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**H. B. No. 267**

**Representative McKenney**

**Cosponsors: Representatives Combs, Letson, Stebelton, Murray, Adams, R.,  
Barnes, Beck, Blair, Blessing, Carney, Dovilla, Duffey, Gardner, Garland,  
Gonzales, Grossman, Hackett, Hayes, Huffman, Luckie, O'Brien, Patmon,  
Pillich, Sears, Slaby, Sprague, Terhar, Weddington, Winburn, Young  
Speaker Batchelder**

—

**A B I L L**

To amend sections 9.231, 169.01, 1702.01, 1702.05, 1  
1702.41, 1702.42, 1702.43, 1702.44, 1702.46, 2  
2901.23, 3955.06, 3956.06, 4121.70, 4303.201, 3  
4303.204, 4303.207, 5111.151, and 5701.13; to 4  
enact sections 1702.411, 1745.05 to 1745.46, 5  
1745.461, and 1745.47 to 1745.57; and to repeal 6  
sections 1702.45, 1745.01, 1745.02, and 1745.04 of 7  
the Revised Code to adopt the Revised Uniform 8  
Unincorporated Nonprofit Association Act and to 9  
revise the merger and consolidation provisions of 10  
the Nonprofit Corporation Law. 11

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

**Section 1.** That sections 9.231, 169.01, 1702.01, 1702.05, 12  
1702.41, 1702.42, 1702.43, 1702.44, 1702.46, 2901.23, 3955.06, 13  
3956.06, 4121.70, 4303.201, 4303.204, 4303.207, 5111.151, and 14  
5701.13 be amended, and sections 1702.411, 1745.05, 1745.06, 15  
1745.07, 1745.08, 1745.09, 1745.10, 1745.11, 1745.12, 1745.13, 16

1745.14, 1745.15, 1745.16, 1745.17, 1745.18, 1745.19, 1745.20, 17  
1745.21, 1745.22, 1745.23, 1745.24, 1745.25, 1745.26, 1745.27, 18  
1745.28, 1745.29, 1745.30, 1745.31, 1745.32, 1745.33, 1745.34, 19  
1745.35, 1745.36, 1745.37, 1745.38, 1745.39, 1745.40, 1745.41, 20  
1745.42, 1745.43, 1745.44, 1745.45, 1745.46, 1745.461, 1745.47, 21  
1745.48, 1745.49, 1745.50, 1745.51, 1745.52, 1745.53, 1745.54, 22  
1745.55, 1745.56, and 1745.57 of the Revised Code be enacted to 23  
read as follows: 24

**Sec. 9.231.** (A)(1) Subject to divisions (A)(2) and (3) of 25  
this section, a governmental entity shall not disburse money 26  
totaling twenty-five thousand dollars or more to any person for 27  
the provision of services for the primary benefit of individuals 28  
or the public and not for the primary benefit of a governmental 29  
entity or the employees of a governmental entity, unless the 30  
contracting authority of the governmental entity first enters into 31  
a written contract with the person that is signed by the person or 32  
by an officer or agent of the person authorized to legally bind 33  
the person and that embodies all of the requirements and 34  
conditions set forth in sections 9.23 to 9.236 of the Revised 35  
Code. If the disbursement of money occurs over the course of a 36  
governmental entity's fiscal year, rather than in a lump sum, the 37  
contracting authority of the governmental entity shall enter into 38  
the written contract with the person at the point during the 39  
governmental entity's fiscal year that at least seventy-five 40  
thousand dollars has been disbursed by the governmental entity to 41  
the person. Thereafter, the contracting authority of the 42  
governmental entity shall enter into the written contract with the 43  
person at the beginning of the governmental entity's fiscal year, 44  
if, during the immediately preceding fiscal year, the governmental 45  
entity disbursed to that person an aggregate amount totaling at 46  
least seventy-five thousand dollars. 47

(2) If the money referred to in division (A)(1) of this section is disbursed by or through more than one state agency to the person for the provision of services to the same population, the contracting authorities of those agencies shall determine which one of them will enter into the written contract with the person.

(3) The requirements and conditions set forth in divisions (A), (B), (C), and (F) of section 9.232, divisions (A)(1) and (2) and (B) of section 9.234, divisions (A)(2) and (B) of section 9.235, and sections 9.233 and 9.236 of the Revised Code do not apply with respect to the following:

(a) Contracts to which all of the following apply:

(i) The amount received for the services is a set fee for each time the services are provided, is determined in accordance with a fixed rate per unit of time or per service, or is a capitated rate, and the fee or rate is established by competitive bidding or by a market rate survey of similar services provided in a defined market area. The market rate survey may be one conducted by or on behalf of the governmental entity or an independent survey accepted by the governmental entity as statistically valid and reliable.

(ii) The services are provided in accordance with standards established by state or federal law, or by rules or regulations adopted thereunder, for their delivery, which standards are enforced by the federal government, a governmental entity, or an accrediting organization recognized by the federal government or a governmental entity.

(iii) Payment for the services is made after the services are delivered and upon submission to the governmental entity of an invoice or other claim for payment as required by any applicable local, state, or federal law or, if no such law applies, by the

terms of the contract.	79
(b) Contracts under which the services are reimbursed through	80
or in a manner consistent with a federal program that meets all of	81
the following requirements:	82
(i) The program calculates the reimbursement rate on the	83
basis of the previous year's experience or in accordance with an	84
alternative method set forth in rules adopted by the Ohio	85
department of job and family services.	86
(ii) The reimbursement rate is derived from a breakdown of	87
direct and indirect costs.	88
(iii) The program's guidelines describe types of expenditures	89
that are allowable and not allowable under the program and	90
delineate which costs are acceptable as direct costs for purposes	91
of calculating the reimbursement rate.	92
(iv) The program includes a uniform cost reporting system	93
with specific audit requirements.	94
(c) Contracts under which the services are reimbursed through	95
or in a manner consistent with a federal program that calculates	96
the reimbursement rate on a fee for service basis in compliance	97
with United States office of management and budget Circular A-87,	98
as revised May 10, 2004.	99
(d) Contracts for services that are paid pursuant to the	100
earmarking of an appropriation made by the general assembly for	101
that purpose.	102
(B) Division (A) of this section does not apply if the money	103
is disbursed to a person pursuant to a contract with the United	104
States or a governmental entity under any of the following	105
circumstances:	106
(1) The person receives the money directly or indirectly from	107
the United States, and no governmental entity exercises any	108



5103.02 of the Revised Code;	140
(f) "Routine business services other than administrative or management services," as that term is defined by the attorney general by rule adopted in accordance with Chapter 119. of the Revised Code;	141 142 143 144
(g) Services to protect the environment or promote environmental education that are provided by a nonprofit entity or services to protect the environment that are funded with federal grants or revolving loan funds and administered in accordance with federal law;	145 146 147 148 149
(h) Services, including administrative and management services, provided under the children's buy-in program established under sections 5101.5211 to 5101.5216 of the Revised Code.	150 151 152
(3) The person receives the money solely in return for the performance of services intended to help preserve public health or safety under circumstances requiring immediate action as a result of a natural or man-made emergency.	153 154 155 156
(C) With respect to a <u>an unincorporated</u> nonprofit association, corporation, or organization established for the purpose of providing educational, technical, consulting, training, financial, or other services to its members in exchange for membership dues and other fees, any of the services provided to a member that is a governmental entity shall, for purposes of this section, be considered services "for the primary benefit of a governmental entity or the employees of a governmental entity.	157 158 159 160 161 162 163 164
<b>Sec. 169.01.</b> As used in this chapter, unless the context otherwise requires:	165 166
(A) "Financial organization" means any bank, trust company, savings bank, safe deposit company, mutual savings bank without mutual stock, savings and loan association, credit union, or	167 168 169

investment company.	170
(B)(1) "Unclaimed funds" means any moneys, rights to moneys, or intangible property, described in section 169.02 of the Revised Code, when, as shown by the records of the holder, the owner has not, within the times provided in section 169.02 of the Revised Code, done any of the following:	171 172 173 174 175
(a) Increased, decreased, or adjusted the amount of such funds;	176 177
(b) Assigned, paid premiums, or encumbered such funds;	178
(c) Presented an appropriate record for the crediting of such funds or received payment of such funds by check, draft, or otherwise;	179 180 181
(d) Corresponded with the holder concerning such funds;	182
(e) Otherwise indicated an interest in or knowledge of such funds;	183 184
(f) Transacted business with the holder.	185
(2) "Unclaimed funds" does not include any of the following:	186
(a) Money received or collected under section 9.39 of the Revised Code;	187 188
(b) Any payment or credit due to a business association from a business association representing sums payable to suppliers, or payment for services rendered, in the course of business, including, but not limited to, checks or memoranda, overpayments, unidentified remittances, nonrefunded overcharges, discounts, refunds, and rebates;	189 190 191 192 193 194
(c) Any payment or credit received by a business association from a business association for tangible goods sold, or services performed, in the course of business, including, but not limited to, checks or memoranda, overpayments, unidentified remittances, nonrefunded overcharges, discounts, refunds, and rebates;	195 196 197 198 199

(d) Any credit due a retail customer that is represented by a gift certificate, gift card, merchandise credit, or merchandise credit card, redeemable only for merchandise.

For purposes of divisions (B)(2)(b) and (c) of this section, "business association" means any corporation, joint venture, business trust, limited liability company, partnership, association, or other business entity composed of one or more individuals, whether or not the entity is for profit.

(C) "Owner" means any person, or the person's legal representative, entitled to receive or having a legal or equitable interest in or claim against moneys, rights to moneys, or other intangible property, subject to this chapter.

(D)(1) "Holder" means any person that has possession, custody, or control of moneys, rights to moneys, or other intangible property, or that is indebted to another, if any of the following applies:

(a) Such person resides in this state;

(b) Such person is formed under the laws of this state;

(c) Such person is formed under the laws of the United States and has an office or principal place of business in this state;

(d) The records of such person indicate that the last known address of the owner of such moneys, rights to moneys, or other intangible property is in this state;

(e) The records of such person do not indicate the last known address of the owner of the moneys, rights to moneys, or other intangible property and the entity originating or issuing the moneys, rights to moneys, or other intangible property is this state or any political subdivision of this state, or is incorporated, organized, created, or otherwise located in this state. Division (D)(1)(e) of this section applies to all moneys,

rights to moneys, or other intangible property that is in the 230  
possession, custody, or control of such person on or after July 231  
22, 1994, whether the moneys, rights to moneys, or other 232  
intangible property becomes unclaimed funds prior to or on or 233  
after that date. 234

(2) "Holder" does not mean any hospital granted tax-exempt 235  
status under section 501(c)(3) of the Internal Revenue Code or any 236  
hospital owned or operated by the state or by any political 237  
subdivision. Any entity in order to be exempt from the definition 238  
of "holder" pursuant to this division shall make a reasonable, 239  
good-faith effort to contact the owner of the unclaimed funds. 240

(E) "Person" includes a natural person; corporation, whether 241  
for profit or not for profit; copartnership; unincorporated 242  
nonprofit association ~~or organization~~; public authority; estate; 243  
trust; two or more persons having a joint or common interest; 244  
eleemosynary organization; fraternal or cooperative association; 245  
other legal or community entity; the United States government, 246  
including any district, territory, possession, officer, agency, 247  
department, authority, instrumentality, board, bureau, or court; 248  
or any state or political subdivision thereof, including any 249  
officer, agency, board, bureau, commission, division, department, 250  
authority, court, or instrumentality. 251

(F) "Mortgage funds" means the mortgage insurance fund 252  
created by section 122.561 of the Revised Code, and the housing 253  
guarantee fund created by division (D) of section 128.11 of the 254  
Revised Code. 255

(G) "Lawful claims" means any vested right a holder of 256  
unclaimed funds has against the owner of such unclaimed funds. 257

(H) "Public utility" means any entity defined as such by 258  
division (A) of section 745.01 or by section 4905.02 of the 259  
Revised Code. 260

(I) "Deposit" means to place money in the custody of a 261  
financial organization for the purpose of establishing an 262  
income-bearing account by purchase or otherwise. 263

(J) "Income-bearing account" means a time or savings account, 264  
whether or not evidenced by a certificate of deposit, or an 265  
investment account through which investments are made solely in 266  
obligations of the United States or its agencies or 267  
instrumentalities or guaranteed as to principal and interest by 268  
the United States or its agencies or instrumentalities, debt 269  
securities rated as investment grade by at least two nationally 270  
recognized rating services, debt securities which the director of 271  
commerce has determined to have been issued for the safety and 272  
welfare of the residents of this state, and equity interests in 273  
mutual funds that invest solely in some or all of the above-listed 274  
securities and involve no general liability, without regard to 275  
whether income earned on such accounts, securities, or interests 276  
is paid periodically or at the end of a term. 277

(K) "Director of commerce" may be read as the "division of 278  
unclaimed funds" or the "superintendent of unclaimed funds." 279

**Sec. 1702.01.** As used in this chapter, unless the context 280  
otherwise requires: 281

(A) "Corporation" or "domestic corporation" means a nonprofit 282  
corporation formed under the laws of this state, or a business 283  
corporation formed under the laws of this state that, by amendment 284  
to its articles as provided by law, becomes a nonprofit 285  
corporation. 286

(B) "Foreign corporation" means a nonprofit corporation 287  
formed under the laws of another state. 288

(C) "Nonprofit corporation" means a domestic or foreign 289  
corporation that is formed otherwise than for the pecuniary gain 290

or profit of, and whose net earnings or any part of them is not 291  
distributable to, its members, directors, officers, or other 292  
private persons, except that the payment of reasonable 293  
compensation for services rendered and the distribution of assets 294  
on dissolution as permitted by section 1702.49 of the Revised Code 295  
is not pecuniary gain or profit or distribution of net earnings. 296  
In a corporation all of whose members are nonprofit corporations, 297  
distribution to members does not deprive it of the status of a 298  
nonprofit corporation. 299

(D) "State" means the United States; any state, territory, 300  
insular possession, or other political subdivision of the United 301  
States, including the District of Columbia; any foreign country or 302  
nation; and any province, territory, or other political 303  
subdivision of a foreign country or nation. 304

(E) "Articles" includes original articles of incorporation, 305  
agreements of merger or consolidation if and only to the extent 306  
that articles of incorporation are adopted or amended in the 307  
agreements, amended articles, and amendments to any of these, and, 308  
in the case of a corporation created before September 1, 1851, the 309  
special charter and any amendments to it made by special act of 310  
the general assembly or pursuant to general law. 311

(F) "Incorporator" means a person who signed the original 312  
articles of incorporation. 313

(G) "Member" means one having membership rights and 314  
privileges in a corporation in accordance with its articles or 315  
regulations. 316

(H) "Voting member" means a member possessing voting rights, 317  
either generally or in respect of the particular question 318  
involved, as the case may be. 319

(I) "Person" includes, but is not limited to, a nonprofit 320  
corporation, a business corporation, a partnership, an 321

unincorporated society or association, and two or more persons 322  
having a joint or common interest. 323

(J) The location of the "principal office" of a corporation 324  
is the place named as such in its articles. 325

(K) "Directors" means the persons vested with the authority 326  
to conduct the affairs of the corporation irrespective of the 327  
name, such as trustees, by which they are designated. 328

(L) "Insolvent" means that the corporation is unable to pay 329  
its obligations as they become due in the usual course of its 330  
affairs. 331

(M)(1) Subject to division (M)(2) of this section, 332  
"volunteer" means a director, officer, or agent of a corporation, 333  
or another person associated with a corporation, who satisfies 334  
both of the following: 335

(a) Performs services for or on behalf of, and under the 336  
authority or auspices of, that corporation; 337

(b) Does not receive compensation, either directly or 338  
indirectly, for performing those services. 339

(2) For purposes of division (M)(1) of this section, 340  
"compensation" does not include any of the following: 341

(a) Actual and necessary expenses that are incurred by a 342  
volunteer in connection with the services performed for a 343  
corporation, and that are reimbursed to the volunteer or otherwise 344  
paid; 345

(b) Insurance premiums paid on behalf of a volunteer, and 346  
amounts paid or reimbursed, pursuant to division (E) of section 347  
1702.12 of the Revised Code; 348

(c) Modest perquisites. 349

(N) "Business corporation" means any entity, ~~as defined in~~ 350  
~~section 1701.01 of the Revised Code, other than a public benefit~~ 351

~~corporation or a mutual benefit corporation,~~ that is organized 352  
pursuant to Chapter 1701. of the Revised Code other than a public 353  
benefit entity. 354

(O) "Mutual benefit corporation" means any corporation 355  
organized under this chapter other than a public benefit 356  
corporation. 357

(P) "Public benefit corporation" means a corporation that is 358  
recognized as exempt from federal income taxation under section 359  
501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 360  
26 U.S.C. 1, as amended, or is organized for a public or 361  
charitable purpose and that upon dissolution must distribute its 362  
assets to a public benefit corporation, the United States, a state 363  
or any political subdivision of a state, or a person that is 364  
recognized as exempt from federal income taxation under section 365  
501(c)(3) of the "Internal Revenue Code of 1986," as amended. 366  
"Public benefit corporation" does not include a nonprofit 367  
corporation that is organized by one or more municipal 368  
corporations to further a public purpose that is not a charitable 369  
purpose. 370

(Q) "Authorized communications equipment" means any 371  
communications equipment that provides a transmission, including, 372  
but not limited to, by telephone, telecopy, or any electronic 373  
means, from which it can be determined that the transmission was 374  
authorized by, and accurately reflects the intention of, the 375  
member or director involved and, with respect to meetings, allows 376  
all persons participating in the meeting to contemporaneously 377  
communicate with each other. 378

(R) "Entity" means any of the following: 379

(1) A corporation existing under the laws of this state or 380  
any other state; 381

(2) A business corporation existing under the laws of this 382

state or any other state; 383

(3) Any of the following organizations existing under the 384  
laws of this state, the United States, or any other state: 385

(a) An unincorporated business or for profit organization, 386  
including a general or limited partnership; 387

(b) A limited liability company; 388

(c) An unincorporated nonprofit association. 389

(S) "Public benefit entity" means any entity that is 390  
recognized as exempt from federal income taxation under section 391  
501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 392  
26 U.S.C. 1, as amended, or is organized for a public or 393  
charitable purpose and that upon dissolution must distribute its 394  
assets to a public benefit entity, the United States, a state or 395  
any political subdivision of a state, or a person that is 396  
recognized as exempt from federal income taxation under section 397  
501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 398  
26 U.S.C. 1, as amended. "Public benefit entity" does not include 399  
an entity that is organized by one or more municipal corporations 400  
to further a public purpose that is not a charitable purpose. 401

(T) "Unincorporated nonprofit association" has the same 402  
meaning as in section 1745.05 of the Revised Code. 403

**Sec. 1702.05.** (A) Except as provided in this section and in 404  
sections 1702.41 and ~~1702.45~~ 1702.411 of the Revised Code, the 405  
secretary of state shall not accept for filing in the secretary of 406  
state's office any articles if the corporate name set forth in the 407  
articles is not distinguishable upon the secretary of state's 408  
records from any of the following: 409

(1) The name of any other corporation, whether a nonprofit 410  
corporation or a business corporation and whether that of a 411  
domestic or of a foreign corporation authorized to do business in 412

this state; 413

(2) The name of any limited liability company registered in 414  
the office of the secretary of state pursuant to Chapter 1705. of 415  
the Revised Code, whether domestic or foreign; 416

(3) The name of any limited liability partnership registered 417  
in the office of the secretary of state pursuant to Chapter 1775. 418  
or 1776. of the Revised Code, whether domestic or foreign; 419

(4) The name of any limited partnership registered in the 420  
office of the secretary of state pursuant to Chapter 1782. of the 421  
Revised Code, whether domestic or foreign; 422

(5) Any trade name, the exclusive right to which is at the 423  
time in question registered in the office of the secretary of 424  
state pursuant to Chapter 1329. of the Revised Code. 425

(B) The secretary of state shall determine for purposes of 426  
this section whether a name is "distinguishable" from another name 427  
upon the secretary of state's records. Without excluding other 428  
names that may not constitute distinguishable names in this state, 429  
a name is not considered distinguishable from another name for 430  
purposes of this section solely because it differs from the other 431  
name in only one or more of the following manners: 432

(1) The use of the word "corporation," "company," 433  
"incorporated," "limited," or any abbreviation of any of those 434  
words; 435

(2) The use of any article, conjunction, contraction, 436  
abbreviation, or punctuation; 437

(3) The use of a different tense or number of the same word. 438

(C) A corporation may apply to the secretary of state for 439  
authorization to use a name that is not distinguishable upon the 440  
secretary of state's records from the name of any other 441  
corporation, any limited liability company, limited liability 442

partnership, or limited partnership, or from a registered trade 443  
name, if there also is filed in the office of the secretary of 444  
state, on a form prescribed by the secretary of state, the consent 445  
of the other entity, or, in the case of a registered trade name, 446  
the person in whose name is registered the exclusive right to use 447  
the name, which consent is evidenced in a writing signed by any 448  
authorized officer or authorized representative of the other 449  
entity or person. 450

(D) In case of judicial sale or judicial transfer, by sale or 451  
transfer of good will or otherwise, of the right to use the name 452  
of a nonprofit corporation or business corporation, whether that 453  
of a domestic corporation or of a foreign corporation authorized 454  
to exercise its corporate privileges in this state or to do 455  
business in this state, the secretary of state, at the instance of 456  
the purchaser or transferee of such right, shall accept for filing 457  
articles of a corporation with a name the same as or similar to 458  
the name of such other corporation, if there also is filed in the 459  
office of the secretary of state a certified copy of the decree or 460  
order of court confirming or otherwise evidencing the purchase or 461  
transfer. 462

(E) Any person who wishes to reserve a name for a proposed 463  
new corporation, or any corporation intending to change its name, 464  
may submit to the secretary of state a written application, on a 465  
form prescribed by the secretary of state, for the exclusive right 466  
to use a specified name as the name of a corporation. If the 467  
secretary of state finds that, under this section, the specified 468  
name is available for such use, the secretary of state shall file 469  
such application, and, from the date of such filing, such 470  
applicant shall have the exclusive right for one hundred eighty 471  
days to use the specified name as the name of a corporation, 472  
counting the date of such filing as the first of the one hundred 473  
eighty days. The right so obtained may be transferred by the 474

applicant or other holder of the right by the filing in the office 475  
of the secretary of state of a written transfer, on a form 476  
prescribed by the secretary of state, stating the name and address 477  
of the transferee. 478

**Sec. 1702.41.** (A)(1) ~~Any two or more corporations may merge~~ 479  
~~into a single corporation which shall be one of the constituent~~ 480  
~~corporations, or may consolidate into a single corporation which~~ 481  
~~shall be a new corporation to be formed by the consolidation~~ 482  
Pursuant to an agreement of merger, a domestic corporation and one 483  
or more additional domestic or foreign entities may be merged into 484  
a surviving domestic corporation. Pursuant to an agreement of 485  
consolidation, one or more domestic or foreign entities may be 486  
consolidated into a new domestic corporation. If any constituent 487  
entity is formed or organized under the laws of any state other 488  
than this state or under any chapter of the Revised Code other 489  
than this chapter, the merger or consolidation also must be 490  
permitted by the chapter of the Revised Code under which each 491  
domestic constituent entity exists and by the laws under which 492  
each foreign constituent entity exists. 493

(2) To effect ~~such a~~ merger or consolidation under this 494  
section, the directors of each constituent domestic corporation 495  
shall approve an agreement of merger or consolidation to be signed 496  
by the chairperson of the board of directors, the president, or a 497  
vice-president and by the secretary or an assistant secretary, 498  
~~which~~. The agreement of merger or consolidation shall be approved 499  
or otherwise authorized by or on behalf of each other constituent 500  
entity in accordance with the laws under which it exists. 501

(3) The agreement of merger or consolidation shall set forth 502  
all of the following: 503

(a) The name and the form of entity of each constituent 504  
entity and the state under the laws of which each constituent 505

entity exists; 506

(b) That the named constituent ~~corporations~~ entities have 507  
agreed to merge into a specified constituent corporation, ~~herein~~ 508  
designated in this section as the surviving corporation, or that 509  
the named constituent ~~corporations~~ entities have agreed to 510  
consolidate into a new corporation to be formed by the 511  
consolidation, ~~herein~~ designated in this section as the new 512  
corporation; 513

~~(b)~~(c) All statements and matters required to be set forth in 514  
an agreement of merger or consolidation by the laws under which 515  
each constituent entity exists; 516

(d) The name of the surviving or new corporation, which may 517  
be the same as or similar to that of any constituent corporation; 518

~~(e)~~(e) The place in this state where the principal office of 519  
the surviving or new corporation is to be located; 520

~~(d)~~(f) The names and addresses of the first directors and 521  
officers of the surviving or new corporation, and, if desired, 522  
their term or terms of office; 523

~~(e)~~(g) The name and address of the statutory agent upon whom 524  
any process, notice, or demand against any constituent ~~corporation~~ 525  
entity or the surviving or new corporation may be served; 526

~~(f)~~(h) The terms of the merger or consolidation and the mode 527  
of carrying ~~the same~~ those terms into effect; 528

~~(g)~~(i) The regulations of the surviving or new corporation or 529  
a provision to the effect that the regulations of ~~one of the a~~ 530  
specified constituent corporations corporation shall be the 531  
regulations of the surviving or new corporation or to the effect 532  
that the voting members or the directors of the surviving or new 533  
corporation may adopt regulations, or any combination ~~thereof of~~ 534  
them. 535

~~(3)~~(4) The agreement of merger or consolidation may also set forth any of the following:

(a) The specification of a date, which may be the date of the filing of the agreement or a date subsequent ~~thereto~~ to that date of filing, upon which the merger or consolidation shall become effective;

(b) A provision conferring upon the directors of one or more of the constituent corporations or the comparable representatives of any other constituent entity the power to abandon the merger or consolidation prior to the filing of the agreement;

(c) Any additional provision permitted to be included in the articles of a newly formed corporation;

(d) Any additional provision ~~deemed~~ considered necessary or desirable with respect to the proposed merger or consolidation.

(B)(1) ~~Without the prior approval of A merger or consolidation in which a domestic public benefit corporation is one of the constituent entities shall be approved by the court of common pleas of the county in this state in which the principal office of the public benefit corporation is located, in a proceeding of which the attorney general's charitable law section has been given written notice by certified mail within three days of the initiation of the proceeding, and in which proceeding the attorney general may intervene as of right, a public benefit corporation may merge or consolidate only with any of the following. No approval by the court under division (B)(1) of this section is required if either of the following applies:~~

(a) A domestic public benefit corporation ~~is the surviving entity in the case of a merger and continues to be a public benefit corporation or is the new corporation in the case of a consolidation and continues to be a public benefit corporation.~~

(b) ~~A foreign corporation that would qualify under the~~

~~Revised Code as a public benefit corporation;~~ 567

~~(c) A mutual benefit corporation or a business corporation,~~ 568  
~~provided that the domestic public benefit corporation is not the~~ 569  
~~surviving ~~corporation~~ entity in the case of a merger ~~and continues~~~~ 570  
~~to be a public benefit corporation or that a public benefit~~ 571  
~~corporation or is not the new corporation in the case of a~~ 572  
~~consolidation;~~ 573

~~(d) A business corporation or mutual benefit corporation,~~ 574  
~~provided that, and all of the following apply:~~ 575

(i) On or prior to the effective date of the merger or 576  
consolidation, assets with a value equal to the greater of the 577  
fair market value of the net tangible and intangible assets, 578  
including goodwill, of the domestic public benefit corporation or 579  
the fair market value of the domestic public benefit corporation 580  
if it is to be operated as a business concern, are transferred or 581  
conveyed to one or more persons that would have received its 582  
assets under section 1702.49 of the Revised Code had it 583  
voluntarily dissolved. 584

(ii) ~~It~~ The domestic public benefit corporation returns, 585  
transfers, or conveys any assets held by it upon a condition 586  
requiring return, transfer, or conveyance, which condition occurs 587  
by reason of the merger or consolidation, in accordance with that 588  
condition. 589

(iii) The merger or consolidation is approved by a majority 590  
of directors of the domestic public benefit corporation who will 591  
not receive any financial or other benefit, directly or 592  
indirectly, as a result of the merger or consolidation or by 593  
agreement, and who are not and will not as a result of the merger 594  
or consolidation become members, partners, or other owners, 595  
however denominated, of, shareholders in, ~~or~~ directors, officers, 596  
managers, employees, agents, or other representatives of, or 597

consultants ~~of to,~~ the surviving or new ~~business corporation or~~ 598  
~~mutual benefit corporation~~ entity. 599

(2) At least twenty days before consummation of any merger or 600  
consolidation of a domestic public benefit corporation pursuant to 601  
division (B)(1)~~(d)~~(b) of this section, written notice, including a 602  
copy of the proposed plan of merger or consolidation, shall be 603  
delivered to the attorney general's charitable law section. The 604  
attorney general's charitable law section may review a proposed 605  
merger or consolidation of a domestic public benefit corporation 606  
under division (B)(1)~~(d)~~(b) of this section. The attorney general 607  
may require, pursuant to section 109.24 of the Revised Code, the 608  
production of the documents necessary for review of a proposed 609  
merger or consolidation under division (B)(1)~~(d)~~(b) of this 610  
section. The attorney general may retain, at the expense of the 611  
domestic public benefit corporation, one or more experts, 612  
including an investment banker, actuary, appraiser, certified 613  
public accountant, or other expert, that the attorney general 614  
considers reasonably necessary to provide assistance in reviewing 615  
a proposed merger or consolidation under division (B)(1)~~(d)~~(b) of 616  
this section. The attorney general may extend the date of any 617  
merger or consolidation of a domestic public benefit corporation 618  
under division (B)(1)~~(d)~~(b) of this section for a period not to 619  
exceed sixty days and shall provide notice of that extension to 620  
the domestic public benefit corporation. The notice shall set 621  
forth the reasons necessitating the extension. 622

(3) ~~Without~~ No member, other than a member that is a public 623  
benefit entity, or director of a domestic public benefit 624  
corporation in that person's capacity as a member or director may 625  
receive or keep anything as a result of a merger or consolidation 626  
other than membership or directorship in the surviving or new 627  
public benefit corporation, without the prior written consent of 628  
the attorney general or of the court of common pleas of the county 629

in this state in which the principal office of the domestic public 630  
benefit corporation is located, in a proceeding in which the 631  
attorney general's charitable law section has been given written 632  
notice by certified mail within three days of the initiation of 633  
the proceeding, and in which proceeding the attorney general may 634  
intervene as of right, ~~no member or director of a public benefit~~ 635  
~~corporation in that person's capacity as a member or director may~~ 636  
~~receive or keep anything as a result of a merger or consolidation~~ 637  
~~other than membership or directorship in the surviving or new~~ 638  
~~public benefit corporation.~~ The court shall approve the 639  
transaction if it is in the public interest. 640

(4) The attorney general may institute a civil action to 641  
enforce the requirements of divisions (B)(1), (2), and (3) of this 642  
section in the court of common pleas of the county in this state 643  
in which the principal office of the domestic public benefit 644  
corporation is located or in the Franklin county court of common 645  
pleas. In addition to any civil remedies that may exist under 646  
common law or the Revised Code, a court may rescind the 647  
transaction or grant injunctive relief or impose any combination 648  
of these remedies. 649

~~(C) A corporation may be the surviving or new entity in a~~ 650  
~~merger or consolidation with one or more business corporations, or~~ 651  
~~a corporation may merge or consolidate into one or more business~~ 652  
~~corporations with a business corporation, a mutual benefit~~ 653  
~~corporation, or a foreign corporation as the surviving or new~~ 654  
~~entity, provided that the corporation complies with the provisions~~ 655  
~~of this section and sections 1702.42 and 1702.43 of the Revised~~ 656  
~~Code, as applicable to the corporation, and that the business~~ 657  
~~corporation complies with the provisions of section 1701.781 or~~ 658  
~~1701.791 of the Revised Code, as applicable to the business~~ 659  
~~corporation.~~ 660

Sec. 1702.411. (A)(1) Pursuant to an agreement of merger 661  
between the constituent entities as provided in this section, a 662  
domestic corporation and, if so provided, one or more additional 663  
domestic or foreign entities, may be merged into a surviving 664  
entity other than a domestic corporation. Pursuant to an agreement 665  
of consolidation, a domestic corporation together with one or more 666  
additional domestic or foreign entities may be consolidated into a 667  
new entity other than a domestic corporation, to be formed by that 668  
consolidation. The merger or consolidation must be permitted by 669  
the chapter of the Revised Code under which each domestic 670  
constituent entity exists and by the laws under which each foreign 671  
constituent entity exists. The name of the surviving or new entity 672  
may be the same as or similar to that of any constituent entity. 673

(2) To effect a merger or consolidation under this section, 674  
the directors of each constituent domestic corporation shall 675  
approve an agreement of merger or consolidation to be signed by 676  
the chairperson of the board of directors, the president, or a 677  
vice-president and by the secretary or an assistant secretary. The 678  
agreement of merger or consolidation shall be approved or 679  
otherwise authorized by or on behalf of each other constituent 680  
entity in accordance with the laws under which it exists. 681

(3) The agreement of merger or consolidation shall set forth 682  
all of the following: 683

(a) The name and the form of entity of each constituent 684  
entity and the state under the laws of which each constituent 685  
entity exists; 686

(b) In the case of a merger, that one or more specified 687  
constituent entities will be merged into a specified surviving 688  
foreign entity or surviving domestic entity other than a domestic 689  
corporation or, in the case of a consolidation, that the 690  
constituent entities will be consolidated into a new foreign 691

entity or domestic entity other than a domestic corporation. 692

(c) The terms of the merger or consolidation and the mode of 693  
carrying those terms into effect; 694

(d) If the surviving or new entity is a foreign corporation, 695  
all additional statements and matters, other than the name and 696  
address of the statutory agent, that would be required by section 697  
1702.41 of the Revised Code if the surviving or new corporation 698  
were a domestic corporation; 699

(e) The name and the form of entity of the surviving or new 700  
entity, the state under the laws of which the surviving entity 701  
exists or the new entity is to exist, and the location of the 702  
principal office of the surviving or new entity in that state; 703

(f) All statements and matters required to be set forth in an 704  
agreement of merger or consolidation by the laws under which each 705  
constituent entity exists and, in the case of a consolidation, the 706  
new entity is to exist; 707

(g) The consent of the surviving or the new entity to be sued 708  
and served with process in this state and the irrevocable 709  
appointment of the secretary of state as its agent to accept 710  
service of process in any proceeding in this state to enforce 711  
against the surviving or new entity any obligation of any domestic 712  
constituent corporation; 713

(h) If the surviving or new entity is a foreign corporation 714  
that desires to transact business in this state as a foreign 715  
corporation, a statement to that effect, together with a statement 716  
regarding the appointment of a statutory agent and service of any 717  
process, notice, or demand upon that statutory agent or the 718  
secretary of state, as required when a foreign corporation applies 719  
for a license to transact business in this state; 720

(i) If the surviving or new entity is a foreign limited 721  
partnership that desires to transact business in this state as a 722

foreign limited partnership, a statement to that effect, together 723  
with all of the information required under section 1782.49 of the 724  
Revised Code when a foreign limited partnership registers to 725  
transact business in this state; 726

(j) If the surviving or new entity is a foreign limited 727  
liability company that desires to transact business in this state 728  
as a foreign limited liability company, a statement to that 729  
effect, together with all of the information required under 730  
section 1705.54 of the Revised Code when a foreign limited 731  
liability company registers to transact business in this state; 732

(k) If the surviving or new entity is a foreign 733  
unincorporated association that desires to transact business in 734  
this state as a foreign unincorporated association, a statement to 735  
that effect, together with all of the information required under 736  
section 1745.461 of the Revised Code when a foreign unincorporated 737  
association registers to transact business in this state. 738

(4) The agreement of merger or consolidation also may set 739  
forth any additional provision permitted by the laws of any state 740  
under the laws of which any constituent entity exists, consistent 741  
with the laws under which the surviving entity exists or the new 742  
entity is to exist. 743

(B)(1) A merger or consolidation in which a domestic public 744  
benefit corporation is one of the constituent entities shall be 745  
approved by the court of common pleas of the county in this state 746  
in which the principal office of the domestic public benefit 747  
corporation is located in a proceeding of which the attorney 748  
general's charitable law section has been given written notice by 749  
certified mail within three days of the initiation of the 750  
proceeding and in which proceeding the attorney general may 751  
intervene as of right. No approval by the court under division 752  
(B)(1) of this section is required if either of the following 753  
applies: 754

(a) A public benefit entity is the surviving entity in the case of a merger and continues to be a public benefit entity or is the new entity in the case of a consolidation and continues to be a public benefit entity. 755  
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(b) A public benefit entity is not the surviving entity in the case of a merger or is not the new entity in the case of a consolidation, and all of the following apply: 759  
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(i) On or prior to the effective date of the merger or consolidation, assets with a value equal to the greater of the fair market value of the net tangible and intangible assets, including goodwill, of the domestic public benefit corporation or the fair market value of the domestic public benefit corporation if it is to be operated as a business concern are transferred or conveyed to one or more persons that would have received its assets under section 1702.49 of the Revised Code had it voluntarily dissolved. 762  
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(ii) The domestic public benefit corporation returns, transfers, or conveys any assets held by it upon a condition requiring return, transfer, or conveyance, which condition occurs by reason of the merger or consolidation, in accordance with that condition. 771  
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(iii) The merger or consolidation is approved by a majority of directors of the domestic public benefit corporation who will not receive any financial or other benefit, directly or indirectly, as a result of the merger or consolidation or by agreement, and who are not and will not as a result of the merger or consolidation become members, partners, or other owners, however denominated, of, shareholders in, directors, officers, managers, employees, agents, or other representatives of, or consultants to, the surviving or new entity. 776  
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(2) At least twenty days before consummation of any merger or 785

consolidation of a domestic public benefit corporation pursuant to 786  
division (B)(1)(b) of this section, written notice, including a 787  
copy of the proposed plan of merger or consolidation, shall be 788  
delivered to the attorney general's charitable law section. The 789  
attorney general's charitable law section may review a proposed 790  
merger or consolidation of a domestic public benefit corporation 791  
under division (B)(1)(b) of this section. The attorney general may 792  
require pursuant to section 109.24 of the Revised Code the 793  
production of the documents necessary for review of a proposed 794  
merger or consolidation under division (B)(1)(b) of this section. 795  
The attorney general may retain at the expense of the domestic 796  
public benefit corporation one or more experts, including an 797  
investment banker, actuary, appraiser, certified public 798  
accountant, or other expert, that the attorney general considers 799  
reasonably necessary to provide assistance in reviewing a proposed 800  
merger or consolidation under division (B)(1)(b) of this section. 801  
The attorney general may extend the date of any merger or 802  
consolidation of a domestic public benefit corporation under 803  
division (B)(1)(b) of this section for a period not to exceed 804  
sixty days and shall provide notice of that extension to the 805  
domestic public benefit corporation. The notice shall set forth 806  
the reasons necessitating the extension. 807

(3) No member, other than a member that is a public benefit 808  
entity, or director of a domestic public benefit corporation in 809  
that person's capacity as a member or director may receive or keep 810  
anything as a result of a merger or consolidation other than 811  
membership or directorship in the surviving or new public benefit 812  
entity without the prior written consent of the attorney general 813  
or of the court of common pleas of the county in this state in 814  
which the principal office of the domestic public benefit 815  
corporation is located that is obtained in a proceeding in which 816  
the attorney general's charitable law section has been given 817  
written notice by certified mail within three days of the 818

initiation of the proceeding and in which proceeding the attorney 819  
general may intervene as of right. The court shall approve the 820  
transaction if it is in the public interest. 821

(4) The attorney general may institute a civil action to 822  
enforce the requirements of divisions (B)(1), (2), and (3) of this 823  
section in the court of common pleas of the county in this state 824  
in which the principal office of the domestic public benefit 825  
corporation is located or in the Franklin county court of common 826  
pleas. In addition to any civil remedies that may exist under 827  
common law or the Revised Code, a court may rescind the 828  
transaction or grant injunctive relief or impose any combination 829  
of these remedies. 830

**Sec. 1702.42.** (A) The directors of each constituent domestic 831  
corporation, upon approving an agreement of merger or 832  
consolidation, shall direct that the agreement be submitted to the 833  
voting members entitled to vote on it at a meeting of voting 834  
members of ~~such that~~ that corporation held for that purpose, ~~and~~ 835  
~~notice.~~ Notice of the meeting shall be given to all members of the 836  
constituent domestic corporation entitled to vote at the meeting. 837  
The notice shall be accompanied by a copy or summary of the 838  
material terms of the agreement. 839

(B)(1) At each meeting described in division (A) of this 840  
section, a vote of the members shall be taken on the proposed 841  
agreement. In order to be adopted, the agreement (~~including any~~ 842  
~~amendments or additions to the agreement proposed at each such~~ 843  
~~meeting) ~~must,~~ shall receive the affirmative vote of a majority of 844  
the voting members of each constituent domestic corporation 845  
present at that meeting in person, by the use of authorized 846  
communications equipment, by mail, or, if permitted, by proxy if a 847  
quorum is present, or, if the articles or the regulations of that 848  
corporation provide or permit, the affirmative vote of a greater 849~~

or lesser proportion or number of the voting members, and the 850  
affirmative vote of the voting members of any particular class 851  
that is required by the articles or the regulations of ~~such~~ that 852  
corporation. If the agreement would effect or authorize any 853  
particular corporate action that, under any applicable provision 854  
of law or under the ~~existing~~ articles ~~of one or more of the~~ 855  
~~constituent corporations~~, could be effected or authorized only by 856  
or pursuant to a specified vote of ~~voting the~~ members, the 857  
agreement (~~including any amendments or additions to the~~ 858  
~~agreement proposed at each such meeting~~) ~~in order to,~~ shall be 859  
adopted ~~must receive~~ by the same affirmative vote ~~so specified~~ as 860  
would be required for that action. 861

(2) For purposes of division (B)(1) of this section, 862  
participation by a voting member at a meeting through the use of 863  
any of the means of communication described in that division 864  
constitutes presence in person of that voting member at the 865  
meeting for purposes of determining a quorum. 866

(C) At any time prior to the filing of the agreement, the 867  
merger or consolidation may be abandoned by the directors of one 868  
or more of the constituent domestic corporations or the comparable 869  
representatives of any other constituent entity, if the power of 870  
abandonment is conferred ~~upon those directors~~ either by the 871  
agreement or by the same vote ~~of voting members of each of the~~ 872  
~~constituent corporations and at the same meetings as those~~ 873  
~~referred to in division (B) of this section or at subsequent~~ 874  
~~meetings~~ or action as is required to adopt that agreement. 875

**Sec. 1702.43.** (A) Upon adoption by each constituent 876  
~~corporation~~ entity of an agreement of merger or consolidation 877  
pursuant to section ~~1702.42~~ 1702.41 or ~~1702.45~~ 1702.411 of the 878  
Revised Code, a certificate of merger or consolidation, signed by 879  
any authorized representative of each constituent ~~corporation~~ 880

entity, shall be filed with the secretary of state. The 881  
certificate shall be on a form prescribed by the secretary of 882  
state and shall set forth only the information required by this 883  
section. 884

(1) The certificate of merger or consolidation shall set 885  
forth all of the following: 886

(a) The name of each constituent entity and the state under 887  
whose laws each constituent entity exists; 888

(b) A statement that each constituent entity has complied 889  
with all of the laws under which it exists and that the laws 890  
permit the merger or consolidation; 891

(c) The name and mailing address of the person or entity that 892  
is to provide, in response to any written request made by a member 893  
or other person, a copy of the agreement of merger or 894  
consolidation; 895

(d) The effective date of the merger or consolidation, which 896  
date may be on or after the date of the filing of the certificate; 897

(e) The signature of each representative authorized to sign 898  
the certificate on behalf of each constituent entity and the 899  
office each representative authorized to sign holds or the 900  
capacity in which the representative is acting; 901

(f) A statement that the agreement of merger or consolidation 902  
is authorized on behalf of each constituent entity and that each 903  
person who signed the certificate on behalf of each entity is 904  
authorized to do so; 905

(g) In the case of a merger, a statement that one or more 906  
specified constituent entities will be merged into a specified 907  
surviving entity or, in the case of a consolidation, a statement 908  
that the constituent entities will be consolidated into a new 909  
entity; 910

(h) In the case of a merger, if the surviving entity is a foreign entity not licensed to transact business in this state, the name and address of the statutory agent upon whom any process, notice, or demand may be served;

(i) In the case of a consolidation, the name and address of the statutory agent upon whom any process, notice, or demand against any constituent entity or the new entity may be served.

(2) In the case of a consolidation into a new domestic corporation, the certificate of consolidation shall be accompanied by a copy of the articles of incorporation of the new domestic corporation.

(3) In the case of a merger into a domestic corporation, the certificate of merger shall be accompanied by a copy of any amendments to the articles of incorporation of the surviving domestic corporation.

(4) If the surviving or new entity is a foreign entity that desires to transact business in this state as a foreign corporation, limited liability company, limited partnership, or unincorporated association, the certificate of merger or consolidation shall ~~contain a statement to that effect and a statement with respect to the appointment of the statutory agent and with respect to the consent to service of any process, notice, or demand upon that statutory agent or the secretary of state, as required when a foreign corporation applies for a certificate authorizing it to transact business in this state~~ be accompanied by the information required by division (A)(3)(h), (i), (j), or (k) of section 1702.411 of the Revised Code, whichever is applicable.

(5) If a domestic or foreign corporation licensed to transact business in this state is a constituent entity and the surviving or new entity resulting from the merger or consolidation is not a

domestic or foreign corporation that is to be licensed to transact 942  
business in this state, the certificate of merger or consolidation 943  
shall be accompanied by the affidavits, receipts, certificates, or 944  
other evidence required by division (G) of section 1702.47 of the 945  
Revised Code, with respect to each domestic corporation, and by 946  
the affidavits, receipts, certificates, or other evidence required 947  
by division (C) or (D) of section 1703.17 of the Revised Code, 948  
with respect to each foreign constituent corporation licensed to 949  
transact business in this state. 950

(B) If any constituent entity in a merger or consolidation is 951  
organized or formed under the laws of a state other than this 952  
state or under any chapter of the Revised Code other than this 953  
chapter, there also shall be filed in the proper office all 954  
documents that are required to be filed in connection with the 955  
merger or consolidation by the laws of that state or by that 956  
chapter. 957

(C) Upon the filing of a certificate of merger or 958  
consolidation and other filings as described in division (B) of 959  
this section, or at ~~such a~~ later date as that the certificate of 960  
merger or consolidation specifies, the merger or consolidation 961  
shall become effective. 962

(D) The secretary of state shall furnish, upon request and 963  
payment of the fee specified in division (D) of section 111.16 of 964  
the Revised Code, a certificate setting forth the name and form of 965  
each constituent entity and the state under whose laws each 966  
constituent entity existed prior to the merger or consolidation, 967  
the name and form of the surviving or new entity and the state 968  
under whose laws the surviving entity exists or the new entity is 969  
to exist, the date of filing of the certificate of merger or 970  
consolidation with the secretary of state, and the effective date 971  
of the merger or consolidation. The certificate of the secretary 972  
of state or a copy of the merger or consolidation certified by the 973

secretary of state may be filed for record in the office of the 974  
recorder of any county in this state and, if filed, shall be 975  
recorded in the records of deeds for that county. For that 976  
recording, the county recorder shall charge and collect the same 977  
fee as in the case of deeds. 978

**Sec. 1702.44.** (A) When ~~such a~~ merger or consolidation becomes 979  
effective, all of the following apply: 980

~~(A)(1)~~ The separate existence of ~~all the~~ each constituent 981  
~~corporations, except~~ entity other than the surviving ~~or new~~ 982  
~~corporation,~~ entity in a merger shall cease, except that, whenever 983  
a conveyance, assignment, transfer, deed, or other instrument, or 984  
act, is necessary to vest property or rights in the surviving or 985  
new ~~corporation~~ entity, the officers, general partners, or other 986  
authorized representatives of the respective constituent 987  
~~corporation~~ entities shall execute, acknowledge, and deliver ~~such~~ 988  
those instruments, and do ~~such those~~ acts, ~~and for such.~~ For these 989  
purposes, the existence of the constituent ~~corporations~~ entities 990  
and the authority of their respective officers ~~and,~~ directors 991  
~~shall be deemed,~~ general partners, or other authorized 992  
representatives is continued notwithstanding the merger or 993  
consolidation. 994

~~(B)~~ The constituent corporations shall become a single 995  
corporation which, in the case of a merger, shall be that one of 996  
the constituent corporations designated in the agreement of merger 997  
as the surviving corporation and, in the case of a consolidation, 998  
shall be the new corporation provided for in the agreement of 999  
consolidation. 1000

~~(C)~~ The surviving or new corporation shall have all the 1001  
rights, privileges, immunities, powers, franchises, and authority 1002  
and shall be subject to all the obligations of a corporation 1003  
formed under this chapter. 1004

~~(D).~~ 1005

(2) In the case of a merger in which the surviving entity is 1006  
a domestic corporation, the articles of the domestic surviving 1007  
corporation in effect immediately prior to the time the merger 1008  
becomes effective shall continue as its articles after the merger 1009  
except as otherwise provided in the agreement of merger. In the 1010  
case of a consolidation, the new entity exists when the 1011  
consolidation becomes effective, and, if it is a domestic 1012  
corporation, the articles contained in or provided for in the 1013  
agreement of consolidation shall be its original articles. 1014

(3) The surviving or new corporation shall thereupon and 1015  
thereafter possess entity possesses all assets and property of 1016  
every description and every interest in the assets and property, 1017  
wherever located, the rights, privileges, immunities, powers, 1018  
franchises, and authority, as well of a public as well as of a 1019  
private nature, of each of the constituent corporations; and all 1020  
property of every description, and every interest therein entity, 1021  
and all obligations, of or belonging to or due to each of the 1022  
constituent corporations, shall thereafter be taken and deemed to 1023  
be transferred to and entity, all of which are vested in the 1024  
surviving or new corporation entity without further act or deed; 1025  
and any. Any right or interest in respect to any past or future 1026  
devise, bequest, conditional gift, or trust, property, or fund 1027  
restricted to particular uses, when vested in or claimed by such 1028  
the surviving or new corporation entity as a result of such the 1029  
merger or consolidation, shall belong to it as a continuation 1030  
without interruption of the existence and identity of the 1031  
constituent organization entity originally named as taker or 1032  
beneficiary; and. The surviving or new entity possesses title to 1033  
any real estate, or any interest therein, in the real estate 1034  
vested in any of the constituent corporations entities. Title to 1035  
any real estate or any interest in the real estate vested in any 1036

constituent entity shall not revert or in any way be impaired by 1037  
reason of ~~such~~ the merger or consolidation~~;~~. 1038

~~(E) To the extent permitted by the laws of any other state in 1039  
which any constituent corporation has property, the provisions of 1040  
division (D) of this section apply in such state;~~ 1041

~~(F)(4) The surviving or new corporation shall thenceforth be 1042  
entity is liable for all of the obligations of each ~~of the~~ 1043  
constituent ~~corporations;~~ and any entity. Any claim existing or 1044  
any action or proceeding pending by or against any ~~of the~~ 1045  
constituent ~~corporations~~ entity may be prosecuted to judgment, 1046  
with right of appeal ~~as in other cases~~, as if ~~such~~ the merger or 1047  
consolidation had not taken place, or the surviving or new 1048  
~~corporation~~ entity may be substituted in its place~~;~~. 1049~~

~~(G)(5) All of the rights of creditors of each constituent 1050  
~~corporation shall be~~ entity are preserved unimpaired, and all 1051  
liens upon the property of any ~~of the~~ constituent ~~corporations~~ 1052  
~~shall be~~ entity are preserved unimpaired, ~~limited in lien to on~~ 1053  
only the property affected by ~~such~~ those liens immediately prior 1054  
to the effective date of the merger or consolidation~~;~~ 1055~~

~~(H) The agreement shall operate as amended articles in the 1056  
case of a merger and as original articles in the case of 1057  
~~consolidation. If a general partner of a constituent partnership 1058  
is not a general partner of the surviving entity or the new entity 1059  
resulting from the merger or consolidation, the former general 1060  
partner has no liability for any obligation incurred after the 1061  
merger or consolidation except to the extent that a former 1062  
creditor of the constituent partnership in which the former 1063  
general partner was a partner extends credit to the surviving or 1064  
new entity reasonably believing that the former general partner 1065  
continued as a general partner of the surviving or new entity.~~ 1066~~

(B) If a general partner of a constituent partnership is not 1067

a general partner of the surviving entity or the new entity 1068  
resulting from the merger or consolidation, division (B) of 1069  
section 1782.434 of the Revised Code applies. 1070

(C) In the case of a merger of a domestic constituent 1071  
corporation into a foreign surviving corporation, limited 1072  
liability company, limited partnership, or unincorporated 1073  
association that is not licensed or registered to transact 1074  
business in this state or in the case of a consolidation of a 1075  
domestic constituent corporation into a new foreign corporation, 1076  
limited liability company, limited partnership, or unincorporated 1077  
association, if the surviving or new entity intends to transact 1078  
business in this state and the certificate of merger or 1079  
consolidation is accompanied by the information described in 1080  
division (A)(4) of section 1702.43 of the Revised Code, the 1081  
surviving or new entity shall be considered on the effective date 1082  
of the merger or consolidation to have complied with the 1083  
requirements for procuring a license or for registering to 1084  
transact business in this state as a foreign corporation, limited 1085  
liability company, limited partnership, or unincorporated 1086  
association, as the case may be. In that case, a copy of the 1087  
certificate of merger or consolidation certified by the secretary 1088  
of state constitutes the license certificate prescribed by the 1089  
laws of this state for a foreign corporation transacting business 1090  
in this state or the application for registration prescribed for a 1091  
foreign limited partnership, limited liability company, or 1092  
unincorporated association. 1093

(D) Any action to set aside any merger or consolidation on 1094  
the ground that any section of the Revised Code applicable to the 1095  
merger or consolidation has not been complied with shall be 1096  
brought within ninety days after the effective date of that merger 1097  
or consolidation or be forever barred. 1098

(E) As used in this section, "corporation" or "entity" 1099

applies to both domestic and foreign corporations or entities if 1100  
the context so permits. In the case of a foreign constituent 1101  
entity or a foreign new entity, this section is subject to the 1102  
laws of the state under the laws of which the entity exists or in 1103  
which it has property. 1104

**Sec. 1702.46.** (A) Upon the filing of the certificate of 1105  
merger or consolidation in compliance with the laws of each state 1106  
under the laws of which any constituent ~~corporation~~ entity exists, 1107  
or at ~~such~~ any later date as that the certificate specifies, the 1108  
merger or consolidation shall become effective. 1109

~~(B) The effect of such merger or consolidation, if the~~ 1110  
~~surviving or new corporation is to be a domestic corporation,~~ 1111  
~~shall be the same as in the case of the merger or consolidation of~~ 1112  
~~domestic corporations. If the surviving or new corporation is to~~ 1113  
~~be a foreign corporation:~~ 1114

~~(1) The surviving or new corporation shall thenceforth be~~ 1115  
~~liable for all the obligations of each of the constituent~~ 1116  
~~corporations:~~ 1117

~~(2) All the rights of creditors of each constituent~~ 1118  
~~corporation shall be preserved unimpaired, and all liens upon the~~ 1119  
~~property of any of the constituent corporations shall be preserved~~ 1120  
~~unimpaired, limited in lien to the property affected by such liens~~ 1121  
~~immediately prior to the effective date of the merger or~~ 1122  
~~consolidation:~~ 1123

~~(3) The effect of such merger or consolidation shall, in all~~ 1124  
~~other respects, be the same as in the case of the merger or~~ 1125  
~~consolidation of domestic corporations except insofar as the laws~~ 1126  
~~of such other state otherwise provide.~~ 1127

~~(C) If the surviving or new corporation is to be a foreign~~ 1128  
~~corporation and if the certificate states that the surviving or~~ 1129

~~new corporation desires to exercise its corporate privileges in 1130  
this state as a foreign corporation in a continual course of 1131  
transactions, the surviving or new corporation shall, when the 1132  
merger or consolidation becomes effective, be deemed to have 1133  
complied with the requirements for procuring a certificate 1134  
authorizing it to do so, and a copy of the certificate of merger 1135  
or consolidation, certified by the secretary of state of this 1136  
state, shall be considered and accepted as the license certificate 1137  
prescribed by the laws of this state for a foreign corporation 1138  
exercising its corporate privileges in this state in a continual 1139  
course of transactions. 1140~~

Sec. 1745.05. As used in this chapter, unless the context 1141  
otherwise requires: 1142

(A) "Authorized communications equipment" means any 1143  
communications equipment that provides a transmission, including, 1144  
but not limited to, by telephone, telecopy, or any electronic 1145  
means, from which it can be determined that the transmission was 1146  
authorized by, and accurately reflects the intention of, the 1147  
member or manager involved and, with respect to meetings, allows 1148  
all persons participating in the meeting to contemporaneously 1149  
communicate with each other. 1150

(B)(1) "Entity" means any of the following: 1151

(a) An unincorporated nonprofit association existing under 1152  
the laws of this state or any other state; 1153

(b) A nonprofit corporation existing under the laws of this 1154  
state or any other state; 1155

(c) A for profit corporation existing under the laws of this 1156  
state or any other state; 1157

(d) Any of the following organizations existing under the 1158  
laws of this state, the United States, or any other state: 1159

- (i) An unincorporated business or for profit organization, 1160  
including a general or limited partnership; 1161
- (ii) A limited liability company; 1162
- (iii) Any other legal or commercial entity the formation and 1163  
operation of which is governed by statute. 1164
- (2) "Entity" includes a domestic or foreign entity. 1165
- (C) "Established practices" means the practices used by an 1166  
unincorporated nonprofit association without material change 1167  
during the most recent five years of its existence or, if it has 1168  
existed for less than five years, during its entire existence. 1169
- (D) "Governing principles" means all agreements, whether 1170  
oral, in a record, or implied from its established practices, or 1171  
any combination of them, that govern the purpose or operation of 1172  
an unincorporated nonprofit association and the rights and 1173  
obligations of its members and managers. "Governing principles" 1174  
includes any amendment or restatement of the agreements 1175  
constituting the governing principles. 1176
- (E) "Internal Revenue Code" means the "Internal Revenue Code 1177  
of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended. 1178
- (F) "Manager" means a person, irrespective of the person's 1179  
designation as director or other designation, that is responsible, 1180  
alone or in concert with others, for the management of an 1181  
unincorporated nonprofit association as stated in division (E) of 1182  
section 1745.32 of the Revised Code. 1183
- (G) "Member" means a person that, under the governing 1184  
principles of an unincorporated nonprofit association, is entitled 1185  
to participate in the selection of persons authorized to manage 1186  
the affairs of the association or in the adoption of the policies 1187  
and activities of the association. 1188
- (H) "Mutual benefit association" means any unincorporated 1189

nonprofit association organized under this chapter other than a 1190  
public benefit association. 1191

(I) "Person" means an individual, corporation, business 1192  
trust, statutory entity trust, estate, trust, partnership, limited 1193  
liability company, cooperative, association, joint venture, public 1194  
corporation, government or governmental subdivision, agency, or 1195  
instrumentality, two or more persons having a joint or common 1196  
interest, or any other legal or commercial entity. 1197

(J) "Public benefit association" means an unincorporated 1198  
nonprofit association that is exempt from federal income taxation 1199  
under section 501(c)(3) of the Internal Revenue Code or is 1200  
organized for a public or charitable purpose and that upon 1201  
dissolution must distribute its assets to a public benefit 1202  
association, the United States, a state or any political 1203  
subdivision of a state, or a person that is recognized as exempt 1204  
from federal income taxation under section 501(c)(3) of the 1205  
Internal Revenue Code. 1206

(K) "Public benefit entity" means an entity that is 1207  
recognized as exempt from federal income taxation under section 1208  
501(c)(3) of the Internal Revenue Code or is organized for a 1209  
public or charitable purpose and that upon dissolution must 1210  
distribute its assets to a public benefit entity, the United 1211  
States, a state or any political subdivision of a state, or a 1212  
person that is recognized as exempt from federal income taxation 1213  
under section 501(c)(3) of the Internal Revenue Code. "Public 1214  
benefit entity" does not include an entity that is organized by 1215  
one or more municipal corporations to further a public purpose 1216  
that is not a charitable purpose. 1217

(L) "Record" means information that is inscribed on a 1218  
tangible medium or that is stored in an electronic or other medium 1219  
and is retrievable in perceivable form. 1220

(M) "Unincorporated nonprofit association" means an 1221  
unincorporated organization, consisting of two or more members 1222  
joined by mutual consent pursuant to an agreement, written, oral, 1223  
or inferred from conduct, for one or more common, nonprofit 1224  
purposes. "Unincorporated nonprofit association" does not include 1225  
any of the following: 1226

(1) A trust; 1227

(2) A marriage, domestic partnership, common law 1228  
relationship, or other domestic living arrangement; 1229

(3) An organization that is formed under any other statute 1230  
that governs the organization and operation of unincorporated 1231  
associations; 1232

(4) A joint tenancy, tenancy in common, or tenancy by the 1233  
entireties notwithstanding that the co-owners share use of the 1234  
property for a nonprofit purpose; 1235

(5) A religious organization that operates according to the 1236  
rules, regulations, canons, discipline, or customs established by 1237  
the organization, including any ministry, apostolate, committee, 1238  
or group within that organization. 1239

(N)(1) Subject to division (N)(2) of this section, 1240  
"volunteer" means a manager, officer, member, or agent of an 1241  
unincorporated nonprofit association, or another person acting for 1242  
the association, who satisfies both of the following: 1243

(a) Performs services for or on behalf of, and under the 1244  
authority or auspices of, that unincorporated nonprofit 1245  
association; 1246

(b) Does not receive compensation, either directly or 1247  
indirectly, for performing those services. 1248

(2) For purposes of division (N)(1) of this section, 1249  
"compensation" does not include any of the following: 1250

(a) Actual and necessary expenses that are incurred by a 1251  
volunteer in connection with the services performed for an 1252  
unincorporated nonprofit association and that are reimbursed to 1253  
the volunteer or otherwise paid; 1254

(b) Insurance premiums paid on behalf of a volunteer, and 1255  
amounts paid or reimbursed, pursuant to divisions (A) and (G) of 1256  
section 1745.43 of the Revised Code; 1257

(c) Modest perquisites. 1258

**Sec. 1745.06.** (A) Principles of law and equity supplement 1259  
this chapter unless displaced by a particular provision of this 1260  
chapter. 1261

(B) A statute in this state governing a particular type of 1262  
unincorporated nonprofit association prevails over an inconsistent 1263  
provision in this chapter to the extent of the inconsistency. 1264

(C) This chapter supplements all regulatory laws that are 1265  
applicable to nonprofit organizations operating in this state. In 1266  
the event of a conflict, those regulatory laws prevail. 1267

**Sec. 1745.07.** (A) Except as otherwise provided in division 1268  
(B) of this section, the law of this state governs all 1269  
unincorporated nonprofit associations formed or operating in this 1270  
state. 1271

(B) Unless the governing principles of an unincorporated 1272  
nonprofit association specify a different jurisdiction, the law of 1273  
the jurisdiction in which the association has its main place of 1274  
activities governs the internal affairs of the association. 1275

**Sec. 1745.08.** All of the following apply to an unincorporated 1276  
nonprofit association: 1277

(A) It is a legal entity distinct from its members and 1278

<u>managers.</u>	1279
<u>(B) It has perpetual duration unless its governing principles</u>	1280
<u>specify otherwise.</u>	1281
<u>(C) It has the same powers as an individual to do all things</u>	1282
<u>necessary or convenient to carry on its activities.</u>	1283
<u>(D) It may engage in profit-making activities, but any</u>	1284
<u>profits from those activities shall be used or set aside for the</u>	1285
<u>association's nonprofit purposes.</u>	1286
<u><b>Sec. 1745.09.</b> An unincorporated nonprofit association may</u>	1287
<u>acquire, hold, encumber, or transfer in its name an estate or</u>	1288
<u>interest in real or personal property. An unincorporated nonprofit</u>	1289
<u>association may be a legatee, a devisee, or a beneficiary of a</u>	1290
<u>trust or contract. All property acquired by an unincorporated</u>	1291
<u>nonprofit association by purchase, gift, devise, bequest, or</u>	1292
<u>otherwise shall be the absolute property of the association,</u>	1293
<u>unless it is otherwise specified in writing at the time of</u>	1294
<u>acquiring that property.</u>	1295
<u><b>Sec. 1745.10.</b> A debt, obligation, or other liability of an</u>	1296
<u>unincorporated nonprofit association, whether arising in contract,</u>	1297
<u>tort, or otherwise, is solely the debt, obligation, or other</u>	1298
<u>liability of the association and does not become the debt,</u>	1299
<u>obligation, or other liability of a member or manager solely</u>	1300
<u>because the member acts as a member or the manager acts as a</u>	1301
<u>manager. A person's status as a member or a manager of an</u>	1302
<u>unincorporated nonprofit association does not prevent or restrict</u>	1303
<u>any law other than this chapter from imposing liability on the</u>	1304
<u>person or association because of the person's conduct.</u>	1305
<u><b>Sec. 1745.11.</b> An unincorporated nonprofit association has the</u>	1306
<u>capacity to sue and be sued in its own name. A member or a manager</u>	1307

of an unincorporated nonprofit association may assert a claim that 1308  
the member or manager has against the association. An 1309  
unincorporated nonprofit association may assert a claim that it 1310  
has against a member or a manager of the association. 1311

**Sec. 1745.12.** All assets, property, funds, and rights or 1312  
interests, at law or in equity, of any unincorporated nonprofit 1313  
association shall be subject to judgment, execution, and other 1314  
process. A money judgment against an unincorporated nonprofit 1315  
association shall be enforced only against the association as an 1316  
entity and shall not be enforceable against the property of any 1317  
manager or member of the association. 1318

**Sec. 1745.13.** (A) An unincorporated nonprofit association may 1319  
file in the office of the secretary of state a statement 1320  
appointing an agent authorized to receive service of process. The 1321  
statement appointing an agent shall set forth the name of the 1322  
unincorporated nonprofit association and the name and address in 1323  
this state of the agent, including the street and number or other 1324  
particular description, and shall otherwise be in the form that 1325  
the secretary of state prescribes. The secretary of state shall 1326  
keep a record of the names of all unincorporated nonprofit 1327  
associations that have filed a statement appointing an agent 1328  
authorized to receive service of process and the names and 1329  
addresses of their respective agents. 1330

(B) A statement appointing an agent authorized to receive 1331  
service of process under division (A) of this section shall be 1332  
signed by a person authorized to manage the affairs of the 1333  
unincorporated nonprofit association. The statement also shall be 1334  
signed by the person appointed as agent who accepts the 1335  
appointment. The appointed agent may resign by filing with the 1336  
secretary of state, on a form prescribed by the secretary of 1337

state, a written notice to that effect that is signed by the agent 1338  
and by sending a copy of the notice to the association at the 1339  
current or last known address of its principal office on or prior 1340  
to the date that the notice is filed with the secretary of state. 1341

(C) An unincorporated nonprofit association may revoke the 1342  
appointment of an agent by filing with the secretary of state on a 1343  
form prescribed by the secretary of state a written appointment of 1344  
another agent and a statement that the appointment of the former 1345  
agent is revoked. 1346

Sec. 1745.14. In an action or proceeding against an 1347  
unincorporated nonprofit association, a summons and complaint or 1348  
other process may be served on an agent authorized by appointment 1349  
to receive service of process or a manager of the association or 1350  
in any other manner authorized by the law of this state. 1351

Sec. 1745.15. An action or proceeding against an 1352  
unincorporated nonprofit association does not abate merely because 1353  
of a change in its members or managers. 1354

Sec. 1745.16. Unless otherwise provided by law, the venue of 1355  
an action against an unincorporated nonprofit association brought 1356  
in this state shall be determined under the statutes applicable to 1357  
an action brought in this state against a nonprofit corporation. 1358

Sec. 1745.17. A member of an unincorporated nonprofit 1359  
association is not an agent of the association solely by reason of 1360  
being a member. 1361

Sec. 1745.18. Except as otherwise provided in its governing 1362  
principles, an unincorporated nonprofit association shall have the 1363  
approval of its members to do any of the following: 1364

(A) Admit, suspend, dismiss, or expel a member; 1365

<u>(B) Select or dismiss a manager;</u>	1366
<u>(C) Adopt, amend, or repeal its governing principles;</u>	1367
<u>(D) Sell, lease, exchange, or otherwise dispose of all or substantially all of the association's property, with or without the association's goodwill, outside the ordinary course of its activities;</u>	1368 1369 1370 1371
<u>(E) Dissolve under section 1745.50 of the Revised Code or merge or consolidate under section 1745.46 or 1745.461 of the Revised Code;</u>	1372 1373 1374
<u>(F) Undertake any other act outside the ordinary course of the association's activities if the association has annual gross receipts of less than twenty-five thousand dollars;</u>	1375 1376 1377
<u>(G) Determine the purposes of the association and, if the association has annual gross receipts of less than twenty-five thousand dollars, determine the policies of the association;</u>	1378 1379 1380
<u>(H) Do any other act or exercise any right that requires action by the members under the governing principles.</u>	1381 1382
<b><u>Sec. 1745.19.</u></b> <u>(A) Unless another form of notice is required by the governing principles of an unincorporated nonprofit association or by applicable law, any notice required by this chapter shall be in writing and shall be delivered personally or sent by telegram, by the use of authorized communications equipment, or by United States mail, express mail, or courier service, with postage or fees prepaid.</u>	1383 1384 1385 1386 1387 1388 1389
<u>(B) In computing the period of time for the giving of a notice required or permitted under this chapter or under the governing principles of an unincorporated nonprofit association or a resolution of its members or managers, the day on which the notice is given shall be excluded, and the day when the act for which the notice is given is to be done shall be included, unless</u>	1390 1391 1392 1393 1394 1395

the instrument calling for the notice provides otherwise. If 1396  
notice is given by personal delivery or transmitted by telegram or 1397  
by the use of authorized communications equipment, the notice 1398  
shall be considered to have been given when it is delivered or 1399  
transmitted. If notice is sent by United States mail, express 1400  
mail, or courier service, the notice shall be considered to have 1401  
been given when it is deposited in the mail or with the courier 1402  
service. 1403

(C) A written notice or report delivered as part of a 1404  
newsletter, magazine, or other publication regularly sent to 1405  
members shall constitute a written notice or report if addressed 1406  
or delivered to the member's address shown in the unincorporated 1407  
nonprofit association's current list of members, or, in the case 1408  
of members who are residents of the same household and who have 1409  
the same address in the association's current list of members, if 1410  
addressed or delivered to one of those members at the address 1411  
appearing on the association's current list of members. 1412

**Sec. 1745.20.** (A) An unincorporated nonprofit association 1413  
shall maintain a record of its members containing the name and 1414  
address of each member and, if members are classified, the class 1415  
to which the member belongs. 1416

(B) A member of an unincorporated nonprofit association may 1417  
be suspended, dismissed, or expelled as provided in division (A) 1418  
of section 1745.29 of the Revised Code or may resign as provided 1419  
in division (A) of section 1745.30 of the Revised Code. Upon the 1420  
suspension or termination of membership, that fact and the date of 1421  
the suspension or termination shall be recorded in the 1422  
association's membership records. 1423

(C) Unless the governing principles provide otherwise, all 1424  
rights and privileges of a member in an unincorporated nonprofit 1425  
association and its property shall cease on termination of 1426

membership. 1427

(D) Whenever the number of members of an unincorporated nonprofit association that, under the law or its governing principles, must have a specified number of members is reduced below the specified number, the unincorporated nonprofit association shall not be required because of that reduction to cease carrying on its activities, but the continuing members may fill all vacancies. 1428  
1429  
1430  
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(E) Unless otherwise provided in the governing principles of an unincorporated nonprofit association, all members have the same membership rights and privileges. 1435  
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1437

(F) All members of an unincorporated nonprofit association shall exercise their membership rights and privileges consistent with the obligation of good faith and fair dealing. 1438  
1439  
1440

**Sec. 1745.21.** (A) Unless the governing principles provide otherwise, meetings of voting members of an unincorporated nonprofit association may be called by any of the following: 1441  
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(1) The president or, in case of the president's absence, death, or disability, the vice-president authorized to exercise the authority of the president; 1444  
1445  
1446

(2) The manager or managers by action at a meeting, or a majority of the managers acting without a meeting; 1447  
1448

(3) The lesser of ten per cent of the voting members or twenty-five of the voting members, unless the governing principles specify for that purpose a smaller or larger proportion or number, but not in excess of fifty per cent of the voting members; 1449  
1450  
1451  
1452

(4) Any other officers or persons that the governing principles authorize to call those meetings. 1453  
1454

(B) If so provided in the governing principles, meetings of voting members may be held either within or outside this state or 1455  
1456

solely by means of authorized communications equipment. 1457

(C) Unless the governing principles provide otherwise, the 1458  
voting members and proxyholders who are not physically present at 1459  
a meeting of voting members may attend the meeting by the use of 1460  
authorized communications equipment that enables the voting 1461  
members and proxyholders an opportunity to participate in the 1462  
meeting and to vote on matters submitted to the voting members, 1463  
including an opportunity to read or hear the proceedings of the 1464  
meeting, participate in the proceedings, and contemporaneously 1465  
communicate with the persons who are physically present at the 1466  
meeting. Any voting member who uses authorized communications 1467  
equipment under this division is considered to be present in 1468  
person at the meeting whether the meeting is held at a designated 1469  
place or solely by means of authorized communications equipment. 1470  
The members or managers may adopt procedures and guidelines for 1471  
the use of authorized communications equipment in connection with 1472  
a meeting of voting members to permit the unincorporated nonprofit 1473  
association to verify that a person is a voting member or 1474  
proxyholder and to maintain a record of any vote or other action 1475  
taken at the meeting. 1476

**Sec. 1745.22.** Unless the governing principles provide for 1477  
notice of meetings otherwise than as provided in this section, 1478  
written notice stating the place, if any, and the time of a 1479  
meeting, the means, if any, by which the voting members can be 1480  
present and vote at the meeting through the use of authorized 1481  
communications equipment, and in case of a special meeting the 1482  
purpose or purposes for which the meeting is called, shall be 1483  
given in the manner described in section 1745.19 of the Revised 1484  
Code, to each member entitled to notice of the meeting not less 1485  
than ten and not more than sixty days before the date of the 1486  
meeting. The notice of the meeting shall be given by or at the 1487  
direction of the president, the secretary, or any other person 1488

required or permitted by the governing principles to give notice 1489  
or by the officers or persons calling the meeting. If mailed or 1490  
sent by overnight delivery service, that notice shall be addressed 1491  
to the member at the member's address as it appears on the records 1492  
of the unincorporated nonprofit association. If sent by means of 1493  
authorized communications equipment, that notice shall be sent to 1494  
the address furnished by the voting member for transmissions by 1495  
authorized communications equipment. Notice of adjournment of a 1496  
meeting need not be given if the place, if any, and the time to 1497  
which it is adjourned and the procedure by which the voting 1498  
members can be present and vote at the adjourned meeting through 1499  
the use of authorized communications equipment are fixed and 1500  
announced at the meeting. 1501

**Sec. 1745.23.** (A) Notice of the place, if any, the time, and 1502  
the purpose or purposes of any meeting of voting members or 1503  
managers, as the case may be, whether required by law or the 1504  
governing principles may be waived in writing, either before or 1505  
after the holding of that meeting, by any member or any manager. 1506  
That writing shall be filed with or entered upon the records of 1507  
the meeting. A transmission by authorized communications equipment 1508  
that contains a waiver is a writing for purposes of this division. 1509

(B) If a member or manager attends a meeting described in 1510  
division (A) of this section without protesting prior to or at the 1511  
commencement of the meeting, then the lack of proper notice shall 1512  
be considered to be a waiver by the member or manager of notice of 1513  
the meeting. 1514

(C) Unless the governing principles provide otherwise, a 1515  
member shall be considered in attendance at a meeting described in 1516  
division (A) of this section if the member is present in person, 1517  
by the use of authorized communications equipment, by mail, or, if 1518  
permitted, by proxy. Unless the governing principles provide 1519

otherwise, a manager shall be considered in attendance at a 1520  
meeting described in division (A) of this section if the manager 1521  
is present in person or by the use of authorized communications 1522  
equipment. 1523

**Sec. 1745.24.** Unless the governing principles provide 1524  
otherwise, the following apply: 1525

(A) The voting members present in person, by the use of 1526  
authorized communications equipment, by mail, or, if permitted, by 1527  
proxy at any meeting of voting members shall constitute a quorum 1528  
for the meeting. 1529

(B) The affirmative vote of a majority of the voting members 1530  
present at a meeting at which a quorum is present as provided in 1531  
division (A) of this section shall be necessary for the 1532  
authorization or taking of any action voted upon by the members, 1533  
except that no action required by law or by the governing 1534  
principles to be authorized or taken by a specified proportion or 1535  
number of the voting members or of any class of voting members may 1536  
be authorized or taken by a lesser proportion or number. 1537

**Sec. 1745.25.** (A) Except as otherwise provided in the 1538  
governing principles, each member, regardless of class, shall be 1539  
entitled to one vote on each matter properly submitted to the 1540  
members for their vote, consent, waiver, release, or other action. 1541

(B) Unless the governing principles provide otherwise, voting 1542  
at elections and votes on other matters may be conducted by mail 1543  
or by the use of authorized communications equipment. 1544

(C) Participation by a member in a meeting through the use of 1545  
any of the means of communication described in division (B) of 1546  
this section constitutes presence in person of that member at the 1547  
meeting. The members or managers may adopt procedures and 1548  
guidelines for the use of authorized communications equipment to 1549

permit the unincorporated nonprofit association to verify that a 1550  
person is a voting member and to maintain a record of any vote. 1551

(D) Unless the governing principles provide otherwise, no 1552  
member who is a natural person shall vote or act by proxy. 1553

**Sec. 1745.26.** Whenever with respect to the authorization or 1554  
taking of any action by the members or the managers the governing 1555  
principles require the vote, consent, waiver, or release of a 1556  
greater proportion or number of the members or the managers than 1557  
that otherwise required by law with respect to that authorization 1558  
or taking of the action, the provisions of the governing 1559  
principles shall control. 1560

**Sec. 1745.27.** The authorization or taking of any action by 1561  
vote, consent, waiver, or release of the members may be rescinded 1562  
or revoked by the same vote, consent, waiver, or release as at the 1563  
time of rescission or revocation would be required to authorize or 1564  
take that action in the first instance, subject to the contract 1565  
rights of other persons. 1566

**Sec. 1745.28.** (A) Unless the governing principles prohibit 1567  
the authorization or taking of any action of the members or the 1568  
managers without a meeting, any action that may be authorized or 1569  
taken at a meeting of the members or the managers, as the case may 1570  
be, may be authorized or taken without a meeting with the 1571  
affirmative vote or approval of, and in a writing or writings 1572  
signed by, all of the members or all of the managers, as the case 1573  
may be, who would be entitled to notice of a meeting for that 1574  
purpose, or, in the case of members, any other proportion or 1575  
number of voting members, not less than a majority, that the 1576  
governing principles permit. The writing or writings described in 1577  
this division shall be filed with or entered upon the records of 1578  
the unincorporated nonprofit association. Any certificate with 1579

respect to the authorization or taking of any action described in 1580  
this division that is required to be filed in the office of the 1581  
secretary of state shall recite that the authorization or taking 1582  
of that action was in a writing or writings approved and signed as 1583  
specified in this section. 1584

(B) Any transmission by authorized communications equipment 1585  
that contains an affirmative vote or approval of the person 1586  
described in division (A) of this section is a signed writing for 1587  
purposes of this section. The date on which that transmission by 1588  
authorized communications equipment is sent is the date on which 1589  
the writing is signed. 1590

**Sec. 1745.29.** (A) A person becomes a member of an 1591  
unincorporated nonprofit association and may be suspended, 1592  
dismissed, or expelled in accordance with the association's 1593  
governing principles. If there are no applicable governing 1594  
principles, a person may become a member or be suspended, 1595  
dismissed, or expelled from an unincorporated nonprofit 1596  
association by a vote of its members. A person may not be admitted 1597  
as a member of an unincorporated nonprofit association without the 1598  
person's consent. 1599

(B) Unless the governing principles provide otherwise, the 1600  
suspension, dismissal, or expulsion of a member of an 1601  
unincorporated nonprofit association does not relieve the member 1602  
from any unpaid capital contribution, dues, assessments, fees, or 1603  
other obligation incurred or commitment made by the member before 1604  
the suspension, dismissal, or expulsion. 1605

**Sec. 1745.30.** (A) A member may resign from membership in an 1606  
unincorporated nonprofit association in accordance with the 1607  
governing principles. In the absence of applicable governing 1608  
principles, a member may resign at any time. 1609

(B) Unless the governing principles provide otherwise, 1610  
resignation of a member of an unincorporated nonprofit association 1611  
does not relieve the member from any unpaid capital contribution, 1612  
dues, assessments, fees, or other obligation incurred or 1613  
commitment made by the member before the resignation. 1614

**Sec. 1745.31.** Except as otherwise provided in the governing 1615  
principles, any interest or right of the member under the 1616  
governing principles is not transferable. 1617

**Sec. 1745.32.** Except as otherwise provided in this chapter or 1618  
the governing principles, all of the following apply: 1619

(A) The members of an unincorporated nonprofit association 1620  
may select the manager or managers. 1621

(B) A manager may be a member of the association. 1622

(C) If no manager is selected, all members are managers. 1623

(D) Each manager has equal rights in the management and 1624  
conduct of the association's activities. 1625

(E) All matters relating to the association's activities are 1626  
decided by its managers, except for those matters reserved for 1627  
approval by members as specified in section 1745.18 of the Revised 1628  
Code. 1629

(F) A difference among managers is decided by a majority of 1630  
the managers. 1631

**Sec. 1745.33.** (A) Except when the law or the governing 1632  
principles require that action be otherwise authorized or taken, 1633  
all of the authority of an unincorporated nonprofit association 1634  
shall be exercised by or under the direction of its manager or 1635  
managers. 1636

(B) The only fiduciary duties a manager owes to the 1637

association are the duties set forth in this division. The duties 1638  
of a manager are to act in good faith, in a manner the manager 1639  
reasonably believes to be in or not opposed to the best interests 1640  
of the unincorporated nonprofit association, and with the care 1641  
that an ordinarily prudent person in a similar position would use 1642  
under similar circumstances. A manager serving on a committee of 1643  
managers is acting as a manager. 1644

(C) In performing the duties of a manager, a manager is 1645  
entitled to rely on information, opinions, reports, or statements, 1646  
including financial statements and other financial data, that are 1647  
prepared or presented by any of the following: 1648

(1) One or more managers, officers, or employees of the 1649  
association who the manager reasonably believes are reliable and 1650  
competent in the matters prepared or presented; 1651

(2) Counsel, public accountants, or other persons as to 1652  
matters that the manager reasonably believes are within the 1653  
person's professional or expert competence; 1654

(3) A committee of the managers in which the manager does not 1655  
serve, duly established in accordance with a provision of the 1656  
governing principles as to matters within its designated 1657  
authority, which committee the manager reasonably believes to 1658  
merit confidence. 1659

(D) For purposes of division (B) of this section, the 1660  
following apply: 1661

(1) A manager shall not be found to have failed to perform 1662  
the manager's duties in accordance with that division, unless it 1663  
is proved by clear and convincing evidence in an action brought 1664  
against the manager that the manager has not acted in good faith, 1665  
in a manner the manager reasonably believes to be in or not 1666  
opposed to the best interests of the unincorporated nonprofit 1667  
association, or with the care that an ordinarily prudent person in 1668

a similar position would use under similar circumstances. An 1669  
action under division (D)(1) of this section includes, but is not 1670  
limited to, an action that involves or affects any of the 1671  
following: 1672

(a) A change or potential change in control of the 1673  
association; 1674

(b) A termination or potential termination of the manager's 1675  
service to the association as manager; 1676

(c) The manager's service in any other position or 1677  
relationship with the association. 1678

(2) A manager shall not be considered to be acting in good 1679  
faith if the manager has knowledge concerning the matter in 1680  
question that would cause reliance on information, opinions, 1681  
reports, or statements that are prepared or presented by any of 1682  
the persons described in divisions (C)(1) to (3) of this section, 1683  
to be unwarranted. 1684

(3) The provisions of division (D) of this section do not 1685  
limit relief available under section 1745.42 of the Revised Code. 1686

(E)(1) Subject to divisions (E)(2) and (3) of this section, a 1687  
manager is liable in damages for any act that the manager takes or 1688  
fails to take as manager only if it is proved, by clear and 1689  
convincing evidence, in a court with jurisdiction that the act or 1690  
omission of the manager was one undertaken with a deliberate 1691  
intent to cause injury to the association or was one undertaken 1692  
with a reckless disregard for the best interests of the 1693  
association. 1694

(2) Division (E)(1) of this section does not affect the 1695  
liability of a manager under section 1745.56 of the Revised Code. 1696

(3) Subject to division (E)(2) of this section, division 1697  
(E)(1) of this section does not apply if, and only to the extent 1698

that, at the time of an act or omission of a manager that is the 1699  
subject of the complaint, the governing principles of the 1700  
association state by specific reference to division (E)(1) of this 1701  
section that its provisions do not apply to the association. 1702

(F) For purposes of this section, in determining what a 1703  
manager reasonably believes to be in or not opposed to the best 1704  
interests of the association, a manager shall consider the 1705  
purposes of the association and may consider any of the following: 1706

(1) The interests of the employees, suppliers, creditors, and 1707  
customers of the association; 1708

(2) The economy of this state and of the nation; 1709

(3) Community and societal considerations; 1710

(4) The long-term and short-term best interests of the 1711  
association, including, but not limited to, the possibility that 1712  
those interests may be best served by the continued independence 1713  
of the association. 1714

(G) Divisions (E) and (F) of this section do not affect the 1715  
duties of a manager who acts in any capacity other than in the 1716  
capacity as a manager. 1717

**Sec. 1745.34. Unless otherwise provided in the governing** 1718  
**principles, the following apply:** 1719

(A) Meetings of the managers may be called by any two 1720  
managers or by any chairperson, president, or vice-president of 1721  
the unincorporated nonprofit association. 1722

(B) Meetings of the managers may be held at any place within 1723  
or outside this state, including by means of authorized 1724  
communications equipment, unless the governing principles prohibit 1725  
participation by managers at a meeting by means of authorized 1726  
communications equipment. Participation at a meeting pursuant to 1727  
this division constitutes presence at that meeting. 1728

(C) Notice of the place, if any, and time of each meeting of the managers shall be given to each manager either by personal delivery or by mail, by overnight delivery service, or by means of authorized communications equipment at least two days before the meeting. The notice need not specify the purposes of the meeting. 1729  
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(D) Notice of adjournment of a meeting of the managers need not be given if the time and place to which it is adjourned are fixed and announced at that meeting. 1734  
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**Sec. 1745.35.** Unless the governing principles provide otherwise, a majority of the whole authorized number of managers is necessary to constitute a quorum for a meeting of the managers, except that a majority of the managers in office constitutes a quorum for filling a vacancy in the position of manager. The act of a majority of the managers present at a meeting at which a quorum is present is the act of all of the managers, unless the act of a greater number is required by the governing principles. 1737  
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**Sec. 1745.36.** (A) The governing principles may provide for the creation by the managers of an executive committee or any other committee of the managers, to consist of one or more managers, and may authorize the delegation to that committee of any of the authority of the managers, however conferred. 1745  
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(B) The managers may appoint one or more managers as alternate members of any committee described in division (A) of this section, who may take the place of any absent member or members at any meeting of the particular committee. 1750  
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(C) Each committee described in division (A) of this section shall serve at the pleasure of the managers, shall act only in the intervals between meetings of the managers, and shall be subject to the control and direction of the managers. 1754  
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(D) Unless otherwise provided in the governing principles or 1758

ordered by the managers, any committee described in division (A) of this section may act by a majority of its members at a meeting or by a writing or writings signed by all of its members. 1759  
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(E) Meetings of committees described in division (A) of this section may be held by any means of authorized communication equipment, unless participation by members of the committee at a meeting by means of authorized communications equipment is prohibited by the governing principles or any order of the managers. Participation at a meeting pursuant to this division constitutes presence at the meeting. 1762  
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(F) An act or authorization of an act by any committee described in division (A) of this section within the authority delegated to it shall be as effective for all purposes as the act or authorization of the managers. 1769  
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**Sec. 1745.37.** (A) The officers of an unincorporated nonprofit association, if any, may consist of a president, a secretary, a treasurer, and, if desired, a chairperson, one or more vice-presidents, and any other officers and assistant officers that may be considered necessary, each of whom may be designated by any other titles that may be provided in the governing principles or the resolutions of the managers. Unless the governing principles provide otherwise, none of the officers need be a manager. Any two or more offices may be held by the same person. The officers shall be elected or appointed at the time, in the manner, and for the terms that may be prescribed in the governing principles. In the absence of any such provision, all officers shall be elected annually by the managers. 1773  
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(B) Unless the governing principles provide otherwise, the following apply: 1786  
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(1) All officers, as between themselves and the association, shall respectively have the authority and perform the duties that 1788  
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are determined by the persons authorized to elect or appoint them. 1790

(2) Any officer may be removed, with or without cause, by the 1791  
persons authorized to elect or appoint the officer without 1792  
prejudice to the contract rights of that officer. The election or 1793  
appointment of an officer for a given term, or a general provision 1794  
in the governing principles with respect to term of office, shall 1795  
not be considered to create contract rights. 1796

(3) The persons authorized to elect or appoint officers may 1797  
fill any vacancy in any office occurring for whatever reason. 1798

**Sec. 1745.38.** The managers of an unincorporated nonprofit 1799  
association may authorize any mortgage, pledge, or deed of trust 1800  
of all or any of the property of the association of any 1801  
description or any interest in the property, for the purpose of 1802  
securing the payment or performance of any obligation or contract. 1803  
Unless the governing principles or the terms of any trust on which 1804  
the association holds any particular property provide otherwise, 1805  
no vote or consent of the members of the association or 1806  
authorization from the court under section 1715.39 of the Revised 1807  
Code is necessary for that action. 1808

**Sec. 1745.39.** (A) On reasonable notice, a member or manager 1809  
of an unincorporated nonprofit association may inspect and copy 1810  
during the association's regular operating hours and at a 1811  
reasonable location specified by the association any record 1812  
maintained by the association regarding its activities, financial 1813  
condition, and other circumstances, to the extent the information 1814  
is material to the member's or manager's rights and duties under 1815  
the association's governing principles or this chapter. 1816

(B) An unincorporated nonprofit association may impose 1817  
reasonable restrictions on access to and use of information to be 1818  
furnished under this section, including designating the 1819

information confidential and imposing nondisclosure and 1820  
safeguarding obligations on the recipient. 1821

(C) An unincorporated nonprofit association may charge a 1822  
person that makes a demand under this section reasonable copying 1823  
costs, limited to the costs of labor and materials. 1824

(D) A former member or manager of an unincorporated nonprofit 1825  
association may have access to information to which the member or 1826  
manager was entitled while a member or manager of the association 1827  
if the information pertains to the period during which the person 1828  
was a member or manager, the former member or manager seeks the 1829  
information in good faith, and the former member or manager 1830  
satisfies divisions (A) to (C) of this section. 1831

**Sec. 1745.40.** (A) Except as otherwise provided in division 1832  
(B) of this section, an unincorporated nonprofit association may 1833  
not pay dividends or distribute any part of its income or profits 1834  
to a member, manager, officer, or other private person. 1835

(B) An unincorporated nonprofit association may do any of the 1836  
following: 1837

(1) Pay reasonable compensation or reimburse reasonable 1838  
expenses to a member or manager for services rendered; 1839

(2) Confer benefits on a member or manager in conformity with 1840  
its nonprofit purposes; 1841

(3) Repurchase a membership and repay a capital contribution 1842  
made by a member to the extent authorized by its governing 1843  
principles; 1844

(4) Make distributions of property to members upon winding up 1845  
and termination to the extent permitted by section 1745.52 of the 1846  
Revised Code. 1847

**Sec. 1745.41.** (A) The office of a manager becomes vacant if 1848

the manager dies or resigns. A resignation under this division 1849  
takes effect immediately or at any other time that the manager may 1850  
specify. 1851

(B) A manager may be removed from office pursuant to any 1852  
procedure for removal from office provided in the governing 1853  
principles. That removal from office creates a vacancy. 1854

(C) Unless the governing principles provide otherwise, the 1855  
remaining managers, although less than a majority of the whole 1856  
authorized number of managers, may by the vote of a majority of 1857  
their number fill any vacancy in the office of manager for the 1858  
unexpired term. For purposes of this section, a vacancy exists if 1859  
the voting members increase the authorized number of managers but 1860  
fail at the meeting at which that increase is authorized or an 1861  
adjournment of the meeting to elect the additional managers 1862  
provided for or if the voting members fail at any time to elect 1863  
the whole authorized number of managers. 1864

**Sec. 1745.42.** (A) Unless otherwise provided in the governing 1865  
principles, the following apply: 1866

(1) No contract, action, or transaction is void or voidable 1867  
with respect to an unincorporated nonprofit association because 1868  
the contract, action, or transaction is between or affects the 1869  
association and one or more of its members, managers, or officers 1870  
or is between or affects the association and any other person in 1871  
which one or more of the association's members, managers, or 1872  
officers are members, managers, or officers or in which one or 1873  
more of the association's members, managers, or officers have a 1874  
financial or personal interest, or because one or more interested 1875  
members, managers, or officers participate in or vote at the 1876  
meeting of the members, the managers, or a committee of the 1877  
managers that authorizes the contract, action, or transaction, if 1878

any of the following applies: 1879

(a) The material facts as to the member's, manager's, or officer's relationship or interest and as to the contract, action, or transaction are disclosed or are known to the managers or the committee, and the managers or committee, in good faith reasonably justified by the material facts, authorizes the contract, action, or transaction by the affirmative vote of a majority of the disinterested managers, even though the disinterested managers constitute less than a quorum of the managers or the committee. 1880  
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(b) The material facts as to the member's, manager's, or officer's relationship or interest and as to the contract, action, or transaction are disclosed or are known to the members entitled to vote on the contract, action, or transaction, and the contract, action, or transaction is specifically approved at a meeting of the members held for the purpose of voting on the contract, action, or transaction, by the affirmative vote of a majority of the voting members of the unincorporated nonprofit association who are not interested in the contract, action, or transaction. 1888  
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(c) The contract, action, or transaction is fair as to the unincorporated nonprofit association as of the time it is authorized or approved by the managers, a committee of the managers, or the members. 1897  
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(2) Common or interested managers may be counted in determining the presence of a quorum at a meeting of the managers or a committee of the managers that authorizes the contract, action, or transaction. 1901  
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(3) The managers, by the affirmative vote of a majority of those in office and irrespective of any financial or personal interest of any of the managers, have the authority to establish reasonable compensation, which may include pension, disability, and death benefits, for services to the unincorporated nonprofit 1905  
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association by the managers and officers, or to delegate that 1910  
authority to establish reasonable compensation to one or more 1911  
officers or managers. 1912

(B) Divisions (A)(1) and (2) of this section do not limit or 1913  
otherwise affect the liability of managers under section 1745.56 1914  
of the Revised Code. 1915

(C) For purposes of division (A) of this section, a manager 1916  
is not an interested manager solely because the subject of a 1917  
contract, action, or transaction may involve or effect a change in 1918  
control of the unincorporated nonprofit association or the 1919  
manager's continuation in office as a manager of the association. 1920

(D) For purposes of this section, "action" means a resolution 1921  
that is adopted by the managers or a committee of the managers. 1922

**Sec. 1745.43.** (A) An unincorporated nonprofit association may 1923  
indemnify or agree to indemnify any person who was or is a party 1924  
or is threatened to be made a party to any threatened, pending, or 1925  
completed civil, criminal, administrative, or investigative 1926  
action, suit, or proceeding, other than an action by or in the 1927  
right of the association, by reason of the fact that the person is 1928  
or was a manager, officer, employee, member, agent, or volunteer 1929  
of the association or a person acting in any other representative 1930  
capacity, however denominated, or is or was serving at the request 1931  
of the association as a director, officer, employee, member, 1932  
manager, agent, or volunteer of any other entity, against 1933  
expenses, including attorney's fees, judgments, fines, and amounts 1934  
paid in settlement actually and reasonably incurred by the person 1935  
in connection with that action, suit, or proceeding, if the person 1936  
acted in good faith and in a manner the person reasonably believed 1937  
to be in or not opposed to the best interests of the association, 1938  
and, with respect to any criminal action or proceeding if the 1939  
person had no reasonable cause to believe the person's conduct was 1940

unlawful. The termination of any action, suit, or proceeding by 1941  
judgment, order, settlement, or conviction, or upon a plea of nolo 1942  
contendere or its equivalent, shall not create, of itself, a 1943  
presumption that the person did not act in good faith and in a 1944  
manner the person reasonably believed to be in or not opposed to 1945  
the best interests of the association, and, with respect to any 1946  
criminal action or proceeding, a presumption that the person had 1947  
reasonable cause to believe that the person's conduct was 1948  
unlawful. 1949

(B) An unincorporated nonprofit association may indemnify or 1950  
agree to indemnify any person who was or is a party, or is 1951  
threatened to be made a party, to any threatened, pending, or 1952  
completed action or suit by or in the right of the association to 1953  
procure a judgment in its favor by reason of the fact that the 1954  
person is or was a manager, officer, employee, member, agent, or 1955  
volunteer of the association or a person acting in any other 1956  
representative capacity, however denominated, or is or was serving 1957  
at the request of the association as a director, officer, 1958  
employee, member, manager, agent, or volunteer of any other 1959  
entity, against expenses, including attorney's fees, actually and 1960  
reasonably incurred by the person in connection with the defense 1961  
or settlement of that action or suit if the person acted in good 1962  
faith and in a manner the person reasonably believed to be in or 1963  
not opposed to the best interests of the association, except that 1964  
no indemnification shall be made with respect to any of the 1965  
following: 1966

(1) Any claim, issue, or matter as to which the person is 1967  
adjudged to be liable for negligence or misconduct in the 1968  
performance of the person's duty to the unincorporated nonprofit 1969  
association unless and only to the extent that the court of common 1970  
pleas or the court in which the action or suit was brought 1971  
determines, upon application, that despite the adjudication of 1972

liability but in view of all the circumstances of the case, the 1973  
person is fairly and reasonably entitled to indemnity for the 1974  
expenses that the court of common pleas or that other court 1975  
considers proper; 1976

(2) Any action or suit in which liability is asserted against 1977  
a manager and that liability is asserted only pursuant to section 1978  
1745.56 of the Revised Code. 1979

(C) To the extent that a manager, officer, employee, member, 1980  
agent, or volunteer of the association or a person acting in any 1981  
other representative capacity, however denominated, has been 1982  
successful on the merits or otherwise in defense of any action, 1983  
suit, or proceeding referred to in division (A) or (B) of this 1984  
section, or in defense of any claim, issue, or matter in the 1985  
action, suit, or proceeding, that person shall be indemnified 1986  
against expenses, including attorney's fees, actually and 1987  
reasonably incurred by the person in connection with that action, 1988  
suit, or proceeding. 1989

(D)(1) Unless ordered by a court and subject to division (C) 1990  
of this section, any indemnification under division (A) or (B) of 1991  
this section shall be made by the unincorporated nonprofit 1992  
association only as authorized in the specific case upon a 1993  
determination that indemnification of the manager, officer, 1994  
employee, member, agent, or volunteer of the association or the 1995  
person acting in any other representative capacity, however 1996  
denominated, is proper in the circumstances because the person has 1997  
met the applicable standard of conduct set forth in division (A) 1998  
or (B) of this section. That determination shall be made in any of 1999  
the following manners: 2000

(a) By a majority vote of a quorum consisting of managers of 2001  
the indemnifying unincorporated nonprofit association who were not 2002  
and are not parties to or threatened with the action, suit, or 2003  
proceeding referred to in division (A) or (B) of this section; 2004

(b) Whether or not a quorum as described in division (D)(1)(a) of this section is obtainable, and if a majority of a quorum of disinterested managers so directs, in a written opinion by independent legal counsel other than an attorney, or a firm having associated with an attorney, who has been retained by or has performed services for the association or any person to be indemnified within the past five years; 2005  
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(c) By the members; 2012

(d) By the court of common pleas or the court in which the action, suit, or proceeding referred to in division (A) or (B) of this section was brought. 2013  
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(2) If an action or suit by or in the right of the unincorporated nonprofit association is involved, any determination made by the disinterested managers under division (D)(1)(a) of this section or by independent legal counsel under division (D)(1)(b) of this section shall be communicated promptly to the person who threatened or brought the action or suit under division (B) of this section, and, within ten days after receipt of that notification, the person shall have the right to petition the court of common pleas or the court in which the action or suit was brought to review the reasonableness of that determination. 2016  
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(E)(1)(a) Unless at the time of a manager's or volunteer's act or omission that is the subject of an action, suit, or proceeding referred to in division (A) or (B) of this section the governing principles of the unincorporated nonprofit association stated, by specific reference to division (E)(1)(a) of this section, that its provisions do not apply to the association, unless the only liability asserted against a manager in an action, suit, or proceeding referred to in division (A) or (B) of this section is pursuant to section 1745.56 of the Revised Code, or unless division (E)(1)(b) of this section applies, the expenses, including attorney's fees, incurred by the manager or volunteer in 2026  
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defending the action, suit, or proceeding shall be paid by the 2037  
unincorporated nonprofit association. Upon the request of the 2038  
manager or volunteer and in accordance with division (E)(2) of 2039  
this section, those expenses shall be paid as they are incurred, 2040  
in advance of the final disposition of the action, suit, or 2041  
proceeding. 2042

(b) Notwithstanding division (E)(1)(a) of this section, the 2043  
expenses incurred by a manager or volunteer in defending an 2044  
action, suit, or proceeding referred to in division (A) or (B) of 2045  
this section, including attorney's fees, shall not be paid by the 2046  
unincorporated nonprofit association upon the final disposition of 2047  
the action, suit, or proceeding, or, if paid in advance of the 2048  
final disposition of the action, suit, or proceeding, shall be 2049  
repaid to the association by the manager or volunteer, if it is 2050  
proved, by clear and convincing evidence, in a court with 2051  
jurisdiction that the act or omission of the manager or volunteer 2052  
was one undertaken with a deliberate intent to cause injury to the 2053  
association or was one undertaken with a reckless disregard for 2054  
the best interests of the association. 2055

(2) Expenses, including attorney's fees, incurred by a 2056  
manager, officer, employee, member, agent, or volunteer of the 2057  
association or a person acting in any other representative 2058  
capacity, however denominated, in defending any action, suit, or 2059  
proceeding referred to in division (A) or (B) of this section may 2060  
be paid by the unincorporated nonprofit association as they are 2061  
incurred, in advance of the final disposition of the action, suit, 2062  
or proceeding, as authorized by the managers in the specific case, 2063  
upon receipt of an undertaking by or on behalf of the manager, 2064  
officer, employee, member, agent, volunteer, or person acting in 2065  
any other representative capacity to repay the amount if it 2066  
ultimately is determined that the person is not entitled to be 2067  
indemnified by the association. 2068

(F) The indemnification authorized by this section is not 2069  
exclusive of, and shall be in addition to, any other rights 2070  
granted to those seeking indemnification pursuant to the governing 2071  
principles, any agreement, a vote of the members or disinterested 2072  
managers, or otherwise, both as to action in their official 2073  
capacities and as to action in another capacity while holding 2074  
their offices or positions, shall continue as to a person who has 2075  
ceased to be a manager, officer, employee, member, agent, or 2076  
volunteer of the association or a person acting in any other 2077  
representative capacity, however denominated, and shall inure to 2078  
the benefit of the heirs, executors, and administrators of that 2079  
person. 2080

(G) An unincorporated nonprofit association may purchase and 2081  
maintain insurance, or furnish similar protection, including, but 2082  
not limited to, trust funds, letters of credit, or self-insurance, 2083  
for or on behalf of any person who is or was a manager, officer, 2084  
employee, member, agent, or volunteer of the association or a 2085  
person acting in any other representative capacity, however 2086  
denominated, or is or was serving at the request of the 2087  
association as a director, manager, officer, employee, member, 2088  
agent, or volunteer of any other entity, against any liability 2089  
asserted against the person and incurred by the person in that 2090  
capacity, or arising out of the person's status as such, whether 2091  
or not the association would have the power to indemnify the 2092  
person against that liability under this section. Insurance may be 2093  
so purchased from or so maintained with a person in which the 2094  
association has a financial interest. 2095

(H) The authority of an unincorporated nonprofit association 2096  
to indemnify persons pursuant to division (A) or (B) of this 2097  
section does not limit the payment of expenses as they are 2098  
incurred, in advance of the final disposition of an action, suit, 2099  
or proceeding, pursuant to division (E) of this section or the 2100

payment of indemnification, insurance, or other protection that 2101  
may be provided pursuant to division (F) or (G) of this section. 2102  
Divisions (A) and (B) of this section do not create any obligation 2103  
to repay or return payments made by the association pursuant to 2104  
division (E), (F), or (G) of this section. 2105

(I) As used in this section, "unincorporated nonprofit 2106  
association" includes all constituent entities in a consolidation 2107  
or merger, and the new or surviving entity, so that any person who 2108  
is or was a manager, officer, employee, member, agent, or 2109  
volunteer of a constituent entity or a person acting in any other 2110  
representative capacity, however denominated, or is or was serving 2111  
at the request of a constituent entity as a director, officer, 2112  
employee, member, manager, agent, or volunteer of any other 2113  
entity, shall stand in the same position under this section with 2114  
respect to the new or surviving entity as the person would if the 2115  
person had served the new or surviving entity in the same 2116  
capacity. 2117

**Sec. 1745.44.** (A) Unless the governing principles of the 2118  
unincorporated nonprofit association provide otherwise, the lease, 2119  
sale, exchange, transfer, or other disposition of any assets of 2120  
the association may be made without the necessity of procuring 2121  
authorization from the court under section 1715.39 of the Revised 2122  
Code, upon terms and for the consideration that may be authorized 2123  
by the managers, except that a lease, sale, exchange, transfer, or 2124  
other disposition of all, or substantially all, of the assets may 2125  
be made only when that transaction is also authorized, either 2126  
before or after authorization by the managers, by the voting 2127  
members of the association at a meeting held for that purpose. 2128

(B)(1) A public benefit association may not dispose of its 2129  
assets with value equal to more than fifty per cent of the fair 2130  
market value of the net tangible and intangible assets, including 2131

goodwill, of the association over a period of thirty-six 2132  
consecutive months in a transaction or series of transactions, 2133  
including the lease, sale, exchange, transfer, or other 2134  
disposition of those assets, that are outside the ordinary course 2135  
of its business or that are not in accordance with the purpose or 2136  
purposes for which the association was organized, as set forth in 2137  
its governing principles, unless one or more of the following 2138  
apply: 2139

(a) The transaction has received the prior approval of the 2140  
court of common pleas of the county in this state in which the 2141  
principal office of the public benefit association is located in a 2142  
proceeding of which the attorney general's charitable law section 2143  
has been given written notice by certified mail within three days 2144  
of the initiation of the proceeding and in which proceeding the 2145  
attorney general may intervene as of right. 2146

(b) The public benefit association has provided written 2147  
notice of the proposed transaction, including a copy or summary of 2148  
the terms of that transaction, at least twenty days before 2149  
consummation of the lease, sale, exchange, transfer, or other 2150  
disposition of the assets, to the attorney general's charitable 2151  
law section and to the members of the association, and the 2152  
proposed transaction has been approved by the members. 2153

(c) The transaction is in accordance with the purpose or 2154  
purposes for which the public benefit association was organized, 2155  
as set forth in its governing principles, and the lessee, 2156  
purchaser, or transferee of the assets is a public benefit entity. 2157

(2) The attorney general may require pursuant to section 2158  
109.24 of the Revised Code the production of the documents 2159  
necessary for review of a proposed transaction under division 2160  
(B)(1) of this section. The attorney general may retain at the 2161  
expense of the public benefit association one or more experts, 2162  
including an investment banker, actuary, appraiser, certified 2163

public accountant, or other expert, that the attorney general 2164  
considers reasonably necessary to provide assistance in reviewing 2165  
a proposed transaction under division (B)(1) of this section. 2166

(C) The attorney general may institute a civil action to 2167  
enforce the requirements of division (B)(1) of this section in the 2168  
court of common pleas of the county in this state in which the 2169  
principal office of the public benefit association is located or 2170  
in the Franklin county court of common pleas. In addition to any 2171  
civil remedies that may exist under common law or the Revised 2172  
Code, a court may rescind the transaction or grant injunctive 2173  
relief or impose any combination of these remedies. 2174

(D) The unincorporated nonprofit association or the public 2175  
benefit association by its managers may abandon the proposed 2176  
lease, sale, exchange, transfer, or other disposition of the 2177  
assets of the association pursuant to division (A) or (B) of this 2178  
section, as applicable, subject to the contract rights of other 2179  
persons, if that power of abandonment is conferred upon the 2180  
managers either by the terms of the transaction or by the same 2181  
vote of members and at the same meeting of members as that 2182  
referred to in division (A) or (B) of this section, as applicable, 2183  
or at any subsequent meeting. 2184

(E) An action to set aside a conveyance by an unincorporated 2185  
nonprofit association or a public benefit association on the 2186  
ground that any section of the Revised Code applicable to the 2187  
lease, sale, exchange, transfer, or other disposition of the 2188  
assets of that association has not been complied with shall be 2189  
brought within one year after that transaction, or the action 2190  
shall be forever barred. 2191

**Sec. 1745.45. Property of any description and any interest in** 2192  
**the property of an unincorporated nonprofit association, domestic** 2193  
**or foreign, may be sold under the judgment or decree of a court,** 2194

as provided in the Revised Code with respect to similar property 2195  
of natural persons, at a public or private sale in the manner, at 2196  
the time and place, on the notice by publication or otherwise, and 2197  
on the terms that the court adjudging or decreeing that sale 2198  
considers equitable and proper. It is not necessary to appraise 2199  
that property or to advertise the sale of the property otherwise 2200  
than as the court adjudges or decrees. 2201

Sec. 1745.46. (A)(1) Pursuant to an agreement of merger, an 2202  
unincorporated nonprofit association and one or more additional 2203  
domestic or foreign entities may be merged into a surviving 2204  
unincorporated nonprofit association. Pursuant to an agreement of 2205  
consolidation, one or more domestic or foreign entities may be 2206  
consolidated into a new unincorporated nonprofit association. If 2207  
any constituent entity is formed or organized under the laws of 2208  
any state other than this state or under any chapter of the 2209  
Revised Code other than this chapter, the merger or consolidation 2210  
also must be permitted by the chapter of the Revised Code under 2211  
which each domestic constituent entity exists and by the laws 2212  
under which each foreign constituent entity exists. 2213

(2) To effect a merger or consolidation under this section, 2214  
the manager or managers of each constituent unincorporated 2215  
nonprofit association shall approve an agreement of merger or 2216  
consolidation to be signed by the manager, the chairperson, the 2217  
president, or a vice-president and by the secretary or an 2218  
assistant secretary or, if there are no officers, by one or more 2219  
authorized managers. The agreement of merger or consolidation 2220  
shall be approved or otherwise authorized by or on behalf of each 2221  
other constituent entity in accordance with the laws under which 2222  
it exists. 2223

(3) The agreement of merger or consolidation shall set forth 2224  
all of the following: 2225

<u>(a) The name and the form of entity of each constituent</u>	2226
<u>entity and the state under the laws of which each constituent</u>	2227
<u>entity exists;</u>	2228
<u>(b) That the named constituent entities have agreed to merge</u>	2229
<u>into a specified constituent unincorporated nonprofit association,</u>	2230
<u>designated in this section as the surviving unincorporated</u>	2231
<u>nonprofit association, or that the named constituent entities have</u>	2232
<u>agreed to consolidate into a new unincorporated nonprofit</u>	2233
<u>association to be formed by the consolidation, designated in this</u>	2234
<u>section as the new unincorporated nonprofit association;</u>	2235
<u>(c) All statements and matters required to be set forth in an</u>	2236
<u>agreement of merger or consolidation by the laws under which each</u>	2237
<u>constituent entity exists;</u>	2238
<u>(d) The name of the surviving or new unincorporated nonprofit</u>	2239
<u>association, which may be the same as or similar to that of any</u>	2240
<u>constituent unincorporated nonprofit association;</u>	2241
<u>(e) The place in this state where the principal office of the</u>	2242
<u>surviving or new unincorporated nonprofit association is to be</u>	2243
<u>located;</u>	2244
<u>(f) The names and addresses of the first managers and</u>	2245
<u>officers, if any, of the surviving or new unincorporated nonprofit</u>	2246
<u>association and, if desired, their term or terms of office;</u>	2247
<u>(g) The name and address of the statutory agent, if any, upon</u>	2248
<u>whom any process, notice, or demand against any constituent entity</u>	2249
<u>or the surviving or new unincorporated nonprofit association may</u>	2250
<u>be served;</u>	2251
<u>(h) The terms of the merger or consolidation and the mode of</u>	2252
<u>carrying those terms into effect;</u>	2253
<u>(i) The governing principles of the surviving or new</u>	2254
<u>unincorporated nonprofit association or a provision to the effect</u>	2255

that the governing principles of a specified constituent 2256  
unincorporated nonprofit association shall be the governing 2257  
principles of the surviving or new unincorporated nonprofit 2258  
association or to the effect that the voting members or the 2259  
managers of the surviving or new unincorporated nonprofit 2260  
association may adopt governing principles, or any combination of 2261  
them. 2262

(4) The agreement of merger or consolidation also may set 2263  
forth any of the following: 2264

(a) The specification of a date, which may be the date of the 2265  
filing of the agreement or a date subsequent to that date of 2266  
filing, upon which the merger or consolidation shall become 2267  
effective; 2268

(b) A provision conferring upon the managers of one or more 2269  
of the constituent unincorporated nonprofit associations or the 2270  
comparable representatives of any other constituent entity the 2271  
power to abandon the merger or consolidation prior to the filing 2272  
of the agreement; 2273

(c) Any additional provision permitted to be included in the 2274  
governing principles of a newly formed unincorporated nonprofit 2275  
association; 2276

(d) Any additional provision considered necessary or 2277  
desirable with respect to the proposed merger or consolidation. 2278

(B)(1) A merger or consolidation in which a public benefit 2279  
association is one of the constituent entities shall be approved 2280  
by the court of common pleas of the county in this state in which 2281  
the principal office of the public benefit association is located 2282  
in a proceeding of which the attorney general's charitable law 2283  
section has been given written notice by certified mail within 2284  
three days of the initiation of the proceeding and in which the 2285  
attorney general may intervene as of right. No approval by the 2286

court under division (B)(1) of this section is required if either 2287  
of the following applies: 2288

(a) A public benefit association is the surviving entity in 2289  
the case of a merger and continues to be a public benefit 2290  
association or is the new unincorporated nonprofit association in 2291  
the case of a consolidation and continues to be a public benefit 2292  
association. 2293

(b) A public benefit association is not the surviving entity 2294  
in the case of a merger or is not the new unincorporated nonprofit 2295  
association in the case of a consolidation, and all of the 2296  
following apply: 2297

(i) On or prior to the effective date of the merger or 2298  
consolidation, assets with a value equal to the greater of the 2299  
fair market value of the net tangible and intangible assets, 2300  
including goodwill, of the public benefit association or the fair 2301  
market value of the public benefit association if it is to be 2302  
operated as a business concern, are transferred or conveyed to one 2303  
or more persons that would have received its assets under division 2304  
(D)(2) of section 1745.52 of the Revised Code had it voluntarily 2305  
dissolved. 2306

(ii) The public benefit association returns, transfers, or 2307  
conveys any assets held by it upon a condition requiring return, 2308  
transfer, or conveyance, which condition occurs by reason of the 2309  
merger or consolidation, in accordance with that condition. 2310

(iii) The merger or consolidation is approved by a majority 2311  
of managers of the public benefit association who will not receive 2312  
any financial or other benefit, directly or indirectly, as a 2313  
result of the merger or consolidation or by agreement, and who are 2314  
not and will not as a result of the merger or consolidation become 2315  
members, partners, or other owners, however denominated, of, 2316  
shareholders in, managers, officers, employees, agents, or other 2317

representatives of, or consultants to, the surviving or new 2318  
entity. 2319

(2) At least twenty days before consummation of any merger or 2320  
consolidation of a public benefit association pursuant to division 2321  
(B)(1)(b) of this section, written notice shall be delivered to 2322  
the attorney general's charitable law section. The notice shall 2323  
include a copy of the proposed plan of merger or consolidation. 2324  
The attorney general's charitable law section may review a 2325  
proposed merger or consolidation of a public benefit association 2326  
under division (B)(1)(b) of this section. The attorney general may 2327  
require pursuant to section 109.24 of the Revised Code the 2328  
production of the documents necessary for review of a proposed 2329  
merger or consolidation under division (B)(1)(b) of this section. 2330  
The attorney general may retain, at the expense of the public 2331  
benefit association, one or more experts, including an investment 2332  
banker, actuary, appraiser, certified public accountant, or other 2333  
expert, that the attorney general considers reasonably necessary 2334  
to provide assistance in reviewing a proposed merger or 2335  
consolidation under division (B)(1)(b) of this section. The 2336  
attorney general may extend the date of any merger or 2337  
consolidation of a public benefit association under division 2338  
(B)(1)(b) of this section for a period not to exceed sixty days 2339  
and shall provide notice of that extension to the public benefit 2340  
association. The notice shall set forth the reasons necessitating 2341  
the extension. 2342

(3) No member, other than a member that is a public benefit 2343  
entity, or manager of a public benefit association in that 2344  
person's capacity as a member or manager may receive or keep 2345  
anything as a result of a merger or consolidation other than as a 2346  
member or manager in the surviving or new public benefit 2347  
association without the prior written consent of the attorney 2348  
general or of the court of common pleas of the county in this 2349

state in which the principal office of the public benefit association is located in a proceeding in which the attorney general's charitable law section has been given written notice by certified mail within three days of the initiation of the proceeding and in which the attorney general may intervene as of right. The court shall approve the transaction if it is in the public interest. 2350  
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(4) The attorney general may institute a civil action to enforce the requirements of divisions (B)(1), (2), and (3) of this section in the court of common pleas of the county in this state in which the principal office of the public benefit association is located or in the Franklin county court of common pleas. In addition to any civil remedies that may exist under common law or the Revised Code, a court may rescind the transaction or grant injunctive relief or impose any combination of these remedies. 2357  
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**Sec. 1745.461.** (A)(1) Pursuant to an agreement of merger between the constituent entities as provided in this section, a domestic unincorporated nonprofit association and, if so provided, one or more additional domestic or foreign entities may be merged into a surviving entity other than a domestic unincorporated nonprofit association. Pursuant to an agreement of consolidation, a domestic unincorporated nonprofit association together with one or more additional domestic or foreign entities may be consolidated into a new entity other than a domestic unincorporated nonprofit association to be formed by that consolidation. The merger or consolidation must be permitted by the chapter of the Revised Code under which each domestic constituent entity exists and by the laws under which each foreign constituent entity exists. 2365  
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(2) To effect a merger or consolidation under this section, the manager or managers of each constituent unincorporated 2379  
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nonprofit association shall approve an agreement of merger or 2381  
consolidation to be signed by the manager, the chairperson, the 2382  
president, or a vice-president and by the secretary or an 2383  
assistant secretary or, if there are no officers, by an authorized 2384  
manager. The agreement of merger or consolidation shall be 2385  
approved or otherwise authorized by or on behalf of each other 2386  
constituent entity in accordance with the laws under which it 2387  
exists. 2388

(3) The agreement of merger or consolidation shall set forth 2389  
all of the following: 2390

(a) The name and the form of entity of each constituent 2391  
entity and the state under the laws of which each constituent 2392  
entity exists; 2393

(b) In the case of a merger, that one or more specified 2394  
constituent entities will be merged into a specified surviving 2395  
foreign entity or surviving domestic entity other than a domestic 2396  
unincorporated nonprofit association or, in the case of a 2397  
consolidation, that the constituent entities will be consolidated 2398  
into a new foreign entity or domestic entity other than a domestic 2399  
unincorporated nonprofit association. The name of the surviving or 2400  
new entity may be the same as or similar to that of any 2401  
constituent entity. 2402

(c) The terms of the merger or consolidation and the mode of 2403  
carrying those terms into effect; 2404

(d) If the surviving or new entity is a foreign 2405  
unincorporated nonprofit association, all additional statements 2406  
and matters, other than the name and address of the statutory 2407  
agent, that would be required by section 1745.46 of the Revised 2408  
Code if the surviving or new unincorporated nonprofit association 2409  
were a domestic unincorporated nonprofit association; 2410

(e) The name and the form of entity of the surviving or new 2411

entity, the state under the laws of which the surviving entity 2412  
exists or the new entity is to exist, and the location of the 2413  
principal office of the surviving or new entity in that state; 2414

(f) All statements and matters required to be set forth in an 2415  
agreement of merger or consolidation by the laws under which each 2416  
constituent entity exists and, in the case of a consolidation, the 2417  
new entity is to exist; 2418

(g) The consent of the surviving or the new entity to be sued 2419  
and served with process in this state and the irrevocable 2420  
appointment of the secretary of state as its agent to accept 2421  
service of process in any proceeding in this state to enforce 2422  
against the surviving or new entity any obligation of any domestic 2423  
constituent unincorporated nonprofit association; 2424

(h) If the surviving or new entity is a foreign 2425  
unincorporated nonprofit association that desires to transact 2426  
business in this state as a foreign unincorporated nonprofit 2427  
association, a statement to that effect, together with a statement 2428  
regarding the appointment of a statutory agent and service of any 2429  
process, notice, or demand upon that statutory agent or the 2430  
secretary of state, as required when a foreign unincorporated 2431  
nonprofit association applies for a license to transact business 2432  
in this state; 2433

(i) If the surviving or new entity is a foreign limited 2434  
partnership that desires to transact business in this state as a 2435  
foreign limited partnership, a statement to that effect, together 2436  
with all of the information required under section 1782.49 of the 2437  
Revised Code when a foreign limited partnership registers to 2438  
transact business in this state; 2439

(j) If the surviving or new entity is a foreign limited 2440  
liability company that desires to transact business in this state 2441  
as a foreign limited liability company, a statement to that 2442

effect, together with all of the information required under 2443  
section 1705.54 of the Revised Code when a foreign limited 2444  
liability company registers to transact business in this state; 2445

(k) If the surviving or new entity is a foreign 2446  
unincorporated association that desires to transact business in 2447  
this state as a foreign unincorporated association, a statement to 2448  
that effect, together with all of the information, if any, 2449  
required by the secretary of state when a foreign unincorporated 2450  
association registers to transact business in this state. 2451

(4) The agreement of merger or consolidation also may set 2452  
forth any additional provision permitted by the laws of any state 2453  
under the laws of which any constituent entity exists, consistent 2454  
with the laws under which the surviving entity exists or the new 2455  
entity is to exist. 2456

(B) A merger or consolidation pursuant to this section in 2457  
which a public benefit association is one of the constituent 2458  
entities shall be subject to, and shall comply with, the 2459  
provisions of divisions (B)(1)(b), (2), (3), and (4) of section 2460  
1745.46 of the Revised Code. 2461

**Sec. 1745.47.** (A) The managers of each constituent domestic 2462  
unincorporated nonprofit association, upon approving an agreement 2463  
of merger or consolidation, shall direct that the agreement be 2464  
submitted to the members entitled to vote on it at a meeting of 2465  
voting members of that unincorporated nonprofit association held 2466  
for that purpose. Notice of the meeting shall be given to all 2467  
members of the constituent domestic unincorporated nonprofit 2468  
association entitled to vote at the meeting. The notice shall be 2469  
accompanied by a copy or summary of the material terms of the 2470  
agreement. 2471

(B)(1) In order to be adopted, the agreement, including any 2472  
amendments or additions to the agreement proposed at each meeting 2473

described in division (A) of this section, shall receive the 2474  
affirmative vote of a majority of the voting members of the 2475  
constituent domestic unincorporated nonprofit association present 2476  
at that meeting in person, by the use of authorized communications 2477  
equipment, by mail, or if permitted, by proxy if a quorum is 2478  
present, or, if the governing principles provide or permit, the 2479  
affirmative vote of a greater or lesser proportion or number of 2480  
the voting members, and the affirmative vote of the voting members 2481  
of any particular class that is required by the governing 2482  
principles. If the agreement would effect or authorize any action 2483  
by the unincorporated nonprofit association that, under any 2484  
applicable provision of law or under the governing principles of 2485  
the constituent domestic unincorporated nonprofit association, 2486  
could be effected or authorized only by or pursuant to a specified 2487  
vote of the members, the agreement, including any amendments or 2488  
additions to the agreement proposed at each meeting described in 2489  
division (A) of this section, shall be adopted by the same vote as 2490  
would be required for that action. 2491

(2) For purposes of division (B)(1) of this section, 2492  
participation by a voting member at a meeting through the use of 2493  
any of the means of communication described in that division 2494  
constitutes presence in person of that voting member at the 2495  
meeting for purposes of determining a quorum. 2496

(C) At any time prior to the filing of the agreement, the 2497  
merger or consolidation may be abandoned by the managers of one or 2498  
more of the constituent unincorporated nonprofit associations or 2499  
the comparable representatives of any other constituent entity, if 2500  
the power of abandonment is conferred either by the agreement or 2501  
by the same vote or action as is required to adopt that agreement. 2502

**Sec. 1745.48.** (A) When a merger or consolidation becomes 2503  
effective, all of the following apply: 2504

(1) The separate existence of each constituent entity other 2505  
than the surviving entity in a merger shall cease, except that 2506  
whenever a conveyance, assignment, transfer, deed, or other 2507  
instrument or act is necessary to vest property or rights in the 2508  
surviving or new entity, the officers, managers, general partners, 2509  
or other authorized representatives of the respective constituent 2510  
entities shall execute, acknowledge, and deliver those instruments 2511  
and do those acts. For these purposes, the existence of the 2512  
constituent entities and the authority of their respective 2513  
officers, managers, general partners, or other authorized 2514  
representatives is continued notwithstanding the merger or 2515  
consolidation. 2516

(2) In the case of a merger in which the surviving entity is 2517  
a domestic unincorporated nonprofit association, the governing 2518  
principles of the domestic surviving unincorporated nonprofit 2519  
association in effect immediately prior to the time the merger 2520  
becomes effective shall continue as its governing principles after 2521  
the merger except as otherwise provided in the agreement of 2522  
merger. In the case of a consolidation, the new entity exists when 2523  
the consolidation becomes effective and, if it is a domestic 2524  
unincorporated nonprofit association, the governing principles 2525  
contained in or provided for in the agreement of consolidation 2526  
shall be its governing principles. 2527

(3) The surviving or new entity possesses all assets and 2528  
property of every description and every interest in the assets and 2529  
property, wherever located, the rights, privileges, immunities, 2530  
powers, franchises, and authority, of a public as well as of a 2531  
private nature, of each constituent entity, and all obligations 2532  
belonging to or due to each constituent entity, all of which are 2533  
vested in the surviving or new entity without further act or deed. 2534  
Any right or interest in respect to any past or future devise, 2535  
bequest, conditional gift, or trust, property, or fund restricted 2536

to particular uses, when vested in or claimed by the surviving or 2537  
new entity as a result of the merger or consolidation, shall 2538  
belong to it as a continuation without interruption of the 2539  
existence and identity of the constituent entity originally named 2540  
as taker or beneficiary. The surviving or new entity possesses 2541  
title to any real estate or any interest in the real estate vested 2542  
in any of the constituent entities. Title to any real estate or 2543  
any interest in the real estate vested in any constituent entity 2544  
shall not revert or in any way be impaired by reason of the merger 2545  
or consolidation. 2546

(4) The surviving or new entity is liable for all of the 2547  
obligations of each constituent entity. Any claim existing or any 2548  
action or proceeding pending by or against any constituent entity 2549  
may be prosecuted to judgment, with right of appeal, as if the 2550  
merger or consolidation had not taken place, or the surviving or 2551  
new entity may be substituted in its place. 2552

(5) All of the rights of creditors of each constituent entity 2553  
are preserved unimpaired, and all liens upon the property of any 2554  
constituent entity are preserved unimpaired on only the property 2555  
affected by those liens immediately prior to the effective date of 2556  
the merger or consolidation. If a general partner of a constituent 2557  
partnership is not a general partner of the surviving entity or 2558  
the new entity resulting from the merger or consolidation, the 2559  
former general partner has no liability for any obligation 2560  
incurred after the merger or consolidation except to the extent 2561  
that a former creditor of the constituent partnership in which the 2562  
former general partner was a partner extends credit to the 2563  
surviving or new entity reasonably believing that the former 2564  
general partner continued as a general partner of the surviving or 2565  
new entity. 2566

(B) If a general partner of a constituent partnership is not 2567  
a general partner of the surviving entity or the new entity 2568

resulting from the merger or consolidation, division (B) of 2569  
section 1782.434 of the Revised Code applies. 2570

(C) In the case of a merger of a domestic constituent 2571  
unincorporated nonprofit association into a foreign surviving 2572  
unincorporated nonprofit association, limited liability company, 2573  
limited partnership, or unincorporated association that is not 2574  
licensed or registered to transact business in this state or in 2575  
the case of a consolidation of a domestic constituent 2576  
unincorporated nonprofit association into a new foreign 2577  
unincorporated nonprofit association, limited liability company, 2578  
limited partnership, or unincorporated association, if the 2579  
surviving or new entity intends to transact business in this 2580  
state, the surviving or new entity shall comply with all of the 2581  
requirements that are necessary for that entity to transact 2582  
business in this state as a foreign unincorporated nonprofit 2583  
association, limited liability company, limited partnership, or 2584  
unincorporated association, whichever is applicable. 2585

(D) Any action to set aside any merger or consolidation on 2586  
the ground that any section of the Revised Code applicable to the 2587  
merger or consolidation has not been complied with shall be 2588  
brought within ninety days after the effective date of that merger 2589  
or consolidation or be forever barred. 2590

(E) As used in this section, "unincorporated nonprofit 2591  
association" or "entity" applies to both domestic and foreign 2592  
unincorporated nonprofit associations or entities if the context 2593  
so permits. In the case of a foreign constituent entity or a 2594  
foreign new entity, this section is subject to the laws of the 2595  
state under the laws of which the entity exists or in which it has 2596  
property. 2597

**Sec. 1745.49.** The merger or consolidation shall become 2598  
effective at the time that the constituent entities have complied 2599

with the laws of each state under the laws of which the 2600  
constituent entities exist or at any later date that the agreement 2601  
of merger or consolidation specifies. 2602

Sec. 1745.50. (A) An unincorporated nonprofit association may 2603  
be dissolved voluntarily in the manner provided in this section. 2604

(B) A resolution of dissolution for an unincorporated 2606  
nonprofit association shall set forth all of the following: 2607

(1) That the association elects to be dissolved; 2608

(2) Any additional provision considered necessary with 2609  
respect to the proposed dissolution and winding up of affairs. 2610

(C) The managers of an unincorporated nonprofit association 2611  
may adopt a resolution of dissolution in any of the following 2612  
cases: 2613

(1) If the association has been adjudged bankrupt or has made 2614  
a general assignment for the benefit of creditors; 2615

(2) By leave of the court, if a receiver has been appointed 2616  
in a general creditors' suit or in any suit in which the affairs 2617  
of the association are to be wound up; 2618

(3) If substantially all of the assets of the association 2619  
have been sold at judicial sale; 2620

(4) When the period of existence of the association specified 2621  
in its governing principles has expired or upon the occurrence of 2622  
another event or condition specified in its governing principles; 2623

(5) If no members of the association can be identified and 2624  
the association's operations have been discontinued for at least 2625  
three years by the managers or, if the association has no 2626  
incumbent managers, by its last preceding incumbent manager. 2627

(D) The members of an unincorporated nonprofit association 2628  
may adopt a resolution of dissolution by the affirmative vote of 2629  
the members. 2630

Sec. 1745.51. Following the adoption of a resolution of 2631  
dissolution, the managers in an expeditious manner shall do both 2632  
of the following: 2633

(A) Cause a notice of voluntary dissolution to be published 2634  
once a week on the same day of each week for two successive weeks, 2635  
in a newspaper published and of general circulation in the county 2636  
in which the principal office of the unincorporated nonprofit 2637  
association was to be or is located; 2638

(B) Cause written notice of dissolution to be given either 2639  
personally or by mail to all known creditors of, and to all known 2640  
claimants against, the dissolved association. 2641

Sec. 1745.52. (A) When an unincorporated nonprofit 2642  
association is dissolved voluntarily upon the expiration of the 2643  
period of existence of the association specified in its governing 2644  
principles, the association shall cease to carry on its activities 2645  
and shall do only those acts that are required to wind up its 2646  
affairs, and for those purposes it shall continue as an 2647  
unincorporated nonprofit association. 2648

(B) Any claim existing or action or proceeding pending by or 2649  
against the unincorporated nonprofit association or that would 2650  
have accrued against it may be prosecuted to judgment with right 2651  
of appeal as in other cases, but any proceeding, execution, or 2652  
process, or the satisfaction or performance of any order, 2653  
judgment, or decree, may be stayed as provided in section 1745.53 2654  
of the Revised Code. 2655

(C) Any process, notice, or demand against the unincorporated 2656  
nonprofit association may be served by delivering a copy to a 2657

manager, liquidator, or person having charge of its assets or, if 2658  
none of those persons can be found, to the statutory agent. 2659

(D) The managers of the unincorporated nonprofit association 2660  
and their survivors or successors shall act in accordance with the 2661  
governing principles until the affairs of the association are 2662  
completely wound up. Subject to the orders of courts of this state 2663  
having jurisdiction over the association, the managers shall 2664  
proceed as speedily as is practicable to a complete winding up of 2665  
the affairs of the association and, to the extent necessary or 2666  
expedient to that end, shall exercise all the authority of the 2667  
association. Without limiting the generality of that authority, 2668  
they may fill vacancies, elect managers, carry out contracts of 2669  
the association, make new contracts, borrow money, mortgage or 2670  
pledge the property of the association as security, sell its 2671  
assets at public or private sale, make conveyances in the 2672  
association's name, lease real property for any term, including 2673  
ninety-nine years renewable forever, settle or compromise claims 2674  
in favor of or against the association, employ one or more persons 2675  
as liquidators to wind up the affairs of the association with the 2676  
authority that the managers see fit to grant, cause the title to 2677  
any of the assets of the association to be conveyed to those 2678  
liquidators for that purpose, apply assets to the payment of 2679  
obligations, perform all other acts necessary or expedient to the 2680  
winding up of the affairs of the association, and, after paying or 2681  
adequately providing for the payment of all known obligations of 2682  
the association, distribute the remainder of the assets as 2683  
follows: 2684

(1) Assets held upon a condition requiring return, transfer, 2685  
or conveyance, which condition will have occurred by reason of the 2686  
dissolution or otherwise, shall be returned, transferred, or 2687  
conveyed in accordance with those requirements; 2688

(2) In the case of a public benefit association, the 2689

following apply: 2690

(a) Assets held by it in trust for specified purposes shall 2691  
be applied so far as is feasible in accordance with the terms of 2692  
the trust. 2693

(b) The remaining assets not held in trust shall be applied 2694  
so far as is feasible towards carrying out the purposes stated in 2695  
its governing principles. 2696

(c) In the event and to the extent that in the judgment of 2697  
the managers it is not feasible to apply the assets as provided in 2698  
divisions (D)(2)(a) and (b) of this section, the assets shall be 2699  
applied as may be directed by the court of common pleas of the 2700  
county in this state in which the principal office of the 2701  
association is located, in an action brought for that purpose by 2702  
the managers or any one of them or by the association, to which 2703  
action the attorney general shall be a party, in an action brought 2704  
by the attorney general in a court of competent jurisdiction, or 2705  
in an action brought as provided in section 1745.53 of the Revised 2706  
Code for the purpose of winding up the affairs of the association 2707  
under the supervision of the court. 2708

(3) In the case of a mutual benefit association, any 2709  
remaining assets shall be distributed in accordance with the 2710  
applicable provisions of the governing principles of the 2711  
association or, to the extent that no such provision is made, the 2712  
assets shall be distributed pursuant to a plan of distribution 2713  
adopted by the members of the association at a meeting held for 2714  
the purpose of voting on dissolution or any adjournment of the 2715  
meeting. If no plan of distribution is so adopted by the members, 2716  
those remaining assets shall be distributed pursuant to a plan of 2717  
distribution adopted by the managers. If no plan of distribution 2718  
is so adopted by the members or managers, the remaining assets 2719  
shall be applied in the manner directed by the court of common 2720  
pleas of the county in this state in which the principal office of 2721

the association is located, in an action brought for that purpose 2722  
by the mutual benefit association, by the managers or any one of 2723  
them, or by the attorney general in a court of competent 2724  
jurisdiction or in an action brought as provided in section 2725  
1745.53 of the Revised Code for the purpose of winding up the 2726  
affairs of the association under the supervision of the court. 2727

(E) Without limiting the authority of the managers, any 2728  
action within the purview of this section that is authorized or 2729  
approved by the members at a meeting held for that purpose shall 2730  
be conclusive for all purposes upon all of the members of the 2731  
association, except that nothing in this section shall impair the 2732  
jurisdiction of courts of competent jurisdiction to enforce the 2733  
duties of a public benefit association with respect to the 2734  
application of its assets towards its public or charitable 2735  
purposes, or impair the power of the state, acting through the 2736  
attorney general, to require those assets to be applied, as nearly 2737  
as may be, towards its public or charitable purposes. 2738

(F) All deeds and other instruments of the unincorporated 2739  
nonprofit association shall be in the name of the association and 2740  
shall be executed, acknowledged, and delivered by a manager of the 2741  
association. 2742

(G) At any time during the winding up of its affairs, the 2743  
unincorporated nonprofit association by its managers may make 2744  
application to the court of common pleas of the county in this 2745  
state in which the principal office of the association is located 2746  
to have the winding up continued under supervision of the court as 2747  
provided in section 1745.53 of the Revised Code. 2748

**Sec. 1745.53.** (A) Without limiting the generality of its 2749  
authority, the court of common pleas of the county in this state 2750  
in which is located the principal office of a voluntarily 2751  
dissolved unincorporated nonprofit association or of an 2752

unincorporated nonprofit association whose period of existence has 2753  
expired, upon the complaint of the association, a majority of the 2754  
managers, or a creditor or member of the association and upon 2755  
notice to all of the managers and any other interested persons 2756  
that the court considers proper, at any time may order and adjudge 2757  
in regard to the following matters: 2758

(1) The presentation and proof of all claims and demands 2759  
against the association and of all rights, interests, or liens in 2760  
or on any of its property, the fixing of the time within which and 2761  
the manner in which that proof shall be made and the person to 2762  
whom that presentation shall be made, and the barring from 2763  
participation in any distribution of assets of all persons failing 2764  
to make and present proofs as required by the order of the court; 2765

(2) The stay of the prosecution of any proceeding against the 2766  
association or involving any of its property, and the requirement 2767  
that the parties to it present and prove their claims, demands, 2768  
rights, interests, or liens at the time and in the manner required 2769  
of creditors or others, or the grant of leave to bring or maintain 2770  
an independent proceeding to enforce liens; 2771

(3) The settlement or determination of all claims of every 2772  
nature against the association or any of its property, the 2773  
determination of the assets required to be retained to pay or 2774  
provide for the payment of those claims or any claim, the 2775  
determination of the assets available for distribution among 2776  
members and others, and the making of new parties to the 2777  
proceeding so far as the court considers proper for the 2778  
determination of all matters; 2779

(4) The determination of the rights of members or others in 2780  
and to the assets of the association; 2781

(5) The presentation and the filing of intermediate and final 2782  
accounts of the managers or of the liquidators and hearings on 2783

them, the allowance, disallowance, or settlement of those 2784  
accounts, and the discharge of the managers, the liquidators, or 2785  
any of them from their duties and liabilities; 2786

(6) The appointment of a special master commissioner to hear 2787  
and determine any matters with the authority that the court 2788  
considers proper; 2789

(7) The filling of any vacancies in the number of managers or 2790  
liquidators if the managers are unable to act on the vacancies for 2791  
want of a quorum or for any other reason; 2792

(8) The appointment of a receiver, in accordance with the 2793  
usages of a court in equitable matters, to wind up the affairs of 2794  
the association, to take custody of any of its property, or for 2795  
any other purpose; 2796

(9) The issuance or entry of any injunction or any other 2797  
order that the court considers proper in the administration of the 2798  
trust involved in the winding up of the affairs of the association 2799  
and the giving of notice of it; 2800

(10) The allowance and payment of compensation to the 2801  
managers or any of them, to liquidators, to a receiver, to the 2802  
attorney for the complainant, or to any person properly rendering 2803  
services beneficial to the association or to those interested in 2804  
it; 2805

(11) The entry of a judgment or decree that, if it so 2806  
provides, may operate as the deed or other instrument ordered to 2807  
be executed, or the appointment of a master to execute that deed 2808  
or instrument in the name of the association with the same effect 2809  
as if executed by an authorized manager pursuant to authority 2810  
conferred by the managers or by the members of the association if 2811  
there is no manager competent to execute the deed or instrument, 2812  
if the association or its managers do not perform or comply with a 2813  
judgment or decree of court, or if the court considers it proper. 2814

(B) A judicial proceeding under this section concerning the winding up of the affairs of an unincorporated nonprofit association is a special proceeding, and final orders in the proceeding may be vacated, modified, or reversed on appeal pursuant to the Rules of Appellate Procedure and, to the extent not in conflict with those rules, Chapter 2505. of the Revised Code. 2815  
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**Sec. 1745.54.** (A) If after an unincorporated nonprofit association is dissolved voluntarily or the period of existence of the association has expired a receiver is appointed to wind up the affairs of the association, all of the claims, demands, rights, interests, or liens of creditors, claimants, and members shall be determined as of the day on which the receiver was appointed. Unless it is otherwise ordered, that appointment vests in the receiver and the receiver's successors the right to the immediate possession of all of the property of the association that shall, if so ordered, execute and deliver conveyances of the property to the receiver or the receiver's nominee. 2822  
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(B) Any manager, member, or other person, whether a resident or nonresident of this state and however interested, may be appointed as receiver. 2833  
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(C) The receiver has all the authority vested in the managers and members of the association, shall exercise that authority subject to the orders that are made by the court, and may be required to qualify by giving bond to the state in the amount that the court fixes, with surety to the satisfaction of the clerk of the court, conditioned for the faithful discharge of the receiver's duties and for a due accounting for all money or property received by the receiver. 2836  
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**Sec. 1745.55.** (A) An unincorporated nonprofit association may 2844

be dissolved judicially and its affairs wound up in any of the 2845  
following manners: 2846

(1) By an order of the supreme court or of a court of appeals 2847  
in an action in quo warranto brought as provided by sections 2848  
2733.02 to 2733.39 of the Revised Code, in which event the court 2849  
may order the affairs of the association to be wound up by its 2850  
managers as in the case of voluntary dissolution or by proceedings 2851  
in, and under the order of, the court of common pleas of the 2852  
county in this state in which the association has its principal 2853  
office; 2854

(2) By an order of the court of common pleas of the county in 2855  
this state in which that association has its principal office, in 2856  
an action brought by members entitled to dissolve the association 2857  
voluntarily, if any of the following is established: 2858

(a) The association's period of existence as set forth in its 2859  
governing principles has expired, and it is necessary in order to 2860  
protect the members that the association be judicially dissolved. 2861

(b) The association is insolvent or is unable to afford 2862  
reasonable security to those who may deal with it, and it is 2863  
necessary in order to protect the creditors of the association 2864  
that the association be judicially dissolved. 2865

(c) The objects of the association have wholly failed or are 2866  
entirely abandoned, or their accomplishment is impracticable. 2867

(3) By an order of the court of common pleas of the county in 2868  
this state in which the association has its principal office, in 2869  
an action brought by a majority of the voting members or by any 2870  
lesser proportion or number of members that are entitled by the 2871  
governing principles to dissolve the association voluntarily, if 2872  
it is established that it is beneficial to the members that the 2873  
association be judicially dissolved; 2874

(4) By an order of the court of common pleas of the county in this state in which the association has its principal office, in an action brought by one-half of the managers if there is an even number of managers or by one-half of the members if it is established that the association has an even number of managers who are deadlocked in the management of the association's affairs, and the members are unable to break the deadlock, or if it is established that the association has an uneven number of managers, and the members are deadlocked in voting power and unable to agree upon or vote for the election of managers as successors to managers whose terms normally would expire upon the election of their successors.

(B) A complaint for judicial dissolution shall be verified by any of the complainants and shall set forth facts showing that the case is one of those specified in this section. Unless the complainants set forth in the complaint that they are unable to annex a list of members, a schedule shall be annexed to the complaint setting forth the name of each member and the member's address if it is known.

(C) Upon the filing of a complaint for judicial dissolution, the court with which it is filed shall have the power to issue injunctions, to appoint a receiver with the authority and duties that the court from time to time may direct, to take any other proceedings that may be necessary to protect the property or the rights of the complainants or of the persons interested, and to carry on the activities of the unincorporated nonprofit association until a full hearing can be had. Upon or after the filing of a complaint for judicial dissolution, the court by injunction or order may stay the prosecution of any proceeding against the unincorporated nonprofit association or involving any of its property and require the parties to it to present and prove their claims, demands, rights, interests, or liens at the time and

in the manner required of creditors or others. The court may refer 2907  
the complaint to a special master commissioner. 2908

(D) After a hearing had upon the notice that the court may 2909  
direct to be given to all parties to the proceeding and to any 2910  
other parties in interest designated by the court, a final order 2911  
based either upon the evidence or upon the report of the special 2912  
master commissioner if one has been appointed, shall be made 2913  
dissolving the association or dismissing the complaint. An order 2914  
or judgment for the judicial dissolution of an unincorporated 2915  
nonprofit association shall contain a concise statement of the 2916  
proceedings leading up to the order or judgment, the name of the 2917  
association, the place in this state where its principal office is 2918  
located, the names and addresses of its managers, the name and 2919  
address of a statutory agent, and if desired, any other provisions 2920  
with respect to the judicial dissolution and winding up of affairs 2921  
that are considered necessary or desirable. Upon the issuance of 2922  
that order or judgment, the association shall be dissolved. To the 2923  
extent consistent with orders entered in that proceeding, the 2924  
effect of the judicial dissolution shall be the same as in the 2925  
case of voluntary dissolution, and the provisions of sections 2926  
1745.52, 1745.53, and 1745.54 of the Revised Code with respect to 2927  
the authority and duties of managers during the winding up of the 2928  
affairs of an association dissolved voluntarily, the jurisdiction 2929  
of courts over the winding up of the affairs of an association, 2930  
and receivers for winding up the affairs of an association are 2931  
applicable to associations that are judicially dissolved. 2932

(E) A judicial proceeding under this section concerning the 2933  
judicial dissolution of an unincorporated nonprofit association is 2934  
a special proceeding, and final orders in the proceeding may be 2935  
vacated, modified, or reversed on appeal pursuant to the Rules of 2936  
Appellate Procedure or the Rules of Practice of the Supreme Court, 2937  
whichever are applicable, and, to the extent not in conflict with 2938

those rules, Chapter 2505. of the Revised Code. 2939

Sec. 1745.56. (A) The members, the managers, and the officers 2940  
of an unincorporated nonprofit association shall not be personally 2941  
liable for any obligation of the association. 2942

(B)(1) Managers who vote for or assent to any of the 2943  
following shall be jointly and severally liable to the association 2944  
as provided in division (B)(2) of this section: 2945

(a) A distribution of assets to members contrary to law or 2946  
the governing principles; 2947

(b) A distribution of assets to persons other than creditors 2948  
during the winding up of the affairs of the association on 2949  
dissolution or otherwise without the payment of all known 2950  
obligations of the association or without making adequate 2951  
provision for that payment; 2952

(c) The making of loans, other than in the usual conduct of 2953  
its affairs or in accordance with provisions for the making of 2954  
loans in the governing principles, to an officer, manager, or 2955  
member of the association. 2956

(2) The managers described in division (B)(1) of this section 2957  
shall be jointly and severally liable to the association as 2958  
follows: 2959

(a) In cases under division (B)(1)(a) of this section, except 2960  
as provided in division (B)(3) of this section, up to the amount 2961  
of the distribution in excess of the amount that could have been 2962  
distributed without violation of law or the governing principles 2963  
but not in excess of the amount that would inure to the benefit of 2964  
the creditors of the association if it was insolvent at the time 2965  
of the distribution or there was reasonable ground to believe that 2966  
by that action it would be rendered insolvent, or to the benefit 2967  
of the members other than members of the class in respect of which 2968

the distribution was made; 2969

(b) In cases under division (B)(1)(b) of this section, except 2970  
as provided in division (B)(3) of this section, to the extent that 2971  
those obligations that are not otherwise barred by statute are not 2972  
paid or for the payment of which adequate provision has not been 2973  
made; 2974

(c) In cases under division (B)(1)(c) of this section, for 2975  
the amount of the loan with interest at the rate of six per cent 2976  
per annum until that amount has been paid. 2977

(3) A manager shall not be liable under division (B)(1)(a) or 2978  
(b) of this section if in determining the amount available for any 2979  
distribution under that division, the manager in good faith relied 2980  
on a financial statement of the association prepared by an officer 2981  
or employee of the association in charge of its accounts or 2982  
certified by a public accountant or firm of public accountants, in 2983  
good faith considered the assets to be of their book value, or 2984  
followed what the manager believed to be sound accounting and 2985  
business practice. 2986

(C) A manager who is present at a meeting of the managers or 2987  
of a committee of the managers at which action on any matter is 2988  
authorized or taken and who has not voted for or against that 2989  
action shall be presumed to have voted for the action unless the 2990  
manager's written dissent from the action is filed either during 2991  
the meeting or within a reasonable time after the adjournment of 2992  
the meeting, with the person acting as secretary of the meeting or 2993  
with the secretary of the association. 2994

(D) A member who knowingly receives any distribution made 2995  
contrary to law or the governing principles shall be liable to the 2996  
association for the amount received by the member that is in 2997  
excess of the amount that could have been distributed without 2998  
violation of law or the governing principles. 2999

(E) A manager against whom a claim is asserted under or 3000  
pursuant to this section and who is held liable on the claim shall 3001  
be entitled to contribution, on equitable principles, from other 3002  
managers who are also liable. Additionally, any manager against 3003  
whom a claim is asserted under or pursuant to this section or who 3004  
is held liable on the claim shall have a right of contribution 3005  
from the members who knowingly received any distribution made 3006  
contrary to law or the governing principles, and those members as 3007  
among themselves shall also be entitled to contribution in 3008  
proportion to the amounts received by them respectively. 3009

(F) No action shall be brought by or on behalf of an 3010  
association upon any cause of action arising under division 3011  
(B)(1)(a) or (b) of this section at any time after two years from 3012  
the day on which the violation occurs. 3013

(G) Nothing in this section shall preclude any creditor whose 3014  
claim is unpaid from exercising any rights that the creditor 3015  
otherwise would have by law to enforce the creditor's claim 3016  
against the assets of the association distributed to the members 3017  
or other persons. 3018

**Sec. 1745.57.** Sections 1745.05 to 1745.56 of the Revised Code 3019  
do not affect any action or proceeding that is commenced, or any 3020  
right that accrues, before those sections take effect. 3021

**Sec. 2901.23.** (A) An organization may be convicted of an 3022  
offense under any of the following circumstances: 3023

(1) The offense is a minor misdemeanor committed by an 3024  
officer, agent, or employee of the organization acting in its 3025  
behalf and within the scope of ~~his~~ the officer's, agent's, or 3026  
employee's office or employment, except that if the section 3027  
defining the offense designates the officers, agents, or employees 3028  
for whose conduct the organization is accountable or the 3029

circumstances under which it is accountable, ~~such~~ those provisions shall apply.

(2) A purpose to impose organizational liability plainly appears in the section defining the offense, and the offense is committed by an officer, agent, or employee of the organization acting in its behalf and within the scope of ~~his~~ the officer's, agent's, or employee's office or employment, except that if the section defining the offense designates the officers, agents, or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, ~~such~~ those provisions shall apply.

(3) The offense consists of an omission to discharge a specific duty imposed by law on the organization.

(4) If, acting with the kind of culpability otherwise required for the commission of the offense, its commission was authorized, requested, commanded, tolerated, or performed by the board of directors, trustees, partners, or by a high managerial officer, agent, or employee acting in behalf of the organization and within the scope of ~~his~~ such a board's or person's office or employment.

(B) ~~When~~ If strict liability is imposed for the commission of an offense, a purpose to impose organizational liability shall be presumed, unless the contrary plainly appears.

(C) In a prosecution of an organization for an offense other than one for which strict liability is imposed, it is a defense that the high managerial officer, agent, or employee having supervisory responsibility over the subject matter of the offense exercised due diligence to prevent its commission. This defense is not available if it plainly appears inconsistent with the purpose of the section defining the offense.

(D) As used in this section, "organization" means a

corporation for profit or not for profit, partnership, limited 3061  
partnership, joint venture, unincorporated nonprofit association, 3062  
estate, trust, or other commercial or legal entity. "Organization" 3063  
does not include an entity organized as or by a governmental 3064  
agency for the execution of a governmental program. 3065

**Sec. 3955.06.** (A) There is hereby created a ~~nonprofit~~ an 3066  
unincorporated nonprofit association to be known as the Ohio 3067  
insurance guaranty association. All member insurers, as defined in 3068  
division (D) of section 3955.01 of the Revised Code, shall be and 3069  
remain members of the association as a condition of their 3070  
authority to transact insurance in this state. The association 3071  
shall perform its functions under a plan of operation established 3072  
and approved under section 3955.09 of the Revised Code and shall 3073  
exercise its powers through a board of directors established under 3074  
section 3955.07 of the Revised Code. 3075

(B) For purposes of administration and assessment, the 3076  
association shall be divided into two accounts: 3077

(1) The automobile insurance account; 3078

(2) The account for all other insurance to which sections 3079  
3955.01 to 3955.19 of the Revised Code apply. 3080

**Sec. 3956.06.** (A) There is hereby created a ~~nonprofit~~ an 3081  
unincorporated nonprofit association to be known as the Ohio life 3082  
and health insurance guaranty association. All member insurers 3083  
shall be and remain members of the association as a condition of 3084  
their authority to transact the business of insurance in this 3085  
state. The association shall perform its functions under the plan 3086  
of operation established and approved under section 3956.10 of the 3087  
Revised Code and shall exercise its powers through a board of 3088  
directors established under section 3956.07 of the Revised Code. 3089  
For purposes of administration and assessment, the association 3090

shall maintain the following two accounts: 3091

(1) The life insurance and annuity account ~~which~~ that 3092  
includes the following subaccounts: 3093

(a) Life insurance subaccount; 3094

(b) Annuity subaccount; 3095

(c) Unallocated annuity subaccount ~~which~~ that also includes 3096  
all annuity contracts meeting the requirements of section 403(b) 3097  
of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 3098  
U.S.C.A. 1, as amended. 3099

(2) The health insurance account. 3100

(B) The association is subject to the supervision of the 3101  
superintendent of insurance and to the applicable insurance laws 3102  
of this state. 3103

**Sec. 4121.70.** (A) There is hereby created the 3104  
labor-management government advisory council consisting of fifteen 3105  
members appointed as follows: 3106

(1) The governor, with the advice and consent of the senate, 3107  
shall appoint three members who, by training and vocation, are 3108  
representative of labor and three members who, by training and 3109  
vocation, are representative of employers. 3110

(2) Ex officio, the chairpersons of the standing committees 3111  
of the house of representatives and the senate to which 3112  
legislation concerned with workers' compensation is customarily 3113  
referred. A chairperson may designate the vice-chairperson of the 3114  
committee to serve instead. 3115

(3) One person who by training and vocation represents labor 3116  
and one person who by training and vocation represents employers 3117  
of differing political parties appointed by the speaker of the 3118  
house of representatives. 3119

(4) One person who by training and vocation represents labor 3120  
and one person who by training and vocation represents employers 3121  
of differing political parties appointed by the president of the 3122  
senate. 3123

(5) One person who by training and vocation represents 3124  
nonprofit vocational rehabilitation services providers that 3125  
deliver services to injured workers, appointed by the speaker of 3126  
the house of representatives; 3127

(6) One person who by training and vocation represents 3128  
nonprofit vocational rehabilitation services providers that 3129  
deliver services to injured workers, appointed by the president of 3130  
the senate; 3131

(7) The governor, with the advice and consent of the senate, 3132  
shall ~~appoint~~ appoint one member who, by training and vocation, 3133  
represents a nonprofit ~~association~~ organization of vocational 3134  
rehabilitation services providers that deliver services to injured 3135  
workers. 3136

(B) Members appointed by the governor shall serve for a term 3137  
of six years with each term ending on the same day of the year in 3138  
which the member was first appointed, except that each member 3139  
shall serve for a period of sixty additional days at the end of 3140  
the member's term or until the member's successor is appointed and 3141  
qualifies, whichever date occurs first. Of the members first 3142  
appointed to the council by the governor, one member each 3143  
representing labor and management shall serve an initial term of 3144  
two years, one member each representing labor and management shall 3145  
serve a term of four years, and the remaining two members shall 3146  
serve full six-year terms. The members initially appointed by the 3147  
speaker of the house of representatives and the president of the 3148  
senate shall serve a term of six years. Thereafter, members shall 3149  
be appointed to and serve full six-year terms. Members are 3150  
eligible for reappointment to any number of additional terms. 3151

Legislative members shall serve a term that coincides with 3152  
the two-year legislative session in which they are first appointed 3153  
with each term ending on the thirty-first day of December of the 3154  
even-numbered year. Legislative members are eligible for 3155  
reappointment. 3156

Vacancies on the council shall be filled in the same manner 3157  
as the original appointment. All members of the council shall 3158  
serve without additional compensation but shall be reimbursed by 3159  
the bureau of workers' compensation for actual and necessary 3160  
expenses. 3161

The council shall advise the bureau of workers' compensation 3162  
board of directors and the administrator of workers' compensation 3163  
on the quality and effectiveness of rehabilitation services and 3164  
make recommendations pertaining to the bureau's rehabilitation 3165  
program, including the operation of that program. 3166

**Sec. 4303.201.** (A) As used in this section: 3167

(1) "Convention facility" means any structure owned or leased 3168  
by a municipal corporation or county which was expressly designed 3169  
and constructed and is currently used for the purpose of 3170  
presenting conventions, public meetings, and exhibitions. 3171

(2) "Nonprofit organization" means any unincorporated 3172  
nonprofit association or nonprofit corporation that is not formed 3173  
for the pecuniary gain or profit of, and whose net earnings or any 3174  
part ~~thereof~~ of whose net earnings is not distributable to, its 3175  
members, trustees, officers, or other private persons; provided, 3176  
that the payment of reasonable compensation for services rendered 3177  
and the distribution of assets on dissolution shall not be 3178  
considered pecuniary gain or profit or distribution of earnings in 3179  
an association or corporation all of whose members are nonprofit 3180  
corporations. Distribution of earnings to member organizations 3181  
does not deprive it of the status of a nonprofit organization. 3182

(B) An F-1 permit may be issued to any nonprofit organization 3183  
to allow the nonprofit organization and its members and their 3184  
guests to lawfully bring beer, wine, and intoxicating liquor in 3185  
its original package, flasks, or other containers into a 3186  
convention facility for consumption therein, if both of the 3187  
following requirements are met: 3188

(1) The superintendent of liquor control is satisfied the 3189  
organization meets the definition of a nonprofit organization as 3190  
set forth in division (A)(2) of this section, the nonprofit 3191  
organization's membership includes persons residing in two or more 3192  
states, and the organization's total membership is in excess of 3193  
five hundred. The superintendent may accept a sworn statement by 3194  
the president or other chief executive officer of the nonprofit 3195  
organization as proof of the matters required in this division. 3196

(2) The managing official or employee of the convention 3197  
facility has given written consent to the use of the convention 3198  
facility and to the application for the F-1 permit, as shown in 3199  
the nonprofit organization's application to the superintendent. 3200

(C) The superintendent shall specify individually the 3201  
effective period of each F-1 permit on the permit, which shall not 3202  
exceed three days. The fee for an F-1 permit is two hundred fifty 3203  
dollars. The superintendent shall prepare and make available 3204  
application forms to request F-1 permits and may require 3205  
applicants to furnish such information as the superintendent 3206  
determines to be necessary for the administration of this section. 3207

(D) No holder of an F-1 permit shall make a specific charge 3208  
for beer, wine, or intoxicating liquor by the drink, or in its 3209  
original package, flasks, or other containers in connection with 3210  
its use of the convention facility under the permit. 3211

**Sec. 4303.204.** (A) The division of liquor control may issue 3212  
an F-4 permit to an ~~association~~ organization or corporation 3213

organized not-for-profit in this state to conduct an event that 3214  
includes the introduction, showcasing, or promotion of Ohio wines, 3215  
if the event has all of the following characteristics: 3216

(1) It is coordinated by that ~~association~~ organization or 3217  
corporation, and the ~~association~~ organization or corporation is 3218  
responsible for the activities at it. 3219

(2) It has as one of its purposes the intent to introduce, 3220  
showcase, or promote Ohio wines to persons who attend it. 3221

(3) It includes the sale of food for consumption on the 3222  
premises where sold. 3223

(4) It features at least three A-2 permit holders who sell 3224  
Ohio wine at it. 3225

(B) The holder of an F-4 permit may furnish, with or without 3226  
charge, wine that it has obtained from the A-2 permit holders that 3227  
are participating in the event for which the F-4 permit is issued, 3228  
in two-ounce samples for consumption on the premises where 3229  
furnished and may sell such wine by the glass for consumption on 3230  
the premises where sold. The holder of an A-2 permit that is 3231  
participating in the event for which the F-4 permit is issued may 3232  
sell wine that it has manufactured, in sealed containers for 3233  
consumption off the premises where sold. Wine may be furnished or 3234  
sold on the premises of the event for which the F-4 permit is 3235  
issued only where and when the sale of wine is otherwise permitted 3236  
by law. 3237

(C) The premises of the event for which the F-4 permit is 3238  
issued shall be clearly defined and sufficiently restricted to 3239  
allow proper enforcement of the permit by state and local law 3240  
enforcement officers. If an F-4 permit is issued for all or a 3241  
portion of the same premises for which another class of permit is 3242  
issued, that permit holder's privileges will be suspended in that 3243  
portion of the premises in which the F-4 permit is in effect. 3244

(D) No F-4 permit shall be effective for more than 3245  
seventy-two consecutive hours. No sales or furnishing of wine 3246  
shall take place under an F-4 permit after one a.m. 3247

(E) The division shall not issue more than six F-4 permits to 3248  
the same not-for-profit ~~association~~ organization or corporation in 3249  
any one calendar year. 3250

(F) An applicant for an F-4 permit shall apply for the permit 3251  
not later than thirty days prior to the first day of the event for 3252  
which the permit is sought. The application for the permit shall 3253  
list all of the A-2 permit holders that will participate in the 3254  
event for which the F-4 permit is sought. The fee for the F-4 3255  
permit is sixty dollars per day. 3256

The division shall prepare and make available an F-4 permit 3257  
application form and may require applicants for and holders of the 3258  
F-4 permit to provide information that is in addition to that 3259  
required by this section and that is necessary for the 3260  
administration of this section. 3261

(G)(1) The holder of an F-4 permit is responsible for, and is 3262  
subject to penalties for, any violations of this chapter or 3263  
Chapter 4301. of the Revised Code or the rules adopted under this 3264  
and that chapter. 3265

(2) An F-4 permit holder shall not allow an A-2 permit holder 3266  
to participate in the event for which the F-4 permit is issued if 3267  
the A-2 or A-1-A permit of that A-2 permit holder is under 3268  
suspension. 3269

(3) The division may refuse to issue an F-4 permit to an 3270  
applicant who has violated any provision of this chapter or 3271  
Chapter 4301. of the Revised Code during the applicant's previous 3272  
operation under an F-4 permit, for a period of up to two years 3273  
after the date of the violation. 3274

(H)(1) Notwithstanding division (D) of section 4301.22 of the 3275

Revised Code, an A-2 permit holder that participates in an event 3276  
for which an F-4 permit is issued may donate wine that it has 3277  
manufactured to the holder of that F-4 permit. The holder of an 3278  
F-4 permit may return unused and sealed containers of wine to the 3279  
A-2 permit holder that donated the wine at the conclusion of the 3280  
event for which the F-4 permit was issued. 3281

(2) The participation by an A-2 permit holder or its 3282  
employees in an event for which an F-4 permit is issued does not 3283  
violate section 4301.24 of the Revised Code. 3284

**Sec. 4303.207.** (A) As used in this section: 3285

(1) "Nonprofit organization" means any unincorporated 3286  
nonprofit association or nonprofit corporation that is not formed 3287  
for the pecuniary gain or profit of, and whose net earnings or any 3288  
part of whose net earnings is not distributable to, its members, 3289  
trustees, directors, officers, or other private persons. 3290

(2) "Qualified golf event" means a golf tournament or other 3291  
golf competition event that meets all of the following 3292  
requirements: 3293

(a) It is hosted by the nonprofit organization to which an 3294  
F-7 permit is issued. 3295

(b) It is sanctioned by a recognized national golf 3296  
organization. 3297

(c) It includes the sale of food for consumption on the 3298  
premises for which an F-7 permit is issued. 3299

(d) Contributions to charity are made from the proceeds of 3300  
the event that equal in the aggregate at least two hundred 3301  
thousand dollars. 3302

(3) "Recognized national golf organization" means any of the 3303  
following: 3304

(a) The United States golf association;	3305
(b) The professional golf association of America (PGA);	3306
(c) The PGA tour, including the champions tour and the nationwide tour;	3307 3308
(d) The LPGA tour;	3309
(e) The successors of any organization listed in divisions (A)(3)(a) to (d) of this section.	3310 3311
(B) An F-7 permit may be issued to a nonprofit organization to sell beer, wine, mixed beverages, and spirituous liquor by the individual drink at a qualified golf event being held on premises located in a political subdivision or part of a political subdivision where the sale of beer, wine, mixed beverages, and spirituous liquor is otherwise permitted by law on that day, if both of the following requirements are met:	3312 3313 3314 3315 3316 3317 3318
(1) The superintendent of liquor control is satisfied that the organization is a nonprofit organization. For this purpose, the superintendent may accept as proof a sworn statement by the president or other chief executive officer of the applicant organization.	3319 3320 3321 3322 3323
(2) The superintendent is satisfied that the event for which the F-7 permit is sought to be issued is a qualified golf event. For this purpose, the superintendent may accept as proof a sworn statement by the president or other chief executive officer of the applicant organization.	3324 3325 3326 3327 3328
(C) The premises for which the F-7 permit is issued shall meet all of the following requirements:	3329 3330
(1) Be owned or leased by the nonprofit organization to which the F-7 permit <u>is</u> issued;	3331 3332
(2) Be limited to areas in which the qualified golf event is conducted and to other areas that are contiguous to those areas in	3333 3334

which the qualified golf event is conducted, which areas are 3335  
specifically designated for food and beverage consumption and 3336  
hospitality for the qualified golf event; 3337

(3) Be clearly defined; 3338

(4) Be sufficiently restricted to allow proper supervision of 3339  
use of the permit by state and local law enforcement personnel. 3340

(D) A nonprofit organization to which an F-7 permit is issued 3341  
shall be held responsible for any conduct that violates the laws 3342  
pertaining to the sale of beer, wine, mixed beverages, or 3343  
spirituous liquor. 3344

(E) The division of liquor control shall prepare and make 3345  
available an F-7 permit application form and may require 3346  
applicants for the permit to provide information that, in addition 3347  
to the information required by this section, is necessary for the 3348  
administration of this section. 3349

(F) An F-7 permit shall be effective for a period not to 3350  
exceed eight consecutive days. The division of liquor control 3351  
shall not issue more than two F-7 permits per calendar year to the 3352  
same nonprofit organization. The fee for an F-7 permit is four 3353  
hundred fifty dollars. 3354

**Sec. 5111.151.** (A) This section applies to eligibility 3355  
determinations for all cases involving medicaid provided pursuant 3356  
to this chapter, qualified medicare beneficiaries, specified 3357  
low-income medicare beneficiaries, qualifying individuals-1, 3358  
qualifying individuals-2, and medical assistance for covered 3359  
families and children. 3360

(B) As used in this section: 3361

(1) "Trust" means any arrangement in which a grantor 3362  
transfers real or personal property to a trust with the intention 3363  
that it be held, managed, or administered by at least one trustee 3364

for the benefit of the grantor or beneficiaries. "Trust" includes 3365  
any legal instrument or device similar to a trust. 3366

(2) "Legal instrument or device similar to a trust" includes, 3367  
but is not limited to, escrow accounts, investment accounts, 3368  
partnerships, contracts, and other similar arrangements that are 3369  
not called trusts under state law but are similar to a trust and 3370  
to which all of the following apply: 3371

(a) The property in the trust is held, managed, retained, or 3372  
administered by a trustee. 3373

(b) The trustee has an equitable, legal, or fiduciary duty to 3374  
hold, manage, retain, or administer the property for the benefit 3375  
of the beneficiary. 3376

(c) The trustee holds identifiable property for the 3377  
beneficiary. 3378

(3) "Grantor" is a person who creates a trust, including all 3379  
of the following: 3380

(a) An individual; 3381

(b) An individual's spouse; 3382

(c) A person, including a court or administrative body, with 3383  
legal authority to act in place of or on behalf of an individual 3384  
or an individual's spouse; 3385

(d) A person, including a court or administrative body, that 3386  
acts at the direction or on request of an individual or the 3387  
individual's spouse. 3388

(4) "Beneficiary" is a person or persons, including a 3389  
grantor, who benefits in some way from a trust. 3390

(5) "Trustee" is a person who manages a trust's principal and 3391  
income for the benefit of the beneficiaries. 3392

(6) "Person" has the same meaning as in section 1.59 of the 3393

Revised Code and includes an individual, corporation, business trust, estate, trust, partnership, and association.	3394 3395
(7) "Applicant" is an individual who applies for medicaid or the individual's spouse.	3396 3397
(8) "Recipient" is an individual who receives medicaid or the individual's spouse.	3398 3399
(9) "Revocable trust" is a trust that can be revoked by the grantor or the beneficiary, including all of the following, even if the terms of the trust state that it is irrevocable:	3400 3401 3402
(a) A trust that provides that the trust can be terminated only by a court;	3403 3404
(b) A trust that terminates on the happening of an event, but only if the event occurs at the direction or control of the grantor, beneficiary, or trustee.	3405 3406 3407
(10) "Irrevocable trust" is a trust that cannot be revoked by the grantor or terminated by a court and that terminates only on the occurrence of an event outside of the control or direction of the beneficiary or grantor.	3408 3409 3410 3411
(11) "Payment" is any disbursement from the principal or income of the trust, including actual cash, noncash or property disbursements, or the right to use and occupy real property.	3412 3413 3414
(12) "Payments to or for the benefit of the applicant or recipient" is a payment to any person resulting in a direct or indirect benefit to the applicant or recipient.	3415 3416 3417
(13) "Testamentary trust" is a trust that is established by a will and does not take effect until after the death of the person who created the trust.	3418 3419 3420
(C) If an applicant or recipient is a beneficiary of a trust, the county department of job and family services shall determine what type of trust it is and shall treat the trust in accordance	3421 3422 3423

with the appropriate provisions of this section and rules adopted 3424  
by the department of job and family services governing trusts. The 3425  
county department of job and family services may determine that 3426  
the trust or portion of the trust is one of the following: 3427

- (1) A countable resource; 3428
- (2) Countable income; 3429
- (3) A countable resource and countable income; 3430
- (4) Not a countable resource or countable income. 3431

(D)(1) A trust or legal instrument or device similar to a 3432  
trust shall be considered a medicaid qualifying trust if all of 3433  
the following apply: 3434

- (a) The trust was established on or prior to August 10, 1993. 3435
- (b) The trust was not established by a will. 3436
- (c) The trust was established by an applicant or recipient. 3437
- (d) The applicant or recipient is or may become the 3438  
beneficiary of all or part of the trust. 3439
- (e) Payment from the trust is determined by one or more 3440  
trustees who are permitted to exercise any discretion with respect 3441  
to the distribution to the applicant or recipient. 3442

(2) If a trust meets the requirement of division (D)(1) of 3443  
this section, the amount of the trust that is considered by the 3444  
county department of job and family services as an available 3445  
resource to the applicant or recipient shall be the maximum amount 3446  
of payments permitted under the terms of the trust to be 3447  
distributed to the applicant or recipient, assuming the full 3448  
exercise of discretion by the trustee or trustees. The maximum 3449  
amount shall include only amounts that are permitted to be 3450  
distributed but are not distributed from either the income or 3451  
principal of the trust. 3452

(3) Amounts that are actually distributed from a medicaid 3453  
qualifying trust to a beneficiary for any purpose shall be treated 3454  
in accordance with rules adopted by the department of job and 3455  
family services governing income. 3456

(4) Availability of a medicaid qualifying trust shall be 3457  
considered without regard to any of the following: 3458

(a) Whether or not the trust is irrevocable or was 3459  
established for purposes other than to enable a grantor to qualify 3460  
for medicaid, medical assistance for covered families and 3461  
children, or as a qualified medicare beneficiary, specified 3462  
low-income medicare beneficiary, qualifying individual-1, or 3463  
qualifying individual-2; 3464

(b) Whether or not the trustee actually exercises discretion. 3465

(5) If any real or personal property is transferred to a 3466  
medicaid qualifying trust that is not distributable to the 3467  
applicant or recipient, the transfer shall be considered an 3468  
improper disposition of assets and shall be subject to section 3469  
5111.0116 of the Revised Code and rules to implement that section 3470  
adopted under section 5111.011 of the Revised Code. 3471

(6) The baseline date for the look-back period for 3472  
disposition of assets involving a medicaid qualifying trust shall 3473  
be the date on which the applicant or recipient is both 3474  
institutionalized and first applies for medicaid. 3475

(E)(1) A trust or legal instrument or device similar to a 3476  
trust shall be considered a self-settled trust if all of the 3477  
following apply: 3478

(a) The trust was established on or after August 11, 1993. 3479

(b) The trust was not established by a will. 3480

(c) The trust was established by an applicant or recipient, 3481  
spouse of an applicant or recipient, or a person, including a 3482

court or administrative body, with legal authority to act in place 3483  
of or on behalf of an applicant, recipient, or spouse, or acting 3484  
at the direction or on request of an applicant, recipient, or 3485  
spouse. 3486

(2) A trust that meets the requirements of division (E)(1) of 3487  
this section and is a revocable trust shall be treated by the 3488  
county department of job and family services as follows: 3489

(a) The corpus of the trust shall be considered a resource 3490  
available to the applicant or recipient. 3491

(b) Payments from the trust to or for the benefit of the 3492  
applicant or recipient shall be considered unearned income of the 3493  
applicant or recipient. 3494

(c) Any other payments from the trust shall be considered an 3495  
improper disposition of assets and shall be subject to section 3496  
5111.0116 of the Revised Code and rules to implement that section 3497  
adopted under section 5111.011 of the Revised Code. 3498

(3) A trust that meets the requirements of division (E)(1) of 3499  
this section and is an irrevocable trust shall be treated by the 3500  
county department of job and family services as follows: 3501

(a) If there are any circumstances under which payment from 3502  
the trust could be made to or for the benefit of the applicant or 3503  
recipient, including a payment that can be made only in the 3504  
future, the portion from which payments could be made shall be 3505  
considered a resource available to the applicant or recipient. The 3506  
county department of job and family services shall not take into 3507  
account when payments can be made. 3508

(b) Any payment that is actually made to or for the benefit 3509  
of the applicant or recipient from either the corpus or income 3510  
shall be considered unearned income. 3511

(c) If a payment is made to someone other than to the 3512

applicant or recipient and the payment is not for the benefit of 3513  
the applicant or recipient, the payment shall be considered an 3514  
improper disposition of assets and shall be subject to section 3515  
5111.0116 of the Revised Code and rules to implement that section 3516  
adopted under section 5111.011 of the Revised Code. 3517

(d) The date of the disposition shall be the later of the 3518  
date of establishment of the trust or the date of the occurrence 3519  
of the event. 3520

(e) When determining the value of the disposed asset under 3521  
this provision, the value of the trust shall be its value on the 3522  
date payment to the applicant or recipient was foreclosed. 3523

(f) Any income earned or other resources added subsequent to 3524  
the foreclosure date shall be added to the total value of the 3525  
trust. 3526

(g) Any payments to or for the benefit of the applicant or 3527  
recipient after the foreclosure date but prior to the application 3528  
date shall be subtracted from the total value. Any other payments 3529  
shall not be subtracted from the value. 3530

(h) Any addition of assets after the foreclosure date shall 3531  
be considered a separate disposition. 3532

(4) If a trust is funded with assets of another person or 3533  
persons in addition to assets of the applicant or recipient, the 3534  
applicable provisions of this section and rules adopted by the 3535  
department of job and family services governing trusts shall apply 3536  
only to the portion of the trust attributable to the applicant or 3537  
recipient. 3538

(5) The availability of a self-settled trust shall be 3539  
considered without regard to any of the following: 3540

(a) The purpose for which the trust is established; 3541

(b) Whether the trustees have exercised or may exercise 3542

discretion under the trust; 3543

(c) Any restrictions on when or whether distributions may be 3544  
made from the trust; 3545

(d) Any restrictions on the use of distributions from the 3546  
trust. 3547

(6) The baseline date for the look-back period for 3548  
dispositions of assets involving a self-settled trust shall be the 3549  
date on which the applicant or recipient is both institutionalized 3550  
and first applies for medicaid. 3551

(F) The principal or income from any of the following shall 3552  
be exempt from being counted as a resource by a county department 3553  
of job and family services: 3554

(1)(a) A special needs trust that meets all of the following 3555  
requirements: 3556

(i) The trust contains assets of an applicant or recipient 3557  
under sixty-five years of age and may contain the assets of other 3558  
individuals. 3559

(ii) The applicant or recipient is disabled as defined in 3560  
rules adopted by the department of job and family services. 3561

(iii) The trust is established for the benefit of the 3562  
applicant or recipient by a parent, grandparent, legal guardian, 3563  
or a court. 3564

(iv) The trust requires that on the death of the applicant or 3565  
recipient the state will receive all amounts remaining in the 3566  
trust up to an amount equal to the total amount of medicaid paid 3567  
on behalf of the applicant or recipient. 3568

(b) If a special needs trust meets the requirements of 3569  
division (F)(1)(a) of this section and has been established for a 3570  
disabled applicant or recipient under sixty-five years of age, the 3571  
exemption for the trust granted pursuant to division (F) of this 3572

section shall continue after the disabled applicant or recipient 3573  
becomes sixty-five years of age if the applicant or recipient 3574  
continues to be disabled as defined in rules adopted by the 3575  
department of job and family services. Except for income earned by 3576  
the trust, the grantor shall not add to or otherwise augment the 3577  
trust after the applicant or recipient attains sixty-five years of 3578  
age. An addition or augmentation of the trust by the applicant or 3579  
recipient with the applicant's own assets after the applicant or 3580  
recipient attains sixty-five years of age shall be treated as an 3581  
improper disposition of assets. 3582

(c) Cash distributions to the applicant or recipient shall be 3583  
counted as unearned income. All other distributions from the trust 3584  
shall be treated as provided in rules adopted by the department of 3585  
job and family services governing in-kind income. 3586

(d) Transfers of assets to a special needs trust shall not be 3587  
treated as an improper transfer of resources. Assets held prior to 3588  
the transfer to the trust shall be considered as countable assets 3589  
or countable income or countable assets and income. 3590

(2)(a) A qualifying income trust that meets all of the 3591  
following requirements: 3592

(i) The trust is composed only of pension, social security, 3593  
and other income to the applicant or recipient, including 3594  
accumulated interest in the trust. 3595

(ii) The income is received by the individual and the right 3596  
to receive the income is not assigned or transferred to the trust. 3597

(iii) The trust requires that on the death of the applicant 3598  
or recipient the state will receive all amounts remaining in the 3599  
trust up to an amount equal to the total amount of medicaid paid 3600  
on behalf of the applicant or recipient. 3601

(b) No resources shall be used to establish or augment the 3602  
trust. 3603

(c) If an applicant or recipient has irrevocably transferred 3604  
or assigned the applicant's or recipient's right to receive income 3605  
to the trust, the trust shall not be considered a qualifying 3606  
income trust by the county department of job and family services. 3607

(d) Income placed in a qualifying income trust shall not be 3608  
counted in determining an applicant's or recipient's eligibility 3609  
for medicaid. The recipient of the funds may place any income 3610  
directly into a qualifying income trust without those funds 3611  
adversely affecting the applicant's or recipient's eligibility for 3612  
medicaid. Income generated by the trust that remains in the trust 3613  
shall not be considered as income to the applicant or recipient. 3614

(e) All income placed in a qualifying income trust shall be 3615  
combined with any countable income not placed in the trust to 3616  
arrive at a base income figure to be used for spend down 3617  
calculations. 3618

(f) The base income figure shall be used for post-eligibility 3619  
deductions, including personal needs allowance, monthly income 3620  
allowance, family allowance, and medical expenses not subject to 3621  
third party payment. Any income remaining shall be used toward 3622  
payment of patient liability. Payments made from a qualifying 3623  
income trust shall not be combined with the base income figure for 3624  
post-eligibility calculations. 3625

(g) The base income figure shall be used when determining the 3626  
spend down budget for the applicant or recipient. Any income 3627  
remaining after allowable deductions are permitted as provided 3628  
under rules adopted by the department of job and family services 3629  
shall be considered the applicant's or recipient's spend down 3630  
liability. 3631

(3)(a) A pooled trust that meets all of the following 3632  
requirements: 3633

(i) The trust contains the assets of the applicant or 3634

recipient of any age who is disabled as defined in rules adopted 3635  
by the department of job and family services. 3636

(ii) The trust is established and managed by a nonprofit 3637  
~~association~~ organization. 3638

(iii) A separate account is maintained for each beneficiary 3639  
of the trust but, for purposes of investment and management of 3640  
funds, the trust pools the funds in these accounts. 3641

(iv) Accounts in the trust are established by the applicant 3642  
or recipient, the applicant's or recipient's parent, grandparent, 3643  
or legal guardian, or a court solely for the benefit of 3644  
individuals who are disabled. 3645

(v) The trust requires that, to the extent that any amounts 3646  
remaining in the beneficiary's account on the death of the 3647  
beneficiary are not retained by the trust, the trust pay to the 3648  
state the amounts remaining in the trust up to an amount equal to 3649  
the total amount of medicaid paid on behalf of the beneficiary. 3650

(b) Cash distributions to the applicant or recipient shall be 3651  
counted as unearned income. All other distributions from the trust 3652  
shall be treated as provided in rules adopted by the department of 3653  
job and family services governing in-kind income. 3654

(c) Transfers of assets to a pooled trust shall not be 3655  
treated as an improper disposition of assets. Assets held prior to 3656  
the transfer to the trust shall be considered as countable assets, 3657  
countable income, or countable assets and income. 3658

(4) A supplemental services trust that meets the requirements 3659  
of section 5815.28 of the Revised Code and to which all of the 3660  
following apply: 3661

(a) A person may establish a supplemental services trust 3662  
pursuant to section 5815.28 of the Revised Code only for another 3663  
person who is eligible to receive services through one of the 3664

following agencies: 3665

- (i) The department of developmental disabilities; 3666
- (ii) A county board of developmental disabilities; 3667
- (iii) The department of mental health; 3668
- (iv) A board of alcohol, drug addiction, and mental health 3669  
services. 3670

(b) A county department of job and family services shall not 3671  
determine eligibility for another agency's program. An applicant 3672  
or recipient shall do one of the following: 3673

- (i) Provide documentation from one of the agencies listed in 3674  
division (F)(4)(a) of this section that establishes that the 3675  
applicant or recipient was determined to be eligible for services 3676  
from the agency at the time of the creation of the trust; 3677
- (ii) Provide an order from a court of competent jurisdiction 3678  
that states that the applicant or recipient was eligible for 3679  
services from one of the agencies listed in division (F)(4)(a) of 3680  
this section at the time of the creation of the trust. 3681

(c) At the time the trust is created, the trust principal 3682  
does not exceed the maximum amount permitted. The maximum amount 3683  
permitted in calendar year 2006 is two hundred twenty-two thousand 3684  
dollars. Each year thereafter, the maximum amount permitted is the 3685  
prior year's amount plus two thousand dollars. 3686

(d) A county department of job and family services shall 3687  
review the trust to determine whether it complies with the 3688  
provisions of section 5815.28 of the Revised Code. 3689

(e) Payments from supplemental services trusts shall be 3690  
exempt as long as the payments are for supplemental services as 3691  
defined in rules adopted by the department of job and family 3692  
services. All supplemental services shall be purchased by the 3693  
trustee and shall not be purchased through direct cash payments to 3694

the beneficiary. 3695

(f) If a trust is represented as a supplemental services 3696  
trust and a county department of job and family services 3697  
determines that the trust does not meet the requirements provided 3698  
in division (F)(4) of this section and section 5815.28 of the 3699  
Revised Code, the county department of job and family services 3700  
shall not consider it an exempt trust. 3701

(G)(1) A trust or legal instrument or device similar to a 3702  
trust shall be considered a trust established by an individual for 3703  
the benefit of the applicant or recipient if all of the following 3704  
apply: 3705

(a) The trust is created by a person other than the applicant 3706  
or recipient. 3707

(b) The trust names the applicant or recipient as a 3708  
beneficiary. 3709

(c) The trust is funded with assets or property in which the 3710  
applicant or recipient has never held an ownership interest prior 3711  
to the establishment of the trust. 3712

(2) Any portion of a trust that meets the requirements of 3713  
division (G)(1) of this section shall be an available resource 3714  
only if the trust permits the trustee to expend principal, corpus, 3715  
or assets of the trust for the applicant's or recipient's medical 3716  
care, care, comfort, maintenance, health, welfare, general well 3717  
being, or any combination of these purposes. 3718

(3) A trust that meets the requirements of division (G)(1) of 3719  
this section shall be considered an available resource even if the 3720  
trust contains any of the following types of provisions: 3721

(a) A provision that prohibits the trustee from making 3722  
payments that would supplant or replace medicaid or other public 3723  
assistance; 3724

(b) A provision that prohibits the trustee from making 3725  
payments that would impact or have an effect on the applicant's or 3726  
recipient's right, ability, or opportunity to receive medicaid or 3727  
other public assistance; 3728

(c) A provision that attempts to prevent the trust or its 3729  
corpus or principal from being counted as an available resource. 3730

(4) A trust that meets the requirements of division (G)(1) of 3731  
this section shall not be counted as an available resource if at 3732  
least one of the following circumstances applies: 3733

(a) If a trust contains a clear statement requiring the 3734  
trustee to preserve a portion of the trust for another beneficiary 3735  
or remainderman, that portion of the trust shall not be counted as 3736  
an available resource. Terms of a trust that grant discretion to 3737  
preserve a portion of the trust shall not qualify as a clear 3738  
statement requiring the trustee to preserve a portion of the 3739  
trust. 3740

(b) If a trust contains a clear statement requiring the 3741  
trustee to use a portion of the trust for a purpose other than 3742  
medical care, care, comfort, maintenance, welfare, or general well 3743  
being of the applicant or recipient, that portion of the trust 3744  
shall not be counted as an available resource. Terms of a trust 3745  
that grant discretion to limit the use of a portion of the trust 3746  
shall not qualify as a clear statement requiring the trustee to 3747  
use a portion of the trust for a particular purpose. 3748

(c) If a trust contains a clear statement limiting the 3749  
trustee to making fixed periodic payments, the trust shall not be 3750  
counted as an available resource and payments shall be treated in 3751  
accordance with rules adopted by the department of job and family 3752  
services governing income. Terms of a trust that grant discretion 3753  
to limit payments shall not qualify as a clear statement requiring 3754  
the trustee to make fixed periodic payments. 3755

(d) If a trust contains a clear statement that requires the trustee to terminate the trust if it is counted as an available resource, the trust shall not be counted as an available resource. Terms of a trust that grant discretion to terminate the trust do not qualify as a clear statement requiring the trustee to terminate the trust.

(e) If a person obtains a judgment from a court of competent jurisdiction that expressly prevents the trustee from using part or all of the trust for the medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, the trust or that portion of the trust subject to the court order shall not be counted as a resource.

(f) If a trust is specifically exempt from being counted as an available resource by a provision of the Revised Code, rules, or federal law, the trust shall not be counted as a resource.

(g) If an applicant or recipient presents a final judgment from a court demonstrating that the applicant or recipient was unsuccessful in a civil action against the trustee to compel payments from the trust, the trust shall not be counted as an available resource.

(h) If an applicant or recipient presents a final judgment from a court demonstrating that in a civil action against the trustee the applicant or recipient was only able to compel limited or periodic payments, the trust shall not be counted as an available resource and payments shall be treated in accordance with rules adopted by the department of job and family services governing income.

(i) If an applicant or recipient provides written documentation showing that the cost of a civil action brought to compel payments from the trust would be cost prohibitive, the trust shall not be counted as an available resource.

(5) Any actual payments to the applicant or recipient from a trust that meet the requirements of division (G)(1) of this section, including trusts that are not counted as an available resource, shall be treated as provided in rules adopted by the department of job and family services governing income. Payments to any person other than the applicant or recipient shall not be considered income to the applicant or recipient. Payments from the trust to a person other than the applicant or recipient shall not be considered an improper disposition of assets.

**Sec. 5701.13.** (A) As used in this section:

(1) "Nursing home" means a nursing home or a home for the aging, as those terms are defined in section 3721.01 of the Revised Code, that is issued a license pursuant to section 3721.02 of the Revised Code.

(2) "Residential care facility" means a residential care facility, as defined in section 3721.01 of the Revised Code, that is issued a license pursuant to section 3721.02 of the Revised Code.

(3) "Adult care facility" means an adult care facility as defined in section 3722.01 of the Revised Code that is issued a license pursuant to section 3722.04 of the Revised Code.

(B) As used in Title LVII of the Revised Code, and for the purpose of other sections of the Revised Code that refer specifically to Chapter 5701. or section 5701.13 of the Revised Code, a "home for the aged" means either of the following:

(1) A place of residence for aged and infirm persons that satisfies divisions (B)(1)(a) to (e) of this section:

(a) It is a nursing home, residential care facility, or adult care facility.

(b) It is owned by a corporation, unincorporated nonprofit

association, or trust of a charitable, religious, or fraternal 3817  
nature, ~~which~~ that is organized and operated not for profit, ~~which~~ 3818  
is not formed for the pecuniary gain or profit of, and whose net 3819  
earnings or any part of whose net earnings is not distributable 3820  
to, its members, trustees, officers, or other private persons, and 3821  
~~which~~ is exempt from federal income taxation under section 501 of 3822  
the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1. 3823

(c) It is open to the public without regard to race, color, 3824  
or national origin. 3825

(d) It does not pay, directly or indirectly, compensation for 3826  
services rendered, interest on debts incurred, or purchase price 3827  
for land, building, equipment, supplies, or other goods or 3828  
chattels, which compensation, interest, or purchase price is 3829  
unreasonably high. 3830

(e) It provides services for the life of each resident 3831  
without regard to the resident's ability to continue payment for 3832  
the full cost of the services. 3833

(2) A place of residence that satisfies divisions (B)(1)(b), 3834  
(d), and (e) of this section; that satisfies the definition of 3835  
"nursing home," "residential care facility," or "adult care 3836  
facility" under section 3721.01 or 3722.01 of the Revised Code 3837  
regardless of whether it is licensed as such a home or facility; 3838  
and that is provided at no charge to individuals on account of 3839  
their service without compensation to a charitable, religious, 3840  
fraternal, or educational institution, which individuals are aged 3841  
or infirm and are members of the corporation, association, or 3842  
trust that owns the place of residence. For the purposes of 3843  
division (B)(2) of this section, "compensation" does not include 3844  
furnishing room and board, clothing, health care, or other 3845  
necessities, or stipends or other de minimis payments to defray 3846  
the cost thereof. 3847

Exemption from taxation shall be accorded, on proper 3848  
application, only to those homes or parts of homes ~~which~~ that meet 3849  
the standards and provide the services specified in this section. 3850

Nothing in this section shall be construed as preventing a 3851  
home from requiring a resident with financial need to apply for 3852  
any applicable financial assistance or requiring a home to retain 3853  
a resident who willfully refuses to pay for services for which the 3854  
resident has contracted even though the resident has sufficient 3855  
resources to do so. 3856

(C)(1) If a corporation, unincorporated nonprofit 3857  
association, or trust described in division (B)(1)(b) of this 3858  
section is granted a certificate of need pursuant to section 3859  
3702.52 of the Revised Code to construct, add to, or otherwise 3860  
modify a nursing home, or is given approval pursuant to section 3861  
3791.04 of the Revised Code to construct, add to, or otherwise 3862  
modify a residential care facility or adult care facility and if 3863  
the corporation, association, or trust submits an affidavit to the 3864  
tax commissioner stating that, commencing on the date of licensure 3865  
and continuing thereafter, the home or facility will be operated 3866  
in accordance with the requirements of divisions (B)(1)(a) to (e) 3867  
of this section, the corporation, association, or trust shall be 3868  
considered to be operating a "home for the aged" within the 3869  
meaning of division (B)(1) of this section, beginning on the first 3870  
day of January of the year in which such certificate is granted or 3871  
approval is given. 3872

(2) If a corporation, association, or trust is considered to 3873  
be operating a "home for the aged" pursuant to division (C)(1) of 3874  
this section, the corporation, association, or trust shall notify 3875  
the tax commissioner in writing upon the occurrence of any of the 3876  
following events: 3877

(a) The corporation, association, or trust no longer intends 3878  
to complete the construction of, addition to, or modification of 3879

the home or facility, to obtain the appropriate license for the 3880  
home or facility, or to commence operation of the home or facility 3881  
in accordance with the requirements of divisions (B)(1)(a) to (e) 3882  
of this section; 3883

(b) The certificate of approval referred to in division 3884  
(C)(1) of this section expires, is revoked, or is otherwise 3885  
terminated prior to the completion of the construction of, 3886  
addition to, or modification of the home or facility; 3887

(c) The license to operate the home or facility is not 3888  
granted by the director of health within one year following 3889  
completion of the construction of, addition to, or modification of 3890  
the home or facility; 3891

(d) The license to operate the home or facility is not 3892  
granted by the director of health within four years following the 3893  
date upon which the certificate or approval referred to in 3894  
division (C)(1) of this section was granted or given; 3895

(e) The home or facility is granted a license to operate as a 3896  
nursing home, residential care facility, or adult care facility. 3897

(3) Upon the occurrence of any of the events referred to in 3898  
divisions (C)(2)(a), (b), (c), (d), and (e) of this section, the 3899  
corporation, association, or trust shall no longer be considered 3900  
to be operating a "home for the aged" pursuant to division (C)(1) 3901  
of this section, except that the tax commissioner, for good cause 3902  
shown and to the extent the commissioner considers appropriate, 3903  
may extend the time period specified in division (C)(2)(c) or (d) 3904  
of this section, or both. Nothing in division (C)(3) of this 3905  
section shall be construed to prevent a nursing home, residential 3906  
care facility, or adult care facility from qualifying as a "home 3907  
for the aged" if, upon proper application made pursuant to 3908  
division (B) of this section, it is found to meet the requirements 3909  
of divisions (A) and (B) of this section. 3910

**Section 2.** That existing sections 9.231, 169.01, 1702.01, 3911  
1702.05, 1702.41, 1702.42, 1702.43, 1702.44, 1702.46, 2901.23, 3912  
3955.06, 3956.06, 4121.70, 4303.201, 4303.204, 4303.207, 5111.151, 3913  
and 5701.13 and sections 1702.45, 1745.01, 1745.02, and 1745.04 of 3914  
the Revised Code are hereby repealed. 3915