

AN ACT

To amend sections 1337.092, 1337.12, 2101.24, 2109.21, 2111.02, 2111.12, 2111.121, 5301.071, 5747.02, 5801.10, 5804.11, 5804.12, 5808.02, 5808.14, 5808.17, 5810.09, and 5810.13; to enact new section 2107.52 and sections 1337.21 to 1337.64, 3793.31 to 3793.39, 5808.18, 5808.19, 5809.031, and 5810.14; and to repeal sections 1337.09, 1337.091, 1337.093, 1337.18, 1337.19, 1337.20, and 2107.52 of the Revised Code to adopt the Uniform Power of Attorney Act; to modify a trustee's duties with respect to life insurance policies, specify a trustee's power to distribute trust principal in further trust, provide for the titling of assets in trust form, permit some but not all of specified parties to enter into a private settlement agreement, and make other changes in the Trust Code; to modify the anti-lapse provisions regarding wills and adopt anti-lapse provisions applicable to trusts; to provide a mechanism for a probate court to order a person who suffers from alcohol and other drug abuse to undergo treatment; and to provide a procedure for the construction or modification of a trust that refers to the federal estate tax, generation-skipping transfer tax, or Ohio estate tax.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 1337.092, 1337.12, 2101.24, 2109.21, 2111.02, 2111.12, 2111.121, 5301.071, 5747.02, 5801.10, 5804.11, 5804.12, 5808.02, 5808.14, 5808.17, 5810.09, and 5810.13 be amended and new section 2107.52 and sections 1337.21, 1337.22, 1337.23, 1337.24, 1337.25, 1337.26, 1337.27, 1337.28, 1337.29, 1337.30, 1337.31, 1337.32, 1337.33,

1337.34, 1337.35, 1337.36, 1337.37, 1337.38, 1337.39, 1337.40, 1337.41, 1337.42, 1337.43, 1337.44, 1337.45, 1337.46, 1337.47, 1337.48, 1337.49, 1337.50, 1337.51, 1337.52, 1337.53, 1337.54, 1337.55, 1337.56, 1337.57, 1337.58, 1337.59, 1337.60, 1337.61, 1337.62, 1337.63, 1337.64, 3793.31, 3793.32, 3793.33, 3793.34, 3793.35, 3793.36, 3793.37, 3793.38, 3793.39, 5808.18, 5808.19, 5809.031, and 5810.14 of the Revised Code be enacted to read as follows:

Sec. 1337.092. (A) If an attorney in fact enters into a contract in the representative capacity of the attorney in fact, if the contract is within the authority of the attorney in fact, and if the attorney in fact discloses in the contract that it is being entered into in the representative capacity of the attorney in fact, the attorney in fact is not personally liable on the contract, unless the contract otherwise specifies. If the words or initialism "attorney in fact," "as attorney in fact," "AIF," "power of attorney," "POA," or any other word or words or initialism indicating representative capacity as an attorney in fact are included in a contract following the name or signature of an attorney in fact, the inclusion is sufficient disclosure for purposes of this division that the contract is being entered into in the attorney in fact's representative capacity as attorney in fact.

(B) An attorney in fact is not personally liable for a debt of the attorney in fact's principal, unless one or more of the following applies:

(1) The attorney in fact agrees to be personally responsible for the debt.

(2) The debt was incurred for the support of the principal, and the attorney in fact is liable for that debt because of another legal relationship that gives rise to or results in a duty of support relative to the principal.

(3) The negligence of the attorney in fact gave rise to or resulted in the debt.

(4) An act of the attorney in fact that was beyond the attorney in fact's authority gave rise to or resulted in the debt.

(5) An agreement to assist in the recovery of funds under section 169.13 of the Revised Code was the subject of the power of attorney that gave rise to or resulted in the debt.

(C) This section applies but is not limited to, and the terms "power of attorney" and "attorney in fact" include but are not limited to, an agency agreement and an agent under an agency agreement.

Sec. 1337.12. (A)(1) An adult who is of sound mind voluntarily may create a valid durable power of attorney for health care by executing a durable power of attorney, in accordance with ~~division (B) of section 1337.09~~ 1337.24 of the Revised Code, that authorizes an attorney in fact as

described in division (A)(2) of this section to make health care decisions for the principal at any time that the attending physician of the principal determines that the principal has lost the capacity to make informed health care decisions for the principal. Except as otherwise provided in divisions (B) to (F) of section 1337.13 of the Revised Code, the authorization may include the right to give informed consent, to refuse to give informed consent, or to withdraw informed consent to any health care that is being or could be provided to the principal. Additionally, to be valid, a durable power of attorney for health care shall satisfy both of the following:

(a) It shall be signed at the end of the instrument by the principal and shall state the date of its execution.

(b) It shall be witnessed in accordance with division (B) of this section or be acknowledged by the principal in accordance with division (C) of this section.

(2) Except as otherwise provided in this division, a durable power of attorney for health care may designate any competent adult as the attorney in fact. The attending physician of the principal and an administrator of any nursing home in which the principal is receiving care shall not be designated as an attorney in fact in, or act as an attorney in fact pursuant to, a durable power of attorney for health care. An employee or agent of the attending physician of the principal and an employee or agent of any health care facility in which the principal is being treated shall not be designated as an attorney in fact in, or act as an attorney in fact pursuant to, a durable power of attorney for health care, except that these limitations do not preclude a principal from designating either type of employee or agent as the principal's attorney in fact if the individual is a competent adult and related to the principal by blood, marriage, or adoption, or if the individual is a competent adult and the principal and the individual are members of the same religious order.

(3) A durable power of attorney for health care shall not expire, unless the principal specifies an expiration date in the instrument. However, when a durable power of attorney contains an expiration date, if the principal lacks the capacity to make informed health care decisions for the principal on the expiration date, the instrument shall continue in effect until the principal regains the capacity to make informed health care decisions for the principal.

(B) If witnessed for purposes of division (A)(1)(b) of this section, a durable power of attorney for health care shall be witnessed by at least two individuals who are adults and who are not ineligible to be witnesses under this division. Any person who is related to the principal by blood, marriage,

or adoption, any person who is designated as the attorney in fact in the instrument, the attending physician of the principal, and the administrator of any nursing home in which the principal is receiving care are ineligible to be witnesses.

The witnessing of a durable power of attorney for health care shall involve the principal signing, or acknowledging the principal's signature, at the end of the instrument in the presence of each witness. Then, each witness shall subscribe the witness's signature after the signature of the principal and, by doing so, attest to the witness's belief that the principal appears to be of sound mind and not under or subject to duress, fraud, or undue influence. The signatures of the principal and the witnesses under this division are not required to appear on the same page of the instrument.

(C) If acknowledged for purposes of division (A)(1)(b) of this section, a durable power of attorney for health care shall be acknowledged before a notary public, who shall make the certification described in section 147.53 of the Revised Code and also shall attest that the principal appears to be of sound mind and not under or subject to duress, fraud, or undue influence.

(D)(1) If a principal has both a valid durable power of attorney for health care and a valid declaration, division (B) of section 2133.03 of the Revised Code applies. If a principal has both a valid durable power of attorney for health care and a DNR identification that is based upon a valid declaration and if the declaration supersedes the durable power of attorney for health care under division (B) of section 2133.03 of the Revised Code, the DNR identification supersedes the durable power of attorney for health care to the extent of any conflict between the two. A valid durable power of attorney for health care supersedes any DNR identification that is based upon a do-not-resuscitate order that a physician issued for the principal which is inconsistent with the durable power of attorney for health care or a valid decision by the attorney in fact under a durable power of attorney.

(2) As used in division (D) of this section:

(a) "Declaration" has the same meaning as in section 2133.01 of the Revised Code.

(b) "Do-not-resuscitate order" and "DNR identification" have the same meanings as in section 2133.21 of the Revised Code.

Sec. 1337.21. Sections 1337.21 to 1337.64 of the Revised Code may be cited as the uniform power of attorney act.

Sec. 1337.22. As used in sections 1337.21 to 1337.64 of the Revised Code:

(A) "Agent" means a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney in fact,

or otherwise. "Agent" includes an original agent, coagent, successor agent, and a person to which an agent's authority is delegated.

(B) "Durable," with respect to a power of attorney, means not terminated by the principal's incapacity.

(C) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(D) "Good faith" means honesty in fact.

(E) "Incapacity" means inability of an individual to manage property or business affairs for either of the following reasons:

(1) The individual has an impairment in the ability to receive and evaluate information or make or communicate decisions even with the use of technological assistance.

(2) The individual is any of the following:

(a) Missing;

(b) Detained, including incarcerated in a penal system;

(c) Outside the United States and unable to return.

(F) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(G) "Power of attorney" means a writing or other record that grants authority to an agent to act in the place of the principal, whether or not the term power of attorney is used.

(H) "Presently exercisable general power of appointment," with respect to property or a property interest subject to a power of appointment, means power exercisable at the time in question to vest absolute ownership in the principal individually, the principal's estate, the principal's creditors, or the creditors of the principal's estate. The term includes a power of appointment not exercisable until the occurrence of a specified event, the satisfaction of an ascertainable standard, or the passage of a specified period only after the occurrence of the specified event, the satisfaction of the ascertainable standard, or the passage of the specified period. The term does not include a power exercisable in a fiduciary capacity or only by will.

(I) "Principal" means an individual who grants authority to an agent in a power of attorney.

(J) "Property" means anything that may be the subject of ownership, whether real or personal, or legal or equitable, or any interest or right therein.

(K) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in

perceivable form.

(L) "Sign" means, with present intent to authenticate or adopt a record, to execute or adopt a tangible symbol or to attach to or logically associate with the record an electronic sound, symbol, or process.

(M) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(N) "Stocks and bonds" means stocks, bonds, mutual funds, and all other types of securities and financial instruments, whether held directly, indirectly, or in any other manner, but does not include commodity futures contracts or call or put options on stocks or stock indexes.

Sec. 1337.23. Sections 1337.21 to 1337.64 of the Revised Code apply to all powers of attorney except the following:

(A) A power to the extent it is coupled with an interest in the subject of the power, including a power given to or for the benefit of a creditor in connection with a credit transaction;

(B) A power to make health-care decisions;

(C) A proxy or other delegation to exercise voting rights or management rights with respect to an entity;

(D) A power created on a form prescribed by a government or governmental subdivision, agency, or instrumentality for a governmental purpose.

Sec. 1337.24. A power of attorney created under sections 1337.21 to 1337.64 of the Revised Code is durable unless it expressly provides that it is terminated by the incapacity of the principal.

Sec. 1337.25. A power of attorney must be signed by the principal or in the principal's conscious presence by another individual directed by the principal to sign the principal's name on the power of attorney. A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.

Sec. 1337.26. (A) A power of attorney executed in this state on or after the effective date of this section is valid if its execution complies with section 1337.25 of the Revised Code.

(B) A power of attorney executed in this state before the effective date of this section is valid if its execution complied with the law of this state as it existed at the time of execution.

(C) A power of attorney executed other than in this state is valid in this state if, when the power of attorney was executed, the execution complied with the law of the jurisdiction that determines the meaning and effect of the

power of attorney pursuant to section 1337.27 of the Revised Code or with the requirements for a military power of attorney pursuant to 10 U.S.C. 1044b.

(D) Except as otherwise provided by statute other than sections 1337.21 to 1337.64 of the Revised Code, a photocopy or electronically transmitted copy of an original power of attorney has the same effect as the original.

Sec. 1337.27. The meaning and effect of a power of attorney is determined by the law of the jurisdiction indicated in the power of attorney and, in the absence of an indication of jurisdiction, by the law of the jurisdiction in which the power of attorney was executed.

Sec. 1337.28. (A) In a power of attorney, a principal may nominate a guardian of the principal's person, estate, or both and may nominate a guardian of the person, the estate, or both of one or more of the principal's minor children, whether born at the time of the execution of the power of attorney or afterward. The nomination is for consideration by a court if proceedings for the appointment of a guardian for the principal's person, estate, or both or if proceedings for the appointment of a guardian of the person, the estate, or both of one or more of the principal's minor children are commenced at a later time. The principal may authorize the person nominated as guardian or the agent to nominate a successor guardian for consideration by a court. Except for good cause shown or disqualification, the court shall make its appointment in accordance with the principal's most recent nomination. Nomination of a person as a guardian or successor guardian of the person, the estate, or both of one or more of the principal's minor children under this division, and any subsequent appointment of the guardian or successor guardian as guardian under section 2111.02 of the Revised Code, does not vacate the jurisdiction of any other court that previously may have exercised jurisdiction over the person of the minor.

(B) The principal may direct that bond be waived for a person nominated as guardian or as a successor guardian.

(C) If, after a principal executes a power of attorney, a court appoints a guardian of the principal's estate or other fiduciary charged with the management of some or all of the principal's property, the agent is accountable to the fiduciary as well as to the principal. The power of attorney is not terminated and the agent's authority continues unless limited, suspended, or terminated by the court after notice to the agent and upon a finding that the limitation, suspension, or termination would be in the best interest of the principal.

(D) A power of attorney that contains the nomination of a person to be the guardian of the person, the estate, or both of one or more of the

principal's minor children under this division may be filed with the probate court for safekeeping, and the probate court shall designate the nomination as the nomination of a standby guardian.

Sec. 1337.29. (A) A power of attorney is effective when executed unless the principal provides in the power of attorney that it becomes effective at a future date or upon the occurrence of a future event or contingency.

(B) If a power of attorney becomes effective upon the occurrence of a future event or contingency, the principal, in the power of attorney, may authorize one or more persons to determine in a writing or other record that the event or contingency has occurred.

(C) If a power of attorney becomes effective upon the principal's incapacity and the principal has not authorized a person to determine whether the principal is incapacitated, or the person authorized is unable or unwilling to make the determination, the power of attorney becomes effective upon one of the following determinations made in a writing or other record:

(1) A determination by a physician who has examined the principal or a licensed psychologist who has evaluated the principal that the principal is incapacitated within the meaning of division (E)(1) of section 1337.22 of the Revised Code;

(2) A determination by an attorney at law, a judge, or an appropriate governmental official that the principal is incapacitated within the meaning of division (E)(2) of section 1337.22 of the Revised Code.

(D) A person authorized by the principal in the power of attorney to determine that the principal is incapacitated may act as the principal's personal representative pursuant to 42 U.S.C. 1320d to 1320d-8, and applicable regulations, to obtain access to the principal's health-care information and communicate with the principal's health-care provider.

Sec. 1337.30. (A) A power of attorney terminates when any of the following occurs:

(1) The principal dies;

(2) The principal becomes incapacitated, if the power of attorney is not durable;

(3) The principal revokes the power of attorney;

(4) The power of attorney provides that it terminates;

(5) The purpose of the power of attorney is accomplished;

(6) The principal revokes the agent's authority or the agent dies, becomes incapacitated, or resigns, and the power of attorney does not provide for another agent to act under the power of attorney.

(B) An agent's authority terminates when any of the following occurs:

(1) The principal revokes the authority;

(2) The agent dies, becomes incapacitated, or resigns;

(3) An action is filed for the divorce, dissolution, or annulment of the agent's marriage to the principal or their legal separation, unless the power of attorney otherwise provides;

(4) The power of attorney terminates.

(C) Unless the power of attorney otherwise provides, an agent's authority is exercisable until the authority terminates under division (B) of this section, notwithstanding a lapse of time since the execution of the power of attorney.

(D) Termination of an agent's authority or of a power of attorney is not effective as to the agent or another person that, without actual knowledge of the termination, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

(E) Incapacity of the principal of a power of attorney that is not durable does not revoke or terminate the power of attorney as to an agent or other person that, without actual knowledge of the incapacity, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

(F) The execution of a power of attorney does not revoke a power of attorney previously executed by the principal unless the subsequent power of attorney provides that the previous power of attorney is revoked or that all other powers of attorney are revoked.

Sec. 1337.31. (A) A principal may designate two or more persons to act as coagents. Unless the power of attorney otherwise provides, each coagent may exercise its authority independently.

(B) A principal may designate one or more successor agents to act if an agent resigns, dies, becomes incapacitated, is not qualified to serve, or declines to serve. A principal may grant authority to designate one or more successor agents to an agent or other person designated by name, office, or function. Unless the power of attorney otherwise provides, a successor agent has the same authority as that granted to the original agent and may not act until all predecessor agents have resigned, died, become incapacitated, are no longer qualified to serve, or have declined to serve.

(C) Except as otherwise provided in the power of attorney and division (D) of this section, an agent that does not participate in or conceal a breach of fiduciary duty committed by another agent, including a predecessor agent, is not liable for the actions of the other agent.

(D) An agent that has actual knowledge of a breach or imminent breach of fiduciary duty by another agent shall notify the principal and, if the principal is incapacitated, take any action reasonably appropriate in the circumstances to safeguard the principal's best interest. An agent that fails to notify the principal or take action as required by this division is liable for the reasonably foreseeable damages that could have been avoided if the agent had notified the principal or taken action as required by this division.

Sec. 1337.32. Unless the power of attorney otherwise provides, an agent is entitled to reimbursement of expenses reasonably incurred on behalf of the principal and to compensation that is reasonable under the circumstances.

Sec. 1337.33. Except as otherwise provided in the power of attorney, a person accepts appointment as an agent under a power of attorney by exercising authority or performing duties as an agent or by any other assertion or conduct indicating acceptance.

Sec. 1337.34. (A) Notwithstanding provisions in the power of attorney, an agent that has accepted appointment shall do all of the following:

(1) Act in accordance with the principal's reasonable expectations to the extent actually known by the agent and, otherwise, in the principal's best interest;

(2) Act in good faith;

(3) Act only within the scope of authority granted in the power of attorney;

(4) Attempt to preserve the principal's estate plan to the extent actually known by the agent if preserving the plan is consistent with the principal's best interest based on all relevant factors, including all of the following:

(a) The value and nature of the principal's property;

(b) The principal's foreseeable obligations and need for maintenance;

(c) Minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes;

(d) Eligibility for a benefit, a program, or assistance under a statute or regulation.

(B) Except as otherwise provided in the power of attorney, an agent that has accepted appointment shall do all of the following:

(1) Act loyally for the principal's benefit;

(2) Act so as not to create a conflict of interest that impairs the agent's ability to act impartially in the principal's best interest;

(3) Act with the care, competence, and diligence ordinarily exercised by agents in similar circumstances;

(4) Keep a record of all receipts, disbursements, and transactions made

on behalf of the principal:

(5) Cooperate with a person that has authority to make health-care decisions for the principal to carry out the principal's reasonable expectations to the extent actually known by the agent and, otherwise, act in the principal's best interest.

(C) An agent that acts in good faith is not liable to any beneficiary of the principal's estate plan for failure to preserve the plan.

(D) An agent that acts with care, competence, and diligence for the best interest of the principal is not liable solely because the agent also benefits from the act or has an individual or conflicting interest in relation to the property or affairs of the principal.

(E) If an agent is selected by the principal because of special skills or expertise possessed by the agent or in reliance on the agent's representation that the agent has special skills or expertise, the special skills or expertise must be considered in determining whether the agent has acted with care, competence, and diligence under the circumstances.

(F) Absent a breach of duty to the principal, an agent is not liable if the value of the principal's property declines.

(G) An agent that exercises authority to delegate to another person the authority granted by the principal or that engages another person on behalf of the principal is not liable for an act, error of judgment, or default of that person if the agent exercises care, competence, and diligence in selecting and monitoring the person.

(H) Except as otherwise provided in the power of attorney, an agent is not required to disclose receipts, disbursements, or transactions conducted on behalf of the principal unless ordered by a court or requested by the principal, a guardian, a conservator, another fiduciary acting for the principal, a governmental agency having authority to protect the welfare of the principal, or, upon the death of the principal, by the personal representative or successor in interest of the principal's estate. If so requested, within thirty days the agent shall comply with the request or provide a writing or other record substantiating why additional time is needed and shall comply with the request within an additional thirty days.

Sec. 1337.35. A provision in a power of attorney relieving an agent of liability for breach of duty is binding on the principal and the principal's successors in interest except to the extent that either of the following applies:

(A) The provision relieves the agent of liability for breach of duty committed dishonestly, with an improper motive, or with reckless indifference to the purposes of the power of attorney or the best interest of

the principal.

(B) The provision was inserted as a result of an abuse of a confidential or fiduciary relationship with the principal.

Sec. 1337.36. (A) Any of the following persons may petition a court to construe a power of attorney or review the agent's conduct and grant appropriate relief:

(1) The principal or the agent;

(2) A guardian, conservator, or other fiduciary acting for the principal, including an executor or administrator of the estate of a deceased principal;

(3) A person authorized to make health-care decisions for the principal;

(4) The principal's spouse, parent, or descendant;

(5) An individual who would qualify as a presumptive heir of the principal;

(6) A person named as a beneficiary to receive any property, benefit, or contractual right on the principal's death or as a beneficiary of a trust created by or for the principal that has a financial interest in the principal's estate;

(7) A governmental agency having regulatory authority to protect the welfare of the principal;

(8) The principal's caregiver or another person that demonstrates sufficient interest in the principal's welfare;

(9) A person asked to accept the power of attorney.

(B) Upon motion by the principal, the court shall dismiss a petition filed under this section, unless the court finds that the principal lacks capacity to revoke the agent's authority or the power of attorney.

Sec. 1337.37. An agent that violates sections 1337.21 to 1337.64 of the Revised Code is liable to the principal or the principal's successors in interest for the amount required to restore the value of the principal's property to what it would have been had the violation not occurred and the amount required to reimburse the principal or the principal's successors in interest for the attorney's fees and costs paid on the agent's behalf.

Sec. 1337.38. Unless the power of attorney provides a different method for an agent's resignation, an agent may resign by giving notice to the principal and, if the principal is incapacitated, to whichever of the following applies:

(A) The guardian, if one has been appointed for the principal, and any coagent or successor agent;

(B) If there is no person described in division (A) of this section, to any of the following:

(1) The principal's caregiver;

(2) Another person reasonably believed by the agent to have sufficient

interest in the principal's welfare:

(3) A governmental agency having authority to protect the welfare of the principal.

Sec. 1337.39. Unless displaced by a provision of sections 1337.21 to 1337.64 of the Revised Code, the principles of law and equity supplement those sections.

Sec. 1337.40. In the event of a conflict between any provision of sections 1337.21 to 1337.64 of the Revised Code and any other provision of law applicable to financial institutions or other entities, the other provision of law controls.

Sec. 1337.41. The remedies provided under sections 1337.21 to 1337.64 of the Revised Code are not exclusive and do not abrogate any right or remedy under any other provision of law of this state.

Sec. 1337.42. (A) An agent under a power of attorney may do any of the following on behalf of the principal or with the principal's property only if the power of attorney expressly grants the agent the authority and if exercise of the authority is not otherwise prohibited by another agreement or instrument to which the authority or property is subject, and, with respect to a revocable trust of which the principal was the settlor, if the trust agreement expressly authorizes the agent to exercise the principal's powers with respect to the revocation, amendment, or distribution:

(1) Create, amend, revoke, or terminate an inter vivos trust to the extent permitted by section 5801.05 of the Revised Code or any other provision of Title LVIII of the Revised Code;

(2) Make a gift;

(3) Create or change rights of survivorship;

(4) Create or change a beneficiary designation;

(5) Delegate authority granted under the power of attorney;

(6) Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan;

(7) Exercise fiduciary powers that the principal has authority to delegate.

(B) Notwithstanding a grant of authority to do an act described in division (A) of this section, unless the power of attorney otherwise provides, an agent that is not an ancestor, spouse, or descendant of the principal may not exercise authority under a power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise.

(C) Subject to divisions (A), (B), (D), and (E) of this section, if a power

of attorney grants to an agent authority to do all acts that a principal could do, the agent has the general authority described in sections 1337.45 to 1337.57 of the Revised Code.

(D) Unless the power of attorney otherwise provides, a grant of authority to make a gift is subject to section 1337.58 of the Revised Code.

(E) Subject to divisions (A), (B), and (D) of this section, if the subjects over which authority is granted in a power of attorney are similar or overlap, the broadest authority controls.

(F) Authority granted in a power of attorney is exercisable with respect to property that the principal has when the power of attorney is executed or acquires later, whether or not the property is located in this state and whether or not the authority is exercised or the power of attorney is executed in this state.

(G) An act performed by an agent pursuant to a power of attorney has the same effect and inures to the benefit of and binds the principal and the principal's successors in interest as if the principal had performed the act.

Sec. 1337.43. (A) An agent has authority described in sections 1337.42 to 1337.58 of the Revised Code if the power of attorney refers to general authority with respect to the descriptive term for the subjects stated in sections 1337.45 to 1337.58 of the Revised Code or cites the section of the Revised Code in which the authority is described.

(B) A reference in a power of attorney to general authority with respect to the descriptive term for a subject in sections 1337.45 to 1337.58 of the Revised Code or a citation to any of those sections incorporates the entire section as if it were set out in full in the power of attorney.

(C) A principal may modify authority incorporated by reference.

Sec. 1337.44. Except as otherwise provided in the power of attorney, by executing a power of attorney that incorporates by reference a subject described in sections 1337.45 to 1337.58 of the Revised Code or that grants to an agent authority to do all acts that a principal could do pursuant to division (C) of section 1337.42 of the Revised Code, a principal authorizes the agent, with respect to that subject, to do all of the following:

(A) Demand, receive, and obtain by litigation or otherwise, money or another thing of value to which the principal is, may become, or claims to be entitled, and conserve, invest, disburse, or use anything so received or obtained for the purposes intended;

(B) Contract in any manner with any person, on terms agreeable to the agent, to accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate, release, or modify the contract or another contract made by or on behalf of the principal;

(C) Execute, acknowledge, seal, deliver, file, or record any instrument or communication the agent considers desirable to accomplish a purpose of a transaction, including creating at any time a schedule listing some or all of the principal's property and attaching it to the power of attorney;

(D) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to a claim existing in favor of or against the principal or intervene in litigation relating to the claim;

(E) Seek on the principal's behalf the assistance of a court or other governmental agency to carry out an act authorized in the power of attorney;

(F) Engage, compensate, and discharge an attorney, accountant, discretionary investment manager, expert witness, or other advisor;

(G) Prepare, execute, and file a record, report, or other document to safeguard or promote the principal's interest under a statute or regulation;

(H) Communicate with any representative or employee of a government or governmental subdivision, agency, or instrumentality, on behalf of the principal;

(I) Access communications intended for, and communicate on behalf of the principal, whether by mail, electronic transmission, telephone, or other means;

(J) Do any lawful act with respect to the subject and all property related to the subject.

Sec. 1337.45. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to real property authorizes the agent to do all of the following:

(A) Demand, buy, lease, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject an interest in real property or a right incident to real property;

(B) Sell; exchange; convey with or without covenants, representations, or warranties; quitclaim; release; surrender; retain title for security; encumber; partition; consent to partitioning; subject to an easement or covenant; subdivide; apply for zoning or other governmental permits; plat or consent to platting; develop; grant an option concerning; lease; sublease; contribute to an entity in exchange for an interest in that entity; or otherwise grant or dispose of an interest in real property or a right incident to real property;

(C) Pledge or mortgage an interest in real property or right incident to real property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(D) Release, assign, satisfy, or enforce by litigation or otherwise a

mortgage, deed of trust, conditional sale contract, encumbrance, lien, or other claim to real property that exists or is asserted;

(E) Manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including all of the following:

(1) Insure against liability or casualty or other loss;

(2) Obtain or regain possession of or protect the interest or right by litigation or otherwise;

(3) Pay, assess, compromise, or contest taxes or assessments or apply for and receive refunds in connection with taxes;

(4) Purchase supplies, hire assistance or labor, and make repairs or alterations to the real property.

(F) Use, develop, alter, replace, remove, erect, or install structures or other improvements upon real property in or incident to which the principal has, or claims to have, an interest or right;

(G) Participate in a reorganization with respect to real property or an entity that owns an interest in or right incident to real property and receive, and hold, and act with respect to stocks and bonds or other property received in a plan of reorganization, including all of the following:

(1) Sell or otherwise dispose of them;

(2) Exercise or sell an option, right of conversion, or similar right with respect to them;

(3) Exercise any voting rights in person or by proxy.

(H) Change the form of title of an interest in or right incident to real property;

(I) Dedicate to public use, with or without consideration, easements or other real property in which the principal has, or claims to have, an interest.

Sec. 1337.46. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to tangible personal property authorizes the agent to do all of the following:

(A) Demand, buy, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject ownership or possession of tangible personal property or an interest in tangible personal property;

(B) Sell; exchange; convey with or without covenants, representations, or warranties; quitclaim; release; surrender; create a security interest in; grant options concerning; lease; sublease; or otherwise dispose of tangible personal property or an interest in tangible personal property;

(C) Grant a security interest in tangible personal property or an interest in tangible personal property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by

the principal:

(D) Release, assign, satisfy, or enforce by litigation or otherwise a security interest, lien, or other claim on behalf of the principal with respect to tangible personal property or an interest in tangible personal property;

(E) Manage or conserve tangible personal property or an interest in tangible personal property on behalf of the principal, including all of the following:

(1) Insure against liability or casualty or other loss;

(2) Obtain or regain possession of or protect the property or interest by litigation or otherwise;

(3) Pay, assess, compromise, or contest taxes or assessments or apply for and receive refunds in connection with taxes or assessments;

(4) Move the property from place to place;

(5) Store the property for hire or on a gratuitous bailment;

(6) Use and make repairs, alterations, or improvements to the property.

(F) Change the form of title of an interest in tangible personal property.

Sec. 1337.47. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to stocks and bonds authorizes the agent to do all of the following:

(A) Buy, sell, and exchange stocks and bonds;

(B) Establish, continue, modify, or terminate an account with respect to stocks and bonds;

(C) Pledge stocks and bonds as security to borrow, pay, renew, or extend the time of payment of a debt of the principal;

(D) Receive certificates and other evidences of ownership with respect to stocks and bonds;

(E) Exercise voting rights with respect to stocks and bonds in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote.

Sec. 1337.48. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to commodities and options authorizes the agent to do both of the following:

(A) Buy, sell, exchange, assign, settle, and exercise commodity futures contracts and call or put options on stocks or stock indexes traded on a regulated option exchange;

(B) Establish, continue, modify, and terminate option accounts.

Sec. 1337.49. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to banks and other financial institutions authorizes the agent to do all of the following:

(A) Continue, modify, and terminate an account or other banking arrangement made by or on behalf of the principal;

(B) Establish, modify, and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent;

(C) Contract for services available from a financial institution, including renting a safe deposit box or space in a vault;

(D) Withdraw, by check, order, electronic funds transfer, or otherwise, money or property of the principal deposited with or left in the custody of a financial institution;

(E) Receive statements of account, vouchers, notices, and similar documents from a financial institution and act with respect to them;

(F) Enter a safe deposit box or vault and withdraw or add to the contents;

(G) Borrow money and pledge as security personal property of the principal necessary to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(H) Make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable or nonnegotiable paper of the principal or payable to the principal or the principal's order, transfer money, receive the cash or other proceeds of those transactions, and accept a draft drawn by a person upon the principal and pay it when due;

(I) Receive for the principal and act upon a sight draft, warehouse receipt, or other document of title whether tangible or electronic, or other negotiable or nonnegotiable instrument;

(J) Apply for, receive, and use letters of credit, credit and debit cards, electronic transaction authorizations, and traveler's checks from a financial institution and give an indemnity or other agreement in connection with letters of credit;

(K) Consent to an extension of the time of payment with respect to commercial paper or a financial transaction with a financial institution.

Sec. 1337.50. Subject to the terms of a document or an agreement governing an entity or an entity ownership interest, and unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to the operation of an entity or business authorizes the agent to do all of the following:

(A) Operate, buy, sell, enlarge, reduce, or terminate an ownership interest;

(B) Perform a duty or discharge a liability and exercise in person or by

proxy a right, power, privilege, or option that the principal has, may have, or claims to have;

(C) Enforce the terms of an ownership agreement;

(D) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party because of an ownership interest;

(E) Exercise in person or by proxy, or enforce by litigation or otherwise, a right, power, privilege, or option the principal has or claims to have as the holder of stocks and bonds;

(F) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party concerning stocks and bonds;

(G) With respect to an entity or business owned solely by the principal, do all of the following:

(1) Continue, modify, renegotiate, extend, and terminate a contract made by or on behalf of the principal with respect to the entity or business before execution of the power of attorney;

(2) Determine all of the following:

(a) The location of its operation;

(b) The nature and extent of its business;

(c) The methods of manufacturing, selling, merchandising, financing, accounting, and advertising employed in its operation;

(d) The amount and types of insurance carried;

(e) The mode of engaging, compensating, and dealing with its employees and accountants, attorneys, or other advisors.

(3) Change the name or form of organization under which the entity or business is operated and enter into an ownership agreement with other persons to take over all or part of the operation of the entity or business;

(4) Demand and receive money due or claimed by the principal or on the principal's behalf in the operation of the entity or business and control and disburse the money in the operation of the entity or business.

(H) Put additional capital into an entity or business in which the principal has an interest;

(I) Join in a plan of reorganization, consolidation, conversion, domestication, or merger of the entity or business;

(J) Sell or liquidate all or part of an entity or business;

(K) Establish the value of an entity or business under a buy-out agreement to which the principal is a party;

(L) Prepare, sign, file, and deliver reports, compilations of information, returns, or other papers with respect to an entity or business and make

related payments:

(M) Pay, compromise, or contest taxes, assessments, fines, or penalties and perform any other act to protect the principal from illegal or unnecessary taxation, assessments, fines, or penalties, with respect to an entity or business, including attempts to recover, in any manner permitted by law, money paid before or after the execution of the power of attorney.

Sec. 1337.51. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to insurance and annuities authorizes the agent to do all of the following:

(A) Continue, pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract procured by or on behalf of the principal that insures or provides an annuity to either the principal or another person, whether or not the principal is a beneficiary under the contract;

(B) Procure new, different, and additional contracts of insurance and annuities for the principal and the principal's spouse, children, and other dependents and select the amount, type of insurance or annuity, and mode of payment;

(C) Pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract of insurance or annuity procured by the agent;

(D) Apply for and receive a loan secured by a contract of insurance or annuity;

(E) Surrender and receive the cash surrender value on a contract of insurance or annuity;

(F) Exercise an election;

(G) Exercise investment powers available under a contract of insurance or annuity;

(H) Change the manner of paying premiums on a contract of insurance or annuity;

(I) Change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section;

(J) Apply for and procure a benefit or assistance under a statute or regulation to guarantee or pay premiums of a contract of insurance on the life of the principal;

(K) Collect, sell, assign, hypothecate, borrow against, or pledge the interest of the principal in a contract of insurance or annuity;

(L) Select the form and timing of the payment of proceeds from a contract of insurance or annuity;

(M) Pay from proceeds or otherwise, compromise or contest, and apply

for refunds in connection with a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or its proceeds or liability accruing by reason of the tax or assessment.

Sec. 1337.52. (A) As used in this section, "estate, trust, or other beneficial interest" means a trust, probate estate, guardianship, conservatorship, escrow, or custodianship or a fund from which the principal is, may become, or claims to be entitled to a share or payment.

(B) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to estates, trusts, and other beneficial interests authorizes the agent to do all of the following:

(1) Accept, receive, receipt for, sell, assign, pledge, or exchange a share in or payment from an estate, trust, or other beneficial interest;

(2) Demand or obtain money or another thing of value to which the principal is, may become, or claims to be entitled by reason of an estate, trust, or other beneficial interest, by litigation or otherwise;

(3) Exercise for the benefit of the principal a presently exercisable general power of appointment held by the principal;

(4) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to ascertain the meaning, validity, or effect of a deed, will, declaration of trust, or other instrument or transaction affecting the interest of the principal;

(5) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to remove, substitute, or surcharge a fiduciary;

(6) Conserve, invest, disburse, or use anything received for an authorized purpose;

(7) Transfer an interest of the principal in real property, stocks and bonds, accounts with financial institutions or securities intermediaries, insurance, annuities, and other property to the trustee of a revocable trust created by the principal as settlor;

(8) Reject, renounce, disclaim, release, or consent to a reduction in or modification of a share in or payment from an estate, trust, or other beneficial interest.

Sec. 1337.53. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to claims and litigation authorizes the agent to do all of the following:

(A) Assert and maintain before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, recoupment, or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax

liability, or seek an injunction, specific performance, or other relief;

(B) Bring an action to determine adverse claims or intervene or otherwise participate in litigation;

(C) Seek an attachment, garnishment, order of arrest, or other preliminary, provisional, or intermediate relief and use an available procedure to effect or satisfy a judgment, order, or decree;

(D) Make or accept a tender, offer of judgment, or admission of facts, submit a controversy on an agreed statement of facts, consent to examination, and bind the principal in litigation;

(E) Submit to alternative dispute resolution, settle, and propose or accept a compromise;

(F) Waive the issuance and service of process upon the principal, accept service of process, appear for the principal, designate persons upon which process directed to the principal may be served, execute and file or deliver stipulations on the principal's behalf, verify pleadings, seek appellate review, procure and give surety and indemnity bonds, contract and pay for the preparation and printing of records and briefs, receive, execute, and file or deliver a consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement, or other instrument in connection with the prosecution, settlement, or defense of a claim or litigation;

(G) Act for the principal with respect to bankruptcy or insolvency, whether voluntary or involuntary, concerning the principal or some other person, or with respect to a reorganization, receivership, or application for the appointment of a receiver or trustee that affects an interest of the principal in property or other thing of value;

(H) Pay a judgment, award, or order against the principal or a settlement made in connection with a claim or litigation;

(I) Receive money or other thing of value paid in settlement of or as proceeds of a claim or litigation.

Sec. 1337.54. (A) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to personal and family maintenance authorizes the agent to do all of the following:

(1) Perform the acts necessary to maintain the customary standard of living of the principal, the principal's spouse, and the following individuals, whether living when the power of attorney is executed or later born:

(a) Other individuals legally entitled to be supported by the principal;

(b) The individuals whom the principal has customarily supported or indicated the intent to support.

(2) Make periodic payments of child support and other family

maintenance required by a court or governmental agency or an agreement to which the principal is a party;

(3) Provide living quarters for the individuals described in division (A)(1) of this section by doing either of the following:

(a) Purchasing, leasing, or otherwise contracting;

(b) Paying the operating costs, including interest, amortization payments, repairs, improvements, and taxes, for premises owned by the principal or occupied by those individuals.

(4) Provide normal domestic help, usual vacations and travel expenses, and funds for shelter, clothing, food, appropriate education, including postsecondary and vocational education, and other current living costs for the individuals described in division (A)(1) of this section;

(5) Pay expenses for necessary health care and custodial care on behalf of the individuals described in division (A)(1) of this section;

(6) Act as the principal's personal representative pursuant to 42 U.S.C. 1320d to 1320d-9 and applicable regulations in making decisions related to the past, present, or future payment for the provision of health care consented to by the principal or anyone authorized under the law of this state to consent to health care on behalf of the principal;

(7) Continue any provision made by the principal for automobiles or other means of transportation, including registering, licensing, insuring, and replacing them, for the individuals described in division (A)(1) of this section;

(8) Maintain credit and debit accounts for the convenience of the individuals described in division (A)(1) of this section and open new accounts;

(9) Continue payments incidental to the membership or affiliation of the principal in a religious institution, club, society, order, or other organization or to continue contributions to those organizations.

(B) Authority with respect to personal and family maintenance is neither dependent upon, nor limited by, authority that an agent may or may not have with respect to gifts under sections 1337.21 to 1337.64 of the Revised Code.

Sec. 1337.55. (A) As used in this section, "benefits from governmental programs or civil or military service" means any benefit, program, or assistance provided under a statute or regulation, including social security, medicare, and medicaid.

(B) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to benefits from governmental programs or civil or military service authorizes the agent to do all of the following:

(1) Execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal, including allowances and reimbursements for transportation of the individuals described in division (A)(1) of section 1337.54 of the Revised Code, and for shipment of their household effects;

(2) Take possession and order the removal and shipment of property of the principal from a post, warehouse, depot, dock, or other place of storage or safekeeping, either governmental or private, and execute and deliver a release, voucher, receipt, bill of lading, shipping ticket, certificate, or other instrument for that purpose;

(3) Enroll in, apply for, select, reject, change, amend, or discontinue, on the principal's behalf, a benefit or program;

(4) Prepare, file, and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal may be entitled under a statute or regulation;

(5) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation concerning any benefit or assistance the principal may be entitled to receive under a statute or regulation;

(6) Receive the financial proceeds of a claim described in division (B)(4) of this section and conserve, invest, disburse, or use for a lawful purpose anything so received.

Sec. 1337.56. (A) As used in this section, "retirement plan" means a plan or account created by an employer, the principal, or another individual to provide retirement benefits or deferred compensation of which the principal is a participant, beneficiary, or owner, including any of the following plans or accounts:

(1) An individual retirement account under section 408 of the Internal Revenue Code of 1986, 26 U.S.C. 408;

(2) A Roth individual retirement account under section 408A of the Internal Revenue Code of 1986, 26 U.S.C. 408A;

(3) A deemed individual retirement account under section 408(q) of the Internal Revenue Code of 1986, 26 U.S.C. 408(q);

(4) An annuity or mutual fund custodial account under section 403(b) of the Internal Revenue Code of 1986, 26 U.S.C. 403(b);

(5) A pension, profit-sharing, stock bonus, or other retirement plan qualified under section 401(a) of the Internal Revenue Code of 1986, 26 U.S.C. 401(a);

(6) A plan under section 457(b) of the Internal Revenue Code of 1986,

26 U.S.C. 457(b):

(7) A nonqualified deferred compensation plan under section 409A of the Internal Revenue Code of 1986, 26 U.S.C. 409A.

(B) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to retirement plans authorizes the agent to do all of the following:

(1) Select the form and timing of payments under a retirement plan and withdraw benefits from a plan;

(2) Make a rollover, including a direct trustee-to-trustee rollover, of benefits from one retirement plan to another;

(3) Establish a retirement plan in the principal's name;

(4) Make contributions to a retirement plan;

(5) Exercise investment powers available under a retirement plan;

(6) Borrow from, sell assets to, or purchase assets from a retirement plan.

Sec. 1337.57. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to taxes authorizes the agent to do all of the following:

(A) Prepare, sign, and file federal, state, local, and foreign income, gift, payroll, property, Federal Insurance Contributions Act, and other tax returns, claims for refunds, requests for extension of time, petitions regarding tax matters, and any other tax-related documents, including receipts, offers, waivers, consents, including consents and agreements under section 2032A of the Internal Revenue Code of 1986, 26 U.S.C. 2032A, closing agreements, and any power of attorney required by the internal revenue service or other taxing authority with respect to a tax year upon which the statute of limitations has not run and the following twenty-five tax years;

(B) Pay taxes due, collect refunds, post bonds, receive confidential information, and contest deficiencies determined by the internal revenue service or other taxing authority;

(C) Exercise any election available to the principal under federal, state, local, or foreign tax law;

(D) Act for the principal in all tax matters for all periods before the internal revenue service, or other taxing authority.

Sec. 1337.58. (A) As used in this section, a gift "for the benefit of" a person includes a gift to a trust, an account under the Uniform Transfers to Minors Act, and a tuition savings account or prepaid tuition plan as defined under section 529 of the Internal Revenue Code of 1986, 26 U.S.C. 529.

(B) Unless the power of attorney otherwise provides, language in a

power of attorney granting general authority with respect to gifts authorizes the agent to do only the following:

(1) Make outright to, or for the benefit of, a person, a gift of any of the principal's property, including by the exercise of a presently exercisable general power of appointment held by the principal, in an amount per donee not to exceed the annual dollar limits of the federal gift tax exclusion under section 2503(b) of the Internal Revenue Code of 1986, 26 U.S.C. 2503(b), without regard to whether the federal gift tax exclusion applies to the gift, or if the principal's spouse agrees to consent to a split gift pursuant to section 2513 of the Internal Revenue Code of 1986, 26 U.S.C. 2513, in an amount per donee not to exceed twice the annual federal gift tax exclusion limit;

(2) Consent, pursuant to section 2513 of the Internal Revenue Code of 1986, 26 U.S.C. 2513, to the splitting of a gift made by the principal's spouse in an amount per donee not to exceed the aggregate annual gift tax exclusions for both spouses.

(C) An agent may make a gift of the principal's property, outright or by amending, creating, or funding a trust, only as the agent determines is consistent with the principal's objectives if actually known by the agent and, if unknown, as the agent determines is consistent with the principal's best interest based on all relevant factors, including all of the following:

(1) The value and nature of the principal's property;

(2) The principal's foreseeable obligations and need for maintenance;

(3) Minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes;

(4) Eligibility for a benefit, a program, or assistance under a statute or regulation;

(5) The principal's personal history of making or joining in making gifts.

Sec. 1337.59. In a power of attorney executed on or after March 29, 2006, and before the effective date of this section that either uses the statutory power of attorney form contained in former section 1337.18 of the Revised Code or that incorporates by reference any one or more of the powers contained in former section 1337.20 of the Revised Code, the powers granted shall be construed in accordance with former section 1337.20 of the Revised Code.

Sec. 1337.60. A document substantially in the following form may be used to create a statutory form power of attorney that has the meaning and effect prescribed by sections 1337.21 to 1337.64 of the Revised Code.

[INSERT NAME OF JURISDICTION]

STATUTORY FORM POWER OF ATTORNEY

IMPORTANT INFORMATION

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the Uniform Power of Attorney Act (sections 1337.21 to 1337.64 of the Revised Code).

This power of attorney does not authorize the agent to make health-care decisions for you.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

Your agent is entitled to reasonable compensation unless you state otherwise in the Special Instructions.

This form provides for designation of one agent. If you wish to name more than one agent you may name a coagent in the Special Instructions. Coagents are not required to act together unless you include that requirement in the Special Instructions.

If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

ACTIONS REQUIRING EXPRESS AUTHORITY

Unless expressly authorized and initialed by me in the Special Instructions, this power of attorney does not grant authority to my agent to do any of the following:

- (1) Create a trust;
- (2) Amend, revoke, or terminate an inter vivos trust, even if specific authority to do so is granted to the agent in the trust agreement;
- (3) Make a gift;
- (4) Create or change rights of survivorship;
- (5) Create or change a beneficiary designation;
- (6) Delegate authority granted under the power of attorney;
- (7) Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan;
- (8) Exercise fiduciary powers that the principal has authority to delegate.

CAUTION: Granting any of the above eight powers will give your agent the authority to take actions that could significantly reduce your

property or change how your property is distributed at your death.

If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

DESIGNATION OF AGENT

I, (Name of Principal) name the following person as my agent:

Name of Agent:

.....

Agent's Address:

.....

Agent's Telephone Number:

.....

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent:

.....

Successor Agent's Address:

.....

Successor Agent's Telephone Number:

.....

If my successor agent is unable or unwilling to act for me, I name as my second successor agent:

Name of Second Successor

Agent:

.....

Second Successor Agent's

Address:

.....

Second Successor Agent's Telephone Number:

.....

GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in the Uniform Power of Attorney Act (sections 1337.21 to 1337.64 of the Revised Code):

(INITIAL each subject you want to include in the agent's general authority. If you wish to grant general authority over all of the subjects you may initial "All Preceding Subjects" instead of initialing each subject.)

(...) Real Property

- (...) Tangible Personal Property
- (...) Stocks and Bonds
- (...) Commodities and Options
- (...) Banks and Other Financial Institutions
- (...) Operation of Entity or Business
- (...) Insurance and Annuities
- (...) Estates, Trusts, and Other Beneficial Interests
- (...) Claims and Litigation
- (...) Personal and Family Maintenance
- (...) Benefits from Governmental Programs or Civil or Military Service
- (...) Retirement Plans
- (...) Taxes
- (...) All Preceding Subjects

LIMITATION ON AGENT'S AUTHORITY

An agent that is not my ancestor, spouse, or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions.

SPECIAL INSTRUCTIONS (OPTIONAL)

You may give special instructions on the following lines:

.....

.....

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.....

EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.

NOMINATION OF GUARDIAN (OPTIONAL)

If it becomes necessary for a court to appoint a guardian of my estate or my person, I nominate the following person(s) for appointment:

Name of Nominee for guardian of my estate:

.....

Nominee's Address:

Nominee's Telephone Number:

.....
Name of Nominee for guardian of my person:

.....
Nominee's Address:

.....
Nominee's Telephone Number:

.....
RELIANCE ON THIS POWER OF ATTORNEY

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it has terminated or is invalid.

SIGNATURE AND ACKNOWLEDGMENT

.....
Your Signature

.....
Date

.....
Your Name Printed

.....
Your Address

.....
Your Telephone Number

State of Ohio

County of

This document was acknowledged before me on (Date), by
..... (Name of Principal).

.....
Signature of Notary

My commission expires:

.....
This document prepared by:

.....
IMPORTANT INFORMATION FOR AGENT

Agent's Duties

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes upon you legal duties that continue until you resign or the power of attorney is terminated or revoked. You must:

- (1) Do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interest;

(2) Act in good faith;

(3) Do nothing beyond the authority granted in this power of attorney;

(4) Attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interest;

(5) Disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner:

(Principal's Name) by (Your Signature) as Agent

Unless the Special Instructions in this power of attorney state otherwise, you must also:

(1) Act loyally for the principal's benefit;

(2) Avoid conflicts that would impair your ability to act in the principal's best interest;

(3) Act with care, competence, and diligence;

(4) Keep a record of all receipts, disbursements, and transactions made on behalf of the principal;

(5) Cooperate with any person that has authority to make health-care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal's expectations, to act in the principal's best interest.

Termination of Agent's Authority

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:

(1) The death of the principal;

(2) The principal's revocation of the power of attorney or your authority;

(3) The occurrence of a termination event stated in the power of attorney;

(4) The purpose of the power of attorney is fully accomplished;

(5) If you are married to the principal, a legal action is filed with a court to end your marriage, or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

Liability of Agent

The meaning of the authority granted to you is defined in the Uniform Power of Attorney Act (sections 1337.21 to 1337.64 of the Revised Code). If you violate the Uniform Power of Attorney Act or act outside the authority granted, you may be liable for any damages caused by your violation.

.....
This document prepared by:
.....

Sec. 1337.62. In applying and construing sections 1337.21 to 1337.64 of the Revised Code, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

Sec. 1337.63. Sections 1337.21 to 1337.64 of the Revised Code modify, limit, and supersede the "Electronic Signatures in Global and National Commerce Act," 15 U.S.C. 7001 et seq., with the exception of section 101(c) of that act, 15 U.S.C. 7001(c). Sections 1337.21 to 1337.64 of the Revised Code do not authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. 7003(b).

Sec. 1337.64. (A) Except as otherwise provided in sections 1337.21 to 1337.64 of the Revised Code, on the effective date of this section, those sections apply to all of the following:

(1) A power of attorney created before, on, or after the effective date of this section;

(2) A judicial proceeding concerning a power of attorney commenced on or after the effective date of this section;

(3) A judicial proceeding concerning a power of attorney commenced before the effective date of this section, unless the court finds that application of a provision of sections 1337.21 to 1337.64 of the Revised Code would substantially interfere with the effective conduct of the judicial proceeding or prejudice the rights of a party, in which case that provision does not apply and the superseded law applies.

(B) Sections 1337.21 to 1337.64 of the Revised Code do not affect an act done before the effective date of this section.

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

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

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

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

(d) To appoint the attorney general to serve as the administrator of an estate pursuant to section 2113.06 of the Revised Code;

(e) To appoint and remove guardians, conservators, and testamentary trustees, direct and control their conduct, and settle their accounts;

(f) To grant marriage licenses;

(g) To make inquests respecting persons who are so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that they are unable to manage their property and affairs effectively, subject to guardianship;

(h) To qualify assignees, appoint and qualify trustees and commissioners of insolvents, control their conduct, and settle their accounts;

(i) To authorize the sale of lands, equitable estates, or interests in lands or equitable estates, and the assignments of inchoate dower in such cases of sale, on petition by executors, administrators, and guardians;

(j) To authorize the completion of real estate contracts on petition of executors and administrators;

(k) To construe wills;

(l) To render declaratory judgments, including, but not limited to, those rendered pursuant to section 2107.084 of the Revised Code;

(m) To direct and control the conduct of fiduciaries and settle their accounts;

(n) To authorize the sale or lease of any estate created by will if the estate is held in trust, on petition by the trustee;

(o) To terminate a testamentary trust in any case in which a court of equity may do so;

(p) To hear and determine actions to contest the validity of wills;

(q) To make a determination of the presumption of death of missing persons and to adjudicate the property rights and obligations of all parties affected by the presumption;

(r) To hear and determine an action commenced pursuant to section 3107.41 of the Revised Code to obtain the release of information pertaining to the birth name of the adopted person and the identity of the adopted person's biological parents and biological siblings;

(s) To act for and issue orders regarding wards pursuant to section 2111.50 of the Revised Code;

(t) To hear and determine actions against sureties on the bonds of fiduciaries appointed by the probate court;

(u) To hear and determine actions involving informed consent for medication of persons hospitalized pursuant to section 5122.141 or 5122.15 of the Revised Code;

(v) To hear and determine actions relating to durable powers of attorney for health care as described in division (D) of section 1337.16 of the Revised Code;

(w) To hear and determine actions commenced by objecting individuals, in accordance with section 2133.05 of the Revised Code;

(x) To hear and determine complaints that pertain to the use or continuation, or the withholding or withdrawal, of life-sustaining treatment in connection with certain patients allegedly in a terminal condition or in a permanently unconscious state pursuant to division (E) of section 2133.08 of the Revised Code, in accordance with that division;

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

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

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

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

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

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

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

(ff) To hear and determine petitions for an order for treatment of a person suffering from alcohol and other drug abuse filed under section 3793.34 of the Revised Code and to order treatment of that nature in accordance with, and take other actions afforded to the court under, sections 3793.31 to 3793.39 of the Revised Code.

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

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

over that subject matter upon the probate court.

(b) No section of the Revised Code expressly confers jurisdiction over that subject matter upon any other court or agency.

(B)(1) The probate court has concurrent jurisdiction with, and the same powers at law and in equity as, the general division of the court of common pleas to issue writs and orders, and to hear and determine actions as follows:

(a) If jurisdiction relative to a particular subject matter is stated to be concurrent in a section of the Revised Code or has been construed by judicial decision to be concurrent, any action that involves that subject matter;

(b) Any action that involves an inter vivos trust; a trust created pursuant to section 5815.28 of the Revised Code; a charitable trust or foundation; subject to divisions (A)(1)(u) and (z) of this section, a power of attorney, including, but not limited to, a durable power of attorney; the medical treatment of a competent adult; or a writ of habeas corpus.

(2) Any action that involves a concurrent jurisdiction subject matter and that is before the probate court may be transferred by the probate court, on its order, to the general division of the court of common pleas.

(C) The probate court has plenary power at law and in equity to dispose fully of any matter that is properly before the court, unless the power is expressly otherwise limited or denied by a section of the Revised Code.

(D) The jurisdiction acquired by a probate court over a matter or proceeding is exclusive of that of any other probate court, except when otherwise provided by law.

Sec. 2107.52. (A) As used in this section:

(1) "Class member" means an individual who fails to survive the testator but who would have taken under a devise in the form of a class gift had the individual survived the testator.

(2) "Descendant of a grandparent" means an individual who qualifies as a descendant of a grandparent of the testator or of the donor of a power of appointment under either of the following:

(a) The rules of construction applicable to a class gift created in the testator's will if the devise or the exercise of the power of appointment is in the form of a class gift;

(b) The rules for intestate succession if the devise or the exercise of the power of appointment is not in the form of a class gift.

(3) "Devise" means an alternative devise, a devise in the form of a class gift, or an exercise of a power of appointment.

(4) "Devisee" means any of the following:

(a) A class member if the devise is in the form of a class gift;

(b) An individual or class member who was deceased at the time the testator executed the testator's will or an individual or class member who was then living but who failed to survive the testator;

(c) An appointee under a power of appointment exercised by the testator's will.

(5) "Per stirpes" means that the shares of the descendants of a devisee who does not survive the testator are determined in the same way they would have been determined under division (A) of section 2105.06 of the Revised Code if the devisee had died intestate and unmarried on the date of the testator's death.

(6) "Stepchild" means a child of the surviving, deceased, or former spouse of the testator or of the donor of a power of appointment and not of the testator or donor.

(7) "Surviving devisee" or "surviving descendant" means a devisee or descendant, whichever is applicable, who survives the testator by at least one hundred twenty hours.

(8) "Testator" includes the donee of a power of appointment if the power is exercised in the testator's will.

(B)(1) As used in "surviving descendants" in divisions (B)(2)(a) and (b) of this section, "descendants" means the descendants of a deceased devisee or class member under the applicable division who would take under a class gift created in the testator's will.

(2) Unless a contrary intent appears in the will, if a devisee fails to survive the testator and is a grandparent, a descendant of a grandparent, or a stepchild of either the testator or the donor of a power of appointment exercised by the testator's will, either of the following applies:

(a) If the devise is not in the form of a class gift and the deceased devisee leaves surviving descendants, a substitute gift is created in the devisee's surviving descendants. The surviving descendants take, per stirpes, the property to which the devisee would have been entitled had the devisee survived the testator.

(b) If the devise is in the form of a class gift, other than a devise to "issue," "descendants," "heirs of the body," "heirs," "next of kin," "relatives," or "family," or a class described by language of similar import, a substitute gift is created in the surviving descendants of any deceased devisee. The property to which the devisees would have been entitled had all of them survived the testator passes to the surviving devisees and the surviving descendants of the deceased devisees. Each surviving devisee takes the share to which the surviving devisee would have been entitled had the deceased devisees survived the testator. Each deceased devisee's

surviving descendants who are substituted for the deceased devisee take, per stirpes, the share to which the deceased devisee would have been entitled had the deceased devisee survived the testator. For purposes of division (B)(2)(b) of this section, "deceased devisee" means a class member who failed to survive the testator by at least one hundred twenty hours and left one or more surviving descendants.

(C) For purposes of this section, each of the following applies:

(1) Attaching the word "surviving" or "living" to a devise, such as a gift "to my surviving (or living) children," is not, in the absence of other language in the will or other evidence to the contrary, a sufficient indication of an intent to negate the application of division (B) of this section.

(2) Attaching other words of survivorship to a devise, such as "to my child, if my child survives me," is, in the absence of other language in the will or other evidence to the contrary, a sufficient indication of an intent to negate the application of division (B) of this section.

(3) A residuary clause is not a sufficient indication of an intent to negate the application of division (B) of this section unless the will specifically provides that upon lapse or failure the nonresiduary devise, or nonresiduary devises in general, pass under the residuary clause.

(4) Unless the language creating a power of appointment expressly excludes the substitution of the descendants of an appointee for the appointee, a surviving descendant of a deceased appointee of a power of appointment may be substituted for the appointee under this section, whether or not the descendant is an object of the power of appointment.

(D) Except as provided in division (A), (B), or (C) of this section, each of the following applies:

(1) A devise, other than a residuary devise, that fails for any reason becomes a part of the residue.

(2) If the residue is devised to two or more persons, the share of a residuary devisee that fails for any reason passes to the other residuary devisee, or to other residuary devisees in proportion to the interest of each in the remaining part of the residue.

(3) If a residuary devise fails for any reason in its entirety, the residue passes by intestate succession.

(E) This section applies only to outright devises and appointments. Devises and appointments in trust, including to a testamentary trust, are subject to section 5808.19 of the Revised Code.

(F) This section applies to wills of decedents who die on or after the effective date of this section.

Sec. 2109.21. (A) An administrator, special administrator, administrator

de bonis non, or administrator with the will annexed shall be a resident of this state and shall be removed on proof that the administrator is no longer a resident of this state.

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

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

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

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

not a resident of this state.

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

(C)(1) A guardian shall be a resident of this state, except that the court may appoint a nonresident of this state as a guardian if any of the following applies:

(a) The nonresident is named in a will by a parent of a minor.

(b) The nonresident is selected by a minor over the age of fourteen years as provided by section 2111.12 of the Revised Code.

(c) The nonresident is nominated in or pursuant to a durable power of attorney ~~as described in division (D) of~~ under section ~~1337.09~~ 1337.24 of the Revised Code or a writing as described in division (A) of section 2111.121 of the Revised Code.

(2) A guardian, other than a guardian named in a will by a parent of a minor, selected by a minor over the age of fourteen years, or nominated in or pursuant to a durable power of attorney or writing described in division (C)(1)(c) of this section, may be removed on proof that the guardian is no longer a resident of this state.

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

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

Sec. 2111.02. (A) When found necessary, the probate court on its own motion or on application by any interested party shall appoint, subject to divisions (C) and (D) of this section and to section 2109.21 and division (B) of section 2111.121 of the Revised Code, a guardian of the person, the estate, or both, of a minor or incompetent, provided the person for whom the guardian is to be appointed is a resident of the county or has a legal settlement in the county and, except in the case of a minor, has had the opportunity to have the assistance of counsel in the proceeding for the appointment of such guardian. An interested party includes, but is not limited to, a person nominated in a durable power of attorney ~~as described in division (D) of~~ under section ~~1337.09~~ 1337.24 of the Revised Code or in a writing as described in division (A) of section 2111.121 of the Revised

Code.

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

When the primary purpose of the appointment of a guardian is, or was, the collection, disbursement, or administration of moneys awarded by the veterans administration to the ward, or assets derived from such moneys, no court costs shall be charged in the proceeding for the appointment or in any subsequent proceedings made in pursuance of the appointment, unless the value of the estate, including the moneys then due under the veterans administration award, exceeds one thousand five hundred dollars.

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

(2) If a guardian appointed pursuant to division (A) of this section is temporarily or permanently removed or resigns, and if the welfare of the ward requires immediate action, at any time after the removal or resignation, the probate court may appoint, ex parte and with or without notice to the ward or interested parties, an interim guardian for a maximum period of fifteen days. If the court appoints the interim guardian ex parte or without notice to the ward, the court, at its first opportunity, shall enter upon its journal with specificity the reason for acting ex parte or without notice, and, as soon as possible, shall serve upon the ward a copy of the order appointing the interim guardian. For good cause shown, after notice to the ward and interested parties and after hearing, the court may extend an interim guardianship for a specified period, but not to exceed an additional thirty days.

(3) If a minor or incompetent has not been placed under a guardianship pursuant to division (A) of this section and if an emergency exists, and if it

is reasonably certain that immediate action is required to prevent significant injury to the person or estate of the minor or incompetent, at any time after it receives notice of the emergency, the court, ex parte, may issue any order that it considers necessary to prevent injury to the person or estate of the minor or incompetent, or may appoint an emergency guardian for a maximum period of seventy-two hours. A written copy of any order issued by a court under this division shall be served upon the incompetent or minor as soon as possible after its issuance. Failure to serve such an order after its issuance or prior to the taking of any action under its authority does not invalidate the order or the actions taken. The powers of an emergency guardian shall be specified in the letters of appointment, and shall be limited to those powers that are necessary to prevent injury to the person or estate of the minor or incompetent. If the court acts ex parte or without notice to the minor or incompetent, the court, at its first opportunity, shall enter upon its journal a record of the case and, with specificity, the reason for acting ex parte or without notice. For good cause shown, after notice to the minor or incompetent and interested parties, and after hearing, the court may extend an emergency guardianship for a specified period, but not to exceed an additional thirty days.

(C) Prior to the appointment of a guardian or limited guardian under division (A) or (B)(1) of this section, the court shall conduct a hearing on the matter of the appointment. The hearing shall be conducted in accordance with all of the following:

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

(2) If the hearing is conducted by a referee, the procedures set forth in Civil Rule 53 shall be followed;

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

(4) Upon request of the applicant, the alleged incompetent for whom the appointment is sought or the alleged incompetent's counsel, or any interested party, a recording or record of the hearing shall be made;

(5) Evidence of a less restrictive alternative to guardianship may be

introduced, and when introduced, shall be considered by the court;

(6) The court may deny a guardianship based upon a finding that a less restrictive alternative to guardianship exists;

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

(a) The right to be represented by independent counsel of the alleged incompetent's choice;

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

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

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

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

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

(D)(1) When a person has been nominated to be a guardian of the estate of a minor in or pursuant to a durable power of attorney ~~as described in division (D) of~~ under section ~~1337.09~~ 1337.24 of the Revised Code or a writing as described in division (A) of section 2111.121 of the Revised Code, the person nominated has preference in appointment over a person selected by the minor. A person who has been nominated to be a guardian of the person of a minor in or pursuant to a durable power of attorney or writing of that nature does not have preference in appointment over a person selected by the minor, but the probate court may appoint the person named in the durable power of attorney or the writing, the person selected by the minor, or another person as guardian of the person of the minor.

(2) A person nominated as a guardian of an incompetent adult child pursuant to a durable power of attorney under section ~~1337.09~~ 1337.24 or pursuant to section 2111.121 of the Revised Code shall have preference in appointment over a person applying to be guardian if the person nominated is competent, suitable, and willing to accept the appointment, and if the incompetent adult child does not have a spouse or an adult child and has not designated a guardian prior to the court finding the adult child incompetent.

Sec. 2111.12. (A) A minor over the age of fourteen years may select a guardian who shall be appointed if a suitable person. If ~~such~~ a minor over the age of fourteen years fails to select a suitable person, an appointment

may be made without reference to the minor's wishes. The minor shall not select one person to be the guardian of the minor's estate only and another to be the guardian of the person only, unless the court ~~which~~ that appoints is of the opinion that the interests of ~~such~~ that minor will thereby be promoted.

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

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

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

(C) A parent pursuant to a durable power of attorney ~~as described in division (D) of~~ under section ~~1337.09~~ 1337.24 or a writing as described in division (A) of section 2111.121 of the Revised Code may nominate a person to be a guardian for one or more of the parent's minor children, whether born at the time of the making of the petition or afterward.

Sec. 2111.121. (A) A person may nominate in a writing, as described in this division, another person to be the guardian of the nominator's person, estate, or both or the guardian of the person, the estate, or both, of one or more of the nominator's minor or incompetent adult children, whether born at the time of the execution of the writing or afterward, subject to notice and a hearing pursuant to section 2111.02 of the Revised Code. The nomination is for consideration by a court if proceedings for the appointment of a guardian of the person, the estate, or both, for the person making the nomination or if proceedings for the appointment of a guardian as the guardian of the person, the estate, or both of one or more of the nominator's minor or incompetent adult children are commenced at a later time. The person may authorize, in a writing of that nature, the person nominated as guardian to nominate a successor guardian for consideration by a court. The person also may direct, in a writing of that nature, that bond be waived for a person nominated as guardian in it or nominated as a successor guardian in accordance with an authorization in it.

To be effective as a nomination, the writing shall be signed by the

person making the nomination in the presence of two witnesses; signed by the witnesses; contain, immediately prior to their signatures, an attestation of the witnesses that the person making the nomination signed the writing in their presence; and be acknowledged by the person making the nomination before a notary public.

(B) If a person has nominated, in a writing as described in division (A) of this section or in a durable power of attorney ~~as described in division (D) of~~ under section 1337.09 1337.24 of the Revised Code, another person to be the guardian of the nominator's person, estate, or both, and proceedings for the appointment of a guardian for the person are commenced at a later time, the court involved shall appoint the person nominated as guardian in the writing or durable power of attorney most recently executed if the person nominated is competent, suitable, and willing to accept the appointment. If the writing or durable power of attorney contains a waiver of bond, the court shall waive bond of the person nominated as guardian unless it is of the opinion that the interest of the trust demands it.

(C) Nomination of a person as a guardian or successor guardian of the person, the estate, or both of one or more of the nominator's minor or incompetent adult children under division (A) of this section, and any subsequent appointment of the guardian or successor guardian as guardian under section 2111.02 of the Revised Code, does not vacate the jurisdiction of any other court that previously may have exercised jurisdiction over the person of the minor or incompetent adult child.

(D) The writing containing the nomination of a person to be the guardian of the person, the estate, or both of one or more of the nominator's minor or incompetent adult children under division (A) of this section may be filed with the probate court for safekeeping, and the probate court shall designate the nomination as the nomination of a standby guardian.

Sec. 3793.31. As used in sections 3793.31 to 3793.39 of the Revised Code:

(A) "Alcohol and other drug abuse" means alcoholism or drug addiction.

(B) "Another drug" means a controlled substance as defined in section 3719.01 of the Revised Code or a harmful intoxicant as defined in section 2925.01 of the Revised Code.

(C) "Board of alcohol, drug addiction, and mental health services" means a board of alcohol, drug addiction, and mental health services established under section 340.02 or 340.021 of the Revised Code.

(D) "Danger" or "threat of danger to self, family, or others" means substantial physical harm or threat of substantial physical harm upon self,

family, or others.

(E) "Hospital" has the same meaning as in section 3701.01 or 3727.01 of the Revised Code but does not include either a hospital operated by the department of mental health or an inpatient unit licensed by the department.

(F) "Intoxicated" means being under the influence of alcohol, another drug, or both alcohol and another drug and, as a result, having a significantly impaired ability to function.

(G) "Petitioner" means a person who institutes a proceeding under sections 3793.32 to 3793.39 of the Revised Code.

(H) "Probate court" means the probate division of the court of common pleas.

(I) "Qualified health professional" means a person that is properly credentialed or licensed to conduct a drug and alcohol assessment and diagnosis under Ohio law.

(J) "Residence" means the legal residence of a person as determined by applicable principles governing conflicts of law.

(K) "Respondent" means a person alleged in a petition filed or hearing under sections 3793.32 to 3793.39 of the Revised Code to be a person who is suffering from alcohol and other drug abuse and who may be ordered under those sections to undergo treatment.

(L) "Treatment" means services and programs for the care and rehabilitation of intoxicated persons and persons suffering from alcohol and other drug abuse. "Treatment" includes residential treatment, a halfway house setting, and an intensive outpatient or outpatient level of care.

Sec. 3793.32. A probate court may order involuntary treatment for a person suffering from alcohol and other drug abuse pursuant to the procedures set forth in sections 3793.31 to 3793.39 of the Revised Code.

Sec. 3793.33. No person shall be ordered to undergo treatment under sections 3793.31 to 3793.39 of the Revised Code unless all of the following apply to that person:

(A) The person suffers from alcohol and other drug abuse.

(B) The person presents an imminent danger or imminent threat of danger to self, family, or others as a result of alcohol and other drug abuse, or there exists a substantial likelihood of such a threat in the near future.

(C) The person can reasonably benefit from treatment.

Sec. 3793.34. (A) A person may initiate proceedings for treatment for an individual suffering from alcohol and other drug abuse by filing a verified petition in the probate court and paying a filing fee in the same amount, if any, that is charged for the filing under section 5122.11 of the Revised Code of an affidavit seeking the hospitalization of a person. The

petition and all subsequent court documents shall be entitled: "In the interest of (name of respondent)." A spouse, relative, or guardian of the individual concerning whom the petition is filed shall file the petition.

(B) A petition filed under division (A) of this section shall set forth all of the following:

(1) The petitioner's relationship to the respondent;

(2) The respondent's name, residence address, and current location, if known;

(3) The name and residence of the respondent's parents, if living and if known, or of the respondent's legal guardian, if any and if known;

(4) The name and residence of the respondent's spouse, if any and if known;

(5) The name and residence of the person having custody of the respondent, if any, or if no such person is known, the name and residence of a near relative or a statement that the person is unknown;

(6) The petitioner's belief, including the factual basis for the belief, that the respondent is suffering from alcohol and other drug abuse and presents an imminent danger or imminent threat of danger to self, family, or others if not treated for alcohol or other drug abuse.

(C)(1) Any petition filed pursuant to divisions (A) and (B) of this section shall be accompanied by a certificate of a physician who has examined the respondent within two days prior to the day that the petition is filed in the probate court. The physician shall be authorized to practice medicine and surgery or osteopathic medicine and surgery under Chapter 4731. of the Revised Code. The physician's certificate shall set forth the physician's findings in support of the need to treat the respondent for alcohol or other drug abuse. The certificate shall indicate if the respondent presents an imminent danger or imminent threat of danger to self, family, or others if not treated. Further, the certificate shall indicate the type and length of treatment required and if the respondent can reasonably benefit from treatment. If the physician's certificate indicates that inpatient treatment is required, the certificate shall identify any inpatient facilities known to the physician that are able and willing to provide the recommended inpatient treatment.

If the respondent refuses to undergo an examination with a physician concerning the respondent's possible need for treatment for alcohol or other drug abuse, the petition shall state that the respondent has refused all requests made by the petitioner to undergo a physician's examination. In that case, the petitioner shall not be required to provide a physician's certificate with the petition.

(2) Any petition filed pursuant to divisions (A) and (B) of this section shall contain a statement that the petitioner has arranged for treatment of the respondent. Further, the petition shall be accompanied by a statement from the person or facility who has agreed to provide the treatment that verifies that the person or facility has agreed to provide the treatment and the estimated cost of the treatment.

(D) Any petition filed pursuant to divisions (A) and (B) of this section shall be accompanied by both of the following:

(1) A security deposit to be deposited with the clerk of the probate court that will cover half of the estimated cost of treatment of the respondent;

(2) A guarantee, signed by the petitioner or another person authorized to file the petition obligating the guarantor to pay the costs of the examinations of the respondent conducted by the physician and qualified health professional under division (B)(5) of section 3793.35 of the Revised Code, the costs of the respondent that are associated with a hearing conducted in accordance with section 3793.35 of the Revised Code and that the court determines to be appropriate, and the costs of any treatment ordered by the court.

Sec. 3793.35. (A) Upon receipt of a petition filed under section 3793.34 of the Revised Code and the payment of the appropriate filing fee, if any, the probate court shall examine the petitioner under oath as to the contents of the petition.

(B) If, after reviewing the allegations contained in the petition and examining the petitioner under oath, it appears to the probate court that there is probable cause to believe the respondent may reasonably benefit from treatment, the court shall do all of the following:

(1) Schedule a hearing to be held within seven days to determine if there is clear and convincing evidence that the respondent may reasonably benefit from treatment for alcohol and other drug abuse;

(2) Notify the respondent, the legal guardian, if any and if known, and the spouse, parents, or nearest relative or friend of the respondent concerning the allegations and contents of the petition and of the date and purpose of the hearing;

(3) Notify the respondent that the respondent may retain counsel and, if the person is unable to obtain an attorney, that the respondent may be represented by court-appointed counsel at public expense if the person is indigent. Upon the appointment of an attorney to represent an indigent respondent, the court shall notify the respondent of the name, address, and telephone number of the attorney appointed to represent the respondent.

(4) Notify the respondent that the court shall cause the respondent to be

examined not later than twenty-four hours before the hearing date by a physician for the purpose of a physical examination and by a qualified health professional for the purpose of a drug and alcohol addiction assessment and diagnosis. In addition, the court shall notify the respondent that the respondent may have an independent expert evaluation of the person's physical and mental condition conducted at the respondent's own expense.

(5) Cause the respondent to be examined not later than twenty-four hours before the hearing date by a physician for the purpose of a physical examination and by a qualified health professional for the purpose of a drug and alcohol addiction assessment and diagnosis;

(6) Conduct the hearing.

(C) The physician and qualified health professional who examine the respondent pursuant to division (B)(5) of this section or who are obtained by the respondent at the respondent's own expense shall certify their findings to the court within twenty-four hours of the examinations. The findings of each qualified health professional shall include a recommendation for treatment if the qualified health professional determines that treatment is necessary.

(D)(1) If upon completion of the hearing held under this section the probate court finds by clear and convincing evidence that the respondent may reasonably benefit from treatment, the court may order the treatment after considering the qualified health professionals' recommendations for treatment that have been submitted to the court under division (C) of this section. If the court orders the treatment under this division, the court shall order the treatment to be provided through an alcohol and drug addiction program certified under section 3793.06 of the Revised Code or by an individual licensed or certified by the state medical board under Chapter 4731. of the Revised Code, the chemical dependency professionals board under Chapter 4758. of the Revised Code, the counselor, social worker, and marriage and family therapist board under Chapter 4757. of the Revised Code, or a similar board of another state authorized to provide substance abuse treatment.

(2) Failure of a respondent to undergo and complete any treatment ordered pursuant to this division is contempt of court. Any alcohol and drug addiction program or person providing treatment under this division shall notify the probate court of a respondent's failure to undergo or complete the ordered treatment.

(E) If, at any time after a petition is filed under section 3793.34 of the Revised Code, the probate court finds that there is not probable cause to continue treatment or if the petitioner withdraws the petition, then the court

shall dismiss the proceedings against the respondent.

Sec. 3793.36. (A) Following an examination by a qualified health professional and a certification by that professional that the person meets the criteria specified in section 3793.33 of the Revised Code, a probate court may order the person hospitalized for a period not to exceed seventy-two hours if the court finds by clear and convincing evidence that the person presents an imminent threat of danger to self, family, or others as a result of alcohol and other drug abuse. However, if the hearing to be held under section 3793.35 of the Revised Code will not be held within seventy-two hours, the court may order the person hospitalized until the hearing. In making its order, the court shall inform the person that the person may immediately make a reasonable number of telephone calls or use other reasonable means to contact an attorney, a licensed physician, or a qualified health professional, to contact any other person or persons to secure representation by counsel, or to obtain medical or psychological assistance and that the person will be provided assistance in making calls if the assistance is needed and requested.

(B) Any person who has been admitted to a hospital under division (A) of this section shall be released from the hospital immediately upon the expiration of the time period established by the court for the hospitalization.

(C) No person ordered hospitalized under this section shall be held in jail pending transportation to the hospital or evaluation unless the probate court previously has found the person to be in contempt of court for either failure to undergo treatment or failure to appear at the evaluation ordered pursuant to section 3793.35 of the Revised Code.

Sec. 3793.37. When a probate court is authorized to issue an order that the respondent be transported to a hospital, the court may issue a summons. If the respondent fails to attend an examination scheduled before the hearing under section 3793.35 of the Revised Code, the court shall issue a summons. A summons so issued shall be directed to the respondent and shall command the respondent to appear at a time and place specified in the summons. If a respondent who has been summoned fails to appear at the hospital or the examination, the probate court may order the sheriff or any other peace officer to transport the respondent to a hospital on the list provided under section 3793.38 of the Revised Code for treatment. The sheriff or any other peace officer, upon agreement of a person authorized by the peace officer, may authorize a board of alcohol, drug addiction, and mental health services, a private agency under contract with a board of alcohol, drug addiction, and mental health services, or an ambulance service designated by a board of alcohol, drug addiction, and mental health services to transport

the respondent to the hospital. The transportation costs of the sheriff, other peace officer, ambulance service, or other private agency under contract with the board of alcohol, drug addiction, and mental health services shall be included in the costs of treatment for alcohol and other drug abuse to be paid by the petitioner.

Sec. 3793.38. Each board of alcohol, drug addiction, and mental health services on at least an annual basis shall submit each of the following lists to the clerk of the probate court in each county served by the board:

(A) A list of all hospitals in the counties served by the board that are able and willing to take respondents ordered to undergo seventy-two hours of treatment and observation pursuant to section 3793.36 of the Revised Code;

(B) A list of hospitals and treatment providers in the counties served by the board that are able and willing to provide treatment for alcohol and other drug abuse ordered pursuant to section 3793.35 of the Revised Code.

Sec. 3793.39. Sections 3793.12, 3793.13, and 3793.14 of the Revised Code apply to a person who is ordered to undergo treatment under sections 3793.31 to 3793.39 of the Revised Code.

Sec. 5301.071. No instrument conveying real estate property, or any interest ~~therein~~ in real property, and of record in the office of the county recorder of the county within this state in which ~~such~~ that real estate property is situated shall be ~~deemed~~ considered defective nor shall the validity of ~~such~~ that conveyance be affected because of any of the following:

(A) The dower interest of the spouse of any grantor was not specifically released, but ~~such~~ that spouse executed ~~said~~ the instrument in the manner provided in section 5301.01 of the Revised Code.

(B) The officer taking the acknowledgment of ~~such~~ the instrument having an official seal did not affix ~~such~~ that seal to the certificate of acknowledgment.

(C) The certificate of acknowledgment is not on the same sheet of paper as the instrument.

(D) The executor, administrator, guardian, assignee, or trustee making ~~such~~ the instrument signed or acknowledged the same individually instead of in ~~his~~ a representative or official capacity.

(E)(1) The grantor or grantee of the instrument is a trust rather than the trustee or trustees of the trust if the trust named as grantor or grantee has been duly created under the laws of the state of its existence at the time of the conveyance and a memorandum of trust that complies with section 5301.255 of the Revised Code and contains a description of the real property

conveyed by that instrument is recorded in the office of the county recorder in which the instrument of conveyance is recorded. Upon compliance with division (E)(1) of this section, a conveyance to a trust shall be considered to be a conveyance to the trustee or trustees of the trust in furtherance of the manifest intention of the parties.

(2) Except as otherwise provided in division (E)(2) of this section, division (E)(1) of this section shall be given retroactive effect to the fullest extent permitted under section 28 of Article II, Ohio Constitution. Division (E) of this section shall not be given retroactive or curative effect if to do so would invalidate or supersede any instrument that conveys real property, or any interest in the real property, recorded in the office of the county recorder in which that real property is situated prior to the date of recording of a curative memorandum of trust or the effective date of this section, whichever event occurs later.

Sec. 5747.02. (A) For the purpose of providing revenue for the support of schools and local government functions, to provide relief to property taxpayers, to provide revenue for the general revenue fund, and to meet the expenses of administering the tax levied by this chapter, there is hereby levied on every individual, trust, and estate residing in or earning or receiving income in this state, on every individual, trust, and estate earning or receiving lottery winnings, prizes, or awards pursuant to Chapter 3770. of the Revised Code, on every individual, trust, and estate earning or receiving winnings on casino gaming, and on every individual, trust, and estate otherwise having nexus with or in this state under the Constitution of the United States, an annual tax measured in the case of individuals by Ohio adjusted gross income less an exemption for the taxpayer, the taxpayer's spouse, and each dependent as provided in section 5747.025 of the Revised Code; measured in the case of trusts by modified Ohio taxable income under division (D) of this section; and measured in the case of estates by Ohio taxable income. The tax imposed by this section on the balance thus obtained is hereby levied as follows:

(1) For taxable years beginning in 2004:

OHIO ADJUSTED GROSS	
INCOME LESS EXEMPTIONS	
(INDIVIDUALS)	
OR	
MODIFIED OHIO	
TAXABLE INCOME (TRUSTS)	
OR	
OHIO TAXABLE INCOME	TAX

(ESTATES)	
\$5,000 or less	.743%
More than \$5,000 but not more than \$10,000	\$37.15 plus 1.486% of the amount in excess of \$5,000
More than \$10,000 but not more than \$15,000	\$111.45 plus 2.972% of the amount in excess of \$10,000
More than \$15,000 but not more than \$20,000	\$260.05 plus 3.715% of the amount in excess of \$15,000
More than \$20,000 but not more than \$40,000	\$445.80 plus 4.457% of the amount in excess of \$20,000
More than \$40,000 but not more than \$80,000	\$1,337.20 plus 5.201% of the amount in excess of \$40,000
More than \$80,000 but not more than \$100,000	\$3,417.60 plus 5.943% of the amount in excess of \$80,000
More than \$100,000 but not more than \$200,000	\$4,606.20 plus 6.9% of the amount in excess of \$100,000
More than \$200,000	\$11,506.20 plus 7.5% of the amount in excess of \$200,000

(2) For taxable years beginning in 2005:

OHIO ADJUSTED GROSS INCOME LESS EXEMPTIONS (INDIVIDUALS) OR MODIFIED OHIO TAXABLE INCOME (TRUSTS) OR OHIO TAXABLE INCOME (ESTATES)	TAX
\$5,000 or less	.712%
More than \$5,000 but not more than \$10,000	\$35.60 plus 1.424% of the amount in excess of \$5,000
More than \$10,000 but not more than \$15,000	\$106.80 plus 2.847% of the amount in excess of \$10,000
More than \$15,000 but not more than \$20,000	\$249.15 plus 3.559% of the amount in excess of \$15,000
More than \$20,000 but not more than \$40,000	\$427.10 plus 4.27% of the amount in excess of \$20,000
More than \$40,000 but not more than \$80,000	\$1,281.10 plus 4.983% of the amount in excess of \$40,000
More than \$80,000 but not more	\$3,274.30 plus 5.693% of the

than \$100,000	amount in excess of \$80,000
More than \$100,000 but not more than \$200,000	\$4,412.90 plus 6.61% of the amount in excess of \$100,000
More than \$200,000	\$11,022.90 plus 7.185% of the amount in excess of \$200,000

(3) For taxable years beginning in 2006:

OHIO ADJUSTED GROSS
INCOME LESS EXEMPTIONS

(INDIVIDUALS)

OR

MODIFIED OHIO
TAXABLE INCOME (TRUSTS)

OR

OHIO TAXABLE INCOME
(ESTATES)

TAX

\$5,000 or less	.681%
More than \$5,000 but not more than \$10,000	\$34.05 plus 1.361% of the amount in excess of \$5,000
More than \$10,000 but not more than \$15,000	\$102.10 plus 2.722% of the amount in excess of \$10,000
More than \$15,000 but not more than \$20,000	\$238.20 plus 3.403% of the amount in excess of \$15,000
More than \$20,000 but not more than \$40,000	\$408.35 plus 4.083% of the amount in excess of \$20,000
More than \$40,000 but not more than \$80,000	\$1,224.95 plus 4.764% of the amount in excess of \$40,000
More than \$80,000 but not more than \$100,000	\$3,130.55 plus 5.444% of the amount in excess of \$80,000
More than \$100,000 but not more than \$200,000	\$4,219.35 plus 6.32% of the amount in excess of \$100,000
More than \$200,000	\$10,539.35 plus 6.87% of the amount in excess of \$200,000

(4) For taxable years beginning in 2007:

OHIO ADJUSTED GROSS
INCOME LESS EXEMPTIONS

(INDIVIDUALS)

OR

MODIFIED OHIO
TAXABLE INCOME (TRUSTS)

OR

OHIO TAXABLE INCOME (ESTATES)	TAX
\$5,000 or less	.649%
More than \$5,000 but not more than \$10,000	\$32.45 plus 1.299% of the amount in excess of \$5,000
More than \$10,000 but not more than \$15,000	\$97.40 plus 2.598% of the amount in excess of \$10,000
More than \$15,000 but not more than \$20,000	\$227.30 plus 3.247% of the amount in excess of \$15,000
More than \$20,000 but not more than \$40,000	\$389.65 plus 3.895% of the amount in excess of \$20,000
More than \$40,000 but not more than \$80,000	\$1,168.65 plus 4.546% of the amount in excess of \$40,000
More than \$80,000 but not more than \$100,000	\$2,987.05 plus 5.194% of the amount in excess of \$80,000
More than \$100,000 but not more than \$200,000	\$4,025.85 plus 6.031% of the amount in excess of \$100,000
More than \$200,000	\$10,056.85 plus 6.555% of the amount in excess of \$200,000

(5) For taxable years beginning in 2008, 2009, or 2010:

OHIO ADJUSTED GROSS
INCOME LESS EXEMPTIONS
(INDIVIDUALS)
OR
MODIFIED OHIO
TAXABLE INCOME (TRUSTS)
OR
OHIO TAXABLE INCOME
(ESTATES)

OHIO TAXABLE INCOME (ESTATES)	TAX
\$5,000 or less	.618%
More than \$5,000 but not more than \$10,000	\$30.90 plus 1.236% of the amount in excess of \$5,000
More than \$10,000 but not more than \$15,000	\$92.70 plus 2.473% of the amount in excess of \$10,000
More than \$15,000 but not more than \$20,000	\$216.35 plus 3.091% of the amount in excess of \$15,000
More than \$20,000 but not more than \$40,000	\$370.90 plus 3.708% of the amount in excess of \$20,000
More than \$40,000 but not more than \$80,000	\$1,112.50 plus 4.327% of the amount in excess of \$40,000

More than \$80,000 but not more than \$100,000	\$2,843.30 plus 4.945% of the amount in excess of \$80,000
More than \$100,000 but not more than \$200,000	\$3,832.30 plus 5.741% of the amount in excess of \$100,000
More than \$200,000	\$9,573.30 plus 6.24% of the amount in excess of \$200,000

(6) For taxable years beginning in 2011 or thereafter:

OHIO ADJUSTED GROSS
INCOME LESS EXEMPTIONS
(INDIVIDUALS)
OR
MODIFIED OHIO
TAXABLE INCOME (TRUSTS)
OR
OHIO TAXABLE INCOME
(ESTATES)

TAX

\$5,000 or less	.587%
More than \$5,000 but not more than \$10,000	\$29.35 plus 1.174% of the amount in excess of \$5,000
More than \$10,000 but not more than \$15,000	\$88.05 plus 2.348% of the amount in excess of \$10,000
More than \$15,000 but not more than \$20,000	\$205.45 plus 2.935% of the amount in excess of \$15,000
More than \$20,000 but not more than \$40,000	\$352.20 plus 3.521% of the amount in excess of \$20,000
More than \$40,000 but not more than \$80,000	\$1,056.40 plus 4.109% of the amount in excess of \$40,000
More than \$80,000 but not more than \$100,000	\$2,700.00 plus 4.695% of the amount in excess of \$80,000
More than \$100,000 but not more than \$200,000	\$3,639.00 plus 5.451% of the amount in excess of \$100,000
More than \$200,000	\$9,090.00 plus 5.925% of the amount in excess of \$200,000

In July of each year, beginning in 2010, the tax commissioner shall adjust the income amounts prescribed in this division by multiplying the percentage increase in the gross domestic product deflator computed that year under section 5747.025 of the Revised Code by each of the income amounts resulting from the adjustment under this division in the preceding year, adding the resulting product to the corresponding income amount resulting from the adjustment in the preceding year, and rounding the

resulting sum to the nearest multiple of fifty dollars. The tax commissioner also shall recompute each of the tax dollar amounts to the extent necessary to reflect the adjustment of the income amounts. The rates of taxation shall not be adjusted.

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

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

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

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

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

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

(3) The credits enumerated in divisions (A)(1) to (13) of section 5747.98 of the Revised Code do not apply to a trust subject to division (D) of this section. Any credits enumerated in other divisions of section 5747.98 of the Revised Code apply to a trust subject to division (D) of this section. To the extent that the trust distributes income for the taxable year for which

a credit is available to the trust, the credit shall be shared by the trust and its beneficiaries. The tax commissioner and the trust shall be guided by applicable regulations of the United States treasury regarding the sharing of credits.

(E) For the purposes of this section, "trust" means any trust described in Subchapter J of Chapter 1 of the Internal Revenue Code, excluding trusts that are not irrevocable as defined in division (I)(3)(b) of section 5747.01 of the Revised Code and that have no modified Ohio taxable income for the taxable year, charitable remainder trusts, qualified funeral trusts and preneed funeral contract trusts established pursuant to sections 4717.31 to 4717.38 of the Revised Code that are not qualified funeral trusts, endowment and perpetual care trusts, qualified settlement trusts and funds, designated settlement trusts and funds, and trusts exempted from taxation under section 501(a) of the Internal Revenue Code.

Sec. 5801.10. (A) As used in this section, "creditor" means any of the following:

- (1) A person holding a debt or security for a debt entered into by a trustee on behalf of the trust;
- (2) A person holding a debt secured by one or more assets of the trust;
- (3) A person having a claim against the trustee or the assets of the trust under section 5805.06 of the Revised Code;
- (4) A person who has attached through legal process a beneficiary's interest in the trust.

(B) ~~The (1) Subject to division (B)(2) of this section, the parties to an agreement under this section shall be at any two or more of the following, or their representatives under the representation provisions of Chapter 5803. of the Revised Code, except that only the settlor and any trustee are required to be parties to an amendment of any revocable trust:~~

~~(1)(a) The settlor if living and if no adverse income or transfer tax results would arise from the settlor's participation;~~

~~(2) All (b) The beneficiaries;~~

~~(3) All (c) The currently serving trustees;~~

~~(4)(d) Creditors, if their interest is to be affected by the agreement.~~

(2) In addition to the parties to an agreement under division (B)(1) of this section, the parties shall include the attorney general if an agreement described in division (C)(7) of this section is being made and either of the following applies:

(a) An organization with one or more purposes that are described in division (A) of section 5804.05 of the Revised Code is a beneficiary.

(b) The trust is a charitable trust.

(C) The persons specified in division (B) of this section may by written instrument enter into an agreement with respect to any matter concerning the construction of, administration of, or distributions under the terms of the trust, the investment of income or principal held by the trustee, or other matters. The agreement may not effect a termination of the trust before the date specified for the trust's termination in the terms of the trust, change the interests of the beneficiaries in the trust except as necessary to effect a modification described in division (C)(5) ~~or~~, (6), or (7) of this section, or include terms and conditions that could not be properly approved by the court under Chapters 5801. to 5811. of the Revised Code or other applicable law. The invalidity of any provision of the agreement does not affect the validity of other provisions of the agreement. Matters that may be resolved by a private settlement agreement include, but are not limited to, all of the following:

(1) Determining classes of creditors, beneficiaries, heirs, next of kin, or other persons;

(2) Resolving disputes arising out of the administration or distribution under the terms of the trust, including disputes over the construction of the language of the trust instrument or construction of the language of other writings that affect the terms of the trust;

(3) Granting to the trustee necessary or desirable powers not granted in the terms of the trust or otherwise provided by law, to the extent that those powers either are not inconsistent with the express provisions or purposes of the terms of the trust or, if inconsistent with the express provisions or purposes of the terms of the trust, are necessary for the due administration of the terms of the trust;

(4) Modifying the terms of the trust, if the modification is not inconsistent with any ~~dominant~~ material purpose ~~or objective~~ of the trust;

(5) Modifying the terms of the trust in the manner required to qualify the gift under the terms of the trust for the charitable estate or gift tax deduction permitted by federal law, including the addition of mandatory governing instrument requirements for a charitable remainder trust as required by the Internal Revenue Code and regulations promulgated under it in any case in which ~~at~~ the parties interested in the trust have submitted written agreements to the proposed changes or written disclaimer of interest;

(6) Modifying the terms of the trust in the manner required to qualify any gift under the terms of the trust for the estate tax marital deduction available to noncitizen spouses, including the addition of mandatory governing instrument requirements for a qualified domestic trust under section 2056A of the Internal Revenue Code and regulations promulgated

under it in any case in which ~~all~~ the parties interested in the trust have submitted written agreements to the proposed changes or written disclaimer of interest;

(7) Construing or modifying the terms of a trust that refer to the federal estate tax, federal generation-skipping transfer tax, or Ohio estate tax, or that contain a division of property based on the imposition or amount of one or more of those taxes, to give effect to the intent of the settlor;

(8) Resolving any other matter that arises under Chapters 5801. to 5811. of the Revised Code.

(D) No agreement shall be entered into under this section affecting the rights of a creditor without the creditor's consent or affecting the collection rights of federal, state, or local taxing authorities.

(E) Any agreement entered into under this section that complies with the requirements of division (C) of this section shall be final and binding on the ~~trustee, the settlor if living, all beneficiaries, creditors who are parties to the agreement~~ or persons represented by the parties to the agreement whether by reason of Chapter 5803. of the Revised Code or otherwise, and their heirs, successors, and assigns, but shall have no effect on any trustee, settlor, beneficiary, or creditor who is not a party to the agreement or is not represented by a party to the agreement.

(F) Notwithstanding anything in this section, in division (D) of section 5803.03 of the Revised Code, or in any other rule of law to the contrary, a trustee serving under the terms of the trust shall only represent its own individual or corporate interests in negotiating or entering into an agreement subject to this section. No trustee serving under the terms of the trust shall be considered to represent any settlor, beneficiary, or the interests of any settlor or beneficiary in negotiating or entering into an agreement subject to this section.

(G) Any party to a private settlement agreement entered into under this section may request the court to approve the agreement, to determine whether the representation as provided in Chapter 5803. of the Revised Code was adequate, and to determine whether the agreement contains terms and conditions the court could have properly approved.

(H) If an agreement entered into under this section contains a provision requiring binding arbitration of any disputes arising under the agreement, the provision is enforceable.

(I) Nothing in this section affects any of the following:

(1) The right of a beneficiary to disclaim under section 5815.36 of the Revised Code;

(2) The termination or modification of a trust under section 5804.10,

5804.11, 5804.12, 5804.13, 5804.14, 5804.15, or 5804.16 of the Revised Code;

(3) The ability of a trustee to divide or consolidate a trust under section 5804.17 of the Revised Code;

(4) The power of the trustee to make distributions pursuant to section 5808.18 of the Revised Code.

(J) Nothing in this section restricts or limits the jurisdiction of any court to dispose of matters not covered by agreements under this section or to supervise the acts of trustees appointed by that court.

(K) This section shall be liberally construed to favor the validity and enforceability of agreements entered into under it.

(L) A trustee serving under the trust instrument is not liable to any third person arising from any loss due to that trustee's actions or inactions taken or omitted in good faith reliance on the terms of an agreement entered into under this section.

~~(M) This~~ Subject to divisions (B)(2) and (C)(7) of this section, this section does not apply to any of the following:

(1) A charitable trust that has one or more charitable organizations as qualified beneficiaries;

(2) A charitable trust the terms of which authorize or direct the trustee to distribute trust income or principal to one or more charitable organizations to be selected by the trustee, or for one or more charitable purposes described in division (A) of section 5804.05 of the Revised Code, if any of the following apply:

(a) The distributions may be made on the date that an agreement under this section would be entered into.

(b) The distributions could be made on the date that an agreement under this section would be entered into if the interests of the current beneficiaries of the trust terminated on that date, but the termination of those interests would not cause the trust to terminate.

(c) The distributions could be made on the date that an agreement under this section would be entered into if the trust terminated on that date.

(N) This section does not prohibit some or all of the persons who could enter into an agreement under this section from entering into agreements that are not described in this section and are governed by other law, including the common law. Nothing in this section limits or negates any consents, releases, or ratifications, whether under section 5810.09 of the Revised Code or otherwise, relating to any agreement described in this section or governed by other law.

Sec. 5804.11. (A) If upon petition the court finds that the settlor and all

beneficiaries consent to the modification or termination of a noncharitable irrevocable trust, that all consents, including any given by representatives under Chapter 5803. of the Revised Code, are valid, and that all parties giving consent are competent to do so, the court shall enter an order approving the modification or termination even if the modification or termination is inconsistent with a material purpose of the trust. An agent under a power of attorney may exercise a settlor's power to consent to a trust's modification or termination only to the extent expressly authorized by both the power of attorney and the terms of the trust. The settlor's guardian of the estate may exercise a settlor's power to consent to a trust's modification or termination with the approval of the court supervising the guardianship if an agent is not so authorized. The guardian of the settlor's person may exercise a settlor's power to consent to a trust's modification or termination with the approval of the court supervising the guardianship if an agent is not so authorized and a guardian of the estate has not been appointed. This division does not apply to a noncharitable irrevocable trust described in 42 U.S.C. 1396p(d)(4).

(B) A noncharitable irrevocable trust may be terminated upon consent of all of the beneficiaries if the court concludes that continuance of the trust is not necessary to achieve any material purpose of the trust. A noncharitable irrevocable trust may be modified, but not to remove or replace the trustee, upon consent of all of the beneficiaries if the court concludes that modification is not inconsistent with a material purpose of the trust. A spendthrift provision in the terms of the trust may, but is not presumed to, constitute a material purpose of the trust. In determining what constitutes a material purpose of a trust, a court may but is not required to consider extrinsic evidence indicating a settlor's intent at the time the instrument was executed.

(C) Upon termination of a trust under division (A) or (B) of this section, the trustee shall distribute the trust property as agreed by the beneficiaries.

(D) If not all of the beneficiaries consent to a proposed modification or termination of the trust under division (A) or (B) of this section, the court may approve the modification or termination if the court is satisfied of both of the following:

(1) That if all of the beneficiaries had consented, the trust could have been modified or terminated under this section;

(2) That the interests of a beneficiary who does not consent will be adequately protected.

Sec. 5804.12. (A) The court may modify the administrative or dispositive terms of a trust or terminate the trust if because of circumstances

not anticipated by the settlor modification or termination will further the purposes of the trust. To the extent practicable, the court shall make the modification in accordance with the settlor's probable intention.

(B) The court may modify the administrative terms of a trust if continuation of the trust on its existing terms would be impracticable or impair the trust's administration.

(C) Upon termination of a trust under this section, the trustee shall distribute the trust property in a manner consistent with the purposes of the trust.

(D) The court may modify or interpret the terms of a trust, including, but not limited to, a charitable trust or a trust having as a beneficiary an organization with one or more purposes that are described in division (A) of section 5804.05 of the Revised Code, that refer to the federal estate tax, federal generation-skipping transfer tax, or Ohio estate tax, or that contain a division of property based on the imposition or amount of one or more of those taxes, to give effect to the intent of the settlor.

Sec. 5808.02. (A) A trustee shall administer the trust solely in the interests of the beneficiaries.

(B) Subject to the rights of persons dealing with or assisting the trustee as provided in section 5810.12 of the Revised Code, a sale, encumbrance, or other transaction involving the investment or management of trust property entered into by the trustee for the trustee's own personal account or that is otherwise affected by a conflict between the trustee's fiduciary and personal interests is voidable by a beneficiary affected by the transaction unless one of the following applies:

(1) The transaction was authorized by the terms of the trust or by other provisions of the Revised Code.

(2) The transaction was approved by the court.

(3) The beneficiary did not commence a judicial proceeding within the time allowed by section 5810.05 of the Revised Code.

(4) The beneficiary or the beneficiary's representative consented to the trustee's conduct, ratified the transaction, or released the trustee in compliance with section 5810.09 of the Revised Code.

(5) The transaction involves a contract entered into or claim acquired by the trustee before the person became or contemplated becoming trustee.

(C) A sale, encumbrance, or other transaction involving the investment or management of trust property is presumed to be affected by a conflict between personal and fiduciary interests if it is entered into by the trustee with one of the following:

(1) The trustee's spouse;

(2) The trustee's descendant, sibling, or parent or the spouse of a trustee's descendant, sibling, or parent;

(3) An agent or attorney of the trustee;

(4) A corporation or other person or enterprise in which the trustee, or a person that owns a significant interest in the trustee, has an interest that might affect the trustee's best judgment.

(D) A transaction not concerning trust property in which the trustee engages in the trustee's individual capacity involves a conflict between personal and fiduciary interests if the transaction concerns an opportunity properly belonging to the trust.

(E) An investment by a trustee that is permitted by other provisions of the Revised Code is not presumed to be affected by a conflict between personal and fiduciary interests if the investment otherwise complies with the prudent investor rule of Chapter 5809. of the Revised Code.

(F) In voting shares of stock or in exercising powers of control over similar interests in other forms of enterprise, the trustee shall act in the best interests of the beneficiaries. If the trust is the sole owner of a corporation or other form of enterprise, the trustee shall elect or appoint directors or other managers who will manage the corporation or enterprise in the best interests of the beneficiaries.

(G) This section does not preclude either of the following:

(1) Any transaction authorized by another section of the Revised Code;

(2) Unless the beneficiaries establish that it is unfair, any of the following transactions:

(a) An agreement between a trustee and a beneficiary relating to the appointment or compensation of the trustee;

(b) Payment of reasonable compensation to the trustee;

(c) A transaction between a trust and another trust, decedent's estate, or guardianship of which the trustee is a fiduciary or in which a beneficiary has an interest;

(d) A deposit of trust money in a regulated financial-services institution that is an affiliate of the trustee;

(e) An advance by the trustee of money for the protection of the trust.

(H) The court may appoint a special fiduciary to make a decision with respect to any proposed transaction that might violate this section if entered into by the trustee.

Sec. 5808.14. (A) The judicial standard of review for discretionary trusts is that the trustee shall exercise a discretionary power reasonably, in good faith, and in accordance with the terms and purposes of the trust and the interests of the beneficiaries, except that with respect to distribution

decisions a reasonableness standard shall not be applied to the exercise of discretion by the trustee of a wholly discretionary trust. The greater the grant of discretion by the settlor to the trustee, the broader the range of permissible conduct by the trustee in exercising it.

(B) Subject to division (D) of this section, and unless the terms of the trust expressly indicate that a rule in this division does not apply:

(1) A person other than a settlor who is a beneficiary and trustee of a trust that confers on the trustee a power to make discretionary distributions to or for the trustee's personal benefit may exercise the power only in accordance with an ascertainable standard.

(2) A trustee may not exercise a power to make discretionary distributions to satisfy a legal obligation of support that the trustee personally owes another person.

(C) A power whose exercise is limited or prohibited by division (B) of this section may be exercised by a majority of the remaining trustees whose exercise of the power is not so limited or prohibited. If the power of all trustees is so limited or prohibited, the court may appoint a special fiduciary with authority to exercise the power.

(D) Division (B) of this section does not apply to any of the following:

(1) A power held by the settlor's spouse who is the trustee of a trust for which a marital deduction, as defined in section 2056(b)(5) or 2523(e) of the Internal Revenue Code, was previously allowed;

(2) Any trust during any period that the trust may be revoked or amended by its settlor;

(3) A trust if contributions to the trust qualify for the annual exclusion under section 2503(c) of the Internal Revenue Code.

(E) For purposes of division (A) of this section, a trustee who acts reasonably and in good faith in exercising the power to distribute trust income or principal to the trustee of a second trust in accordance with division (A) or (B) of section 5808.18 of the Revised Code is presumed to have acted in accordance with the terms and purposes of the trust and the interests of the beneficiaries.

Sec. 5808.17. (A) Upon termination or partial termination of a trust, the trustee may send to the beneficiaries a proposal for distribution. The right of any beneficiary to object to the proposed distribution terminates if the beneficiary does not notify the trustee of an objection within thirty days after the proposal was sent but only if the proposal informed the beneficiary of the right to object and of the time allowed for objection.

(B) Upon the occurrence of an event terminating or partially terminating a trust, the trustee shall proceed expeditiously to distribute the trust property

to the persons entitled to it, subject to the right of the trustee to retain a reasonable reserve for the payment of debts, expenses, and taxes.

(C) A release by a beneficiary of a trustee from liability for breach of trust is invalid to the extent that it was induced by improper conduct of the trustee or that the beneficiary, at the time of the release, did not know of the beneficiary's rights or of the material facts relating to the breach.

(D) If a beneficiary who was entitled to receive a distribution is deceased, the beneficiary's death did not terminate the beneficiary's right to receive the distribution, and an administration of the beneficiary's estate is open, the trustee shall make the distribution to the personal representative of the beneficiary's estate. If a beneficiary who was entitled to receive a distribution is deceased, the beneficiary's death did not terminate the beneficiary's right to receive the distribution, and an administration of the beneficiary's estate is not open, the trustee, without liability, may make the distribution directly to the beneficiary's heirs or devisees without requiring the opening or re-opening of estate administration proceedings if the trustee does not know of an adverse claim to the distribution and one of the following applies:

(1) The beneficiary's estate was administered as an intestate estate in the jurisdiction in which the beneficiary was domiciled at death, and the trustee does both of the following:

(a) Distributes the personal property included in the distribution to the person or persons who were determined to be the heirs of the beneficiary in that administration, in the same manner as the personal property would have been distributed if it had been part of the beneficiary's intestate estate;

(b) Distributes the real property included in the distribution to the person or persons the trustee reasonably determines were the beneficiary's heirs under the statutes of descent and distribution, in effect at the time of the beneficiary's death, of the jurisdiction or jurisdictions in which the real property is located.

(2) The beneficiary's estate was administered as a testate estate in the jurisdiction in which the deceased beneficiary was domiciled at death, and the trustee does both of the following:

(a) Distributes the personal property included in the distribution to the residuary devisee or devisees under the beneficiary's will, in the same manner as the personal property would have been distributed in that administration if it had been part of the beneficiary's testate estate;

(b) Distributes the real property included in the distribution to the person or persons the trustee reasonably determines would have received the real property under the law of the jurisdiction or jurisdictions in which the

real property is located.

(3) Division (D)(1) or (2) of this section does not apply, the beneficiary's death occurred at least six months before the trustee makes the distribution, and all of the following apply:

(a) The trustee determines that the beneficiary had created a trust during the beneficiary's life that remained in existence at the beneficiary's death.

(b) The beneficiary had executed a will that the trustee reasonably determines would have been admitted to probate if it had been offered for probate.

(c) The beneficiary's will described in division (D)(3)(b) of this section devised the residue of the beneficiary's estate to the trustee of the trust described in division (D)(3)(a) of this section to be held under the terms of that trust.

(d) The trustee makes the distribution to the trustee of the trust described in division (D)(3)(a) of this section.

(4) Division (D)(1), (2), or (3) of this section does not apply, the beneficiary's death occurred at least six months before the trustee makes the distribution, and all of the following apply:

(a) The trustee, exercising reasonable diligence, determines that an administration of the beneficiary's estate has not been commenced in the jurisdiction in which the trustee reasonably determines the beneficiary was domiciled at death.

(b) The trustee does not know of an administration of the beneficiary's estate having been commenced in any other jurisdiction.

(c) The trustee does not know of a purported last will and testament of the beneficiary.

(d) The trustee does both of the following:

(i) Distributes the personal property included in the distribution to the person or persons the trustee reasonably determines were the beneficiary's heirs under the statutes of descent and distribution, in effect at the time of the beneficiary's death, of the jurisdiction in which the trustee reasonably determines the beneficiary was domiciled at death;

(ii) Distributes the real property included in the distribution to the person or persons the trustee reasonably determines were the beneficiary's heirs under the statutes of descent and distribution, in effect at the time of the beneficiary's death, of the jurisdiction or jurisdictions in which the real property is located.

(E) The trustee's protection from liability for making distributions under division (D) of this section has no effect on the ability of third parties to pursue claims against the recipients of those distributions.

Sec. 5808.18. (A) Unless the trust instrument expressly provides otherwise and subject to the limitations set forth in this section, all of the following apply:

(1) If a trustee of a trust, referred to in this section as the "first trust," has absolute power under the terms of the first trust to make distributions of principal to one or more current beneficiaries, that trustee may exercise that power by distributing all or any part of the principal subject to the power, and all or any part of any income that is not otherwise currently required to be distributed, to the trustee of another trust, referred to in this section as the "second trust," that is for the benefit of one or more current beneficiaries of the first trust. The second trust may be a trust under the trust instrument for the first trust or under a different governing instrument, including a governing instrument created by the trustee of the first trust. A trustee of a first trust who is authorized to make distributions to the trustee of a second trust pursuant to division (A) of this section may do so at any time, whether or not the trustee of the first trust would otherwise have made a distribution at that time to, or for the benefit of, any beneficiary pursuant to the terms of the first trust.

(2) In determining whether a trustee has absolute power to make distributions of principal to any current beneficiary and the identity of the current beneficiaries, all of the following apply:

(a) An absolute power to distribute principal includes any power to make distributions of principal that is not limited by reasonably definite standards or ascertainable standards, whether or not the word "absolute" is used in the trust instrument.

(b) A power to make distributions of principal for purposes that include best interests, welfare, comfort or happiness, or words of similar import, if not otherwise limited by reasonably definite standards or ascertainable standards, constitutes an absolute power not limited by reasonably definite standards or ascertainable standards, regardless of any requirement to take into account other resources of the current beneficiary or beneficiaries to whom those distributions may be made.

(c) If the current beneficiaries of the first trust are defined, in whole or in part, as a class of persons, that class includes any person who falls within that class of persons after the distribution to the second trust.

(d) A power to make distributions for the benefit of a beneficiary is considered a power to make distributions to that beneficiary.

(3) If property is distributed pursuant to the authority described in division (A) of this section, the governing instrument for the second trust may do either or both of the following:

(a) Grant a power of appointment to one or more of the beneficiaries for whose benefit the property was so distributed, including a power to appoint trust property to the power holder, the power holder's creditors, the power holder's estate, the creditors of the power holder's estate, or any other person, whether or not that person is a beneficiary of the first trust or the second trust;

(b) Provide that, at a time or upon an event specified in that governing instrument, the remaining trust property shall thereafter be held for the benefit of the beneficiaries of the first trust upon terms and conditions that are substantially identical to the terms and conditions of the trust instrument for the first trust, except that any current beneficiary or beneficiaries for whose benefit the property could have been, but was not, so distributed may be excluded from having any beneficial interest in the second trust.

(4) For purposes of division (A)(3) of this section, "terms and conditions" refer only to those terms and conditions that govern the interests of the beneficiaries.

(5) For purposes of division (A) of this section, charitable organizations that are not expressly designated in the terms of the first trust to receive distributions but to which the trustee of the first trust, in the discretion of the trustee, or in the discretion of any other person directing the trustee and acting in a fiduciary capacity, may at any time make a distribution, are considered beneficiaries of the first trust.

(B) Unless the trust instrument expressly provides otherwise and subject to the limitations set forth in this section, a trustee of a first trust who has power, other than absolute power as described in division (A) of this section, under the terms of the first trust to make distributions of principal to one or more current beneficiaries may exercise that power by distributing all or any part of the principal subject to the power, and all or any part of any income that is not otherwise currently required to be distributed, to the trustee of a second trust. The second trust may be a trust under the trust instrument for the first trust or under a different governing instrument, including a governing instrument created by the trustee of the first trust. The power described in this division may be exercised whether or not there is a current need to distribute trust principal under any standard contained in the first trust. The exercise of a trustee's power under this division is valid only if the governing instrument for the second trust does not materially change the interests of the beneficiaries of the first trust. For purposes of this division, a power to make distributions for the benefit of a beneficiary shall be considered a power to make distributions to that beneficiary.

(C) The exercise of the power to make distributions to a second trust

under division (A) or (B) of this section is subject to the following additional limitations:

(1)(a) The distribution to the trustee of the second trust shall not result in the reduction, limitation, or modification of any of the following rights or interests of a beneficiary of the first trust if the right or interest has come into effect with respect to the beneficiary:

(i) The current right to a mandatory distribution of income or principal of the first trust;

(ii) The current mandatory annuity or unitrust interest in the property of the first trust;

(iii) The right annually to withdraw a percentage of the value of the first trust or a specified dollar amount.

(b) For purposes of division (C)(1)(a)(i) of this section, a beneficiary's current right to a distribution of income is not considered to be mandatory if, under the terms of the first trust, current distributions of principal may be made to any person other than that current beneficiary.

(2) If any transfer to the first trust qualified, or if not for the provisions of division (A) or (B) of this section would have qualified, for a marital or charitable deduction for purposes of any federal income, gift, or estate tax under the Internal Revenue Code, or for purposes of any state income, gift, estate, or inheritance tax, the governing instrument for the second trust shall not include or omit any term that, if included in or omitted from the trust instrument for the first trust, would have prevented the first trust from qualifying for that deduction, or would have reduced the amount of the deduction, under the same provisions of the Internal Revenue Code or under the same provisions of the applicable state law under which the transfer to the first trust so qualified.

(3) If any transfer to the first trust has been treated, or if not for the provisions of division (A) or (B) of this section would have been treated, as a gift qualifying for the exclusion from the gift tax described in section 2503(b) of the Internal Revenue Code, the governing instrument for the second trust shall not include or omit any term that, if included in or omitted from the trust instrument for the first trust, would have prevented any gift to the first trust from so qualifying under the same provisions of section 2503 of the Internal Revenue Code under which the transfer to the first trust so qualified.

(4) If the assets of the first trust include any shares of stock in an S corporation, as defined in section 1361 of the Internal Revenue Code, and the first trust is, or if not for the provisions of division (A) or (B) of this section would be, a permitted shareholder under any provision of section

1361 of the Internal Revenue Code, the governing instrument for the second trust shall not include or omit any term that, if included in or omitted from the trust instrument for the first trust, would have prevented the first trust from qualifying as a permitted shareholder of shares of stock in an S corporation under the same provisions of section 1361 of the Internal Revenue Code under which the first trust so qualified.

(5) If any transfer to the first trust has been treated, or if not for the provisions of division (A) or (B) of this section would have been treated, as a gift qualifying for a zero inclusion ratio for purposes of the federal generation-skipping transfer tax under section 2642(c) of the Internal Revenue Code, the governing instrument for the second trust shall not include or omit any term that, if included in or omitted from the trust instrument for the first trust, would have prevented the transfer to the first trust from so qualifying.

(6) If the assets of the first trust include any interest subject to the minimum distribution rules of section 401(a)(9) of the Internal Revenue Code and the treasury regulations issued under that section, the governing instrument for the second trust shall not include or omit any term that, if included in or omitted from the trust instrument for the first trust, would have shortened the maximum distribution period otherwise allowable under section 401(a)(9) of the Internal Revenue Code and the treasury regulations with respect to that interest under the first trust.

(7)(a) As used in division (C)(7) of this section, "tax benefit" means any federal or state tax deduction, exemption, exclusion, or other tax benefit not otherwise listed in division (C) of this section.

(b) If the trust instrument for the first trust expressly indicates an intention to qualify for any tax benefit or if the terms of the trust instrument for the first trust are clearly designed to enable the first trust to qualify for a tax benefit, and if the first trust did qualify, or if not for the provisions of division (A) or (B) of this section would have qualified, for any tax benefit, the governing instrument for the second trust shall not include or omit any term that, if included in or omitted from the trust instrument for the first trust, would have prevented the first trust from qualifying for that tax benefit.

(8) The distribution to the trustee of the second trust shall not result in either of the following:

(a) An increase in, or a change in the method of determining, the compensation of the trustee unless the increase in, or change in the method of determining, that compensation has been consented to by all of the persons, other than the trustee of the second trust, who are current

beneficiaries of the second trust or is approved by the court having jurisdiction over the trust. However, an increase in compensation of the trustee arising solely because the duration of the second trust is longer than the duration of the first trust is not considered an increase in, or a change in the method of determining, the compensation of the trustee.

(b) A reduction in the standard of care applicable to the actions of the trustee of the first trust or the second trust or an exoneration of the trustee of the first trust or the second trust from liability for actions taken in bad faith or with willful disregard of the duties of either trustee, including by increasing the extent to which the trustee is entitled to indemnification from the trust, as provided in the terms of the first trust and under any law of this state.

(D) The exercise of the power to distribute trust income or principal to the trustee of a second trust under division (A) or (B) of this section shall be by an instrument in writing, signed by the trustee of the first trust and filed with the records of the first trust.

(E) The power to distribute trust income or principal to the trustee of a second trust under division (A) or (B) of this section shall not be exercised in a manner contrary to any provision of section 2131.08 of the Revised Code to the extent applicable to the first trust, and after applying the provisions of division (B) of section 2131.09 of the Revised Code to the extent applicable to the first trust. Solely for purposes of applying under this division the provisions of section 2131.08 and division (B) of section 2131.09 of the Revised Code, the exercise of the power to distribute trust income or principal to the trustee of a second trust under division (A) or (B) of this section is considered the exercise of a power of appointment other than a general power of appointment within the meaning of division (B)(4) of section 2131.09 of the Revised Code.

(F) The trustee of the first trust shall notify all current beneficiaries of the first trust, in writing, of the intended distribution to the trustee of a second trust pursuant to division (A) or (B) of this section not later than thirty days prior to that distribution. The distribution may be made prior to the expiration of thirty days from the date on which that notice is given to all current beneficiaries of the first trust if all of those current beneficiaries waive the thirty-day period from receipt of that notice. The trustee's giving of notice of an intended distribution under this division or the waiver or expiration of that thirty-day period from receipt of the notice do not limit the right of any beneficiary to object to the exercise of the trustee's power to distribute trust principal as provided in any other applicable provision of the Ohio Trust Code.

(G) Any person, other than the trustee, who has a power exercisable in a fiduciary capacity to direct the trustee to make any distribution of principal that, if held by the trustee, would be a power to make a distribution as described in division (A) or (B) of this section, may exercise that power by directing the trustee to make a distribution under either division (A) or (B) of this section, whichever would be applicable if that person were the trustee, subject to all of the limitations described in this section that apply to a trustee's exercise of that power.

(H) The exercise of the power to distribute trust income or principal to the trustee of a second trust under division (A) or (B) of this section is not prohibited by a spendthrift clause or a provision in the trust instrument that prohibits the amendment or revocation of the trust.

(I) For purposes of division (A) of section 5808.14 of the Revised Code, a trustee who acts reasonably and in good faith in exercising the power to distribute trust income or principal to the trustee of a second trust in accordance with division (A) or (B) of this section, is presumed to have acted in accordance with the terms and purposes of the trust and the interests of the beneficiaries.

(J) Nothing in this section is intended to create or imply a duty to exercise a power to distribute income or principal of a trust, and no inference of impropriety shall arise as a result of a trustee not exercising the power to make any distribution to the trustee of a second trust under division (A) or (B) of this section.

(K) If the first trust is a testamentary trust established under the will of a testator who was domiciled in this state at the time of the testator's death, the power to distribute trust income or principal to the trustee of a second trust under division (A) or (B) of this section may be exercised only if approved by the court, if any, that has jurisdiction over the testamentary trust.

(L) Divisions (A) and (B) of this section do not apply to either of the following:

(1) Any trust during any period that the trust may be revoked or amended by its settlor;

(2) Any trustee with respect to any portion of the first trust as to which that trustee is also the settlor.

(M) If, and to the extent that, a trustee makes any distribution pursuant to division (A) or (B) of this section to the trustee of a second trust, then for purposes of division (W) of section 5801.01 of the Revised Code, the governing instrument for the second trust is considered to be an amendment of the trust instrument signed by the settlor of the first trust, even if that governing instrument is signed by a person other than that settlor.

(N) Nothing in this section shall be construed to limit the power of any trustee to distribute trust property in further trust, whether that power arises under the terms of the trust instrument, under any other section of Title LVIII of the Revised Code, under any other statute, or under the common law. The terms of a trust instrument may do any of the following:

(1) Confer upon the trustee the power to make any distribution, or confer upon any other person acting in a fiduciary capacity the power to direct the trustee to make any distribution, in further trust that is broader or more limited than, or that conflict with, the provisions of this section;

(2) Provide for different requirements for notice to beneficiaries of the trust of the trustee's exercise of the power conferred under the terms of the trust instrument or described in division (A) or (B) of this section;

(3) Waive any requirement of notice to the beneficiaries of the trust of the trustee's exercise of the power conferred under the terms of the trust instrument or described in division (A) or (B) of this section;

(4) Otherwise include any terms and conditions governing the distribution in further trust that the settlor of the trust determines.

(O)(1) Division (A) of this section is intended to be a codification of the common law of this state in effect prior to the enactment of this section and applies to distributions, whenever made, from any trust that is governed by the law of this state or that has its principal place of administration in this state, whether that trust was created before, on, or after the effective date of this section.

(2) Division (B) of this section applies to distributions made on or after the effective date of this section from any trust that is governed by the law of this state or that has its principal place of administration in this state, whether that trust was created before, on, or after the effective date of this section.

Sec. 5808.19. (A) As used in this section, unless otherwise provided in any other provision in this section:

(1) "Beneficiary" means the beneficiary of a future interest and includes a class member if the future interest is in the form of a class gift.

(2) "Class member" means an individual who fails to survive the distribution date by at least one hundred twenty hours but who would have taken under a future interest in the form of a class gift had the individual survived the distribution date by at least one hundred twenty hours.

(3) "Descendant of a grandparent of the transferor" means an individual who would qualify as a descendant of a grandparent of the transferor under the rules of construction that would apply to a class gift under the transferor's will to the descendants of the transferor's grandparent.

(4) "Distribution date," with respect to a future interest, means the time when the future interest is to take effect in possession or enjoyment. The distribution date need not occur at the beginning or end of a calendar day but may occur at a time during the course of a day.

(5) "Future interest" means an alternative future interest or a future interest in the form of a class gift.

(6) "Future interest under the terms of a trust" means a future interest that was created by a transfer creating a trust or a transfer to an existing trust, or by an exercise of a power of appointment to an existing trust, that directs the continuance of an existing trust, designates a beneficiary of an existing trust, or creates a trust.

(7) "Per stirpes" means that the shares of the descendants of a beneficiary who does not survive the distribution date by at least one hundred twenty hours are determined in the same way they would have been determined under division (A) of section 2105.06 of the Revised Code if the beneficiary had died intestate and unmarried on the distribution date.

(8) "Revocable trust" means a trust that was revocable immediately before the settlor's death by the settlor alone or by the settlor with the consent of any person other than a person holding an adverse interest. A trust's characterization as revocable is not affected by the settlor's lack of capacity to exercise the power of revocation, regardless of whether an agent of the settlor under a power of attorney, or a guardian of the person or estate of the settlor, was serving.

(9) "Stepchild" means a child of the surviving, deceased, or former spouse of the transferor and not of the transferor.

(10) "Transferor" means any of the following:

(a) The donor and donee of a power of appointment, if the future interest was in property as a result of the exercise of a power of appointment;

(b) The testator, if the future interest was devised by will;

(c) The settlor, if the future interest was conveyed by inter vivos trust.

(B)(1)(a) As used in "surviving descendants" in divisions (B)(2)(b)(i) and (ii) of this section, "descendants" means the descendants of a deceased beneficiary or class member who would take under a class gift created in the trust.

(b) As used in divisions (B)(2)(b)(i) and (ii) of this section, "surviving beneficiaries" or "surviving descendants" means beneficiaries or descendants, whichever is applicable, who survive the distribution date by at least one hundred twenty hours.

(2) Unless a contrary intent appears in the instrument creating a future

interest under the terms of a trust, each of the following applies:

(a) A future interest under the terms of a trust is contingent on the beneficiary's surviving the distribution date by at least one hundred twenty hours.

(b) If a beneficiary of a future interest under the terms of a trust does not survive the distribution date by at least one hundred twenty hours and if the beneficiary is a grandparent of the transferor, a descendant of a grandparent of the transferor, or a stepchild of the transferor, either of the following applies:

(i) If the future interest is not in the form of a class gift and the deceased beneficiary leaves surviving descendants, a substitute gift is created in the beneficiary's surviving descendants. The surviving descendants take, per stirpes, the property to which the beneficiary would have been entitled had the beneficiary survived the distribution date by at least one hundred twenty hours.

(ii) If the future interest is in the form of a class gift, other than a future interest to "issue," "descendants," "heirs of the body," "heirs," "next of kin," "relatives," or "family," or a class described by language of similar import, a substitute gift is created in the surviving descendants of the deceased beneficiary or beneficiaries. The property to which the beneficiaries would have been entitled had all of them survived the distribution date by at least one hundred twenty hours passes to the surviving beneficiaries and the surviving descendants of the deceased beneficiaries. Each surviving beneficiary takes the share to which the surviving beneficiary would have been entitled had the deceased beneficiary survived the distribution date by at least one hundred twenty hours. Each deceased beneficiary's surviving descendants who are substituted for the deceased beneficiary take, per stirpes, the share to which the deceased beneficiary would have been entitled had the deceased beneficiary survived the distribution date by at least one hundred twenty hours. For purposes of division (B)(2)(b)(ii) of this section, "deceased beneficiary" means a class member who failed to survive the distribution date by at least one hundred twenty hours and left one or more surviving descendants.

(C) For purposes of this section, each of the following applies:

(1) Describing a class of beneficiaries as "surviving" or "living," without specifying when the beneficiaries must be surviving or living, such as a gift "for my spouse for life, then to my surviving (or living) children," is not, in the absence of other language in the trust instrument or other evidence to the contrary, a sufficient indication of an intent to negate the application of division (B)(2)(b) of this section.

(2) Subject to division (C)(1) of this section, attaching words of survivorship to a future interest under the terms of a trust, such as "for my spouse for life, then to my children who survive my spouse" or "for my spouse for life, then to my then-living children" is, in the absence of other language in the trust instrument or other evidence to the contrary, a sufficient indication of an intent to negate the application of division (B)(2)(b) of this section. Words of survivorship under division (C)(2) of this section include words of survivorship that relate to the distribution date or to an earlier or an unspecified time, whether those words of survivorship are expressed as condition-precedent, condition-subsequent, or in any other form.

(3) A residuary clause in a will is not a sufficient indication of an intent that is contrary to the application of this section, whether or not the will specifically provides that lapsed or failed devises are to pass under the residuary clause. A residuary clause in a revocable trust instrument is not a sufficient indication of an intent that is contrary to the application of this section unless the distribution date is the date of the settlor's death and the revocable trust instrument specifically provides that upon lapse or failure the nonresiduary devise, or nonresiduary devises in general, pass under the residuary clause.

(D) If, after the application of divisions (B) and (C) of this section there is no surviving taker of the property, and a contrary intent does not appear in the instrument creating the future interest, the property passes in the following order:

(1) If the future interest was created by the exercise of a power of appointment, the property passes under the donor's gift-in-default clause, if any, which clause is treated as creating a future interest under the terms of a trust.

(2) If no taker is produced under division (D)(1) of this section and the trust was created in a nonresiduary devise in the transferor's will or in a codicil to the transferor's will, the property passes under the residuary clause in the transferor's will. For purposes of division (D)(2) of this section, the residuary clause is treated as creating a future interest under the terms of a trust.

(3) If no taker is produced under divisions (D)(1) and (2) of this section, the transferor is deceased, and the trust was created in a nonresiduary gift under the terms of a revocable trust of the transferor, the property passes under the residuary clause in the transferor's revocable trust instrument. For purposes of division (D)(3) of this section, the residuary clause in the transferor's revocable trust instrument is treated as creating a future interest

under the terms of a trust.

(4) If no taker is produced under divisions (D)(1), (2), and (3) of this section, the property passes to those persons who would succeed to the transferor's intestate estate and in the shares as provided in the intestate succession law of the transferor's domicile if the transferor died on the distribution date. Notwithstanding division (A)(10) of this section, for purposes of division (D)(4) of this section, if the future interest was created by the exercise of a power of appointment, "transferor" means the donor if the power is a nongeneral power, or the donee if the power is a general power.

(E) This section applies to all trusts that become irrevocable on or after the effective date of this section. This section does not apply to any trust that was irrevocable before the effective date of this section even if property was added to the trust on or after that effective date.

Sec. 5809.031. (A) Notwithstanding any other provision of the Ohio Uniform Prudent Investor Act, unless otherwise provided by the terms of the trust, the duties of a trustee with respect to the acquisition, retention, or ownership of a life insurance policy as a trust asset do not include any of the following duties:

(1) To determine whether the policy is or remains a proper investment;

(2) To diversify the investment in the policy relative to any other life insurance policies or to any other trust assets;

(3) To exercise or not to exercise any option, right, or privilege available under the policy, including the payment of premiums, unless there is sufficient cash or there are other readily marketable trust assets from which to pay the premiums or there are other trust assets that were designated by the settlor or any other person transferring those assets to the trust to be used for that purpose, regardless of whether that exercise or nonexercise results in the lapse or termination of the policy;

(4) To investigate the financial strength or changes in the financial strength of the life insurance company maintaining the policy;

(5) To inquire about changes in the health or financial condition of the insured or insureds under the policy.

(B) The trustee, the attorney who drafted a trust, or any person who was consulted with regard to the creation of a trust, in the absence of fraud, is not liable to the beneficiaries of the trust or to any other person for any loss arising from the absence of the duties specified in divisions (A)(1) to (5) of this section.

(C) Unless otherwise provided by the terms of the trust, this section applies to a trust established before, on, or after the effective date of this

section and to a life insurance policy acquired, retained, or owned by a trustee before, on, or after the effective date of this section.

Sec. 5810.09. A trustee is not liable to a beneficiary for breach of trust if the beneficiary or the beneficiary's representative under the representation provisions of Chapter 5803. of the Revised Code consented to the conduct constituting the breach, released the trustee from liability for the breach, or ratified the transaction constituting the breach, unless the consent, release, or ratification of the beneficiary or representative was induced by improper conduct of the trustee or, at the time of the consent, release, or ratification, the beneficiary or representative did not know of the beneficiary's rights or of the material facts relating to the breach.

This section applies regardless of whether the conduct being consented to, released, or ratified constitutes one or more breaches of fiduciary duty, violates one or more provisions of the Revised Code, or is taken without required court approval.

Sec. 5810.13. (A) Instead of furnishing a copy of the trust instrument to a person other than a beneficiary, the trustee may furnish to the person a certification of trust containing all of the following information:

(1) A statement that the trust exists and the date the trust instrument was executed;

(2) The identity of the settlor;

(3) The identity and address of the currently acting trustee;

(4) The powers of the trustee;

(5) The revocability or irrevocability of the trust and the identity of any person holding a power to revoke the trust;

(6) The authority of cotrustees to sign or otherwise authenticate and whether all or less than all are required in order to exercise powers of the trustee.

(B) Any trustee may sign or otherwise authenticate a certification of trust.

(C) A certification of trust shall state that the trust has not been revoked, modified, or amended in any manner that would cause the representations contained in the certification of trust to be incorrect.

(D) A certification of trust is not required to contain the dispositive terms of a trust.

(E) A certification of trust may establish the identity of the trustee and any succession of trustees under division (B) or (C) of section 5810.14 of the Revised Code.

(F) A recipient of a certification of trust may require the trustee to furnish copies of those excerpts from the original trust instrument and later

amendments that designate the trustee and confer upon the trustee the power to act in the pending transaction.

~~(F)~~(G) A person who acts in reliance upon a certification of trust without knowledge that the representations contained in the certification are incorrect is not liable to any person for so acting and may assume without inquiry the existence of the facts contained in the certification. Knowledge of the terms of the trust may not be inferred solely from the fact that a copy of all or part of the trust instrument is held by the person relying upon the certification.

~~(G)~~(H) A person who in good faith enters into a transaction in reliance upon a certification of trust may enforce the transaction against the trust property as if the representations contained in the certification were correct.

~~(H)~~(I) This section does not affect the use or validity of a memorandum of trust under section 5301.255 of the Revised Code.

~~(I)~~(J) This section does not limit the right of a person to obtain a copy of the trust instrument in a judicial proceeding concerning the trust.

Sec. 5810.14. (A) Personal property may be transferred to a trustee as authorized by section 5804.01 of the Revised Code by executing the necessary written instrument that identifies the personal property transferred and identifies the trustee by name followed by the designation "trustee."

(B) The future transfer of personal property to a trustee as a designated beneficiary, including, but not limited to, a transfer on death designation or payable on death designation, participation in a joint ownership arrangement, or any other contractual transfer arrangement, that is made by executing the necessary written instrument identifying the trustee by name followed by the designation "trustee" shall be considered a transfer of the personal property to the trustee serving at the time of the future transfer. A certification of trust under section 5810.13 of the Revised Code may establish the identity of the trustee and any succession of trustees.

(C) A written instrument transferring personal property to a trust or a written instrument providing for the future transfer of personal property to a trust, by identifying the trust without identifying the trustee, shall be considered a transfer of the personal property to the trustee serving at the time of transfer. A certification of trust under section 5810.13 of the Revised Code may establish the identity of the trustee and any succession of trustees.

(D) An instrument of transfer under this section may, but is not required to, contain any additional identifying information, including the trust name, the name of the settlor, the date of trust creation, and the date of applicable trust amendments.

(E) Nothing in this section is intended to affect the operation of section

5301.03 of the Revised Code.

(F) Nothing in this section is intended to affect or be in conflict with division (E) of section 5301.071 of the Revised Code that addresses transfers of real property to or from trusts and trustees.

SECTION 2. That existing sections 1337.092, 1337.12, 2101.24, 2109.21, 2111.02, 2111.12, 2111.121, 5301.071, 5747.02, 5801.10, 5804.11, 5804.12, 5808.02, 5808.14, 5808.17, 5810.09, and 5810.13 and sections 1337.09, 1337.091, 1337.093, 1337.18, 1337.19, 1337.20, and 2107.52 of the Revised Code are hereby repealed.

SECTION 3. Section 2101.24 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 416 and Sub. H.B. 426 of the 126th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 4. The General Assembly hereby declares its intent by this act to clarify the procedure for resolution of issues created by the past or future repeal or reenactment of the federal estate tax, federal generation-skipping transfer tax, and Ohio estate tax.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. S. B. No. 117

129th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____