be removed on proof that the guardian is no longer a resident of the county or state in which the guardian resided at the time of the guardian's appointment.

(2) The court may appoint a resident or nonresident of this state as guardian of the person.

(D) Any fiduciary, whose residence qualifications are not defined in this section, shall be a resident of this state, and shall be removed on proof that the fiduciary is no longer a resident of this state.

(E) Any fiduciary, in order to assist in the carrying out of the fiduciary's fiduciary duties, may employ agents who are not residents of the county or of this state.

(F) Every fiduciary shall sign and file with the court a statement of permanent address and shall notify the court of any change of address. A court may remove a fiduciary if the fiduciary fails to comply with this division. 2775  
2776  
2777  
2778

**Sec. 2109.22.** The marriage of any person does not disqualify ~~him~~ the person from acting as fiduciary, whether the marriage occurs before or after ~~his~~ the person's appointment and qualification, and all of ~~his~~ the person's acts in ~~such~~ that capacity shall have the same validity as though ~~he~~ the person were unmarried. 2779  
2780  
2781  
2782  
2783  
2784

**Sec. 2109.24.** The probate court at any time may accept the resignation of any fiduciary upon the fiduciary's proper accounting, if the fiduciary was appointed by, is under the control of, or is accountable to the court. The fiduciary may resign by filing a written statement with the court after giving at least fifteen days notice to the persons known to be interested in the estate. Upon notice or a motion of the fiduciary to resign, the court may set the matter for a hearing and may notify all interested persons. No fiduciary shall resign without an order of the court. 2785  
2786  
2787  
2788  
2789  
2790  
2791  
2792  
2793  
2794

If a fiduciary fails to make and file an inventory as required by sections 2109.58, 2111.14, and 2115.02 of the Revised Code or to render a just and true account of the fiduciary's administration at the times required by section 2109.301, 2109.302, or 2109.303 of the Revised Code, and if the failure continues for thirty days after the fiduciary has been notified by the court of the expiration of the relevant time, the fiduciary forthwith may be removed by the court and shall receive no allowance for the fiduciary's services unless the court enters upon its journal its findings that the delay was necessary and reasonable. 2795  
2796  
2797  
2798  
2799  
2800  
2801  
2802  
2803  
2804  
2805

The court may remove any fiduciary, after giving the 2806  
fiduciary not less than ten days' notice, for habitual 2807  
drunkenness, neglect of duty, incompetency, or fraudulent conduct, 2808  
because the interest of the property, testamentary trust, or 2809  
estate that the fiduciary is responsible for administering demands 2810  
it, or for any other cause authorized by law. 2811

The court may remove a testamentary trustee upon the written 2812  
application of more than one-half of the persons having an 2813  
interest in the estate controlled by the testamentary trustee, but 2814  
the testamentary trustee is not to be considered as a person 2815  
having an interest in the estate under the proceedings; except 2816  
that no testamentary trustee appointed under a will shall be 2817  
removed upon ~~such~~ the written application unless for a good cause. 2818

Upon the resignation or removal of the fiduciary, the court 2819  
shall revoke all letters of authority for the fiduciary. 2820

**Sec. 2109.25. (A)** Whenever it appears to the satisfaction of 2821  
the probate court that a fiduciary is unable to perform ~~his~~ the 2822  
fiduciary's duties because ~~he~~ the fiduciary is engaged or is about 2823  
to engage in military service as defined by this section, the 2824  
court may remove ~~such~~ the fiduciary and appoint a substitute or 2825  
authorize the remaining fiduciaries to execute the trust. ~~Such~~ 2826  
That action may be taken on the court's own motion or on the 2827  
application of any party in interest, including the fiduciary or 2828  
cofiduciary, either without notice or upon notice to ~~such~~ those 2829  
persons and in ~~such~~ the manner ~~as~~ that the court shall direct. 2830

If any of the duties of ~~such~~ that office remain unexecuted 2831  
when a fiduciary who has resigned or been removed on account of 2832  
~~his~~ the fiduciary's military service ceases to be in ~~such~~ that 2833  
military service, ~~he~~ the fiduciary shall be reappointed as 2834  
fiduciary upon ~~his~~ the fiduciary's application to the court and 2835  
upon ~~such~~ any notice ~~as~~ that the court may direct, provided ~~he~~ the 2836

fiduciary is at the time a suitable and competent person and has 2837  
the qualifications as to residence required by section 2109.21 of 2838  
the Revised Code. If ~~such~~ the person is reappointed, the court 2839  
shall remove the substitute fiduciary and revoke ~~his~~ the 2840  
substitute fiduciary's letters of appointment, and shall make such 2841  
further order or decree as justice requires. 2842

~~"Military service,"~~ as (B) As used in this section, "military 2843  
service" means any service, work, or occupation ~~which~~ that in the 2844  
opinion of the court is directly or indirectly in furtherance of 2845  
any military effort of the United States. ~~Such definition~~ 2846  
"Military service" includes internment in an enemy country, 2847  
residence in any foreign country, or residence in any possession 2848  
or dependency of the United States, if by reason ~~thereof~~ of the 2849  
internment or residence the fiduciary is unable to return to this 2850  
state. 2851

**Sec. 2109.26.** If a sole fiduciary dies, is dissolved, 2852  
declines to accept, resigns, is removed, or becomes incapacitated 2853  
prior to the termination of the trust, the probate court shall 2854  
require a final account of all dealings of ~~such~~ the trust to be 2855  
filed ~~forthwith~~ by ~~such~~ the fiduciary if a living person and able 2856  
to act. If ~~such~~ the fiduciary is a living person but unable to 2857  
act, ~~such~~ the final account shall be filed by ~~his~~ the fiduciary's 2858  
guardian, or, if there is no guardian, by some other suitable 2859  
person in ~~his~~ the fiduciary's behalf, appointed or approved by the 2860  
court. If ~~such~~ the fiduciary is a deceased person, ~~such~~ the final 2861  
account shall be filed by ~~his~~ the fiduciary's executor or 2862  
administrator. If no estate is commenced for a deceased fiduciary, 2863  
the deceased fiduciary's successor shall file the final account. 2864  
If ~~such~~ the fiduciary is a dissolved corporation, ~~such~~ the final 2865  
account shall be filed by ~~such~~ those persons as are charged by law 2866  
with winding up the affairs of ~~such~~ the dissolved corporation. 2867  
~~Thereupon the~~ The court shall cause ~~such~~ the proceedings to be had 2868

as are provided by sections 2109.30 to 2109.36, ~~inclusive~~, of the Revised Code. 2869  
2870

Whenever such a vacancy occurs and ~~such~~ that contingency is not otherwise provided for by law or by the instrument creating the trust, or whenever ~~such~~ the instrument names no fiduciary, the court shall, on its own motion or on the application of any person beneficially interested, issue letters of appointment as fiduciary to ~~some~~ a competent person or persons who shall qualify according to law and execute the trust to its proper termination. ~~Such~~ The vacancy and the appointment of a successor fiduciary shall not affect the liability of the former fiduciary or ~~his~~ the former fiduciary's sureties ~~which~~ that was previously incurred. 2871  
2872  
2873  
2874  
2875  
2876  
2877  
2878  
2879  
2880

**Sec. 2109.302.** (A) Every guardian or conservator shall render an account of the administration of the ward's estate at least once in each two years. The guardian or conservator shall render an account at any time other than a time otherwise mentioned in this section upon the order of the probate court issued for good cause shown either at its own instance or upon the motion of any person interested in the estate. Except as provided in division (B) of this section, every guardian or conservator shall render a final account within thirty days after completing the administration of the ward's estate or within any other period of time that the court may order. 2881  
2882  
2883  
2884  
2885  
2886  
2887  
2888  
2889  
2890  
2891

Every account shall include an itemized statement of all receipts of the guardian or conservator during the accounting period and of all disbursements and distributions made by the guardian or conservator during the accounting period. The itemized disbursements and distributions shall be verified by vouchers or proof, except in the case of an account rendered by a corporate fiduciary subject to section 1111.28 of the Revised Code. In addition, the account shall include an itemized statement of all 2892  
2893  
2894  
2895  
2896  
2897  
2898  
2899

funds, assets, and investments of the estate known to or in the 2900  
possession of the guardian or conservator at the end of the 2901  
accounting period and shall show any changes in investments since 2902  
the last previous account. 2903

Every account shall be upon the signature of the guardian or 2904  
conservator. When two or more guardians or conservators render an 2905  
account, the court may allow the account upon the signature of one 2906  
of the guardians or conservators. 2907

Upon the filing of every account, the guardian or 2908  
conservator, except a corporate fiduciary subject to section 2909  
1111.28 of the Revised Code, shall exhibit to the court for its 2910  
examination both of the following: the securities shown in the 2911  
account as being in the ~~hands~~ possession or under the control of 2912  
the guardian or conservator, or the certificate of the person in 2913  
possession of the securities, if held as collateral or pursuant to 2914  
section 2109.13 or 2131.21 of the Revised Code; and a passbook or 2915  
certified bank statement showing as to each depository the fund 2916  
deposited to the credit of the ward's estate. The court may 2917  
designate a deputy clerk, an agent of a corporate surety on the 2918  
bond of the guardian or conservator, or another suitable person 2919  
whom the court appoints as commissioner to make the examination 2920  
and to report the person's findings to the court. ~~When~~ If 2921  
securities are located outside the county, the court may appoint a 2922  
commissioner or request another probate court to make the 2923  
examination and to report its findings to the court. The court may 2924  
examine the guardian or conservator under oath concerning the 2925  
account. 2926

~~When~~ If a guardian or conservator is authorized by law to 2927  
distribute the assets of the estate, in whole or in part, the 2928  
guardian or conservator may do so and include a report of the 2929  
distribution in the guardian's or conservator's succeeding 2930  
account. 2931



(B)(1) The court may waive, by order, an account that 2932  
division (A) of this section requires of a guardian of the estate 2933  
or of a guardian of the person and estate, other than an account 2934  
made pursuant to court order, if any of the following 2935  
circumstances apply: 2936

(a) The assets of the estate consist entirely of real 2937  
property. 2938

(b) The assets of the estate consist entirely of personal 2939  
property, that property is held by a bank, savings and loan 2940  
association, or trust company in accordance with section 2109.13 2941  
of the Revised Code, and the court has authorized expenditures of 2942  
not more than ten thousand dollars annually for the support, 2943  
maintenance, or, if applicable, education of the ward. 2944

(c) The assets of the estate consist entirely of real 2945  
property and of personal property that is held by a bank, savings 2946  
and loan association, or trust company in accordance with section 2947  
2109.13 of the Revised Code, and the court has authorized 2948  
expenditures of not more than ten thousand dollars annually for 2949  
the support, maintenance, or, if applicable, education of the 2950  
ward. 2951

(2) The order of a court entered pursuant to division (B)(1) 2952  
of this section is prima-facie evidence that a guardian of the 2953  
estate or a guardian of the person and estate has authority to 2954  
make expenditures as described in divisions (B)(1)(b) and (c) of 2955  
this section. 2956

(3) Notwithstanding the requirements for accounts by other 2957  
guardians under this section, a guardian of the person is not 2958  
required to render an account except upon an order of the court 2959  
that the court issues for good cause shown either at its own 2960  
instance or upon the motion of any person interested in the 2961  
estate. 2962

Sec. 2109.303. (A) Except as provided in division (B) of this 2963  
section, every testamentary trustee shall, and every other 2964  
fiduciary not subject to section 2109.301 or 2109.302 of the 2965  
Revised Code may, render an account of the trustee's or other 2966  
fiduciary's administration of the estate or trust at least once in 2967  
each two years. Any testamentary trustee or other fiduciary shall 2968  
render an account, subject to division (B) of this section, at any 2969  
time other than a time otherwise mentioned in this section upon an 2970  
order of the court issued for good cause shown either at its own 2971  
instance or upon the motion of any person interested in the estate 2972  
or trust. Every testamentary trustee shall, and every other 2973  
fiduciary may, render a final account within thirty days after 2974  
completing the administration of the estate or trust or shall file 2975  
a final account within any other period of time that the court may 2976  
order. 2977

Every account shall include an itemized statement of all 2978  
receipts of the testamentary trustee or other fiduciary during the 2979  
accounting period and of all disbursements and distributions made 2980  
by the testamentary trustee or other fiduciary during the 2981  
accounting period. The itemized disbursements and distributions 2982  
shall be verified by vouchers or proof, except in the case of an 2983  
account rendered by a corporate fiduciary subject to section 2984  
1111.28 of the Revised Code. In addition, the account shall 2985  
include an itemized statement of all funds, assets, and 2986  
investments of the estate or trust known to or in the possession 2987  
of the testamentary trustee or other fiduciary at the end of the 2988  
accounting period and shall show any changes in investments since 2989  
the last previous account. The accounts of testamentary trustees 2990  
shall, and the accounts of other fiduciaries may, show receipts 2991  
and disbursements separately identified as to principal and 2992  
income. 2993

Every account shall be upon the signature of the testamentary 2994

trustee or other fiduciary. When two or more testamentary trustees 2995  
or other fiduciaries render an account, the court may allow the 2996  
account upon the signature of one of them. 2997

Upon the filing of every account, the testamentary trustee or 2998  
other fiduciary, except a corporate fiduciary subject to section 2999  
1111.28 of the Revised Code, shall exhibit to the court for its 3000  
examination both of the following: the securities shown in the 3001  
account as being in the ~~hands~~ possession or under the control of 3002  
the testamentary trustee or other fiduciary, or the certificate of 3003  
the person in possession of the securities, if held as collateral 3004  
or pursuant to section 2109.13 or 2131.21 of the Revised Code; and 3005  
a passbook or certified bank statement showing as to each 3006  
depository the fund deposited to the credit of the estate or 3007  
trust. The court may designate a deputy clerk, an agent of a 3008  
corporate surety on the bond of the testamentary trustee or other 3009  
fiduciary, or another suitable person whom the court appoints as 3010  
commissioner to make the examination and to report the person's 3011  
findings to the court. ~~When~~ If securities are located outside the 3012  
county, the court may appoint a commissioner or request another 3013  
probate court to make the examination and to report its findings 3014  
to the court. The court may examine the testamentary trustee or 3015  
other fiduciary under oath concerning the account. 3016

~~When~~ If a testamentary trustee or other fiduciary is 3017  
authorized by law or by the instrument governing distribution to 3018  
distribute the assets of the estate or trust, in whole or in part, 3019  
the testamentary trustee or other fiduciary may do so and include 3020  
a report of the distribution in the testamentary trustee's or 3021  
fiduciary's succeeding account. 3022

(B) If the assets of a testamentary charitable trust are held 3023  
and managed by a testamentary trustee or other fiduciary who is an 3024  
individual or by a corporate fiduciary and if the trust merges 3025  
into a qualified community foundation, then, after the 3026

testamentary trustee or other fiduciary files with the court a 3027  
final and distributive account pertaining to the trust and 3028  
activities up to the effective date of the merger, the 3029  
testamentary trustee or other fiduciary and any successors of the 3030  
testamentary trustee or other fiduciary shall not be required to 3031  
render any accounting to the court pertaining to the merged trust 3032  
and activities that follow the effective date of the merger. 3033

(C) As used in this section: 3034

(1) "Charitable trust" has the same meaning as in section 3035  
109.23 of the Revised Code. 3036

(2) "Qualified community foundation" means any foundation 3037  
that is exempt from federal income taxation under sections 3038  
170(b)(1)(A)(vi) and 501(c)(3) of the "Internal Revenue Code of 3039  
1986," 100 Stat. 2085, 26 U.S.C. 170(b)(1)(A)(vi) and 501 (c)(3), 3040  
as amended; that is further described in section 1.170A-9(10) and 3041  
(11) of Title 26 of the Code of Federal Regulations, 26 C.F.R. 3042  
1.170A-9(10) and (11), as amended; and that publishes at least 3043  
annually and circulates widely within its community an audited 3044  
report of its fund balances, activities, and donors. 3045

(3) "Testamentary charitable trust" means any charitable 3046  
trust that is created by a will. 3047

(4) "Other fiduciary" means a fiduciary other than an 3048  
executor, administrator, guardian, conservator, or testamentary 3049  
trustee. 3050

**Sec. 2109.32.** (A) Every fiduciary's account required by 3051  
section 2109.301, 2109.302, or 2109.303 of the Revised Code shall 3052  
be set for hearing before the probate court. The hearing on the 3053  
account shall be set not earlier than thirty days after the filing 3054  
of the account. 3055

At the hearing upon an account required by section 2109.302 3056

or 2109.303 of the Revised Code and, if ordered by the court, upon 3057  
an account required by section 2109.301 of the Revised Code, the 3058  
court shall inquire into, consider, and determine all matters 3059  
relative to the account and the manner in which the fiduciary has 3060  
executed the fiduciary's trust, including the investment of trust 3061  
funds, and may order the account approved and settled or make any 3062  
other order ~~as~~ that the court considers proper. If, at the hearing 3063  
upon an account, the court finds that the fiduciary has fully and 3064  
lawfully administered the estate or trust and has distributed the 3065  
assets of the estate or trust in accordance with the law or the 3066  
instrument governing distribution, as shown in the account, the 3067  
court shall order the account approved and settled and may order 3068  
the fiduciary discharged. Upon approval of a final and 3069  
distributive account required by division (B)(1) of section 3070  
2109.301 of the Revised Code, the court may order the surety bond 3071  
for the fiduciary terminated. Unless otherwise ordered by the 3072  
court, the fiduciary shall be discharged without further order 3073  
twelve months following the approval of the final and distributive 3074  
account. 3075

(B)(1) An administrator or executor filing an account 3076  
pursuant to section 2109.301 of the Revised Code shall provide at 3077  
the time of filing the account a copy of the account to each heir 3078  
of an intestate estate or to each beneficiary of a testate estate. 3079  
An administrator or executor is not required to provide a copy of 3080  
the account to any of the following: 3081

(a) An heir or a beneficiary whose residence is unknown; 3082

(b) A beneficiary of a specific bequest or devise who has 3083  
received ~~his or her~~ the beneficiary's distribution and for which a 3084  
receipt has been filed or exhibited with the court. 3085

(2) An administrator or executor filing an account pursuant 3086  
to section 2109.301 of the Revised Code shall file with the 3087  
probate court a certificate of service of account prior to or 3088

simultaneously with the filing of the account. 3089

(3) The probate court shall not approve the final account of 3090  
any executor or administrator until the following events have 3091  
occurred: 3092

(a) Three months have passed since the death of the decedent. 3093

(b) The surviving spouse has filed an election to take under 3094  
or against the will, or the time for making the election has 3095  
expired. 3096

(4) If an administrator or executor learns of the existence 3097  
of newly discovered assets after the filing of the final account 3098  
or otherwise comes into possession of assets belonging to the 3099  
estate after the filing of the final account, the executor or 3100  
administrator shall file a supplemental final account with respect 3101  
to the disposition of the assets and shall provide a copy of the 3102  
supplemental final account to each heir of an intestate estate or 3103  
to each beneficiary of a testate estate, as provided in division 3104  
(B)(1) of this section and subject to the exceptions specified in 3105  
divisions (B)(1)(a) and (b) of this section. 3106

(C) The rights of any person with a pecuniary interest in the 3107  
estate are not barred by approval of an account pursuant to 3108  
divisions (A) and (B) of this section. These rights may be barred 3109  
following a hearing on the account pursuant to section 2109.33 of 3110  
the Revised Code. 3111

**Sec. 2109.33.** A fiduciary may serve notice of the hearing 3112  
upon ~~his~~ the fiduciary's account to be conducted under section 3113  
2109.32 of the Revised Code, or may cause the notice to be served, 3114  
upon any person who is interested in the estate or trust; 3115  
including creditors as the court may direct. The probate court, 3116  
after notice to the fiduciary upon the motion of any interested 3117  
person for good cause shown or at its own instance, may order that 3118

a notice of the hearing is to be served upon persons the court 3119  
designates. 3120

The notice shall be made by mail in addition to service by 3121  
publication, shall set forth the time and place of the hearing, 3122  
and shall specify the account to be considered and acted upon by 3123  
the court at the hearing and the period of time covered by the 3124  
account. It shall contain a statement to the effect that the 3125  
person notified is required to examine the account, to inquire 3126  
into the contents of the account and into all matters that may 3127  
come before the court at the hearing on the account, and to file 3128  
any exceptions that the person may have to the account at least 3129  
five days prior to the hearing on the account, and that upon ~~his~~ 3130  
the person's failure to file exceptions, the account may be 3131  
approved without further notice. If the person to be notified was 3132  
not a party to the proceeding in which any prior account was 3133  
settled, the notice, for the purpose of barring any rights 3134  
possessed by that person, may include and specify the prior 3135  
accounts and the periods of time covered by them. In that event, 3136  
the notice shall inform the person notified that the approval of 3137  
the account filed most recently will terminate any rights 3138  
possessed by ~~him~~ the person to vacate the order settling each 3139  
prior account so specified, except as provided in section 2109.35 3140  
of the Revised Code, and shall further inform the person that, 3141  
under penalty of losing those rights, ~~he forthwith~~ the person 3142  
shall examine each prior account so specified, shall inquire into 3143  
its contents, and, if ~~he deems~~ the person considers it necessary 3144  
to protect ~~his~~ the person's rights, shall take the action with 3145  
respect to ~~his~~ the person's rights that is permitted by law. 3146

The notice of the hearing upon an account shall be served at 3147  
least fifteen days prior to the hearing on the account. Any 3148  
competent person may waive service of notice and consent to the 3149  
approval of any account by the court. Waivers of service and 3150

consents to approval shall be recorded with the account. 3151

Any person interested in an estate or trust may file 3152  
exceptions to an account or to matters pertaining to the execution 3153  
of the trust. All exceptions shall be specific and written. 3154  
Exceptions shall be filed and a copy of them furnished to the 3155  
fiduciary by the exceptor, not less than five days prior to the 3156  
hearing on the account. The court for cause may allow further time 3157  
to file exceptions. If exceptions are filed to an account, the 3158  
court may allow further time for serving notice of the hearing 3159  
upon any person who may be affected by an order disposing of the 3160  
exceptions and who has not already been served with notice of the 3161  
hearing in accordance with this section. 3162

A probate court, by local rule, may require that notice of 3163  
the hearing on a final account be given to all heirs in an 3164  
intestate estate and to all residuary beneficiaries in a testate 3165  
estate. 3166

Any notice that is required or permitted by this section or 3167  
by any local rule adopted under authority of this section shall be 3168  
served, and any waiver of the right to receive any notice of those 3169  
types may be waived, in accordance with the Rules of Civil 3170  
Procedure. 3171

**Sec. 2109.34.** If an interest in an estate or trust is or may 3172  
be possessed by persons who will compose a certain class upon the 3173  
happening of any future event, the unborn members of ~~such~~ that 3174  
class shall be ~~deemed~~ considered to be represented in any hearing 3175  
upon a fiduciary's account required by section 2109.32 of the 3176  
Revised Code, if any living member of the class is made a party to 3177  
~~such~~ that proceeding or if a trustee for the proceeding is 3178  
appointed by the probate court. The unborn members of ~~such~~ the 3179  
class need not be served by publication. An order made in ~~such~~ the 3180  
proceeding shall be binding upon all members of ~~such~~ the class, 3181



except that ~~such~~ the order may be vacated for fraud as provided in 3182  
section 2109.35 of the Revised Code. 3183

If the beneficiaries, both present and future, of a 3184  
charitable trust are not represented by a trustee or an existing 3185  
corporation or other organization, they shall be represented in 3186  
any ~~such~~ proceeding under this section by the attorney general if 3187  
~~he~~ the attorney general is made a party ~~thereto~~ to the proceeding. 3188  
Any order made in the proceeding shall be binding upon ~~such~~ those 3189  
beneficiaries, except for fraud. 3190

**Sec. 2109.35.** The order of the probate court upon the 3191  
settlement of a fiduciary's account shall have the effect of a 3192  
judgment and may be vacated only as follows: 3193

(A) The order may be vacated for fraud, upon motion of any 3194  
person affected by the order or upon the court's own order, if the 3195  
motion is filed or order is made within one year after discovery 3196  
of the existence of the fraud. Any person who is subject to any 3197  
legal disability may file the motion at any time within one year 3198  
after the removal of the legal disability or within one year after 3199  
~~he~~ the person discovers the existence of the fraud, whichever is 3200  
later, or ~~his~~ the person's guardian or a successor guardian may do 3201  
so during the period of the legal disability. If the death of any 3202  
person occurs during the period within which ~~he~~ the person could 3203  
have filed the motion, ~~his~~ the person's administrator or executor 3204  
may file it within one year after the person's death. 3205

(B) The order may be vacated for good cause shown, other than 3206  
fraud, upon motion of any person affected by the order who was not 3207  
a party to the proceeding in which the order was made and who had 3208  
no knowledge of the proceeding in time to appear in it; provided 3209  
that, if the account settled by the order is included and 3210  
specified in the notice to that person of the proceeding in which 3211  
a subsequent account is settled, the right of that person to 3212

vacate the order shall terminate upon the settlement of the 3213  
subsequent account. A person affected by an order settling an 3214  
account shall be deemed to have been a party to the proceeding in 3215  
which the order was made if that person was served with notice of 3216  
the hearing on the account in accordance with section 2109.33 of 3217  
the Revised Code, waived that notice, consented to the approval of 3218  
the account, filed exceptions to the account, or is bound by 3219  
section 2109.34 of the Revised Code; but no person in being who is 3220  
under legal disability at the time of that proceeding shall be 3221  
deemed to have been a party to that proceeding unless ~~he~~ the 3222  
person was represented in it as provided in section 2111.23 of the 3223  
Revised Code. Neither the fiduciary nor ~~his~~ the fiduciary's surety 3224  
shall incur any liability as a result of the vacation of an order 3225  
settling an account in accordance with this division, if the 3226  
motion to vacate the order is filed more than three years 3227  
following the settlement of the fiduciary's account showing 3228  
complete distribution of assets; but the three-year period shall 3229  
not affect the liability of any heir, devisee, or distributee 3230  
either before or after the expiration of that period. 3231

(C) The order may be vacated for good cause shown upon motion 3232  
of the fiduciary, if the motion is filed prior to the settlement 3233  
of the account showing that the fiduciary has fully discharged his 3234  
trust. 3235

A motion to vacate an order settling an account shall set 3236  
forth the items of the account with respect to which complaint is 3237  
made and the reasons for complaining of those items. The person 3238  
filing a motion to vacate an order settling an account or another 3239  
person the court may designate shall cause notice of the hearing 3240  
on the motion to be served upon all interested parties who may be 3241  
adversely affected by an order of the court granting the motion. 3242

An order settling an account shall not be vacated unless the 3243  
court determines that there is good cause for doing so, and the 3244

burden of proving good cause shall be upon the complaining party. 3245

The vacation of an order settling an account, made after 3246  
notice given in the manner provided in section 2109.33 of the 3247  
Revised Code, shall not affect the rights of a purchaser for value 3248  
in good faith, a lessee for value in good faith, or an 3249  
encumbrancer for value in good faith; provided that, if the 3250  
fiduciary has effected any such sale, lease, or encumbrance, any 3251  
person prejudiced by it may proceed, after vacation of the order, 3252  
against any distributee benefiting from the sale, lease, or 3253  
encumbrance to the extent of the amount received by that 3254  
distributee on distribution of the estate or trust, or if any 3255  
heir, devisee, or distributee has effected any such sale, lease, 3256  
or encumbrance, any person prejudiced by it may proceed, after the 3257  
vacation of the order, against that heir, devisee, or distributee, 3258  
to the extent of the value at the time of alienation of the 3259  
property aliened by ~~him~~ the person, with legal interest. 3260

**Sec. 2109.36.** An application for an order of distribution of 3261  
the assets of an estate or trust held by a fiduciary may be set 3262  
for hearing before the probate court at such time as the court 3263  
shall designate. The fiduciary may serve notice of the hearing 3264  
upon ~~such~~ the application, or cause ~~such~~ the notice to be served, 3265  
upon any person who may be affected by an order disposing thereof; 3266  
or the court, upon motion of any interested person for good cause 3267  
shown or at its own instance, may order ~~such~~ the notice to be 3268  
served upon any such person. ~~Such~~ The notice shall set forth the 3269  
time and place of the hearing and shall be accompanied by a 3270  
statement of the proposed distribution. At the hearing upon the 3271  
application the court shall inquire into, consider, and determine 3272  
all matters relative thereto, and make ~~such~~ the order as the court 3273  
deems proper. If the court makes an order of distribution, the 3274  
fiduciary shall comply ~~therewith~~ with the order and shall account 3275  
to the court for ~~his~~ the fiduciary's distribution, verified by 3276

vouchers or proof. An order of distribution shall have the effect 3277  
of a judgment. ~~Such~~ The order may be reviewed upon appeal and may 3278  
be vacated as provided in section 2109.35 of the Revised Code. 3279

**Sec. 2109.361.** (A) As used in this section, "third-party 3280  
distribution" means the distribution by a fiduciary of an estate 3281  
or trust of the assets of that estate or trust when both of the 3282  
following apply: 3283

(1) The fiduciary makes the distribution to either of the 3284  
following persons: 3285

(a) The transferee of a beneficiary; 3286

(b) Any person pursuant to an agreement, request, or 3287  
instruction of a beneficiary or pursuant to a legal claim against 3288  
a beneficiary. 3289

(2) The distribution is the subject of an agreement between a 3290  
beneficiary and any person that requires the fiduciary or 3291  
beneficiary to pay a percentage of an inheritance or a dollar 3292  
amount to any person other than the beneficiary. 3293

(B) Prior to making a third-party distribution, the affected 3294  
beneficiary or the affected beneficiary's guardian or other legal 3295  
representative of the beneficiary may file an application for the 3296  
approval of a third-party distribution with the probate court. An 3297  
application filed pursuant to this division shall identify the 3298  
person to whom the third-party distribution is to be made, 3299  
disclose the basis for making the third-party distribution, and 3300  
include a copy of any written agreement between the affected 3301  
beneficiary and the person to whom the third-party distribution is 3302  
to be made. 3303

(C) The probate court shall hold a hearing on an application 3304  
filed under division (B) of this section. The applicant shall 3305  
serve notice of the hearing on all interested parties at least 3306

fifteen days prior to the hearing in accordance with Civil Rule 3307  
73. An interested party may waive notice of the hearing in 3308  
accordance with Civil Rule 73. 3309

(D) The probate court may approve the third-party 3310  
distribution in whole or in part, as the court determines is just 3311  
and equitable. To the extent that the application is approved, the 3312  
court shall determine whether the third-party distribution is 3313  
properly charged solely against the beneficiary's share of the 3314  
estate or trust or whether some or all of the third-party 3315  
distribution is properly charged against the residue of the 3316  
affected estate or trust. The court may consider any relevant 3317  
factors in evaluating the application, including, but not limited 3318  
to, any of the following: 3319

(1) The amount or percentage of the affected beneficiary's 3320  
share that would be the subject of the proposed third-party 3321  
distribution measured against the reasonable value of any ~~goods~~ 3322  
assets or services the person to whom the third-party distribution 3323  
would be made provided to the beneficiary or to the estate or 3324  
trust; 3325

(2) Whether the agreement, request, or instructions of the 3326  
affected beneficiary were procured by duress, fraud, 3327  
misrepresentation, undue influence, or other unfair means; 3328

(3) Whether the amount of the proposed third-party 3329  
distribution is fixed or contingent under the terms of the 3330  
agreement between the affected beneficiary and the recipient of 3331  
the proposed third-party distribution; 3332

(4) Whether the beneficiary was represented by an attorney 3333  
during the pendency of the probate action, or the beneficiary 3334  
authorized the recipient of the proposed third-party distribution 3335  
to retain an attorney who is licensed to practice law in Ohio for 3336  
the beneficiary to formally represent the beneficiary in any 3337

proceeding regarding the decedent's estate, and the recipient of 3338  
the proposed third-party distribution is responsible for paying 3339  
the attorney's fees; 3340

(5) The extent, if any, to which the recipient of the 3341  
proposed third-party distribution incurred expenses in connection 3342  
with the services provided to the affected beneficiary, estate, or 3343  
trust; 3344

(6) Whether the beneficiary was required to advance any 3345  
payments for fees or expenses to the recipient of the proposed 3346  
third-party distribution. 3347

(E) Division (D)(4) of this section does not prohibit the 3348  
beneficiary from retaining the beneficiary's own legal counsel. 3349

(F) This section does not apply to third-party distributions 3350  
to an attorney who represents a beneficiary and does not affect 3351  
any other provision of law regarding the compensation of 3352  
attorneys. 3353

**Sec. 2109.37.** (A) Except as otherwise provided by law, 3354  
including division (D) of this section, or by the instrument 3355  
creating the trust, a fiduciary having funds belonging to a trust 3356  
which are to be invested may invest them in the following: 3357

(1) Bonds or other obligations of the United States or of 3358  
this state; 3359

(2) Bonds or other interest-bearing obligations of any 3360  
county, municipal corporation, school district, or other legally 3361  
constituted political taxing subdivision within the state, 3362  
provided that such county, municipal corporation, school district, 3363  
or other subdivision has not defaulted in the payment of the 3364  
interest on any of its bonds or interest-bearing obligations, for 3365  
more than one hundred twenty days during the ten years immediately 3366  
preceding the investment by the fiduciary in the bonds or other 3367

obligations, and provided that such county, municipal corporation, 3368  
school district, or other subdivision, is not, at the time of the 3369  
investment, in default in the payment of principal or interest on 3370  
any of its bonds or other interest-bearing obligations; 3371

(3) Bonds or other interest-bearing obligations of any other 3372  
state of the United States which, within twenty years prior to the 3373  
making of such investment, has not defaulted for more than ninety 3374  
days in the payment of principal or interest on any of its bonds 3375  
or other interest-bearing obligations; 3376

(4) Any bonds issued by or for federal land banks and any 3377  
debentures issued by or for federal intermediate credit banks 3378  
under the "Federal Farm Loan Act of 1916," 39 Stat. 360, 12 3379  
U.S.C.A. 641, as amended; or any debentures issued by or for banks 3380  
for cooperatives under the "Farm Credit Act of 1933," 48 Stat. 3381  
257, 12 U.S.C.A. 131, as amended; 3382

(5) Notes which are: (a) secured by a first mortgage on real 3383  
estate property held in fee and located in the state, improved by 3384  
a unit designed principally for residential use for not more than 3385  
four families or by a combination of such dwelling unit and 3386  
business property, the area designed or used for nonresidential 3387  
purposes not to exceed fifty per cent of the total floor area; (b) 3388  
secured by a first mortgage on real estate property held in fee 3389  
and located in the state, improved with a building designed for 3390  
residential use for more than four families or with a building 3391  
used primarily for business purposes, if the unpaid principal of 3392  
the notes secured by such mortgage does not exceed ten per cent of 3393  
the value of the estate or trust or does not exceed five thousand 3394  
dollars, whichever is greater; or (c) secured by a first mortgage 3395  
on an improved farm held in fee and located in the state, provided 3396  
that such mortgage requires that the buildings on the mortgaged 3397  
property shall be well insured against loss by fire, and so kept, 3398  
for the benefit of the mortgagee, until the debt is paid, and 3399

provided that the unpaid principal of the notes secured by the 3400  
mortgage shall not exceed fifty per cent of the fair value of the 3401  
mortgaged real ~~estate~~ property at the time the investment is made, 3402  
and the notes shall be payable not more than five years after the 3403  
date on which the investment in them is made; except that the 3404  
unpaid principal of the notes may equal sixty per cent of the fair 3405  
value of the mortgaged real ~~estate~~ property at the time the 3406  
investment is made, and may be payable over a period of fifteen 3407  
years following the date of the investment by the fiduciary if 3408  
regular installment payments are required sufficient to amortize 3409  
four per cent or more of the principal of the outstanding notes 3410  
per annum and if the unpaid principal and interest become due and 3411  
payable at the option of the holder upon any default in the 3412  
payment of any installment of interest or principal upon the 3413  
notes, or of taxes, assessments, or insurance premiums upon the 3414  
mortgaged premises or upon the failure to cure any such default 3415  
within any grace period provided therein not exceeding ninety days 3416  
in duration; 3417

(6) Life, endowment, or annuity contracts of legal reserve 3418  
life insurance companies regulated by sections 3907.01 to 3907.21, 3419  
3909.01 to 3909.17, 3911.01 to 3911.24, 3913.01 to 3913.10, 3420  
3915.01 to 3915.15, and 3917.01 to 3917.05 of the Revised Code, 3421  
and licensed by the superintendent of insurance to transact 3422  
business within the state, provided that the purchase of contracts 3423  
authorized by this division shall be limited to executors or the 3424  
successors to their powers when specifically authorized by will 3425  
and to guardians and trustees, which contracts may be issued on 3426  
the life of a ward, a beneficiary of a trust fund, or according to 3427  
a will, or upon the life of a person in whom such ward or 3428  
beneficiary has an insurable interest and the contracts shall be 3429  
drawn by the insuring company so that the proceeds shall be the 3430  
sole property of the person whose funds are so invested; 3431



(7) Notes or bonds secured by mortgages and insured by the federal housing administrator or debentures issued by such administrator;	3432 3433 3434
(8) Obligations issued by a federal home loan bank created under the "Federal Home Loan Bank Act of 1932," 47 Stat. 725, 12 U.S.C.A. 1421, as amended;	3435 3436 3437
(9) Shares and certificates or other evidences of deposits issued by a federal savings and loan association organized and incorporated under the "Home Owners' Loan Act of 1933," 48 Stat. 128, 12 U.S.C.A. 1461, as amended, to the extent and only to the extent that those shares or certificates or other evidences of deposits are insured pursuant to the "Financial Institutions Reform, Recovery, and Enforcement Act of 1989," 103 Stat. 183, 12 U.S.C.A. 1811, as amended;	3438 3439 3440 3441 3442 3443 3444 3445
(10) Bonds issued by the home owners' loan corporation created under the "Home Owners' Act of 1933," 48 Stat. 128, 12 U.S.C.A. 1461, as amended;	3446 3447 3448
(11) Obligations issued by the national mortgage association created under the "National Housing Act," 48 Stat. 1246 (1934), 12 U.S.C.A. 1701, as amended;	3449 3450 3451
(12) Shares and certificates or other evidences of deposits issued by a domestic savings and loan association organized under the laws of the state, which association has obtained insurance of accounts pursuant to the "Financial Institutions Reform, Recovery, and Enforcement Act of 1989," 103 Stat. 183, 12 U.S.C.A. 1811, as amended, or as may be otherwise provided by law, only to the extent that <del>such</del> <u>the</u> evidences of deposits are insured under that act, as amended;	3452 3453 3454 3455 3456 3457 3458 3459
(13) Shares and certificates or other evidences of deposits issued by a domestic savings and loan association organized under the laws of the state, provided that no fiduciary may invest <del>such</del>	3460 3461 3462

the deposits except with the approval of the probate court, and 3463  
then in an amount not to exceed the amount which the fiduciary is 3464  
permitted to invest under division (A)(12) of this section; 3465

(14) In savings accounts in, or certificates or other 3466  
evidences of deposits issued by, a national bank located in the 3467  
state or a state bank located in and organized under the laws of 3468  
the state or a credit union located in and organized under the 3469  
laws of the state by depositing the funds in the bank, and ~~such~~ 3470  
the national or state bank when itself acting in a fiduciary 3471  
capacity may deposit the funds in savings accounts in, or 3472  
certificates or other evidences of deposits issued by, its own 3473  
savings department or any bank subsidiary corporation owned or 3474  
controlled by the bank holding company that owns or controls ~~such~~ 3475  
the national or state bank; provided that no deposit shall be made 3476  
by any fiduciary, individual, or corporate, unless the deposits of 3477  
the depository bank are insured by the federal deposit insurance 3478  
corporation created under the "Federal Deposit Insurance 3479  
Corporation Act of 1933," 48 Stat. 162, 12 U.S.C. 264, as amended, 3480  
and provided that the deposit of the funds of any one trust in any 3481  
such savings accounts in, or certificates or other evidences of 3482  
deposits issued by, any one bank or credit union shall not exceed 3483  
the sum insured under that act, as amended; 3484

(15) Obligations consisting of notes, bonds, debentures, or 3485  
equipment trust certificates issued under an indenture, which are 3486  
the direct obligations, or in the case of equipment trust 3487  
certificates are secured by direct obligations, of a railroad or 3488  
industrial corporation, or a corporation engaged directly and 3489  
primarily in the production, transportation, distribution, or sale 3490  
of electricity or gas, or the operation of telephone or telegraph 3491  
systems or waterworks, or in some combination of them; provided 3492  
that the obligor corporation is one which is incorporated under 3493  
the laws of the United States, any state, ~~or~~ the District of 3494

Columbia, or foreign government, and the obligations are rated at 3495  
the time of purchase in the highest or next highest classification 3496  
established by at least two standard rating services selected from 3497  
a list of the standard rating services which shall be prescribed 3498  
by the superintendent of financial institutions; provided that 3499  
every such list shall be certified by the superintendent to the 3500  
clerk of each probate court in the state, and shall continue in 3501  
effect until a different list is prescribed and certified as 3502  
provided in this division; 3503

(16) Obligations issued, assumed, or guaranteed by the 3504  
international finance corporation or by the international bank for 3505  
reconstruction and development, the Asian development bank, the 3506  
inter-American development bank, the African development bank, or 3507  
other similar development bank in which the president, as 3508  
authorized by congress and on behalf of the United States, has 3509  
accepted membership, provided that the obligations are rated at 3510  
the time of purchase in the highest or next highest classification 3511  
established by at least one standard rating service selected from 3512  
a list of standard rating services which shall be prescribed by 3513  
the superintendent of financial institutions; 3514

(17) Securities of any investment company, as defined in and 3515  
registered under sections 3 and 8 of the "Investment Company Act 3516  
of 1940," 54 Stat. 789, 15 U.S.C.A. 80a-3 and 80a-8, that are 3517  
invested exclusively in forms of investment or in instruments that 3518  
are fully collateralized by forms of investment in which the 3519  
fiduciary is permitted to invest pursuant to divisions (A)(1) to 3520  
(16) of this section, provided that, in addition to such forms of 3521  
investment, the investment company may, for the purpose of 3522  
reducing risk of loss or of stabilizing investment returns, engage 3523  
in hedging transactions. 3524

(B) No administrator or executor may invest funds belonging 3525  
to an estate in any asset other than a direct obligation of the 3526

United States that has a maturity date not exceeding one year from 3527  
the date of investment, or other than in a short-term investment 3528  
fund that is invested exclusively in obligations of the United 3529  
States or of its agencies, or primarily in such obligations and 3530  
otherwise only in variable demand notes, corporate money market 3531  
instruments including, but not limited to, commercial paper, or 3532  
fully collateralized repurchase agreements or other evidences of 3533  
indebtedness that are payable on demand or generally have a 3534  
maturity date not exceeding ninety-one days from the date of 3535  
investment, except with the approval of the probate court or with 3536  
the permission of the instruments creating the trust. 3537

(C)(1) In addition to the investments allowed by this 3538  
section, a guardian or trustee, with the approval of the court, 3539  
may invest funds belonging to the trust in productive real ~~estate~~ 3540  
property located within the state, provided that neither the 3541  
guardian nor the trustee nor any member of the family of either 3542  
has any interest in such real ~~estate~~ property or in the proceeds 3543  
of the purchase price. The title to any real ~~estate~~ property so 3544  
purchased by a guardian must be taken in the name of the ward. 3545

(2) Notwithstanding the provisions of division (C)(1) of this 3546  
section, the court may permit the funds to be used to purchase or 3547  
acquire a home for the ward or an interest in a home for the ward 3548  
in which a member of the ward's family may have an interest. After 3549  
the filing of the petition by a guardian or a conservator for 3550  
authority to purchase or acquire a home for the ward or an 3551  
interest in a home for the ward in which a member of the ward's 3552  
family may have an interest, the matter shall be set for a hearing 3553  
before the probate court. 3554

(D) If the fiduciary is a trustee appointed by and 3555  
accountable to the probate court, the fiduciary shall invest the 3556  
trust's assets pursuant to the requirements and standards set 3557  
forth in the Ohio Uniform Prudent Investor Act. 3558

**Sec. 2109.371.** (A) In addition to those investments made 3559  
eligible by section 2109.37 or 2109.372 of the Revised Code, 3560  
investments may be made by a fiduciary other than a guardian under 3561  
sections 5905.01 to 5905.19 of the Revised Code, and subject to 3562  
the restriction placed on an administrator or executor by division 3563  
(B) of section 2109.37 of the Revised Code, in any of the 3564  
following kinds and classes of securities, provided that it may be 3565  
lawfully sold in Ohio and investment is made only in ~~such~~ those 3566  
securities as would be acquired by prudent persons of discretion 3567  
and intelligence in such matters who are seeking a reasonable 3568  
income and the preservation of their capital: 3569

(1) Securities of corporations organized and existing under 3570  
the laws of the United States, the District of Columbia, ~~or~~ any 3571  
state of the United States, or any foreign government or state, 3572  
including, but not limited to, bonds, debentures, notes, equipment 3573  
trust obligations, or other evidences of indebtedness, and shares 3574  
of common and preferred stocks of ~~such~~ those corporations; 3575

(2) Subject to division (C) of this section, collective 3576  
investment funds established in accordance with section 1111.14 of 3577  
the Revised Code or securities of any investment company, 3578  
including any affiliated investment company, whether or not the 3579  
fiduciary has invested other funds held by it in an agency or 3580  
other nonfiduciary capacity in the securities of the same 3581  
investment company or affiliated investment company. ~~Such~~ Those 3582  
investments may be made regardless of the eligibility of the 3583  
underlying assets held by the fund portfolios of the investment 3584  
company. 3585

(3) Bonds or other interest-bearing obligations of any state 3586  
or territory of the United States, or of any county, city, 3587  
village, school district, or other legally constituted political 3588  
taxing subdivision of any state or territory of the United States, 3589

not otherwise eligible under division (A)(2) or (3) of section 3590  
2109.37 of the Revised Code, or of any foreign government; 3591

(4) Debt or equity securities of foreign corporations that 3592  
trade on recognized United States domiciled exchanges. 3593

~~(B) No investment shall be made pursuant to this section 3594  
which, at the time such investment is made, causes the aggregate 3595  
market value of the investments, not made eligible by section 3596  
2109.37 or 2109.372 of the Revised Code, to exceed sixty per cent 3597  
of the aggregate market value at that time of all the property of 3598  
the fund held by the fiduciary. No sale or other liquidation of 3599  
any investment shall be required solely because of any change in 3600  
the relative market value of those investments made eligible by 3601  
this section and those made eligible by section 2109.37 or 3602  
2109.372 of the Revised Code; provided that, in the event of a 3603  
sale of investments authorized by this section, the proceeds from 3604  
the sale may be reinvested in the kinds and classes of securities 3605  
authorized by this section without regard to the percentage 3606  
limitation provided in this division. In determining the aggregate 3607  
market value of the property of a fund and the percentage of a 3608  
fund to be invested under this section, a fiduciary may rely upon 3609  
published market quotations as to those investments for which ~~such~~ 3610  
those quotations are available and upon such valuations of other 3611  
investments as, in the fiduciary's best judgment, seem fair and 3612  
reasonable according to available information. 3613~~

(C)(1)(a) A fiduciary making an investment of trust funds in 3614  
securities of an affiliated investment company, or a bank 3615  
subsidiary corporation or other corporation owned or controlled by 3616  
the bank holding company that owns or controls the fiduciary, may 3617  
charge a reasonable fee for investment advisory, brokerage, 3618  
transfer agency, registrar, management, or other similar services 3619  
provided to an affiliated investment company. The fee may be in 3620  
addition to the compensation to which the fiduciary is otherwise 3621

entitled to receive from the trust, provided that the fee is 3622  
charged as a percentage of either asset value or income earned or 3623  
actual amount charged and is disclosed at least annually by 3624  
prospectus, account statement, or any other written means to all 3625  
persons entitled to receive statements of account activity. The 3626  
fiduciary shall disclose the relationship between the fiduciary 3627  
and the affiliated investment company, at least annually by 3628  
account statement, whether or not the fee is charged. 3629

(b) A fiduciary making an investment of trust funds in 3630  
securities of an affiliated investment company pursuant to 3631  
division (A)(2) of this section shall, when providing any periodic 3632  
account statements to the trust fund, report the net asset value 3633  
of the shares comprising the investment of the trust funds in the 3634  
affiliated investment company. 3635

(c) If a fiduciary making an investment of trust funds in 3636  
securities of an affiliated investment company pursuant to 3637  
division (A)(2) of this section invests ~~such~~ those funds in any 3638  
mutual fund, the fiduciary shall disclose, in at least ten-point 3639  
boldface type, by prospectus, account statement, or any other 3640  
written means to all persons entitled to receive statements of 3641  
account activity, that the mutual fund is not insured or 3642  
guaranteed by the federal deposit insurance corporation or by any 3643  
other government-sponsored agency of the federal government or of 3644  
this state. 3645

(2) Unless the investment of trust funds in securities of an 3646  
affiliated investment company can be made under the terms of the 3647  
instrument creating the trust, an exception to the investment of 3648  
trust funds in securities of an affiliated investment company may 3649  
be filed with the probate court. Any exception filed pursuant to 3650  
this division ~~must~~ shall be signed by all persons who would, at 3651  
the time the exception is filed, be permitted to file an exception 3652  
to an account pursuant to section 2109.33 of the Revised Code and 3653

~~must~~ shall state that all such persons request that the current investment of trust funds in securities of an affiliated investment company be terminated within a reasonable time. If the probate court determines that the exception complies with the requirements of this division, the probate court shall establish a schedule for disposing of any current investments in securities of an affiliated investment company, and the fiduciary shall cause the trust to dispose of the investments in accordance with the schedule. The fiduciary shall not be liable for any loss incurred by the trust as a result of complying with division (C)(2) of this section.

(D) As used in this section, "affiliated investment company" and "reasonable fee" have the same meanings as in division (E) of section 1111.13 of the Revised Code.

**Sec. 2109.372.** (A) As used in this section:

(1) "Short term trust-quality investment fund" means a short term investment fund that meets both of the following conditions:

(a) The fund may be either a collective investment fund established in accordance with section 1111.14 of the Revised Code or a registered investment company, including any affiliated investment company whether or not the fiduciary has invested other funds held by it in an agency or other nonfiduciary capacity in the securities of the same registered investment company or affiliated investment company.

(b) The fund is invested in any one or more of the following manners:

(i) In obligations of the United States or of its agencies;

(ii) In obligations of one or more of the states of the United States or their political subdivisions;

(iii) In obligations of foreign governments or states;



(iv) In variable demand notes, corporate money market instruments including, but not limited to, commercial paper rated at the time of purchase in either of the two highest classifications established by at least one nationally recognized standard rating service;

~~(iv)~~(v) Deposits in banks, savings banks, or savings and loan associations, whose deposits are insured by the federal deposit insurance corporation, or in credit unions insured by the national credit union administration or by a credit union share guaranty corporation established under Chapter 1761. of the Revised Code, if the rate of interest paid on such deposits is at least equal to the rate of interest generally paid by such banks, savings banks, savings and loan associations, or credit unions on deposits of similar terms or amounts;

~~(v)~~(vi) In fully collateralized repurchase agreements or other evidences of indebtedness that are of trust quality and are payable on demand or have a maturity date consistent with the purpose of the fund and the duty of fiduciary prudence.

(2) "Registered investment company" means any investment company that is defined in and registered under sections 3 and 8 of the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C.A. 80a-3 and 80a-8.

(3) "Affiliated investment company" has the same meaning as in division (E)(1) of section 1111.13 of the Revised Code.

(B) A fiduciary is not required to invest cash that belongs to the trust and may hold that cash for the period prior to distribution if either of the following applies:

(1) The fiduciary reasonably expects to do either of the following:

(a) Distribute the cash to beneficiaries of the trust on a quarterly or more frequent basis;

(b) Use the cash for the payment of debts, taxes, or expenses 3715  
of administration within the ninety-day period following the 3716  
receipt of the cash by the fiduciary. 3717

(2) Determined on the basis of the facilities available to 3718  
the fiduciary and the amount of the income that reasonably could 3719  
be earned by the investment of the cash, the amount of the cash 3720  
does not justify the administrative burden or expense associated 3721  
with its investment. 3722

(C) If a fiduciary wishes to hold funds that belong to the 3723  
trust in liquid form and division (B) of this section does not 3724  
apply, the fiduciary may so hold the funds as long as they are 3725  
temporarily invested as described in division (D) of this section. 3726

(D)(1) A fiduciary may make a temporary investment of cash 3727  
that the fiduciary may hold uninvested in accordance with division 3728  
(B) of this section, and shall make a temporary investment of 3729  
funds held in liquid form pursuant to division (C) of this 3730  
section, in any of the following investments, unless the governing 3731  
instrument provides for other investments in which the temporary 3732  
investment of cash or funds is permitted: 3733

(a) A short term trust-quality investment fund; 3734

(b) Direct obligations of the United States or of its 3735  
agencies; 3736

(c) Obligations of foreign governments or states; 3737

(d) A deposit with a bank, savings bank, savings and loan 3738  
association, or credit union, including a deposit with the 3739  
fiduciary itself or any bank subsidiary corporation owned or 3740  
controlled by the bank holding company that owns or controls the 3741  
fiduciary, whose deposits are insured by the federal deposit 3742  
insurance corporation, if the rate of interest paid on that 3743  
deposit is at least equal to the rate of interest generally paid 3744  
by that bank, savings bank, savings and loan association, or 3745

credit union on deposits of similar terms or amounts. 3746

(2) A fiduciary that makes a temporary investment of cash or 3747  
funds pursuant to division (D)(1) of this section may charge a 3748  
reasonable fee for the services associated with that investment. 3749  
The fee shall be in addition to the compensation to which the 3750  
fiduciary is entitled for ordinary fiduciary services. 3751

(3) Fiduciaries that make one or more temporary investments 3752  
of cash or funds pursuant to division (D)(1) of this section shall 3753  
provide to the beneficiaries of the trusts involved, that are 3754  
currently receiving income or have a right to receive income, a 3755  
written disclosure of their temporary investment practices and, if 3756  
applicable, the method of computing reasonable fees for their 3757  
temporary investment services pursuant to division (D)(2) of this 3758  
section. Fiduciaries may comply with this requirement in any 3759  
appropriate written document, including, but not limited to, any 3760  
periodic statement or account. 3761

(4) A fiduciary that makes a temporary investment of cash or 3762  
funds in an affiliated investment company pursuant to division 3763  
(D)(1)(a) of this section shall, when providing any periodic 3764  
account statements of its temporary investment practices, report 3765  
the net asset value of the shares comprising the investment in the 3766  
affiliated investment company. 3767

(5) If a fiduciary that makes a temporary investment of cash 3768  
or funds in an affiliated investment company pursuant to division 3769  
(D)(1)(a) of this section invests in any mutual fund, the 3770  
fiduciary shall provide to the beneficiaries of the trust 3771  
involved, that are currently receiving income or have a right to 3772  
receive income, a written disclosure, in at least ten-point 3773  
boldface type, that the mutual fund is not insured or guaranteed 3774  
by the federal deposit insurance corporation or by any other 3775  
government agency or government-sponsored agency of the federal 3776  
government or of this state. 3777

**Sec. 2109.38.** Sections 2109.37, 2109.371, and 2109.372 of the Revised Code do not prohibit a fiduciary from retaining any part of a trust estate as received by ~~him~~ the fiduciary even though ~~such~~ that part is not of the class or percentage permitted to fiduciaries, or from retaining any investment made by ~~him~~ the fiduciary after ~~such~~ the investment ceases to be of a class or exceeds the percentage permitted by law, provided the circumstances are not such as to require the fiduciary to dispose of ~~such~~ the investment in the performance of ~~his~~ the fiduciary's duties.

**Sec. 2109.39.** A fiduciary entitled to a distributive share of the assets of an estate or trust has the same right as other beneficiaries to accept or demand distribution in kind and may retain any security or investment so distributed to ~~him~~ the fiduciary as though it were a part of the original estate received by ~~him~~ the fiduciary.

**Sec. 2109.40.** Unless the instrument creating a trust forbids, a fiduciary may do all of the things which an individual holder might do with respect to securities held by ~~him~~ the fiduciary, including the exercise or sale of subscription rights, the acceptance of new stock in the same corporation in place of the stock held, or in the event of reorganization, sale, or merger in a different corporation, and with the approval of the probate court, the investment of additional funds where required of all shareholders participating in a reorganization.

**Sec. 2109.42.** Subject to section 2109.372 of the Revised Code, a fiduciary who has funds belonging to a trust which are not required for payment of current obligations of ~~his~~ the fiduciary's trust or distribution shall, unless otherwise ordered by the probate court, invest such funds within a reasonable time

according to section 2109.37 or 2109.371 of the Revised Code. On 3808  
failure to do so, such fiduciary shall account to the trust for 3809  
such loss of interest as is found by the court to be due to ~~his~~ 3810  
the fiduciary's negligence. 3811

**Sec. 2109.43.** No fiduciary shall make any personal use of the 3812  
funds or property belonging to a trust. For a violation of this 3813  
section, ~~such~~ the fiduciary and ~~his~~ the fiduciary's bond shall be 3814  
liable in an action for any loss occasioned by such use and for 3815  
such additional amount by way of forfeiture, not exceeding the 3816  
amount of the loss occasioned by such use, as may be fixed by the 3817  
probate court hearing such case. ~~Such~~ Those amounts shall be 3818  
payable for the benefit of the beneficiary, if living, and to ~~his~~ 3819  
the beneficiary's estate if ~~he~~ the beneficiary is deceased. In 3820  
addition to the penalties under this section, the court may remove 3821  
the fiduciary pursuant to section 2109.24 of the Revised Code for 3822  
fraudulent conduct or dereliction of duty related to the 3823  
fiduciary's personal use or misuse of funds or property belonging 3824  
to a trust. However, if all interested persons consent to the 3825  
fiduciary's use of the property in a signed writing filed with the 3826  
probate court, the fiduciary may make personal use of property 3827  
belonging to the trust. 3828

An action under this section shall be brought not later than 3829  
one year after the termination of the trust or the discovery of 3830  
~~such~~ that loss. 3831

It is within the court's discretion, upon application, notice 3832  
to interested persons, and a hearing, to allow the personal use of 3833  
trust property by the fiduciary. 3834

**Sec. 2109.44.** (A) Fiduciaries shall not buy from or sell to 3835  
themselves and shall not have in their individual capacities any 3836  
dealings with the estate, except as expressly authorized by the 3837

instrument creating the trust and then only ~~1111.13~~ 1111.14 with 3838  
the approval of the probate court in each instance. No corporate 3839  
fiduciary,  $\tau$  as defined in section 1101.01 of the Revised Code, 3840  
that is not subject to examination or regulatory oversight by the 3841  
superintendent of financial institutions, the comptroller of the 3842  
currency, or the office of thrift supervision shall be permitted 3843  
to deal with the estate, any power in the instrument creating the 3844  
trust to the contrary notwithstanding. This section does not 3845  
prohibit a fiduciary from making an advancement when the 3846  
advancement has been expressly authorized by the instrument 3847  
creating the trust or when the probate court approves or from 3848  
engaging in any act authorized by this chapter. 3849

(B) The fiduciary or the attorney for the estate may petition 3850  
the court for authority to purchase property of the estate if all 3851  
of the following requirements are met: 3852

(1) Written consent to the purchase is signed by both the 3853  
following: 3854

(a) Each known heir whose interest in the estate would be 3855  
affected by the proposed purchase; 3856

(b) Each known devisee whose interest in the estate would be 3857  
affected by the proposed purchase. 3858

(2) The written consents are filed with the court. 3859

(3) The purchase is shown to be to the advantage of the 3860  
estate. 3861

(C) The court shall deliver notice of the hearing on the 3862  
petition to the heirs, devisees, or legatees of the estate or any 3863  
interested person. 3864

**Sec. 2109.45.** Before the probate court confirms a sale by an 3865  
executor, administrator, guardian, assignee, or trustee made under 3866  
an order allowing that officer to make a private sale, the court 3867

shall require that officer to file a statement indicating that the 3868  
private sale was made after diligent endeavor to obtain the best 3869  
price for the property and that the private sale was at the 3870  
highest price ~~he~~ the executor, administrator, guardian, assignee, 3871  
or trustee could ~~get~~ obtain for the property. 3872

**Sec. 2109.46.** When it appears to be for the best interests of 3873  
the ~~trust~~ entrusted estate, a fiduciary other than an executor or 3874  
administrator may, with the approval of the probate court, borrow 3875  
money and mortgage real ~~estate~~ property belonging to the ~~trust~~ 3876  
entrusted estate, whether ~~such~~ the real ~~estate~~ property was 3877  
acquired by purchase or by descent and distribution. 3878

The fiduciary proposing ~~se~~ to borrow money ~~must~~ shall file in 3879  
the probate court ~~which~~ that appointed ~~him~~ the fiduciary a 3880  
~~petition~~ complaint describing all of the real ~~estate~~ property in 3881  
the trust and stating the nature and amount of the encumbrances 3882  
~~thereon~~ on that real property, the date ~~such~~ those encumbrances 3883  
became or will become due, and the rate of interest ~~thereon~~ on 3884  
those encumbrances. The ~~petition~~ complaint shall also contain a 3885  
statement of the personal property in the trust, the income from 3886  
~~such~~ the personal property, and the income from the real ~~estate~~ 3887  
property in ~~such~~ the trust. ~~Such~~ petition The complaint if filed 3888  
by a guardian shall state the names, ages, and residences of the 3889  
ward and next of kin known to be a resident ~~in the~~ of this state, 3890  
including the spouse of ~~such~~ the ward and persons holding liens on 3891  
~~such~~ the real ~~estate~~ property unless the liens will be 3892  
extinguished, all of whom ~~must~~ shall be made defendants and be 3893  
notified of the pendency and prayer of the ~~petition~~ complaint in 3894  
~~such~~ the manner ~~as~~ that the court directs. In addition ~~such~~ 3895  
~~petition,~~ the complaint shall contain a statement of the nature of 3896  
the ~~imbecility~~ incompetency or ~~insanity~~ incapacity, if any, of 3897  
~~such~~ the ward, whether temporary or confirmed and its duration. 3898  
Except as provided in this section, the defendants and notice 3899

~~thereto~~ to the defendants shall be the same as though the real 3900  
estate property proposed to be mortgaged were being sold by the 3901  
fiduciary. The ~~petition~~ complaint shall set forth the purpose of 3902  
the loan, the amount required ~~therefor~~ for the loan, and ~~such~~ 3903  
other facts as may be pertinent to the question whether ~~such~~ the 3904  
money should be borrowed and shall contain a prayer that the 3905  
fiduciary be authorized to mortgage so much of the ward's lands as 3906  
may be necessary to secure ~~such~~ the loan. 3907

Upon the filing of ~~such petition~~ the complaint, the 3908  
proceedings as to pleadings and proof shall be the same as on 3909  
~~petition~~ a complaint to sell real estate property belonging to the 3910  
trust. 3911

**Sec. 2109.47.** Before the probate court makes an order 3912  
authorizing a guardian to mortgage real estate property for the 3913  
purpose of borrowing money to make repairs or improvements, the 3914  
court shall appoint ~~three~~ disinterested persons whose duty it 3915  
shall be to investigate fully the necessity for and the 3916  
advisability of making the repairs or improvements and their 3917  
probable cost and to report their conclusions to the court. 3918

**Sec. 2109.48.** If on the final hearing of a fiduciary's 3919  
~~petition~~ complaint to borrow money and mortgage real estate 3920  
property belonging to the trust it appears to be for the best 3921  
interests of the trust that the prayer of the ~~petition~~ complaint 3922  
be granted, the probate court shall fix the amount necessary to be 3923  
borrowed, direct what ~~lands~~ real property shall be encumbered by 3924  
mortgage to secure ~~such~~ that amount, and issue an order to ~~such~~ 3925  
the fiduciary directing ~~him~~ the fiduciary to ascertain and report 3926  
to the court the rate of interest and the length of time for which 3927  
~~he~~ the fiduciary can borrow ~~such~~ that amount. 3928

If ~~such~~ the report of the fiduciary and the terms proposed 3929



are satisfactory to the court, they may be accepted and confirmed 3930  
and the fiduciary ordered, as fiduciary, to execute a note for 3931  
~~such~~ amount to be borrowed and a mortgage on the ~~lands~~ real 3932  
property so designated, which shall be a valid lien ~~thereon~~ on the 3933  
property. The fiduciary in no way shall be personally liable for 3934  
the payment of any part of the sum borrowed, but ~~such~~ the 3935  
mortgaged ~~lands~~ real property alone shall be bound ~~therefor~~ for 3936  
its payment. ~~Such~~ The court shall direct the distribution of the 3937  
fund and the fiduciary shall report to the court, for its 3938  
approval, the execution of ~~such~~ the notes and mortgage and ~~his~~ the 3939  
fiduciary's distribution of the fund. 3940

**Sec. 2109.49.** The probate judge, when the probate judge ~~deems~~ 3941  
considers it necessary or upon the written application of any 3942  
party interested in the trust estate, may appoint a suitable 3943  
~~persons~~ person to investigate the administration of the trust or 3944  
estate and report to the court. The expense thereof shall be taxed 3945  
as costs against the party asking for ~~such~~ the examination or the 3946  
trust fund, as the court may decree. This section shall not apply 3947  
to a corporate trustee ~~which~~ that is subject to section 1111.28 of 3948  
the Revised Code. 3949

**Sec. 2109.50.** Upon complaint made to the probate court of the 3950  
county having jurisdiction of the administration of ~~a trust~~ an 3951  
estate, a testamentary trust, or a guardianship or of the county 3952  
~~wherein~~ where a person resides against whom the complaint is made, 3953  
by a person interested in ~~such trust~~ the estate, testamentary 3954  
trust, or guardianship or by the creditor of a person interested 3955  
in ~~such trust~~ the estate, testamentary trust, or guardianship 3956  
against any person suspected of having concealed, embezzled, or 3957  
conveyed away or of being or having been in the possession of any 3958  
moneys, ~~chattels~~ personal property, or choses in action of ~~such~~ 3959  
the estate, testamentary trust, or guardianship, ~~said~~ the court 3960

shall by citation, ~~attachment or warrant, or, if circumstances~~ 3961  
~~require it, by warrant or attachment in the first instance, or~~ 3962  
other judicial order compel the person or persons ~~so~~ suspected to 3963  
~~forthwith~~ appear before it to be examined, on oath, touching the 3964  
matter of the complaint. ~~Where~~ If necessary such, the citation, 3965  
~~attachment or warrant~~ or other judicial order may be issued into 3966  
any county in the state and shall be served and returned by the 3967  
officer to whom it is delivered. The officer to whom ~~such~~ the 3968  
process is delivered shall be liable for negligence in its service 3969  
or return in ~~like~~ a similar manner as sheriffs are liable for 3970  
negligence in not serving or returning a capias issued upon an 3971  
indictment. Before issuing an extra-county citation, ~~attachment or~~ 3972  
~~warrant~~ or other judicial order, the probate judge may require the 3973  
complainant to post security with the probate court in ~~such~~ an 3974  
amount and in ~~such~~ a form ~~as~~ that the probate judge ~~shall find~~ 3975  
finds acceptable in order to cover the costs of the proceeding 3976  
under this section, including in ~~such~~ those costs a reasonable 3977  
allowance for the ~~travelling~~ travel expenses of the person or 3978  
persons against whom an extra-county citation, ~~attachment or~~ 3979  
~~warrant~~ or other judicial order is to be issued. ~~Such~~ The security 3980  
may be in the form of a bond, the amount, terms, conditions, and 3981  
sureties of which shall be subject to the approval of the probate 3982  
judge. 3983

The probate court may initiate proceedings on its own motion. 3984

The probate court shall ~~forthwith~~ promptly proceed to hear 3985  
and determine the matter. 3986

The examinations, including questions and answers, shall be 3987  
reduced to writing, signed by the party examined, and filed in the 3988  
probate court. 3989

If required by either party, the probate court shall swear 3990  
~~such~~ the witnesses ~~as may be~~ who are offered by either party 3991  
touching the matter of ~~such~~ the complaint and cause the 3992

examination of every ~~such~~ witness, including questions and 3993  
answers, to be reduced to writing, signed by the witness, and 3994  
filed in the probate court. 3995

All costs of ~~such~~ the proceedings, including the reasonable 3996  
~~travelling~~ travel expenses of a person against whom an 3997  
extra-county citation, ~~attachment or warrant~~ or judicial order is 3998  
issued, shall be assessed against and paid by the party making the 3999  
complaint, except as provided by section 2109.52 of the Revised 4000  
Code. 4001

**Sec. 2109.51.** If a person compelled under section 2109.50 of 4002  
the Revised Code to appear for examination refuses to answer 4003  
interrogatories propounded, the probate court shall commit ~~such~~ 4004  
the person to the county jail, and ~~such~~ the person shall remain in 4005  
close custody until ~~he~~ the person submits to the court's order. 4006

**Sec. 2109.52.** When passing on a complaint made under section 4007  
2109.50 of the Revised Code, the probate court shall determine, by 4008  
the verdict of a jury if either party requires it or without if 4009  
not required, whether the person accused is guilty of having 4010  
concealed, embezzled, conveyed away, or been in the possession of 4011  
moneys, ~~chattels~~ personal property, or choses in action of the 4012  
~~trust~~ estate, testamentary trust, or guardianship. If ~~such~~ the 4013  
person is found guilty, the probate court shall assess the amount 4014  
of damages to be recovered or the court may order the return of 4015  
the specific thing concealed or embezzled or may order restoration 4016  
in kind. The probate court may issue a citation or other judicial 4017  
order into any county in this state, ~~which citation~~ that shall be 4018  
served and returned as provided in section 2109.50, ~~requiring of~~ 4019  
the Revised Code. The citation or other judicial order shall 4020  
require any person ~~to appear before it~~ who claims any interest in 4021  
the assets alleged to have been concealed, embezzled, conveyed, or 4022  
held in possession ~~and at such~~ to appear before the court. At the 4023

hearing, the court may hear and determine questions of title 4024  
relating to ~~such~~ those assets. In all cases, except when the 4025  
person found guilty is the fiduciary, the probate court shall 4026  
~~forthwith~~ render judgment in favor of the fiduciary or if there is 4027  
no fiduciary in this state, the probate court shall render 4028  
judgment in favor of the state, against the person found guilty, 4029  
for the amount of the moneys or the value of the ~~chattels~~ personal 4030  
property or choses in action concealed, embezzled, conveyed away, 4031  
or held in possession, together with ten per cent penalty and all 4032  
costs of ~~such~~ the proceedings or complaint; except that ~~such~~ the 4033  
judgment shall be reduced to the extent of the value of any thing 4034  
specifically restored or returned in kind as provided in this 4035  
section. 4036

If the person found guilty is the fiduciary, the probate 4037  
court shall ~~forthwith~~ render judgment in favor of the state 4038  
against ~~him~~ the fiduciary for ~~such~~ the amount of the moneys or the 4039  
value of the personal property or choses in action concealed, 4040  
embezzled, conveyed away, or held in possession, together with 4041  
penalty and costs as provided in this section. 4042

**Sec. 2109.53.** If a judgment is rendered against a fiduciary 4043  
under section 2109.52 of the Revised Code, ~~he~~ the fiduciary shall 4044  
~~forthwith~~ be removed by the probate court ~~and that part of the~~ 4045  
~~trust not already administered shall be committed to some other~~ 4046  
~~person.~~ If any portion of the estate, testamentary trust, or 4047  
guardianship remains to be administered by the probate court at 4048  
the time of the removal of the fiduciary, the court shall appoint 4049  
a new fiduciary to continue the administrative process. A 4050  
fiduciary ~~so~~ that is removed shall not receive compensation for 4051  
acting as fiduciary and ~~must~~ shall be charged ~~in his account with~~ 4052  
for the amount of ~~such~~ the judgment. ~~Such~~ The fiduciary's property 4053  
also shall be liable for the satisfaction of the judgment on 4054  
execution issued ~~thereon~~ on the judgment by ~~his~~ the fiduciary's 4055

successor. 4056

**Sec. 2109.54.** The fiduciary in whose favor a judgment has 4057  
been rendered by the probate court under section 2109.52 of the 4058  
Revised Code shall ~~forthwith~~ deliver to the clerk of the court of 4059  
common pleas a certificate of ~~such that~~ judgment in accordance 4060  
with section 2329.04 of the Revised Code, ~~which certificate the~~ 4061  
~~The probate judge court shall make out complete and deliver the~~ 4062  
~~certificate to such the~~ fiduciary on demand. The clerk shall 4063  
~~forthwith~~ issue an execution of the court of common pleas for the 4064  
amount of the judgment and the costs that have accrued or that may 4065  
accrue ~~thereon on the judgment~~. Thenceforth proceedings on 4066  
execution shall be the same as if the judgment had been rendered 4067  
in ~~such that~~ court of common pleas. 4068

**Sec. 2109.55.** If a judgment is rendered in the name of the 4069  
state under section 2109.52 of the Revised Code and there is no 4070  
fiduciary within this state, the prosecuting attorney shall cause 4071  
the certificate provided for in section 2109.54 of the Revised 4072  
Code to be filed in the clerk's office and proceed ~~thereon~~ to 4073  
execution on the judgment as provided in ~~such that~~ section. ~~Such~~ 4074  
~~The~~ prosecuting attorney shall pay the money realized upon ~~such~~ 4075  
~~the~~ execution to the county treasurer for the use of ~~such trust~~ 4076  
the estate, testamentary trust, or guardianship, reserving ~~such~~ 4077  
~~the~~ compensation to ~~himself as the prosecuting attorney that~~ the 4078  
probate court allows. 4079

**Sec. 2109.56.** All gifts, grants, or conveyances of ~~land,~~ 4080  
~~tenements, hereditaments~~ real property, rents, or ~~chattels~~ 4081  
personal property and all bonds, judgments, or executions made or 4082  
obtained with intent to avoid the purpose of the proceedings set 4083  
forth in sections 2109.50 to 2109.55, ~~inclusive,~~ of the Revised 4084  
Code, or in contemplation of any examination or complaint provided 4085

for by ~~such~~ those sections, shall be void. 4086

**Sec. 2109.57.** In any action or proceeding pending in a court 4087  
of record, if it is made to appear to the court that any person 4088  
entitled to all or a part of the proceeds of property sold in ~~such~~ 4089  
that action or proceeding is unknown or is a nonresident and not 4090  
represented in such action or proceeding or that the person 4091  
entitled cannot, at the time, definitely be ascertained, the 4092  
probate court may appoint a trustee to whom the notes and 4093  
mortgages for the unpaid part shall be made, delivered, and paid 4094  
and to receive, hold, and manage ~~such~~ the proceeds or part ~~thereof~~ 4095  
of the proceeds. ~~Such~~ The trustee shall collect the unpaid part of 4096  
the proceeds of the property sold, by action or otherwise, and 4097  
shall pay over ~~such~~ that fund only on the order of the probate 4098  
court appointing ~~him~~ the trustee. 4099

Payment to ~~such~~ the trustee shall be a bar to any claim 4100  
thereafter made by any person and the persons or corporations 4101  
paying ~~such~~ the money in no case shall be required to see to the 4102  
application of the money paid. 4103

If a person entitled to any portion of the money held by ~~such~~ 4104  
the trustee fails for seven or more years after ~~such~~ the trustee's 4105  
appointment to make claim to the money and to present the proof 4106  
necessary to entitle ~~such~~ the person to ~~such~~ the money, the 4107  
prosecuting attorney of the county in which ~~such~~ the trustee was 4108  
appointed shall collect it, with the interest accrued ~~thereon~~ on 4109  
the money, from ~~such~~ the trustee and pay it into ~~such~~ the county's 4110  
treasury, to be placed to the credit of the general fund. 4111

~~When~~ Upon application to the probate court which that 4112  
appointed ~~such~~ the trustee ~~is satisfied that a~~ and presentment of 4113  
the proof necessary to entitle the person who appears and claims 4114  
to the moneys paid into the county treasury has a right to receive 4115  
them, money, the court shall order the payment of the money to the 4116

person in whole or part, less the costs of collection by the 4117  
prosecuting attorney, ~~such court shall order the payment thereof~~ 4118  
~~to the person shown to be entitled to such moneys. Such.~~ The 4119  
person, on the judge's certificate, shall be given a warrant 4120  
therefor by the county auditor. 4121

**Sec. 2109.58.** Each fiduciary as to whom definite provision is 4122  
not made in sections 2111.14 and 2115.02 of the Revised Code shall 4123  
make and file within three months after ~~his~~ the fiduciary's 4124  
appointment a full inventory of the real and personal property 4125  
~~belonging to the trust~~ be entrusted with the fiduciary, its value, 4126  
and the value of the yearly rent of the real property. 4127

Except as provided by section 2115.16 of the Revised Code, 4128  
exceptions to the inventory of a fiduciary may be filed at any 4129  
time within six months after the return of the inventory by any 4130  
person interested in the ~~trust~~ entrusted property or in any of the 4131  
property included in the inventory, but the six-month period shall 4132  
not apply in case of fraud or concealment of assets. At the 4133  
hearing, the fiduciary and any witness may be examined under oath. 4134  
The probate court shall enter its finding on the journal and tax 4135  
the costs as may be equitable. 4136

**Sec. 2109.59.** If a fiduciary, upon demand, refuses or 4137  
neglects to pay any creditor whose claim has been allowed by the 4138  
fiduciary and not subsequently rejected or to pay any creditor or 4139  
make distribution to any person interested in the estate whose 4140  
claim or interest has been established by judgment, decree, or 4141  
order of court, including an order of distribution, ~~such the~~ 4142  
creditor or other person may file a petition against the fiduciary 4143  
in the probate court from which the fiduciary received ~~his~~ the 4144  
fiduciary's appointment to enforce ~~such the~~ the payment or 4145  
distribution, briefly setting forth therein the amount and nature 4146  
of ~~his~~ the creditor's or other person's claim or interest. ~~Such~~ 4147

The petition shall not be filed against an executor or 4148  
administrator until the expiration of the period prescribed in 4149  
section 2117.30 of the Revised Code. 4150

When ~~such~~ the petition is filed, the probate court shall 4151  
issue a citation to the fiduciary setting forth the filing of the 4152  
petition and the nature of the claim of the petitioner and 4153  
commanding ~~such~~ the fiduciary to appear before the court on the 4154  
return day ~~thereof~~ to answer and show cause why a judgment should 4155  
not be rendered or order entered against ~~him~~ the fiduciary. ~~Such~~ 4156  
The citation shall be returnable not less than twenty nor more 4157  
than forty days from its date and shall be served and returned by 4158  
an officer as in the case of summons. ~~Such~~ The citation may issue 4159  
to any county in the state. 4160

On the return of the citation the cause shall be for hearing, 4161  
unless for good cause shown it is continued. The probate court may 4162  
hear and determine all questions necessary to ascertain and fix 4163  
the amount due from the fiduciary to the petitioner and render 4164  
~~such~~ the judgment or make ~~such~~ the order ~~as~~ that may be proper. If 4165  
necessary, ~~such~~ the court may hear, determine, and settle the 4166  
rights and claims of all parties interested in the subject matter 4167  
of the petition. For ~~such~~ that purpose the probate court may ~~cause~~ 4168  
allow all parties in interest to be made parties to ~~such~~ the 4169  
petition by amended, supplemental, or crosspetition. The court 4170  
shall cause notice to be served on all ~~such~~ the parties in the 4171  
manner provided in this section for service of the citation upon 4172  
the fiduciary. 4173

In any such proceeding the sureties on the bond of the 4174  
fiduciary, if made parties thereto, may make any defense that the 4175  
fiduciary could make and the court may render ~~such~~ the judgment or 4176  
make ~~such~~ the order with respect to the sureties as may be proper. 4177

**Sec. 2109.60.** When a proceeding set forth in section 2109.59 4178



of the Revised Code is pending in the probate court, ~~such the~~ 4179  
court, on motion of any party ~~thereto~~ or on the court's own 4180  
motion, may ~~reserve and send such~~ transfer the cause to the court 4181  
of common pleas ~~which~~, and the court of common pleas shall hear, 4182  
settle, and determine all issues as provided in ~~such that~~ section. 4183  
In case of ~~such reservation the transfer~~, the probate court shall 4184  
prepare a transcript of the proceedings in the cause, so far as it 4185  
has progressed, ~~which that~~, with the petition and other papers 4186  
~~therein in the proceedings~~, ~~forthwith~~ shall be filed with the 4187  
clerk of the court of common pleas. 4188

**Sec. 2109.61.** An action may be prosecuted on the bond of a 4189  
fiduciary against any one or more of the obligors ~~thereof~~ on the 4190  
bond by any person who has been injured by reason of the breach of 4191  
any condition of the bond. ~~Such The~~ action shall be prosecuted for 4192  
the benefit of all persons who are interested in the estate and 4193  
who have been similarly injured. Any such person or any obligor on 4194  
the bond who is not already a party to the action may intervene 4195  
~~therein in the action~~ or be made a party ~~thereto~~ to the action by 4196  
supplemental, amended, or crosspetition. Notice of any action or 4197  
proceeding against the bonded fiduciary shall be given to the 4198  
surety. 4199

If a surety on the bond of a fiduciary is not made a party to 4200  
an action or proceeding against ~~such the~~ fiduciary, the fact that 4201  
a judgment was rendered or an order was entered against the 4202  
fiduciary shall constitute only prima-facie evidence of the 4203  
justice and validity of the claim in an action subsequently 4204  
brought against the sureties on the bond of the fiduciary. 4205

**Sec. 2109.62.** (A)(1) Upon the filing of a motion by a trustee 4206  
with the court that has jurisdiction over the trust, upon the 4207  
provision of reasonable notice to all beneficiaries who are known 4208  
and in being and who have vested or contingent interests in the 4209

trust, and after holding a hearing, the court may terminate the 4210  
trust, in whole or in part, if it determines that all of the 4211  
following apply: 4212

(a) It is no longer economically feasible to continue the 4213  
trust. 4214

(b) The termination of the trust is for the benefit of the 4215  
beneficiaries. 4216

(c) The termination of the trust is equitable and practical. 4217

(d) The current value of the trust is less than one hundred 4218  
thousand dollars. 4219

(2) The existence of a spendthrift or similar provision in a 4220  
trust instrument or will does not preclude the termination of a 4221  
trust pursuant to this section. 4222

(B) If property is to be distributed from an estate being 4223  
probated to a trust and the termination of the trust pursuant to 4224  
this section does not clearly defeat the intent of the testator, 4225  
the probate court has jurisdiction to order the outright 4226  
distribution of the property or to make the property custodial 4227  
property under sections 5814.01 to 5814.09 of the Revised Code. A 4228  
probate court may so order whether the ~~application~~ motion for the 4229  
order is made by an inter vivos trustee named in the will of the 4230  
decedent or by a testamentary trustee. 4231

(C) Upon the termination of a trust pursuant to this section, 4232  
the probate court shall order the distribution of the trust estate 4233  
in accordance with any provision specified in the trust instrument 4234  
for the premature termination of the trust. If there is no 4235  
provision of that nature in the trust instrument, the probate 4236  
court shall order the distribution of the trust estate among the 4237  
beneficiaries of the trust in accordance with their respective 4238  
beneficial interests and in a manner that the court determines to 4239  
be equitable. For purposes of ordering the distribution of the 4240

trust estate among the beneficiaries of the trust under this 4241  
division, the court shall consider all of the following: 4242

(1) The existence of any agreement among the beneficiaries 4243  
with respect to their beneficial interests; 4244

(2) The actuarial values of the separate beneficial interests 4245  
of the beneficiaries; 4246

(3) Any expression of preference of the beneficiaries that is 4247  
contained in the trust instrument. 4248

**Sec. 2111.02.** (A) When found necessary, the probate court on 4249  
its own motion or on application by any interested party shall 4250  
appoint, subject to divisions (C) and (D) of this section and to 4251  
section 2109.21 and division (B) of section 2111.121 of the 4252  
Revised Code, a guardian of the person, the estate, or both, of a 4253  
minor or incompetent, provided the person for whom the guardian is 4254  
to be appointed is a resident of the county or has a legal 4255  
settlement in the county and, except in the case of a minor, has 4256  
had the opportunity to have the assistance of counsel in the 4257  
proceeding for the appointment of such guardian. An interested 4258  
party includes, but is not limited to, a person nominated in a 4259  
durable power of attorney as described in division (D) of section 4260  
1337.09 of the Revised Code or in a writing as described in 4261  
division (A) of section 2111.121 of the Revised Code. 4262

Except when the guardian of an incompetent is an agency under 4263  
contract with the department of developmental disabilities for the 4264  
provision of protective services under sections 5123.55 to 5123.59 4265  
of the Revised Code, the guardian of an incompetent, by virtue of 4266  
~~such~~ the appointment as guardian, shall be the guardian of the 4267  
minor children of the guardian's ward, unless the court appoints 4268  
some other person as their guardian. 4269

When the primary purpose of the appointment of a guardian is, 4270

or was, the collection, disbursement, or administration of moneys 4271  
awarded by the veterans administration to the ward, or assets 4272  
derived from ~~such~~ those moneys, no court costs shall be charged in 4273  
the proceeding for the appointment or in any subsequent 4274  
proceedings made in pursuance of the appointment, unless the value 4275  
of the estate, including the moneys then due under the veterans 4276  
administration award, exceeds one thousand five hundred dollars. 4277

4278

(B)(1) If the probate court finds it to be in the best 4279  
interest of an incompetent or minor, it may appoint pursuant to 4280  
divisions (A) and (C) of this section, on its own motion or on 4281  
application by an interested party, a limited guardian with 4282  
specific limited powers. The sections of the Revised Code, rules, 4283  
and procedures governing guardianships apply to a limited 4284  
guardian, except that the order of appointment and letters of 4285  
authority of a limited guardian shall state the reasons for, and 4286  
specify the limited powers of, the guardian. The court may appoint 4287  
a limited guardian for a definite or indefinite period. An 4288  
incompetent or minor for whom a limited guardian has been 4289  
appointed retains all of the incompetent's or minor's rights in 4290  
all areas not affected by the court order appointing the limited 4291  
guardian. 4292

(2) If a guardian appointed pursuant to division (A) of this 4293  
section is temporarily or permanently removed or resigns, and if 4294  
the welfare of the ward requires immediate action, at any time 4295  
after the removal or resignation, the probate court may appoint, 4296  
ex parte and with or without notice to the ward or interested 4297  
parties, an interim guardian for a maximum period of fifteen days. 4298  
If the court appoints the interim guardian ex parte or without 4299  
notice to the ward, the court, at its first opportunity, shall 4300  
enter upon its journal with specificity the reason for acting ex 4301  
parte or without notice, and, as soon as possible, shall serve 4302

upon the ward a copy of the order appointing the interim guardian. 4303  
For good cause shown, after notice to the ward and interested 4304  
parties and after hearing, the court may extend an interim 4305  
guardianship for a specified period, but not to exceed an 4306  
additional thirty days. 4307

(3) If a minor or incompetent has not been placed under a 4308  
guardianship pursuant to division (A) of this section and if an 4309  
emergency exists, and ~~if~~ it is reasonably certain that immediate 4310  
action is required to prevent significant injury to the person or 4311  
estate of the minor or incompetent, at any time after it receives 4312  
notice of the emergency, the court, ex parte, may issue any order 4313  
that it considers necessary to prevent injury to the person or 4314  
estate of the minor or incompetent, or may appoint an emergency 4315  
guardian for a maximum period of seventy-two hours. A written copy 4316  
of any order issued by a court under this division shall be served 4317  
upon the incompetent or minor as soon as possible after its 4318  
issuance. Failure to serve ~~such an~~ that order after its issuance 4319  
or prior to the taking of any action under its authority does not 4320  
invalidate the order or the actions taken. The powers of an 4321  
emergency guardian shall be specified in the letters of 4322  
appointment, and shall be limited to those powers that are 4323  
necessary to prevent injury to the person or estate of the minor 4324  
or incompetent. If the court acts ex parte or without notice to 4325  
the minor or incompetent, the court, at its first opportunity, 4326  
shall enter upon its journal a record of the case and, with 4327  
specificity, the reason for acting ex parte or without notice. For 4328  
good cause shown, after notice to the minor or incompetent and 4329  
interested parties, and after hearing, the court may extend an 4330  
emergency guardianship for a specified period, but not to exceed 4331  
an additional thirty days. 4332

(C) Prior to the appointment of a guardian or limited 4333  
guardian under division (A) or (B)(1) of this section, the court 4334

shall conduct a hearing on the matter of the appointment. The 4335  
hearing shall be conducted in accordance with all of the 4336  
following: 4337

(1) The proposed guardian or limited guardian shall appear at 4338  
the hearing and, if appointed, shall swear under oath that the 4339  
proposed guardian or limited guardian has made and will continue 4340  
to make diligent efforts to file a true inventory in accordance 4341  
with section 2111.14 of the Revised Code and find and report all 4342  
assets belonging to the estate of the ward and that the proposed 4343  
guardian or limited guardian faithfully and completely will 4344  
fulfill the other duties of guardian, including the filing of 4345  
timely and accurate reports and accountings~~+~~. 4346

(2) If the hearing is conducted by a ~~referee~~ magistrate, the 4347  
procedures set forth in Civil Rule 53 shall be followed~~+~~. 4348

(3) If the hearing concerns the appointment of a guardian or 4349  
limited guardian for an alleged incompetent, the burden of proving 4350  
incompetency shall be by clear and convincing evidence~~+~~. 4351

(4) Upon request of the applicant, the alleged incompetent 4352  
for whom the appointment is sought or the alleged incompetent's 4353  
counsel, or any interested party, a recording or record of the 4354  
hearing shall be made~~+~~. 4355

(5) Evidence of a less restrictive alternative to 4356  
guardianship may be introduced, and when introduced, shall be 4357  
considered by the court~~+~~. 4358

(6) The court may deny a guardianship based upon a finding 4359  
that a less restrictive alternative to guardianship exists~~+~~. 4360

(7) If the hearing concerns the appointment of a guardian or 4361  
limited guardian for an alleged incompetent, the alleged 4362  
incompetent has all of the following rights: 4363

(a) The right to be represented by independent counsel of the 4364

alleged incompetent's choice; 4365

(b) The right to have a friend or family member of the 4366  
alleged incompetent's choice present; 4367

(c) The right to have evidence of an independent expert 4368  
evaluation introduced; 4369

(d) If the alleged incompetent is indigent, upon the alleged 4370  
incompetent's request: 4371

(i) The right to have counsel and an independent expert 4372  
evaluator appointed at court expense; 4373

(ii) If the guardianship, limited guardianship, or standby 4374  
guardianship decision is appealed, the right to have counsel 4375  
appointed and necessary transcripts for appeal prepared at court 4376  
expense. 4377

(D)(1) When a person has been nominated to be a guardian of 4378  
the estate of a minor in or pursuant to a durable power of 4379  
attorney as described in division (D) of section 1337.09 of the 4380  
Revised Code or a writing as described in division (A) of section 4381  
2111.121 of the Revised Code, the person nominated has preference 4382  
in appointment over a person selected by the minor. A person who 4383  
has been nominated to be a guardian of the person of a minor in or 4384  
pursuant to a durable power of attorney or writing of that nature 4385  
does not have preference in appointment over a person selected by 4386  
the minor, but the probate court may appoint the person named in 4387  
the durable power of attorney or the writing, the person selected 4388  
by the minor, or another person as guardian of the person of the 4389  
minor. 4390

(2) A person nominated as a guardian of an incompetent adult 4391  
child pursuant to section 1337.09 or 2111.121 of the Revised Code 4392  
shall have preference in appointment over a person applying to be 4393  
guardian if the person nominated is competent, suitable, and 4394  
willing to accept the appointment, and if the incompetent adult 4395

child does not have a spouse or an adult child and has not 4396  
designated a guardian prior to the court finding the adult child 4397  
incompetent. 4398

**Sec. 2111.021.** A competent adult who is physically infirm may 4399  
petition the probate court of the county in which ~~he~~ the 4400  
petitioner resides, to place, for a definite or indefinite period 4401  
of time, ~~his~~ the petitioner's person, any or all of ~~his~~ the 4402  
petitioner's real or personal property, or both under a 4403  
conservatorship with the court. A petitioner either may grant 4404  
specific powers to the conservator or court or may limit any 4405  
powers granted by law to the conservator or court, except that the 4406  
petitioner may not limit the powers granted to the court by this 4407  
section and may not limit the requirement for bond as determined 4408  
by the court. The petition shall state whether the person of the 4409  
competent adult will be placed under the conservatorship, shall 4410  
state with particularity all real and personal property that will 4411  
be placed under the conservatorship, shall state the powers 4412  
granted and any limitation upon the powers of the conservator or 4413  
court, and shall state the name of a proposed suitable 4414  
conservator. 4415

After a hearing, if the court finds that the petition was 4416  
voluntarily filed and that the proposed conservator is suitable, 4417  
the court shall issue an order of conservatorship. Upon issuance 4418  
of the order, all sections of the Revised Code governing a 4419  
guardianship of the person, the estate, or both, whichever is 4420  
involved, except those sections the application of which 4421  
specifically is limited by the petitioner, and all rules and 4422  
procedures governing ~~such~~ a guardianship of the person, the 4423  
estate, or both, shall apply to the conservatorship, including, 4424  
but not limited to, applicable bond and accounting requirements. 4425

A conservatorship shall terminate upon a judicial 4426



determination of incompetency, the death of the petitioner, the 4427  
order of the probate court, or the execution of a written 4428  
termination notice by the petitioner. A termination notice shall 4429  
take effect upon execution by the petitioner, and shall be filed 4430  
with the court and served upon the conservator. A termination 4431  
notice executed by a petitioner relative to a conservatorship of 4432  
the estate and the termination of a conservatorship of the estate 4433  
based upon a termination notice are void unless the termination 4434  
notice is filed with the court within fourteen days after its 4435  
execution. Modification of the powers of a conservator or the 4436  
court may be made by the petitioner upon motion to the court at 4437  
any time during the conservatorship. Neither the establishment of 4438  
a conservatorship nor the filing of a petition for conservatorship 4439  
with the probate court shall be considered as evidence of mental 4440  
impairment under section 2111.01 of the Revised Code. 4441

Upon motion to the probate court and a showing of good cause, 4442  
the court may make confidential, or remove from confidential 4443  
status, any file, record, petition, motion, account, or paper, 4444  
except for an index, docket, or journal, that pertains to a 4445  
conservatorship and that is in the possession of the court. 4446

**Sec. 2111.031.** In connection with an application for the 4447  
appointment of a guardian for an alleged incompetent, the court 4448  
may appoint physicians and other qualified persons to examine, 4449  
investigate, or represent the alleged incompetent, to assist the 4450  
court in deciding whether a guardianship is necessary. If the 4451  
person is determined to be an incompetent and a guardian is 4452  
appointed for ~~him~~ the person, the costs, fees, or expenses 4453  
incurred to so assist the court shall be charged either against 4454  
the estate of the person or against the applicant, unless the 4455  
court determines, for good cause shown, that the costs, fees, or 4456  
expenses are to be recovered from the county, in which case they 4457  
shall be charged against the county. If the person is not 4458

determined to be an incompetent or a guardian is not appointed for 4459  
~~him~~ the person, the costs, fees, or expenses incurred to so assist 4460  
the court shall be charged against the applicant, unless the court 4461  
determines, for good cause shown, that the costs, fees, or 4462  
expenses are to be recovered from the county, in which case they 4463  
shall be charged against the county. 4464

A court may require the applicant to make an advance deposit 4465  
of an amount that the court determines is necessary to defray the 4466  
anticipated costs of examinations of an alleged incompetent and to 4467  
cover fees or expenses to be incurred to assist it in deciding 4468  
whether a guardianship is necessary. 4469

This section does not affect or apply to the duties of a 4470  
probate court investigator under sections 2111.04 and 2111.041 of 4471  
the Revised Code. 4472

**Sec. 2111.04.** (A) Except for an interim or emergency guardian 4473  
appointed under division (B)(2) or (3) of section 2111.02 of the 4474  
Revised Code, no guardian of the person, the estate, or both shall 4475  
be appointed until at least seven days after the probate court has 4476  
caused written notice, setting forth the time and place of the 4477  
hearing, to be served as follows: 4478

(1) In the appointment of the guardian of a minor, notice 4479  
shall be served as follows: 4480

(a) Upon the minor, if over the age of fourteen, by personal 4481  
service; 4482

(b) Upon each parent of the minor whose name and address is 4483  
known or with reasonable diligence can be ascertained, provided 4484  
the parent is free from disability other than minority; 4485

(c) Upon the next of kin of the minor who are known to reside 4486  
in this state, if there is no living parent, the name and address 4487  
of the parent cannot be ascertained, or the parent is under 4488

disability other than minority; 4489

(d) Upon the person having the custody of the minor. 4490

(2) In the appointment of the guardian of an incompetent, 4491  
notice shall be served as follows: 4492

(a)(i) Upon the person for whom appointment is sought by 4493  
personal service, by a probate court investigator, or in the 4494  
manner provided in division (A)(2)(a)(ii) of this section. The 4495  
notice shall be in boldface type and shall inform the alleged 4496  
incompetent, in boldface type, of ~~his~~ the alleged incompetent's 4497  
rights to be present at the hearing, to contest any application 4498  
for the appointment of a guardian for ~~his~~ the alleged 4499  
incompetent's person, estate, or both, and to be represented by an 4500  
attorney and of all of the rights set forth in division (C)(7) of 4501  
section 2111.02 of the Revised Code. 4502

(ii) If the person for whom appointment is sought is a 4503  
resident of, or has a legal settlement in, the county in which the 4504  
court has jurisdiction, but is absent from that county, the 4505  
probate court may designate, by order, a temporary probate court 4506  
investigator, in lieu of a regular probate court investigator 4507  
appointed or designated under section 2101.11 of the Revised Code, 4508  
to make the personal service of the notice described in division 4509  
(A)(2)(a)(i) of this section upon the person for whom appointment 4510  
is sought. 4511

(b) Upon the next of kin of the person for whom appointment 4512  
is sought who are known to reside in this state. 4513

(B) After service of notice in accordance with division (A) 4514  
of this section and for good cause shown, the court may appoint a 4515  
guardian prior to the time limitation specified in that division. 4516

(C) Notice may not be waived by the person for whom the 4517  
appointment is sought. 4518

(D) From the service of notice until the hearing, no sale, 4519  
gift, conveyance, or encumbrance of the property of an alleged 4520  
incompetent shall be valid as to persons having notice of the 4521  
proceeding. 4522

**Sec. 2111.041.** (A) At the time of the service of notice upon 4523  
an alleged incompetent, as required by division (A)(2)(a) of 4524  
section 2111.04 of the Revised Code, the court shall require a 4525  
regular probate court investigator appointed or designated under 4526  
section 2101.11 of the Revised Code or appoint a temporary probate 4527  
court investigator to investigate the circumstances of the alleged 4528  
incompetent, and, to the maximum extent feasible, to communicate 4529  
to the alleged incompetent in a language or method of 4530  
communication that ~~he~~ the alleged incompetent can understand, ~~his~~ 4531  
the alleged incompetent's rights as specified in that division, 4532  
and subsequently to file with the court a report that contains all 4533  
of the following: 4534

(1) A statement indicating that the notice was served and 4535  
describing the extent to which the alleged incompetent's rights to 4536  
be present at the hearing, to contest any application for the 4537  
appointment of a guardian for ~~his~~ the alleged incompetent's 4538  
person, estate, or both, and to be represented by an attorney were 4539  
communicated to ~~him~~ the alleged incompetent in a language or 4540  
method of communication understandable to the alleged incompetent; 4541

(2) A brief description, as observed by the investigator, of 4542  
the physical and mental condition of the alleged incompetent; 4543

(3) A recommendation regarding the necessity for a 4544  
guardianship or a less restrictive alternative; 4545

(4) A recommendation regarding the necessity of appointing 4546  
pursuant to section 2111.031 of the Revised Code, an attorney to 4547  
represent the alleged incompetent. 4548

(B) The report that is required by division (A) of this 4549  
section shall be made a part of the record in the case and shall 4550  
be considered by the court prior to establishing any guardianship 4551  
for the alleged incompetent. 4552

**Sec. 2111.05.** When the whole estate of a ward, or of several 4553  
wards jointly, under the same guardianship, does not exceed ten 4554  
thousand dollars in value, the guardian may apply to the probate 4555  
court for an order to terminate the guardianship. Upon proof that 4556  
it would be for the best interest of the ward to terminate the 4557  
guardianship, the court may order the guardianship terminated, and 4558  
direct the guardian, if the ward is a minor, to deposit the assets 4559  
of the guardianship in a depository authorized to receive 4560  
fiduciary funds, payable to the ward when ~~he~~ the ward attains 4561  
majority, or the court may authorize the delivery of the assets to 4562  
the natural guardian of the minor, to the person by whom the minor 4563  
is maintained, to the executive director of children services in 4564  
the county, or directly to the minor ~~himself~~. 4565

If the ward is an incompetent, and the court orders the 4566  
guardianship terminated, the court may authorize the deposit of 4567  
the assets of the guardianship in a depository authorized to 4568  
receive fiduciary funds in the name of a suitable person to be 4569  
designated by the court, or if the assets do not consist of money, 4570  
the court may authorize delivery to a suitable person to be 4571  
designated by the court. The person receiving the assets shall 4572  
hold and dispose of them in the manner the court directs. 4573

If the court refuses to grant the application to terminate 4574  
the guardianship, or if no such application is presented to the 4575  
court, the guardian only shall be required to render account upon 4576  
the termination of ~~his~~ the guardianship, upon order of the probate 4577  
court made upon its own motion, or upon the order of the court 4578  
made on the motion of a person interested in the wards or their 4579

property, for good cause shown, and set forth upon the journal of 4580  
the court. 4581

If the estate is ten thousand dollars or less and the ward is 4582  
a minor, the court, without the appointment of a guardian by the 4583  
court, or the giving of bond, may authorize the deposit in a 4584  
depository authorized to receive fiduciary funds, payable to the 4585  
guardian when appointed, or to the ward when ~~he~~ the ward attains 4586  
majority, or the court may authorize delivery to the natural 4587  
guardian of the minor, to the person by whom the minor is 4588  
maintained, to the executive director who is responsible for the 4589  
administration of children services in the county, or directly to 4590  
the minor ~~himself~~. 4591

If the whole estate of a person over eighteen years of age, 4592  
who has been adjudged mentally ill or mentally retarded, does not 4593  
exceed ten thousand dollars in value, the court, without the 4594  
appointment of a guardian by the court or the giving of bond, may 4595  
authorize the deposit of the estate in a depository authorized to 4596  
receive fiduciary funds in the name of a suitable person to be 4597  
designated by the court, or if the assets do not consist of money, 4598  
the court may authorize delivery to a suitable person to be 4599  
designated by the court. The person receiving the assets shall 4600  
hold and dispose of them in the manner the court directs. 4601

**Sec. 2111.06.** If the powers of the person appointed as 4602  
guardian of a minor or incompetent are not limited by the order of 4603  
appointment, ~~such~~ the person shall be guardian both of the person 4604  
and estate of the ward. In every instance the court shall appoint 4605  
the same person as guardian of the person and estate of ~~any such~~ 4606  
the ward, unless in the opinion of the court the interests of the 4607  
ward will be promoted by the appointment of different persons as 4608  
guardians of the person and of the estate. 4609

A guardian of the person of a minor shall be appointed as to 4610

a minor having ~~neither~~ no father ~~nor~~ or mother, ~~or~~ whose parents 4611  
are unsuitable persons to have the custody ~~and tuition~~ of ~~such~~ the 4612  
minor and to provide for the education of the minor as required by 4613  
section 3321.01 of the Revised Code, or whose interests, in the 4614  
opinion of the court, will be promoted ~~thereby~~ by the appointment 4615  
of a guardian. A guardian of the person shall have the custody and 4616  
provide for the maintenance of the ward, and if the ward is a 4617  
minor, ~~such~~ the guardian shall also provide for the education of 4618  
~~such~~ the ward as required by section 3321.01 of the Revised Code. 4619

Before exercising its jurisdiction to appoint a guardian of a 4620  
minor, the court shall comply with the jurisdictional standards of 4621  
sections 3127.01 to 3127.53 of the Revised Code. 4622

**Sec. 2111.07.** Each person appointed guardian of the person 4623  
and estate of a minor shall have the custody ~~and tuition~~ of ~~his~~ 4624  
the ward, the obligation to provide for the education of the ward 4625  
as required under section 3321.01 of the Revised Code, and the 4626  
management of ~~such~~ the ward's estate during minority, unless ~~such~~ 4627  
the guardian is removed or discharged from ~~such~~ that trust or the 4628  
guardianship terminates from any of the causes specified in 4629  
Chapters 2101. to 2131., ~~inclusive~~, of the Revised Code. 4630

**Sec. 2111.09.** Unless expressly appointed or designated to act 4631  
both as guardian and executor by a ~~last~~ will in writing, no person 4632  
who is or has been an administrator or executor of a ~~last~~ will 4633  
shall, prior to the approval of ~~his~~ the person's final account as 4634  
~~such~~ executor or administrator, be appointed a guardian of the 4635  
person and estate or of the estate only of a ward who is 4636  
interested in the estate administered upon or entitled to an 4637  
interest under ~~such~~ the will, except that a surviving spouse may 4638  
be executor or administrator of the deceased spouse's estate and 4639  
also guardian of the person and estate or of the estate only of a 4640  
minor child of ~~such~~ the surviving spouse, whether or not ~~such~~ the 4641

minor child is interested in the estate of the deceased spouse. 4642  
~~But~~ However, an executor or an administrator may be appointed a 4643  
guardian of the person only of a ward. 4644

**Sec. 2111.091.** No attorney who represents any other person 4645  
~~other than himself~~ and who is appointed as a guardian under this 4646  
chapter or under any other provision of the Revised Code shall do 4647  
either of the following: 4648

(A) Act as a person with co-responsibility for any 4649  
guardianship asset for which the guardian ~~he represents~~ is 4650  
responsible; 4651

(B) Be a cosignatory on any financial account related to the 4652  
guardianship, including any checking account, savings account, or 4653  
other banking or trust account. 4654

**Sec. 2111.10.** As used in this section, "mentally retarded 4655  
person" and "developmentally disabled person" have the same 4656  
meanings as in section 5123.01 of the Revised Code. 4657

A judge may appoint a public agency to serve as a guardian of 4658  
an estate or of a person. Any appointment of a corporation as 4659  
guardian shall apply to the estate only and not to the person, 4660  
except that a judge may appoint a nonprofit corporation to serve 4661  
as guardian of a person and except that a nonprofit corporation 4662  
organized under the laws of this state and entitled to tax exempt 4663  
status under section 501(a) of the "Internal Revenue Code of 4664  
1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, that has a 4665  
contract with the department of developmental disabilities to 4666  
provide protective services may be appointed as a guardian of the 4667  
person of a mentally retarded or developmentally disabled person 4668  
and may serve as guardian pursuant to sections 5123.55 to 5123.59 4669  
of the Revised Code. 4670



Sec. 2111.12. (A) A minor over the age of fourteen years may 4671  
select a guardian who shall be appointed if a suitable person. If 4672  
~~such~~ the minor fails to select a suitable person, an appointment 4673  
may be made without reference to the minor's wishes. The minor 4674  
shall not select one person to be the guardian of the minor's 4675  
estate only and another to be the guardian of the person only, 4676  
unless the court ~~which~~ that appoints the guardian is of the 4677  
opinion that the interests of ~~such~~ the minor will ~~thereby~~ be 4678  
promoted by that selection. 4679

(B) A surviving parent by ~~last~~ a will in writing may appoint 4680  
a guardian for any of the surviving parent's children, whether 4681  
born at the time of making the will or afterward, to continue 4682  
during the minority of the child or for a less time. 4683

When the father or mother of a minor names a person as 4684  
guardian of the estate of ~~such~~ the minor in a will, the person 4685  
named shall have preference in appointment over the person 4686  
selected by ~~such~~ the minor. A person named in ~~such a~~ that will as 4687  
guardian of the person of ~~such~~ the minor shall have no preference 4688  
in appointment over the person selected by ~~such~~ the minor, but in 4689  
~~such~~ that event the probate court may appoint the person named in 4690  
the will, the person selected by the minor, or some other person. 4691

Whenever a testamentary guardian is appointed, the 4692  
testamentary guardian's duties, powers, and liabilities in all 4693  
other respects shall be governed by the law regulating guardians 4694  
not appointed by will. 4695

(C) A parent pursuant to a durable power of attorney as 4696  
described in division (D) of section 1337.09 or a writing as 4697  
described in division (A) of section 2111.121 of the Revised Code 4698  
may nominate a person to be a guardian for one or more of the 4699  
parent's minor children, whether born at the time of the making of 4700  
the ~~petition~~ nomination or afterward. 4701

Sec. 2111.131. (A) The probate court may enter an order that  
authorizes a person under a duty to pay or deliver money or  
personal property to a minor who does not have a guardian of the  
person and estate or a guardian of the estate, to perform that  
duty in amounts not exceeding five thousand dollars annually, by  
paying or delivering the money or property to any of the  
following:

(1) The guardian of the person only of the minor;

(2) The minor's natural guardians, if any, as determined  
pursuant to section 2111.08 of the Revised Code;

(3) The ~~minor's own self~~ minor;

(4) Any person who has the care and custody of the minor and  
with whom the minor resides, other than a guardian of the person  
only or a natural guardian;

(5) A financial institution incident to a deposit in a  
federally insured savings account in the sole name of the minor;

(6) A custodian designated by the court in its order, for the  
minor under sections 5814.01 to 5814.09 of the Revised Code.

(B) An order entered pursuant to division (A) of this section  
authorizes the person or entity specified in it, to receive the  
money or personal property on behalf of the minor from the person  
under the duty to pay or deliver it, in amounts not exceeding five  
thousand dollars annually. Money or personal property so received  
by guardians of the person only, natural guardians, and custodians  
as described in division (A)(4) of this section may be used by  
them only for the support, maintenance, or education of the minor  
involved. The order of the court is prima-facie evidence that a  
guardian of the person only, a natural guardian, or a custodian as  
described in division (A)(4) of this section has the authority to  
use the money or personal property received.

(C) A person who pays or delivers moneys or personal property 4732  
in accordance with a court order entered pursuant to division (A) 4733  
of this section is not responsible for the proper application of 4734  
the moneys or property by the recipient. 4735

**Sec. 2111.14.** (A) In addition to ~~his~~ a guardian's other 4736  
duties, every guardian appointed to take care of the estate of a 4737  
ward shall have the following duties: 4738

~~(A)~~(1) To make and file within three months after ~~his~~ the 4739  
guardian's appointment a full inventory of the real and personal 4740  
property of the ward, its value, and the value of the yearly rent 4741  
of the real property, provided that, if the guardian fails to file 4742  
the inventory for thirty days after ~~he has~~ having been notified of 4743  
the expiration of the time by the probate judge, the judge shall 4744  
remove ~~him~~ the guardian and appoint a successor; 4745

~~(B)~~(2) To manage the estate for the best interest of the 4746  
ward; 4747

~~(C)~~(3) To pay all just debts due from the ward out of the 4748  
estate in ~~his hands~~ the possession or under the control of the 4749  
guardian, collect all debts due to the ward, compound doubtful 4750  
debts, and appear for and defend, or cause to be defended, all 4751  
suits against the ward; 4752

~~(D)~~(4) To obey all orders and judgments of the courts 4753  
touching the guardianship; 4754

~~(E)~~(5) To bring suit for the ward when a suit is in the best 4755  
interests of the ward; 4756

~~(F)~~(6) To settle and adjust, when necessary or desirable, the 4757  
assets that ~~he~~ the guardian may receive in kind from an executor 4758  
or administrator to the greatest advantage of the ward. Before a 4759  
settlement and adjustment is valid and binding, it shall be 4760  
approved by the probate court and the approval shall be entered on 4761

its journal. The guardian also shall have the approval of the 4762  
probate court to hold the assets as received from the executor or 4763  
administrator or to hold what may be received in the settlement 4764  
and adjustment of those assets. 4765

(B) No guardian appointed to take care of the estate of a 4766  
ward may open a safety deposit box held in the name of the ward, 4767  
until the contents of the box have been audited by an employee of 4768  
the county auditor in the presence of the guardian and until a 4769  
verified report of the audit has been filed by the auditor with 4770  
the probate court, ~~which.~~ The court then shall issue a release to 4771  
the guardian permitting the guardian to have access to the safety 4772  
deposit box of the ward. 4773

**Sec. 2111.141.** The court, by order or rule, may require that 4774  
any inventory filed by a guardian pursuant to section 2111.14 of 4775  
the Revised Code be supported by evidence that the inventory is a 4776  
true and accurate inventory of the estate of the ward of the 4777  
guardian, ~~which.~~ The evidence may include, but is not limited to, 4778  
prior income tax returns, bank statements, and social security 4779  
records of the ward or other documents that are relevant to 4780  
determining the accuracy of the inventory. In order to verify the 4781  
accuracy of an inventory, the court may order a guardian to 4782  
produce any additional evidence that may tend to prove that the 4783  
guardian is in possession of or has knowledge of assets that 4784  
belong to the estate of ~~his~~ the ward and that have not been 4785  
included in the guardianship inventory, ~~which.~~ The additional 4786  
evidence may include, but is not limited to, the guardian's income 4787  
tax returns and bank statements and any other documents that are 4788  
relevant to determining the accuracy of an inventory. The court 4789  
may assign court employees or appoint an examiner to verify an 4790  
inventory filed by a guardian. Upon appointment, the assigned 4791  
court employees or appointed examiner shall conduct an 4792  
investigation to verify the accuracy of the inventory filed by the 4793

guardian. Upon order of the court, the assigned court employees or 4794  
appointed examiner may subpoena any documents necessary for ~~his~~ 4795  
the investigation. Upon completion of the investigation, the 4796  
assigned court employees or appointed examiner shall file a report 4797  
with the court. The court shall hold a hearing on the report with 4798  
notice to all interested parties. At the hearing, the guardian 4799  
shall have the right to examine and cross-examine any assigned 4800  
court employees or appointed examiner who conducted the 4801  
investigation and filed the report that is the subject of the 4802  
hearing. The court shall charge any costs associated with the 4803  
verification of an inventory filed by a guardian against the 4804  
estate of the ward, except that, if the court determines that the 4805  
guardian wrongfully withheld, or aided in the wrongful 4806  
withholding, of assets from the inventory filed by the guardian, 4807  
the court shall charge the costs against the guardian. 4808

**Sec. 2111.16.** Unless previously authorized by the court, no 4809  
voucher that is signed or purports to be signed by the ward shall 4810  
be received from or allowed as a credit in the settlement of a 4811  
guardian's account ~~which is signed or purports to be signed by his~~ 4812  
~~ward.~~ 4813

**Sec. 2111.17.** A guardian may sue in ~~his~~ the guardian's own 4814  
name, describing ~~himself as~~ the guardian as suing on behalf of the 4815  
ward ~~for whom he sues~~. When ~~his~~ the guardianship ceases, actions 4816  
or proceedings then pending shall not abate, if the right 4817  
survives. ~~His~~ The guardian's successor as guardian, the executor 4818  
or administrator of the ward, or the ward ~~himself~~, if the 4819  
guardianship has terminated other than by the ward's death, shall 4820  
be made party to the suit or other proceeding as the case 4821  
requires, in the same manner an executor or administrator is made 4822  
a party to a similar suit or proceeding ~~where~~ if the plaintiff 4823  
dies during its pendency. 4824

**Sec. 2111.18.** When personal injury, damage to tangible or 4825  
intangible property, or damage or loss on account of personal 4826  
injury or damage to tangible or intangible property is caused to a 4827  
ward by wrongful act, neglect, or default that would entitle the 4828  
ward to maintain an action and recover damages for the injury, 4829  
damage, or loss, and when any ward is entitled to maintain an 4830  
action for damages or any other relief based on any claim or is 4831  
subject to any claim to recover damages or any other relief based 4832  
on any claim, the guardian of the estate of the ward may adjust 4833  
and settle the claim with the advice, approval, and consent of the 4834  
probate court. In the settlement, if the ward is a minor, the 4835  
parent or parents may waive all claim for damages on account of 4836  
loss of service of the minor, and that claim may be included in 4837  
the settlement. However, when it is proposed that the claim 4838  
involved be settled for ten thousand dollars or less, the court, 4839  
upon application by any person whom the court may authorize to 4840  
receive and receipt for the settlement, may authorize the 4841  
settlement without the appointment of a guardian and authorize the 4842  
delivery of the moneys to the natural guardian of the minor, to 4843  
the person by whom the minor is maintained, or to the minor 4844  
~~himself~~. The court may authorize the minor or person receiving the 4845  
moneys to execute a complete release on account of the receipt. 4846  
The payment shall be a complete and final discharge of ~~any such~~ 4847  
that claim. 4848

**Sec. 2111.181.** When personal injury, damage to tangible or 4849  
intangible property, or damage or loss on account of personal 4850  
injury or damage to tangible or intangible property is caused to a 4851  
minor, who claims to be emancipated, by wrongful act, neglect, or 4852  
default ~~which~~ that would entitle the minor to maintain an action 4853  
and recover damages for the injury, damage, or loss, and when any 4854  
minor who claims to be emancipated is entitled to maintain an 4855

action for damages or any other relief based on any claim, or is 4856  
subject to any claim to recover damages or any other relief based 4857  
on any claim, the minor, who claims to be emancipated, may file an 4858  
application in the probate court in the county where ~~he~~ the minor 4859  
then resides, praying for a finding by the court that the minor is 4860  
in fact emancipated, and authorizing, approving, and consenting to 4861  
the settlement of the claim by the minor without the appointment 4862  
of a guardian. Upon hearing on the application, after five days' 4863  
written notice of the time and place of the hearing has been given 4864  
to each of the living parents of the minor, whose name and address 4865  
is known, provided the parent is free from disability other than 4866  
minority, or, if there is no living parent, after ~~such~~ that notice 4867  
to the next of kin of the minor known to reside in the county, the 4868  
court may find the minor to be emancipated ~~and~~, may authorize, 4869  
approve, and consent to the settlement of the claim by the minor 4870  
without the appointment of a guardian ~~and~~, may authorize the minor 4871  
to receive and receipt for the settlement, and, upon the minor 4872  
executing and delivering a full and complete release for the 4873  
injuries, damages, losses, or claims, may authorize the delivery 4874  
and payment of ~~such~~ the moneys to the minor, to a trustee or 4875  
guardian of the estate of the minor appointed by the court for the 4876  
benefit of the minor, or to a depository authorized to receive 4877  
fiduciary funds to hold the moneys payable to the ward when ~~he~~ the 4878  
ward attains majority, or for the benefit of the minor, as the 4879  
court may direct. 4880

Upon the finding of the probate court that the minor was, at 4881  
the time of the injury, damage, loss, or claim, an emancipated 4882  
minor, and provided the notice required by this section has been 4883  
given to each living parent, whose name and address is known, then 4884  
the release executed by the emancipated minor shall be a full and 4885  
complete discharge and release of any claim ~~which~~ that either or 4886  
both of the parents might have by reason of the personal injury, 4887  
damage to tangible or intangible property, damage or loss on 4888

account of personal injury, or damage to tangible or intangible 4889  
property, or any other claim of the minor. 4890

**Sec. 2111.19.** A guardian, whether appointed by a court in 4891  
this state or elsewhere, may complete the contracts of ~~his~~ the 4892  
ward for the purchase or sale of real ~~estate~~ property or any 4893  
authorized contract relating to real ~~estate~~ property entered into 4894  
by a guardian who has died or been removed. ~~Said~~ The appointed 4895  
guardian shall proceed in the manner provided by sections 2113.48 4896  
to 2113.50, ~~inclusive,~~ of the Revised Code. 4897

**Sec. 2111.20.** The guardian of the person and estate, or of 4898  
the estate only, may sell all or any part of the personal ~~estate~~ 4899  
property of the ward ~~when such~~ if the sale is for the interest of 4900  
the ward. 4901

**Sec. 2111.21.** The guardian of a ward who has or is claimed to 4902  
have a right of dower, or a contingent right to it, in ~~lands or~~ 4903  
~~tenements~~ real property of which the spouse of ~~such~~ the ward was 4904  
or is seized as an estate of inheritance, ~~where~~ if the dower has 4905  
not been assigned, may sell, compromise, or adjust ~~such~~ the dower 4906  
or may release ~~such~~ the contingent right of dower in the event the 4907  
spouse of ~~such~~ the ward desires to mortgage ~~such~~ the property upon 4908  
~~such~~ the terms ~~as such~~ that the guardian ~~deems~~ considers for the 4909  
interest of ~~such~~ the ward and upon ~~such~~ the terms ~~as~~ that the 4910  
probate court of the county in which the guardian was appointed 4911  
approves, or if ~~such~~ the guardian was appointed to a foreign 4912  
state, upon ~~such~~ the terms ~~as~~ that the probate court of the county 4913  
~~wherein in which~~ the land real property is situated approves. 4914  
After ~~such~~ the approval, the guardian may execute and deliver all 4915  
the necessary deeds, mortgages, releases, and agreements for the 4916  
sale, compromise, assignment, or mortgage of ~~such~~ the dower or 4917  
contingent right to dower. As a basis for computing the value of 4918



an inchoate dower right in any sale, compromise, or adjustment 4919  
pursuant to this section, the value of the ~~lands or tenements~~ real 4920  
property may be considered to be the sale price or, if there is no 4921  
sale, the appraised value. ~~Such~~ The sale, compromise, adjustment, 4922  
or mortgage may be made upon application and entry in the pending 4923  
proceedings. 4924

**Sec. 2111.22.** When a ward has title to real ~~estate~~ property 4925  
by tax title only, the guardian, by deed of release and quitclaim, 4926  
may convey ~~such~~ the ward's interest or title to the person 4927  
entitled to redeem ~~such~~ the real ~~estate~~ property, upon receiving 4928  
from ~~such~~ that person the amount paid for ~~such~~ the tax title with 4929  
the forfeiture and interest allowed by sections 319.52 and 323.121 4930  
of the Revised Code. If the guardian tenders ~~such~~ that deed to the 4931  
person entitled to redeem ~~such~~ the real ~~estate~~ property and ~~he~~ the 4932  
person so entitled refuses to accept and pay for it, ~~he~~ the person 4933  
entitled shall not recover costs in any proceeding thereafter 4934  
instituted to redeem ~~such~~ the real ~~estate~~ property. 4935

**Sec. 2111.25.** A guardian<sup>7</sup> of the person and estate or of the 4936  
estate only, without application to the probate court, may lease 4937  
the possession or use of any real ~~estate~~ property of ~~his~~ the ward 4938  
for a term not exceeding three years, provided ~~such~~ the term does 4939  
not extend beyond the minority, if the ward is a minor. If the 4940  
lease extends beyond the death of the ward or beyond the removal 4941  
of the disability of a ward other than a minor, ~~such~~ the lease 4942  
shall terminate on ~~such~~ that death or removal of disability, 4943  
unless confirmed by the ward or ~~his~~ the ward's legal 4944  
representatives. In the event of such determination, the tenant 4945  
shall have a lien on the premises for any sum expended by ~~him~~ the 4946  
tenant in pursuance of the lease in making improvements for which 4947  
compensation was not made in rent or otherwise. 4948

**Sec. 2111.26.** A guardian may lease the possession and use of 4949  
the real estate property of ~~his~~ the guardian's ward or any part of 4950  
it for a term of years, renewable or otherwise, by perpetual 4951  
lease, with or without the privilege of purchase, or may lease 4952  
upon ~~such~~ the terms and for ~~such~~ the time ~~as that~~ the probate 4953  
court approves any lands belonging to the ward containing coal, 4954  
gypsum, petroleum oil, natural gas, gravel, stone, or any other 4955  
mineral substance for the purpose of drilling, mining, or 4956  
excavating for and removing any of ~~such~~ those substances, or ~~such~~ 4957  
the guardian may modify or change in any respect any lease 4958  
previously made. 4959

~~Such~~ The lease, or modification or change in a lease 4960  
previously made, may be made when the guardian of the person and 4961  
estate or of the estate only applies to the court by which ~~he~~ the 4962  
guardian was appointed and ~~such~~ the court finds that the lease or 4963  
modification or change is necessary for the support of the ward or 4964  
of ~~his~~ the ward's family, for the payment of the just debts of the 4965  
ward, for the ward's education, if a minor, to secure the 4966  
improvement of the real estate property of the ward and increase 4967  
the rent, to pay any liens or claims against ~~said~~ the real estate 4968  
property, ~~or~~ if ~~such~~ the court finds that ~~such~~ the real estate 4969  
property is suffering unavoidable waste, or that in any other 4970  
respect it will be for the best interests of the ward or those 4971  
persons for whom the ward is required by law to provide. 4972

**Sec. 2111.27.** A guardian's application for authority to lease 4973  
real estate property of a ward shall be by petition setting forth 4974  
the following: 4975

(A) The legal capacity of the petitioner; 4976

(B) The name of the ward, the character of ~~his~~ the ward's 4977  
disability, and if it is ~~idiocy, imbecility, or lunacy~~ 4978

incompetence, whether ~~such~~ the disability is curable or not, 4979  
temporary, or confirmed, and its duration; 4980

(C) The number, names, ages, and residence of the family of 4981  
the ward, including the spouse and those residents of the county 4982  
who have the next estate of inheritance from ~~such~~ the ward, all of 4983  
whom, as well as the ward, ~~must~~ shall be made defendants; 4984

(D) The indebtedness of the ward, the expense of supporting 4985  
and maintaining ~~him~~ the ward, the expense of educating ~~him~~ the 4986  
ward if ~~he~~ the ward is a minor, and any other expense of the ward; 4987

(E) The value of all the property and effects of the ward 4988  
including the real estate property proposed to be leased; 4989

(F) The income of the ward and the net annual value to the 4990  
ward of the real estate property proposed to be leased; 4991

(G) A description of the real estate property proposed to be 4992  
leased and the probable amount for which ~~such~~ the real estate 4993  
property can be leased; 4994

(H) A detailed statement of the improvements proposed to be 4995  
made to the real estate property sought to be leased; 4996

(I) The reasons for the proposed lease and the terms, 4997  
covenants, conditions, and stipulations ~~thereof~~ of the proposed 4998  
lease, including the time for which it is proposed the real estate 4999  
property should be leased; 5000

(J) ~~Such~~ Any other facts necessary to apprise the court fully 5001  
of the necessity or benefit to the ward or the estate of the 5002  
proposed lease, or ~~such~~ any other facts ~~as~~ that may be required by 5003  
the court; 5004

(K) A prayer for the proper authority. 5005

**Sec. 2111.28.** In an application for authority to lease real 5006  
estate property of a ward under sections 2111.26 and 2111.27 of 5007

the Revised Code, the guardian may act for two or more wards and 5008  
two or more guardians of different wards may unite, ~~when if~~ all 5009  
the wards are jointly or in common interested in the real ~~estate~~ 5010  
property. ~~When If~~ the same person is guardian of two or more wards 5011  
owning lands in common, ~~such the~~ wards may be joined as defendants 5012  
in the same petition under section 2111.27 of the Revised Code. 5013

The ward's spouse shall be made a defendant to ~~such the~~ 5014  
petition, and if the proposed lease is for the purpose of mining 5015  
or removing mineral or other substances, ~~and if such the~~ spouse 5016  
files an answer consenting to the lease, free and discharged of 5017  
all right and expectancy of dower ~~therein~~, ~~such the~~ answer shall 5018  
be a full release of ~~such the~~ spouse's expectancy of dower when 5019  
the lease is confirmed. Unless in ~~such the~~ answer an allowance in 5020  
lieu of dower is waived, the court shall allow, out of the 5021  
proceeds of the lease, ~~such a~~ sum in money ~~as that~~ is the just and 5022  
reasonable value of ~~such the~~ expectancy of dower. 5023

**Sec. 2111.29.** When a guardian files an application for 5024  
authority to lease the real ~~estate~~ property of a ward, the same 5025  
rules shall apply as to the parties and, upon the filing of the 5026  
petition described in section 2111.27 of the Revised Code, ~~like~~ 5027  
similar proceedings shall be had as in an action to sell real 5028  
~~estate~~ property belonging to the ward under sections 2127.01 to 5029  
2127.43, ~~inclusive~~, of the Revised Code, including services of 5030  
summons, notice, appraisal, pleading, rule days, and proof. 5031

**Sec. 2111.30.** When a guardian applies for authority to lease 5032  
the real ~~estate~~ property of a ward, the duties of the appraisers 5033  
shall be the same as in proceedings to sell real ~~estate~~ property 5034  
belonging to the ward under sections 2127.22 and 2127.23 of the 5035  
Revised Code, except that they shall appraise not only the value 5036  
of the real ~~estate~~ property but also the value of the annual 5037  
rental upon the terms, covenants, conditions, and stipulations of 5038

the proposed lease. If ~~said~~ the proposed lease is for the mining 5039  
or removal of mineral or other substances, the appraisers shall 5040  
report in writing to the probate court their opinion as to the 5041  
probability of the lands containing ~~such~~ those substances, the 5042  
probable quantity of ~~such~~ the substances, and the terms upon which 5043  
it would be advantageous to the ward to lease the lands for mining 5044  
or removing ~~such~~ the substances. In their report the appraisers 5045  
shall state whether in their opinion, the proposed lease will be 5046  
for the best interests of the ward, those whom ~~he~~ the ward is 5047  
required by law to support, or the estate. They may also suggest 5048  
any change in the terms, covenants, and stipulations proposed in 5049  
the petition. The report of the appraisers shall be returned on or 5050  
before the day named in the order for the final hearing of the 5051  
case. On the return of the appraisalment, the guardian need not 5052  
give an additional bond, but in case of sale under the terms of 5053  
the lease, ~~such~~ the guardian ~~must~~ shall give ~~such~~ the additional 5054  
bond before the confirmation of the sale. 5055

**Sec. 2111.31.** If the report of the appraisers under section 5056  
2111.30 of the Revised Code is favorable to the lease and on the 5057  
final hearing the court is of the opinion that it will be to the 5058  
advantage of the ward, those whom ~~he~~ the ward is required by law 5059  
to support, or the estate to lease the real ~~estate~~ property, the 5060  
probate court shall make an order authorizing the lease to be made 5061  
by public or private letting, as it ~~deems~~ considers best, on ~~such~~ 5062  
the terms, covenants, conditions, and stipulations, either in 5063  
accordance with those set forth in the petition or otherwise, ~~as~~ 5064  
that it directs, provided ~~such~~ the terms, covenants, conditions, 5065  
and stipulations are not less favorable to the ward than those 5066  
reported by the appraisers. The lease shall not take effect until 5067  
~~such~~ the lease and the security, if any, ~~therein~~ prescribed in the 5068  
lease are approved and confirmed. 5069

~~In the~~ The lease made ~~in pursuance of such~~ pursuant to the 5070

court order ~~it~~ may ~~be provided~~ provide that the improvements shall 5071  
be made by the tenant as part of the rent, or by the guardian, 5072  
either out of the rent or other means of the ward as the court 5073  
directs. 5074

If the lease is for the mining or removal of mineral or other 5075  
substances and the guardian is unable to lease the lands upon the 5076  
terms ordered, ~~he~~ the guardian may report the fact to the court 5077  
and ~~such~~ the court may change the terms of leasing, but not below 5078  
the customary royalty in the vicinity of ~~such~~ the lands. 5079

**Sec. 2111.33.** (A) A guardian may use the moneys and personal 5080  
estate property of ~~his~~ the guardian's ward to improve ~~his~~ the 5081  
ward's real estate property. ~~Such~~ The guardian shall file in the 5082  
probate court in which ~~he~~ the guardian was appointed a petition 5083  
containing the following: 5084

~~(A)~~(1) A description of the premises to be improved; 5085

~~(B)~~(2) The amount of rent the premises yield at the time the 5086  
petition is filed; 5087

~~(C)~~(3) In what manner ~~it~~ the improvement is proposed to ~~make~~ 5088  
~~such improvement~~ be made; 5089

~~(D)~~(4) The proposed expenditures for ~~such~~ the improvement; 5090

~~(E)~~ ~~What~~ (5) The rent the premises will probably yield when 5091  
so improved; 5092

~~(F)~~(6) A statement of the value of the ward's personal estate 5093  
property; 5094

~~(G)~~(7) Other facts ~~which~~ that are pertinent to the question 5095  
whether the improvement should be made; 5096

~~(H)~~(8) A prayer that ~~such~~ the guardian be authorized to use 5097  
so much of ~~his~~ the ward's money and personal ~~estate~~ as property 5098  
that is necessary to make ~~such~~ the improvement; 5099

~~(I)~~(9) The character of the disability of the ward, and if it 5100  
is incompetency, whether ~~such~~ the disability is curable or not, 5101  
temporary, or confirmed, and its duration; 5102

~~(J)~~(10) The names, ages, and residence of the family of the 5103  
ward, including the spouse and those known to be residents of the 5104  
county who have the next estate of inheritance from the ward. All 5105  
~~such~~ of those persons, as well as the ward, ~~must~~ shall be made 5106  
defendants and notified of the pendency and prayer of the petition 5107  
in ~~such~~ the manner ~~as~~ that the court directs. 5108

(B) If the property is so situated that, to the best 5109  
interests of the ward's estate, it can be advantageously improved 5110  
in connection with the improvement of property adjacent to it, the 5111  
petition shall show this and have a prayer ~~in accordance therewith~~ 5112  
to so improve the property. 5113

**Sec. 2111.34.** Upon the filing of the petition described in 5114  
section 2111.33 of the Revised Code, ~~like~~ similar proceedings 5115  
shall be had as to pleadings and proof as on petition by a 5116  
guardian to sell the real ~~estate~~ property of a ward under sections 5117  
2127.01 to 2127.43, ~~inclusive,~~ of the Revised Code. The probate 5118  
court shall appoint three disinterested freeholders of the county 5119  
as commissioners to examine the premises to be improved, to 5120  
examine the surroundings, and to report to the court their opinion 5121  
whether the improvement proposed will be advantageous to the 5122  
estate of the ward. 5123

**Sec. 2111.35.** On the final hearing of a guardian's proceeding 5124  
to improve the real ~~estate~~ property of ~~his~~ the guardian's ward, if 5125  
the prayer of the petition is granted, the probate court shall fix 5126  
the amount of money and personal ~~estate~~ property that may be used 5127  
in making ~~such~~ the improvement. ~~Such~~ The court may authorize ~~such~~ 5128  
the guardian to unite with the owners of adjacent property, upon 5129

~~such~~ equitable terms and conditions ~~as~~ that the court approves, 5130  
for the improvement of the premises of ~~his~~ the ward and for the 5131  
proper management and repair of the property when so improved. 5132

5133

**Sec. 2111.36.** A guardian shall distinctly report to the 5134  
probate court the amount of money and personal property expended 5135  
in making an improvement to the ward's real property under section 5136  
2111.35 of the Revised Code, within forty days after the 5137  
improvement is completed. If the ward dies before the removal of 5138  
the disability and there are heirs who inherit real property only 5139  
from ~~him~~ the ward, the money expended shall descend and pass in 5140  
the same manner as ~~his~~ the ward's other personal property and 5141  
shall be a charge on the premises improved in favor of the heirs 5142  
who inherit the personal property. 5143

**Sec. 2111.37.** When a nonresident minor, incompetent, or 5144  
person confined in a state, charitable, or correctional 5145  
institution has real ~~estate, chattels,~~ property or rights, 5146  
credits, ~~or~~ moneys, or other personal property in this state, the 5147  
probate court of the county in which the property or a part of it 5148  
is situated may appoint a resident guardian of the ward to manage, 5149  
collect, lease, and take care of the ward's property. The 5150  
appointment may be made whether or not a ward has a guardian, 5151  
trustee, or other conservator in the state of the ward's 5152  
residence, and, if the ward has a guardian, trustee, or other 5153  
conservator in the state of the ward's residence, the control and 5154  
authority of the resident guardian appointed in ~~Ohio~~ this state 5155  
shall be superior as to all property of the ward in ~~Ohio~~ this 5156  
state. 5157

The first appointment of a resident guardian of a nonresident 5158  
ward shall extend to all the property and effects of the ward in 5159  
this state and exclude the jurisdiction of the probate court of 5160



any other county. 5161

**Sec. 2111.38.** The resident guardian of a nonresident ward 5162  
shall give bond and be bound and controlled by all the statutes of 5163  
~~Ohio~~ this state as though ~~he~~ the resident guardian were a guardian 5164  
of a ward resident in this state, and shall have all of the 5165  
authority of a guardian of a resident ward including the authority 5166  
to lease or sell real ~~estate~~ property belonging to the ward. 5167

Unless removed by the probate court, a resident guardian of a 5168  
nonresident minor shall hold ~~his~~ that appointment until ~~such~~ the 5169  
minor dies or arrives at the age of majority, whether or not ~~such~~ 5170  
the minor is over fourteen years of age at the time of 5171  
appointment. A resident guardian of any other nonresident ward 5172  
shall hold ~~his~~ that appointment until the death of the ward or 5173  
until the court is satisfied that the necessity for the 5174  
guardianship no longer exists. 5175

All moneys due to ~~such~~ the nonresident ward while ~~such~~ the 5176  
resident guardianship continues shall be paid over to ~~his~~ the 5177  
ward's foreign guardian so far as necessary or proper for the 5178  
ward's support and maintenance. If the ward dies, ~~such~~ the moneys 5179  
shall be paid to ~~his~~ the ward's ancillary administrator or other 5180  
legal representative, provided that the court ~~which~~ that appointed 5181  
~~such~~ the resident guardian has satisfactory proof, as provided by 5182  
section 2111.39 of the Revised Code, of the authority of ~~such~~ the 5183  
foreign guardian, administrator, or other legal representative to 5184  
receive the moneys or ~~estates~~ properties of ~~such~~ the nonresident 5185  
ward, that the security given by ~~such~~ the foreign guardian, 5186  
administrator, or other legal representative is sufficient to 5187  
protect ~~such~~ the ward's interest or estate, and ~~provided such~~ that 5188  
the court ~~deems~~ considers it best for ~~him~~ the ward or ~~his~~ the 5189  
ward's estate. 5190

**Sec. 2111.39.** When a foreign legal representative of a 5191  
nonresident ward applies to have all or any of the moneys or 5192  
property in the ~~hands~~ possession or under the control of the 5193  
resident guardian of ~~such~~ the ward paid or delivered to ~~him~~ the 5194  
foreign representative, ~~he must~~ the foreign representative shall 5195  
file ~~his~~ a petition or motion in the probate court by which ~~such~~ 5196  
the resident guardian was appointed. ~~Such~~ The resident guardian 5197  
~~must~~ shall be given thirty days' notice of the time of hearing 5198  
~~thereon~~ on the petition or motion, and ~~such~~ the foreign 5199  
representative ~~must~~ shall produce an exemplification under the 5200  
seal of the office, if there ~~be~~ is a seal, of the proper court of 5201  
the state of ~~his~~ the foreign representative's residence containing 5202  
all the entries on record in relation to ~~his~~ the foreign 5203  
representative's appointment and qualification, authenticated as 5204  
required by the act of congress in ~~such~~ those cases. Upon the 5205  
hearing ~~thereof~~, the court shall make ~~such~~ an order ~~as~~ that it 5206  
~~deems~~ considers for the best interests of ~~such~~ the nonresident 5207  
ward or ~~his~~ the nonresident ward's estate. 5208

**Sec. 2111.40.** When a nonresident ward for whom a resident 5209  
guardian was appointed has become a resident since the appointment 5210  
and a guardian has been appointed for ~~such~~ the ward, the probate 5211  
court shall remove the resident guardian previously appointed and 5212  
require an immediate settlement of ~~his~~ the account of the resident 5213  
guardian previously appointed. 5214

**Sec. 2111.41.** When a ward for whom a guardian has been 5215  
appointed in this state removes to another state or territory, and 5216  
a guardian of the ward is there appointed, the guardian in this 5217  
state may be removed and required to settle ~~his~~ that guardian's 5218  
account. 5219

~~Such~~ That removal of the guardian in this state shall not 5220

be made unless the guardian appointed in another state or 5221  
territory applies to the probate court in this state that made the 5222  
former appointment, and files an exemplification from the record 5223  
of the court making the foreign appointment containing all the 5224  
entries and proceedings relating to ~~his~~ the foreign guardian's 5225  
appointment, ~~his~~ and giving bond, with a copy ~~thereof,~~ of the bond 5226  
and of the letters of guardianship, all authenticated as required 5227  
by the act of congress. Before ~~such an~~ the application is heard or 5228  
action taken by the court, at least thirty days' written notice 5229  
shall be served on the guardian appointed in this state specifying 5230  
the object of the application, and the time it is to be heard. 5231

No ~~such~~ removal of a guardian under this section shall be 5232  
made in favor of a foreign guardian, unless at the time of the 5233  
hearing the state or territory in which ~~he~~ the foreign guardian 5234  
was appointed has a similar provision as to wards removing from 5235  
that state or territory. The court shall grant the application 5236  
unless it makes an affirmative finding that the removal of the 5237  
guardian appointed in this state would not be in the interest of 5238  
the ward. 5239

If on ~~such a~~ the hearing the court removes the guardian, it 5240  
shall make all suitable orders for discharging the guardian and 5241  
shall deliver to the foreign guardian all moneys and other 5242  
property in the ~~hands~~ possession or under the control of the 5243  
resident guardian after ~~his~~ the resident guardian's settlement. 5244

**Sec. 2111.44.** Applications for the sale of real ~~estate~~ 5245  
property by guardians of wards who live out of this state shall be 5246  
made in the county in which the land is situated. If ~~such~~ the real 5247  
~~estate~~ property is situated in two or more counties, ~~such~~ the 5248  
application shall be made in one of the counties in which a part 5249  
of it is situated. Additional security, ~~which~~ that may be approved 5250  
by the probate court of the county in which the application is 5251

made, shall be required from ~~such~~ the guardian ~~when deemed if~~ 5252  
considered necessary. 5253

**Sec. 2111.46.** When a guardian has been appointed for a minor 5254  
before ~~such~~ the minor is over fourteen years of age, ~~such~~ the 5255  
guardian's power shall continue until the ward arrives at the age 5256  
of majority, unless removed for good cause or unless ~~such~~ the ward 5257  
selects another suitable guardian. After ~~such~~ the selection is 5258  
made and approved by the probate court and the person selected is 5259  
appointed and qualified, the powers of the former guardian shall 5260  
cease. ~~Thereupon his~~ The former guardian's final account as 5261  
guardian shall then be filed and settled in court. 5262

Upon the termination of a guardianship of the person, estate, 5263  
or both of a minor before ~~such~~ the minor reaches eighteen years of 5264  
age, if a successor guardian is not appointed and if the court 5265  
finds that ~~such~~ the minor is without proper care, the court shall 5266  
certify a copy of its finding together with as much of the record 5267  
and ~~such~~ any further information ~~as~~ that the court ~~deems~~ considers 5268  
necessary, or as the juvenile court may request, to the juvenile 5269  
court for further proceedings ~~and thereupon such~~. Upon that 5270  
certification, the juvenile court shall have exclusive 5271  
jurisdiction respecting ~~such child~~ the minor. 5272

**Sec. 2111.48.** All sales, leases, encumbrances, or liens made 5273  
or created on any real ~~estate~~ property located in ~~Ohio~~ this state 5274  
by guardians for persons who are incompetent by reason of advanced 5275  
age or mental or physical disability since August 17, 1919, by 5276  
order of any court of this state shall not be declared invalid for 5277  
the reason that ~~such~~ the guardians for the incompetents were not 5278  
vested with all the statutory powers given to guardians of ~~idiots,~~ 5279  
~~imbeciles, and lunatics~~ incompetents. ~~Such~~ Those acts of guardians 5280  
for incompetents are legal and effective. 5281

**Sec. 2111.50.** (A)(1) At all times, the probate court is the superior guardian of wards who are subject to its jurisdiction, and all guardians who are subject to the jurisdiction of the court shall obey all orders of the court that concern their wards or guardianships.

(2)(a) Subject to divisions (A)(2)(b) and (c) of this section, the control of a guardian over the person, the estate, or both of ~~his~~ the guardian's ward is limited to the authority that is granted to the guardian by the Revised Code, relevant decisions of the courts of this state, and orders or rules of the probate court.

(b) Except for the powers specified in division (E) of this section and unless otherwise provided in or inconsistent with another section of the Revised Code, the probate court may confer upon a guardian any power that this section grants to the probate court in connection with wards.

(c) For good cause shown, the probate court may limit or deny, by order or rule, any power that is granted to a guardian by a section of the Revised Code or relevant decisions of the courts of this state.

(B) In connection with any person whom the probate court has found to be an incompetent or a minor subject to guardianship and for whom the court has appointed a guardian, the court has, subject to divisions (C) to (E) of this section, all the powers that relate to the person and estate of the ~~person~~ ward and that ~~he~~ the ward could exercise if present and not a minor or under a disability, except the power to make or revoke a will. These powers include, but are not limited to, the power to do any of the following:

(1) Convey or release the present, contingent, or expectant interests in real or personal property of the ~~person~~ ward,

including, but not limited to, dower and any right of survivorship 5313  
incident to a survivorship tenancy, joint tenancy, or tenancy by 5314  
the entirety; 5315

(2) Exercise or release powers as a trustee, personal 5316  
representative, custodian for a minor, guardian, or donee of a 5317  
power of appointment; 5318

(3) Enter into contracts, or create revocable trusts of 5319  
property of the estate of the ~~person~~ ward, that may not extend 5320  
beyond the minority, disability, or life of the ~~person~~ or ward; 5321

(4) Exercise options to purchase securities or other 5322  
property; 5323

(5) Exercise rights to elect options under annuities and 5324  
insurance policies, and to surrender an annuity or insurance 5325  
policy for its cash value; 5326

(6) Exercise the right to an elective share in the estate of 5327  
the deceased spouse of the ~~person~~ ward pursuant to section ~~2107.45~~ 5328  
2106.08 of the Revised Code; 5329

(7) Make gifts, in trust or otherwise, to relatives of the 5330  
~~person~~ ward and, consistent with any prior pattern of the ~~person~~ 5331  
ward of giving to charities or of providing support for friends, 5332  
to charities and friends of the ~~person~~ ward. 5333

(C) Except for the powers specified in division (D) of this 5334  
section, all powers of the probate court that are specified in 5335  
this chapter and that relate either to any person whom it has 5336  
found to be an incompetent or a minor subject to guardianship and 5337  
for whom it has appointed a guardian and all powers of a guardian 5338  
that relate to ~~his~~ the guardian's ward or guardianship as 5339  
described in division (A)(2) of this section, shall be exercised 5340  
in the best interest, as determined in the court's or guardian's 5341  
judgment, of the following: 5342

- (1) The ~~person~~ ward whom the probate court has found to be an incompetent or a minor subject to guardianship; 5343  
5344
- (2) The dependents of the ~~person~~ ward; 5345
- (3) The members of the household of the ~~person~~ ward. 5346
- (D) If the court is to exercise or direct the exercise, 5347  
pursuant to division (B) of this section, of the power to make 5348  
gifts in trust or otherwise, the following conditions shall apply: 5349
- (1) The exercise of the particular power shall not impair the 5350  
financial ability of the estate of the ~~person~~ ward whom the 5351  
probate court has found to be an incompetent or a minor subject to 5352  
guardianship and for whom the court has appointed a guardian, to 5353  
provide for ~~his~~ the ward's foreseeable needs for maintenance and 5354  
care; 5355
- (2) If applicable, the court shall consider any of the 5356  
following: 5357
- (a) The estate, income, and other tax advantages of the 5358  
exercise of a particular power to the estate of a ~~person~~ ward whom 5359  
the probate court has found to be an incompetent or a minor 5360  
subject to guardianship and for whom the court has appointed a 5361  
guardian; 5362
- (b) Any pattern of giving of, or any pattern of support 5363  
provided by, the ~~person~~ ward prior to ~~his~~ the ward's incompetence; 5364
- (c) The disposition of property made by the ward's will ~~of~~ 5365  
~~the person~~; 5366
- (d) If there is no knowledge of a will of the ~~person~~ ward, 5367  
~~his~~ the ward's prospective heirs; 5368
- (e) Any relevant and trustworthy statements of the ~~person~~ 5369  
ward, whether established by hearsay or other evidence. 5370
- (E)(1) The probate court shall cause notice as described in 5371  
division (E)(2) of this section to be given and a hearing to be 5372

conducted prior to its exercise or direction of the exercise of 5373  
any of the following powers pursuant to division (B) of this 5374  
section: 5375

(a) The exercise or release of powers as a donee of a power 5376  
of appointment; 5377

(b) Unless the amount of the gift is no more than one 5378  
thousand dollars, the making of a gift, in trust or otherwise. 5379

(2) The notice required by division (E)(1) of this section 5380  
shall be given to the following persons: 5381

(a) Unless a guardian of a ward has applied for the exercise 5382  
of a power specified in division (E)(1) of this section, to the 5383  
guardian; 5384

(b) To the ~~person~~ ward whom the probate court has found to be 5385  
an incompetent or a minor subject to guardianship; 5386

(c) If known, to a guardian who applied for the exercise of a 5387  
power specified in division (E)(1) of this section, to the 5388  
prospective heirs of the ~~person~~ ward whom the probate court has 5389  
found to be an incompetent or a minor subject to guardianship 5390  
under section 2105.06 of the Revised Code, and any person who has 5391  
a legal interest in property that may be divested or limited as 5392  
the result of the exercise of a power specified in division (E)(1) 5393  
of this section; 5394

(d) To any other persons the court orders. 5395

(F) When considering any question related to, and issuing 5396  
orders for, medical or surgical care or treatment of incompetents 5397  
or minors subject to guardianship, the probate court has full 5398  
parens patriae powers unless otherwise provided by a section of 5399  
the Revised Code. 5400

**Sec. 2113.01.** Upon the death of a resident of this state who 5401  
dies intestate, letters of administration of ~~his~~ the decedent's 5402



estate shall be granted by the probate court of the county in 5403  
which ~~he~~ the decedent was a resident at the time ~~he died~~ of death. 5404

If the will of any person is admitted to probate in this 5405  
state, letters testamentary or of administration shall be granted 5406  
by the probate court in which ~~such~~ the will was admitted to 5407  
probate. 5408

**Sec. 2113.03.** (A) Subject to division ~~(D)~~(I) of this section, 5409  
an estate may be released from administration under division (B) 5410  
of this section if either of the following applies: 5411

(1) The value of the assets of the estate is thirty-five 5412  
thousand dollars or less. 5413

(2) The value of the assets of the estate is one hundred 5414  
thousand dollars or less and either of the following applies: 5415

(a) The decedent devised and bequeathed in a valid will all 5416  
of the assets of the decedent's estate to a person who is named in 5417  
the will as the decedent's spouse, and the decedent is survived by 5418  
that person. 5419

(b) The decedent is survived by a spouse whose marriage to 5420  
the decedent was solemnized in a manner consistent with Chapter 5421  
3101. of the Revised Code or with a similar law of another state 5422  
or nation, the decedent died without a valid will, and the 5423  
decedent's surviving spouse is entitled to receive all of the 5424  
assets of the decedent's estate under section 2105.06 of the 5425  
Revised Code or by the operation of that section and division 5426  
(B)(1) or (2) of section 2106.13 of the Revised Code. 5427

(B) Upon the application of any interested party, after 5428  
notice of the filing of the application has been given to the 5429  
surviving spouse and heirs at law in the manner and for the length 5430  
of time the probate court directs, and after notice to all 5431  
interested parties by publication in a newspaper of general 5432

circulation in the county, unless the notices are waived or found 5433  
unnecessary, the court, when satisfied that division (A)(1) or (2) 5434  
of this section is satisfied, may enter an order relieving the 5435  
estate from administration and directing delivery of personal 5436  
property and transfer of real ~~estate~~ property to the persons 5437  
entitled to the personal property or real ~~estate~~ property. 5438

(C) For the purposes of this section, the value of an estate 5439  
that reasonably can be considered to be in an amount specified in 5440  
division (A)(1) or (2) of this section and that is not composed 5441  
entirely of money, stocks, bonds, or other property the value of 5442  
which is readily ascertainable, shall be determined by an 5443  
appraiser selected by the applicant, subject to the approval of 5444  
the court. The appraiser's valuation of the property shall be 5445  
reported to the court in the application to relieve the estate 5446  
from administration. The appraiser shall be paid in accordance 5447  
with section 2115.06 of the Revised Code. 5448

(D) For the purposes of this section, the amount of property 5449  
to be delivered or transferred to the surviving spouse, minor 5450  
children, or both, of the decedent as the allowance for support 5451  
shall be established in accordance with section 2106.13 of the 5452  
Revised Code. 5453

~~When a delivery, sale, or transfer of personal property has~~ 5454  
~~been ordered from an estate that has been relieved from~~ 5455  
~~administration, the~~ (E) The court may appoint a commissioner to 5456  
execute all necessary instruments of conveyance, including the 5457  
instruments of conveyance and other documents required for the 5458  
transfer of title upon the sale of real property pursuant to 5459  
section 2127.011 of the Revised Code. The commissioner shall 5460  
receipt for the property, distribute the proceeds of the 5461  
conveyance upon court order, and report to the court after 5462  
~~distribution~~ the delivery, sale, or transfer of personal or real 5463  
property from an estate that has been relieved from 5464

administration. 5465

(F) When the decedent died testate, the will shall be 5466  
presented for probate, and, if admitted to probate, the court may 5467  
relieve the estate from administration and order distribution of 5468  
the estate under the will. 5469

(G) An order of the court relieving an estate from 5470  
administration shall have the same effect as administration 5471  
proceedings in freeing ~~land~~ real property in the ~~hands~~ possession 5472  
or under the control of an innocent purchaser for value from 5473  
possible claims of unsecured creditors. 5474

~~(C)~~(H) Any delivery of personal property or transfer of real 5475  
estate property pursuant to an order relieving an estate from 5476  
administration is made subject to the limitations pertaining to 5477  
the claims of creditors set forth in divisions (B) and (C) of 5478  
section 2117.06 of the Revised Code. 5479

~~(D)~~(I) The release of an estate from administration under 5480  
this section does not affect any duty of any person to file an 5481  
estate tax return and certificate under division (A) of section 5482  
5731.21 of the Revised Code and does not affect the duties of a 5483  
probate court set forth in that division. 5484

~~(E)~~(J) This section does not affect the ability of qualified 5485  
persons to file an application for a summary release from 5486  
administration under section 2113.031 of the Revised Code or to 5487  
file an application for the grant of letters testamentary or 5488  
letters of administration. 5489

**Sec. 2113.04.** (A) Any employer, including the state or a 5490  
political subdivision, at any time after the death of ~~his or its~~ 5491  
an employee, may pay all wages or personal earnings due to the 5492  
deceased employee to: ~~(A) the surviving spouse; (B) any one or~~ 5493  
~~more of the children eighteen years of age or older; or (C) the~~ 5494

~~father or mother of the deceased employee~~ the following, 5495  
preference being given in the order named, without requiring 5496  
letters testamentary or letters of administration to be issued 5497  
upon the estate of the deceased employee, and without requiring an 5498  
Ohio estate tax release ~~where~~ if the wages or personal earnings do 5499  
not exceed ~~two~~ five thousand ~~five hundred~~ dollars. ~~The:~~ 5500

(1) The surviving spouse; 5501

(2) Any one or more of the children eighteen years of age or 5502  
older; 5503

(3) The father or mother of the deceased employee. 5504

(B) The payment of wages or personal earnings under division 5505  
(A) of this section is a full discharge and release to the 5506  
employer from any claim for the wages or personal earnings. If 5507  
letters testamentary or letters of administration are thereafter 5508  
issued upon the estate of the deceased employee, any person 5509  
receiving payment of wages or personal earnings under ~~this section~~ 5510  
that division is liable to the executor or administrator for the 5511  
sum received by ~~him~~ the person. 5512

**Sec. 2113.05.** When a will is approved and allowed, the 5513  
probate court shall issue letters testamentary to the executor 5514  
named in the will or to the executor nominated by holders of a 5515  
power as described in section 2107.65 of the Revised Code, or to 5516  
the executor named in the will and to a coexecutor nominated by 5517  
holders of ~~such a~~ that power, if ~~he~~ the executor or coexecutor is 5518  
suitable, competent, accepts the appointment, and gives bond if 5519  
that is required. 5520

If no executor is named in a will and no power as described 5521  
in section 2107.65 of the Revised Code is conferred in the will, 5522  
or if the executor named in a will or nominated pursuant to ~~such a~~ 5523  
that power dies, fails to accept the appointment, resigns, or is 5524

otherwise disqualified and the holders of ~~such a~~ the power do not 5525  
have authority to nominate another executor or ~~no such~~ the power 5526  
is not conferred in the will, or if ~~such a~~ the power is conferred 5527  
in a will but the power cannot be exercised because of the death 5528  
of a holder of the power, letters of administration with the will 5529  
annexed shall be granted to a suitable person or persons, named as 5530  
devisees or legatees in the will, who would have been entitled to 5531  
administer the estate if the decedent had died intestate, unless 5532  
the will indicates an intention that the person or persons shall 5533  
not be granted letters of administration. Otherwise, the court 5534  
shall grant letters of administration with the will annexed to 5535  
some other suitable person. 5536

**Sec. 2113.06.** (A) Administration of the estate of an 5537  
intestate shall be granted to persons mentioned in this ~~section~~ 5538  
division, in the following order: 5539

~~(A)~~(1) To the surviving spouse of the deceased, if resident 5540  
of the state; 5541

~~(B)~~(2) To one of the next of kin of the deceased, resident of 5542  
the state. 5543

(B) If the persons entitled to administer the estate under 5544  
division (A) of this section fail to take or renounce 5545  
administration voluntarily, ~~they shall be cited by the probate~~ 5546  
~~court for that purpose~~ the matter shall be set for hearing and 5547  
notice given to the persons. 5548

(C) If there are no persons entitled to administration, ~~or~~ if 5549  
they are for any reason unsuitable for the discharge of the trust, 5550  
or if without sufficient cause they neglect to apply within a 5551  
reasonable time for the administration of the estate, their right 5552  
to priority shall be lost, and the court shall commit the 5553  
administration to some suitable person who is a resident of the 5554  
state, or to the attorney general or the attorney general's 5555

designee, if the department of job and family services is seeking 5556  
to recover medical assistance from the deceased pursuant to 5557  
section 5111.11 or 5111.111 of the Revised Code. ~~Such~~ The person 5558  
granted administration may be a creditor of the estate. 5559

(D) This section applies to the appointment of an 5560  
administrator de bonis non. 5561

**Sec. 2113.07.** Before being appointed executor or 5562  
administrator, every person shall make and file an application 5563  
that shall contain the names of the surviving spouse and all the 5564  
next of kin of the deceased known to the applicant, their 5565  
~~post-office~~ addresses of usual residence if known, a statement in 5566  
general terms ~~as to~~ of what the estate consists ~~of~~ and its 5567  
probable value, and a statement of any indebtedness the deceased 5568  
had against the applicant. 5569

The application may be accompanied by a waiver signed by the 5570  
persons who have priority to administer the estate, and, in the 5571  
absence of a waiver, those persons shall be ~~cited by the probate~~ 5572  
~~court~~ served notice for the purpose of ascertaining whether they 5573  
desire to take or renounce administration. Minors who would have 5574  
been entitled to priority to administer the estate except for 5575  
their minority also shall be served notice pursuant to the Rules 5576  
of Civil Procedure. 5577

Letters of administration shall not be issued upon the estate 5578  
of an intestate until the person to be appointed has made and 5579  
filed a statement indicating that ~~there is not to his~~ the person 5580  
has no knowledge of a ~~last~~ will ~~and testament~~ of the intestate. 5581

**Sec. 2113.12.** If a person named as executor in the will of a 5582  
decedent, or nominated as an executor by holders of a power as 5583  
described in section 2107.65 of the Revised Code, refuses to 5584  
accept the trust, or, if after being ~~cited~~ served notice for that 5585

purpose, neglects to appear and accept, or if ~~he~~ the person named 5586  
or nominated as executor neglects for twenty days after the 5587  
probate of the will to give any required bond, the probate court 5588  
shall grant letters testamentary to the other executor, if there 5589  
is one capable and willing to accept the trust, and if there is no 5590  
~~such~~ other executor named in the will or nominated by holders of a 5591  
power as described in section 2107.65 of the Revised Code, the 5592  
court shall commit administration of the estate, with the will 5593  
annexed, to some suitable and competent person, pursuant to 5594  
section 2113.05 of the Revised Code. 5595

**Sec. 2113.13.** When a person ~~appointed~~ nominated as executor 5596  
is under the age of eighteen years at the time of ~~proving~~ 5597  
admitting the will to probate, administration may be granted with 5598  
the will annexed during ~~his~~ the nominee's minority, unless there 5599  
is another executor who will accept the trust. If there is ~~such an~~ 5600  
that other executor, the estate shall be administered by ~~him~~ that 5601  
executor until the minor arrives at full age when ~~such~~ the former 5602  
minor may be admitted as executor ~~with him~~ upon giving bond as 5603  
provided in section 2109.04 of the Revised Code. 5604

**Sec. 2113.14.** The executor of an executor has no authority, 5605  
as such, to administer the estate of the first testator. On the 5606  
death of the sole or surviving executor of a ~~last~~ will, 5607  
administration of that part of the estate of the first testator 5608  
not already administered may be granted, with the will annexed, to 5609  
~~such~~ the person ~~as~~ that the probate court appoints. 5610

**Sec. 2113.15.** When there is delay in granting letters 5611  
testamentary or of administration, the probate court may appoint a 5612  
special administrator to collect and preserve the effects of the 5613  
deceased and grant the special administrator any other authority 5614  
that the court considers appropriate. 5615

~~Such~~ The special administrator ~~must~~ shall collect the 5616  
~~chattels~~ assets and debts of the deceased and preserve them for 5617  
the executor or administrator who thereafter is appointed. For 5618  
that purpose ~~such~~ the special administrator may begin ~~and,~~ 5619  
maintain, or defend suits as administrator and also sell ~~such~~ 5620  
~~goods~~ as any assets the court orders sold. ~~He~~ The special 5621  
administrator shall be allowed ~~such~~ the compensation for ~~his~~ the 5622  
special administrator's services ~~as~~ that the court thinks 5623  
reasonable, if ~~he forthwith delivers the property and effects of~~ 5624  
~~the estate to the executor or administrator who supersedes him~~ the 5625  
special administrator faithfully fulfills the fiduciary duties. 5626

**Sec. 2113.16.** Upon granting of letters testamentary or of 5627  
administration, the power of a special administrator appointed 5628  
under section 2113.15 of the Revised Code shall ~~cease~~ terminate 5629  
and ~~he forthwith must deliver~~ the special administrator shall 5630  
transfer to the executor or administrator all the ~~chattels and~~ 5631  
~~moneys~~ assets of the deceased in ~~his hands~~ the possession or under 5632  
the control of the special administrator. The special 5633  
administrator shall file an account of the special administration 5634  
within thirty days of the appointment of the executor or 5635  
administrator. The account shall be in conformance with section 5636  
2109.30 of the Revised Code. The executor or administrator may be 5637  
admitted to prosecute any suit begun by the special administrator, 5638  
as an administrator de bonis non is authorized to prosecute a suit 5639  
commenced by a former executor or administrator. 5640

If ~~such~~ the special administrator neglects or refuses to 5641  
~~deliver over~~ transfer the ~~property~~ assets and estate to the 5642  
executor or administrator, the probate court may compel ~~him to de~~ 5643  
~~se~~ the transfer by citation and attachment. The executor or 5644  
administrator also may proceed, by civil action, to recover the 5645  
value of the assets from ~~such~~ the special administrator and ~~his~~ 5646  
the special administrator's sureties. 5647



Sec. 2113.17. A creditor's claim may be presented in 5648  
accordance with section 2117.06 of the Revised Code to a special 5649  
administration appointed under section 2113.15 of the Revised 5650  
Code. 5651

**Sec. 2113.18.** (A) The probate court may remove any executor 5652  
or administrator if there are unsettled claims existing between 5653  
~~him~~ the executor or administrator and the estate, ~~which~~ that the 5654  
court thinks may be the subject of controversy or litigation 5655  
between ~~him~~ the executor or administrator and the estate or 5656  
persons interested ~~therein~~ in the estate. 5657

(B) The probate court may remove any executor or 5658  
administrator upon motion of the surviving spouse, children, or 5659  
other next of kin of the deceased person whose estate is 5660  
administered by the executor or administrator if both of the 5661  
following apply: 5662

(1) The executor or administrator refuses to bring an action 5663  
for wrongful death in the name of the deceased person~~+~~. 5664

(2) The court determines that a prima-facie case for a 5665  
wrongful death action can be made from the information available 5666  
to the executor or administrator. 5667

**Sec. 2113.19.** When a sole executor or administrator dies 5668  
without having fully administered the estate, the probate court 5669  
shall grant letters of administration, with the will annexed or 5670  
otherwise as the case requires, to some suitable person pursuant 5671  
to section 2113.05 or 2113.06 of the Revised Code. ~~Such~~ That 5672  
person shall administer the ~~goods and estate~~ assets of the 5673  
deceased not previously administered, ~~in case there is personal~~ 5674  
~~estate to be administered to the amount of twenty dollars or debts~~ 5675  
~~to that amount due from the estate.~~ 5676

**Sec. 2113.20.** If a will of a deceased is proved and allowed 5677  
after letters of administration have been granted as of an 5678  
intestate estate, the first administration shall be revoked, 5679  
unless before ~~such the~~ revocation a ~~petition~~ complaint contesting 5680  
the probate of ~~such the~~ will is filed in the probate court of 5681  
~~common pleas~~. If ~~such a~~ ~~petition~~ complaint of that nature is 5682  
filed, the probate court may allow the administration to be 5683  
continued ~~in the hands of~~ by the original administrators until the 5684  
final determination of ~~such the~~ contest. If the will is sustained, 5685  
the first administration ~~must~~ shall be revoked. In either case, 5686  
upon revocation of the first administration and the appointment of 5687  
an executor or administrator with the will annexed, ~~such that~~ 5688  
executor or administrator shall be admitted to prosecute or defend 5689  
any suit, proceeding, or matter begun by or against the original 5690  
administrator, in ~~like~~ the same manner as an administrator de 5691  
bonis non is authorized to prosecute or defend a suit commenced by 5692  
a former executor or administrator. 5693

**Sec. 2113.21. (A)** When a will is contested, the executor, the 5694  
administrator de bonis non, with the will annexed, or the 5695  
testamentary trustee may, during the contest, do the following: 5696

~~(A)(1)~~ Control all the real ~~estate which is included in the~~ 5697  
~~will but not specifically devised~~ property and all the personal 5698  
~~estate~~ property of the testator not administered before ~~such the~~ 5699  
contest; 5700

~~(B)(2)~~ Collect the debts and convert all assets into money, 5701  
except those ~~which that~~ are specially bequeathed; 5702

~~(C)(3)~~ Pay all taxes on ~~such the~~ real and personal property 5703  
and all debts; 5704

~~(D)(4)~~ Repair buildings and make other improvements if 5705  
necessary to preserve the real property from waste; 5706

~~(E)~~(5) Insure ~~such~~ those buildings upon an order first 5707  
obtained from the probate court having jurisdiction of ~~such the~~ 5708  
executor, administrator, or testamentary trustee; 5709

~~(F)~~(6) Advance or borrow money on the credit of ~~such the~~ 5710  
estate for ~~such the~~ repairs, taxes, and insurance ~~which that~~ shall 5711  
be a charge ~~thereon~~ on the estate; 5712

~~(G)~~(7) Receive and receipt for a distributive share of an 5713  
estate or trust to which ~~such the~~ testator would have been 5714  
entitled, if living. 5715

(B) The court may require ~~such~~ additional bonds ~~as that~~ from 5716  
time to time ~~seems~~ seem proper. 5717

**Sec. 2113.22.** An ~~administrator or~~ administrator 5718  
appointed in the place of an executor or administrator who has 5719  
resigned or been removed, whose letters have been revoked, or 5720  
whose authority has been extinguished is entitled to the 5721  
possession of all the unadministered personal effects and assets 5722  
of the estate ~~unadministered~~, and all other funds collected and 5723  
unaccounted for by ~~such the former~~ executor or administrator, and 5724  
may maintain a suit against the former executor or administrator 5725  
and ~~his the former executor's or administrator's~~ sureties on the 5726  
administration bond to recover ~~such those~~ effects, assets, and 5727  
funds and for all damages arising from the maladministration or 5728  
omissions of the former executor or administrator. 5729

**Sec. 2113.25.** ~~So far as the executor or administrator is~~ 5730  
~~able, the~~ The executor or administrator of an estate shall collect 5731  
the assets and complete the administration of that estate within 5732  
~~thirteen~~ six months after the date of appointment unless an 5733  
extension of the time to file a final and distributive account is 5734  
authorized under division (B) of section 2109.301 of the Revised 5735  
Code. 5736

~~Upon application of the executor or administrator and notice to the interested parties, if the probate court considers that notice necessary, the court may allow further time in which to collect assets, to convert assets into money, to pay creditors, to make distributions to legatees or distributees, to file partial, final, and distributive accounts, and to settle estates. The court, upon application of any interested party, may authorize the examination under oath in open court of the executor or administrator upon any matter relating to the administration of the estate For good cause shown, the court may grant an extension of the time to file the inventory and accounts.~~

Sec. 2113.26. The court, upon application of any interested party, may authorize the examination of the executor or administrator under oath in open court on any matter relating to the administration of the estate.

**Sec. 2113.30.** (A) Except as otherwise directed by the decedent in the decedent's ~~last will and testament~~, an executor or administrator, without personal liability for losses incurred, may continue the decedent's business during four months next following the date of the appointment of that executor or administrator, unless the probate court directs otherwise, and for any further time that the court may authorize upon a hearing and after notice to the surviving spouse and distributees. In either case, no debts incurred or contracts entered into shall involve the estate beyond the assets used in that business immediately prior to the death of the decedent without first obtaining the approval of the court. During the time the business is continued, the executor or administrator shall file monthly reports in the court, setting forth the receipts and expenses of the business for the preceding month and any other pertinent information that the court may require. The executor or administrator may not bind the estate

without court approval beyond the period during which the business 5768  
is continued. 5769

(B) As used in this section, "decedent's business" means a 5770  
business that is owned by the decedent as a sole proprietor at the 5771  
time of the decedent's death. "Decedent's business" does not 5772  
include a business that is owned in whole or in part by the 5773  
decedent as a shareholder of a corporation, a member of a limited 5774  
liability company, or a partner of a partnership, or under any 5775  
other form of ownership other than a sole proprietorship. 5776

**Sec. 2113.31.** Every executor or administrator is chargeable 5777  
with all ~~chattels, rights, and credits~~ assets of the deceased 5778  
~~which that~~ come into his hands the possession or under the control 5779  
of the executor or administrator and are to be administered, 5780  
although not included in the inventory required by section 2115.02 5781  
of the Revised Code. ~~Such~~ The executor or administrator is also 5782  
chargeable with all the proceeds of personal property and real 5783  
~~estate~~ property sold for the payment of debts or legacies, and all 5784  
the interest, profit, and income that in any way comes ~~to his~~ 5785  
~~hands~~ into the possession or under the control of the executor or 5786  
administrator from the personal ~~estate~~ property of the deceased. 5787

**Sec. 2113.311.** (A) If, within a reasonable time after the 5788  
appointment of the executor or administrator, no one in authority 5789  
has taken over the management and rental of any real ~~estate~~ 5790  
property of which the decedent died seized, the executor or 5791  
administrator, or an heir or devisee may, unless the will 5792  
otherwise provides, make application to the probate court for an 5793  
order authorizing the executor or administrator to assume ~~such~~ 5794  
those duties. ~~Such~~ The application shall contain the following: 5795

(1) A brief statement of the facts upon which the application 5796  
is based and ~~such~~ any other pertinent information ~~as~~ that the 5797

court may require; 5798

(2) A description or identification of the real estate 5799  
property and the interest owned by the decedent at the time of ~~his~~ 5800  
death; 5801

(3) The names and addresses, if known to the applicant, of 5802  
the persons to whom ~~such~~ the real estate property passed by 5803  
descent or devise. 5804

(B) Notice of the time of hearing on ~~such~~ the application 5805  
shall be given to the persons designated in ~~sub-paragraph~~ division 5806  
(A)(3) of this section, unless for good cause the court dispenses 5807  
with ~~such~~ that notice, and also to the executor or administrator, 5808  
unless the executor or administrator is the applicant. 5809

(C) If the court finds that the statements contained in the 5810  
application are true and that it would be for the best interest of 5811  
~~such~~ those heirs or devisees that the application be granted, it 5812  
may authorize the executor or administrator to assume the 5813  
management and rental of ~~such~~ the real estate property. 5814

(D) The court may require bond, new or additional, in an 5815  
amount to be fixed by the court and conditioned that the executor 5816  
or administrator will faithfully and honestly discharge the duties 5817  
devolving ~~upon him by~~ from the provisions of this section. 5818

~~(B)~~(E) In the exercise of ~~such~~ the authority granted under 5819  
this section, the executor or administrator shall be authorized to 5820  
do the following: 5821

(1) Collect rents; 5822

(2) From the rents collected: 5823

(a) Pay all taxes and assessments due on ~~such~~ the real estate 5824  
property, and all ~~such~~ usual operating expenses in connection with 5825  
~~the~~ its management ~~thereof~~; 5826

(b) Make repairs when necessary to preserve ~~such~~ the real 5827

estate property from waste, provided that an order of the court 5828  
shall first be obtained if the cost of ~~such~~ repairs exceeds one 5829  
hundred dollars; 5830

(c) Insure buildings against loss by fire or other casualty 5831  
and against public liability~~+~~. 5832

(3) Advance money upon an order first obtained from the 5833  
court, for ~~such~~ the repairs, taxes, insurance, and all usual 5834  
operating expenses, ~~which that~~ shall be a charge on ~~such~~ the real 5835  
estate property; 5836

(4) Rent the property on a month-to-month basis, or, upon an 5837  
order first obtained from the court, for a period not to exceed 5838  
one year; 5839

(5) Prosecute actions for forcible entry and detention of 5840  
~~such~~ the real estate property. 5841

(F) The executor or administrator shall, at intervals not to 5842  
exceed twelve months, pay over to the heirs or devisees, if known, 5843  
their share of the net rents, and shall account for all money 5844  
received and paid out under authority of this section in ~~his~~ the 5845  
executor's or administrator's regular accounts of the 5846  
administration of the estate, but in a separate schedule. If any 5847  
share of the net rents remains unclaimed, it may be disposed of in 5848  
the same manner as ~~is~~ provided for unclaimed money under section 5849  
2113.64 of the Revised Code. 5850

(G) The authority granted under this section shall terminate 5851  
upon the transfer of the real ~~estate~~ property to the heirs or 5852  
devisees in accordance with section 2113.61 of the Revised Code, 5853  
~~or~~ upon a sale ~~thereof~~ of the real property, ~~or~~ upon application 5854  
of the executor or administrator, or for a good cause shown, upon 5855  
the application of an heir or devisee. 5856

(H) Upon application the court may allow compensation to the 5857  
executor or administrator for extraordinary services, ~~which that~~ 5858

shall be charged against the rents, and if ~~said the~~ rents be are 5859  
insufficient, shall be a charge against ~~such the~~ real estate 5860  
property. 5861

Upon application the court may allow reasonable attorney fees 5862  
paid by the executor or administrator when an attorney is employed 5863  
in connection with the management and rental of ~~such the~~ real 5864  
estate, which property that shall be charged against the rents, 5865  
and if ~~said the~~ rents be are insufficient, shall be a charge 5866  
against ~~such the~~ real estate property. 5867

**Sec. 2113.33.** An executor or administrator is not accountable 5868  
for debts inventoried as due to the decedent, if it appears to the 5869  
probate court that, without ~~his~~ the executor's or administrator's 5870  
fault, they remain uncollected. 5871

**Sec. 2113.34.** If an executor or administrator neglects to 5872  
sell personal property ~~which he that~~ is required to sell be sold, 5873  
and retains, consumes, or disposes of it for ~~his~~ the executor's or 5874  
administrator's own benefit, ~~he~~ the executor or administrator 5875  
shall be charged ~~therewith~~ with the personal property at double 5876  
the value affixed ~~thereto~~ to the property by the appraisers. 5877

**Sec. 2113.35.** ~~(A)~~ Executors and administrators shall be 5878  
allowed ~~commissions~~ fees upon the amount of all the personal 5879  
estate property, including the income from the personal estate 5880  
property, that is received and accounted for by them and upon the 5881  
proceeds of real estate property that is sold, as follows: ~~(A)~~ 5882

(1) For the first one hundred thousand dollars, at the rate 5883  
of four per cent; ~~(B)~~ 5884

(2) All above one hundred thousand dollars and not exceeding 5885  
four hundred thousand dollars, at the rate of three per cent; ~~(C)~~ 5886

(3) All above four hundred thousand dollars, at the rate of 5887



two per cent. ~~Executors~~ 5888

(B) Executors and administrators ~~also~~ shall be allowed a 5889  
~~commission fee~~ of one per cent on the value of real ~~estate~~ 5890  
property that is not sold. Executors and administrators also shall 5891  
be allowed a ~~commission fee~~ of one per cent on all property that 5892  
is not subject to administration and that is includable for 5893  
purposes of computing the Ohio estate tax, except joint and 5894  
survivorship property. ~~The~~ 5895

(C) The basis of valuation for the allowance of ~~such~~ 5896  
~~commissions the fees~~ on real ~~estate property~~ sold shall be the 5897  
gross proceeds of sale, and for all other property the fair market 5898  
value of the other property as of the date of death of the 5899  
decedent. The ~~commissions fees~~ allowed to executors and 5900  
administrators in this section shall be received in full 5901  
compensation for all their ordinary services. ~~If~~ 5902

(D) If the probate court finds, after a hearing, that an 5903  
executor or administrator, in any respect, has not faithfully 5904  
discharged ~~his~~ the duties as executor or administrator, the court 5905  
may deny the executor or administrator any compensation whatsoever 5906  
or may allow the executor or administrator the reduced 5907  
compensation that the court thinks proper. 5908

**Sec. 2113.36.** Allowances, in addition to those provided by 5909  
section 2113.35 of the Revised Code for an executor or 5910  
administrator, ~~which~~ that the probate court considers just and 5911  
reasonable shall be made for actual and necessary expenses and for 5912  
extraordinary services not required of an executor or 5913  
administrator in the common course of ~~his duty~~ the executor's or 5914  
administrator's duties. 5915

Upon the application of an executor or administrator for 5916  
further allowances for extraordinary services rendered, the court 5917  
shall review both ordinary and extraordinary services claimed to 5918

have been rendered. If the ~~commissions~~ fees payable pursuant to 5919  
section 2113.35 of the Revised Code, exceed the reasonable value 5920  
of ~~such~~ the ordinary services rendered, the court ~~must~~ shall 5921  
adjust any allowance made for extraordinary services so that the 5922  
total ~~commissions~~ fees and allowances to be made fairly reflect 5923  
the reasonable value of both ordinary and extraordinary services. 5924

When an attorney has been employed in the administration of 5925  
the estate, reasonable attorney fees paid by the executor or 5926  
administrator shall be allowed as a part of the expenses of 5927  
administration. The court may at any time during administration 5928  
fix the amount of ~~such~~ those fees and, on application of the 5929  
executor or administrator or the attorney, shall fix the amount 5930  
thereof of the fees. ~~When~~ If provision is made by the will of the 5931  
deceased for compensation to an executor, the amount provided 5932  
shall be a full satisfaction for ~~his~~ the executor's or 5933  
administrator's services, in lieu of ~~such commissions~~ the fees or 5934  
~~his~~ share thereof of the fees, unless by an instrument filed in 5935  
the court within four months after ~~his~~ appointment ~~he~~ the executor 5936  
or administrator renounces all claim to the compensation given by 5937  
the will. 5938

**Sec. 2113.39.** If a qualified executor, administrator, or 5939  
testamentary trustee is authorized by will or devise to sell any 5940  
class of personal property ~~whatsoever~~ or real estate property, no 5941  
order shall be required from the probate court ~~to enable him for~~ 5942  
the executor, administrator, or testamentary trustee to act in 5943  
~~pursuance of the power vested in him~~ proceed with the sale. A 5944  
power to sell authorizes a sale for any purpose ~~deemed~~ considered 5945  
by ~~such~~ the executor, administrator, or testamentary trustee to be 5946  
for the best interest of the estate, unless the power is expressly 5947  
limited by ~~such~~ the will or devise. 5948

**Sec. 2113.40.** (A) At any time after the appointment of an 5949

executor or administrator, the probate court, ~~when~~ if satisfied 5950  
that it would be for the best interests of the estate, may 5951  
authorize ~~such~~ the executor or administrator to sell at public or 5952  
private sale, at a fixed price or for the best price obtainable, 5953  
and for cash or on ~~such~~ the terms ~~as~~ that the court may determine, 5954  
any part or all of the personal property belonging to the estate, 5955  
except the following: 5956

~~(A)~~ Such property as (1) Property that the surviving spouse 5957  
desires to take at the appraised value; 5958

~~(B)~~ (2) Property specifically bequeathed, when if the sale of 5959  
~~such~~ that property is not necessary for the payment of debts, 5960  
provided that ~~such~~ the property may be sold with the consent of 5961  
the person entitled ~~thereto~~ to the property, including executors, 5962  
administrators, guardians, and trustees; 5963

~~(C)~~ (3) Property as to which distribution in kind has been 5964  
demanded prior to the sale by the surviving spouse or other 5965  
beneficiary entitled to ~~such~~ the distribution in kind; 5966

~~(D)~~ (4) Property which that the court directs shall not be 5967  
sold pursuant to a wish expressed by the decedent in ~~his~~ the 5968  
decedent's will; but at any later period, on application of a 5969  
party interested, the court may, and for good cause shall, require 5970  
~~such~~ the sale to be made. 5971

(B) In case of a sale before expiration of the time within 5972  
which the surviving spouse may elect to take at the appraised 5973  
value, not less than ten days' notice of ~~such~~ the sale shall be 5974  
given to the surviving spouse, unless ~~such~~ the surviving spouse 5975  
consents to ~~such~~ the sale or waives notice ~~thereof~~ of the sale. 5976  
~~Such~~ The notice shall not be required as to perishable property. 5977

(C) The court may permit the itemized list of personal 5978  
property being sold to be incorporated in documents and records 5979  
relating to the sale, by reference to other documents and records 5980

~~which that~~ have been filed in the court. ~~Provided, provided~~ that a 5981  
court order shall not be required to permit the public sale of 5982  
personal ~~goods and chattels~~ property. 5983

**Sec. 2113.41.** (A) Public sales of personal property ~~mentioned~~ 5984  
as provided in section 2113.40 of the Revised Code shall be at 5985  
public auction and, unless otherwise directed by the probate 5986  
court, after notice of ~~such the~~ sale has been given by any of the 5987  
following methods: 5988

~~(A)(1)~~ By advertisement appearing at least three times in a 5989  
newspaper of general circulation in the county during a period of 5990  
fifteen days next preceding ~~such the~~ sale; 5991

~~(B)(2)~~ By advertisement posted not less than fifteen days 5992  
next preceding ~~such the~~ sale in at least five public places in the 5993  
township or municipal corporation where ~~such the~~ sale is to take 5994  
place; 5995

~~(C)(3)~~ By both ~~such~~ forms of advertisement specified in 5996  
divisions (A)(1) and (2) of this section. 5997

~~Such (B)~~ The advertisement published or posted as described 5998  
in divisions (A)(1) and (2) of this section shall specify 5999  
generally the property to be sold and the date, place, and terms 6000  
of the sale. The executor or administrator, if considered in the 6001  
best interests of the estate, may employ an auctioneer or clerk, 6002  
or both, to conduct ~~such the~~ sale, and their reasonable fees and 6003  
charges shall be deducted from the proceeds of the sale. The court 6004  
for good cause may extend the time for sale. 6005

**Sec. 2113.45.** When a mortgagee of real ~~estate~~ property, or an 6006  
assignee of ~~such the~~ mortgagee, dies without foreclosing the 6007  
mortgage, the mortgaged premises and the debts secured ~~thereby by~~ 6008  
the mortgage shall be considered personal assets in the ~~hands~~ 6009  
possession or under the control of the executor or administrator 6010

of ~~such~~ the estate of the mortgagee or assignee, and shall be 6011  
administered and accounted for as such. 6012

If the mortgagee or assignee did not obtain possession of the 6013  
mortgaged premises in ~~his~~ the mortgagee's or assignee's lifetime, 6014  
~~his~~ the executor or administrator of the estate of the deceased 6015  
mortgagee or assignee may take possession of the premises by open 6016  
and peaceable entry or by action, as the deceased might have done 6017  
if living. 6018

**Sec. 2113.46.** In case of the redemption of a mortgage 6019  
belonging to the estate of a decedent, the money paid ~~thereon must~~ 6020  
on the redemption shall be received by the executor or 6021  
administrator, ~~and thereupon he~~ the executor or administrator 6022  
shall release and discharge the mortgage. Until ~~such that~~ 6023  
redemption, if the executor, administrator, or decedent has taken 6024  
possession of the mortgaged premises, the executor or 6025  
administrator, ~~if possession has been taken by him or by the~~ 6026  
~~decedent,~~ shall be seized of the mortgaged premises in trust for 6027  
the same persons who would be entitled to the money if the 6028  
premises had been redeemed. 6029

**Sec. 2113.48.** When a person who has entered into a written 6030  
contract for the sale and conveyance of an interest in real ~~estate~~ 6031  
property dies before its completion, ~~his~~ the executor or 6032  
administrator ~~when~~ of the decedent's estate, if not required to 6033  
otherwise dispose of ~~such~~ the contract, may, with the consent of 6034  
the purchaser, obtain authority to complete ~~such~~ the contract by 6035  
filing an application ~~therefor~~ for that authority in the probate 6036  
court of the county in which ~~he~~ the executor or administrator was 6037  
appointed. Notice of the time of hearing on ~~such~~ the application 6038  
shall be given to the surviving spouse and heirs, if the decedent 6039  
died intestate, and to the surviving spouse, ~~and~~ devisees or 6040  
legatees having an interest in ~~such~~ the contract, if the decedent 6041

died testate. If the court is satisfied that it would be for the 6042  
best interests of the estate, it may authorize the executor or 6043  
administrator to complete ~~said~~ the contract and to execute and 6044  
deliver to the purchaser ~~such~~ the instruments ~~as~~ that are required 6045  
to make the order of the court effective. 6046

**Sec. 2113.49.** When a person who has entered into a written 6047  
contract for the sale and conveyance of an interest in real ~~estate~~ 6048  
property dies before its completion, ~~his~~ the executor or 6049  
administrator of the decedent's estate, ~~when~~ if not required to 6050  
otherwise dispose of the contract, may file a ~~petition~~ complaint 6051  
for the alteration or cancellation of the contract, in the probate 6052  
court of the county in which ~~he~~ the executor or administrator was 6053  
appointed, or in which the real ~~estate~~ property or any part of it 6054  
is situated. If the decedent died intestate, the surviving spouse 6055  
and heirs, and if the decedent died testate, the surviving spouse, 6056  
and devisees or legatees having an interest in the contract, ~~when~~ 6057  
if not the plaintiffs, shall, together with the purchaser, be made 6058  
parties defendant. 6059

If, upon hearing, the court is satisfied that it is for the 6060  
best interests of the estate, it may, with the consent of the 6061  
purchaser, authorize the executor or administrator to agree to the 6062  
alteration or cancellation of the contract, and to execute and 6063  
deliver to the purchaser the instruments required to make the 6064  
order of the court effective. Before making ~~such an~~ its order, the 6065  
court shall cause to be secured, to and for the benefit of the 6066  
estate of the deceased, its just part of the consideration of the 6067  
contract. The instruments executed and delivered pursuant to ~~such~~ 6068  
~~an~~ the court's order shall recite the order, and be as binding on 6069  
the heirs and other parties in interest, as if made by the 6070  
deceased ~~in his lifetime~~ prior to death. 6071

**Sec. 2113.50.** When a person who has entered into a written 6072

contract for the purchase of an interest in real estate property 6073  
dies before a the conveyance thereof of the interest to him the 6074  
person, his the executor or administrator of the decedent's 6075  
estate, or the surviving spouse, or any heir, or any devisee or 6076  
legatee having an interest in such the contract, may file an 6077  
application for authority to complete such the contract in the 6078  
probate court of the county in which the executor or administrator 6079  
was appointed. Notice of the time of the hearing on such the 6080  
application shall be given to the surviving spouse and heirs, if 6081  
the decedent died intestate, and to the surviving spouse, and 6082  
devisees or legatees having an interest in such the contract, if 6083  
the decedent died testate, to the executor or administrator, if 6084  
not the applicant, and to all other persons having an interest in 6085  
such the real estate property that is the subject of the contract. 6086  
If the court is satisfied that it would be for the best interests 6087  
of the estate, it may, with the consent of the vendor, authorize 6088  
the executor or administrator to complete the contract, pay to the 6089  
vendor the amount due on the contract, and authorize a conveyance 6090  
of the interest in the real estate property to the persons 6091  
entitled ~~thereto~~ to it. If, however, the court finds that the 6092  
condition of the estate at the time of the hearing does not 6093  
warrant the payment out of the estate of the amount due under the 6094  
contract, it may authorize the persons entitled to the interest of 6095  
the decedent in the contract to pay to the vendor the amount due 6096  
on the contract. The real estate property so conveyed shall 6097  
thereafter be chargeable with the debts of the estate to the 6098  
extent of the equitable interest of the estate ~~therein~~ in the real 6099  
property, and may be sold in land sale proceedings, except that in 6100  
the event of ~~such that~~ sale, the persons to whom the real estate 6101  
property shall have been conveyed shall have a prior lien on the 6102  
proceeds as against the estate to the extent of any portion of the 6103  
purchase price paid by them. 6104

The executor or administrator, ~~or~~ surviving spouse, ~~or~~ any 6105

heir, or any devisee or legatee having an interest in ~~such a~~ the 6106  
contract, may file a ~~petition~~ complaint for the alteration or 6107  
cancellation of the contract in the probate court of the county in 6108  
which the executor or administrator was appointed. If the decedent 6109  
died intestate, the surviving spouse and heirs, and if the 6110  
decedent died testate, the surviving spouse, and devisees or 6111  
legatees having an interest in ~~such~~ the contract, and the executor 6112  
or administrator, ~~when~~ if not the plaintiff, together with the 6113  
vendor, and all other persons having an interest in the real 6114  
~~estate which~~ property that is subject to the contract, shall be 6115  
made parties defendant. If the court is satisfied that it would be 6116  
for the best interests of the estate, the court, with the consent 6117  
of the vendor, may authorize the executor or administrator to 6118  
agree to the alteration or cancellation of the contract and to 6119  
execute and deliver ~~such~~ the deeds or other instruments to the 6120  
vendor ~~as~~ that are required to make the order of the court 6121  
effective. ~~Such~~ The deeds or other instruments ~~as~~ that are 6122  
executed and delivered pursuant to ~~such~~ the court's order shall 6123  
recite the order and be as binding on the parties to the suit as 6124  
if made by the deceased ~~in his lifetime~~ prior to death. 6125

**Sec. 2113.51.** The property of an estate ~~which~~ that is 6126  
specifically bequeathed may be delivered over to the legatee 6127  
entitled ~~thereto~~ to the property. ~~Such~~ The legatee ~~must~~ shall 6128  
secure its redelivery on demand to the executor or administrator. 6129  
Otherwise, ~~such~~ the property ~~must~~ shall remain in the ~~hands~~ 6130  
possession or under the control of the executor or administrator 6131  
to be distributed or sold, as required by law and the condition of 6132  
the estate. 6133

**Sec. 2113.52.** (A) A devisee taking real ~~estate~~ property under 6134  
a devise in a will, unless the will otherwise provides, or an heir 6135  
taking real ~~estate~~ property under the statutes of descent and 6136



distribution shall take the real estate property subject to all 6137  
taxes, penalties, interest, and assessments ~~which~~ that are a lien 6138  
against that real estate property. 6139

(B) If real estate property devised in a will is subject to a 6140  
mortgage lien that exists on the date of the testator's death, the 6141  
person taking the real estate property under the devise has no 6142  
right of exoneration for the mortgage lien, regardless of a 6143  
general direction in the will to pay the testator's debts, unless 6144  
the will specifically provides a right of exoneration that extends 6145  
to that lien. 6146

**Sec. 2113.54.** When five months have expired after the 6147  
appointment of an executor or administrator and the surviving 6148  
spouse has made an election under section 2106.01 of the Revised 6149  
Code, a legatee or distributee may apply to the probate court for 6150  
an order requiring the executor or administrator to distribute the 6151  
assets of the estate, either in whole or in part, in cash or in 6152  
kind. Upon notice to the executor or administrator, the court 6153  
shall inquire into the condition of the estate, and if all claims 6154  
have been paid, or adequate provision has been or can be made for 6155  
their payment, the court shall make ~~such~~ that order with reference 6156  
to distribution of the estate as the condition of the estate and 6157  
the protection of all parties interested in the estate may demand. 6158  
The order of the court shall provide that assets be set aside for 6159  
the payment of claims rejected within two months or in suit, and 6160  
each claimant for whom assets are to be set aside shall be 6161  
entitled to be fully heard as to the nature and amount of the 6162  
assets to be set aside for payment of ~~his~~ the claim, and as to all 6163  
other conditions in connection with the claim. Each legatee or 6164  
distributee receiving distribution from the estate shall be liable 6165  
to return the assets distributed to ~~him~~ the legatee or 6166  
distributee, or the proceeds from the assets, if they are 6167  
necessary to pay ~~such~~ those claims. The court, upon its own motion 6168

or upon application of the executor or administrator, as a 6169  
condition precedent to any distribution, may require any legatee 6170  
or distributee to give bond to the state with surety approved and 6171  
in an amount fixed by the court, conditioned as provided in 6172  
section 2113.53 of the Revised Code or as may be directed by the 6173  
court. ~~Such~~ The bond may be in addition to the assets to be set 6174  
aside or partially or wholly in lieu of those assets, as the court 6175  
shall determine. 6176

**Sec. 2113.58.** When by a ~~last will and testament~~ the use or 6177  
income of personal property is given to a person for a term of 6178  
years or for life and some other person has ~~an~~ a remainder 6179  
interest in ~~such the~~ property as ~~remainderman~~, the probate court, 6180  
unless ~~such last the~~ will ~~and testament~~ otherwise provides, may 6181  
~~deliver such~~ authorize delivery of the personal property to the 6182  
person having the limited estate, with or without bond, as the 6183  
court may determine; or the court may order that ~~such the~~ property 6184  
be held by the executor or some other trustee, with or without 6185  
bond, for the benefit of the person having the limited estate. If 6186  
bond is required of the person having the limited estate, or of 6187  
the trustee, it may be increased or decreased, and if bond is not 6188  
required in the first instance it may be required by the court at 6189  
any time prior to the termination of the limited estate. 6190

**Sec. 2113.61.** (A)(1) When real property passes by the laws of 6191  
intestate succession or under a will, the administrator or 6192  
executor shall file in probate court, at any time after the filing 6193  
of an inventory that includes the real property but prior to the 6194  
filing of the administrator's or executor's final account, an 6195  
application requesting the court to issue a certificate of 6196  
transfer as to the real property. Real property sold by an 6197  
executor or administrator or land registered under Chapters 5309. 6198  
and 5310. of the Revised Code is excepted from the application 6199

requirement. Cases in which an order has been made under section 2113.03 of the Revised Code relieving an estate from administration and in which the order directing transfer of real property to the person entitled to it may be substituted for the certificate of transfer also are excepted from the application requirement.

(2) In accordance with division (C)(3)(b) of section 2113.031 of the Revised Code, an application for a certificate of transfer of an interest in real property included in the assets of the decedent's estate shall accompany an application for a summary release from administration under that section. This section applies to the application for and the issuance of the requested certificate of transfer except to the extent that the probate court determines that the nature of any of the provisions of this section is inconsistent with the nature of a grant of a summary release from administration.

(B) Subject to division (A)(2) of this section, the application for a certificate of transfer shall contain all of the following:

(1) The name, place of ~~residence~~ domicile at death, and date of death of the decedent;

(2) A statement whether the decedent died testate or intestate;

~~(3) The fact and date of the filing and probate of the will, if applicable, and the fact and date of the appointment of the administrator or executor~~ reason the property is being transferred to the devisee or devisees;

~~(4) A description of each parcel of real property situated in this state that is owned by the decedent at the time of death~~ Whether any spousal elections have been exercised;

~~(5) Insofar as they can be ascertained, the names, ages,~~

~~places of residence, and relationship to the decedent of the~~ 6231  
~~persons to whom each parcel of real property described in division~~ 6232  
~~(B)(4) of this section passed by descent or devise~~ Whether any 6233  
disclaimers or assignments have been filed; 6234

(6) A statement that all the known debts of the decedent's 6235  
estate have been paid or secured to be paid, or that sufficient 6236  
other assets are in hand to complete the payment of those debts or 6237  
a statement that the estate is insolvent and the transfer is of 6238  
the mansion house and is being made to satisfy all or a portion of 6239  
the spousal allowance for support; 6240

(7) Other pertinent information that the court requires. 6241

(C) Subject to division (A)(2) of this section, within five 6242  
days following the filing of an application for a certificate of 6243  
transfer that complies with division (B) of this section, the 6244  
court shall issue a certificate of transfer for record in each 6245  
county in this state in which real property so passing is 6246  
situated, that shall recite all of the following: 6247

(1) The name and date of death of the decedent; 6248

(2) Whether the decedent died testate or intestate ~~and, if~~ 6249  
~~testate, the volume and page of the record of the will;~~ 6250

(3) The ~~volume and page~~ case number of the probate court 6251  
record of the administration of the estate; 6252

(4) The names and places of residence of the devisees, the 6253  
interests passing to them, the names and places of residence of 6254  
the persons inheriting intestate, and the interests inherited by 6255  
them, in each parcel of real property ~~described in division (B)(4)~~ 6256  
~~of this section~~ being transferred; 6257

(5) A description of each parcel of real property ~~described~~ 6258  
~~in division (B)(4) of this section~~ being transferred; 6259

(6) Other information that in the opinion of the court should 6260

be included. 6261

(D) If an executor or administrator has failed to file an 6262  
application for a certificate of transfer before being discharged, 6263  
the application may be filed by an heir or devisee, or a successor 6264  
in interest, in the probate court in which the testator's will was 6265  
probated or, in the case of intestate estates, in the probate 6266  
court in which administration was had. If no administration was 6267  
had on an estate and if no administration is contemplated, except 6268  
in the case of the grant of or contemplated application for the 6269  
grant of an order of a summary release from administration under 6270  
section 2113.031 of the Revised Code, an application for a 6271  
certificate of transfer may be filed by an heir or devisee, or a 6272  
successor in interest, in the probate court of the county in which 6273  
the decedent was a resident at the time of death or in which the 6274  
real property of the decedent is located. 6275

(E) A foreign executor or administrator, ~~when~~ if no ancillary 6276  
administration proceedings have been had or are being had in this 6277  
state, may file in accordance with this section an application for 6278  
a certificate of transfer in the probate court of any county of 6279  
this state in which real property of the decedent is located. 6280

(F) When a person who has entered into a written contract for 6281  
the sale and conveyance of an interest in real property dies 6282  
before its completion, the interest of the decedent in the 6283  
contract and the record title to the real property described in 6284  
the contract may be transferred to the ~~persons, legatees,~~ 6285  
devisees, or heirs at law entitled to the interest of the decedent 6286  
in the real property, in the same manner as provided in this 6287  
section and ~~sections~~ section 2113.62 ~~and 2113.63~~ of the Revised 6288  
Code for the transfer of real property. The application for the 6289  
certificate of transfer and the certificate itself also shall 6290  
recite that the real property described in the application or 6291  
certificate is subject to a written contract for its sale and 6292

conveyance. 6293

**Sec. 2113.62.** Upon receipt of the certificate provided for in 6294  
section 2113.61 of the Revised Code, the county recorder shall 6295  
record it in the books provided for the recording of deeds and 6296  
index ~~such~~ those records in the name of the decedent as grantor 6297  
and the person to whom the real ~~estate~~ property passes as grantee 6298  
in the index provided for the record of deeds. 6299

**Sec. 2113.67.** When a person entitled to the money invested or 6300  
turned into the county treasury under section 2113.64 of the 6301  
Revised Code satisfies the probate court of ~~his~~ the person's right 6302  
to receive it, the court shall order it to be paid over and 6303  
transferred to ~~him~~ the person. In case it has been turned into the 6304  
treasury, the county auditor shall give to ~~him~~ the person a 6305  
warrant ~~therefor~~ for the money upon the certificate of the probate 6306  
judge. 6307

**Sec. 2113.68.** The probate judge with whom the certificates or 6308  
evidences of title required by section 2113.65 of the Revised Code 6309  
are deposited and each succeeding judge to whom they come, and ~~his~~ 6310  
the judges' sureties, shall be responsible for their safekeeping 6311  
and application, as provided in sections 2113.64 to 2113.67, 6312  
~~inclusive,~~ of the Revised Code. 6313

**Sec. 2113.69.** When newly discovered assets come into the 6314  
~~hands~~ possession or under the control of an executor or 6315  
administrator after the filing of the original inventory required 6316  
by section 2115.02 of the Revised Code, ~~he~~ the executor or 6317  
administrator shall administer, account for, and distribute ~~such~~ 6318  
those assets in ~~like~~ the same manner as if received prior to the 6319  
filing of ~~such~~ the inventory. Within thirty days, ~~he~~ the executor 6320  
or administrator shall file in the probate court an itemized 6321

report of ~~such~~ those assets, with an estimate of ~~the~~ their value 6322  
thereof, but shall not be required to make an inventory or 6323  
appraisalment of the ~~same~~ assets unless ordered to do so by the 6324  
court, either upon its own motion or upon the application of any 6325  
interested party. 6326

**Sec. 2113.70.** An executor or administrator appointed in any 6327  
other state or country, or ~~his~~ the executor's or administrator's 6328  
legal representatives, may be prosecuted in any appropriate court 6329  
in this state in ~~his~~ the capacity of executor or administrator. 6330

**Sec. 2113.72.** Any court of common pleas may compel a foreign 6331  
administrator or executor residing in this state, or having assets 6332  
or property ~~herein~~ in this state, to account at the suit of an 6333  
heir, distributee, or legatee, who is resident in this state, and 6334  
make distribution of the amount found in ~~his hands~~ the possession 6335  
or under the control of the foreign administrator or executor to 6336  
the respective heirs, distributees, or legatees according to the 6337  
law of the state granting ~~such~~ the letters of administration. ~~When~~ 6338  
If suits are pending or there are unsettled demands against ~~such~~ 6339  
the estate, the court also may require a refunding bond to be 6340  
given to ~~such~~ the foreign executor or administrator by the heirs, 6341  
distributees, or legatees entitled ~~thereto~~ to that distribution in 6342  
case the amount paid is needed to pay debts of the estate. 6343

**Sec. 2113.73.** When a foreign administrator or executor has 6344  
wasted, misapplied, or converted assets of an estate, or has 6345  
insufficient property to discharge ~~his~~ the foreign administrator's 6346  
or executor's liability on account of the trust, or ~~his~~ the 6347  
foreign administrator's or executor's sureties are irresponsible, 6348  
the distributees, heirs, or legatees, in any court of common pleas 6349  
or probate court may compel ~~him~~ the foreign administrator or 6350  
executor to secure the amounts respectively due to them and any of 6351

~~his~~ the foreign administrator's or executor's sureties may require 6352  
indemnity on account of their liability as bail. 6353

**Sec. 2113.74.** The several provisional remedies and 6354  
proceedings authorized by sections 2113.70 to 2113.73, ~~inclusive,~~ 6355  
of the Revised Code, against a foreign executor or administrator 6356  
also apply to the person and property of a foreign administrator 6357  
or executor. The probate court or the court of common pleas may 6358  
make any order or decree touching ~~his~~ a foreign executor's or 6359  
administrator's property and effects, or the assets of ~~such the~~ 6360  
estate, necessary for the security of those interested ~~therein in~~ 6361  
the property, effects, or assets. 6362

**Sec. 2113.75.** An executor or administrator appointed in any 6363  
other state or country may commence and prosecute an action or 6364  
proceeding in any court in this state, in ~~his~~ the capacity as 6365  
executor or administrator, in ~~like the same~~ manner and under ~~like~~ 6366  
the same restrictions as a ~~non-resident~~ nonresident is permitted 6367  
to sue. 6368

**Sec. 2113.81.** ~~Where~~ If it appears that a legatee or a 6369  
distributee, or a beneficiary of a trust not residing within the 6370  
United States or its territories will not have the benefit ~~or,~~ 6371  
use, or control of the money or other property due ~~him~~ the legatee 6372  
or distributee from ~~an~~ the estate or due the beneficiary from the 6373  
trust, because of circumstances prevailing at the place of 6374  
residence of ~~such the~~ legatee, or distributee, or a the 6375  
beneficiary of a the trust, the probate court may direct that ~~such~~ 6376  
the money be paid into the county treasury to be held in trust or 6377  
the probate court may direct that ~~such the~~ money or other property 6378  
be delivered to a trustee ~~which.~~ The trustee shall have the same 6379  
powers and duties provided in section 2119.03 of the Revised Code 6380  
for ~~such that~~ legatee, distributee, beneficiary of a the trust, or 6381



~~such~~ the persons who may thereafter be entitled ~~thereto~~ to the 6382  
money or other property. ~~Such~~ The money or other property held in 6383  
trust by ~~such~~ the county treasurer or trustee shall be paid out by 6384  
order of the probate judge in accordance with section 2113.82 of 6385  
the Revised Code. 6386

The county treasury shall not be liable for interest on ~~such~~ 6387  
the money held in trust. 6388

**Sec. 2113.82.** When a person entitled to money or other 6389  
property invested or turned into the county treasurer or to a 6390  
trustee under section 2113.81 of the Revised Code satisfies the 6391  
probate court of ~~his~~ the person's right to receive it, the court 6392  
shall order the county treasurer or the trustee to pay it over to 6393  
~~such~~ the person. 6394

**Sec. 2113.85.** As used in sections 2113.85 to 2113.90 of the 6395  
Revised Code: 6396

(A) "Estate" means the gross estate of a decedent who is 6397  
domiciled in this state, as determined for federal estate tax 6398  
purposes under Subtitle B of the Internal Revenue Code of 1954, 26 6399  
U.S.C. 2001, as amended, for Ohio estate tax purposes under 6400  
Chapter 5731. of the Revised Code, and for estate tax purposes of 6401  
any other jurisdiction that imposes a tax on the transfer of 6402  
property by a decedent who is domiciled in this state. 6403

(B) "Person interested in the estate" means any person who is 6404  
entitled to receive, or who has received, any property or property 6405  
interest included in the decedent's estate. A "person interested 6406  
in the estate" includes, but is not limited to, a personal 6407  
representative, guardian, ~~and~~ or trustee. A "person interested in 6408  
the estate" does not include a creditor of the decedent or of ~~his~~ 6409  
the decedent's estate. 6410

(C) "Tax" means the federal estate tax determined under 6411

Subtitle B of the "Internal Revenue Code of 1954, 26 U.S.C. 2001, 6412  
as amended, an Ohio estate tax determined under Chapter 5731. of 6413  
the Revised Code, and the estate tax determined by any other 6414  
jurisdiction that imposes a tax on the transfer of property by a 6415  
decedent who is domiciled in this state. 6416

(D) "Fiduciary" means an executor, administrator, or other 6417  
person who, by virtue of ~~his representation of~~ representing the 6418  
decedent's estate, is required to pay the tax. 6419

**Sec. 2113.86.** (A) Unless a will or another governing 6420  
instrument otherwise provides, and except as otherwise provided in 6421  
this section, a tax shall be apportioned equitably in accordance 6422  
with the provisions of this section among all persons interested 6423  
in an estate in proportion to the value of the interest of each 6424  
person as determined for estate tax purposes. 6425

(B) Except as otherwise provided in this division, any tax 6426  
that is apportioned against a gift made in a clause of a will 6427  
other than a residuary clause or in a provision of an inter vivos 6428  
trust other than a residuary provision, shall be reapportioned to 6429  
the residue of the estate or trust. It shall be charged in the 6430  
same manner as a general administration expense. However, when a 6431  
portion of the residue of the estate or trust is allowable as a 6432  
deduction for estate tax purposes, the tax shall be reapportioned 6433  
to the extent possible to the portion of the residue that is not 6434  
so allowable. 6435

(C)(1) A tax shall not be apportioned against an interest 6436  
that is allowable as an estate tax marital or charitable 6437  
deduction, except to the extent that the interest is a part of the 6438  
residue of an estate or trust against which tax is reapportioned 6439  
pursuant to division (B) of this section. 6440

(2) Estate tax of this state or another jurisdiction shall 6441  
not be reapportioned against an interest that is allowable as a 6442

deduction for federal estate tax purposes, to the extent that 6443  
there is other property in the estate or trust that is not 6444  
allowable as a deduction for federal estate tax purposes and 6445  
against which estate tax of this state or another jurisdiction can 6446  
be apportioned. 6447

(D) A tax shall not be apportioned against property that 6448  
passes to a surviving spouse as an elective share under section 6449  
2106.01 of the Revised Code or as an intestate share under section 6450  
2105.06 of the Revised Code, to the extent that there is other 6451  
property in the estate that is not allowable as a deduction for 6452  
estate tax purposes against which the tax can be apportioned. 6453

(E)(1) Any federal estate tax credit for state or foreign 6454  
death taxes on property that is includible in an estate for 6455  
federal estate tax purposes, shall inure to the benefit of the 6456  
persons chargeable with the payment of the state or foreign death 6457  
taxes in proportion to the amount of the taxes paid by each 6458  
person, but any federal estate tax credit for state or foreign 6459  
death taxes inuring to the benefit of a person cannot exceed the 6460  
federal estate tax apportioned to that person. 6461

(2) Any federal estate tax credit for gift taxes paid by a 6462  
donee of a gift shall inure to the benefit of that donee for 6463  
purposes of this section. 6464

(3) Credits against tax not covered by division (E)(1) or (2) 6465  
of this section shall be apportioned equitably among persons in 6466  
the manner in which the tax is apportioned among them. 6467

(F) Any additional estate tax that is due because a qualified 6468  
heir has disposed of qualified farm property in a manner not 6469  
authorized by law or ceased to use any part of the qualified farm 6470  
property for a qualified use, shall be apportioned against the 6471  
interest of the qualified heir. 6472

(G) If both a present interest and a future interest in 6473

property are involved, a tax shall be apportioned entirely to the 6474  
principal. This shall be the case even if the future interest 6475  
qualifies for an estate tax charitable deduction, even if the 6476  
holder of the present interest also has rights in the principal, 6477  
and even if the principal is otherwise exempt from apportionment. 6478

(H) Penalties shall be apportioned in the same manner as a 6479  
tax, and interest on tax shall be apportioned to the income of the 6480  
estate or trust, unless a court directs a different apportionment 6481  
of penalties or interest based on a finding that special 6482  
circumstances make an apportionment as provided in this division 6483  
inequitable. 6484

(I) If any part of an estate consists of property, the value 6485  
of which is included in the gross estate of the decedent by reason 6486  
of section 2044 of the "Internal Revenue Code of 1986," 100 Stat. 6487  
2085, 26 N 2044, as amended, or of section 5731.131 of the Revised 6488  
Code, the estate is entitled to recover from the persons holding 6489  
or receiving the property any amount by which the estate tax 6490  
payable exceeds the estate tax that would have been payable if the 6491  
value of the property had not been included in the gross estate of 6492  
the decedent. This division does not apply if ~~a decedent provides~~ 6493  
~~otherwise in his~~ the decedent's will or another governing 6494  
instrument provides otherwise and the will or instrument refers to 6495  
either section mentioned in this division or to qualified 6496  
terminable interest marital deduction property. 6497

**Sec. 2113.87.** (A) The fiduciary, or any person interested in 6498  
the estate who objects to the manner of apportionment of a tax, 6499  
may apply to the court that has jurisdiction of the estate and 6500  
request the court to determine the apportionment of the tax. If 6501  
there are no probate proceedings, the probate court of the county 6502  
in which the decedent was domiciled at death, upon application by 6503  
the fiduciary or any other person interested in the estate who 6504

objects to the manner of apportionment of a tax, shall determine 6505  
the apportionment of the tax. 6506

(B) The fiduciary may notify any person interested in the 6507  
estate of the manner of the apportionment of tax determined by the 6508  
fiduciary. Upon receipt of ~~such a~~ that notice, a person interested 6509  
in the estate, within thirty days after the date of receipt of the 6510  
notice, may indicate ~~his~~ the person's objection to the manner of 6511  
apportionment by application to a probate court as described in 6512  
division (A) of this section. If the person interested in the 6513  
estate fails to make the application within the thirty-day period, 6514  
~~he~~ the person is bound by the manner of apportionment determined 6515  
by the fiduciary. The notice described in this division shall 6516  
state the name and address of the probate court with jurisdiction 6517  
over the apportionment and include the following statement: 6518

"If you fail to file an objection to this proposed 6519  
apportionment with the probate court within thirty days of the 6520  
receipt of this notice, you are bound by the proposed 6521  
apportionment." 6522

(C) If a probate court finds that an assessment of penalties 6523  
and interest assessed with respect to a tax is due to delay caused 6524  
by the negligence of the fiduciary, the court may charge the 6525  
fiduciary with the amount of the assessed penalties and interest. 6526  
In any suit or judicial proceeding to recover from any person 6527  
interested in the estate the amount of the tax apportioned to that 6528  
person, the determination of the probate court is conclusive. 6529

**Sec. 2113.88.** (A) The fiduciary may withhold from any 6530  
property distributable to any person interested in the estate the 6531  
amount of tax attributable to the person's interest. If the 6532  
property in possession of the fiduciary and distributable to any 6533  
person interested in the estate is insufficient to satisfy the 6534  
proportionate amount of the tax determined to be due from that 6535

person, the fiduciary may recover the deficiency from that person. 6536  
If the property is not in the possession of the fiduciary, the 6537  
fiduciary may recover from any person interested in the estate the 6538  
amount of the tax apportioned to that person in accordance with 6539  
this section by filing a complaint to recover the tax in the 6540  
probate court that has jurisdiction of the administration of the 6541  
estate. 6542

(B) If the property held by the fiduciary is distributed 6543  
prior to final apportionment of the tax, the distributee shall 6544  
provide a bond or other security for the apportionment liability 6545  
in the form and amount prescribed by the fiduciary, with the 6546  
approval of the probate court that has jurisdiction of the 6547  
administration of the estate. 6548

**Sec. 2115.02.** Within three months after the date of the 6549  
executor's or administrator's appointment, unless the probate 6550  
court grants an extension of time for good cause shown, the 6551  
executor or administrator shall file with the court an inventory 6552  
of the decedent's interest in real ~~estate~~ property located in this 6553  
state and of the tangible and intangible personal property of the 6554  
decedent that is to be administered and that has come to the 6555  
executor's or administrator's possession or knowledge. The 6556  
inventory shall set forth values as of the date of death of the 6557  
decedent. If a prior executor or administrator has done so, a 6558  
successor executor or administrator need not file an inventory, 6559  
unless, in the opinion of the court, it is necessary. 6560

Any asset, the value of which is readily ascertainable, is 6561  
not required to be appraised but shall be included in the 6562  
inventory. 6563

**Sec. 2115.03.** If an executor or administrator neglects or 6564  
refuses to return an inventory as provided by section 2115.02 of 6565

the Revised Code, the probate court shall issue an order requiring 6566  
~~him~~ the executor or administrator, at an early day specified in 6567  
the order, to return an inventory. After personal service of the 6568  
order by a person authorized to make the service, if the executor 6569  
or administrator, by the day appointed, does not return the 6570  
inventory or fails to obtain further time from the court to return 6571  
it, or if the order cannot be served personally by reason of ~~his~~ 6572  
the executor or administrator absconding or concealing ~~himself~~ 6573  
self, the court may remove the executor or administrator and new 6574  
letters shall be granted. The letters shall supersede all former 6575  
letters testamentary or of administration, deprive the former 6576  
executor or administrator of all power, authority, or control over 6577  
the estate of the deceased, and entitle the person appointed to 6578  
take, demand, and receive the effects of the deceased wherever 6579  
they are found. 6580

In every case of the revocation of letters under this 6581  
section, the bond given by the former executor or administrator 6582  
shall be prosecuted and a recovery had on the bond to the full 6583  
extent of any injury sustained by the estate of the deceased by 6584  
the former executor's or administrator's acts or omissions, and to 6585  
the full value of all the property of the deceased received and 6586  
not administered by ~~him~~ the former executor or administrator. 6587

**Sec. 2115.06.** The real estate property and personal property 6588  
comprised in the inventory required by section 2115.02 of the 6589  
Revised Code, unless an appraisement ~~thereof~~ of that real property 6590  
or personal property has been dispensed with by an order of the 6591  
probate court, shall be appraised by one suitable disinterested 6592  
person appointed by the executor or administrator, subject to the 6593  
approval of the court and sworn to a faithful discharge of ~~his~~ the 6594  
trust. The executor or administrator, subject to the approval of 6595  
the court, may appoint separate appraisers of property located in 6596  
any other county and appoint separate appraisers for each asset. 6597

In lieu of the appointment of an appraiser for real property, 6598  
the executor or administrator may accept the valuation of the real 6599  
property, by the county auditor. 6600

If appraisers fail to attend to the performance of their 6601  
duty, the executor or administrator, subject to the approval of 6602  
the probate judge, may appoint others to supply the place of ~~such~~ 6603  
~~delinquents~~ the delinquent appraisers. 6604

Each appraiser shall be paid ~~such~~ an amount for ~~his~~ the 6605  
appraiser's services ~~as~~ that is determined by the executor or 6606  
administrator, subject to the approval of the probate judge, 6607  
taking into consideration ~~his~~ the appraiser's training, 6608  
qualifications, experience, time reasonably required, and the 6609  
value of the property appraised. The amount of ~~such~~ the fees may 6610  
be charged against the estate as part of the cost of the 6611  
proceeding. 6612

**Sec. 2115.09.** The inventory required by section 2115.02 of 6613  
the Revised Code shall contain a particular statement of all 6614  
securities for the payment of money that belong to the deceased 6615  
and are known to the executor or administrator. ~~Such~~ The inventory 6616  
shall specify the name of the debtor in each security, the date, 6617  
the sum originally payable, the ~~indorsements thereon~~ endorsements 6618  
on the securities with their dates, the serial numbers or other 6619  
identifying data as to each security, and the sum that, in the 6620  
judgment of the appraisers, can be collected on each claim. 6621

~~Such~~ The inventory shall contain a statement of all debts and 6622  
accounts belonging to the deceased that are known to ~~such~~ the 6623  
executor or administrator and specify the name of the debtor, the 6624  
date, the balance or thing due, and the value or sum that can be 6625  
collected ~~thereon~~ on the debt, in the judgment of the appraisers. 6626

~~Such~~ The inventory shall contain an account of all moneys 6627  
that belong to the deceased and have come ~~to~~ into the ~~hands~~ 6628



possession or under the control of the executor or administrator. 6629  
If none has come ~~to~~ into the ~~executor's or administrator's hands~~ 6630  
possession or under the control of the executor or administrator, 6631  
the fact shall be stated in the inventory. 6632

The inventory shall contain a statement whether or not, 6633  
insofar as it can be ascertained, the filing of an Ohio estate tax 6634  
return will be required. 6635

**Sec. 2115.10.** The emblements raised by labor, whether severed 6636  
or not from the land of the deceased at the time of ~~his~~ the 6637  
decedent's death, are assets in the ~~hands~~ possession or under the 6638  
control of the executor or administrator and shall be included in 6639  
the inventory required by section 2115.02 of the Revised Code. 6640

The executor or administrator, or the person to whom ~~he~~ the 6641  
executor or administrator sells ~~such~~ the emblements, at all 6642  
reasonable times may enter upon the lands to cultivate, sever, and 6643  
gather them. 6644

**Sec. 2115.11.** The discharge or bequest, in a will, of a debt 6645  
or demand of a testator against an executor named ~~therein~~ in the 6646  
will, or against any other person, is not valid as against the 6647  
decedent's creditors, but is only a specific bequest of ~~such~~ that 6648  
debt or demand. The amount ~~thereof~~ must of the debt or demand 6649  
shall be included in the inventory of the credits and effects of 6650  
the deceased and, if necessary, ~~such~~ that amount ~~must~~ shall be 6651  
applied in the payment of ~~his~~ the decedent's debts. If not 6652  
necessary for that purpose, ~~such~~ the amount shall be paid in the 6653  
same manner and proportion as other specific legacies. 6654

**Sec. 2115.12.** The naming of a person as executor in a will 6655  
shall not operate as a discharge or bequest of a just claim ~~which~~ 6656  
that the testator had against ~~such~~ that executor. ~~Such~~ The claim 6657  
shall be included among the assets of the deceased in the 6658

inventory required by section 2115.02 of the Revised Code. The 6659  
executor shall be liable for it as for so much money in ~~his hands~~ 6660  
the possession or under the control of the executor at the time 6661  
~~such~~ that debt or demand becomes due, and ~~must~~ shall apply and 6662  
distribute it as part of the personal ~~estate~~ property of the 6663  
deceased. 6664

**Sec. 2115.16.** Upon the filing of the inventory required by 6665  
section 2115.02 of the Revised Code, the probate court forthwith 6666  
shall set a day, not later than one month after the day the 6667  
inventory was filed, for a hearing on the inventory. 6668

The executor or administrator may serve notice of the 6669  
hearing, or may cause the notice to be served, upon any person who 6670  
is interested in the estate. The probate court, after notice to 6671  
the executor or administrator, either upon the motion of any 6672  
interested party for good cause shown or at its own instance, may 6673  
order that notice of the hearing is to be served upon persons the 6674  
court designates. 6675

For good cause, the hearing may be continued for the time 6676  
that the court considers reasonable. Exceptions to the inventory 6677  
or to the allowance for support provided by section 2106.13 of the 6678  
Revised Code may be filed at any time prior to five days before 6679  
the date set for the hearing or the date to which the hearing has 6680  
been continued by any person interested in the estate or in any of 6681  
the property included in the inventory, but the time limit for the 6682  
filing of exceptions shall not apply in case of fraud or 6683  
concealment of assets. When exceptions are filed, notice of them 6684  
and the time of the hearing on them forthwith shall be given to 6685  
the executor or administrator and ~~his~~ the attorney of the executor 6686  
or administrator by certified mail or by personal service, unless 6687  
the notice is waived. At the hearing, the executor or 6688  
administrator and any witness may be examined under oath. The 6689

court shall enter its finding on the journal and tax the costs as 6690  
may be equitable. 6691

**Sec. 2115.17.** When the inventory required by section 2115.02 6692  
of the Revised Code has been approved by the probate court, the 6693  
appraisement of the real ~~estate~~ property as set forth ~~therein in~~ 6694  
the inventory shall be conclusive for all purposes except estate 6695  
tax, unless a reappraisal is ordered by the court. 6696

**Sec. 2117.01.** No part of the assets of a deceased shall be 6697  
retained by an executor or administrator in satisfaction of ~~his~~ 6698  
the executor's or the administrator's own claim, until it has been 6699  
proved to and allowed by the probate court. ~~Such~~ That debt is not 6700  
entitled to preference over others of the same class. 6701

**Sec. 2117.02.** An executor or administrator within three 6702  
months after the date of ~~his~~ appointment shall present any claim 6703  
~~he~~ the executor or administrator has against the estate to the 6704  
probate court for allowance. The claim shall not be paid unless 6705  
allowed by the court. When an executor or administrator presents a 6706  
claim amounting to five hundred dollars or more, the court shall 6707  
fix a day not less than four nor more than six weeks from its 6708  
presentation, when the testimony touching it shall be heard. The 6709  
court forthwith shall issue an order directed to the executor or 6710  
administrator requiring ~~him~~ the executor or administrator to give 6711  
notice in writing to all the heirs, legatees, or devisees of the 6712  
decedent interested in the estate, and to the creditors named in 6713  
the order. The notice shall contain a statement of the amount 6714  
claimed, designate the time fixed for hearing the testimony, and 6715  
be served upon the persons named in the order at least twenty days 6716  
before the time for hearing. If any persons mentioned in the order 6717  
are not residents of the county, service of notice may be made 6718  
upon them by publication for three consecutive weeks in a 6719

newspaper published or circulating in the county, or as the court 6720  
may direct. All persons named in the order shall be parties to the 6721  
proceeding, and any other person having an interest in the estate 6722  
may be made a party. 6723

**Sec. 2117.03.** At any time after the presentation by an 6724  
executor or administrator of a claim ~~which he~~ that the executor or 6725  
administrator owns against the estate ~~he~~ the executor or 6726  
administrator represents to the probate court for allowance, the 6727  
court on its own motion, or on motion by any interested party, may 6728  
appoint an attorney to represent the estate, who shall receive 6729  
~~such the~~ compensation from the estate ~~as~~ that may be fixed by the 6730  
court. The court shall ~~thereupon~~ require the executor or 6731  
administrator to make available to ~~such the~~ attorney, for use in 6732  
connection with the proceeding, all documents belonging to the 6733  
estate relating to the subject matter of ~~such the~~ claim. 6734

**Sec. 2117.04.** Upon the hearing as to the allowance of an 6735  
executor's or administrator's claim against the estate ~~he the~~ 6736  
executor or administrator represents, an appeal may be taken from 6737  
a final order or judgment of the probate court upon a matter of 6738  
law by any person affected by the order or judgment. 6739

**Sec. 2117.08.** When a claim is presented against the estate of 6740  
a deceased person, the executor or administrator may require 6741  
satisfactory written proof in support of it and also the affidavit 6742  
of the claimant that ~~such the~~ claim is justly due, that no 6743  
payments have been made ~~thereon~~ on the claim, and that there are 6744  
no counterclaims against it to ~~his~~ the claimant's knowledge. ~~Such~~ 6745  
The affidavit shall set forth any security held for the payment of 6746  
~~said the~~ claim and, if the claim is not due, the date of maturity. 6747  
If ~~said the~~ claim arises out of tort, or if preference in payment 6748  
is claimed, the facts in connection with the alleged tort or 6749

showing the right to ~~such~~ that preference shall be briefly set forth. 6750  
6751

**Sec. 2117.09.** If an executor or administrator doubts the justice of any claim presented against the estate ~~he~~ the executor or administrator represents, ~~he~~ the executor or administrator may enter into an agreement in writing with the claimant to refer the matter in controversy to three disinterested persons, who ~~must~~ shall be approved by the probate judge. 6752  
6753  
6754  
6755  
6756  
6757

Upon filing the agreement of reference in the probate court of the county in which the letters testamentary or of administration were issued, the judge shall docket the cause and make an order referring the matter in controversy to the referees selected. 6758  
6759  
6760  
6761  
6762

The referees ~~thereupon must~~ shall proceed to hear and determine the matter and make their report to the court. The referees shall have the same powers and be entitled to the same compensation and the same proceedings shall be followed as if the reference were made under the provisions for arbitrations under a rule of the court of common pleas. The court may set aside the report of the referees, appoint others in their places, or confirm ~~such~~ the report and adjudge costs as in actions against executors and administrators. The judgment of the court ~~thereupon~~ shall be valid and effectual. 6763  
6764  
6765  
6766  
6767  
6768  
6769  
6770  
6771  
6772

**Sec. 2117.10.** The failure of the holder of a valid lien upon any of the assets of an estate to present ~~his~~ the lienholder's claim upon the indebtedness secured by ~~such~~ the lien, as provided in Chapter 2117. of the Revised Code, shall not affect ~~such~~ the lien if the same is evidenced by a document admitted to public record, or is evidenced by actual possession of the real or personal property ~~which~~ that is subject to ~~such~~ the lien. 6773  
6774  
6775  
6776  
6777  
6778  
6779

**Sec. 2117.13.** If a devisee, legatee, heir, creditor, or other interested party files in the probate court a written requisition on the executor or administrator to reject a claim presented for allowance against the estate ~~he~~ the executor or administrator represents, whether the claim has been allowed or not, but which claim has not been paid in full, and enters into a sufficient bond running to ~~such~~ the executor or administrator, the amount, terms, and surety of which are to be approved by the probate judge, the claim shall be rejected by the executor or administrator. The notice of rejection shall inform the claimant of the filing of the requisition and of the name of the party filing the same. The condition of the bond shall be to pay all costs and expenses of contesting ~~such~~ the claim, including ~~such~~ any reasonable fee ~~as~~ that the court allows to the attorney for the executor or administrator, in case the claim finally is allowed in whole, and if ~~such~~ the claim is allowed only in part, to pay ~~such~~ that part of the expenses ~~as~~ that the court may determine, including ~~such~~ any reasonable fee ~~as~~ that the court may allow to the attorney for the executor or administrator.

**Sec. 2117.15.** An executor or administrator may proceed to pay the debts due from the estate in accordance with Chapters 2113. to 2125. of the Revised Code. If it appears at any time that the estate is insolvent, the executor or administrator may report that fact to the court, and apply for any order that ~~he~~ the executor or administrator considers necessary because of the insolvency. In case of insolvency, a creditor who has been paid according to law shall not be required to make any refund.

**Sec. 2117.17. (A)** The probate court on its own motion may, and on motion of the executor or administrator shall, assign all claims against the estate that have been presented and any other

known valid debts of the estate for hearing on a day certain. 6810  
~~Forthwith upon such~~ Upon the assignment, and in no case less than 6811  
ten days before the date fixed for hearing or ~~such a~~ longer period 6812  
~~as that~~ the court may order, the executor or administrator shall 6813  
cause written notice of the hearing to be served upon the 6814  
following persons who have not waived the notice in writing or 6815  
otherwise voluntarily entered their appearance: 6816

~~(A)~~(1) If it appears that the estate is fully solvent, ~~such~~ 6817  
~~the~~ notice shall be given to the surviving spouse and all other 6818  
persons having an interest in the estate as devisees, legatees, 6819  
heirs, and distributees. 6820

~~(B)~~(2) If it appears probable that there will not be 6821  
sufficient assets to pay all of the valid debts of the estate in 6822  
full, then ~~such the~~ notice also shall be given to all creditors 6823  
and claimants whose claims have been rejected and whose rights 6824  
have not been finally determined by judgment, reference, or lapse 6825  
of time. 6826

(B) The notice required by this section shall state that a 6827  
hearing concerning the debts has been scheduled, shall set forth 6828  
the time and place of the hearing, and shall state that the action 6829  
of the executor or administrator in allowing and classifying 6830  
claims will be confirmed at ~~such the~~ hearing unless cause to the 6831  
contrary is shown. The notice shall be served personally or by 6832  
certified mail in the manner specified for service of notice of 6833  
the rejection of a claim under section 2117.11 of the Revised 6834  
Code. Proof of service of the notice to the satisfaction of the 6835  
court, by affidavit or otherwise, and all waivers of service shall 6836  
be filed in court at the time of the hearing. At any time before 6837  
hearing, any interested person may file exceptions in writing to 6838  
the allowance or classification of any specific claim. The court 6839  
may cause or permit other interested persons to be served with 6840  
notice and witnesses to be subpoenaed as may be required to 6841

present the issues fully. 6842

(C) The court, upon the hearing, shall determine whether the 6843  
executor or administrator acted properly in allowing and 6844  
classifying each claim and shall make an order confirming or 6845  
disapproving ~~such~~ that action. 6846

(D) An order of the court disapproving the allowance of a 6847  
claim shall have the same effect as a rejection of the claim on 6848  
the date on which the claimant is served with notice of the 6849  
court's order. Notice of the court's order shall be served 6850  
personally or by certified mail in the manner specified for 6851  
service of notice of the rejection of a claim under section 6852  
2117.11 of the Revised Code. An order of the court confirming the 6853  
allowance or classification of a claim shall constitute a final 6854  
order and shall have the same effect as a judgment at law or 6855  
decree in equity, and shall be final as to all persons having 6856  
notice of the hearing and as to claimants subsequently presenting 6857  
their claims, though without notice of ~~such~~ the hearing. In the 6858  
absence of fraud, the allowance and classification of a claim and 6859  
the subsequent payment of it in good faith shall not be subject to 6860  
question upon exceptions to the executor's or administrator's 6861  
accounts. The confirmation of a claim by the court shall not 6862  
preclude the executor or administrator from thereafter rejecting 6863  
the claim on discovery of error in ~~his~~ the executor's or  
administrator's previous action or on requisition as provided in 6864  
sections 2117.13 and 2117.14 of the Revised Code. 6865  
6866

**Sec. 2117.18.** Taxes, penalties, and interest placed on a 6867  
duplicate or added by the county auditor or the tax commissioner 6868  
because of a failure to make a return or because of a false or 6869  
incomplete return for taxation shall be a debt of a decedent and 6870  
have the same priority and be paid as other taxes. ~~Such~~ Those 6871  
taxes, penalties, and interest shall be collectible out of the 6872



property of the estate either before or after distribution, by any 6873  
means provided for collecting other taxes. No distribution or 6874  
payment of inferior debts or claims shall defeat ~~such that~~ 6875  
collection~~;~~, but ~~no such~~ the tax, penalty, or interest ~~can~~ shall 6876  
not be added before notice to the executor or administrator, and 6877  
before an opportunity is given ~~him~~ to the executor or 6878  
administrator to be heard. All taxes omitted by the deceased ~~must~~ 6879  
shall be charged on the tax lists and duplicate in ~~his~~ the 6880  
deceased's name. 6881

In all ~~such~~ additions to the personal tax lists and duplicate 6882  
under this section, each succeeding tax year shall be considered 6883  
as beginning at the time of the completion of the annual 6884  
settlement of the duplicate for the previous year with the county 6885  
treasurer. 6886

**Sec. 2117.30.** (A) No suit shall be brought against an 6887  
executor or administrator by a creditor of the decedent or by any 6888  
other party interested in the estate until after five months from 6889  
the time of the appointment of the executor or administrator, or 6890  
the expiration of the further time allowed by the probate court 6891  
for the collection of the assets of the estate, except in the 6892  
following cases: 6893

~~(A)~~(1) On claims rejected in whole or in part; 6894

~~(B)~~(2) For the enforcement of a lien against or involving 6895  
title to specific property; 6896

~~(C)~~(3) For the recovery of a claim that would not be affected 6897  
by the insolvency of the estate; 6898

~~(D)~~(4) On account of fraud, conversion, or concealment of 6899  
assets; 6900

~~(E)~~(5) Any other action as to which a different rule is 6901  
prescribed by statute. 6902

(B) When an executor or administrator dies, resigns, or is removed without having fully administered the estate of the deceased, the time between ~~his~~ the executor's or administrator's death, resignation, or removal and the appointment of a successor shall be excluded in computing the five months or longer period provided in division (A) of this section. In any event, ~~his~~ the executor's or administrator's successor shall not be held to answer the suit until after the expiration of four months from the date of the successor's appointment, or a further time allowed ~~him~~ the executor or administrator by the court for the collection of the assets of the estate.

**Sec. 2117.31.** When two or more persons are indebted in a joint contract, or upon a judgment founded on ~~such~~ the joint contract, and either of them dies, ~~his~~ the decedent's estate shall be liable ~~therefor~~ for the debt as if the contract had been joint and several, or as if the judgment had been against ~~himself~~ the decedent alone. This section shall not affect the rights of a surety, when certified as such, in a judgment rendered jointly against ~~him~~ the surety and ~~his~~ the surety's principal.

**Sec. 2117.34.** No execution against the assets of an estate shall issue upon a judgment against an executor or administrator unless upon the order of the probate court ~~which~~ that appointed ~~him~~ the executor or administrator. If an account has been rendered by ~~such~~ the executor or administrator and settled by the court, ~~such~~ the execution shall issue only for the sum that appeared, on settlement of ~~such~~ the account, to be a just proportion of the assets applicable to the judgment. The order of the court allowing ~~such~~ the execution shall fix the amount for which the ~~same~~ execution shall issue.

**Sec. 2117.35.** All executions against executors and

administrators for debts due from the deceased shall run against 6933  
the ~~goods and assets of the~~ estate of the deceased in ~~their hands~~ 6934  
the possession or under the control of the executors and 6935  
administrators. 6936

**Sec. 2117.36.** No real estate property of a deceased person 6937  
~~which that~~ has been aliened or encumbered by the decedent's heirs 6938  
prior to the issuing of letters testamentary or of administration 6939  
shall be liable while in the ~~hands~~ possession or under the control 6940  
of a bona fide purchaser for value or to the prejudice of a bona 6941  
fide lessee or encumbrancer for value for debts of the deceased 6942  
person unless letters testamentary or of administration are 6943  
granted within four years from the date of death of ~~such the~~ 6944  
deceased person. No real estate property of a deceased person 6945  
~~which that~~ has been aliened or encumbered by the decedent's heirs 6946  
or devisees after the ~~issue~~ issuance of letters testamentary or of 6947  
administration shall be liable while in the ~~hands~~ possession or 6948  
under the control of a bona fide purchaser for value or to the 6949  
prejudice of a bona fide lessee or encumbrancer for value for 6950  
debts of a deceased person unless suit is brought to subject ~~such~~ 6951  
the real estate property to the payment of ~~such those~~ debts prior 6952  
to the settlement of the executor's or administrator's final 6953  
account or what purports to be ~~his~~ the executor's or 6954  
administrator's final account; provided that if ~~such the~~ final 6955  
account is not filed and settled within four years after the 6956  
granting of letters testamentary or of administration, but 6957  
excluding for ~~the these~~ these purposes ~~hereof~~ the time that any action 6958  
is pending against the executors or administrators for the 6959  
establishment or collection of any claim against the deceased, 6960  
~~such the~~ real estate property so aliened shall not be liable for 6961  
the debts of the deceased unless suit is brought to subject ~~such~~ 6962  
the real estate thereto property to those debts within ~~such that~~ 6963  
four-year period. The heir or devisee aliening ~~such the~~ real 6964

estate property shall be liable for ~~the~~ its value ~~thereof~~, with 6965  
legal interest from the time of alienation, to the creditors of 6966  
the deceased in the manner and within the limitations provided by 6967  
law. This section does not enlarge or extend the right of the 6968  
creditors of any deceased person against ~~his~~ the deceased person's 6969  
real ~~estate~~ property, ~~or~~ repeal any limitations contained in other 6970  
sections of the Revised Code, or apply to mortgages or liens of 6971  
record at the time of the death of ~~such~~ the deceased person. 6972

**Sec. 2117.37.** If a claim is contingent at the time of a 6973  
decedent's death and a cause of action subsequently accrues on the 6974  
claim, it shall be presented to the executor or administrator, in 6975  
the same manner as other claims, before the expiration of ~~one year~~ 6976  
six months after the date of death of the decedent, or before the 6977  
expiration of two months after the cause of action accrues, 6978  
whichever is later, except as provided in section 2117.39 of the 6979  
Revised Code. The executor or administrator shall allow or reject 6980  
the claim in the same manner as other claims are allowed or 6981  
rejected. If the claim is allowed, the executor or administrator 6982  
shall proceed to pay it. If the claim is rejected, the claimant 6983  
shall commence an action on the claim within two months after the 6984  
rejection or be forever barred from maintaining an action on the 6985  
claim. 6986

**Sec. 2117.41.** A claimant whose cause of action accrues as 6987  
provided in section 2117.37 of the Revised Code may bring suit to 6988  
recover ~~thereon~~ on the claim against the heirs, next of kin, 6989  
surviving spouse as next of kin, devisees, and legatees under the 6990  
decedent's will, each of whom shall be liable to the claimant in 6991  
an amount not exceeding the value of the real and personal ~~estate~~ 6992  
property that ~~he~~ the person received under the will or on 6993  
distribution of the estate. If, by the will of the deceased, any 6994  
part of the estate or any one or more of the devisees and legatees 6995

is made exclusively liable for the debt, in exoneration of the residue of the estate or of the other devisees or legatees, the terms of the will shall be complied with in that respect and the persons and estate so exempt by the will shall be liable for only so much of the debt ~~as that~~ that cannot be recovered from those first chargeable ~~therewith~~ with the debt.

No ~~such~~ suit shall be maintained under this section unless commenced within six months next after the time when the cause of action first accrues, except in case the suit is for the balance due after a payment by the executor or administrator, in which case suit shall be brought within two months after the final payment by the executor or administrator. If the person entitled to bring ~~such~~ the suit is under legal disability, ~~he~~ the person may bring ~~such~~ the action within one year after ~~his~~ the person's disability is removed.

If any of ~~such~~ those heirs, next of kin, surviving spouse as next of kin, devisees, or legatees dies without having paid ~~his~~ the person's just proportion of ~~such~~ the debt, ~~his~~ the executors or administrators of that deceased person's estate shall be liable ~~therefor~~ for that proportion to the extent ~~he~~ the deceased person would have been if living.

**Sec. 2117.42.** If, in the cases specified in section 2117.41 of the Revised Code, more than one person is liable for the debt, the creditor shall proceed by one action to recover ~~such~~ the debt against all so liable, or as many of them ~~as~~ who are within the reach of process. ~~Thereupon, by~~ By the verdict of a jury if either party requires it, the court ~~must~~ shall determine what sum is due to the plaintiff. ~~They~~ The jury also, according to the equities of the case, shall decide how much each of the defendants is liable to pay toward the satisfaction of the debt and the court shall render judgment accordingly.

No suit shall be dismissed or debarred for not making all the persons defendants who might have been included as ~~such~~ defendants. In any stage of the cause the court may award process to bring in other parties and allow amendments necessary to charge them, as defendants, upon ~~such~~ the terms ~~as~~ that it deems reasonable.

If any of the persons who were originally liable for the debt is insolvent or unable to pay ~~his~~ the person's proportion, or is beyond the reach of process, the others nevertheless shall be liable to the creditor for the whole amount of ~~his~~ the debt; except that no one shall be compelled to pay more than the amount received by ~~him~~ the person from the decedent's estate.

If, in consequence of insolvency, absence, or other cause, any of the persons liable for ~~such~~ the debt fails to pay ~~his~~ the person's just proportion to the creditor, ~~he~~ the person shall be liable to indemnify all who, by reason of ~~such~~ that person's failure ~~on his part~~, have paid more than their just proportion of the debt, such indemnity to be recovered by all of them jointly or in separate actions, by any one or more of them for ~~his~~ or their respective parts respectively, at their election.

**Sec. 2119.01.** When a person owning property in this state has disappeared and has not been heard from, after diligent inquiry and for at least three months, under circumstances that afford reasonable ground to believe that ~~he~~ the person is dead, cannot return, or refuses to return to ~~his~~ the person's home, and ~~his~~ the person's estate requires attention, supervision, and care, or is needed for the maintenance of ~~his~~ the person's dependents, the probate court ~~may~~, on application of the spouse or of one of the next of kin, may appoint a trustee to take possession and charge of the property of ~~such~~ the person, other than the property with respect to which ~~such~~ the person has made provision by written

instrument designating an agent or attorney in fact. ~~Such~~ The 7058  
application shall be filed in the county in which ~~such~~ the person 7059  
last resided or if ~~his~~ the person's last known residence was 7060  
~~without~~ outside this state, ~~such~~ the application may be filed in 7061  
any county in which ~~any such~~ that property is situated. 7062

**Sec. 2119.02.** The probate court, before appointing a trustee 7063  
for an absentee, shall cause notice of the filing of the 7064  
application under section 2119.01 of the Revised Code and of the 7065  
time and place of hearing ~~thereon~~ on the application to be 7066  
published once a week for four consecutive weeks in ~~some~~ a 7067  
newspaper of general circulation in the county and shall cause 7068  
copies of ~~such~~ the notice to be mailed to the spouse and next of 7069  
kin of the absentee residing within the state, ~~excepting~~ except 7070  
the applicant, and to the absentee residing at ~~his~~ the absentee's 7071  
last known address. The court may order notice to be given to ~~such~~ 7072  
any other persons in ~~such~~ the manner ~~as~~ that it ~~deems~~ considers 7073  
best. 7074

**Sec. 2119.03.** (A) The trustee appointed under section 2119.01 7075  
of the Revised Code may proceed without order of the probate court 7076  
to do the following: 7077

~~(A) To take~~ (1) Take possession of the property of the 7078  
absentee wherever situated within the state; 7079

~~(B) To collect~~ (2) Collect all debts due to the absentee; 7080

~~(C) To retain~~ (3) Retain and invest the estate in accordance 7081  
with Chapters 2113. to 2125. of the Revised Code. 7082

(B) The trustee may pay ~~such~~ that part or all of the income 7083  
or principal of the estate as the court, from time to time, may 7084  
direct for the maintenance and support of the absentee's 7085  
dependents and, under the order of the court, may bring and defend 7086  
suits on behalf of the absentee, compromise claims in favor of and 7087

against the absentee, and pay ~~such~~ any debts of the absentee ~~as~~ 7088  
that the court finds necessary for the protection of ~~his~~ the 7089  
absentee's dependents, including insurance premiums, orders for an 7090  
award of spousal support, and other obligations. The court may 7091  
make ~~such~~ any other orders ~~as~~ that it ~~deems~~ considers proper for 7092  
the care and custody of the property and its proceeds. 7093

**Sec. 2119.04.** In order to provide money for the payments 7094  
authorized by section 2119.03 of the Revised Code, proceedings may 7095  
be had for the mortgaging, leasing, or sale of the real ~~estate~~ 7096  
property of an absentee in the same manner as provided by sections 7097  
2127.01 to 2127.43, ~~inclusive~~, of the Revised Code, for sales of 7098  
real ~~estate~~ property by executors and administrators. The probate 7099  
court, upon notice to the spouse and ~~such~~ any other persons and in 7100  
~~such~~ the manner ~~as~~ that the court directs, may order all or any 7101  
part of the personal ~~estate~~ property to be sold. 7102

**Sec. 2119.05.** If at any time the absentee returns and makes 7103  
application to the probate court for the termination of the trust 7104  
established under section 2119.01 of the Revised Code, the court 7105  
shall, on notice to the trustee and other interested parties, 7106  
order the trustee to file ~~his~~ a final account and on settlement 7107  
~~thereof~~ of the account shall terminate the trust and order all 7108  
remaining property returned. If an executor, administrator, or 7109  
guardian is appointed for the estate of ~~such~~ the absentee, the 7110  
court shall ~~thereupon~~ order the trustee to file ~~his~~ a final 7111  
account and on settlement ~~thereof~~ of the account shall terminate 7112  
the trust and order all of the property remaining in the ~~hands~~ 7113  
possession or under the control of the trustee to be delivered to 7114  
the fiduciary entitled ~~thereto~~ to the property. 7115

**Sec. 2121.01.** (A) Except as provided in division (B) of this 7116  
section, a presumption of the death of a person arises upon either 7117



of the following: 7118

(1) When the person has disappeared and been continuously 7119  
absent from ~~his~~ the person's place of last domicile for a 7120  
five-year period without being heard from during the period; 7121

(2) When the person has disappeared and been continuously 7122  
absent from ~~his~~ the person's place of last domicile without being 7123  
heard from and was at the beginning of ~~his~~ the person's absence 7124  
exposed to a specific peril of death, even though the absence has 7125  
continued for less than a five-year period. 7126

(B) When a person who is on active duty in the armed services 7127  
of the United States has been officially determined to be absent 7128  
in a status of "missing" or "missing in action," a presumption of 7129  
death arises when the head of the federal department concerned has 7130  
made a finding of death pursuant to the "Federal Missing Persons 7131  
Act," 80 Stat. 625 (1966), 37 U.S.C.A. 551, as amended and 7132  
hereafter amended. 7133

**Sec. 2121.02.** (A) When ~~such~~ a presumption of death arises 7134  
under section 2121.01 of the Revised Code with respect to a person 7135  
who at the time of disappearance was domiciled in this state, the 7136  
attorney general of this state or any person entitled under the 7137  
~~last~~ will of ~~such~~ the presumed decedent or under Chapter 2105. of 7138  
the Revised Code to any share in the presumed decedent's property 7139  
within this state, or any person or entity who, under the terms of 7140  
any contract, beneficiary designation, trust, or otherwise, may be 7141  
entitled to any property, right, or interest by reason of the 7142  
death of the presumed decedent, may file a complaint setting forth 7143  
the facts ~~which~~ that raise the presumption of death in the probate 7144  
court of the county of the presumed decedent's last residence. 7145

(B) When a presumption of death arises pursuant to section 7146  
2121.01 of the Revised Code with respect to a person who at the 7147  
time of the person's disappearance was domiciled at a place other 7148

than within the state, and the presumed decedent owns real 7149  
property within this state, the complaint may be filed in the 7150  
county where any part of the real property of the presumed 7151  
decedent is located by any of the persons or entities referred to 7152  
in division (A) of this section, or by any domiciliary executor or 7153  
administrator of the decedent. A foreign fiduciary shall include 7154  
with the complaint an exemplified copy of the domiciliary 7155  
proceedings pursuant to which the foreign fiduciary was appointed. 7156

(C) In the case of a presumed decedent who was domiciled in 7157  
this state, the complainant shall name as parties defendant the 7158  
presumed decedent and each of the following that do not join in 7159  
the complaint: 7160

(1) The presumed decedent's surviving spouse, if any; 7161

(2) All persons known to the complainant who are entitled 7162  
under the presumed decedent's ~~last~~ will and all persons who are 7163  
entitled under Chapter 2105. of the Revised Code to any share of 7164  
the presumed decedent's property; 7165

(3) All persons or entities known to the complainant who have 7166  
or would have by reason of the presumed decedent's death any right 7167  
or interest under any contract, beneficiary designation, trust, or 7168  
otherwise; 7169

(4) All contract obligors known to the complainant whose 7170  
rights or obligations would be affected by a determination that 7171  
the presumed decedent is in fact dead. 7172

(D) In the case of a presumed decedent who was not domiciled 7173  
in this state but who owned real ~~estate~~ property in this state, 7174  
the complainant shall name as parties defendant each of the 7175  
following that do not join in the complaint: 7176

(1) The presumed decedent's surviving spouse, if any; 7177

(2) All persons known to the complainant who are entitled 7178

under the presumed decedent's ~~last~~ will and all persons who are 7179  
entitled under Chapter 2105. of the Revised Code to any share of 7180  
the presumed decedent's real property within this state. 7181

(E) All parties defendant, other than the presumed decedent, 7182  
shall be served with summons in the same manner as provided by the 7183  
Rules of Civil Procedure. 7184

(F) The complainant shall cause to be advertised once a week 7185  
for four consecutive weeks in a newspaper published in the county, 7186  
the fact that the complaint has been filed together with a notice 7187  
that on a day certain, ~~which~~ that shall be at least four weeks 7188  
after the last appearance of the advertisement, or after the final 7189  
publication where any defendant is being served by publication, 7190  
whichever is later, the probate court will hear evidence relevant 7191  
to the allegations of the complaint. 7192

(G) No guardian ad litem, trustee for the suit, or other 7193  
representative shall be required to be appointed to represent the 7194  
presumed decedent in the proceeding. 7195

**Sec. 2121.05.** (A) Except as provided otherwise in ~~Chapter~~ 7196  
~~2121. of the Revised Code~~ this chapter, all of the proceedings for 7197  
the probate of the decedent's ~~last~~ will, if any, and all the 7198  
proceedings, domiciliary or ancillary, for the administration of 7199  
the decedent's estate that are set forth in the Revised Code for 7200  
use upon the death of a decedent, shall upon the signing of the 7201  
decree of presumed death be instituted and carried on in the same 7202  
manner as if the presumed decedent were in fact dead. All acts 7203  
pursuant to these proceedings shall be as valid as if the presumed 7204  
decedent were in fact dead. 7205

(B) Following the decree the court may make ~~such~~ any 7206  
supplementary orders ~~as~~ that in its discretion are necessary to 7207  
consummate any right or interest arising by reason of the death of 7208  
the presumed decedent under any contract, trust, or other 7209

nonprobate property interest of any person or entity who was a 7210  
party to the proceedings. The court may condition the granting of 7211  
~~any such that~~ order by requiring any person or entity who would 7212  
benefit ~~thereby~~ by the order to furnish bond for a three-year 7213  
period after the decree in the form and amount, with or without 7214  
sureties, as the court shall order. If any supplementary order is 7215  
directed to the holder of assets of the presumed decedent ~~which~~ 7216  
that were created by the decree of presumed death, the court, at 7217  
the request of the party defendant to whom the order is directed, 7218  
shall condition the granting of ~~any such that~~ order by requiring 7219  
any person or entity who would benefit ~~thereby~~ by the order to 7220  
furnish a suretyship bond for a three-year period after the decree 7221  
in the amount of the assets so created by the decree with interest 7222  
for the period of the bond at the rate specified in the order. 7223

(C) The term "assets of the presumed decedent ~~which that~~ were 7224  
created by the decree of presumed death" as used in division (B) 7225  
of this section and division (D) of section 2121.08 of the Revised 7226  
Code, means those potential assets of the presumed decedent in 7227  
which the presumed decedent had a contractual or other right, 7228  
contingent upon the presumed decedent's death, to have ~~such those~~ 7229  
assets paid to ~~his~~ the presumed decedent's designee and the decree 7230  
of presumed death would fulfill the contingency. Only that portion 7231  
of the proceeds of life insurance policies on the life of the 7232  
presumed decedent that exceeds any net cash surrender value of 7233  
~~such the~~ policies on the date of the decree is within the 7234  
definition of the term "assets of the presumed decedent ~~which that~~ 7235  
were created by the decree of presumed death." 7236

(D) The bond shall provide that, if within the three-year 7237  
period after the decree is entered by the court it is established 7238  
that the presumed decedent is alive, ~~such the~~ person or entity 7239  
shall on the subsequent order of the court refund or return any 7240  
sums, with interest as provided in the court order, or property 7241

received by virtue of ~~such the~~ order, to the presumed decedent or 7242  
to the person or entity who, by reason of the erroneous finding of 7243  
death of the presumed decedent, made ~~such the~~ payment or delivered 7244  
~~such the~~ property. The bond shall be further conditioned on 7245  
returning the fair value of the property if the same shall have 7246  
been sold or otherwise disposed of in the interim. 7247

(E) If the person or entity who would benefit by an order, as 7248  
provided in division (B) of this section, fails to provide a bond 7249  
for the amount of the assets of the presumed decedent ~~which that~~ 7250  
were created by the decree, with interest as specified in the 7251  
order, the holder shall hold those assets for the three-year 7252  
period they would have been bonded. In that event, the holder 7253  
shall pay interest at the same rate specified in the order as a 7254  
condition of the bond and the interest shall accumulate and be 7255  
held throughout that period. 7256

(F) Nothing in this section shall preclude ~~such the~~ person or 7257  
entity from selling, encumbering, or otherwise disposing of any 7258  
property so received and any purchaser, transferee, or mortgagee 7259  
acquires good title to ~~such the~~ property free and clear of any 7260  
claim of the presumed decedent. 7261

**Sec. 2121.06.** Upon the signing of the decree establishing the 7262  
death of the presumed decedent, the real ~~estate~~ property of the 7263  
presumed decedent passes and ~~devolves~~ devolves as in the case of 7264  
actual death, and the persons entitled by will, or under Chapter 7265  
2105. of the Revised Code, may enter and take possession. Persons 7266  
taking the real ~~estate~~ property may sell or mortgage it and the 7267  
purchaser or mortgagee takes a good title, free and discharged of 7268  
any interest or claim of the presumed decedent. The persons taking 7269  
~~such the~~ real ~~estate~~ property shall not sell, convey, or mortgage 7270  
any part ~~thereof~~ of the property within the three-year period 7271  
specified in section 2121.08 of the Revised Code without first 7272

giving bond in an amount to be fixed by the probate court and with 7273  
sureties to be approved by the court. In the discretion of the 7274  
court the bond may be taken without sureties. ~~Such~~ The bond shall 7275  
be conditioned to account for and pay over to the presumed 7276  
decedent, in case within the three-year period after the decree is 7277  
entered by the court it is established that the presumed decedent 7278  
is still alive, the value of the real ~~estate~~ property sold or 7279  
conveyed, or in the case of the making of a mortgage, to pay the 7280  
amount of the mortgage and interest ~~thereon~~ on the mortgage, or in 7281  
case of a foreclosure of ~~such~~ that mortgage, to account for and 7282  
pay over the value of the real ~~estate~~ property mortgaged. 7283

7284

**Sec. 2121.08.** (A) The probate court may at any time within a 7285  
three-year period from the date of the decree establishing the 7286  
death of a presumed decedent, upon proof satisfactory to the court 7287  
that the presumed decedent is in fact alive, vacate the decree 7288  
establishing the presumption of ~~his~~ death. After the decree has 7289  
been vacated all the powers of the executor or administrator of 7290  
the presumed decedent cease, but all proceedings had and steps 7291  
taken with respect to the administration of the estate of the 7292  
presumed decedent prior to the vacating of ~~such~~ the decree remain 7293  
valid. The executor or administrator of the estate of ~~such~~ the 7294  
presumed decedent who is found to be alive shall settle ~~his~~ the 7295  
account of ~~his~~ the executor's or administrator's administration 7296  
down to the time of the vacating of the decree and shall transfer 7297  
all assets remaining in ~~his hands~~ the possession or under the 7298  
control of the executor or administrator to the person ~~as whose~~ 7299  
for whom the executor or administrator ~~he has acted~~ is acting, or 7300  
to ~~such~~ that person's authorized agent or attorney. 7301

(B) The title of any person to any money, property, right, or 7302  
interest as surviving spouse, next of kin, heir, legatee, devisee, 7303  
co-owner with right of survivorship, beneficiary or other 7304

contractual payee, successor to a trust interest, or otherwise of 7305  
the presumed decedent shall be subject to this section, and upon 7306  
vacating of ~~such the~~ decree as provided in this section any 7307  
property, money, right, or interest, or ~~the its~~ fair value ~~thereof~~ 7308  
if the same shall have been sold or otherwise disposed of, may be 7309  
recovered from the person who had received ~~any such that~~ property, 7310  
money, right, or interest. 7311

(C) Except as provided in division (D) of this section, in 7312  
any action against a beneficiary for the recovery of property or 7313  
the value ~~thereof~~ of the property, or upon the bond given as 7314  
condition for delivery of money, other personal property, or sale 7315  
or encumbrance of real property, the beneficiary may set off as 7316  
against ~~such that~~ claim, an allowance for services rendered in 7317  
maintaining or preserving the property, and for any moneys or 7318  
other considerations made or given by the beneficiary for the 7319  
preservation, care, or maintenance of the property during the 7320  
period of absence of the person erroneously presumed to be dead, 7321  
and the reasonable value of any part of the property used for 7322  
support by those whom the person erroneously presumed to be dead 7323  
had a legal obligation to support during ~~his~~ the person's absence. 7324

(D) There shall be no set off as against those assets defined 7325  
in division (C) of section 2121.05 of the Revised Code to be 7326  
assets of the presumed decedent ~~which that~~ were created by the 7327  
decree of presumed death. Those assets created by the erroneous 7328  
decree of presumed death shall be returned with interest to the 7329  
person entitled ~~thereto~~ to them. 7330

(E) Any net cash surrender value on any policies of life 7331  
insurance on the life of a person erroneously presumed to be dead 7332  
are subject to the set off provision in division (C) of this 7333  
section. The person erroneously presumed to be dead, or persons 7334  
claiming under ~~him~~ the person erroneously presumed to be dead, may 7335  
recover whatever remains of cash values from the person to whom 7336

paid. ~~Such~~ The claimants have no recourse against the insurance 7337  
company ~~which~~ that made ~~such~~ the payments, and it is discharged 7338  
from liability on the policies affected. 7339

**Sec. 2121.09.** After vacation of the decree of the presumption 7340  
of death has been established, as provided by section 2121.08 of 7341  
the Revised Code, the person erroneously presumed to be dead ~~may~~, 7342  
on motion filed of record stating the facts, may be substituted as 7343  
plaintiff or petitioner in all actions or proceedings brought by 7344  
the executor or administrator, whether prosecuted to judgment or 7345  
decree or otherwise. ~~Such~~ That person ~~may~~, in all actions or 7346  
proceedings previously brought against the executor or 7347  
administrator, may be substituted as defendant or respondent, on 7348  
motion filed by ~~him~~ the person or on ~~his~~ the person's behalf, but 7349  
shall not be compelled to go to trial in less than three months 7350  
from the time of filing of ~~such~~ the motion. Judgments or decrees 7351  
recovered against the executor or administrator, before the 7352  
vacation of the decree, may be opened on application made by the 7353  
person erroneously presumed to be dead within three months after 7354  
the vacating of the decree, provided it is supported by an 7355  
affidavit alleging the existence of facts ~~which~~ that would be a 7356  
valid defense. If the application is not made within the three 7357  
months or is made but the supporting alleged facts are adjudged an 7358  
insufficient defense, the judgment or decree is conclusive to all 7359  
intents, saving the defendant's right to review as in other cases 7360  
on appeal. 7361

**Sec. 2123.02.** In a situation described in section 2123.01 of 7362  
the Revised Code, the executor or administrator may file in the 7363  
probate court of the county where the estate is being administered 7364  
a ~~petition~~ complaint signed by ~~such~~ the executor or administrator 7365  
or ~~his~~ the executor's or administrator's attorney, which ~~petition~~ 7366  
complaint shall be verified. The surviving spouse and the legatees 7367



and devisees, or the heirs and distributees of the decedent, 7368  
including those whose names are unknown, shall be made parties 7369  
defendant. The ~~petition~~ complaint shall contain a concise 7370  
statement of the pertinent facts and shall conclude with a prayer, 7371  
for the determination of the heirs and distributees of ~~such the~~ 7372  
decedent or of the devisees or legatees not named in the will and 7373  
their respective interests in the estate. 7374

**Sec. 2123.03.** Upon the filing of the ~~petition~~ complaint 7375  
mentioned in section 2123.02 of the Revised Code, the same 7376  
proceedings, pleadings, and rule days as in civil actions in the 7377  
court of common pleas shall apply. All parties defendant who are 7378  
known to be residents of the state and whose ~~place~~ places of 7379  
residence ~~is~~ are known shall be served with summons, as provided 7380  
for the service of summons in civil actions in ~~such that~~ court. 7381

**Sec. 2123.05.** At the time assigned for the hearing of a 7382  
proceeding set forth under section 2123.01 of the Revised Code, or 7383  
at any time to which ~~said the~~ hearing may be adjourned, the 7384  
probate court may hear proof taken by commission, or by witnesses 7385  
produced in open court, of the facts set forth in the ~~petition~~ 7386  
complaint, and shall, if satisfied from the evidence, find and 7387  
adjudge who are or were the heirs or next of kin of the decedent, 7388  
and entitled by the laws of this state to inherit the estate of 7389  
the deceased, or the devisees or legatees named or unnamed in the 7390  
will, ~~which.~~ The finding and adjudication shall be entered on the 7391  
journal of the court, which entry, or a certified copy ~~thereof of~~ 7392  
the entry, shall be prima facie evidence of the facts ~~therein~~ 7393  
found. 7394

**Sec. 2123.06.** Whenever it is necessary for any person other 7395  
than an executor or administrator to determine who are or were the 7396  
heirs at law of a deceased person, on the ~~petition~~ complaint of 7397

any interested party and proceedings ~~like~~ similar to those set 7398  
forth in sections 2123.01 to 2123.05, ~~inclusive~~, of the Revised 7399  
Code, the probate court may make a determination ~~thereof~~ of who 7400  
are or were the heirs at law of the deceased person. 7401

**Sec. 2127.011.** (A) In addition to the other methods provided 7402  
by law or in the will and unless expressly prohibited by the will, 7403  
an executor or administrator may sell at public or private sale, 7404  
grant options to sell, exchange, re-exchange, or otherwise dispose 7405  
of any parcel of real ~~estate~~ property belonging to the estate at 7406  
any time at prices and upon terms ~~as~~ that are consistent with this 7407  
section and may execute and deliver deeds and other instruments of 7408  
conveyance if all of the following conditions are met: 7409

(1) The surviving spouse, all of the legatees and devisees in 7410  
the case of testacy, and all of the heirs in the case of 7411  
intestacy, give written consent to a power of sale for a 7412  
particular parcel of real ~~estate~~ property or to a power of sale 7413  
for all the real ~~estate~~ property belonging to the estate. Each 7414  
consent to a power of sale provided for in this section shall be 7415  
filed in the probate court. 7416

(2) Any sale under a power of sale authorized pursuant to 7417  
this section shall be made at a price of at least eighty per cent 7418  
of the appraised value, as set forth in an approved inventory. 7419

(3) No power of sale provided for in this section is 7420  
effective if the surviving spouse, ~~or~~ or any legatee, devisee, or 7421  
heir is a minor. No person may give the consent of the minor that 7422  
is required by this section. 7423

(B) A surviving spouse who is the executor or administrator 7424  
may sell real ~~estate~~ property to ~~himself~~ self pursuant to this 7425  
section. 7426

**Sec. 2127.02.** As soon as an executor or administrator 7427

ascertains that the personal property in ~~his hands~~ the possession 7428  
or under the control of the executor or administrator is 7429  
insufficient to pay all the debts of the decedent, together with 7430  
the allowance for support to the surviving spouse, minor children, 7431  
or surviving spouse and minor children of the decedent as provided 7432  
in section 2106.13 of the Revised Code, and the costs of 7433  
administering the estate, ~~he~~ the executor or administrator shall 7434  
commence a civil action in the probate court for authority to sell 7435  
the decedent's real property. 7436

**Sec. 2127.04.** (A) With the consent of all persons entitled to 7437  
share in an estate upon distribution, the executor, administrator, 7438  
or administrator with the will annexed may, and upon the request 7439  
of these persons shall, commence an action in the probate court 7440  
for authority to sell any part or all of the decedent's real 7441  
estate property, even though the real estate property is not 7442  
required to be sold to pay debts or legacies. A guardian may make 7443  
a request under this division, or give consent, on behalf of the 7444  
guardian's ward. 7445

(B) An executor, administrator, or administrator with the 7446  
will annexed may commence an action in the probate court, on the 7447  
executor or administrator's own motion, to sell any part or all of 7448  
the decedent's real estate property, even though the real estate 7449  
property is not required to be sold to pay debts or legacies. The 7450  
court shall not issue an order of sale in the action unless one of 7451  
the categories specified in divisions (B)(1)(a), (b), and (c), 7452  
(B)(2)(a), (b), and (c), and (B)(3) of this section applies: 7453

(1)(a) At least fifty per cent of all the persons interested 7454  
in the real estate property proposed to be sold have consented to 7455  
the sale. 7456

(b) Prior to the issuance of the order, no written objection 7457  
is filed with the court by any person or persons who hold 7458

aggregate interests in the interest of the decedent in the real 7459  
estate property proposed to be sold, that total in excess of 7460  
twenty-five per cent. 7461

(c) The court determines that the sale is in the best 7462  
interest of the decedent's estate. 7463

(2)(a) No person's interest in the interest of the decedent 7464  
in the real ~~estate~~ property proposed to be sold exceeds ten per 7465  
cent. 7466

(b) Prior to the issuance of the order, no written objection 7467  
is filed with the court by any person or persons who hold 7468  
aggregate interests in the interest of the decedent in the real 7469  
estate property proposed to be sold, that total in excess of 7470  
twenty-five per cent. 7471

(c) The court determines that the sale is in the best 7472  
interest of the decedent's estate. 7473

(3) The real ~~estate~~ property proposed to be sold escheats to 7474  
the state under division (K) of section 2105.06 of the Revised 7475  
Code. 7476

(C) Notwithstanding any provision of the Revised Code, an 7477  
executor, administrator, or administrator with the will annexed 7478  
shall commence an action in the probate court to sell any part or 7479  
all of the decedent's real ~~estate~~ property if any person who is 7480  
entitled to inherit all or part of the real ~~estate~~ property cannot 7481  
be found after a due and diligent search. The court shall not 7482  
issue an order of sale in the action unless the sale is in the 7483  
best interest of the person who cannot be found and in the best 7484  
interest of the decedent's estate. 7485

If a sale is ordered under this division, the costs of its 7486  
administration shall be taken from the proceeds of the sale. 7487

(D) A surviving spouse who is an executor or administrator of 7488

the decedent spouse's estate is not disqualified, by reason of 7489  
being executor or administrator, as a person to whom a parcel of 7490  
real ~~estate~~ property may be sold pursuant to this section. 7491

**Sec. 2127.05.** Whenever necessary for the education, support, 7492  
or the payment of the just debts of the ward, or for the discharge 7493  
of liens on the real ~~estate~~ property of the ward, ~~or wherever~~ 7494  
whenever the real ~~estate~~ property of the ward is suffering 7495  
unavoidable waste, or a better investment of its value can be 7496  
made, or whenever it appears that a sale of the real ~~estate~~ 7497  
property will be for the benefit of the ward or ~~his~~ the ward's 7498  
children, the guardian of the person and estate or of the estate 7499  
only of a minor, person unable to manage ~~his~~ the person's property 7500  
because of mental illness or deficiency, habitual drunkard, 7501  
confined person, or other person under disability may commence a 7502  
civil action in the probate court for authority to sell all or any 7503  
part of the real ~~estate~~ property of the ward. If it appears to the 7504  
advantage of the ward to lay out all or any part of the ~~land~~ real 7505  
property in town lots, application for ~~such~~ that authority may 7506  
also be made in the action. 7507

When the same person is guardian for two or more wards whose 7508  
real ~~estate~~ property is owned by them jointly or in common, the 7509  
actions may be joined, and in one complaint the guardian may ask 7510  
for the sale of the interest of all or any number of ~~his~~ the 7511  
guardian's wards in the real ~~estate~~ property. If different persons 7512  
are guardians of wards interested jointly or in common in the same 7513  
real ~~estate~~ property, they may join as parties plaintiff in the 7514  
same action. On the hearing, in either case, the court may 7515  
authorize the sale of the interest of one or more of the wards. 7516

**Sec. 2127.06.** If the fiduciary who brings an action under 7517  
section 2127.01 to 2127.43, ~~inclusive~~, of the Revised Code, dies, 7518  
resigns, or is removed, or ~~his~~ the fiduciary's powers cease at any 7519

time before the real estate property sold is conveyed, a successor 7520  
fiduciary may be substituted as a party to the action and may 7521  
convey ~~land~~ real property, whether sold before or after ~~his~~ the 7522  
successor fiduciary's appointment. ~~He~~ The successor fiduciary may 7523  
also be required to give an additional bond. 7524

**Sec. 2127.07.** Any interest in real estate property, whether 7525  
legal or equitable, ~~which that~~ the deceased had a right to sell or 7526  
dispose of at the time of ~~his decease~~ the deceased's death, or of 7527  
which the ward was seized at the time the action was brought, 7528  
including coal, iron ore, limestone, fireclay, or other mineral 7529  
upon or under ~~such the~~ real estate property, or the right to mine 7530  
them, may be sold by an executor, administrator, or guardian under 7531  
sections 2127.01 to 2127.43, ~~inclusive~~, of the Revised Code. This 7532  
section does not give an executor or administrator with the will 7533  
annexed authority to sell real estate property for the payment of 7534  
legacies, other than as charged by the testator or by operation of 7535  
law. This section does not give a guardian authority to sell an 7536  
equitable estate in real estate property placed by deed of trust, 7537  
beyond the power of the ward to sell, convey, or assign. 7538

**Sec. 2127.08.** When the interest of a decedent or ward in real 7539  
estate property is fractional and undivided, the action for 7540  
authority to sell ~~such the~~ real estate property shall include only 7541  
~~such the~~ undivided fractional interest, except that the executor, 7542  
administrator, or guardian, ~~or~~ the owner of any other fractional 7543  
interest, or any lien holder may, by pleading filed in the cause 7544  
setting forth all interests in the property and liens ~~thereon~~ on 7545  
the property, require that the action include the entire interest 7546  
in the property, and the owner of ~~said the~~ interests and liens 7547  
shall receive ~~his the~~ owner's respective share of the proceeds of 7548  
sale after payment has been made of the expenses of sale including 7549  
reasonable attorney fees for services in the case, ~~which~~. Those 7550

fees ~~must~~ shall be paid to the plaintiff's attorney unless the 7551  
court awards some part ~~thereof~~ of the fees to other counsel for 7552  
services in the case for the common benefit of all the parties, 7553  
having regard to the interest of the parties, the benefit each may 7554  
derive from the sale, and the equities of the case. The fees of 7555  
the executor, administrator, or guardian shall be a charge only 7556  
against ~~such~~ the portion of the proceeds of sale ~~as~~ that 7557  
represents the interests of the decedent or ward. 7558

**Sec. 2127.09.** An action by an executor, administrator, or 7559  
guardian to obtain authority to sell real ~~estate~~ property shall be 7560  
brought in the county in which ~~he~~ the executor, administrator, or 7561  
guardian was appointed or in which the real ~~estate~~ property 7562  
subject to sale or any part ~~thereof~~ of the property is situated. 7563  
If the action is brought in a county other than that in which the 7564  
real ~~estate~~ property or a part ~~thereof~~ of the property is 7565  
situated, a certified transcript of the record of all proceedings 7566  
had ~~therein~~ in that county shall be filed with and recorded by the 7567  
probate court of each county in which ~~such~~ the real ~~estate~~ 7568  
property or any part ~~thereof~~ of the property is situated. 7569

**Sec. 2127.10.** An action to obtain authority to sell real 7570  
~~estate~~ property shall be commenced by the executor, administrator, 7571  
or guardian by filing a complaint with the probate court. 7572

The complaint shall contain a description of the real ~~estate~~ 7573  
property proposed to be sold and its value, as near as can be 7574  
ascertained, a statement of the nature of the interest of the 7575  
decedent or ward in the real ~~estate~~ property, a recital of all 7576  
mortgages and liens upon and adverse interests in the real ~~estate~~ 7577  
property, the facts showing the reason or necessity for the sale, 7578  
and any additional facts necessary to constitute the cause of 7579  
action under the section of the Revised Code on which the action 7580  
is predicated. 7581

**Sec. 2127.11.** When the actual market value of a decedent's or 7582  
ward's real ~~estate~~ property to be sold is less than three thousand 7583  
dollars, and the court so finds, it may by summary order authorize 7584  
the sale and conveyance of the ~~land~~ real property at private sale, 7585  
on ~~such the~~ terms ~~as~~ that it ~~deems~~ considers proper, and in ~~such a~~ 7586  
that proceeding, all requirements of sections 2127.01 to 2127.43 7587  
of the Revised Code, as to service of summons, appraisal, and 7588  
additional bond, shall be waived. 7589

**Sec. 2127.12.** In an action by an executor or administrator to 7590  
obtain authority to sell real ~~estate~~ property, the following 7591  
persons shall be made parties defendant: 7592

(A) The surviving spouse; 7593

(B) The heirs, devisees, or persons entitled to the next 7594  
estate of inheritance from the decedent in the real ~~estate~~ 7595  
property and having an interest in it, but their spouses need not 7596  
be made parties defendant; 7597

(C) All mortgagees and other lienholders whose claims affect 7598  
the real ~~estate~~ property or any part of it; 7599

(D) If the interest subject to sale is equitable, all persons 7600  
holding legal title to the interest or any part of it, and those 7601  
who are entitled to the purchase money for it, other than 7602  
creditors; 7603

(E) If a fraudulent transfer is sought to be set aside, all 7604  
persons holding or claiming under the transfer; 7605

(F) All other persons having an interest in the real ~~estate~~ 7606  
property. 7607

**Sec. 2127.13.** In an action by a guardian to obtain authority 7608  
to sell the real ~~estate~~ property of ~~his~~ the guardian's ward the 7609  
following persons shall be made parties defendant: 7610



(A) The ward;	7611
(B) The spouse of the ward;	7612
(C) All persons entitled to the next estate of inheritance from the ward in <del>such the</del> <u>real estate property</u> who are known to reside in Ohio, but their spouses need not be made parties defendant;	7613 7614 7615 7616
(D) All lienholders whose claims affect <del>such the</del> <u>real estate property</u> or any part <del>thereof</del> <u>of the property</u> ;	7617 7618
(E) If the interest subject to <del>such the</del> sale is equitable, all persons holding legal title <del>thereto</del> <u>to the real property</u> or any part <del>thereof</del> <u>of the property</u> ;	7619 7620 7621
(F) All other persons having an interest in <del>such the</del> <u>real estate property</u> , other than creditors.	7622 7623
<b>Sec. 2127.14.</b> Service of summons, actual or constructive, in an action to sell the real <del>estate</del> <u>property</u> of a decedent or a ward shall be had as in other civil actions, but if any competent person in interest enters appearance or consents in writing to the sale, service on <del>such that</del> person shall not be necessary. If all parties consent in writing to the sale, an order <del>therefor</del> <u>for the sale</u> may issue forthwith.	7624 7625 7626 7627 7628 7629 7630
<b>Sec. 2127.15.</b> All pleadings and proceedings in an action to obtain authority to sell the real <del>estate</del> <u>property</u> of a decedent or a ward in the probate court shall be the same as in other civil actions, except as otherwise provided in sections 2127.01 to 2127.43 of the Revised Code.	7631 7632 7633 7634 7635
<b>Sec. 2127.16.</b> In a sale of real <del>estate</del> <u>property</u> by an executor, administrator, or guardian, <del>such the</del> <u>real estate property</u> shall be sold free of all right and expectancy of dower <del>therein in the property</del> , but out of the proceeds of the sale, in	7636 7637 7638 7639

lieu of dower, the court shall allow to the person having any 7640  
dower interest in the property ~~such a~~ sum in money ~~as~~ that is the 7641  
just and reasonable value of ~~such the~~ dower, unless the answer of 7642  
~~such the~~ person waives ~~such that~~ allowance. 7643

**Sec. 2127.17.** In an action to obtain authority to sell real 7644  
~~estate~~ property, if a party in ~~his~~ the party's answer objects to 7645  
an order for the sale of real ~~estate~~ property by an executor, 7646  
administrator, or guardian, and on hearing it appears to the court 7647  
that either the complaint or the objection is unreasonable, it may 7648  
award costs to the party prevailing on that issue. 7649

**Sec. 2127.18.** Upon the hearing of an action to obtain 7650  
authority to sell real ~~estate~~ property by an executor, 7651  
administrator, or guardian, if satisfied that all necessary 7652  
parties defendant are properly before the court, and that the 7653  
demand for relief ought to be granted, the court may determine the 7654  
equities among the parties and the priorities of lien of the 7655  
several lien holders on the real ~~estate~~ property, and order a 7656  
distribution of the money arising from the sale in accordance with 7657  
its determination. The court may in the same cause order 7658  
contributions among all parties in interest. 7659

**Sec. 2127.19.** When an action to obtain authority to sell real 7660  
~~estate~~ property is determined by the probate court, the probate 7661  
judge shall make the necessary order for an entry of release and 7662  
satisfaction of all mortgages and other liens upon the real ~~estate~~ 7663  
property except ~~such the~~ mortgage ~~as~~ that is assumed by the 7664  
purchaser. The executor, administrator, or guardian shall 7665  
~~thereupon~~ enter ~~such the~~ release and satisfaction, together with a 7666  
memorandum of the title of the case, the character of the 7667  
proceedings, and the volume and page of record where recorded, 7668  
upon the record of ~~such the~~ mortgage, judgment, or other lien in 7669

the office where it appears as matter of record. If the executor, 7670  
administrator, or guardian fails to enter ~~such~~ the release and 7671  
satisfaction, the court ~~may~~, on the application of an interested 7672  
party, may enter ~~such~~ the release and satisfaction and tax in ~~his~~ 7673  
the executor's, administrator's, or guardian's cost bill the fee 7674  
provided by law for entering ~~such~~ the release and satisfaction, 7675  
and a fee of twenty-five cents to the court. 7676

**Sec. 2127.21.** If a guardian's complaint in an action to 7677  
obtain authority to sell real ~~estate~~ property seeks to have ~~land~~ 7678  
real property laid out in town lots, and the court finds it to the 7679  
advantage of the ward, it shall authorize the survey and platting 7680  
of the ~~land~~ real property as provided by law. Upon subsequent 7681  
return of the survey and plat, the court, if it approves it, shall 7682  
authorize the guardian on behalf of ~~his~~ the guardian's ward to 7683  
sign, seal, and acknowledge the plat in that behalf for record. 7684

**Sec. 2127.22.** If an appraisalment of the real ~~estate~~ property 7685  
is contained in the inventory required of an executor or 7686  
administrator by section 2115.02 of the Revised Code, and of a 7687  
guardian by section 2111.14 of the Revised Code, the probate court 7688  
may order a sale in accordance with the appraisalment, or order a 7689  
new appraisalment. If a new appraisalment is not ordered, the value 7690  
set forth in the inventory shall be the appraised value of the 7691  
real ~~estate~~ property. If the court orders a new appraisalment, the 7692  
value returned shall be the appraised value of the real ~~estate~~ 7693  
property. 7694

If the interest of the deceased or ward in the real ~~estate~~ 7695  
property is fractional and undivided, and if a party requests and 7696  
the court orders the entire interest in the real ~~estate~~ property 7697  
to be sold, a new appraisalment of the entire interest in the real 7698  
~~estate~~ property shall be ordered. 7699

If the relief requested is granted and new appraisement is 7700  
ordered, the court shall appoint one, or on request of the 7701  
executor, administrator, or guardian, not exceeding three 7702  
judicious and disinterested persons of the vicinity, not next of 7703  
kin of the complainant, to appraise the real ~~estate~~ property in 7704  
whole and in parcels at its true value in money. ~~Where~~ If the real 7705  
~~estate~~ property lies in two or more counties the court may appoint 7706  
appraisers in any or all of the counties in which the real ~~estate~~ 7707  
property or a part of it is situated. 7708

**Sec. 2127.23.** The appraisers appointed under section 2127.22 7709  
of the Revised Code shall agree to truly and impartially appraise 7710  
the real ~~estate~~ property at its fair cash value upon actual view 7711  
and to perform the duties required of them by the order of the 7712  
court. The appraisement shall be signed by the appraisers, and the 7713  
officer to whom it is issued shall make return of it to the court 7714  
for confirmation. 7715

**Sec. 2127.24.** When a person appointed by the court under 7716  
section 2127.22 of the Revised Code as an appraiser fails to 7717  
discharge ~~his~~ the person's duties, the probate judge on ~~his~~ the 7718  
judge's own motion or on the motion of the executor, 7719  
administrator, or guardian may appoint another appraiser. 7720

**Sec. 2127.27.** Upon the return and approval of the 7721  
appraisement provided for by section 2127.22 of the Revised Code, 7722  
the court shall require the executor, administrator, or guardian 7723  
to execute a bond with two or more personal sureties, or one or 7724  
more corporate sureties, whose qualifications shall be those 7725  
provided by section 2109.17 of the Revised Code. ~~Such~~ The bond 7726  
shall be payable to the state in an amount ~~which~~ that the court 7727  
~~deems~~ considers sufficient, having regard to the amount of real 7728  
~~estate~~ property to be sold, its appraised value, the amount of the 7729

original bond given by the executor, administrator, or guardian, 7730  
and the distribution to be made of the proceeds arising from the 7731  
sale, ~~and such.~~ The bond shall be conditioned for the faithful 7732  
discharge of ~~his~~ the executor's, administrator's, or guardian's 7733  
duties and the payment of, and accounting for, all moneys arising 7734  
from ~~such~~ the sale according to law. ~~Such~~ The bond shall be 7735  
additional to that given by the executor, administrator, or 7736  
guardian at the time of ~~his~~ appointment. If the court finds the 7737  
amount of the original bond given by the executor, administrator, 7738  
or guardian is sufficient, having regard for the amount of real 7739  
estate property to be sold, its appraised value, and the 7740  
distribution to be made of the proceeds arising from the sale, the 7741  
giving of additional bond may be dispensed with by order of the 7742  
court. ~~Such~~ The bond shall be given in the court from which the 7743  
executor, administrator, or guardian ~~received his appointment~~ was 7744  
appointed. 7745

If the action to obtain authority to sell real estate 7746  
property is pending in another court, the latter shall proceed no 7747  
further until there is filed ~~therein~~ in that court a certificate 7748  
from the court ~~wherein~~ in which the executor, administrator, or 7749  
guardian ~~received his appointment~~ was appointed, under its seal, 7750  
that ~~such~~ the bond has been given or that the original bond is 7751  
sufficient. This section does not prevent the court in an action 7752  
to sell real estate property from ordering the sale of ~~such~~ that 7753  
real estate property without bond in cases where the testator had 7754  
provided by ~~his~~ the testator's will that the executor need not 7755  
give bond. 7756

**Sec. 2127.28.** The probate court may, after notice to all 7757  
parties in interest, allow a real estate commission in an action 7758  
to sell real estate property by an executor, administrator, or 7759  
guardian, but an allowance shall be passed upon by the court prior 7760  
to the sale. 7761

The court may allow payment for certificate or abstract of title or policy of title insurance in connection with the sale of any ~~land~~ real property by an executor, administrator, or guardian.

**Sec. 2127.29.** When the bond required by section 2127.27 of the Revised Code is filed and approved by the court, it shall order the sale of the real estate property included in the complaint set forth in section 2127.10 of the Revised Code, or the part of the real estate property it ~~deems~~ considers necessary for the interest of all parties concerned. If the complaint alleges that it is necessary to sell part of the real estate property, and that by the partial sale the residue of the estate real property, or a specific part of it, would be greatly injured, the court, if it so finds, may order a sale of the whole estate real property.

**Sec. 2127.30.** If the order of sale set forth in section 2127.29 of the Revised Code includes real estate property in which the ward or the estate has an equitable interest only, the court may make an order for the appraisal and sale of ~~such~~ that equitable estate free from dower, for the indemnity of the estate against any claim for purchase money, and for payment of the value of ~~such~~ the dower in money, as the court ~~deems~~ considers equitable, having regard for the rights of all parties in interest.

**Sec. 2127.32.** The real estate property included in the court's order of sale, as provided in section 2127.29 of the Revised Code, shall be sold either in whole or in parcels at public auction at the door of the courthouse in the county in which the order of sale was granted, or at another place, as the court directs, and the order shall fix the place, day, and hour of sale. If it appears to be more for the interest of the ward or the estate to sell the real estate property at private sale, the court

may authorize the complainant to sell it either in whole or in 7792  
parcels. If an order for private sale is issued, it shall be 7793  
returned by the complainant. Upon motion and showing of a person 7794  
interested in the proceeds of the sale, filed after thirty days 7795  
from the date of the order, the court may require the complainant 7796  
to return the order, if the premises have not been sold. ~~Thereupon~~ 7797  
Upon return of the order, the court may order the real ~~estate~~ 7798  
property to be sold at public sale. 7799

If upon showing of any person interested, the court finds 7800  
that it will be to the interest of the ward or the estate, it may 7801  
order a reappraisalment and sale in parcels. 7802

If the sale is to be public, the executor, administrator, or 7803  
guardian ~~must~~ shall give notice of the time and place of the sale 7804  
by advertisement at least three weeks successively in a newspaper 7805  
published in the county where the ~~lands are~~ real property is 7806  
situated. 7807

**Sec. 2127.33.** ~~Where~~ If the sale authorized by a court as 7808  
provided in section 2127.32 of the Revised Code is private, the 7809  
real ~~estate~~ property shall not be sold for less than the appraised 7810  
value. ~~When~~ If the sale is at public auction the real ~~estate~~ 7811  
property if improved shall not be sold for less than two thirds of 7812  
the appraised value, or if not improved, for less than one half of 7813  
the appraised value. In private sales if no sale has been effected 7814  
after one bona fide effort to sell under this section, or if in 7815  
public sales the ~~land~~ real property remains unsold for want of 7816  
bidders when offered pursuant to advertisement, the court may fix 7817  
the price for which ~~such~~ the real ~~estate~~ property may be sold or 7818  
may set aside the appraisalment and order a new appraisalment. If 7819  
~~such~~ the new appraisalment does not exceed five hundred dollars, 7820  
and upon the first offer ~~thereunder~~ under the new appraisalment at 7821  
public sale there are no bids, then upon the motion of any party 7822

interested the court may order the real ~~estate~~ property to be 7823  
readvertised and sold at public auction to the highest bidder. 7824

**Sec. 2127.34.** The order for the sale of real ~~estate~~ property, 7825  
granted by the probate court in an action by an executor, 7826  
administrator, or guardian, shall prescribe the terms of the sale, 7827  
and payment of the purchase money, either in whole or in part, for 7828  
cash, or on deferred payments. In the sales by executors or 7829  
administrators, deferred payments shall not exceed two years with 7830  
interest. 7831

**Sec. 2127.35.** An executor, administrator, or guardian shall 7832  
make return of ~~his~~ the executor's, administrator's, or guardian's 7833  
proceedings under the order for the sale of real ~~estate~~ property 7834  
granted by the probate court. The court, after careful 7835  
examination, if satisfied that the sale has in all respects been 7836  
legally made, shall confirm the sale, and order the executor, 7837  
administrator, or guardian to make a deed to the purchaser. 7838

The deed shall be received in all courts as prima-facie 7839  
evidence that the executor, administrator, or guardian in all 7840  
respects observed the direction of the court, and complied with 7841  
the requirements of the law, ~~and~~ shall convey the interest in the 7842  
real ~~estate~~ property directed to be sold by the court, and shall 7843  
vest title to the interest in the purchaser as if conveyed by the 7844  
deceased in ~~his~~ the deceased's lifetime, or by the ward free from 7845  
disability, and by the owners of the remaining interests in the 7846  
real ~~estate~~ property. 7847

**Sec. 2127.36.** The order for the sale of real ~~estate~~ property 7848  
granted in an action by an executor, administrator, or guardian 7849  
shall require that before the delivery of the deed the deferred 7850  
installments of the purchase money be secured by mortgage on the 7851  
real ~~estate~~ property sold, and mortgage notes bearing interest at 7852



a rate approved by the probate court. If after the sale is made, 7853  
and before delivery of the deed, the purchaser offers to pay the 7854  
full amount of the purchase money in cash, the court may order 7855  
that it be accepted, if for the best interest of the estate or the 7856  
ward, and direct its distribution. 7857

The court in ~~such an~~ that order may also direct the sale, 7858  
without recourse, of any or all of the notes taken for deferred 7859  
payments, if for the best interest of the estate or the ward, at 7860  
not less than their face value with accrued interest, and direct 7861  
the distribution of the proceeds. 7862

**Sec. 2127.37.** ~~When~~ If an action to sell real estate property 7863  
is prosecuted by an executor or administrator ~~he,~~ the executor or 7864  
administrator shall be allowed the compensation provided by law, 7865  
by the probate court from which ~~his~~ the executor's or 7866  
administrator's letters issued. ~~When such~~ If that action is by a 7867  
guardian, ~~his~~ the guardian's duties and obligations ~~therein~~ in the 7868  
action shall be considered by the court appointing ~~him~~ the 7869  
guardian in awarding ~~such the~~ compensation ~~as that~~ the court ~~deems~~ 7870  
considers reasonable. 7871

**Sec. 2127.38.** The sale price of real estate property sold 7872  
following an action by an executor, administrator, or guardian 7873  
shall be applied and distributed as follows: 7874

(A) To discharge the costs and expenses of the sale, 7875  
including reasonable fees to be fixed by the probate court for 7876  
services performed by attorneys for the fiduciary in connection 7877  
with the sale, and compensation, if any, to the fiduciary for ~~his~~ 7878  
services in connection with the sale as the court may fix, which 7879  
costs, expenses, fees, and compensation shall be paid prior to any 7880  
liens upon the real estate property sold and notwithstanding the 7881  
purchase of the real estate property by a lien holder; 7882

(B) To the payment of taxes, interest, penalties, and assessments then due against the real estate property, and to the payment of mortgages and judgments against the ward or deceased person, according to their respective priorities of lien, so far as they operated as a lien on the real estate property of the deceased at the time of the sale, or on the estate of the ward at the time of the sale, ~~which~~ that shall be apportioned and determined by the court, or on reference to a master, or otherwise;

(C)(1) In the case of an executor or administrator, the remaining proceeds of sale shall be applied as follows:

~~(1)~~(a) To the payment of legacies with which the real estate property of the deceased was charged, if the action is to sell real estate property to pay legacies;

~~(2)~~(b) To discharge the claims and debts of the estate in the order provided by law.

(2) Whether the executor or administrator was appointed in this state or elsewhere, the surplus of the proceeds of sale ~~must~~ shall be considered for all purposes as real estate property, and be disposed of accordingly.

**Sec. 2127.39.** ~~When~~ If an action to sell real estate property is brought by an executor or administrator with the will annexed, if in the ~~last~~ will of the deceased there is a disposition of ~~his~~ the decedent's estate for the payment of debts, or a provision that may require or induce the probate court to marshal the assets differently from the way the law otherwise would prescribe, ~~such~~ those ~~devises~~, or parts of the will, shall be set forth in the complaint, and a copy of the will exhibited to the court, whereupon the court shall marshal the proceeds of the sale accordingly, so far as it can be done consistently with the rights of creditors.

**Sec. 2127.40.** When an action is brought by an executor or 7914  
administrator to sell real ~~estate~~ property to pay debts, the real 7915  
~~estate~~ property subject to sale shall include all rights and 7916  
interests in ~~lands, tenements, and hereditaments~~ real property 7917  
transferred by the decedent in ~~his~~ the decedent's lifetime with 7918  
intent to defraud ~~his~~ the decedent's creditors, except that ~~lands~~ 7919  
real property fraudulently transferred cannot be taken from any 7920  
person who purchased them for a valuable consideration, in good 7921  
faith, and without knowledge of the fraud. No claim to ~~such lands~~ 7922  
that real property shall be made unless within four years next 7923  
after the decease of the grantor. 7924

If real ~~estate~~ property fraudulently transferred is to be 7925  
included in ~~such an~~ that action, the executor or administrator, 7926  
either before or at the same time, may commence a civil action in 7927  
the court of common pleas in the county in which the real ~~estate~~ 7928  
property is situated to recover possession of it, or, in ~~his~~ the 7929  
action for its sale, ~~he~~ the executor or administrator may allege 7930  
the fraud and have the fraudulent transfer avoided. But when the 7931  
real ~~estate~~ property is included in the complaint before the 7932  
recovery of possession by the executor or administrator, the 7933  
action shall be brought in the court of common pleas in the county 7934  
in which the real ~~estate~~ property is situated. 7935

**Sec. 2127.41.** If, after the institution of proceedings for 7936  
the partition of the real property of a decedent, it is found that 7937  
the assets in the ~~hands~~ possession or under the control of the 7938  
executor or administrator probably are insufficient to pay the 7939  
debts of the estate, together with the allowance for support of 7940  
the surviving spouse, minor children, or surviving spouse and 7941  
minor children as provided in section 2106.13 of the Revised Code, 7942  
the expenses of administration, and the legacies that are a charge 7943  
upon the real property, the executor or administrator shall make a 7944

written statement to the probate court of the assets, 7945  
indebtedness, expenses, and legacies, and the court forthwith 7946  
shall ascertain the amount necessary to pay the debts, expenses, 7947  
and legacies and give a certificate of the amount to the executor 7948  
or administrator. 7949

The executor or administrator then shall present the 7950  
certificate to the court in which the proceedings for partition 7951  
are or have been pending, and, on ~~his~~ the motion of the executor 7952  
or administrator, the court shall order the amount named in the 7953  
certificate to be paid over to the executor or administrator out 7954  
of the proceeds of the sale of the premises, if thereafter they 7955  
are sold or already have been sold. This section does not prohibit 7956  
an executor or administrator from proceeding to sell real property 7957  
belonging to the estate for the payment of debts or legacies, 7958  
although it has been sold on partition or otherwise, or the 7959  
proceeds of the sale have been fully distributed. 7960

**Sec. 2127.42.** Wards living out of this state and owning ~~lands~~ 7961  
real property within it are entitled to the benefit of sections 7962  
2127.01 to 2127.43 of the Revised Code. Complaints for the sale of 7963  
real ~~estate~~ property by guardians of ~~such~~ those wards shall be 7964  
filed in the county in which the ~~land~~ real property is situated, 7965  
or if situated in two or more counties, then in one of the 7966  
counties in which a part of it is situated. Additional security 7967  
shall be required from ~~such~~ the guardians, ~~when deemed if~~ 7968  
considered necessary by the probate court of the county in which 7969  
the complaints are filed. 7970

**Sec. 2127.43.** Chapter 2127. of the Revised Code extends to an 7971  
action brought by the trustee of a nonresident minor or mentally 7972  
ill or deficient person to sell the real ~~estate~~ property of the 7973  
ward. 7974

**Sec. 2129.02.** ~~When~~ If letters of administration or letters 7975  
testamentary have been granted in any state other than this state, 7976  
in any territory or possession of the United States, or in any 7977  
foreign country, as to the estate of a deceased resident of that 7978  
state, territory, possession, or country, and ~~when~~ if no ancillary 7979  
administration proceedings have been commenced in this state, the 7980  
person to whom the letters of appointment were granted may file an 7981  
authenticated copy of them in the probate court of any county of 7982  
this state in which is located real ~~estate~~ property of the 7983  
decedent. 7984

The claim of any creditor of ~~such a~~ that decedent shall be 7985  
subject to section 2117.06 of the Revised Code. The person filing 7986  
~~such~~ those letters in the probate court may accelerate the bar 7987  
against claims against the estate established by that section, by 7988  
giving written notice to a potential claimant that identifies the 7989  
decedent by name, states the date of the death of the decedent, 7990  
identifies the court, states its mailing address, and informs the 7991  
potential claimant that any claims ~~he~~ the potential claimant may 7992  
have against the estate are required to be presented to the court 7993  
within the earlier of thirty days after receipt of the notice by 7994  
the potential claimant or ~~one year~~ six months after the date of 7995  
the death of the decedent. A claim of that potential claimant that 7996  
is not presented to the court within the earlier of thirty days 7997  
after receipt of the notice by the potential claimant or ~~one year~~ 7998  
six months after the date of the death of the decedent is forever 7999  
barred as a possible lien upon the real ~~estate~~ property of the 8000  
decedent in this state. If, at the expiration of that period, any 8001  
such claim has been filed and remains unpaid after reasonable 8002  
notice of the claim to the nonresident executor or administrator, 8003  
ancillary administration proceedings as to the estate may be had 8004  
forthwith. 8005

**Sec. 2129.05.** Authenticated copies of wills, executed and 8006  
proved according to the laws of any state or territory of the 8007  
United States, relative to property in this state, may be admitted 8008  
to record in the probate court of a county where a part of ~~such~~ 8009  
that property is situated. ~~Such~~ The authenticated copies, so 8010  
recorded, shall be as valid as wills made in this state. 8011

When such a will, or authenticated copy, is admitted to 8012  
record, a copy ~~thereof~~ of the will or of the authenticated copy, 8013  
with the copy of the order to record it annexed ~~thereto~~ to that 8014  
copy, certified by the probate judge under the seal of ~~his~~ the 8015  
probate court, may be filed and recorded in the office of the 8016  
probate judge of any other county where a part of ~~such~~ the 8017  
property is situated, and it shall be as effectual as the 8018  
authenticated copy of ~~such~~ the will would be if approved and 8019  
admitted to record by the court. 8020

**Sec. 2129.08.** (A) After an authenticated copy of the will of 8021  
a nonresident decedent has been allowed and admitted to record as 8022  
provided in this chapter, and after there has been filed in the 8023  
probate court a complete exemplification of the record of the 8024  
grant of the domiciliary letters of appointment and of any other 8025  
records of the court of domiciliary administration that the court 8026  
requires, the court shall appoint as the ancillary administrator 8027  
the person named in the will, or nominated in accordance with any 8028  
power of nomination conferred in the will, as general executor of 8029  
the decedent's estate or as executor of the portion of the 8030  
decedent's estate located in this state, provided that the person 8031  
makes application and qualifies under division (B)(2) of section 8032  
2109.21 of the Revised Code and in all other respects as required 8033  
by law. If the testator in the will naming or providing for the 8034  
nomination of that executor orders or requests that bond not be 8035  
given by ~~him~~ that executor, bond shall not be required unless, for 8036

sufficient reason, the court requires it. 8037

(B) If a nonresident decedent died intestate, or failed to 8038  
designate in ~~his~~ the nonresident decedent's will any person 8039  
qualified to act as ancillary administrator or to confer in the 8040  
will a power to nominate a person as an executor as described in 8041  
division (A) of this section, or if the will of a nonresident 8042  
decedent conferred ~~such a~~ that power but no person qualified to 8043  
act as ancillary administrator was nominated, the court shall 8044  
appoint in ~~such~~ that capacity ~~some~~ a suitable person who is a 8045  
resident of the county including, but not limited to, a creditor 8046  
of the estate. 8047

(C) An ancillary administrator, acting as to the estate of a 8048  
testate decedent that is located in this state, may sell and 8049  
convey the real and personal property by virtue of the will as 8050  
executors or administrators with the will annexed may do. 8051

(D) No person shall be appointed as an ancillary 8052  
administrator of the estate of a nonresident presumed decedent 8053  
that is located in this state, except after Chapter 2121. of the 8054  
Revised Code, relative to the appointment of an ancillary 8055  
administrator, has been complied with. 8056

**Sec. 2129.11.** If no domiciliary administration has been 8057  
commenced, the ancillary administrator shall proceed with the 8058  
administration in ~~Ohio~~ this state as though the decedent had been 8059  
a resident of ~~Ohio~~ this state at the time of ~~his~~ the decedent's 8060  
death. 8061

**Sec. 2129.13.** If an ancillary administrator finds that the 8062  
personal property of the nonresident decedent in ~~Ohio~~ this state 8063  
is not sufficient to pay the expenses of administration, public 8064  
rates and taxes, and other valid claims ~~which~~ that have been 8065  
presented, ~~he~~ the ancillary administrator shall proceed to sell as 8066

much of the real estate property of the decedent located in this 8067  
state ~~as~~ that is necessary to pay ~~such~~ those debts. The procedure 8068  
shall be the same as in sales of real estate property in 8069  
administration proceedings relating to the estates of resident 8070  
decedents under sections 2127.01 to 2127.43, ~~inclusive~~, of the 8071  
Revised Code. 8072

**Sec. 2129.14.** A domiciliary executor or administrator of a 8073  
nonresident decedent may file in the probate court by which the 8074  
ancillary administrator was appointed information showing that it 8075  
will be necessary to sell ~~Ohio~~ real estate property of the 8076  
decedent located in this state to pay debts and legacies, and the 8077  
court may thereupon authorize the ancillary administrator to sell 8078  
~~such~~ any part or all of ~~such~~ the real estate ~~as~~ property that is 8079  
necessary. The ancillary administrator shall proceed to sell ~~such~~ 8080  
the real estate property in the manner provided by section 2129.13 8081  
of the Revised Code. 8082

**Sec. 2129.15.** Within five months after ~~his~~ appointment, the 8083  
ancillary administrator of a nonresident decedent shall forward to 8084  
the domiciliary administrator, if any, of ~~such~~ the decedent, if 8085  
the name and address of ~~such~~ the domiciliary administrator are 8086  
known, a certificate showing all assets of the estate in this 8087  
state and all debts and liabilities including estimated expenses 8088  
of administration. If the name and address of ~~such~~ the domiciliary 8089  
administrator are not known, ~~such~~ the certificate shall be 8090  
forwarded to the next of kin of the deceased whose names and 8091  
addresses are known and to the court having jurisdiction in estate 8092  
matters in the county in which the decedent resided at the time of 8093  
~~his~~ death. 8094

**Sec. 2129.17.** An ancillary administrator shall file in the 8095  
probate court of every county in ~~Ohio~~ this state in which real 8096



estate property of the nonresident decedent is located a certified 8097  
copy of the records in the court of ~~his~~ the ancillary 8098  
administrator's appointment ~~which~~ that affect the title to ~~such~~ 8099  
that real ~~estate~~ property. 8100

**Sec. 2129.18.** Whenever property of a nonresident decedent as 8101  
to whose estate ancillary administration proceedings are being had 8102  
in ~~Ohio~~ this state passes by the laws of intestate succession or 8103  
under a will to a beneficiary not named ~~therein~~ in the will, 8104  
proceedings may be had to determine the persons entitled to ~~such~~ 8105  
that property in the same manner as in the estates of resident 8106  
decedents under sections 2123.01 to 2123.07, ~~inclusive~~, of the 8107  
Revised Code. The ancillary administrator shall file a certified 8108  
copy of ~~such~~ the finding in the probate court in every county in 8109  
~~Ohio~~ this state in which real ~~estate~~ property of the decedent is 8110  
located. ~~Such~~ The administrator shall procure and file in the 8111  
court for the information of the court a certified copy of any 8112  
determination of heirship relative to ~~such~~ the decedent's estate 8113  
made in the state of the domiciliary administration. 8114

**Sec. 2129.19.** Prior to filing ~~his~~ the ancillary 8115  
administrator's final account, an ancillary administrator shall 8116  
file in the probate court an application for a certificate of 8117  
transfer as to the real ~~estate~~ property of the nonresident 8118  
decedent situated in ~~Ohio~~ this state, in the same manner as in the 8119  
administration of the estates of resident decedents under section 8120  
2113.61 of the Revised Code. 8121

**Sec. 2129.23.** When the expense of the ancillary 8122  
administration of a nonresident decedent's estate, including ~~such~~ 8123  
any attorney's fee ~~as~~ that is allowed by the probate court, all 8124  
public charges and taxes, and all claims of creditors presented as 8125  
provided in section 2129.12 of the Revised Code, have been paid, 8126

any residue of the personal ~~estate~~ property and the proceeds of 8127  
any real ~~estate~~ property sold for the payment of debts shall be 8128  
distributed by the ancillary administrator as follows: 8129

(A) With the approval of the court ~~such,~~ the residue may be 8130  
delivered to the domiciliary administrator or executor. 8131

(B) If the court so orders, ~~such~~ the residue shall be 8132  
delivered to the persons entitled ~~thereto~~ to it. 8133

**Sec. 2129.25.** When an executor or administrator is appointed 8134  
in any other state, territory, or foreign country for the estate 8135  
of a person dying out of this state, and no executor or 8136  
administrator ~~thereon~~ for the estate is appointed in this state, 8137  
the foreign executor or administrator may file an authenticated 8138  
copy of ~~his~~ the foreign executor's or administrator's appointment 8139  
in the probate court of any county in which there is real ~~estate~~ 8140  
property of the deceased, together with an authenticated copy of 8141  
the will. After filing ~~such~~ those copies, ~~he~~ the foreign executor 8142  
or administrator may be authorized, under an order of the court, 8143  
to sell real ~~estate~~ property for the payment of debts or legacies 8144  
and charges of administration, in the manner prescribed in 8145  
sections 2127.01 to 2127.43, ~~inclusive,~~ of the Revised Code. 8146

**Sec. 2129.26.** ~~When~~ If it appears to the probate court 8147  
granting the order of sale set forth in section 2129.25 of the 8148  
Revised Code that the foreign executor or administrator is bound 8149  
with sufficient surety in the state or country in which ~~he~~ the 8150  
foreign executor or administrator was appointed to account for the 8151  
proceeds of ~~such~~ the sale, for the payment of debts or legacies, 8152  
and for charges of administration, and an authenticated copy of 8153  
~~such~~ the bond is filed in court, no further bond for that purpose 8154  
shall be required of ~~him~~ the foreign executor or administrator. 8155  
~~When~~ If the court finds that ~~such~~ the bond is insufficient, before 8156

making ~~such~~ the sale, ~~such~~ the foreign executor or administrator 8157  
~~must~~ shall give bond to this state with two or more sufficient 8158  
sureties, conditioned to account for and dispose of ~~such~~ the 8159  
proceeds of the sale for the payment of the debts or legacies of 8160  
the deceased and the charges of administration according to the 8161  
laws of the state or country in which ~~he~~ the foreign executor or  
administrator was appointed. 8162  
8163

~~When such~~ If the foreign executor or administrator is 8164  
authorized by order of the court to sell more than is necessary 8165  
for the payment of debts, legacies, and charges of administration, 8166  
before making the sale, ~~he~~ the foreign executor or administrator 8167  
shall give bond with two or more sufficient sureties to this 8168  
state, conditioned to account before the court for all the 8169  
proceeds of the sale that remain and to dispose of ~~such~~ the 8170  
proceeds after payment of ~~such~~ the debts, legacies, and charges. 8171

**Sec. 2129.28.** If a trustee is named in a foreign will ~~which~~ 8172  
that creates a trust relating to ~~lands~~ real property situated in 8173  
this state, ~~such~~ the trustee may execute the trust upon giving 8174  
bond to the state in ~~such~~ the sum and with ~~such~~ the sureties ~~as~~ 8175  
that the probate court of the county in which ~~such~~ lands the real  
property or a part ~~thereof~~ are of the real property is situated 8176  
8177  
approves, conditioned to discharge with fidelity the trust reposed 8178  
in ~~him~~ the trustee. If the testator in the will naming the trustee 8179  
orders or requests that bond ~~be~~ not be given by ~~him~~ the trustee, 8180  
bond shall not be required, unless for sufficient cause the court 8181  
requires it. 8182

**Sec. 2129.29.** If a trustee has been appointed under a foreign 8183  
will ~~which~~ that creates a trust relating to ~~lands~~ real property 8184  
situated in this state by a foreign court according to the laws of 8185  
the foreign jurisdiction, ~~he~~ the trustee may execute the trust 8186  
upon giving bond as provided in section 2129.28 of the Revised 8187

Code, and after satisfying the probate court of the county in 8188  
which ~~such lands~~ the real property or a part of ~~them~~ are it is 8189  
situated, by an authenticated record of ~~his~~ appointment, that ~~he~~ 8190  
the person or entity has been appointed trustee to execute the 8191  
trust. 8192

**Sec. 2129.30.** ~~When~~ If necessary, the probate court of the 8193  
county where the property affected by the trust is situated, on 8194  
application by petition of the parties interested, may appoint a 8195  
trustee to carry into effect a trust created by a foreign will. 8196  
~~Such~~ The trustee, before entering upon ~~his~~ the trust, ~~must~~ shall 8197  
give bond with ~~such~~ the security and in ~~such~~ the amount ~~as~~ that 8198  
the court directs. 8199

**Sec. 2131.08.** (A) Subject to sections 1746.14, 1747.09, and 8200  
2131.09 of the Revised Code, no interest in real or personal 8201  
property shall be good unless it must vest, if at all, not later 8202  
than twenty-one years after a life or lives in being at the 8203  
creation of the interest. All estates given in tail, by deed or 8204  
will, in ~~lands or tenements~~ real property lying within this state 8205  
shall be and remain an absolute estate in fee simple to the issue 8206  
of the first donee in tail. It is the intention by the adoption of 8207  
this section to make effective in this state what is generally 8208  
known as the common law rule against perpetuities, except as set 8209  
forth in divisions (B) and (C) of this section. 8210

(B) For the purposes of this section and subject to sections 8211  
1746.14, 1747.09, and 2131.09 of the Revised Code, the time of the 8212  
creation of an interest in real or personal property subject to a 8213  
power reserved by the grantor to revoke or terminate the interest 8214  
shall be the time at which the reserved power expires by reason of 8215  
the death of the grantor, by release of the power, or otherwise. 8216

(C) Any interest in real or personal property that would 8217

violate the rule against perpetuities, under division (A) of this 8218  
section, shall be reformed, within the limits of the rule, to 8219  
approximate most closely the intention of the creator of the 8220  
interest. In determining whether an interest would violate the 8221  
rule and in reforming an interest, the period of perpetuities 8222  
shall be measured by actual rather than possible events. 8223

(D) Divisions (B) and (C) of this section shall be effective 8224  
with respect to interests in real or personal property created by 8225  
wills of decedents dying after December 31, 1967, with respect to 8226  
interests in real or personal property created by inter vivos 8227  
instruments executed after December 31, 1967, and with respect to 8228  
interests in real or personal property created by inter vivos 8229  
instruments executed on or before December 31, 1967, that by 8230  
reason of division (B) of this section will be treated as 8231  
interests created after December 31, 1967. Divisions (B) and (C) 8232  
of this section shall be effective with respect to interests in 8233  
real or personal property created by the exercise of a power of 8234  
appointment if divisions (B) and (C) of this section apply to the 8235  
instrument that exercises the power, whether or not divisions (B) 8236  
and (C) of this section apply to the instrument that creates the 8237  
power. 8238

**Sec. 2131.11.** ~~When~~ If an investment share certificate, share 8239  
account, deposit, or stock deposit is made, in any bank, building 8240  
and loan or savings and loan association, credit union, or society 8241  
for savings, payable to the owner during ~~his~~ the owner's lifetime, 8242  
and to another on ~~his~~ the owner's death, ~~such~~ the investment share 8243  
certificate, share account, deposit, or stock deposit ~~or,~~ any part 8244  
~~thereof~~ of that certificate, account, or deposit, or any interest 8245  
or dividend ~~thereon~~ on the certificate, account, or deposit, may 8246  
be paid to the owner during ~~his~~ the owner's lifetime, and on ~~his~~ 8247  
the owner's death ~~such~~ the investment share certificate, share 8248  
account, deposit, or stock deposit ~~or,~~ any part ~~thereof~~ of that 8249

certificate, account, or deposit, or any interest or dividend 8250  
thereon on the certificate, account, or deposit, may be paid to 8251  
the designated beneficiary, and the receipt of acquittance of the 8252  
person paid is a sufficient release and discharge of the bank, 8253  
building and loan or savings and loan association, credit union, 8254  
or society for savings for any payment so made. 8255

**Sec. 2133.04.** (A) A declarant may revoke a declaration at any 8256  
time and in any manner. The revocation shall be effective when the 8257  
declarant expresses ~~his~~ an intention to revoke the declaration, 8258  
except that, if the declarant made ~~his~~ the declarant's attending 8259  
physician aware of the declaration, the revocation shall be 8260  
effective upon its communication to the attending physician of the 8261  
declarant by the declarant ~~himself~~, a witness to the revocation, 8262  
or other health care personnel to whom the revocation is 8263  
communicated by ~~such a~~ that witness. Absent actual knowledge to 8264  
the contrary, the attending physician of a declarant and other 8265  
health care personnel who are informed of the revocation of a 8266  
declaration by an alleged witness may rely on the information and 8267  
act in accordance with the revocation. 8268

(B) Upon the communication as described in division (A) of 8269  
this section to the attending physician of a declarant of the fact 8270  
that ~~his~~ the declaration has been revoked, the attending physician 8271  
or other health care personnel acting under the direction of the 8272  
attending physician shall make the fact a part of the declarant's 8273  
medical record. 8274

**Sec. 2133.05.** (A) If the attending physician of a declarant 8275  
and one other physician who examines the declarant determine that 8276  
~~he~~ the declarant is in a terminal condition or in a permanently 8277  
unconscious state, whichever is addressed in the declaration, if 8278  
the attending physician additionally determines that the declarant 8279  
no longer is able to make informed decisions regarding the 8280

administration of life-sustaining treatment for ~~himself~~ the 8281  
declarant and that there is no reasonable possibility that the 8282  
declarant will regain the capacity to make those informed 8283  
decisions for ~~himself~~ the declarant, and if the attending 8284  
physician is aware of the existence of the declarant's 8285  
declaration, then the attending physician shall do all of the 8286  
following: 8287

(1) Record the determinations, together with the terms of the 8288  
declaration or any copy of the declaration acquired as described 8289  
in division (C) of section 2133.02 of the Revised Code, in the 8290  
declarant's medical record; 8291

(2)(a) Make a good faith effort, and use reasonable 8292  
diligence, to notify either of the following of the 8293  
determinations: 8294

(i) If the declarant designated in ~~his~~ the declarant's 8295  
declaration one or more persons to be notified at any time that 8296  
life-sustaining treatment would be withheld or withdrawn pursuant 8297  
to the declaration, that person or those persons; 8298

(ii) If division (A)(2)(a)(i) of this section is not 8299  
applicable, the appropriate individual or individuals, in 8300  
accordance with the following descending order of priority: if 8301  
any, the guardian of the declarant, but this division does not 8302  
permit or require, and shall not be construed as permitting or 8303  
requiring, the appointment of a guardian for the declarant; the 8304  
declarant's spouse; the declarant's adult children who are 8305  
available within a reasonable period of time for consultation with 8306  
the declarant's attending physician; the declarant's parents; or 8307  
an adult sibling of the declarant or, if there is more than one 8308  
adult sibling, a majority of the declarant's adult siblings who 8309  
are available within a reasonable period of time for ~~such~~ the 8310  
consultation. 8311

(b) The attending physician shall record in the declarant's 8312  
medical record the names of the individual or individuals notified 8313  
pursuant to division (A)(2)(a) of this section and the manner of 8314  
notification. 8315

(c) If, despite making a good faith effort, and despite using 8316  
reasonable diligence, to notify the appropriate individual or 8317  
individuals described in division (A)(2)(a) of this section, the 8318  
attending physician cannot notify the individual or individuals of 8319  
the determinations because the individual or individuals are 8320  
deceased, cannot be located, or cannot be notified for some other 8321  
reason, then the requirements of divisions (A)(2)(a) and (b) and 8322  
(3) of this section and, except as provided in division (B)(1)(b) 8323  
of this section, the provisions of division (B) of this section 8324  
shall not apply in connection with the declarant and ~~his~~ the 8325  
declarant's declaration. However, the attending physician shall 8326  
record in the declarant's medical record information pertaining to 8327  
the reason for the failure to provide the requisite notices and 8328  
information pertaining to the nature of the good faith effort and 8329  
reasonable diligence used. 8330

(3) Afford time for the individual or individuals notified in 8331  
accordance with division (A)(2) of this section to object in the 8332  
manner described in division (B)(1)(a) of this section. 8333

(B)(1)(a) Within forty-eight hours after receipt of a notice 8334  
pursuant to division (A)(2) of this section, any individual so 8335  
notified shall advise the attending physician of the declarant 8336  
whether ~~he~~ the individual objects on a basis specified in division 8337  
(B)(2)(c) of this section. If an objection as described in that 8338  
division is communicated to the attending physician, then, within 8339  
two business days after the communication, the individual shall 8340  
file a complaint as described in division (B)(2) of this section 8341  
in the probate court of the county in which the declarant is 8342  
located. If the individual fails to so file a complaint, ~~his~~ the 8343



individual's objections as described in division (B)(2)(c) of this 8344  
section shall be considered to be void. 8345

(b) Within forty-eight hours after a person described in 8346  
division (A)(2)(a)(i) of this section or a priority individual or 8347  
any member of a priority class of individuals described in 8348  
division (A)(2)(a)(ii) of this section receives a notice pursuant 8349  
to division (A)(2) of this section or within forty-eight hours 8350  
after information pertaining to an unnotified person described in 8351  
division (A)(2)(a)(i) of this section or an unnotified priority 8352  
individual or unnotified priority class of individuals described 8353  
in division (A)(2)(a)(ii) of this section is recorded in a 8354  
declarant's medical record pursuant to division (A)(2)(c) of this 8355  
section, either of the following shall advise the attending 8356  
physician of the declarant whether ~~he or they object~~ there is an 8357  
objection on a basis specified in division (B)(2)(c) of this 8358  
section: 8359

(i) If a person described in division (A)(2)(a)(i) of this 8360  
section was notified pursuant to division (A)(2) of this section 8361  
or was the subject of a recordation under division (A)(2)(c) of 8362  
this section, then the objection shall be communicated by the 8363  
individual or a majority of the individuals in either of the first 8364  
two classes of individuals that pertain to the declarant in the 8365  
descending order of priority set forth in division (A)(2)(a)(ii) 8366  
of this section. 8367

(ii) If an individual or individuals in the descending order 8368  
of priority set forth in division (A)(2)(a)(ii) of this section 8369  
were notified pursuant to division (A)(2) of this section or were 8370  
the subject of a recordation under division (A)(2)(c) of this 8371  
section, then the objection shall be communicated by the 8372  
individual or a majority of the individuals in the next class of 8373  
individuals that pertains to the declarant in the descending order 8374  
of priority set forth in division (A)(2)(a)(ii) of this section. 8375

If an objection as described in division (B)(2)(c) of this section is communicated to the attending physician in accordance with division (B)(1)(b)(i) or (ii) of this section, then, within two business days after the communication, the objecting individual or majority shall file a complaint as described in division (B)(2) of this section in the probate court of the county in which the declarant is located. If the objecting individual or majority fails to file a complaint, ~~his or their~~ the objections as described in division (B)(2)(c) of this section shall be considered to be void.

(2) A complaint of an individual that is filed in accordance with division (B)(1)(a) of this section or of an individual or majority of individuals that is filed in accordance with division (B)(1)(b) of this section shall satisfy all of the following:

(a) Name any health care facility in which the declarant is confined;

(b) Name the declarant, ~~his~~ the declarant's attending physician, and the consulting physician associated with the determination that the declarant is in a terminal condition or in a permanently unconscious state, whichever is addressed in the declaration;

(c) Indicate whether the plaintiff or plaintiffs object on one or more of the following bases:

(i) To the attending physician's and consulting physician's determinations that the declarant is in a terminal condition or in a permanently unconscious state, whichever is addressed in the declaration;

(ii) To the attending physician's determination that the declarant no longer is able to make informed decisions regarding the administration of life-sustaining treatment;

(iii) To the attending physician's determination that there

is no reasonable possibility that the declarant will regain the capacity to make informed decisions regarding the administration of life-sustaining treatment;

(iv) That the course of action proposed to be undertaken by the attending physician is not authorized by the declarant's declaration;

(v) That the declaration was executed when the declarant was not of sound mind or was under or subject to duress, fraud, or undue influence;

(vi) That the declaration otherwise does not substantially comply with this chapter.

(d) Request the probate court to issue one of the following types of orders:

(i) An order to the attending physician to reevaluate, in light of the court proceedings, the determination that the declarant is in a terminal condition or in a permanently unconscious state, whichever is addressed in the declaration, the determination that the declarant no longer is able to make informed decisions regarding the administration of life-sustaining treatment, the determination that there is no reasonable possibility that the declarant will regain the capacity to make those informed decisions, or the course of action proposed to be undertaken;

(ii) An order invalidating the declaration because it was executed when the declarant was not of sound mind or was under or subject to duress, fraud, or undue influence, or because it otherwise does not substantially comply with this chapter;

(e) Be accompanied by an affidavit of the plaintiff or plaintiffs that includes averments relative to whether ~~he~~ the plaintiff is an individual or ~~they~~ the plaintiffs are individuals as described in division (A)(2)(a)(i) or (ii) of this section and

to the factual basis for ~~his~~ the plaintiff's or ~~their~~ the  
plaintiffs' objections; 8438  
8439

(f) Name any individuals who were notified by the attending 8440  
physician in accordance with division (A)(2)(a) of this section 8441  
and who are not joining in the complaint as plaintiffs; 8442

(g) Name, in the caption of the complaint, as defendants the 8443  
attending physician of the declarant, the consulting physician 8444  
associated with the determination that the declarant is in a 8445  
terminal condition or in a permanently unconscious state, 8446  
whichever is addressed in the declaration, any health care 8447  
facility in which the declarant is confined, and any individuals 8448  
who were notified by the attending physician in accordance with 8449  
division (A)(2)(a) of this section and who are not joining in the 8450  
complaint as plaintiffs. 8451

(3) Notwithstanding any contrary provision of the Revised 8452  
Code or of the Rules of Civil Procedure, the state and persons 8453  
other than an objecting individual as described in division 8454  
(B)(1)(a) of this section, other than an objecting individual or 8455  
majority of individuals as described in division (B)(2)(b)(i) or 8456  
(ii) of this section, and other than persons described in division 8457  
(B)(2)(g) of this section are prohibited from commencing a civil 8458  
action under this section and from joining or being joined as 8459  
parties to an action commenced under this section, including 8460  
joining by way of intervention. 8461

(4)(a) A probate court in which a complaint as described in 8462  
division (B)(2) of this section is filed within the period 8463  
specified in division (B)(1)(a) or (b) of this section shall 8464  
conduct a hearing on the complaint after a copy of the complaint 8465  
and a notice of the hearing have been served upon the defendants. 8466  
The clerk of the probate court in which the complaint is filed 8467  
shall cause the complaint and the notice of the hearing to be so 8468  
served in accordance with the Rules of Civil Procedure, which 8469

service shall be made, if possible, within three days after the 8470  
filing of the complaint. The hearing shall be conducted at the 8471  
earliest possible time, but no later than the third business day 8472  
after ~~such~~ the service has been completed. Immediately following 8473  
the hearing, the court shall enter on its journal its 8474  
determination whether a requested order will be issued. 8475

(b) If the declarant's declaration authorized the use or 8476  
continuation of life-sustaining treatment should ~~he~~ the declarant 8477  
be in a terminal condition or in a permanently unconscious state 8478  
and if the plaintiff or plaintiffs requested a reevaluation order 8479  
to the attending physician of the declarant as described in 8480  
division (B)(2)(d)(i) of this section, the court shall issue the 8481  
reevaluation order only if it finds that the plaintiff or 8482  
plaintiffs have established a factual basis for the objection or 8483  
objections involved by clear and convincing evidence, to a 8484  
reasonable degree of medical certainty, and in accordance with 8485  
reasonable medical standards. 8486

(c) If the declarant's declaration authorized the withholding 8487  
or withdrawal of life-sustaining treatment should ~~he~~ the declarant 8488  
be in a terminal condition or in a permanently unconscious state 8489  
and if the plaintiff or plaintiffs requested a reevaluation order 8490  
to the attending physician of the declarant as described in 8491  
division (B)(2)(d)(i) of this section, the court shall issue the 8492  
reevaluation order only if it finds that the plaintiff or 8493  
plaintiffs have established a factual basis for the objection or 8494  
objections involved by a preponderance of the evidence, to a 8495  
reasonable degree of medical certainty, and in accordance with 8496  
reasonable medical standards. 8497

(d) If the plaintiff or plaintiffs requested an invalidation 8498  
order as described in division (B)(2)(d)(ii) of this section, the 8499  
court shall issue the order only if it finds that the plaintiff or 8500  
plaintiffs have established a factual basis for the objection or 8501

objections involved by clear and convincing evidence. 8502

(e) If the court issues a reevaluation order to the 8503  
declarant's attending physician pursuant to division (B)(4)(b) or 8504  
(c) of this section, then the attending physician shall make the 8505  
requisite reevaluation. If, after doing so, the attending 8506  
physician again determines that the declarant is in a terminal 8507  
condition or in a permanently unconscious state, that the 8508  
declarant no longer is able to make informed decisions regarding 8509  
the administration of life-sustaining treatment, that there is no 8510  
reasonable possibility that the declarant will regain the capacity 8511  
to make those informed decisions, or that ~~he~~ the attending 8512  
physician would undertake the same proposed course of action, then 8513  
~~he~~ the attending physician shall notify the court in writing of 8514  
the determination and comply with the provisions of section 8515  
2133.10 of the Revised Code. 8516

**Sec. 2133.06.** (A) As long as a qualified patient is able to 8517  
make informed decisions regarding the administration of 8518  
life-sustaining treatment, ~~he~~ the qualified patient may continue 8519  
to do so. 8520

(B) Life-sustaining treatment shall not be withheld or 8521  
withdrawn from a declarant pursuant to a declaration if ~~she~~ the 8522  
declarant is pregnant and if the withholding or withdrawal of the 8523  
treatment would terminate the pregnancy, unless the declarant's 8524  
attending physician and one other physician who has examined the 8525  
declarant determine, to a reasonable degree of medical certainty 8526  
and in accordance with reasonable medical standards, that the 8527  
fetus would not be born alive. 8528

**Sec. 2133.08.** (A)(1) If written consent to the withholding or 8529  
withdrawal of life-sustaining treatment, witnessed by two 8530  
individuals who satisfy the witness eligibility criteria set forth 8531

in division (B)(1) of section 2133.02 of the Revised Code, is 8532  
given by the appropriate individual or individuals as specified in 8533  
division (B) of this section to the attending physician of a 8534  
patient who is an adult, and if all of the following apply in 8535  
connection with the patient, then, subject to section 2133.09 of 8536  
the Revised Code, ~~his~~ the patient's attending physician may 8537  
withhold or withdraw the life-sustaining treatment: 8538

(a) The attending physician and one other physician who 8539  
examines the patient determine, in good faith, to a reasonable 8540  
degree of medical certainty, and in accordance with reasonable 8541  
medical standards, that the patient is in a terminal condition or 8542  
the patient currently is and for at least the immediately 8543  
preceding twelve months has been in a permanently unconscious 8544  
state, and the attending physician additionally determines, in 8545  
good faith, to a reasonable degree of medical certainty, and in 8546  
accordance with reasonable medical standards, that the patient no 8547  
longer is able to make informed decisions regarding the 8548  
administration of life-sustaining treatment and that there is no 8549  
reasonable possibility that the patient will regain the capacity 8550  
to make those informed decisions. 8551

(b) The patient does not have a declaration that addresses 8552  
~~his~~ the patient's intent should ~~he~~ the patient be determined to be 8553  
in a terminal condition or in a permanently unconscious state, 8554  
whichever applies, or a durable power of attorney for health care, 8555  
or has a document that purports to be such a declaration or 8556  
durable power of attorney for health care but that document is not 8557  
legally effective. 8558

(c) The consent of the appropriate individual or individuals 8559  
is given after consultation with the patient's attending physician 8560  
and after receipt of information from the patient's attending 8561  
physician or a consulting physician that is sufficient to satisfy 8562  
the requirements of informed consent. 8563

(d) The appropriate individual or individuals who give a consent are of sound mind and voluntarily give the consent.

(e) If a consent would be given under division (B)(3) of this section, the attending physician made a good faith effort, and used reasonable diligence, to notify the patient's adult children who are available within a reasonable period of time for consultation as described in division (A)(1)(c) of this section.

(2) The consulting physician under division (A)(1)(a) of this section associated with a patient allegedly in a permanently unconscious state shall be a physician who, by virtue of advanced education or training, of a practice limited to particular diseases, illnesses, injuries, therapies, or branches of medicine or surgery or osteopathic medicine and surgery, of certification as a specialist in a particular branch of medicine or surgery or osteopathic medicine and surgery, or of experience acquired in the practice of medicine or surgery or osteopathic medicine and surgery, is qualified to determine whether the patient currently is and for at least the immediately preceding twelve months has been in a permanently unconscious state.

(B) For purposes of division (A) of this section, a consent to withhold or withdraw life-sustaining treatment may be given by the appropriate individual or individuals, in accordance with the following descending order of priority:

(1) If any, the guardian of the patient. This division does not permit or require, and shall not be construed as permitting or requiring, the appointment of a guardian for the patient.

(2) The patient's spouse;

(3) An adult child of the patient or, if there is more than one adult child, a majority of the patient's adult children who are available within a reasonable period of time for consultation with the patient's attending physician;



(4) The patient's parents; 8595

(5) An adult sibling of the patient or, if there is more than 8596  
one adult sibling, a majority of the patient's adult siblings who 8597  
are available within a reasonable period of time for ~~such~~ that 8598  
consultation; 8599

(6) The nearest adult who is not described in divisions 8600  
(B)(1) to (5) of this section, who is related to the patient by 8601  
blood or adoption, and who is available within a reasonable period 8602  
of time for ~~such~~ that consultation. 8603

(C) If an appropriate individual or class of individuals 8604  
entitled to decide under division (B) of this section whether or 8605  
not to consent to the withholding or withdrawal of life-sustaining 8606  
treatment for a patient is not available within a reasonable 8607  
period of time for ~~such~~ the consultation and competent to so 8608  
decide, or declines to so decide, then the next priority 8609  
individual or class of individuals specified in that division is 8610  
authorized to make the decision. However, an equal division in a 8611  
priority class of individuals under that division does not 8612  
authorize the next class of individuals specified in that division 8613  
to make the decision. If an equal division in a priority class of 8614  
individuals under that division occurs, no written consent to the 8615  
withholding or withdrawal of life-sustaining treatment from the 8616  
patient can be given pursuant to this section. 8617

(D)(1) A decision to consent pursuant to this section to the 8618  
use or continuation, or the withholding or withdrawal, of 8619  
life-sustaining treatment for a patient shall be made in good 8620  
faith. 8621

(2) Except as provided in division (D)(4) of this section, if 8622  
the patient previously expressed ~~his~~ an intention with respect to 8623  
the use or continuation, or the withholding or withdrawal, of 8624  
life-sustaining treatment should ~~he~~ the patient subsequently be in 8625

a terminal condition or in a permanently unconscious state, 8626  
whichever applies, and no longer able to make informed decisions 8627  
regarding the administration of life-sustaining treatment, a 8628  
consent given pursuant to this section shall be valid only if it 8629  
is consistent with that previously expressed intention. 8630

(3) Except as provided in division (D)(4) of this section, if 8631  
the patient did not previously express ~~his~~ an intention with 8632  
respect to the use or continuation, or the withholding or 8633  
withdrawal, of life-sustaining treatment should ~~he~~ the patient 8634  
subsequently be in a terminal condition or in a permanently 8635  
unconscious state, whichever applies, and no longer able to make 8636  
informed decisions regarding the administration of life-sustaining 8637  
treatment, a consent given pursuant to this section shall be valid 8638  
only if it is consistent with the type of informed consent 8639  
decision that the patient would have made if ~~he~~ the patient 8640  
previously had expressed ~~his~~ an intention with respect to the use 8641  
or continuation, or the withholding or withdrawal, of 8642  
life-sustaining treatment should ~~he~~ the patient subsequently be in 8643  
a terminal condition or in a permanently unconscious state, 8644  
whichever applies, and no longer able to make informed decisions 8645  
regarding the administration of life-sustaining treatment, as 8646  
inferred from the lifestyle and character of the patient, and from 8647  
any other evidence of the desires of the patient, prior to ~~his~~ the 8648  
patient's becoming no longer able to make informed decisions 8649  
regarding the administration of life-sustaining treatment. The 8650  
Rules of Evidence shall not be binding for purposes of this 8651  
division. 8652

(4)(a) The attending physician of the patient, and other 8653  
health care personnel acting under the direction of the attending 8654  
physician, who do not have actual knowledge of a previously 8655  
expressed intention as described in division (D)(2) of this 8656  
section or who do not have actual knowledge that the patient would 8657

have made a different type of informed consent decision under the 8658  
circumstances described in division (D)(3) of this section, may 8659  
rely on a consent given in accordance with this section unless a 8660  
probate court decides differently under division (E) of this 8661  
section. 8662

(b) The immunity conferred by division (C)(1) of section 8663  
2133.11 of the Revised Code is not forfeited by an individual who 8664  
gives a consent to the use or continuation, or the withholding or 8665  
withdrawal, of life-sustaining treatment for a patient under 8666  
division (B) of this section if the individual gives the consent 8667  
in good faith and without actual knowledge, at the time of giving 8668  
the consent, of either a contrary previously expressed intention 8669  
of the patient, or a previously expressed intention of the 8670  
patient, as described in division (D)(2) of this section, that is 8671  
revealed to the individual subsequent to the time of giving the 8672  
consent. 8673

(E)(1) Within forty-eight hours after a priority individual 8674  
or class of individuals gives a consent pursuant to this section 8675  
to the use or continuation, or the withholding or withdrawal, of 8676  
life-sustaining treatment and communicates the consent to the 8677  
patient's attending physician, any individual described in 8678  
divisions (B)(1) to (5) of this section who objects to the 8679  
application of this section to the patient shall advise the 8680  
attending physician of the grounds for the objection. If an 8681  
objection is so communicated to the attending physician, then, 8682  
within two business days after that communication, the objecting 8683  
individual shall file a complaint against the priority individual 8684  
or class of individuals, the patient's attending physician, and 8685  
the consulting physician associated with the determination that 8686  
the patient is in a terminal condition or that the patient 8687  
currently is and for at least the immediately preceding twelve 8688  
months has been in a permanently unconscious state, in the probate 8689

court of the county in which the patient is located for the 8690  
issuance of an order reversing the consent of the priority 8691  
individual or class of individuals. If the objecting individual 8692  
fails to so file a complaint, ~~his~~ the individual's objections 8693  
shall be considered to be void. 8694

A probate court in which a complaint is filed in accordance 8695  
with this division shall conduct a hearing on the complaint after 8696  
a copy of the complaint and a notice of the hearing have been 8697  
served upon the defendants. The clerk of the probate court in 8698  
which the complaint is filed shall cause the complaint and the 8699  
notice of the hearing to be so served in accordance with the Rules 8700  
of Civil Procedure, which service shall be made, if possible, 8701  
within three days after the filing of the complaint. The hearing 8702  
shall be conducted at the earliest possible time, but no later 8703  
than the third business day after ~~such~~ the service has been 8704  
completed. Immediately following the hearing, the court shall 8705  
enter on its journal its determination whether the decision of the 8706  
priority individual or class of individuals to consent to the use 8707  
or continuation, or the withholding or withdrawal, of 8708  
life-sustaining treatment in connection with the patient will be 8709  
confirmed or reversed. 8710

(2) If the decision of the priority individual or class of 8711  
individuals was to consent to the use or continuation of 8712  
life-sustaining treatment in connection with the patient, the 8713  
court only may reverse that consent if the objecting individual 8714  
establishes, by clear and convincing evidence and, if applicable, 8715  
to a reasonable degree of medical certainty and in accordance with 8716  
reasonable medical standards, one or more of the following: 8717

(a) The patient is able to make informed decisions regarding 8718  
the administration of life-sustaining treatment. 8719

(b) The patient has a legally effective declaration that 8720  
addresses ~~his~~ the patient's intent should ~~he~~ the patient be 8721

determined to be in a terminal condition or in a permanently 8722  
unconscious state, whichever applies, or a legally effective 8723  
durable power of attorney for health care. 8724

(c) The decision to use or continue life-sustaining treatment 8725  
is not consistent with the previously expressed intention of the 8726  
patient as described in division (D)(2) of this section. 8727

(d) The decision to use or continue life-sustaining treatment 8728  
is not consistent with the type of informed consent decision that 8729  
the patient would have made if ~~he~~ the patient previously had 8730  
expressed ~~his~~ an intention with respect to the use or 8731  
continuation, or the withholding or withdrawal, of life-sustaining 8732  
treatment should ~~he~~ the patient subsequently be in a terminal 8733  
condition or in a permanently unconscious state, whichever 8734  
applies, and no longer able to make informed decisions regarding 8735  
the administration of life-sustaining treatment as described in 8736  
division (D)(3) of this section. 8737

(e) The decision of the priority individual or class of 8738  
individuals was not made after consultation with the patient's 8739  
attending physician and after receipt of information from the 8740  
patient's attending physician or a consulting physician that is 8741  
sufficient to satisfy the requirements of informed consent. 8742

(f) The priority individual, or any member of the priority 8743  
class of individuals, who made the decision to use or continue 8744  
life-sustaining treatment was not of sound mind or did not 8745  
voluntarily make the decision. 8746

(g) If the decision of a priority class of individuals under 8747  
division (B)(3) of this section is involved, the patient's 8748  
attending physician did not make a good faith effort, and use 8749  
reasonable diligence, to notify the patient's adult children who 8750  
were available within a reasonable period of time for consultation 8751  
as described in division (A)(1)(c) of this section. 8752

(h) The decision of the priority individual or class of individuals otherwise was made in a manner that does not comply with this section.

(3) If the decision of the priority individual or class of individuals was to consent to the withholding or withdrawal of life-sustaining treatment in connection with the patient, the court only may reverse that consent if the objecting individual establishes, by a preponderance of the evidence and, if applicable, to a reasonable degree of medical certainty and in accordance with reasonable medical standards, one or more of the following:

(a) The patient is not in a terminal condition, the patient is not in a permanently unconscious state, or the patient has not been in a permanently unconscious state for at least the immediately preceding twelve months.

(b) The patient is able to make informed decisions regarding the administration of life-sustaining treatment.

(c) There is a reasonable possibility that the patient will regain the capacity to make informed decisions regarding the administration of life-sustaining treatment.

(d) The patient has a legally effective declaration that addresses ~~his~~ the patient's intent should ~~he~~ the patient be determined to be in a terminal condition or in a permanently unconscious state, whichever applies, or a legally effective durable power of attorney for health care.

(e) The decision to withhold or withdraw life-sustaining treatment is not consistent with the previously expressed intention of the patient as described in division (D)(2) of this section.

(f) The decision to withhold or withdraw life-sustaining treatment is not consistent with the type of informed consent

decision that the patient would have made if ~~he~~ the patient 8784  
previously had expressed ~~his~~ an intention with respect to the use 8785  
or continuation, or the withholding or withdrawal, of 8786  
life-sustaining treatment should ~~he~~ the patient subsequently be in 8787  
a terminal condition or in a permanently unconscious state, 8788  
whichever applies, and no longer able to make informed decisions 8789  
regarding the administration of life-sustaining treatment as 8790  
described in division (D)(3) of this section. 8791

(g) The decision of the priority individual or class of 8792  
individuals was not made after consultation with the patient's 8793  
attending physician and after receipt of information from the 8794  
patient's attending physician or a consulting physician that is 8795  
sufficient to satisfy the requirements of informed consent. 8796

(h) The priority individual, or any member of the priority 8797  
class of individuals, who made the decision to withhold or 8798  
withdraw life-sustaining treatment was not of sound mind or did 8799  
not voluntarily make the decision. 8800

(i) If the decision of a priority class of individuals under 8801  
division (B)(3) of this section is involved, the patient's 8802  
attending physician did not make a good faith effort, and use 8803  
reasonable diligence, to notify the patient's adult children who 8804  
were available within a reasonable period of time for consultation 8805  
as described in division (A)(1)(c) of this section. 8806

(j) The decision of the priority individual or class of 8807  
individuals otherwise was made in a manner that does not comply 8808  
with this section. 8809

(4) Notwithstanding any contrary provision of the Revised 8810  
Code or of the Rules of Civil Procedure, the state and persons 8811  
other than individuals described in divisions (B)(1) to (5) of 8812  
this section are prohibited from filing a complaint under division 8813  
(E) of this section and from joining or being joined as parties to 8814

a hearing conducted under division (E) of this section, including 8815  
joining by way of intervention. 8816

(F) A valid consent given in accordance with this section 8817  
supersedes any general consent to treatment form signed by or on 8818  
behalf of the patient prior to, upon, or after ~~his~~ the patient's 8819  
admission to a health care facility to the extent there is a 8820  
conflict between the consent and the form. 8821

(G) Life-sustaining treatment shall not be withheld or 8822  
withdrawn from a patient pursuant to a consent given in accordance 8823  
with this section if ~~she~~ the patient is pregnant and if the 8824  
withholding or withdrawal of the treatment would terminate the 8825  
pregnancy, unless the patient's attending physician and one other 8826  
physician who has examined the patient determine, to a reasonable 8827  
degree of medical certainty and in accordance with reasonable 8828  
medical standards, that the fetus would not be born alive. 8829

**Sec. 2133.09.** (A) The attending physician of a patient who is 8830  
an adult and who currently is and for at least the immediately 8831  
preceding twelve months has been in a permanently unconscious 8832  
state may withhold or withdraw nutrition and hydration in 8833  
connection with the patient only if all of the following apply: 8834

(1) Written consent to the withholding or withdrawal of 8835  
life-sustaining treatment in connection with the patient has been 8836  
given by an appropriate individual or individuals in accordance 8837  
with section 2133.08 of the Revised Code, and divisions (A)(1)(a) 8838  
to (e) and (2) of that section have been satisfied. 8839

(2) A probate court has not reversed the consent to the 8840  
withholding or withdrawal of life-sustaining treatment in 8841  
connection with the patient pursuant to division (E) of section 8842  
2133.08 of the Revised Code. 8843

(3) The attending physician of the patient and one other 8844



physician as described in division (A)(2) of section 2133.08 of 8845  
the Revised Code who examines the patient determine, in good 8846  
faith, to a reasonable degree of medical certainty, and in 8847  
accordance with reasonable medical standards, that nutrition and 8848  
hydration will not or no longer will provide comfort or alleviate 8849  
pain in connection with the patient. 8850

(4) Written consent to the withholding or withdrawal of 8851  
nutrition and hydration in connection with the patient, witnessed 8852  
by two individuals who satisfy the witness eligibility criteria 8853  
set forth in division (B)(1) of section 2133.02 of the Revised 8854  
Code, is given to the attending physician of the patient by an 8855  
appropriate individual or individuals as specified in division (B) 8856  
of section 2133.08 of the Revised Code. 8857

(5) The written consent to the withholding or withdrawal of 8858  
the nutrition and hydration in connection with the patient is 8859  
given in accordance with division (B) of this section. 8860

(6) The probate court of the county in which the patient is 8861  
located issues an order to withhold or withdraw the nutrition and 8862  
hydration in connection with the patient pursuant to division (C) 8863  
of this section. 8864

(B)(1) A decision to consent pursuant to this section to the 8865  
withholding or withdrawal of nutrition and hydration in connection 8866  
with a patient shall be made in good faith. 8867

(2) Except as provided in division (B)(4) of this section, if 8868  
the patient previously expressed ~~his~~ an intention with respect to 8869  
the use or continuation, or the withholding or withdrawal, of 8870  
nutrition and hydration should ~~he~~ the patient subsequently be in a 8871  
permanently unconscious state and no longer able to make informed 8872  
decisions regarding the administration of nutrition and hydration, 8873  
a consent given pursuant to this section shall be valid only if it 8874  
is consistent with that previously expressed intention. 8875

(3) Except as provided in division (B)(4) of this section, if 8876  
the patient did not previously express ~~his~~ an intention with 8877  
respect to the use or continuation, or the withholding or 8878  
withdrawal, of nutrition and ~~hydration~~ hydration should ~~he~~ the 8879  
patient subsequently be in a permanently unconscious state and no 8880  
longer able to make informed decisions regarding the 8881  
administration of nutrition and hydration, a consent given 8882  
pursuant to this section shall be valid only if it is consistent 8883  
with the type of informed consent decision that the patient would 8884  
have made if ~~he~~ the patient previously had expressed ~~his~~ an 8885  
intention with respect to the use or continuation, or the 8886  
withholding or withdrawal, of nutrition and hydration should ~~he~~ 8887  
the patient subsequently be in a permanently unconscious state and 8888  
no longer able to make informed decisions regarding the 8889  
administration of nutrition and hydration, as inferred from the 8890  
lifestyle and character of the patient, and from any other 8891  
evidence of the desires of the patient, prior to ~~his~~ the patient's 8892  
becoming no longer able to make informed decisions regarding the 8893  
administration of nutrition and hydration. The Rules of Evidence 8894  
shall not be binding for purposes of this division. 8895

(4)(a) The attending physician of the patient, and other 8896  
health care personnel acting under the direction of the attending 8897  
physician, who do not have actual knowledge of a previously 8898  
expressed intention as described in division (B)(2) of this 8899  
section or who do not have actual knowledge that the patient would 8900  
have made a different type of informed consent decision under the 8901  
circumstances described in division (B)(3) of this section, may 8902  
rely on a consent given in accordance with this section unless a 8903  
probate court decides differently under division (C) of this 8904  
section. 8905

(b) The immunity conferred by division (C)(2) of section 8906  
2133.11 of the Revised Code is not forfeited by an individual who 8907

gives a consent to the withholding or withdrawal of nutrition and 8908  
hydration in connection with a patient under division (A)(4) of 8909  
this section if the individual gives the consent in good faith and 8910  
without actual knowledge, at the time of giving the consent, of 8911  
either a contrary previously expressed intention of the patient, 8912  
or a previously expressed intention of the patient, as described 8913  
in ~~division~~ division (B)(2) of this section, that is revealed to 8914  
the individual subsequent to the time of giving the consent. 8915

(C)(1) Prior to the withholding or withdrawal of nutrition 8916  
and hydration in connection with a patient pursuant to this 8917  
section, the priority individual or class of individuals that 8918  
consented to the withholding or withdrawal of the nutrition and 8919  
hydration shall apply to the probate court of the county in which 8920  
the patient is located for the issuance of an order that 8921  
authorizes the attending physician of the patient to commence the 8922  
withholding or withdrawal of the nutrition and hydration in 8923  
connection with the patient. Upon the filing of the application, 8924  
the clerk of the probate court shall schedule a hearing on it and 8925  
cause a copy of it and a notice of the hearing to be served in 8926  
accordance with the Rules of Civil Procedure upon the applicant, 8927  
the attending physician, the consulting physician associated with 8928  
the determination that nutrition and hydration will not or no 8929  
longer will provide comfort or alleviate pain in connection with 8930  
the patient, and the individuals described in divisions (B)(1) to 8931  
(5) of section 2133.08 of the Revised Code who are not applicants, 8932  
which service shall be made, if possible, within three days after 8933  
the filing of the application. The hearing shall be conducted at 8934  
the earliest possible time, but no sooner than the thirtieth 8935  
business day, and no later than the sixtieth business day, after 8936  
~~such~~ the service has been completed. 8937

At the hearing, any individual described in divisions (B)(1) 8938  
to (5) of section 2133.08 of the Revised Code who is not an 8939

applicant and who disagrees with the decision of the priority 8940  
individual or class of individuals to consent to the withholding 8941  
or withdrawal of nutrition and hydration in connection with the 8942  
patient shall be permitted to testify and present evidence 8943  
relative to the use or continuation of nutrition and hydration in 8944  
connection with the patient. Immediately following the hearing, 8945  
the court shall enter on its journal its determination whether the 8946  
requested order will be issued. 8947

(2) The court shall issue an order that authorizes the 8948  
patient's attending physician to commence the withholding or 8949  
withdrawal of nutrition and hydration in connection with the 8950  
patient only if the applicants establish, by clear and convincing 8951  
evidence, to a reasonable degree of medical certainty, and in 8952  
accordance with reasonable medical standards, all of the 8953  
following: 8954

(a) The patient currently is and for at least the immediately 8955  
preceding twelve months has been in a permanently unconscious 8956  
state. 8957

(b) The patient no longer is able to make informed decisions 8958  
regarding the administration of life-sustaining treatment. 8959

(c) There is no reasonable possibility that the patient will 8960  
regain the capacity to make informed decisions regarding the 8961  
administration of life-sustaining treatment. 8962

(d) The conditions specified in divisions (A)(1) to (4) of 8963  
this section have been satisfied. 8964

(e) The decision to withhold or withdraw nutrition and 8965  
hydration in connection with the patient is consistent with the 8966  
previously expressed intention of the patient as described in 8967  
division (B)(2) of this section or is consistent with the type of 8968  
informed consent decision that the patient would have made if ~~he~~ 8969  
the patient previously had expressed ~~his~~ an intention with respect 8970

to the use or continuation, or the withholding or withdrawal, of 8971  
nutrition and hydration should ~~he~~ the patient subsequently be in a 8972  
permanently unconscious state and no longer able to make informed 8973  
decisions regarding the administration of nutrition and hydration 8974  
as described in division (B)(3) of this section. 8975

(3) Notwithstanding any contrary provision of the Revised 8976  
Code or of the Rules of Civil Procedure, the state and persons 8977  
other than individuals described in division (A)(4) of this 8978  
section or in divisions (B)(1) to (5) of section 2133.08 of the 8979  
Revised Code and other than the attending physician and consulting 8980  
physician associated with the determination that nutrition and 8981  
hydration will not or no longer will provide comfort or alleviate 8982  
pain in connection with the patient are prohibited from filing an 8983  
application under this division and from joining or being joined 8984  
as parties to a hearing conducted under this division, including 8985  
joining by way of intervention. 8986

(D) A valid consent given in accordance with this section 8987  
supersedes any general consent to treatment form signed by or on 8988  
behalf of the patient prior to, upon, or after ~~his~~ the patient's 8989  
admission to a health care facility to the extent there is a 8990  
conflict between the consent and the form. 8991

**Sec. 3101.02.** Any consent required under section 3101.01 of 8992  
the Revised Code shall be personally given before the probate 8993  
judge or a deputy clerk of the probate court, or certified under 8994  
the hand of the person consenting, by two witnesses, one of whom 8995  
~~must~~ shall appear before the judge and make oath that ~~he~~ the 8996  
witness saw the person whose name is annexed to the certificate 8997  
subscribe it, or heard ~~him~~ the person consenting acknowledge it. 8998

**Sec. 3101.03.** If the parent or guardian of a minor is a 8999  
nonresident of, or is absent from, the county in which the 9000

marriage license is applied for, ~~he~~ the parent or guardian 9001  
personally may appear before the official upon whose authority 9002  
marriage licenses are issued, in the county in which ~~he~~ the parent 9003  
or guardian is at the time domiciled, and give ~~his~~ consent in 9004  
writing to ~~such~~ that marriage. The consent ~~must~~ shall be attested 9005  
to by two witnesses, certified to by ~~such~~ that official, and 9006  
forwarded to the probate judge of the county in which the license 9007  
is applied for. The probate judge may administer any oath 9008  
required, issue and sign ~~such~~ the license, and affix the seal of 9009  
the probate court. 9010

**Sec. 3101.10.** A minister upon producing to the secretary of 9011  
state, credentials of ~~his~~ the minister's being a regularly 9012  
ordained or licensed minister of any religious society or 9013  
congregation, shall be entitled to receive from the secretary of 9014  
state a license authorizing ~~him~~ the minister to solemnize 9015  
marriages in this state so long as ~~he~~ the minister continues as a 9016  
regular minister in ~~such~~ that society or congregation. A minister 9017  
shall produce for inspection ~~his~~ the minister's license to 9018  
solemnize marriages upon demand of any party to a marriage at 9019  
which ~~he~~ the minister officiates or proposes to officiate or upon 9020  
demand of any probate judge. 9021

**Sec. 3101.13.** Except as otherwise provided in this section, a 9022  
certificate of every marriage solemnized shall be transmitted by 9023  
the authorized person solemnizing the marriage, within thirty days 9024  
after the solemnization, to the probate judge of the county in 9025  
which the marriage license was issued. If, in accordance with 9026  
section 2101.27 of the Revised Code, a probate judge solemnizes a 9027  
marriage and if the probate judge issued the marriage license to 9028  
the husband and wife, ~~he~~ the probate judge shall file a 9029  
certificate of that solemnized marriage in ~~his~~ the probate judge's 9030  
office within thirty days after the solemnization. All ~~such~~ of the 9031

transmitted and filed certificates shall be consecutively numbered 9032  
and recorded in the order in which they are received. 9033

**Sec. 3101.14.** Every marriage license shall have printed upon 9034  
it in prominent type the notice that, unless the person 9035  
solemnizing the marriage returns a certificate of the solemnized 9036  
marriage to the probate court that issued the marriage license 9037  
within thirty days after performing the ceremony, or, if the 9038  
person solemnizing the marriage is a probate judge who is acting 9039  
in accordance with section 2101.27 of the Revised Code and who 9040  
issued the marriage license to the husband and wife, unless ~~such a~~ 9041  
that probate judge files a certificate of the solemnized marriage 9042  
in ~~his~~ the probate judge's office within thirty days after the 9043  
solemnization, ~~he~~ the person or probate judge is guilty of a minor 9044  
misdemeanor and, upon conviction, may be punished by a fine of 9045  
fifty dollars. An envelope suitable for returning the certificate 9046  
of marriage, and addressed to the proper probate court, shall be 9047  
given with each license, except that this requirement does not 9048  
apply if a marriage is to be solemnized by a probate judge who is 9049  
acting in accordance with section 2101.27 of the Revised Code and 9050  
who issued the marriage license to the husband and wife. 9051

**Sec. 3313.85.** If the board of education of any city, exempted 9052  
village, or local school district or the governing board of any 9053  
educational service center ~~fails to perform the duties imposed~~ 9054  
~~upon it or~~ fails to fill a vacancy in ~~such~~ that board within a 9055  
period of thirty days after ~~such~~ the vacancy occurs, the probate 9056  
court of the county in which ~~such~~ the district or service center 9057  
is located, upon being advised and satisfied of ~~such~~ that failure, 9058  
shall act as ~~such~~ that board ~~and perform all duties imposed upon~~ 9059  
~~such board~~ to fill any vacancy as promptly as possible. 9060

9061

Sec. 5111.113. (A) As used in this section: 9062

(1) "Adult care facility" has the same meaning as in section 9063  
3722.01 of the Revised Code. 9064

(2) "Commissioner" means a person appointed by a probate 9065  
court under division ~~(B)~~(E) of section 2113.03 of the Revised Code 9066  
to act as a commissioner. 9067

(3) "Home" has the same meaning as in section 3721.10 of the 9068  
Revised Code. 9069

(4) "Personal needs allowance account" means an account or 9070  
petty cash fund that holds the money of a resident of an adult 9071  
care facility or home and that the facility or home manages for 9072  
the resident. 9073

(B) Except as provided in divisions (C) and (D) of this 9074  
section, the owner or operator of an adult care facility or home 9075  
shall transfer to the department of job and family services the 9076  
money in the personal needs allowance account of a resident of the 9077  
facility or home who was a recipient of the medical assistance 9078  
program no earlier than sixty days but not later than ninety days 9079  
after the resident dies. The adult care facility or home shall 9080  
transfer the money even though the owner or operator of the 9081  
facility or home has not been issued letters testamentary or 9082  
letters of administration concerning the resident's estate. 9083

(C) If funeral or burial expenses for a resident of an adult 9084  
care facility or home who has died have not been paid and the only 9085  
resource the resident had that could be used to pay for the 9086  
expenses is the money in the resident's personal needs allowance 9087  
account, or all other resources of the resident are inadequate to 9088  
pay the full cost of the expenses, the money in the resident's 9089  
personal needs allowance account shall be used to pay for the 9090  
expenses rather than being transferred to the department of job 9091



and family services pursuant to division (B) of this section. 9092

(D) If, not later than sixty days after a resident of an 9093  
adult care facility or home dies, letters testamentary or letters 9094  
of administration are issued, or an application for release from 9095  
administration is filed under section 2113.03 of the Revised Code, 9096  
concerning the resident's estate, the owner or operator of the 9097  
facility or home shall transfer the money in the resident's 9098  
personal needs allowance account to the administrator, executor, 9099  
commissioner, or person who filed the application for release from 9100  
administration. 9101

(E) The transfer or use of money in a resident's personal 9102  
needs allowance account in accordance with division (B), (C), or 9103  
(D) of this section discharges and releases the adult care 9104  
facility or home, and the owner or operator of the facility or 9105  
home, from any claim for the money from any source. 9106

(F) If, sixty-one or more days after a resident of an adult 9107  
care facility or home dies, letters testamentary or letters of 9108  
administration are issued, or an application for release from 9109  
administration under section 2113.03 of the Revised Code is filed, 9110  
concerning the resident's estate, the department of job and family 9111  
services shall transfer the funds to the administrator, executor, 9112  
commissioner, or person who filed the application, unless the 9113  
department is entitled to recover the money under the medicaid 9114  
estate recovery program instituted under section 5111.11 of the 9115  
Revised Code. 9116

**Section 2.** That existing sections 141.07, 2101.01, 2101.02, 9117  
2101.021, 2101.03, 2101.04, 2101.06, 2101.07, 2101.08, 2101.09, 9118  
2101.10, 2101.11, 2101.13, 2101.15, 2101.16, 2101.162, 2101.19, 9119  
2101.20, 2101.22, 2101.23, 2101.24, 2101.27, 2101.30, 2101.34, 9120  
2101.38, 2101.41, 2101.43, 2103.01, 2105.051, 2105.06, 2105.09, 9121  
2105.10, 2105.11, 2105.13, 2105.14, 2105.15, 2105.16, 2105.19, 9122

2106.01, 2106.08, 2106.11, 2107.01, 2107.02, 2107.03, 2107.04, 9123  
2107.05, 2107.07, 2107.08, 2107.081, 2107.082, 2107.083, 2107.084, 9124  
2107.085, 2107.09, 2107.10, 2107.11, 2107.15, 2107.17, 2107.18, 9125  
2107.20, 2107.21, 2107.22, 2107.29, 2107.32, 2107.34, 2107.35, 9126  
2107.36, 2107.38, 2107.46, 2107.47, 2107.49, 2107.50, 2107.501, 9127  
2107.51, 2107.52, 2107.53, 2107.54, 2107.55, 2107.56, 2107.58, 9128  
2107.59, 2107.60, 2107.61, 2107.65, 2107.71, 2107.73, 2107.75, 9129  
2108.51, 2109.02, 2109.021, 2109.03, 2109.04, 2109.05, 2109.06, 9130  
2109.07, 2109.09, 2109.10, 2109.11, 2109.12, 2109.14, 2109.17, 9131  
2109.19, 2109.20, 2109.21, 2109.22, 2109.24, 2109.25, 2109.26, 9132  
2109.302, 2109.303, 2109.32, 2109.33, 2109.34, 2109.35, 2109.36, 9133  
2109.361, 2109.37, 2109.371, 2109.372, 2109.38, 2109.39, 2109.40, 9134  
2109.42, 2109.43, 2109.44, 2109.45, 2109.46, 2109.47, 2109.48, 9135  
2109.49, 2109.50, 2109.51, 2109.52, 2109.53, 2109.54, 2109.55, 9136  
2109.56, 2109.57, 2109.58, 2109.59, 2109.60, 2109.61, 2109.62, 9137  
2111.02, 2111.021, 2111.031, 2111.04, 2111.041, 2111.05, 2111.06, 9138  
2111.07, 2111.09, 2111.091, 2111.10, 2111.12, 2111.131, 2111.14, 9139  
2111.141, 2111.16, 2111.17, 2111.18, 2111.181, 2111.19, 2111.20, 9140  
2111.21, 2111.22, 2111.25, 2111.26, 2111.27, 2111.28, 2111.29, 9141  
2111.30, 2111.31, 2111.33, 2111.34, 2111.35, 2111.36, 2111.37, 9142  
2111.38, 2111.39, 2111.40, 2111.41, 2111.44, 2111.46, 2111.48, 9143  
2111.50, 2113.01, 2113.03, 2113.04, 2113.05, 2113.06, 2113.07, 9144  
2113.12, 2113.13, 2113.14, 2113.15, 2113.16, 2113.18, 2113.19, 9145  
2113.20, 2113.21, 2113.22, 2113.25, 2113.30, 2113.31, 2113.311, 9146  
2113.33, 2113.34, 2113.35, 2113.36, 2113.39, 2113.40, 2113.41, 9147  
2113.45, 2113.46, 2113.48, 2113.49, 2113.50, 2113.51, 2113.52, 9148  
2113.54, 2113.58, 2113.61, 2113.62, 2113.67, 2113.68, 2113.69, 9149  
2113.70, 2113.72, 2113.73, 2113.74, 2113.75, 2113.81, 2113.82, 9150  
2113.85, 2113.86, 2113.87, 2113.88, 2115.02, 2115.03, 2115.06, 9151  
2115.09, 2115.10, 2115.11, 2115.12, 2115.16, 2115.17, 2117.01, 9152  
2117.02, 2117.03, 2117.04, 2117.08, 2117.09, 2117.10, 2117.13, 9153  
2117.15, 2117.17, 2117.18, 2117.30, 2117.31, 2117.34, 2117.35, 9154  
2117.36, 2117.37, 2117.41, 2117.42, 2119.01, 2119.02, 2119.03, 9155

2119.04, 2119.05, 2121.01, 2121.02, 2121.05, 2121.06, 2121.08, 9156  
2121.09, 2123.02, 2123.03, 2123.05, 2123.06, 2127.011, 2127.02, 9157  
2127.04, 2127.05, 2127.06, 2127.07, 2127.08, 2127.09, 2127.10, 9158  
2127.11, 2127.12, 2127.13, 2127.14, 2127.15, 2127.16, 2127.17, 9159  
2127.18, 2127.19, 2127.21, 2127.22, 2127.23, 2127.24, 2127.27, 9160  
2127.28, 2127.29, 2127.30, 2127.32, 2127.33, 2127.34, 2127.35, 9161  
2127.36, 2127.37, 2127.38, 2127.39, 2127.40, 2127.41, 2127.42, 9162  
2127.43, 2129.02, 2129.05, 2129.08, 2129.11, 2129.13, 2129.14, 9163  
2129.15, 2129.17, 2129.18, 2129.19, 2129.23, 2129.25, 2129.26, 9164  
2129.28, 2129.29, 2129.30, 2131.08, 2131.11, 2133.04, 2133.05, 9165  
2133.06, 2133.08, 2133.09, 3101.02, 3101.03, 3101.10, 3101.13, 9166  
3101.14, 3313.85, and 5111.113 and sections 2101.36, 2101.37, 9167  
2113.02, 2113.17, 2113.24, 2113.26, 2113.27, 2113.28, 2113.29, 9168  
2113.57, and 2113.63 of the Revised Code are hereby repealed. 9169

**Section 3.** The provisions of this act that relate to the 9170  
estates of decedents apply to the estates of decedents who die on 9171  
or after the effective date of this act. 9172

**Section 4.** The General Assembly, applying the principle 9173  
stated in division (B) of section 1.52 of the Revised Code that 9174  
amendments are to be harmonized if reasonably capable of 9175  
simultaneous operation, finds that the following sections, 9176  
presented in this act as composites of the sections as amended by 9177  
the acts indicated, are the resulting versions of the sections in 9178  
effect prior to the effective date of the sections as presented in 9179  
this act: 9180

Section 2101.24 of the Revised Code as amended by both Sub. 9181  
H.B. 416 and Sub. H.B. 426 of the 126th General Assembly. 9182

Section 2109.44 of the Revised Code as amended by both Am. 9183  
Sub. H.B. 538 and Sub. S.B. 129 of the 121st General Assembly. 9184