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Senators Seitz, Schiavoni

**Cosponsors: Senators Kearney, Wagoner, Bacon, Brown, Coley, Faber,
Gillmor, Grendell, Hughes, Obhof, Oelslager, Patton, Smith, Turner, Wilson**

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A B I L L

To amend sections 1337.092, 1337.12, 2101.24, 1
2109.21, 2111.02, 2111.12, 2111.121, 5301.071, 2
5747.02, 5801.10, 5804.12, 5808.14, 5808.17, and 3
5810.13; to enact new section 2107.52 and sections 4
1337.21 to 1337.64, 3793.31 to 3793.39, 5808.18, 5
5808.19, 5809.031, and 5810.14; and to repeal 6
sections 1337.09, 1337.091, 1337.093, 1337.18, 7
1337.19, 1337.20, and 2107.52 of the Revised Code 8
to adopt the Uniform Power of Attorney Act; to 9
modify a trustee's duties with respect to life 10
insurance policies, specify a trustee's power to 11
distribute trust principal in further trust, 12
provide for the titling of assets in trust form, 13
and make other changes in the Trust Code; to 14
modify the anti-lapse provisions regarding wills 15
and adopt anti-lapse provisions applicable to 16
trusts; to provide a mechanism for a probate court 17
to order a person who suffers from alcohol and 18
other drug abuse to undergo treatment; to provide 19
a rule of construction interpreting federal estate 20
tax and generation-skipping transfer tax formulas 21
in wills and trusts due to the repeal of those 22

taxes; and to declare an emergency. 23

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

Section 1. That sections 1337.092, 1337.12, 2101.24, 2109.21, 24
2111.02, 2111.12, 2111.121, 5301.071, 5747.02, 5801.10, 5804.12, 25
5808.14, 5808.17, and 5810.13 be amended and new section 2107.52 26
and sections 1337.21, 1337.22, 1337.23, 1337.24, 1337.25, 1337.26, 27
1337.27, 1337.28, 1337.29, 1337.30, 1337.31, 1337.32, 1337.33, 28
1337.34, 1337.35, 1337.36, 1337.37, 1337.38, 1337.39, 1337.40, 29
1337.41, 1337.42, 1337.43, 1337.44, 1337.45, 1337.46, 1337.47, 30
1337.48, 1337.49, 1337.50, 1337.51, 1337.52, 1337.53, 1337.54, 31
1337.55, 1337.56, 1337.57, 1337.58, 1337.59, 1337.60, 1337.61, 32
1337.62, 1337.63, 1337.64, 3793.31, 3793.32, 3793.33, 3793.34, 33
3793.35, 3793.36, 3793.37, 3793.38, 3793.39, 5808.18, 5808.19, 34
5809.031, and 5810.14 of the Revised Code be enacted to read as 35
follows: 36

Sec. 1337.092. (A) If an attorney in fact enters into a 37
contract in the representative capacity of the attorney in fact, 38
if the contract is within the authority of the attorney in fact, 39
and if the attorney in fact discloses in the contract that it is 40
being entered into in the representative capacity of the attorney 41
in fact, the attorney in fact is not personally liable on the 42
contract, unless the contract otherwise specifies. If the words or 43
initialism "attorney in fact," "as attorney in fact," "AIF," 44
"power of attorney," "POA," or any other word or words or 45
initialism indicating representative capacity as an attorney in 46
fact are included in a contract following the name or signature of 47
an attorney in fact, the inclusion is sufficient disclosure for 48
purposes of this division that the contract is being entered into 49
in the attorney in fact's representative capacity as attorney in 50
fact. 51

(B) An attorney in fact is not personally liable for a debt 52
of the attorney in fact's principal, unless one or more of the 53
following applies: 54

(1) The attorney in fact agrees to be personally responsible 55
for the debt. 56

(2) The debt was incurred for the support of the principal, 57
and the attorney in fact is liable for that debt because of 58
another legal relationship that gives rise to or results in a duty 59
of support relative to the principal. 60

(3) The negligence of the attorney in fact gave rise to or 61
resulted in the debt. 62

(4) An act of the attorney in fact that was beyond the 63
attorney in fact's authority gave rise to or resulted in the debt. 64

(5) An agreement to assist in the recovery of funds under 65
section 169.13 of the Revised Code was the subject of the power of 66
attorney that gave rise to or resulted in the debt. 67

(C) This section applies but is not limited to, and the terms 68
"power of attorney" and "attorney in fact" include but are not 69
limited to, an agency agreement and an agent under an agency 70
agreement. 71

Sec. 1337.12. (A)(1) An adult who is of sound mind 72
voluntarily may create a valid durable power of attorney for 73
health care by executing a durable power of attorney, in 74
accordance with ~~division (B) of section 1337.09~~ 1337.24 of the 75
Revised Code, that authorizes an attorney in fact as described in 76
division (A)(2) of this section to make health care decisions for 77
the principal at any time that the attending physician of the 78
principal determines that the principal has lost the capacity to 79
make informed health care decisions for the principal. Except as 80
otherwise provided in divisions (B) to (F) of section 1337.13 of 81

the Revised Code, the authorization may include the right to give 82
informed consent, to refuse to give informed consent, or to 83
withdraw informed consent to any health care that is being or 84
could be provided to the principal. Additionally, to be valid, a 85
durable power of attorney for health care shall satisfy both of 86
the following: 87

(a) It shall be signed at the end of the instrument by the 88
principal and shall state the date of its execution. 89

(b) It shall be witnessed in accordance with division (B) of 90
this section or be acknowledged by the principal in accordance 91
with division (C) of this section. 92

(2) Except as otherwise provided in this division, a durable 93
power of attorney for health care may designate any competent 94
adult as the attorney in fact. The attending physician of the 95
principal and an administrator of any nursing home in which the 96
principal is receiving care shall not be designated as an attorney 97
in fact in, or act as an attorney in fact pursuant to, a durable 98
power of attorney for health care. An employee or agent of the 99
attending physician of the principal and an employee or agent of 100
any health care facility in which the principal is being treated 101
shall not be designated as an attorney in fact in, or act as an 102
attorney in fact pursuant to, a durable power of attorney for 103
health care, except that these limitations do not preclude a 104
principal from designating either type of employee or agent as the 105
principal's attorney in fact if the individual is a competent 106
adult and related to the principal by blood, marriage, or 107
adoption, or if the individual is a competent adult and the 108
principal and the individual are members of the same religious 109
order. 110

(3) A durable power of attorney for health care shall not 111
expire, unless the principal specifies an expiration date in the 112

instrument. However, when a durable power of attorney contains an 113
expiration date, if the principal lacks the capacity to make 114
informed health care decisions for the principal on the expiration 115
date, the instrument shall continue in effect until the principal 116
regains the capacity to make informed health care decisions for 117
the principal. 118

(B) If witnessed for purposes of division (A)(1)(b) of this 119
section, a durable power of attorney for health care shall be 120
witnessed by at least two individuals who are adults and who are 121
not ineligible to be witnesses under this division. Any person who 122
is related to the principal by blood, marriage, or adoption, any 123
person who is designated as the attorney in fact in the 124
instrument, the attending physician of the principal, and the 125
administrator of any nursing home in which the principal is 126
receiving care are ineligible to be witnesses. 127

The witnessing of a durable power of attorney for health care 128
shall involve the principal signing, or acknowledging the 129
principal's signature, at the end of the instrument in the 130
presence of each witness. Then, each witness shall subscribe the 131
witness's signature after the signature of the principal and, by 132
doing so, attest to the witness's belief that the principal 133
appears to be of sound mind and not under or subject to duress, 134
fraud, or undue influence. The signatures of the principal and the 135
witnesses under this division are not required to appear on the 136
same page of the instrument. 137

(C) If acknowledged for purposes of division (A)(1)(b) of 138
this section, a durable power of attorney for health care shall be 139
acknowledged before a notary public, who shall make the 140
certification described in section 147.53 of the Revised Code and 141
also shall attest that the principal appears to be of sound mind 142
and not under or subject to duress, fraud, or undue influence. 143

(D)(1) If a principal has both a valid durable power of 144

attorney for health care and a valid declaration, division (B) of 145
section 2133.03 of the Revised Code applies. If a principal has 146
both a valid durable power of attorney for health care and a DNR 147
identification that is based upon a valid declaration and if the 148
declaration supersedes the durable power of attorney for health 149
care under division (B) of section 2133.03 of the Revised Code, 150
the DNR identification supersedes the durable power of attorney 151
for health care to the extent of any conflict between the two. A 152
valid durable power of attorney for health care supersedes any DNR 153
identification that is based upon a do-not-resuscitate order that 154
a physician issued for the principal which is inconsistent with 155
the durable power of attorney for health care or a valid decision 156
by the attorney in fact under a durable power of attorney. 157

(2) As used in division (D) of this section: 158

(a) "Declaration" has the same meaning as in section 2133.01 159
of the Revised Code. 160

(b) "Do-not-resuscitate order" and "DNR identification" have 161
the same meanings as in section 2133.21 of the Revised Code. 162

Sec. 1337.21. Sections 1337.21 to 1337.64 of the Revised Code 163
may be cited as the uniform power of attorney act. 164

Sec. 1337.22. As used in sections 1337.21 to 1337.64 of the 165
Revised Code: 166

(A) "Agent" means a person granted authority to act for a 167
principal under a power of attorney, whether denominated an agent, 168
attorney in fact, or otherwise. "Agent" includes an original 169
agent, coagent, successor agent, and a person to which an agent's 170
authority is delegated. 171

(B) "Durable," with respect to a power of attorney, means not 172
terminated by the principal's incapacity. 173

<u>(C) "Electronic" means relating to technology having</u>	174
<u>electrical, digital, magnetic, wireless, optical, electromagnetic,</u>	175
<u>or similar capabilities.</u>	176
<u>(D) "Good faith" means honesty in fact.</u>	177
<u>(E) "Incapacity" means inability of an individual to manage</u>	178
<u>property or business affairs for either of the following reasons:</u>	179
<u>(1) The individual has an impairment in the ability to</u>	180
<u>receive and evaluate information or make or communicate decisions</u>	181
<u>even with the use of technological assistance.</u>	182
<u>(2) The individual is any of the following:</u>	183
<u>(a) Missing;</u>	184
<u>(b) Detained, including incarcerated in a penal system;</u>	185
<u>(c) Outside the United States and unable to return.</u>	186
<u>(F) "Person" means an individual, corporation, business</u>	187
<u>trust, estate, trust, partnership, limited liability company,</u>	188
<u>association, joint venture, public corporation, government or</u>	189
<u>governmental subdivision, agency, or instrumentality, or any other</u>	190
<u>legal or commercial entity.</u>	191
<u>(G) "Power of attorney" means a writing or other record that</u>	192
<u>grants authority to an agent to act in the place of the principal,</u>	193
<u>whether or not the term power of attorney is used.</u>	194
<u>(H) "Presently exercisable general power of appointment,"</u>	195
<u>with respect to property or a property interest subject to a power</u>	196
<u>of appointment, means power exercisable at the time in question to</u>	197
<u>vest absolute ownership in the principal individually, the</u>	198
<u>principal's estate, the principal's creditors, or the creditors of</u>	199
<u>the principal's estate. The term includes a power of appointment</u>	200
<u>not exercisable until the occurrence of a specified event, the</u>	201
<u>satisfaction of an ascertainable standard, or the passage of a</u>	202
<u>specified period only after the occurrence of the specified event,</u>	203

the satisfaction of the ascertainable standard, or the passage of 204
the specified period. The term does not include a power 205
exercisable in a fiduciary capacity or only by will. 206

(I) "Principal" means an individual who grants authority to 207
an agent in a power of attorney. 208

(J) "Property" means anything that may be the subject of 209
ownership, whether real or personal, or legal or equitable, or any 210
interest or right therein. 211

(K) "Record" means information that is inscribed on a 212
tangible medium or that is stored in an electronic or other medium 213
and is retrievable in perceivable form. 214

(L) "Sign" means, with present intent to authenticate or 215
adopt a record, to execute or adopt a tangible symbol or to attach 216
to or logically associate with the record an electronic sound, 217
symbol, or process. 218

(M) "State" means a state of the United States, the District 219
of Columbia, Puerto Rico, the United States Virgin Islands, or any 220
territory or insular possession subject to the jurisdiction of the 221
United States. 222

(N) "Stocks and bonds" means stocks, bonds, mutual funds, and 223
all other types of securities and financial instruments, whether 224
held directly, indirectly, or in any other manner, but does not 225
include commodity futures contracts or call or put options on 226
stocks or stock indexes. 227

Sec. 1337.23. Sections 1337.21 to 1337.64 of the Revised Code 228
apply to all powers of attorney except the following: 229

(A) A power to the extent it is coupled with an interest in 230
the subject of the power, including a power given to or for the 231
benefit of a creditor in connection with a credit transaction; 232

(B) A power to make health-care decisions; 233

(C) A proxy or other delegation to exercise voting rights or management rights with respect to an entity; 234
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(D) A power created on a form prescribed by a government or governmental subdivision, agency, or instrumentality for a governmental purpose. 236
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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. 239
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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. 243
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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. 250
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(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. 253
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(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. 256
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(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. 263
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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. 267
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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. 272
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(B) The principal may direct that bond be waived for a person 293

nominated as guardian or as a successor guardian. 294

(C) If, after a principal executes a power of attorney, a 295
court appoints a guardian of the principal's estate or other 296
fiduciary charged with the management of some or all of the 297
principal's property, the agent is accountable to the fiduciary as 298
well as to the principal. The power of attorney is not terminated 299
and the agent's authority continues unless limited, suspended, or 300
terminated by the court after notice to the agent and upon a 301
finding that the limitation, suspension, or termination would be 302
in the best interest of the principal. 303

(D) A power of attorney that contains the nomination of a 304
person to be the guardian of the person, the estate, or both of 305
one or more of the principal's minor children under this division 306
may be filed with the probate court for safekeeping, and the 307
probate court shall designate the nomination as the nomination of 308
a standby guardian. 309

Sec. 1337.29. (A) A power of attorney is effective when 310
executed unless the principal provides in the power of attorney 311
that it becomes effective at a future date or upon the occurrence 312
of a future event or contingency. 313

(B) If a power of attorney becomes effective upon the 314
occurrence of a future event or contingency, the principal, in the 315
power of attorney, may authorize one or more persons to determine 316
in a writing or other record that the event or contingency has 317
occurred. 318

(C) If a power of attorney becomes effective upon the 319
principal's incapacity and the principal has not authorized a 320
person to determine whether the principal is incapacitated, or the 321
person authorized is unable or unwilling to make the 322
determination, the power of attorney becomes effective upon one of 323
the following determinations made in a writing or other record: 324

(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; 325
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(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. 329
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(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. 333
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Sec. 1337.30. (A) A power of attorney terminates when any of the following occurs: 339
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(1) The principal dies; 341

(2) The principal becomes incapacitated, if the power of attorney is not durable; 342
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(3) The principal revokes the power of attorney; 344

(4) The power of attorney provides that it terminates; 345

(5) The purpose of the power of attorney is accomplished; 346

(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. 347
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(B) An agent's authority terminates when any of the following occurs: 351
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(1) The principal revokes the authority; 353

<u>(2) The agent dies, becomes incapacitated, or resigns;</u>	354
<u>(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;</u>	355 356 357
<u>(4) The power of attorney terminates.</u>	358
<u>(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.</u>	359 360 361 362
<u>(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.</u>	363 364 365 366 367 368
<u>(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.</u>	369 370 371 372 373 374
<u>(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.</u>	375 376 377 378 379
<u>Sec. 1337.31.</u> (A) <u>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.</u>	380 381 382
<u>(B) A principal may designate one or more successor agents to</u>	383

act if an agent resigns, dies, becomes incapacitated, is not 384
qualified to serve, or declines to serve. A principal may grant 385
authority to designate one or more successor agents to an agent or 386
other person designated by name, office, or function. Unless the 387
power of attorney otherwise provides, a successor agent has the 388
same authority as that granted to the original agent and may not 389
act until all predecessor agents have resigned, died, become 390
incapacitated, are no longer qualified to serve, or have declined 391
to serve. 392

(C) Except as otherwise provided in the power of attorney and 393
division (D) of this section, an agent that does not participate 394
in or conceal a breach of fiduciary duty committed by another 395
agent, including a predecessor agent, is not liable for the 396
actions of the other agent. 397

(D) An agent that has actual knowledge of a breach or 398
imminent breach of fiduciary duty by another agent shall notify 399
the principal and, if the principal is incapacitated, take any 400
action reasonably appropriate in the circumstances to safeguard 401
the principal's best interest. An agent that fails to notify the 402
principal or take action as required by this division is liable 403
for the reasonably foreseeable damages that could have been 404
avoided if the agent had notified the principal or taken action as 405
required by this division. 406

Sec. 1337.32. Unless the power of attorney otherwise 407
provides, an agent is entitled to reimbursement of expenses 408
reasonably incurred on behalf of the principal and to compensation 409
that is reasonable under the circumstances. 410

Sec. 1337.33. Except as otherwise provided in the power of 411
attorney, a person accepts appointment as an agent under a power 412
of attorney by exercising authority or performing duties as an 413

agent or by any other assertion or conduct indicating acceptance. 414

Sec. 1337.34. (A) Notwithstanding provisions in the power of attorney, an agent that has accepted appointment shall do all of the following: 415
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(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; 418
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(2) Act in good faith; 421

(3) Act only within the scope of authority granted in the power of attorney; 422
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(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: 424
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(a) The value and nature of the principal's property; 428

(b) The principal's foreseeable obligations and need for maintenance; 429
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(c) Minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes; 431
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(d) Eligibility for a benefit, a program, or assistance under a statute or regulation. 433
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(B) Except as otherwise provided in the power of attorney, an agent that has accepted appointment shall do all of the following: 435
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(1) Act loyally for the principal's benefit; 437

(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; 438
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(3) Act with the care, competence, and diligence ordinarily 441

exercised by agents in similar circumstances; 442

(4) Keep a record of all receipts, disbursements, and transactions made on behalf of the principal; 443
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(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. 445
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(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. 449
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(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. 452
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(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. 457
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(F) Absent a breach of duty to the principal, an agent is not liable if the value of the principal's property declines. 463
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(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. 465
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(H) Except as otherwise provided in the power of attorney, an 471

agent is not required to disclose receipts, disbursements, or 472
transactions conducted on behalf of the principal unless ordered 473
by a court or requested by the principal, a guardian, a 474
conservator, another fiduciary acting for the principal, a 475
governmental agency having authority to protect the welfare of the 476
principal, or, upon the death of the principal, by the personal 477
representative or successor in interest of the principal's estate. 478
If so requested, within thirty days the agent shall comply with 479
the request or provide a writing or other record substantiating 480
why additional time is needed and shall comply with the request 481
within an additional thirty days. 482

Sec. 1337.35. A provision in a power of attorney relieving an 483
agent of liability for breach of duty is binding on the principal 484
and the principal's successors in interest except to the extent 485
that either of the following applies: 486

(A) The provision relieves the agent of liability for breach 487
of duty committed dishonestly, with an improper motive, or with 488
reckless indifference to the purposes of the power of attorney or 489
the best interest of the principal. 490

(B) The provision was inserted as a result of an abuse of a 491
confidential or fiduciary relationship with the principal. 492

Sec. 1337.36. (A) Any of the following persons may petition a 493
court to construe a power of attorney or review the agent's 494
conduct and grant appropriate relief: 495

(1) The principal or the agent; 496

(2) A guardian, conservator, or other fiduciary acting for 497
the principal, including an executor or administrator of the 498
estate of a deceased principal; 499

(3) A person authorized to make health-care decisions for the 500
principal; 501

<u>(4) The principal's spouse, parent, or descendant;</u>	502
<u>(5) An individual who would qualify as a presumptive heir of the principal;</u>	503 504
<u>(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;</u>	505 506 507 508
<u>(7) A governmental agency having regulatory authority to protect the welfare of the principal;</u>	509 510
<u>(8) The principal's caregiver or another person that demonstrates sufficient interest in the principal's welfare;</u>	511 512
<u>(9) A person asked to accept the power of attorney.</u>	513
<u>(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.</u>	514 515 516 517
<u>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.</u>	518 519 520 521 522 523 524 525
<u>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:</u>	526 527 528 529
<u>(A) The guardian, if one has been appointed for the</u>	530

principal, and any coagent or successor agent; 531

(B) If there is no person described in division (A) of this section, to any of the following: 532
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(1) The principal's caregiver; 534

(2) Another person reasonably believed by the agent to have sufficient interest in the principal's welfare; 535
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(3) A governmental agency having authority to protect the welfare of the principal. 537
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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. 539
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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. 542
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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. 546
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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 550
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<u>distribution:</u>	559
<u>(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;</u>	560 561 562
<u>(2) Make a gift;</u>	563
<u>(3) Create or change rights of survivorship;</u>	564
<u>(4) Create or change a beneficiary designation;</u>	565
<u>(5) Delegate authority granted under the power of attorney;</u>	566
<u>(6) Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan;</u>	567 568 569
<u>(7) Exercise fiduciary powers that the principal has authority to delegate.</u>	570 571
<u>(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.</u>	572 573 574 575 576 577 578 579
<u>(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.</u>	580 581 582 583 584
<u>(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.</u>	585 586 587

(E) Subject to divisions (A), (B), and (D) of this section, 588
if the subjects over which authority is granted in a power of 589
attorney are similar or overlap, the broadest authority controls. 590

(F) Authority granted in a power of attorney is exercisable 591
with respect to property that the principal has when the power of 592
attorney is executed or acquires later, whether or not the 593
property is located in this state and whether or not the authority 594
is exercised or the power of attorney is executed in this state. 595

(G) An act performed by an agent pursuant to a power of 596
attorney has the same effect and inures to the benefit of and 597
binds the principal and the principal's successors in interest as 598
if the principal had performed the act. 599

Sec. 1337.43. (A) An agent has authority described in 600
sections 1337.42 to 1337.58 of the Revised Code if the power of 601
attorney refers to general authority with respect to the 602
descriptive term for the subjects stated in sections 1337.45 to 603
1337.58 of the Revised Code or cites the section of the Revised 604
Code in which the authority is described. 605

(B) A reference in a power of attorney to general authority 606
with respect to the descriptive term for a subject in sections 607
1337.45 to 1337.58 of the Revised Code or a citation to any of 608
those sections incorporates the entire section as if it were set 609
out in full in the power of attorney. 610

(C) A principal may modify authority incorporated by 611
reference. 612

Sec. 1337.44. Except as otherwise provided in the power of 613
attorney, by executing a power of attorney that incorporates by 614
reference a subject described in sections 1337.45 to 1337.58 of 615
the Revised Code or that grants to an agent authority to do all 616
acts that a principal could do pursuant to division (C) of section 617

1337.42 of the Revised Code, a principal authorizes the agent, 618
with respect to that subject, to do all of the following: 619

(A) Demand, receive, and obtain by litigation or otherwise, 620
money or another thing of value to which the principal is, may 621
become, or claims to be entitled, and conserve, invest, disburse, 622
or use anything so received or obtained for the purposes intended; 623

(B) Contract in any manner with any person, on terms 624
agreeable to the agent, to accomplish a purpose of a transaction 625
and perform, rescind, cancel, terminate, reform, restate, release, 626
or modify the contract or another contract made by or on behalf of 627
the principal; 628

(C) Execute, acknowledge, seal, deliver, file, or record any 629
instrument or communication the agent considers desirable to 630
accomplish a purpose of a transaction, including creating at any 631
time a schedule listing some or all of the principal's property 632
and attaching it to the power of attorney; 633

(D) Initiate, participate in, submit to alternative dispute 634
resolution, settle, oppose, or propose or accept a compromise with 635
respect to a claim existing in favor of or against the principal 636
or intervene in litigation relating to the claim; 637

(E) Seek on the principal's behalf the assistance of a court 638
or other governmental agency to carry out an act authorized in the 639
power of attorney; 640

(F) Engage, compensate, and discharge an attorney, 641
accountant, discretionary investment manager, expert witness, or 642
other advisor; 643

(G) Prepare, execute, and file a record, report, or other 644
document to safeguard or promote the principal's interest under a 645
statute or regulation; 646

(H) Communicate with any representative or employee of a 647

government or governmental subdivision, agency, or 648
instrumentality, on behalf of the principal; 649

(I) Access communications intended for, and communicate on 650
behalf of the principal, whether by mail, electronic transmission, 651
telephone, or other means; 652

(J) Do any lawful act with respect to the subject and all 653
property related to the subject. 654

Sec. 1337.45. Unless the power of attorney otherwise 655
provides, language in a power of attorney granting general 656
authority with respect to real property authorizes the agent to do 657
all of the following: 658

(A) Demand, buy, lease, receive, accept as a gift or as 659
security for an extension of credit, or otherwise acquire or 660
reject an interest in real property or a right incident to real 661
property; 662

(B) Sell; exchange; convey with or without covenants, 663
representations, or warranties; quitclaim; release; surrender; 664
retain title for security; encumber; partition; consent to 665
partitioning; subject to an easement or covenant; subdivide; apply 666
for zoning or other governmental permits; plat or consent to 667
platting; develop; grant an option concerning; lease; sublease; 668
contribute to an entity in exchange for an interest in that 669
entity; or otherwise grant or dispose of an interest in real 670
property or a right incident to real property; 671

(C) Pledge or mortgage an interest in real property or right 672
incident to real property as security to borrow money or pay, 673
renew, or extend the time of payment of a debt of the principal or 674
a debt guaranteed by the principal; 675

(D) Release, assign, satisfy, or enforce by litigation or 676
otherwise a mortgage, deed of trust, conditional sale contract, 677

encumbrance, lien, or other claim to real property that exists or 678
is asserted; 679

(E) Manage or conserve an interest in real property or a 680
right incident to real property owned or claimed to be owned by 681
the principal, including all of the following: 682

(1) Insure against liability or casualty or other loss; 683

(2) Obtain or regain possession of or protect the interest or 684
right by litigation or otherwise; 685

(3) Pay, assess, compromise, or contest taxes or assessments 686
or apply for and receive refunds in connection with taxes; 687

(4) Purchase supplies, hire assistance or labor, and make 688
repairs or alterations to the real property. 689

(F) Use, develop, alter, replace, remove, erect, or install 690
structures or other improvements upon real property in or incident 691
to which the principal has, or claims to have, an interest or 692
right; 693

(G) Participate in a reorganization with respect to real 694
property or an entity that owns an interest in or right incident 695
to real property and receive, and hold, and act with respect to 696
stocks and bonds or other property received in a plan of 697
reorganization, including all of the following: 698

(1) Sell or otherwise dispose of them; 699

(2) Exercise or sell an option, right of conversion, or 700
similar right with respect to them; 701

(3) Exercise any voting rights in person or by proxy. 702

(H) Change the form of title of an interest in or right 703
incident to real property; 704

(I) Dedicate to public use, with or without consideration, 705
easements or other real property in which the principal has, or 706

claims to have, an interest. 707

Sec. 1337.46. Unless the power of attorney otherwise 708
provides, language in a power of attorney granting general 709
authority with respect to tangible personal property authorizes 710
the agent to do all of the following: 711

(A) Demand, buy, receive, accept as a gift or as security for 712
an extension of credit, or otherwise acquire or reject ownership 713
or possession of tangible personal property or an interest in 714
tangible personal property; 715

(B) Sell; exchange; convey with or without covenants, 716
representations, or warranties; quitclaim; release; surrender; 717
create a security interest in; grant options concerning; lease; 718
sublease; or otherwise dispose of tangible personal property or an 719
interest in tangible personal property; 720

(C) Grant a security interest in tangible personal property 721
or an interest in tangible personal property as security to borrow 722
money or pay, renew, or extend the time of payment of a debt of 723
the principal or a debt guaranteed by the principal; 724

(D) Release, assign, satisfy, or enforce by litigation or 725
otherwise a security interest, lien, or other claim on behalf of 726
the principal with respect to tangible personal property or an 727
interest in tangible personal property; 728

(E) Manage or conserve tangible personal property or an 729
interest in tangible personal property on behalf of the principal, 730
including all of the following: 731

(1) Insure against liability or casualty or other loss; 732

(2) Obtain or regain possession of or protect the property or 733
interest by litigation or otherwise; 734

(3) Pay, assess, compromise, or contest taxes or assessments 735
or apply for and receive refunds in connection with taxes or 736

<u>assessments;</u>	737
<u>(4) Move the property from place to place;</u>	738
<u>(5) Store the property for hire or on a gratuitous bailment;</u>	739
<u>(6) Use and make repairs, alterations, or improvements to the property.</u>	740 741
<u>(F) Change the form of title of an interest in tangible personal property.</u>	742 743
<u>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:</u>	744 745 746 747
<u>(A) Buy, sell, and exchange stocks and bonds;</u>	748
<u>(B) Establish, continue, modify, or terminate an account with respect to stocks and bonds;</u>	749 750
<u>(C) Pledge stocks and bonds as security to borrow, pay, renew, or extend the time of payment of a debt of the principal;</u>	751 752
<u>(D) Receive certificates and other evidences of ownership with respect to stocks and bonds;</u>	753 754
<u>(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.</u>	755 756 757
<u>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:</u>	758 759 760 761
<u>(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;</u>	762 763 764

(B) Establish, continue, modify, and terminate option 765
accounts. 766

Sec. 1337.49. Unless the power of attorney otherwise 767
provides, language in a power of attorney granting general 768
authority with respect to banks and other financial institutions 769
authorizes the agent to do all of the following: 770

(A) Continue, modify, and terminate an account or other 771
banking arrangement made by or on behalf of the principal; 772

(B) Establish, modify, and terminate an account or other 773
banking arrangement with a bank, trust company, savings and loan 774
association, credit union, thrift company, brokerage firm, or 775
other financial institution selected by the agent; 776

(C) Contract for services available from a financial 777
institution, including renting a safe deposit box or space in a 778
vault; 779

(D) Withdraw, by check, order, electronic funds transfer, or 780
otherwise, money or property of the principal deposited with or 781
left in the custody of a financial institution; 782

(E) Receive statements of account, vouchers, notices, and 783
similar documents from a financial institution and act with 784
respect to them; 785

(F) Enter a safe deposit box or vault and withdraw or add to 786
the contents; 787

(G) Borrow money and pledge as security personal property of 788
the principal necessary to borrow money or pay, renew, or extend 789
the time of payment of a debt of the principal or a debt 790
guaranteed by the principal; 791

(H) Make, assign, draw, endorse, discount, guarantee, and 792
negotiate promissory notes, checks, drafts, and other negotiable 793
or nonnegotiable paper of the principal or payable to the 794

principal or the principal's order, transfer money, receive the 795
cash or other proceeds of those transactions, and accept a draft 796
drawn by a person upon the principal and pay it when due; 797

(I) Receive for the principal and act upon a sight draft, 798
warehouse receipt, or other document of title whether tangible or 799
electronic, or other negotiable or nonnegotiable instrument; 800

(J) Apply for, receive, and use letters of credit, credit and 801
debit cards, electronic transaction authorizations, and traveler's 802
checks from a financial institution and give an indemnity or other 803
agreement in connection with letters of credit; 804

(K) Consent to an extension of the time of payment with 805
respect to commercial paper or a financial transaction with a 806
financial institution. 807

Sec. 1337.50. Subject to the terms of a document or an 808
agreement governing an entity or an entity ownership interest, and 809
unless the power of attorney otherwise provides, language in a 810
power of attorney granting general authority with respect to the 811
operation of an entity or business authorizes the agent to do all 812
of the following: 813

(A) Operate, buy, sell, enlarge, reduce, or terminate an 814
ownership interest; 815

(B) Perform a duty or discharge a liability and exercise in 816
person or by proxy a right, power, privilege, or option that the 817
principal has, may have, or claims to have; 818

(C) Enforce the terms of an ownership agreement; 819

(D) Initiate, participate in, submit to alternative dispute 820
resolution, settle, oppose, or propose or accept a compromise with 821
respect to litigation to which the principal is a party because of 822
an ownership interest; 823

(E) Exercise in person or by proxy, or enforce by litigation 824

or otherwise, a right, power, privilege, or option the principal 825
has or claims to have as the holder of stocks and bonds; 826

(F) Initiate, participate in, submit to alternative dispute 827
resolution, settle, oppose, or propose or accept a compromise with 828
respect to litigation to which the principal is a party concerning 829
stocks and bonds; 830

(G) With respect to an entity or business owned solely by the 831
principal, do all of the following: 832

(1) Continue, modify, renegotiate, extend, and terminate a 833
contract made by or on behalf of the principal with respect to the 834
entity or business before execution of the power of attorney; 835

(2) Determine all of the following: 836

(a) The location of its operation; 837

(b) The nature and extent of its business; 838

(c) The methods of manufacturing, selling, merchandising, 839
financing, accounting, and advertising employed in its operation; 840

(d) The amount and types of insurance carried; 841

(e) The mode of engaging, compensating, and dealing with its 842
employees and accountants, attorneys, or other advisors. 843

(3) Change the name or form of organization under which the 844
entity or business is operated and enter into an ownership 845
agreement with other persons to take over all or part of the 846
operation of the entity or business; 847

(4) Demand and receive money due or claimed by the principal 848
or on the principal's behalf in the operation of the entity or 849
business and control and disburse the money in the operation of 850
the entity or business. 851

(H) Put additional capital into an entity or business in 852
which the principal has an interest; 853

<u>(I) Join in a plan of reorganization, consolidation,</u>	854
<u>conversion, domestication, or merger of the entity or business;</u>	855
<u>(J) Sell or liquidate all or part of an entity or business;</u>	856
<u>(K) Establish the value of an entity or business under a</u>	857
<u>buy-out agreement to which the principal is a party;</u>	858
<u>(L) Prepare, sign, file, and deliver reports, compilations of</u>	859
<u>information, returns, or other papers with respect to an entity or</u>	860
<u>business and make related payments;</u>	861
<u>(M) Pay, compromise, or contest taxes, assessments, fines, or</u>	862
<u>penalties and perform any other act to protect the principal from</u>	863
<u>illegal or unnecessary taxation, assessments, fines, or penalties,</u>	864
<u>with respect to an entity or business, including attempts to</u>	865
<u>recover, in any manner permitted by law, money paid before or</u>	866
<u>after the execution of the power of attorney.</u>	867
<u>Sec. 1337.51. Unless the power of attorney otherwise</u>	868
<u>provides, language in a power of attorney granting general</u>	869
<u>authority with respect to insurance and annuities authorizes the</u>	870
<u>agent to do all of the following:</u>	871
<u>(A) Continue, pay the premium or make a contribution on,</u>	872
<u>modify, exchange, rescind, release, or terminate a contract</u>	873
<u>procured by or on behalf of the principal that insures or provides</u>	874
<u>an annuity to either the principal or another person, whether or</u>	875
<u>not the principal is a beneficiary under the contract;</u>	876
<u>(B) Procure new, different, and additional contracts of</u>	877
<u>insurance and annuities for the principal and the principal's</u>	878
<u>spouse, children, and other dependents and select the amount, type</u>	879
<u>of insurance or annuity, and mode of payment;</u>	880
<u>(C) Pay the premium or make a contribution on, modify,</u>	881
<u>exchange, rescind, release, or terminate a contract of insurance</u>	882
<u>or annuity procured by the agent;</u>	883

<u>(D) Apply for and receive a loan secured by a contract of insurance or annuity;</u>	884
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<u>(E) Surrender and receive the cash surrender value on a contract of insurance or annuity;</u>	886
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<u>(F) Exercise an election;</u>	888
<u>(G) Exercise investment powers available under a contract of insurance or annuity;</u>	889
	890
<u>(H) Change the manner of paying premiums on a contract of insurance or annuity;</u>	891
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<u>(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;</u>	893
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	895
<u>(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;</u>	896
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<u>(K) Collect, sell, assign, hypothecate, borrow against, or pledge the interest of the principal in a contract of insurance or annuity;</u>	899
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<u>(L) Select the form and timing of the payment of proceeds from a contract of insurance or annuity;</u>	902
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<u>(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.</u>	904
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<u>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</u>	909
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to a share or payment. 913

(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: 914
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(1) Accept, receive, receipt for, sell, assign, pledge, or exchange a share in or payment from an estate, trust, or other beneficial interest; 918
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(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; 921
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(3) Exercise for the benefit of the principal a presently exercisable general power of appointment held by the principal; 925
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(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; 927
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(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; 932
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(6) Conserve, invest, disburse, or use anything received for an authorized purpose; 936
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(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; 938
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(8) Reject, renounce, disclaim, release, or consent to a 943
reduction in or modification of a share in or payment from an 944
estate, trust, or other beneficial interest. 945

Sec. 1337.53. Unless the power of attorney otherwise 946
provides, language in a power of attorney granting general 947
authority with respect to claims and litigation authorizes the 948
agent to do all of the following: 949

(A) Assert and maintain before a court or administrative 950
agency a claim, claim for relief, cause of action, counterclaim, 951
offset, recoupment, or defense, including an action to recover 952
property or other thing of value, recover damages sustained by the 953
principal, eliminate or modify tax liability, or seek an 954
injunction, specific performance, or other relief; 955

(B) Bring an action to determine adverse claims or intervene 956
or otherwise participate in litigation; 957

(C) Seek an attachment, garnishment, order of arrest, or 958
other preliminary, provisional, or intermediate relief and use an 959
available procedure to effect or satisfy a judgment, order, or 960
decree; 961

(D) Make or accept a tender, offer of judgment, or admission 962
of facts, submit a controversy on an agreed statement of facts, 963
consent to examination, and bind the principal in litigation; 964

(E) Submit to alternative dispute resolution, settle, and 965
propose or accept a compromise; 966

(F) Waive the issuance and service of process upon the 967
principal, accept service of process, appear for the principal, 968
designate persons upon which process directed to the principal may 969
be served, execute and file or deliver stipulations on the 970
principal's behalf, verify pleadings, seek appellate review, 971
procure and give surety and indemnity bonds, contract and pay for 972

the preparation and printing of records and briefs, receive, 973
execute, and file or deliver a consent, waiver, release, 974
confession of judgment, satisfaction of judgment, notice, 975
agreement, or other instrument in connection with the prosecution, 976
settlement, or defense of a claim or litigation; 977

(G) Act for the principal with respect to bankruptcy or 978
insolvency, whether voluntary or involuntary, concerning the 979
principal or some other person, or with respect to a 980
reorganization, receivership, or application for the appointment 981
of a receiver or trustee that affects an interest of the principal 982
in property or other thing of value; 983

(H) Pay a judgment, award, or order against the principal or 984
a settlement made in connection with a claim or litigation; 985

(I) Receive money or other thing of value paid in settlement 986
of or as proceeds of a claim or litigation. 987

Sec. 1337.54. (A) Unless the power of attorney otherwise 988
provides, language in a power of attorney granting general 989
authority with respect to personal and family maintenance 990
authorizes the agent to do all of the following: 991

(1) Perform the acts necessary to maintain the customary 992
standard of living of the principal, the principal's spouse, and 993
the following individuals, whether living when the power of 994
attorney is executed or later born: 995

(a) Other individuals legally entitled to be supported by the 996
principal; 997

(b) The individuals whom the principal has customarily 998
supported or indicated the intent to support. 999

(2) Make periodic payments of child support and other family 1000
maintenance required by a court or governmental agency or an 1001
agreement to which the principal is a party; 1002

<u>(3) Provide living quarters for the individuals described in</u>	1003
<u>division (A)(1) of this section by doing either of the following:</u>	1004
<u>(a) Purchasing, leasing, or otherwise contracting;</u>	1005
<u>(b) Paying the operating costs, including interest,</u>	1006
<u>amortization payments, repairs, improvements, and taxes, for</u>	1007
<u>premises owned by the principal or occupied by those individuals.</u>	1008
<u>(4) Provide normal domestic help, usual vacations and travel</u>	1009
<u>expenses, and funds for shelter, clothing, food, appropriate</u>	1010
<u>education, including postsecondary and vocational education, and</u>	1011
<u>other current living costs for the individuals described in</u>	1012
<u>division (A)(1) of this section;</u>	1013
<u>(5) Pay expenses for necessary health care and custodial care</u>	1014
<u>on behalf of the individuals described in division (A)(1) of this</u>	1015
<u>section;</u>	1016
<u>(6) Act as the principal's personal representative pursuant</u>	1017
<u>to 42 U.S.C. 1320d to 1320d-9 and applicable regulations in making</u>	1018
<u>decisions related to the past, present, or future payment for the</u>	1019
<u>provision of health care consented to by the principal or anyone</u>	1020
<u>authorized under the law of this state to consent to health care</u>	1021
<u>on behalf of the principal;</u>	1022
<u>(7) Continue any provision made by the principal for</u>	1023
<u>automobiles or other means of transportation, including</u>	1024
<u>registering, licensing, insuring, and replacing them, for the</u>	1025
<u>individuals described in division (A)(1) of this section;</u>	1026
<u>(8) Maintain credit and debit accounts for the convenience of</u>	1027
<u>the individuals described in division (A)(1) of this section and</u>	1028
<u>open new accounts;</u>	1029
<u>(9) Continue payments incidental to the membership or</u>	1030
<u>affiliation of the principal in a religious institution, club,</u>	1031
<u>society, order, or other organization or to continue contributions</u>	1032

to those organizations. 1033

(B) Authority with respect to personal and family maintenance 1034
is neither dependent upon, nor limited by, authority that an agent 1035
may or may not have with respect to gifts under sections 1337.21 1036
to 1337.64 of the Revised Code. 1037

Sec. 1337.55. (A) As used in this section, "benefits from 1038
governmental programs or civil or military service" means any 1039
benefit, program, or assistance provided under a statute or 1040
regulation, including social security, medicare, and medicaid. 1041

(B) Unless the power of attorney otherwise provides, language 1042
in a power of attorney granting general authority with respect to 1043
benefits from governmental programs or civil or military service 1044
authorizes the agent to do all of the following: 1045

(1) Execute vouchers in the name of the principal for 1046
allowances and reimbursements payable by the United States or a 1047
foreign government or by a state or subdivision of a state to the 1048
principal, including allowances and reimbursements for 1049
transportation of the individuals described in division (A)(1) of 1050
section 1337.54 of the Revised Code, and for shipment of their 1051
household effects; 1052

(2) Take possession and order the removal and shipment of 1053
property of the principal from a post, warehouse, depot, dock, or 1054
other place of storage or safekeeping, either governmental or 1055
private, and execute and deliver a release, voucher, receipt, bill 1056
of lading, shipping ticket, certificate, or other instrument for 1057
that purpose; 1058

(3) Enroll in, apply for, select, reject, change, amend, or 1059
discontinue, on the principal's behalf, a benefit or program; 1060

(4) Prepare, file, and maintain a claim of the principal for 1061
a benefit or assistance, financial or otherwise, to which the 1062

principal may be entitled under a statute or regulation; 1063

(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; 1064
1065
1066
1067
1068

(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. 1069
1070
1071

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: 1072
1073
1074
1075
1076

(1) An individual retirement account under section 408 of the Internal Revenue Code of 1986, 26 U.S.C. 408; 1077
1078

(2) A Roth individual retirement account under section 408A of the Internal Revenue Code of 1986, 26 U.S.C. 408A; 1079
1080

(3) A deemed individual retirement account under section 408(q) of the Internal Revenue Code of 1986, 26 U.S.C. 408(q); 1081
1082

(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); 1083
1084

(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); 1085
1086
1087

(6) A plan under section 457(b) of the Internal Revenue Code of 1986, 26 U.S.C. 457(b); 1088
1089

(7) A nonqualified deferred compensation plan under section 409A of the Internal Revenue Code of 1986, 26 U.S.C. 409A. 1090
1091

(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: 1092
1093
1094

(1) Select the form and timing of payments under a retirement plan and withdraw benefits from a plan; 1095
1096

(2) Make a rollover, including a direct trustee-to-trustee rollover, of benefits from one retirement plan to another; 1097
1098

(3) Establish a retirement plan in the principal's name; 1099

(4) Make contributions to a retirement plan; 1100

(5) Exercise investment powers available under a retirement plan; 1101
1102

(6) Borrow from, sell assets to, or purchase assets from a retirement plan. 1103
1104

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: 1105
1106
1107
1108

(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; 1109
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1111
1112
1113
1114
1115
1116
1117
1118
1119

(B) Pay taxes due, collect refunds, post bonds, receive confidential information, and contest deficiencies determined by 1120
1121

the internal revenue service or other taxing authority; 1122

(C) Exercise any election available to the principal under 1123

federal, state, local, or foreign tax law; 1124

(D) Act for the principal in all tax matters for all periods 1125

before the internal revenue service, or other taxing authority. 1126

Sec. 1337.58. (A) As used in this section, a gift "for the 1127

benefit of" a person includes a gift to a trust, an account under 1128

the Uniform Transfers to Minors Act, and a tuition savings account 1129

or prepaid tuition plan as defined under section 529 of the 1130

Internal Revenue Code of 1986, 26 U.S.C. 529. 1131

(B) Unless the power of attorney otherwise provides, language 1132

in a power of attorney granting general authority with respect to 1133

gifts authorizes the agent to do only the following: 1134

(1) Make outright to, or for the benefit of, a person, a gift 1135

of any of the principal's property, including by the exercise of a 1136

presently exercisable general power of appointment held by the 1137

principal, in an amount per donee not to exceed the annual dollar 1138

limits of the federal gift tax exclusion under section 2503(b) of 1139

the Internal Revenue Code of 1986, 26 U.S.C. 2503(b), without 1140

regard to whether the federal gift tax exclusion applies to the 1141

gift, or if the principal's spouse agrees to consent to a split 1142

gift pursuant to section 2513 of the Internal Revenue Code of 1143

1986, 26 U.S.C. 2513, in an amount per donee not to exceed twice 1144

the annual federal gift tax exclusion limit; 1145

(2) Consent, pursuant to section 2513 of the Internal Revenue 1146

Code of 1986, 26 U.S.C. 2513, to the splitting of a gift made by 1147

the principal's spouse in an amount per donee not to exceed the 1148

aggregate annual gift tax exclusions for both spouses. 1149

(C) An agent may make a gift of the principal's property, 1150

outright or by amending, creating, or funding a trust, only as the 1151

agent determines is consistent with the principal's objectives if 1152
actually known by the agent and, if unknown, as the agent 1153
determines is consistent with the principal's best interest based 1154
on all relevant factors, including all of the following: 1155

(1) The value and nature of the principal's property; 1156

(2) The principal's foreseeable obligations and need for 1157
maintenance; 1158

(3) Minimization of taxes, including income, estate, 1159
inheritance, generation-skipping transfer, and gift taxes; 1160

(4) Eligibility for a benefit, a program, or assistance under 1161
a statute or regulation; 1162

(5) The principal's personal history of making or joining in 1163
making gifts. 1164

Sec. 1337.59. In a power of attorney executed on or after 1165
March 29, 2006, and before the effective date of this section that 1166
either uses the statutory power of attorney form contained in 1167
former section 1337.18 of the Revised Code or that incorporates by 1168
reference any one or more of the powers contained in former 1169
section 1337.20 of the Revised Code, the powers granted shall be 1170
construed in accordance with former section 1337.20 of the Revised 1171
Code. 1172

Sec. 1337.60. A document substantially in the following form 1173
may be used to create a statutory form power of attorney that has 1174
the meaning and effect prescribed by sections 1337.21 to 1337.64 1175
of the Revised Code. 1176

[INSERT NAME OF JURISDICTION] 1177

STATUTORY FORM POWER OF ATTORNEY 1178

IMPORTANT INFORMATION 1179

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

<u>specific authority to do so is granted to the agent in the trust</u>	1210
<u>agreement;</u>	1211
<u>(3) Make a gift;</u>	1212
<u>(4) Create or change rights of survivorship;</u>	1213
<u>(5) Create or change a beneficiary designation;</u>	1214
<u>(6) Delegate authority granted under the power of attorney;</u>	1215
<u>(7) Waive the principal's right to be a beneficiary of a</u>	1216
<u>joint and survivor annuity, including a survivor benefit under a</u>	1217
<u>retirement plan;</u>	1218
<u>(8) Exercise fiduciary powers that the principal has</u>	1219
<u>authority to delegate.</u>	1220
<u>CAUTION: Granting any of the above eight powers will give</u>	1221
<u>your agent the authority to take actions that could significantly</u>	1222
<u>reduce your property or change how your property is distributed at</u>	1223
<u>your death.</u>	1224
<u>If you have questions about the power of attorney or the</u>	1225
<u>authority you are granting to your agent, you should seek legal</u>	1226
<u>advice before signing this form.</u>	1227
<u>DESIGNATION OF AGENT</u>	1228
<u>I, (Name of Principal)</u>	1229
<u>name the following person as my agent:</u>	1230
<u>Name of Agent:</u>	1231
.....	1232
<u>Agent's Address:</u>	1233
.....	1234
<u>Agent's Telephone Number:</u>	1235
.....	1236
<u>DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)</u>	1237
<u>If my agent is unable or unwilling to act for me, I name as</u>	1238

<u>my successor agent:</u>	1239
<u>Name of Successor Agent:</u>	1240
.....	1241
<u>Successor Agent's Address:</u>	1242
.....	1243
<u>Successor Agent's Telephone Number:</u>	1244
.....	1245
<u>If my successor agent is unable or unwilling to act for me, I</u>	1246
<u>name as my second successor agent:</u>	1247
<u>Name of Second Successor Agent:</u>	1248
.....	1249
<u>Second Successor Agent's Address:</u>	1250
.....	1251
<u>Second Successor Agent's Telephone Number:</u>	1252
.....	1253
<u>GRANT OF GENERAL AUTHORITY</u>	1254
<u>I grant my agent and any successor agent general authority to</u>	1255
<u>act for me with respect to the following subjects as defined in</u>	1256
<u>the Uniform Power of Attorney Act (sections 1337.21 to 1337.64 of</u>	1257
<u>the Revised Code):</u>	1258
<u>(INITIAL each subject you want to include in the agent's</u>	1259
<u>general authority. If you wish to grant general authority over all</u>	1260
<u>of the subjects you may initial "All Preceding Subjects" instead</u>	1261
<u>of initialing each subject.)</u>	1262
<u>(...) Real Property</u>	1263
<u>(...) Tangible Personal Property</u>	1264
<u>(...) Stocks and Bonds</u>	1265
<u>(...) Commodities and Options</u>	1266
<u>(...) Banks and Other Financial Institutions</u>	1267
<u>(...) Operation of Entity or Business</u>	1268

<u>(...) Insurance and Annuities</u>	1269
<u>(...) Estates, Trusts, and Other Beneficial Interests</u>	1270
<u>(...) Claims and Litigation</u>	1271
<u>(...) Personal and Family Maintenance</u>	1272
<u>(...) Benefits from Governmental Programs or Civil or Military Service</u>	1273 1274
<u>(...) Retirement Plans</u>	1275
<u>(...) Taxes</u>	1276
<u>(...) All Preceding Subjects</u>	1277
<u>LIMITATION ON AGENT'S AUTHORITY</u>	1278
<u>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.</u>	1279 1280 1281 1282
<u>SPECIAL INSTRUCTIONS (OPTIONAL)</u>	1283
<u>You may give special instructions on the following lines:</u>	1284
<u>.....</u>	1285
<u>.....</u>	1286
<u>.....</u>	1287
<u>.....</u>	1288
<u>.....</u>	1289
<u>.....</u>	1290
<u>.....</u>	1291
<u>.....</u>	1292
<u>.....</u>	1293
<u>EFFECTIVE DATE</u>	1294
<u>This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.</u>	1295 1296
<u>NOMINATION OF GUARDIAN (OPTIONAL)</u>	1297

..... (Date), by (Name	1329
<u>of Principal).</u>	1330
.....	1331
<u>Signature of Notary</u>	1332
<u>My commission expires:</u>	1333
.....	
<u>This document prepared by:</u>	1334
.....	1335
.....	1336
<u>IMPORTANT INFORMATION FOR AGENT</u>	1337
<u>Agent's Duties</u>	1338
<u>When you accept the authority granted under this power of</u>	1339
<u>attorney, a special legal relationship is created between you and</u>	1340
<u>the principal. This relationship imposes upon you legal duties</u>	1341
<u>that continue until you resign or the power of attorney is</u>	1342
<u>terminated or revoked. You must:</u>	1343
<u>(1) Do what you know the principal reasonably expects you to</u>	1344
<u>do with the principal's property or, if you do not know the</u>	1345
<u>principal's expectations, act in the principal's best interest;</u>	1346
<u>(2) Act in good faith;</u>	1347
<u>(3) Do nothing beyond the authority granted in this power of</u>	1348
<u>attorney;</u>	1349
<u>(4) Attempt to preserve the principal's estate plan if you</u>	1350
<u>know the plan and preserving the plan is consistent with the</u>	1351
<u>principal's best interest;</u>	1352
<u>(5) Disclose your identity as an agent whenever you act for</u>	1353
<u>the principal by writing or printing the name of the principal and</u>	1354
<u>signing your own name as "agent" in the following manner:</u>	1355
<u>(Principal's Name) by (Your Signature) as Agent</u>	1356
<u>Unless the Special Instructions in this power of attorney</u>	1357

<u>state otherwise, you must also:</u>	1358
<u>(1) Act loyally for the principal's benefit;</u>	1359
<u>(2) Avoid conflicts that would impair your ability to act in the principal's best interest;</u>	1360 1361
<u>(3) Act with care, competence, and diligence;</u>	1362
<u>(4) Keep a record of all receipts, disbursements, and transactions made on behalf of the principal;</u>	1363 1364
<u>(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.</u>	1365 1366 1367 1368
<u>Termination of Agent's Authority</u>	1369
<u>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:</u>	1370 1371 1372 1373 1374
<u>(1) The death of the principal;</u>	1375
<u>(2) The principal's revocation of the power of attorney or your authority;</u>	1376 1377
<u>(3) The occurrence of a termination event stated in the power of attorney;</u>	1378 1379
<u>(4) The purpose of the power of attorney is fully accomplished;</u>	1380 1381
<u>(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.</u>	1382 1383 1384 1385 1386

<u>Liability of Agent</u>	1387
<u>The meaning of the authority granted to you is defined in the</u>	1388
<u>Uniform Power of Attorney Act (sections 1337.21 to 1337.64 of the</u>	1389
<u>Revised Code). If you violate the Uniform Power of Attorney Act or</u>	1390
<u>act outside the authority granted, you may be liable for any</u>	1391
<u>damages caused by your violation.</u>	1392
<u>If there is anything about this document or your duties that</u>	1393
<u>you do not understand, you should seek legal advice.</u>	1394
<u>Sec. 1337.61.</u> <u>The following optional form may be used by an</u>	1395
<u>agent to certify facts concerning a power of attorney.</u>	1396
<u>AGENT'S CERTIFICATION AS TO THE VALIDITY OF POWER OF ATTORNEY</u>	1397
<u>AND AGENT'S AUTHORITY</u>	1398
<u>State of Ohio</u>	1399
<u>County of</u>	1400
<u>I, (Name of Agent),</u>	1401
<u>certify under penalty of perjury that</u>	1402
<u>..... (Name of Principal) granted me</u>	1403
<u>authority as an agent or successor agent in a power of attorney</u>	1404
<u>dated</u>	1405
<u>I further certify that to my knowledge:</u>	1406
<u>(1) The Principal is alive and has not revoked the Power of</u>	1407
<u>Attorney or my authority to act under the Power of Attorney and</u>	1408
<u>the Power of Attorney and my authority to act under the Power of</u>	1409
<u>Attorney have not terminated;</u>	1410
<u>(2) If the Power of Attorney was drafted to become effective</u>	1411
<u>upon the happening of an event or contingency, the event or</u>	1412
<u>contingency has occurred;</u>	1413
<u>(3) If I was named as a successor agent, the prior agent is</u>	1414
<u>no longer able or willing to serve;</u>	1415

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). 1445
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). 1446
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1448
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1450

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: 1451
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1453

(1) A power of attorney created before, on, or after the effective date of this section; 1454
1455

(2) A judicial proceeding concerning a power of attorney commenced on or after the effective date of this section; 1456
1457

(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. 1458
1459
1460
1461
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1464

(B) Sections 1337.21 to 1337.64 of the Revised Code do not affect an act done before the effective date of this section. 1465
1466

Sec. 2101.24. (A)(1) Except as otherwise provided by law, the probate court has exclusive jurisdiction: 1467
1468

(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 1469
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1471
1472
1473

the record of these acts shall be preserved in the usual records	1474
of the probate court.	1475
(b) To grant and revoke letters testamentary and of	1476
administration;	1477
(c) To direct and control the conduct and settle the accounts	1478
of executors and administrators and order the distribution of	1479
estates;	1480
(d) To appoint the attorney general to serve as the	1481
administrator of an estate pursuant to section 2113.06 of the	1482
Revised Code;	1483
(e) To appoint and remove guardians, conservators, and	1484
testamentary trustees, direct and control their conduct, and	1485
settle their accounts;	1486
(f) To grant marriage licenses;	1487
(g) To make inquests respecting persons who are so mentally	1488
impaired as a result of a mental or physical illness or	1489
disability, or mental retardation, or as a result of chronic	1490
substance abuse, that they are unable to manage their property and	1491
affairs effectively, subject to guardianship;	1492
(h) To qualify assignees, appoint and qualify trustees and	1493
commissioners of insolvents, control their conduct, and settle	1494
their accounts;	1495
(i) To authorize the sale of lands, equitable estates, or	1496
interests in lands or equitable estates, and the assignments of	1497
inchoate dower in such cases of sale, on petition by executors,	1498
administrators, and guardians;	1499
(j) To authorize the completion of real estate contracts on	1500
petition of executors and administrators;	1501
(k) To construe wills;	1502
(l) To render declaratory judgments, including, but not	1503

limited to, those rendered pursuant to section 2107.084 of the Revised Code;	1504 1505
(m) To direct and control the conduct of fiduciaries and settle their accounts;	1506 1507
(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;	1508 1509
(o) To terminate a testamentary trust in any case in which a court of equity may do so;	1510 1511
(p) To hear and determine actions to contest the validity of wills;	1512 1513
(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;	1514 1515 1516
(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;	1517 1518 1519 1520 1521
(s) To act for and issue orders regarding wards pursuant to section 2111.50 of the Revised Code;	1522 1523
(t) To hear and determine actions against sureties on the bonds of fiduciaries appointed by the probate court;	1524 1525
(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;	1526 1527 1528
(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;	1529 1530 1531
(w) To hear and determine actions commenced by objecting individuals, in accordance with section 2133.05 of the Revised	1532 1533

Code;	1534
(x) To hear and determine complaints that pertain to the use	1535
or continuation, or the withholding or withdrawal, of	1536
life-sustaining treatment in connection with certain patients	1537
allegedly in a terminal condition or in a permanently unconscious	1538
state pursuant to division (E) of section 2133.08 of the Revised	1539
Code, in accordance with that division;	1540
(y) To hear and determine applications that pertain to the	1541
withholding or withdrawal of nutrition and hydration from certain	1542
patients allegedly in a permanently unconscious state pursuant to	1543
section 2133.09 of the Revised Code, in accordance with that	1544
section;	1545
(z) To hear and determine applications of attending	1546
physicians in accordance with division (B) of section 2133.15 of	1547
the Revised Code;	1548
(aa) To hear and determine actions relative to the use or	1549
continuation of comfort care in connection with certain principals	1550
under durable powers of attorney for health care, declarants under	1551
declarations, or patients in accordance with division (E) of	1552
either section 1337.16 or 2133.12 of the Revised Code;	1553
(bb) To hear and determine applications for an order	1554
relieving an estate from administration under section 2113.03 of	1555
the Revised Code;	1556
(cc) To hear and determine applications for an order granting	1557
a summary release from administration under section 2113.031 of	1558
the Revised Code;	1559
(dd) To hear and determine actions relating to the exercise	1560
of the right of disposition, in accordance with section 2108.90 of	1561
the Revised Code;	1562
(ee) To hear and determine actions relating to the	1563

disinterment and reinterment of human remains under section 517.23 1564
of the Revised Code; 1565

(ff) To hear and determine petitions for an order for 1566
treatment of a person suffering from alcohol and other drug abuse 1567
filed under section 3793.34 of the Revised Code and to order 1568
treatment of that nature in accordance with, and take other 1569
actions afforded to the court under, sections 3793.31 to 3793.39 1570
of the Revised Code. 1571

(2) In addition to the exclusive jurisdiction conferred upon 1572
the probate court by division (A)(1) of this section, the probate 1573
court shall have exclusive jurisdiction over a particular subject 1574
matter if both of the following apply: 1575

(a) Another section of the Revised Code expressly confers 1576
jurisdiction over that subject matter upon the probate court. 1577

(b) No section of the Revised Code expressly confers 1578
jurisdiction over that subject matter upon any other court or 1579
agency. 1580

(B)(1) The probate court has concurrent jurisdiction with, 1581
and the same powers at law and in equity as, the general division 1582
of the court of common pleas to issue writs and orders, and to 1583
hear and determine actions as follows: 1584

(a) If jurisdiction relative to a particular subject matter 1585
is stated to be concurrent in a section of the Revised Code or has 1586
been construed by judicial decision to be concurrent, any action 1587
that involves that subject matter; 1588

(b) Any action that involves an inter vivos trust; a trust 1589
created pursuant to section 5815.28 of the Revised Code; a 1590
charitable trust or foundation; subject to divisions (A)(1)(u) and 1591
(z) of this section, a power of attorney, including, but not 1592
limited to, a durable power of attorney; the medical treatment of 1593
a competent adult; or a writ of habeas corpus. 1594

(2) Any action that involves a concurrent jurisdiction 1595
subject matter and that is before the probate court may be 1596
transferred by the probate court, on its order, to the general 1597
division of the court of common pleas. 1598

(C) The probate court has plenary power at law and in equity 1599
to dispose fully of any matter that is properly before the court, 1600
unless the power is expressly otherwise limited or denied by a 1601
section of the Revised Code. 1602

(D) The jurisdiction acquired by a probate court over a 1603
matter or proceeding is exclusive of that of any other probate 1604
court, except when otherwise provided by law. 1605

Sec. 2107.52. (A) As used in this section: 1606

(1) "Class member" means an individual who fails to survive 1607
the testator but who would have taken under a devise in the form 1608
of a class gift had the individual survived the testator. 1609

(2) "Descendant of a grandparent" means an individual who 1610
qualifies as a descendant of a grandparent of the testator or of 1611
the donor of a power of appointment under either of the following: 1612

(a) The rules of construction applicable to a class gift 1613
created in the testator's will if the devise or the exercise of 1614
the power of appointment is in the form of a class gift; 1615

(b) The rules for intestate succession if the devise or the 1616
exercise of the power of appointment is not in the form of a class 1617
gift. 1618

(3) "Devise" means an alternative devise, a devise in the 1619
form of a class gift, or an exercise of a power of appointment. 1620

(4) "Devisee" means any of the following: 1621

(a) A class member if the devise is in the form of a class 1622
gift; 1623

(b) An individual or class member who was deceased at the 1624
time the testator executed the testator's will or an individual or 1625
class member who was then living but who failed to survive the 1626
testator; 1627

(c) An appointee under a power of appointment exercised by 1628
the testator's will. 1629

(5) "Per stirpes" means that the shares of the descendants of 1630
a devisee who does not survive the testator are determined in the 1631
same way they would have been determined under division (A) of 1632
section 2105.06 of the Revised Code if the devisee had died 1633
intestate and unmarried on the date of the testator's death. 1634

(6) "Stepchild" means a child of the surviving, deceased, or 1635
former spouse of the testator or of the donor of a power of 1636
appointment and not of the testator or donor. 1637

(7) "Surviving devisee" or "surviving descendant" means a 1638
devisee or descendant, whichever is applicable, who survives the 1639
testator by at least one hundred twenty hours. 1640

(8) "Testator" includes the donee of a power of appointment 1641
if the power is exercised in the testator's will. 1642

(B)(1) As used in "surviving descendants" in divisions 1643
(B)(2)(a) and (b) of this section, "descendants" means the 1644
descendants of a deceased devisee or class member under the 1645
applicable division who would take under a class gift created in 1646
the testator's will. 1647

(2) Unless a contrary intent appears in the will, if a 1648
devisee fails to survive the testator and is a grandparent, a 1649
descendant of a grandparent, or a stepchild of either the testator 1650
or the donor of a power of appointment exercised by the testator's 1651
will, either of the following applies: 1652

(a) If the devise is not in the form of a class gift and the 1653

deceased devisee leaves surviving descendants, a substitute gift 1654
is created in the devisee's surviving descendants. The surviving 1655
descendants take, per stirpes, the property to which the devisee 1656
would have been entitled had the devisee survived the testator. 1657

(b) If the devise is in the form of a class gift, other than 1658
a devise to "issue," "descendants," "heirs of the body," "heirs," 1659
"next of kin," "relatives," or "family," or a class described by 1660
language of similar import, a substitute gift is created in the 1661
surviving descendants of any deceased devisee. The property to 1662
which the devisees would have been entitled had all of them 1663
survived the testator passes to the surviving devisees and the 1664
surviving descendants of the deceased devisees. Each surviving 1665
devisee takes the share to which the surviving devisee would have 1666
been entitled had the deceased devisees survived the testator. 1667
Each deceased devisee's surviving descendants who are substituted 1668
for the deceased devisee take, per stirpes, the share to which the 1669
deceased devisee would have been entitled had the deceased devisee 1670
survived the testator. For purposes of division (B)(2)(b) of this 1671
section, "deceased devisee" means a class member who failed to 1672
survive the testator by at least one hundred twenty hours and left 1673
one or more surviving descendants. 1674

(C) For purposes of this section, each of the following 1675
applies: 1676

(1) Attaching the word "surviving" or "living" to a devise, 1677
such as a gift "to my surviving (or living) children," is not, in 1678
the absence of other language in the will or other evidence to the 1679
contrary, a sufficient indication of an intent to negate the 1680
application of division (B) of this section. 1681

(2) Attaching other words of survivorship to a devise, such 1682
as "to my child, if my child survives me," is, in the absence of 1683
other language in the will or other evidence to the contrary, a 1684
sufficient indication of an intent to negate the application of 1685

division (B) of this section. 1686

(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. 1687
1688
1689
1690
1691

(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. 1692
1693
1694
1695
1696
1697

(D) Except as provided in division (A), (B), or (C) of this section, each of the following applies: 1698
1699

(1) A devise, other than a residuary devise, that fails for any reason becomes a part of the residue. 1700
1701

(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. 1702
1703
1704
1705
1706

(3) If a residuary devise fails for any reason in its entirety, the residue passes by intestate succession. 1707
1708

(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. 1709
1710
1711
1712

(F) This section applies to wills of decedents who die on or after the effective date of this section. 1713
1714

Sec. 2109.21. (A) An administrator, special administrator, 1715

administrator de bonis non, or administrator with the will annexed 1716
shall be a resident of this state and shall be removed on proof 1717
that the administrator is no longer a resident of this state. 1718

(B)(1) To qualify for appointment as executor or trustee, an 1719
executor or a trustee named in a will or nominated in accordance 1720
with any power of nomination conferred in a will, may be a 1721
resident of this state or, as provided in this division, a 1722
nonresident of this state. To qualify for appointment, a 1723
nonresident executor or trustee named in, or nominated pursuant 1724
to, a will shall be an individual who is related to the maker of 1725
the will by consanguinity or affinity, or a person who resides in 1726
a state that has statutes or rules that authorize the appointment 1727
of a nonresident person who is not related to the maker of a will 1728
by consanguinity or affinity, as an executor or trustee when named 1729
in, or nominated pursuant to, a will. No such executor or trustee 1730
shall be refused appointment or removed solely because the 1731
executor or trustee is not a resident of this state. 1732

The court may require that a nonresident executor or trustee 1733
named in, or nominated pursuant to, a will assure that all of the 1734
assets of the decedent that are in the county at the time of the 1735
death of the decedent will remain in the county until distribution 1736
or until the court determines that the assets may be removed from 1737
the county. 1738

(2) In accordance with this division and section 2129.08 of 1739
the Revised Code, the court shall appoint as an ancillary 1740
administrator a person who is named in the will of a nonresident 1741
decedent, or who is nominated in accordance with any power of 1742
nomination conferred in the will of a nonresident decedent, as a 1743
general executor of the decedent's estate or as executor of the 1744
portion of the decedent's estate located in this state, whether or 1745
not the person so named or nominated is a resident of this state. 1746

To qualify for appointment as an ancillary administrator, a 1747

person who is not a resident of this state and who is named or 1748
nominated as described in this division, shall be an individual 1749
who is related to the maker of the will by consanguinity or 1750
affinity, or a person who resides in a state that has statutes or 1751
rules that authorize the appointment of a nonresident of that 1752
state who is not related to the maker of a will by consanguinity 1753
or affinity, as an ancillary administrator when the nonresident is 1754
named in a will or nominated in accordance with any power of 1755
nomination conferred in a will. If a person who is not a resident 1756
of this state and who is named or nominated as described in this 1757
division so qualifies for appointment as an ancillary 1758
administrator and if the provisions of section 2129.08 of the 1759
Revised Code are satisfied, the court shall not refuse to appoint 1760
the person, and shall not remove the person, as ancillary 1761
administrator solely because the person is not a resident of this 1762
state. 1763

The court may require that an ancillary administrator who is 1764
not a resident of this state and who is named or nominated as 1765
described in this division, assure that all of the assets of the 1766
decedent that are in the county at the time of the death of the 1767
decedent will remain in the county until distribution or until the 1768
court determines that the assets may be removed from the county. 1769

(C)(1) A guardian shall be a resident of this state, except 1770
that the court may appoint a nonresident of this state as a 1771
guardian if any of the following applies: 1772

(a) The nonresident is named in a will by a parent of a 1773
minor. 1774

(b) The nonresident is selected by a minor over the age of 1775
fourteen years as provided by section 2111.12 of the Revised Code. 1776

(c) The nonresident is nominated in or pursuant to a durable 1777
power of attorney ~~as described in division (D) of~~ under section 1778

~~1337.09~~ 1337.24 of the Revised Code or a writing as described in 1779
division (A) of section 2111.121 of the Revised Code. 1780

(2) A guardian, other than a guardian named in a will by a 1781
parent of a minor, selected by a minor over the age of fourteen 1782
years, or nominated in or pursuant to a durable power of attorney 1783
or writing described in division (C)(1)(c) of this section, may be 1784
removed on proof that the guardian is no longer a resident of this 1785
state. 1786

(D) Any fiduciary, whose residence qualifications are not 1787
defined in this section, shall be a resident of this state, and 1788
shall be removed on proof that the fiduciary is no longer a 1789
resident of this state. 1790

(E) Any fiduciary, in order to assist in the carrying out of 1791
the fiduciary's fiduciary duties, may employ agents who are not 1792
residents of the county or of this state. 1793

Sec. 2111.02. (A) When found necessary, the probate court on 1794
its own motion or on application by any interested party shall 1795
appoint, subject to divisions (C) and (D) of this section and to 1796
section 2109.21 and division (B) of section 2111.121 of the 1797
Revised Code, a guardian of the person, the estate, or both, of a 1798
minor or incompetent, provided the person for whom the guardian is 1799
to be appointed is a resident of the county or has a legal 1800
settlement in the county and, except in the case of a minor, has 1801
had the opportunity to have the assistance of counsel in the 1802
proceeding for the appointment of such guardian. An interested 1803
party includes, but is not limited to, a person nominated in a 1804
durable power of attorney ~~as described in division (D) of~~ under 1805
section ~~1337.09~~ 1337.24 of the Revised Code or in a writing as 1806
described in division (A) of section 2111.121 of the Revised Code. 1807

Except when the guardian of an incompetent is an agency under 1808
contract with the department of developmental disabilities for the 1809

provision of protective services under sections 5123.55 to 5123.59 1810
of the Revised Code, the guardian of an incompetent, by virtue of 1811
such appointment, shall be the guardian of the minor children of 1812
the guardian's ward, unless the court appoints some other person 1813
as their guardian. 1814

When the primary purpose of the appointment of a guardian is, 1815
or was, the collection, disbursement, or administration of moneys 1816
awarded by the veterans administration to the ward, or assets 1817
derived from such moneys, no court costs shall be charged in the 1818
proceeding for the appointment or in any subsequent proceedings 1819
made in pursuance of the appointment, unless the value of the 1820
estate, including the moneys then due under the veterans 1821
administration award, exceeds one thousand five hundred dollars. 1822

(B)(1) If the probate court finds it to be in the best 1823
interest of an incompetent or minor, it may appoint pursuant to 1824
divisions (A) and (C) of this section, on its own motion or on 1825
application by an interested party, a limited guardian with 1826
specific limited powers. The sections of the Revised Code, rules, 1827
and procedures governing guardianships apply to a limited 1828
guardian, except that the order of appointment and letters of 1829
authority of a limited guardian shall state the reasons for, and 1830
specify the limited powers of, the guardian. The court may appoint 1831
a limited guardian for a definite or indefinite period. An 1832
incompetent or minor for whom a limited guardian has been 1833
appointed retains all of the incompetent's or minor's rights in 1834
all areas not affected by the court order appointing the limited 1835
guardian. 1836

(2) If a guardian appointed pursuant to division (A) of this 1837
section is temporarily or permanently removed or resigns, and if 1838
the welfare of the ward requires immediate action, at any time 1839
after the removal or resignation, the probate court may appoint, 1840
ex parte and with or without notice to the ward or interested 1841

parties, an interim guardian for a maximum period of fifteen days. 1842
If the court appoints the interim guardian ex parte or without 1843
notice to the ward, the court, at its first opportunity, shall 1844
enter upon its journal with specificity the reason for acting ex 1845
parte or without notice, and, as soon as possible, shall serve 1846
upon the ward a copy of the order appointing the interim guardian. 1847
For good cause shown, after notice to the ward and interested 1848
parties and after hearing, the court may extend an interim 1849
guardianship for a specified period, but not to exceed an 1850
additional thirty days. 1851

(3) If a minor or incompetent has not been placed under a 1852
guardianship pursuant to division (A) of this section and if an 1853
emergency exists, and if it is reasonably certain that immediate 1854
action is required to prevent significant injury to the person or 1855
estate of the minor or incompetent, at any time after it receives 1856
notice of the emergency, the court, ex parte, may issue any order 1857
that it considers necessary to prevent injury to the person or 1858
estate of the minor or incompetent, or may appoint an emergency 1859
guardian for a maximum period of seventy-two hours. A written copy 1860
of any order issued by a court under this division shall be served 1861
upon the incompetent or minor as soon as possible after its 1862
issuance. Failure to serve such an order after its issuance or 1863
prior to the taking of any action under its authority does not 1864
invalidate the order or the actions taken. The powers of an 1865
emergency guardian shall be specified in the letters of 1866
appointment, and shall be limited to those powers that are 1867
necessary to prevent injury to the person or estate of the minor 1868
or incompetent. If the court acts ex parte or without notice to 1869
the minor or incompetent, the court, at its first opportunity, 1870
shall enter upon its journal a record of the case and, with 1871
specificity, the reason for acting ex parte or without notice. For 1872
good cause shown, after notice to the minor or incompetent and 1873
interested parties, and after hearing, the court may extend an 1874

emergency guardianship for a specified period, but not to exceed 1875
an additional thirty days. 1876

(C) Prior to the appointment of a guardian or limited 1877
guardian under division (A) or (B)(1) of this section, the court 1878
shall conduct a hearing on the matter of the appointment. The 1879
hearing shall be conducted in accordance with all of the 1880
following: 1881

(1) The proposed guardian or limited guardian shall appear at 1882
the hearing and, if appointed, shall swear under oath that the 1883
proposed guardian or limited guardian has made and will continue 1884
to make diligent efforts to file a true inventory in accordance 1885
with section 2111.14 of the Revised Code and find and report all 1886
assets belonging to the estate of the ward and that the proposed 1887
guardian or limited guardian faithfully and completely will 1888
fulfill the other duties of guardian, including the filing of 1889
timely and accurate reports and accountings; 1890

(2) If the hearing is conducted by a referee, the procedures 1891
set forth in Civil Rule 53 shall be followed; 1892

(3) If the hearing concerns the appointment of a guardian or 1893
limited guardian for an alleged incompetent, the burden of proving 1894
incompetency shall be by clear and convincing evidence; 1895

(4) Upon request of the applicant, the alleged incompetent 1896
for whom the appointment is sought or the alleged incompetent's 1897
counsel, or any interested party, a recording or record of the 1898
hearing shall be made; 1899

(5) Evidence of a less restrictive alternative to 1900
guardianship may be introduced, and when introduced, shall be 1901
considered by the court; 1902

(6) The court may deny a guardianship based upon a finding 1903
that a less restrictive alternative to guardianship exists; 1904

(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:	1905 1906 1907
(a) The right to be represented by independent counsel of the alleged incompetent's choice;	1908 1909
(b) The right to have a friend or family member of the alleged incompetent's choice present;	1910 1911
(c) The right to have evidence of an independent expert evaluation introduced;	1912 1913
(d) If the alleged incompetent is indigent, upon the alleged incompetent's request:	1914 1915
(i) The right to have counsel and an independent expert evaluator appointed at court expense;	1916 1917
(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.	1918 1919 1920 1921
(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 <u>under</u> section 1337.09 <u>1337.24</u> 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.	1922 1923 1924 1925 1926 1927 1928 1929 1930 1931 1932 1933 1934

(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 1966
other respects shall be governed by the law regulating guardians 1967
not appointed by will. 1968

(C) A parent pursuant to a durable power of attorney ~~as~~ 1969
~~described in division (D) of~~ under section ~~1337.09~~ 1337.24 or a 1970
writing as described in division (A) of section 2111.121 of the 1971
Revised Code may nominate a person to be a guardian for one or 1972
more of the parent's minor children, whether born at the time of 1973
the making of the petition or afterward. 1974

Sec. 2111.121. (A) A person may nominate in a writing, as 1975
described in this division, another person to be the guardian of 1976
the nominator's person, estate, or both or the guardian of the 1977
person, the estate, or both, of one or more of the nominator's 1978
minor or incompetent adult children, whether born at the time of 1979
the execution of the writing or afterward, subject to notice and a 1980
hearing pursuant to section 2111.02 of the Revised Code. The 1981
nomination is for consideration by a court if proceedings for the 1982
appointment of a guardian of the person, the estate, or both, for 1983
the person making the nomination or if proceedings for the 1984
appointment of a guardian as the guardian of the person, the 1985
estate, or both of one or more of the nominator's minor or 1986
incompetent adult children are commenced at a later time. The 1987
person may authorize, in a writing of that nature, the person 1988
nominated as guardian to nominate a successor guardian for 1989
consideration by a court. The person also may direct, in a writing 1990
of that nature, that bond be waived for a person nominated as 1991
guardian in it or nominated as a successor guardian in accordance 1992
with an authorization in it. 1993

To be effective as a nomination, the writing shall be signed 1994
by the person making the nomination in the presence of two 1995
witnesses; signed by the witnesses; contain, immediately prior to 1996

their signatures, an attestation of the witnesses that the person 1997
making the nomination signed the writing in their presence; and be 1998
acknowledged by the person making the nomination before a notary 1999
public. 2000

(B) If a person has nominated, in a writing as described in 2001
division (A) of this section or in a durable power of attorney ~~as~~ 2002
~~described in division (D) of~~ under section ~~1337.09~~ 1337.24 of the 2003
Revised Code, another person to be the guardian of the nominator's 2004
person, estate, or both, and proceedings for the appointment of a 2005
guardian for the person are commenced at a later time, the court 2006
involved shall appoint the person nominated as guardian in the 2007
writing or durable power of attorney most recently executed if the 2008
person nominated is competent, suitable, and willing to accept the 2009
appointment. If the writing or durable power of attorney contains 2010
a waiver of bond, the court shall waive bond of the person 2011
nominated as guardian unless it is of the opinion that the 2012
interest of the trust demands it. 2013

(C) Nomination of a person as a guardian or successor 2014
guardian of the person, the estate, or both of one or more of the 2015
nominator's minor or incompetent adult children under division (A) 2016
of this section, and any subsequent appointment of the guardian or 2017
successor guardian as guardian under section 2111.02 of the 2018
Revised Code, does not vacate the jurisdiction of any other court 2019
that previously may have exercised jurisdiction over the person of 2020
the minor or incompetent adult child. 2021

(D) The writing containing the nomination of a person to be 2022
the guardian of the person, the estate, or both of one or more of 2023
the nominator's minor or incompetent adult children under division 2024
(A) of this section may be filed with the probate court for 2025
safekeeping, and the probate court shall designate the nomination 2026
as the nomination of a standby guardian. 2027

<u>Sec. 3793.31. As used in sections 3793.31 to 3793.39 of the</u>	2028
<u>Revised Code:</u>	2029
<u>(A) "Alcohol and other drug abuse" means alcoholism or drug</u>	2030
<u>addiction.</u>	2031
<u>(B) "Another drug" means a controlled substance as defined in</u>	2032
<u>section 3719.01 of the Revised Code or a harmful intoxicant as</u>	2033
<u>defined in section 2925.01 of the Revised Code.</u>	2034
<u>(C) "Board of alcohol, drug addiction, and mental health</u>	2035
<u>services" means a board of alcohol, drug addiction, and mental</u>	2036
<u>health services established under section 340.02 or 340.021 of the</u>	2037
<u>Revised Code.</u>	2038
<u>(D) "Danger" or "threat of danger to self, family, or others"</u>	2039
<u>means substantial physical harm or threat of substantial physical</u>	2040
<u>harm upon self, family, or others.</u>	2041
<u>(E) "Hospital" has the same meaning as in section 3701.01 or</u>	2042
<u>3727.01 of the Revised Code but does not include either a hospital</u>	2043
<u>operated by the department of mental health or an inpatient unit</u>	2044
<u>licensed by the department.</u>	2045
<u>(F) "Intoxicated" means being under the influence of alcohol,</u>	2046
<u>another drug, or both alcohol and another drug and, as a result,</u>	2047
<u>having a significantly impaired ability to function.</u>	2048
<u>(G) "Petitioner" means a person who institutes a proceeding</u>	2049
<u>under sections 3793.32 to 3793.39 of the Revised Code.</u>	2050
<u>(H) "Probate court" means the probate division of the court</u>	2051
<u>of common pleas.</u>	2052
<u>(I) "Qualified health professional" means a person that is</u>	2053
<u>properly credentialed or licensed to conduct a drug and alcohol</u>	2054
<u>assessment and diagnosis under Ohio law.</u>	2055
<u>(J) "Residence" means the legal residence of a person as</u>	2056

determined by applicable principles governing conflicts of law. 2057

(K) "Respondent" means a person alleged in a petition filed 2058
or hearing under sections 3793.32 to 3793.39 of the Revised Code 2059
to be a person who is suffering from alcohol and other drug abuse 2060
and who should be ordered under those sections to undergo 2061
treatment. 2062

(L) "Treatment" means services and programs for the care and 2063
rehabilitation of intoxicated persons and persons suffering from 2064
alcohol and other drug abuse. "Treatment" includes residential 2065
treatment, a halfway house setting, and an intensive outpatient or 2066
outpatient level of care. 2067

Sec. 3793.32. A probate court may order involuntary treatment 2068
for a person suffering from alcohol and other drug abuse pursuant 2069
to the procedures set forth in sections 3793.31 to 3793.39 of the 2070
Revised Code. 2071

Sec. 3793.33. No person shall be ordered to undergo treatment 2072
under sections 3793.31 to 3793.39 of the Revised Code unless all 2073
of the following apply to that person: 2074

(A) The person suffers from alcohol and other drug abuse. 2075

(B) The person presents an imminent danger or imminent threat 2076
of danger to self, family, or others as a result of alcohol and 2077
other drug abuse, or there exists a substantial likelihood of such 2078
a threat in the near future. 2079

(C) The person can reasonably benefit from treatment. 2080

Sec. 3793.34. (A) A person may initiate proceedings for 2081
treatment for an individual suffering from alcohol and other drug 2082
abuse by filing a verified petition in the probate court and 2083
paying a filing fee in the same amount, if any, that is charged 2084
for the filing under section 5122.11 of the Revised Code of an 2085

affidavit seeking the hospitalization of a person. The petition 2086
and all subsequent court documents shall be entitled: "In the 2087
interest of (name of respondent)." A spouse, relative, or guardian 2088
of the individual concerning whom the petition is filed shall file 2089
the petition. 2090

(B) A petition filed under division (A) of this section shall 2091
set forth all of the following: 2092

(1) The petitioner's relationship to the respondent; 2093

(2) The respondent's name, residence address, and current 2094
location, if known; 2095

(3) The name and residence of the respondent's parents, if 2096
living and if known, or of the respondent's legal guardian, if any 2097
and if known; 2098

(4) The name and residence of the respondent's spouse, if any 2099
and if known; 2100

(5) The name and residence of the person having custody of 2101
the respondent, if any, or if no such person is known, the name 2102
and residence of a near relative or a statement that the person is 2103
unknown; 2104

(6) The petitioner's belief, including the factual basis for 2105
the belief, that the respondent is suffering from alcohol and 2106
other drug abuse and presents an imminent danger or imminent 2107
threat of danger to self, family, or others if not treated for 2108
alcohol or other drug abuse. 2109

(C)(1) Any petition filed pursuant to divisions (A) and (B) 2110
of this section shall be accompanied by a certificate of a 2111
physician who has examined the respondent within two days prior to 2112
the day that the petition is filed in the probate court. The 2113
physician shall be authorized to practice medicine and surgery or 2114
osteopathic medicine and surgery under Chapter 4731. of the 2115

Revised Code. The physician's certificate shall set forth the 2116
physician's findings in support of the need to treat the 2117
respondent for alcohol or other drug abuse. The certificate shall 2118
indicate if the respondent presents an imminent danger or imminent 2119
threat of danger to self, family, or others if not treated. 2120
Further, the certificate shall indicate the type and length of 2121
treatment required and if the respondent can reasonably benefit 2122
from treatment. If the physician's certificate indicates that 2123
inpatient treatment is required, the certificate shall identify 2124
any inpatient facilities known to the physician that are able and 2125
willing to provide the recommended inpatient treatment. 2126

If the respondent refuses to undergo an examination with a 2127
physician concerning the respondent's possible need for treatment 2128
for alcohol or other drug abuse, the petition shall state that the 2129
respondent has refused all requests made by the petitioner to 2130
undergo a physician's examination. In that case, the petitioner 2131
shall not be required to provide a physician's certificate with 2132
the petition. 2133

(2) Any petition filed pursuant to divisions (A) and (B) of 2134
this section shall contain a statement that the petitioner has 2135
arranged for treatment of the respondent. Further, the petition 2136
shall be accompanied by a statement from the person or facility 2137
who has agreed to provide the treatment that verifies that the 2138
person or facility has agreed to provide the treatment and the 2139
estimated cost of the treatment. 2140

(D) Any petition filed pursuant to divisions (A) and (B) of 2141
this section shall be accompanied by both of the following: 2142

(1) A security deposit to be deposited with the clerk of the 2143
probate court that will cover half of the estimated cost of 2144
treatment of the respondent; 2145

(2) A guarantee, signed by the petitioner or another person 2146

authorized to file the petition obligating the guarantor to pay 2147
the costs of the examinations of the respondent conducted by the 2148
physician and qualified health professional under division (B)(5) 2149
of section 3793.35 of the Revised Code, the costs of the 2150
respondent that are associated with a hearing conducted in 2151
accordance with section 3793.35 of the Revised Code and that the 2152
court determines to be appropriate, and the costs of any treatment 2153
ordered by the court. 2154

Sec. 3793.35. (A) Upon receipt of a petition filed under 2155
section 3793.34 of the Revised Code and the payment of the 2156
appropriate filing fee, if any, the probate court shall examine 2157
the petitioner under oath as to the contents of the petition. 2158

(B) If, after reviewing the allegations contained in the 2159
petition and examining the petitioner under oath, it appears to 2160
the probate court that there is probable cause to believe the 2161
respondent should be ordered to undergo treatment, the court shall 2162
do all of the following: 2163

(1) Schedule a hearing to be held within seven days to 2164
determine if there is probable cause to believe that the 2165
respondent should be ordered to undergo treatment for alcohol and 2166
other drug abuse; 2167

(2) Notify the respondent, the legal guardian, if any and if 2168
known, and the spouse, parents, or nearest relative or friend of 2169
the respondent concerning the allegations and contents of the 2170
petition and of the date and purpose of the hearing; 2171

(3) Notify the respondent that the respondent may retain 2172
counsel and, if the person is unable to obtain an attorney, that 2173
the respondent may be represented by court-appointed counsel at 2174
public expense if the person is indigent. Upon the appointment of 2175
an attorney to represent an indigent respondent, the court shall 2176
notify the respondent of the name, address, and telephone number 2177

of the attorney appointed to represent the respondent. 2178

(4) Notify the respondent that the court shall cause the 2179
respondent to be examined not later than twenty-four hours before 2180
the hearing date by a physician for the purpose of a physical 2181
examination and by a qualified health professional for the purpose 2182
of a drug and alcohol addiction assessment and diagnosis. In 2183
addition, the court shall notify the respondent that the 2184
respondent may have an independent expert evaluation of the 2185
person's physical and mental condition conducted at the 2186
respondent's own expense. 2187

(5) Cause the respondent to be examined not later than 2188
twenty-four hours before the hearing date by a physician for the 2189
purpose of a physical examination and by a qualified health 2190
professional for the purpose of a drug and alcohol addiction 2191
assessment and diagnosis; 2192

(6) Conduct the hearing. 2193

(C) The physician and qualified health professional who 2194
examine the respondent pursuant to division (B)(5) of this section 2195
or who are obtained by the respondent at the respondent's own 2196
expense shall certify their findings to the court within 2197
twenty-four hours of the examinations. The findings of each 2198
qualified health professional shall include a recommendation for 2199
treatment if the qualified health professional determines that 2200
treatment is necessary. 2201

(D)(1) If the probate court finds upon completion of the 2202
hearing held under this section that the respondent should be 2203
ordered to undergo treatment, the court shall order the treatment 2204
after considering the qualified health professionals' 2205
recommendations for treatment that have been submitted to the 2206
court under division (C) of this section. The court shall order 2207
the treatment to be provided through an alcohol and drug addiction 2208

program certified under section 3793.06 of the Revised Code or by 2209
an individual licensed or certified by the state medical board 2210
under Chapter 4731. of the Revised Code, the chemical dependency 2211
professionals board under Chapter 4758. of the Revised Code, the 2212
counselor, social worker, and marriage and family therapist board 2213
under Chapter 4757. of the Revised Code, or a similar board of 2214
another state authorized to provide substance abuse treatment. 2215

(2) Failure of a respondent to undergo and complete any 2216
treatment ordered pursuant to this division is contempt of court. 2217
Any alcohol and drug addiction program or person providing 2218
treatment under this division shall notify the probate court of a 2219
respondent's failure to undergo or complete the ordered treatment. 2220

(E) If, at any time after a petition is filed under section 2221
3793.34 of the Revised Code, the probate court finds that there is 2222
not probable cause to continue treatment or if the petitioner 2223
withdraws the petition, then the court shall dismiss the 2224
proceedings against the respondent. 2225

Sec. 3793.36. (A) Following an examination by a qualified 2226
health professional and a certification by that professional that 2227
the person meets the criteria specified in section 3793.33 of the 2228
Revised Code, a probate court may order the person hospitalized 2229
for a period not to exceed seventy-two hours if the court finds by 2230
clear and convincing evidence that the person presents an imminent 2231
threat of danger to self, family, or others as a result of alcohol 2232
and other drug abuse. However, if the hearing to be held under 2233
section 3793.35 of the Revised Code will not be held within 2234
seventy-two hours, the court may order the person hospitalized 2235
until the hearing. In making its order, the court shall inform the 2236
person that the person may immediately make a reasonable number of 2237
telephone calls or use other reasonable means to contact an 2238
attorney, a licensed physician, or a qualified health 2239

professional, to contact any other person or persons to secure 2240
representation by counsel, or to obtain medical or psychological 2241
assistance and that the person will be provided assistance in 2242
making calls if the assistance is needed and requested. 2243

(B) Any person who has been admitted to a hospital under 2244
division (A) of this section shall be released from the hospital 2245
immediately upon the expiration of the time period established by 2246
the court for the hospitalization. 2247

(C) No person ordered hospitalized under this section shall 2248
be held in jail pending transportation to the hospital or 2249
evaluation unless the probate court previously has found the 2250
person to be in contempt of court for either failure to undergo 2251
treatment or failure to appear at the evaluation ordered pursuant 2252
to section 3793.35 of the Revised Code. 2253

Sec. 3793.37. When a probate court is authorized to issue an 2254
order that the respondent be transported to a hospital, the court 2255
may issue a summons. If the respondent fails to attend an 2256
examination scheduled before the hearing under section 3793.35 of 2257
the Revised Code, the court shall issue a summons. A summons so 2258
issued shall be directed to the respondent and shall command the 2259
respondent to appear at a time and place specified in the summons. 2260
If a respondent who has been summoned fails to appear at the 2261
hospital or the examination, the probate court may order the 2262
sheriff or any other peace officer to transport the respondent to 2263
a hospital on the list provided under section 3793.38 of the 2264
Revised Code for treatment. The sheriff or any other peace 2265
officer, upon agreement of a person authorized by the peace 2266
officer, may authorize a board of alcohol, drug addiction, and 2267
mental health services, a private agency under contract with a 2268
board of alcohol, drug addiction, and mental health services, or 2269
an ambulance service designated by a board of alcohol, drug 2270

addiction, and mental health services to transport the respondent 2271
to the hospital. The transportation costs of the sheriff, other 2272
peace officer, ambulance service, or other private agency under 2273
contract with the board of alcohol, drug addiction, and mental 2274
health services shall be included in the costs of treatment for 2275
alcohol and other drug abuse to be paid by the petitioner. 2276

Sec. 3793.38. Each board of alcohol, drug addiction, and 2277
mental health services on at least an annual basis shall submit 2278
each of the following lists to the clerk of the probate court in 2279
each county served by the board: 2280

(A) A list of all hospitals in the counties served by the 2281
board that are able and willing to take respondents ordered to 2282
undergo seventy-two hours of treatment and observation pursuant to 2283
section 3793.36 of the Revised Code; 2284

(B) A list of hospitals and treatment providers in the 2285
counties served by the board that are able and willing to provide 2286
treatment for alcohol and other drug abuse ordered pursuant to 2287
section 3793.35 of the Revised Code. 2288

Sec. 3793.39. Sections 3793.12, 3793.13, and 3793.14 of the 2289
Revised Code apply to a person who is ordered to undergo treatment 2290
under sections 3793.31 to 3793.39 of the Revised Code. 2291

Sec. 5301.071. No instrument conveying real estate property, 2292
or any interest therein in real property, and of record in the 2293
office of the county recorder of the county within this state in 2294
which ~~such~~ that real estate property is situated shall be ~~deemed~~ 2295
considered defective nor shall the validity of ~~such~~ that 2296
conveyance be affected because of any of the following: 2297

(A) The dower interest of the spouse of any grantor was not 2298
specifically released, but ~~such~~ that spouse executed ~~said the~~ 2299

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 2331
of trust or the effective date of this section, whichever event 2332
occurs later. 2333

Sec. 5747.02. (A) For the purpose of providing revenue for 2334
the support of schools and local government functions, to provide 2335
relief to property taxpayers, to provide revenue for the general 2336
revenue fund, and to meet the expenses of administering the tax 2337
levied by this chapter, there is hereby levied on every 2338
individual, trust, and estate residing in or earning or receiving 2339
income in this state, on every individual, trust, and estate 2340
earning or receiving lottery winnings, prizes, or awards pursuant 2341
to Chapter 3770. of the Revised Code, on every individual, trust, 2342
and estate earning or receiving winnings on casino gaming, and on 2343
every individual, trust, and estate otherwise having nexus with or 2344
in this state under the Constitution of the United States, an 2345
annual tax measured in the case of individuals by Ohio adjusted 2346
gross income less an exemption for the taxpayer, the taxpayer's 2347
spouse, and each dependent as provided in section 5747.025 of the 2348
Revised Code; measured in the case of trusts by modified Ohio 2349
taxable income under division (D) of this section; and measured in 2350
the case of estates by Ohio taxable income. The tax imposed by 2351
this section on the balance thus obtained is hereby levied as 2352
follows: 2353

(1) For taxable years beginning in 2004: 2354
OHIO ADJUSTED GROSS INCOME LESS 2355
EXEMPTIONS (INDIVIDUALS)
OR 2356
MODIFIED OHIO 2357
TAXABLE INCOME (TRUSTS) 2358
OR 2359
OHIO TAXABLE INCOME (ESTATES) TAX 2360

\$5,000 or less	.743%	2361
More than \$5,000 but not more than \$10,000	\$37.15 plus 1.486% of the amount in excess of \$5,000	2362
More than \$10,000 but not more than \$15,000	\$111.45 plus 2.972% of the amount in excess of \$10,000	2363
More than \$15,000 but not more than \$20,000	\$260.05 plus 3.715% of the amount in excess of \$15,000	2364
More than \$20,000 but not more than \$40,000	\$445.80 plus 4.457% of the amount in excess of \$20,000	2365
More than \$40,000 but not more than \$80,000	\$1,337.20 plus 5.201% of the amount in excess of \$40,000	2366
More than \$80,000 but not more than \$100,000	\$3,417.60 plus 5.943% of the amount in excess of \$80,000	2367
More than \$100,000 but not more than \$200,000	\$4,606.20 plus 6.9% of the amount in excess of \$100,000	2368
More than \$200,000	\$11,506.20 plus 7.5% of the amount in excess of \$200,000	2369
(2) For taxable years beginning in 2005:		2370
OHIO ADJUSTED GROSS INCOME LESS		2371
EXEMPTIONS (INDIVIDUALS)		
OR		2372
MODIFIED OHIO		2373
TAXABLE INCOME (TRUSTS)		2374
OR		2375
OHIO TAXABLE INCOME (ESTATES) TAX		2376
\$5,000 or less	.712%	2377
More than \$5,000 but not more than \$10,000	\$35.60 plus 1.424% of the amount in excess of \$5,000	2378
More than \$10,000 but not more than \$15,000	\$106.80 plus 2.847% of the amount in excess of \$10,000	2379
More than \$15,000 but not more than \$20,000	\$249.15 plus 3.559% of the amount in excess of \$15,000	2380
More than \$20,000 but not more	\$427.10 plus 4.27% of the amount	2381

than \$40,000	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	2382
More than \$80,000 but not more than \$100,000	\$3,274.30 plus 5.693% of the amount in excess of \$80,000	2383
More than \$100,000 but not more than \$200,000	\$4,412.90 plus 6.61% of the amount in excess of \$100,000	2384
More than \$200,000	\$11,022.90 plus 7.185% of the amount in excess of \$200,000	2385
(3) For taxable years beginning in 2006:		2386
OHIO ADJUSTED GROSS INCOME LESS EXEMPTIONS (INDIVIDUALS)		2387
OR		2388
MODIFIED OHIO TAXABLE INCOME (TRUSTS)		2389
OR		2391
OHIO TAXABLE INCOME (ESTATES) TAX		2392
\$5,000 or less	.681%	2393
More than \$5,000 but not more than \$10,000	\$34.05 plus 1.361% of the amount in excess of \$5,000	2394
More than \$10,000 but not more than \$15,000	\$102.10 plus 2.722% of the amount in excess of \$10,000	2395
More than \$15,000 but not more than \$20,000	\$238.20 plus 3.403% of the amount in excess of \$15,000	2396
More than \$20,000 but not more than \$40,000	\$408.35 plus 4.083% of the amount in excess of \$20,000	2397
More than \$40,000 but not more than \$80,000	\$1,224.95 plus 4.764% of the amount in excess of \$40,000	2398
More than \$80,000 but not more than \$100,000	\$3,130.55 plus 5.444% of the amount in excess of \$80,000	2399
More than \$100,000 but not more than \$200,000	\$4,219.35 plus 6.32% of the amount in excess of \$100,000	2400
More than \$200,000	\$10,539.35 plus 6.87% of the	2401

amount in excess of \$200,000

(4) For taxable years beginning in 2007:		2402
OHIO ADJUSTED GROSS INCOME LESS		2403
EXEMPTIONS (INDIVIDUALS)		
OR		2404
MODIFIED OHIO		2405
TAXABLE INCOME (TRUSTS)		2406
OR		2407
OHIO TAXABLE INCOME (ESTATES)	TAX	2408
\$5,000 or less	.649%	2409
More than \$5,000 but not more than \$10,000	\$32.45 plus 1.299% of the amount in excess of \$5,000	2410
More than \$10,000 but not more than \$15,000	\$97.40 plus 2.598% of the amount in excess of \$10,000	2411
More than \$15,000 but not more than \$20,000	\$227.30 plus 3.247% of the amount in excess of \$15,000	2412
More than \$20,000 but not more than \$40,000	\$389.65 plus 3.895% of the amount in excess of \$20,000	2413
More than \$40,000 but not more than \$80,000	\$1,168.65 plus 4.546% of the amount in excess of \$40,000	2414
More than \$80,000 but not more than \$100,000	\$2,987.05 plus 5.194% of the amount in excess of \$80,000	2415
More than \$100,000 but not more than \$200,000	\$4,025.85 plus 6.031% of the amount in excess of \$100,000	2416
More than \$200,000	\$10,056.85 plus 6.555% of the amount in excess of \$200,000	2417
(5) For taxable years beginning in 2008, 2009, or 2010:		2418
OHIO ADJUSTED GROSS INCOME LESS		2419
EXEMPTIONS (INDIVIDUALS)		
OR		2420
MODIFIED OHIO		2421
TAXABLE INCOME (TRUSTS)		2422

OR		2423
OHIO TAXABLE INCOME (ESTATES)	TAX	2424
\$5,000 or less	.618%	2425
More than \$5,000 but not more than \$10,000	\$30.90 plus 1.236% of the amount in excess of \$5,000	2426
More than \$10,000 but not more than \$15,000	\$92.70 plus 2.473% of the amount in excess of \$10,000	2427
More than \$15,000 but not more than \$20,000	\$216.35 plus 3.091% of the amount in excess of \$15,000	2428
More than \$20,000 but not more than \$40,000	\$370.90 plus 3.708% of the amount in excess of \$20,000	2429
More than \$40,000 but not more than \$80,000	\$1,112.50 plus 4.327% of the amount in excess of \$40,000	2430
More than \$80,000 but not more than \$100,000	\$2,843.30 plus 4.945% of the amount in excess of \$80,000	2431
More than \$100,000 but not more than \$200,000	\$3,832.30 plus 5.741% of the amount in excess of \$100,000	2432
More than \$200,000	\$9,573.30 plus 6.24% of the amount in excess of \$200,000	2433
(6) For taxable years beginning in 2011 or thereafter:		2434
OHIO ADJUSTED GROSS INCOME LESS EXEMPTIONS (INDIVIDUALS)		2435
OR		2436
MODIFIED OHIO TAXABLE INCOME (TRUSTS)		2438
OR		2439
OHIO TAXABLE INCOME (ESTATES)	TAX	2440
\$5,000 or less	.587%	2441
More than \$5,000 but not more than \$10,000	\$29.35 plus 1.174% of the amount in excess of \$5,000	2442
More than \$10,000 but not more than \$15,000	\$88.05 plus 2.348% of the amount in excess of \$10,000	2443
More than \$15,000 but not more	\$205.45 plus 2.935% of the	2444

than \$20,000	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	2445
More than \$40,000 but not more than \$80,000	\$1,056.40 plus 4.109% of the amount in excess of \$40,000	2446
More than \$80,000 but not more than \$100,000	\$2,700.00 plus 4.695% of the amount in excess of \$80,000	2447
More than \$100,000 but not more than \$200,000	\$3,639.00 plus 5.451% of the amount in excess of \$100,000	2448
More than \$200,000	\$9,090.00 plus 5.925% of the amount in excess of \$200,000	2449

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 2471
beginning in the calendar year in which that certification is 2472
made. 2473

(C) The levy of this tax on income does not prevent a 2474
municipal corporation, a joint economic development zone created 2475
under section 715.691, or a joint economic development district 2476
created under section 715.70 or 715.71 or sections 715.72 to 2477
715.81 of the Revised Code from levying a tax on income. 2478

(D) This division applies only to taxable years of a trust 2479
beginning in 2002 or thereafter. 2480

(1) The tax imposed by this section on a trust shall be 2481
computed by multiplying the Ohio modified taxable income of the 2482
trust by the rates prescribed by division (A) of this section. 2483

(2) A ~~nonresident~~ resident trust may claim a credit against 2484
the tax computed under division (D) of this section equal to the 2485
lesser of (1) the tax paid to another state or the District of 2486
Columbia on the ~~nonresident~~ resident trust's modified nonbusiness 2487
income, other than the portion of the ~~nonresident~~ resident trust's 2488
nonbusiness income that is qualifying investment income as defined 2489
in section 5747.012 of the Revised Code, or (2) the effective tax 2490
rate, based on modified Ohio taxable income, multiplied by the 2491
~~nonresident~~ resident trust's modified nonbusiness income other 2492
than the portion of the ~~nonresident~~ resident trust's nonbusiness 2493
income that is qualifying investment income. The credit applies 2494
before any other applicable credits. 2495

(3) The credits enumerated in divisions (A)(1) to (13) of 2496
section 5747.98 of the Revised Code do not apply to a trust 2497
subject to division (D) of this section. Any credits enumerated in 2498
other divisions of section 5747.98 of the Revised Code apply to a 2499
trust subject to division (D) of this section. To the extent that 2500
the trust distributes income for the taxable year for which a 2501

credit is available to the trust, the credit shall be shared by 2502
the trust and its beneficiaries. The tax commissioner and the 2503
trust shall be guided by applicable regulations of the United 2504
States treasury regarding the sharing of credits. 2505

(E) For the purposes of this section, "trust" means any trust 2506
described in Subchapter J of Chapter 1 of the Internal Revenue 2507
Code, excluding trusts that are not irrevocable as defined in 2508
division (I)(3)(b) of section 5747.01 of the Revised Code and that 2509
have no modified Ohio taxable income for the taxable year, 2510
charitable remainder trusts, qualified funeral trusts and preneed 2511
funeral contract trusts established pursuant to sections 4717.31 2512
to 4717.38 of the Revised Code that are not qualified funeral 2513
trusts, endowment and perpetual care trusts, qualified settlement 2514
trusts and funds, designated settlement trusts and funds, and 2515
trusts exempted from taxation under section 501(a) of the Internal 2516
Revenue Code. 2517

Sec. 5801.10. (A) As used in this section, "creditor" means 2518
any of the following: 2519

(1) A person holding a debt or security for a debt entered 2520
into by a trustee on behalf of the trust; 2521

(2) A person holding a debt secured by one or more assets of 2522
the trust; 2523

(3) A person having a claim against the trustee or the assets 2524
of the trust under section 5805.06 of the Revised Code; 2525

(4) A person who has attached through legal process a 2526
beneficiary's interest in the trust. 2527

(B) The parties to an agreement under this section shall be 2528
all of the following, or their representatives under the 2529
representation provisions of Chapter 5803. of the Revised Code, 2530
except that only the settlor and any trustee are required to be 2531

parties to an amendment of any revocable trust:	2532
(1) The settlor if living and if no adverse income or transfer tax results would arise from the settlor's participation;	2533 2534
(2) All beneficiaries;	2535
(3) All currently serving trustees;	2536
(4) Creditors, if their interest is to be affected by the agreement;	2537 2538
<u>(5) The attorney general if an agreement described in division (C)(7) of this section is being made and either of the following applies:</u>	2539 2540 2541
<u>(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.</u>	2542 2543 2544
<u>(b) The trust is a charitable trust.</u>	2545
(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:	2546 2547 2548 2549 2550 2551 2552 2553 2554 2555 2556 2557 2558 2559 2560 2561

(1) Determining classes of creditors, beneficiaries, heirs, next of kin, or other persons;	2562 2563
(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;	2564 2565 2566 2567 2568
(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;	2569 2570 2571 2572 2573 2574 2575
(4) Modifying the terms of the trust, if the modification is not inconsistent with any dominant purpose or objective of the trust;	2576 2577 2578
(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 all parties interested in the trust have submitted written agreements to the proposed changes or written disclaimer of interest;	2579 2580 2581 2582 2583 2584 2585 2586 2587
(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	2588 2589 2590 2591 2592

Revenue Code and regulations promulgated under it in any case in 2593
which all parties interested in the trust have submitted written 2594
agreements to the proposed changes or written disclaimer of 2595
interest; 2596

(7) Construing or modifying the terms of a trust that refer 2597
to the federal estate tax, federal generation-skipping transfer 2598
tax, or Ohio estate tax, or that contain a division of property 2599
based on the imposition or amount of one or more of those taxes, 2600
to give effect to the intent of the settlor. 2601

(8) Resolving any other matter that arises under Chapters 2602
5801. to 5811. of the Revised Code. 2603

(D) No agreement shall be entered into under this section 2604
affecting the rights of a creditor without the creditor's consent 2605
or affecting the collection rights of federal, state, or local 2606
taxing authorities. 2607

(E) Any agreement entered into under this section that 2608
complies with the requirements of division (C) of this section 2609
shall be final and binding on the trustee, the settlor if living, 2610
all beneficiaries, creditors who are parties to the agreement, and 2611
their heirs, successors, and assigns. 2612

(F) Notwithstanding anything in this section, in division (D) 2613
of section 5803.03 of the Revised Code, or in any other rule of 2614
law to the contrary, a trustee serving under the terms of the 2615
trust shall only represent its own individual or corporate 2616
interests in negotiating or entering into an agreement subject to 2617
this section. No trustee serving under the terms of the trust 2618
shall be considered to represent any settlor, beneficiary, or the 2619
interests of any settlor or beneficiary in negotiating or entering 2620
into an agreement subject to this section. 2621

(G) Any party to a private settlement agreement entered into 2622
under this section may request the court to approve the agreement, 2623

to determine whether the representation as provided in Chapter 2624
5803. of the Revised Code was adequate, and to determine whether 2625
the agreement contains terms and conditions the court could have 2626
properly approved. 2627

(H) If an agreement entered into under this section contains 2628
a provision requiring binding arbitration of any disputes arising 2629
under the agreement, the provision is enforceable. 2630

(I) Nothing in this section affects any of the following: 2631

(1) The right of a beneficiary to disclaim under section 2632
5815.36 of the Revised Code; 2633

(2) The termination or modification of a trust under section 2634
5804.10, 5804.11, 5804.12, 5804.13, 5804.14, 5804.15, or 5804.16 2635
of the Revised Code; 2636

(3) The ability of a trustee to divide or consolidate a trust 2637
under section 5804.17 of the Revised Code; 2638

(4) The power of the trustee to make distributions pursuant 2639
to section 5808.18 of the Revised Code. 2640

(J) Nothing in this section restricts or limits the 2641
jurisdiction of any court to dispose of matters not covered by 2642
agreements under this section or to supervise the acts of trustees 2643
appointed by that court. 2644

(K) This section shall be liberally construed to favor the 2645
validity and enforceability of agreements entered into under it. 2646

(L) A trustee serving under the trust instrument is not 2647
liable to any third person arising from any loss due to that 2648
trustee's actions or inactions taken or omitted in good faith 2649
reliance on the terms of an agreement entered into under this 2650
section. 2651

(M) This ~~This~~ Subject to divisions (B)(5) and (C)(7) of this 2652
section, this section does not apply to any of the following: 2653

(1) A charitable trust that has one or more charitable organizations as qualified beneficiaries;	2654 2655
(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:	2656 2657 2658 2659 2660
(a) The distributions may be made on the date that an agreement under this section would be entered into.	2661 2662
(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.	2663 2664 2665 2666 2667
(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.	2668 2669 2670
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.	2671 2672 2673 2674 2675 2676
(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.	2677 2678 2679
(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.	2680 2681 2682
<u>(D) The court may modify or interpret the terms of a trust,</u>	2683

including, but not limited to, a charitable trust or a trust 2684
having as a beneficiary an organization with one or more purposes 2685
that are described in division (A) of section 5804.05 of the 2686
Revised Code, that refer to the federal estate tax, federal 2687
generation-skipping transfer tax, or Ohio estate tax, or that 2688
contain a division of property based on the imposition or amount 2689
of one or more of those taxes, to give effect to the intent of the 2690
settlor. 2691

Sec. 5808.14. (A) The judicial standard of review for 2692
discretionary trusts is that the trustee shall exercise a 2693
discretionary power reasonably, in good faith, and in accordance 2694
with the terms and purposes of the trust and the interests of the 2695
beneficiaries, except that with respect to distribution decisions 2696
a reasonableness standard shall not be applied to the exercise of 2697
discretion by the trustee of a wholly discretionary trust. The 2698
greater the grant of discretion by the settlor to the trustee, the 2699
broader the range of permissible conduct by the trustee in 2700
exercising it. 2701

(B) Subject to division (D) of this section, and unless the 2702
terms of the trust expressly indicate that a rule in this division 2703
does not apply: 2704

(1) A person other than a settlor who is a beneficiary and 2705
trustee of a trust that confers on the trustee a power to make 2706
discretionary distributions to or for the trustee's personal 2707
benefit may exercise the power only in accordance with an 2708
ascertainable standard. 2709

(2) A trustee may not exercise a power to make discretionary 2710
distributions to satisfy a legal obligation of support that the 2711
trustee personally owes another person. 2712

(C) A power whose exercise is limited or prohibited by 2713
division (B) of this section may be exercised by a majority of the 2714

remaining trustees whose exercise of the power is not so limited 2715
or prohibited. If the power of all trustees is so limited or 2716
prohibited, the court may appoint a special fiduciary with 2717
authority to exercise the power. 2718

(D) Division (B) of this section does not apply to any of the 2719
following: 2720

(1) A power held by the settlor's spouse who is the trustee 2721
of a trust for which a marital deduction, as defined in section 2722
2056(b)(5) or 2523(e) of the Internal Revenue Code, was previously 2723
allowed; 2724

(2) Any trust during any period that the trust may be revoked 2725
or amended by its settlor; 2726

(3) A trust if contributions to the trust qualify for the 2727
annual exclusion under section 2503(c) of the Internal Revenue 2728
Code. 2729

(E) For purposes of division (A) of this section, a trustee 2730
who acts reasonably and in good faith in exercising the power to 2731
distribute trust income or principal to the trustee of a second 2732
trust in accordance with division (A) or (B) of section 5808.18 of 2733
the Revised Code is presumed to have acted in accordance with the 2734
terms and purposes of the trust and the interests of the 2735
beneficiaries. 2736

Sec. 5808.17. (A) Upon termination or partial termination of 2737
a trust, the trustee may send to the beneficiaries a proposal for 2738
distribution. The right of any beneficiary to object to the 2739
proposed distribution terminates if the beneficiary does not 2740
notify the trustee of an objection within thirty days after the 2741
proposal was sent but only if the proposal informed the 2742
beneficiary of the right to object and of the time allowed for 2743
objection. 2744

(B) Upon the occurrence of an event terminating or partially 2745
terminating a trust, the trustee shall proceed expeditiously to 2746
distribute the trust property to the persons entitled to it, 2747
subject to the right of the trustee to retain a reasonable reserve 2748
for the payment of debts, expenses, and taxes. 2749

(C) A release by a beneficiary of a trustee from liability 2750
for breach of trust is invalid to the extent that it was induced 2751
by improper conduct of the trustee or that the beneficiary, at the 2752
time of the release, did not know of the beneficiary's rights or 2753
of the material facts relating to the breach. 2754

(D) If a beneficiary who was entitled to receive a 2755
distribution is deceased, the beneficiary's death did not 2756
terminate the beneficiary's right to receive the distribution, and 2757
an administration of the beneficiary's estate is open, the trustee 2758
shall make the distribution to the personal representative of the 2759
beneficiary's estate. If a beneficiary who was entitled to receive 2760
a distribution is deceased, the beneficiary's death did not 2761
terminate the beneficiary's right to receive the distribution, and 2762
an administration of the beneficiary's estate is not open, the 2763
trustee, without liability, may make the distribution directly to 2764
the beneficiary's heirs or devisees without requiring the opening 2765
or re-opening of estate administration proceedings if the trustee 2766
does not know of an adverse claim to the distribution and one of 2767
the following applies: 2768

(1) The beneficiary's estate was administered as an intestate 2769
estate in the jurisdiction in which the beneficiary was domiciled 2770
at death, and the trustee does both of the following: 2771

(a) Distributes the personal property included in the 2772
distribution to the person or persons who were determined to be 2773
the heirs of the beneficiary in that administration, in the same 2774
manner as the personal property would have been distributed if it 2775
had been part of the beneficiary's intestate estate; 2776

(b) Distributes the real property included in the 2777
distribution to the person or persons the trustee reasonably 2778
determines were the beneficiary's heirs under the statutes of 2779
descent and distribution, in effect at the time of the 2780
beneficiary's death, of the jurisdiction or jurisdictions in which 2781
the real property is located. 2782

(2) The beneficiary's estate was administered as a testate 2783
estate in the jurisdiction in which the deceased beneficiary was 2784
domiciled at death, and the trustee does both of the following: 2785

(a) Distributes the personal property included in the 2786
distribution to the residuary devisee or devisees under the 2787
beneficiary's will, in the same manner as the personal property 2788
would have been distributed in that administration if it had been 2789
part of the beneficiary's testate estate; 2790

(b) Distributes the real property included in the 2791
distribution to the person or persons the trustee reasonably 2792
determines would have received the real property under the law of 2793
the jurisdiction or jurisdictions in which the real property is 2794
located. 2795

(3) Division (D)(1) or (2) of this section does not apply, 2796
the beneficiary's death occurred at least six months before the 2797
trustee makes the distribution, and all of the following apply: 2798

(a) The trustee determines that the beneficiary had created a 2799
trust during the beneficiary's life that remained in existence at 2800
the beneficiary's death. 2801

(b) The beneficiary had executed a will that the trustee 2802
reasonably determines would have been admitted to probate if it 2803
had been offered for probate. 2804

(c) The beneficiary's will described in division (D)(3)(b) of 2805
this section devised the residue of the beneficiary's estate to 2806
the trustee of the trust described in division (D)(3)(a) of this 2807

section to be held under the terms of that trust. 2808

(d) The trustee makes the distribution to the trustee of the trust described in division (D)(3)(a) of this section. 2809
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(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: 2811
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(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. 2815
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(b) The trustee does not know of an administration of the beneficiary's estate having been commenced in any other jurisdiction. 2819
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(c) The trustee does not know of a purported last will and testament of the beneficiary. 2822
2823

(d) The trustee does both of the following: 2824

(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; 2825
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(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. 2831
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(E) The trustee's protection from liability for making 2837

distributions under division (D) of this section has no effect on 2838
the ability of third parties to pursue claims against the 2839
recipients of those distributions. 2840

Sec. 5808.18. (A) Unless the trust instrument expressly 2841
provides otherwise and subject to the limitations set forth in 2842
this section, all of the following apply: 2843

(1) If a trustee of a trust, referred to in this section as 2844
the "first trust," has absolute power under the terms of the first 2845
trust to make distributions of principal to one or more current 2846
beneficiaries, that trustee may exercise that power by 2847
distributing all or any part of the principal subject to the 2848
power, and all or any part of any income that is not otherwise 2849
currently required to be distributed, to the trustee of another 2850
trust, referred to in this section as the "second trust," that is 2851
for the benefit of one or more current beneficiaries of the first 2852
trust. The second trust may be a trust under the trust instrument 2853
for the first trust or under a different governing instrument, 2854
including a governing instrument created by the trustee of the 2855
first trust. A trustee of a first trust who is authorized to make 2856
distributions to the trustee of a second trust pursuant to 2857
division (A) of this section may do so at any time, whether or not 2858
the trustee of the first trust would otherwise have made a 2859
distribution at that time to, or for the benefit of, any 2860
beneficiary pursuant to the terms of the first trust. 2861

(2) In determining whether a trustee has absolute power to 2862
make distributions of principal to any current beneficiary and the 2863
identity of the current beneficiaries, all of the following apply: 2864

(a) An absolute power to distribute principal includes any 2865
power to make distributions of principal that is not limited by 2866
reasonably definite standards or ascertainable standards, whether 2867
or not the word "absolute" is used in the trust instrument. 2868

(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. 2869
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(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. 2877
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(d) A power to make distributions for the benefit of a beneficiary is considered a power to make distributions to that beneficiary. 2881
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(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: 2884
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(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; 2888
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(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 2895
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the first trust, except that any current beneficiary or 2900
beneficiaries for whose benefit the property could have been, but 2901
was not, so distributed may be excluded from having any beneficial 2902
interest in the second trust. 2903

(4) For purposes of division (A)(3) of this section, "terms 2904
and conditions" refer only to those terms and conditions that 2905
govern the interests of the beneficiaries. 2906

(5) For purposes of division (A) of this section, charitable 2907
organizations that are not expressly designated in the terms of 2908
the first trust to receive distributions but to which the trustee 2909
of the first trust, in the discretion of the trustee, or in the 2910
discretion of any other person directing the trustee and acting in 2911
a fiduciary capacity, may at any time make a distribution, are 2912
considered beneficiaries of the first trust. 2913

(B) Unless the trust instrument expressly provides otherwise 2914
and subject to the limitations set forth in this section, a 2915
trustee of a first trust who has power, other than absolute power 2916
as described in division (A) of this section, under the terms of 2917
the first trust to make distributions of principal to one or more 2918
current beneficiaries may exercise that power by distributing all 2919
or any part of the principal subject to the power, and all or any 2920
part of any income that is not otherwise currently required to be 2921
distributed, to the trustee of a second trust. The second trust 2922
may be a trust under the trust instrument for the first trust or 2923
under a different governing instrument, including a governing 2924
instrument created by the trustee of the first trust. The power 2925
described in this division may be exercised whether or not there 2926
is a current need to distribute trust principal under any standard 2927
contained in the first trust. The exercise of a trustee's power 2928
under this division is valid only if the governing instrument for 2929
the second trust does not materially change the interests of the 2930
beneficiaries of the first trust. For purposes of this division, a 2931

power to make distributions for the benefit of a beneficiary shall 2932
be considered a power to make distributions to that beneficiary. 2933

(C) The exercise of the power to make distributions to a 2934
second trust under division (A) or (B) of this section is subject 2935
to the following additional limitations: 2936

(1)(a) The distribution to the trustee of the second trust 2937
shall not result in the reduction, limitation, or modification of 2938
any of the following rights or interests of a beneficiary of the 2939
first trust if the right or interest has come into effect with 2940
respect to the beneficiary: 2941

(i) The current right to a mandatory distribution of income 2942
or principal of the first trust; 2943

(ii) The current mandatory annuity or unitrust interest in 2944
the property of the first trust; 2945

(iii) The right annually to withdraw a percentage of the 2946
value of the first trust or a specified dollar amount. 2947

(b) For purposes of division (C)(1)(a)(i) of this section, a 2948
beneficiary's current right to a distribution of income is not 2949
considered to be mandatory if, under the terms of the first trust, 2950
current distributions of principal may be made to any person other 2951
than that current beneficiary. 2952

(2) If any transfer to the first trust qualified, or if not 2953
for the provisions of division (A) or (B) of this section would 2954
have qualified, for a marital or charitable deduction for purposes 2955
of any federal income, gift, or estate tax under the Internal 2956
Revenue Code, or for purposes of any state income, gift, estate, 2957
or inheritance tax, the governing instrument for the second trust 2958
shall not include or omit any term that, if included in or omitted 2959
from the trust instrument for the first trust, would have 2960
prevented the first trust from qualifying for that deduction, or 2961
would have reduced the amount of the deduction, under the same 2962

provisions of the Internal Revenue Code or under the same 2963
provisions of the applicable state law under which the transfer to 2964
the first trust so qualified. 2965

(3) If any transfer to the first trust has been treated, or 2966
if not for the provisions of division (A) or (B) of this section 2967
would have been treated, as a gift qualifying for the exclusion 2968
from the gift tax described in section 2503(b) of the Internal 2969
Revenue Code, the governing instrument for the second trust shall 2970
not include or omit any term that, if included in or omitted from 2971
the trust instrument for the first trust, would have prevented any 2972
gift to the first trust from so qualifying under the same 2973
provisions of section 2503 of the Internal Revenue Code under 2974
which the transfer to the first trust so qualified. 2975

(4) If the assets of the first trust include any shares of 2976
stock in an S corporation, as defined in section 1361 of the 2977
Internal Revenue Code, and the first trust is, or if not for the 2978
provisions of division (A) or (B) of this section would be, a 2979
permitted shareholder under any provision of section 1361 of the 2980
Internal Revenue Code, the governing instrument for the second 2981
trust shall not include or omit any term that, if included in or 2982
omitted from the trust instrument for the first trust, would have 2983
prevented the first trust from qualifying as a permitted 2984
shareholder of shares of stock in an S corporation under the same 2985
provisions of section 1361 of the Internal Revenue Code under 2986
which the first trust so qualified. 2987

(5) If any transfer to the first trust has been treated, or 2988
if not for the provisions of division (A) or (B) of this section 2989
would have been treated, as a gift qualifying for a zero inclusion 2990
ratio for purposes of the federal generation-skipping transfer tax 2991
under section 2642(c) of the Internal Revenue Code, the governing 2992
instrument for the second trust shall not include or omit any term 2993
that, if included in or omitted from the trust instrument for the 2994

first trust, would have prevented the transfer to the first trust 2995
from so qualifying. 2996

(6) If the assets of the first trust include any interest 2997
subject to the minimum distribution rules of section 401(a)(9) of 2998
the Internal Revenue Code and the treasury regulations issued 2999
under that section, the governing instrument for the second trust 3000
shall not include or omit any term that, if included in or omitted 3001
from the trust instrument for the first trust, would have 3002
shortened the maximum distribution period otherwise allowable 3003
under section 401(a)(9) of the Internal Revenue Code and the 3004
treasury regulations with respect to that interest under the first 3005
trust. 3006

(7)(a) As used in division (C)(7) of this section, "tax 3007
benefit" means any federal or state tax deduction, exemption, 3008
exclusion, or other tax benefit not otherwise listed in division 3009
(C) of this section. 3010

(b) If the trust instrument for the first trust expressly 3011
indicates an intention to qualify for any tax benefit or if the 3012
terms of the trust instrument for the first trust are clearly 3013
designed to enable the first trust to qualify for a tax benefit, 3014
and if the first trust did qualify, or if not for the provisions 3015
of division (A) or (B) of this section would have qualified, for 3016
any tax benefit, the governing instrument for the second trust 3017
shall not include or omit any term that, if included in or omitted 3018
from the trust instrument for the first trust, would have 3019
prevented the first trust from qualifying for that tax benefit. 3020

(8) The distribution to the trustee of the second trust shall 3021
not result in either of the following: 3022

(a) An increase in, or a change in the method of determining, 3023
the compensation of the trustee unless the increase in, or change 3024
in the method of determining, that compensation has been consented 3025

to by all of the persons, other than the trustee of the second 3026
trust, who are current beneficiaries of the second trust or is 3027
approved by the court having jurisdiction over the trust. However, 3028
an increase in compensation of the trustee arising solely because 3029
the duration of the second trust is longer than the duration of 3030
the first trust is not considered an increase in, or a change in 3031
the method of determining, the compensation of the trustee. 3032

(b) A reduction in the standard of care applicable to the 3033
actions of the trustee of the first trust or the second trust or 3034
an exoneration of the trustee of the first trust or the second 3035
trust from liability for actions taken in bad faith or with 3036
willful disregard of the duties of either trustee, including by 3037
increasing the extent to which the trustee is entitled to 3038
indemnification from the trust, as provided in the terms of the 3039
first trust and under any law of this state. 3040

(D) The exercise of the power to distribute trust income or 3041
principal to the trustee of a second trust under division (A) or 3042
(B) of this section shall be by an instrument in writing, signed 3043
by the trustee of the first trust and filed with the records of 3044
the first trust. 3045

(E) The power to distribute trust income or principal to the 3046
trustee of a second trust under division (A) or (B) of this 3047
section shall not be exercised in a manner contrary to any 3048
provision of section 2131.08 of the Revised Code to the extent 3049
applicable to the first trust, and after applying the provisions 3050
of division (B) of section 2131.09 of the Revised Code to the 3051
extent applicable to the first trust. Solely for purposes of 3052
applying under this division the provisions of section 2131.08 and 3053
division (B) of section 2131.09 of the Revised Code, the exercise 3054
of the power to distribute trust income or principal to the 3055
trustee of a second trust under division (A) or (B) of this 3056
section is considered the exercise of a power of appointment other 3057

than a general power of appointment within the meaning of division 3058
(B)(4) of section 2131.09 of the Revised Code. 3059

(F) The trustee of the first trust shall notify all current 3060
beneficiaries of the first trust, in writing, of the intended 3061
distribution to the trustee of a second trust pursuant to division 3062
(A) or (B) of this section not later than thirty days prior to 3063
that distribution. The distribution may be made prior to the 3064
expiration of thirty days from the date on which that notice is 3065
given to all current beneficiaries of the first trust if all of 3066
those current beneficiaries waive the thirty-day period from 3067
receipt of that notice. The trustee's giving of notice of an 3068
intended distribution under this division or the waiver or 3069
expiration of that thirty-day period from receipt of the notice do 3070
not limit the right of any beneficiary to object to the exercise 3071
of the trustee's power to distribute trust principal as provided 3072
in any other applicable provision of the Ohio Trust Code. 3073

(G) Any person, other than the trustee, who has a power 3074
exercisable in a fiduciary capacity to direct the trustee to make 3075
any distribution of principal that, if held by the trustee, would 3076
be a power to make a distribution as described in division (A) or 3077
(B) of this section, may exercise that power by directing the 3078
trustee to make a distribution under either division (A) or (B) of 3079
this section, whichever would be applicable if that person were 3080
the trustee, subject to all of the limitations described in this 3081
section that apply to a trustee's exercise of that power. 3082

(H) The exercise of the power to distribute trust income or 3083
principal to the trustee of a second trust under division (A) or 3084
(B) of this section is not prohibited by a spendthrift clause or a 3085
provision in the trust instrument that prohibits the amendment or 3086
revocation of the trust. 3087

(I) For purposes of division (A) of section 5808.14 of the 3088
Revised Code, a trustee who acts reasonably and in good faith in 3089

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. 3121

(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: 3122
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(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; 3128
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(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; 3133
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(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; 3137
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(4) Otherwise include any terms and conditions governing the distribution in further trust that the settlor of the trust determines. 3141
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(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. 3144
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(2) Division (B) of this section applies to distributions 3151

made on or after the effective date of this section from any trust 3152
that is governed by the law of this state or that has its 3153
principal place of administration in this state, whether that 3154
trust was created before, on, or after the effective date of this 3155
section. 3156

Sec. 5808.19. (A) As used in this section, unless otherwise 3157
provided in any other provision in this section: 3158

(1) "Beneficiary" means the beneficiary of a future interest 3159
and includes a class member if the future interest is in the form 3160
of a class gift. 3161

(2) "Class member" means an individual who fails to survive 3162
the distribution date by at least one hundred twenty hours but who 3163
would have taken under a future interest in the form of a class 3164
gift had the individual survived the distribution date by at least 3165
one hundred twenty hours. 3166

(3) "Descendant of a grandparent of the transferor" means an 3167
individual who would qualify as a descendant of a grandparent of 3168
the transferor under the rules of construction that would apply to 3169
a class gift under the transferor's will to the descendants of the 3170
transferor's grandparent. 3171

(4) "Distribution date," with respect to a future interest, 3172
means the time when the future interest is to take effect in 3173
possession or enjoyment. The distribution date need not occur at 3174
the beginning or end of a calendar day but may occur at a time 3175
during the course of a day. 3176

(5) "Future interest" means an alternative future interest or 3177
a future interest in the form of a class gift. 3178

(6) "Future interest under the terms of a trust" means a 3179
future interest that was created by a transfer creating a trust or 3180
a transfer to an existing trust, or by an exercise of a power of 3181

appointment to an existing trust, that directs the continuance of 3182
an existing trust, designates a beneficiary of an existing trust, 3183
or creates a trust. 3184

(7) "Per stirpes" means that the shares of the descendants of 3185
a beneficiary who does not survive the distribution date by at 3186
least one hundred twenty hours are determined in the same way they 3187
would have been determined under division (A) of section 2105.06 3188
of the Revised Code if the beneficiary had died intestate and 3189
unmarried on the distribution date. 3190

(8) "Revocable trust" means a trust that was revocable 3191
immediately before the settlor's death by the settlor alone or by 3192
the settlor with the consent of any person other than a person 3193
holding an adverse interest. A trust's characterization as 3194
revocable is not affected by the settlor's lack of capacity to 3195
exercise the power of revocation, regardless of whether an agent 3196
of the settlor under a power of attorney, or a guardian of the 3197
person or estate of the settlor, was serving. 3198

(9) "Stepchild" means a child of the surviving, deceased, or 3199
former spouse of the transferor and not of the transferor. 3200

(10) "Transferor" means any of the following: 3201

(a) The donor and donee of a power of appointment, if the 3202
future interest was in property as a result of the exercise of a 3203
power of appointment; 3204

(b) The testator, if the future interest was devised by will; 3205

(c) The settlor, if the future interest was conveyed by inter 3206
vivos trust. 3207

(B)(1)(a) As used in "surviving descendants" in divisions 3208
(B)(2)(b)(i) and (ii) of this section, "descendants" means the 3209
descendants of a deceased beneficiary or class member who would 3210
take under a class gift created in the trust. 3211

(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 3243
the deceased beneficiaries. Each surviving beneficiary takes the 3244
share to which the surviving beneficiary would have been entitled 3245
had the deceased beneficiaries survived the distribution date by 3246
at least one hundred twenty hours. Each deceased beneficiary's 3247
surviving descendants who are substituted for the deceased 3248
beneficiary take, per stirpes, the share to which the deceased 3249
beneficiary would have been entitled had the deceased beneficiary 3250
survived the distribution date by at least one hundred twenty 3251
hours. For purposes of division (B)(2)(b)(ii) of this section, 3252
"deceased beneficiary" means a class member who failed to survive 3253
the distribution date by at least one hundred twenty hours and 3254
left one or more surviving descendants. 3255

(C) For purposes of this section, each of the following 3256
applies: 3257

(1) Describing a class of beneficiaries as "surviving" or 3258
"living," without specifying when the beneficiaries must be 3259
surviving or living, such as a gift "for my spouse for life, then 3260
to my surviving (or living) children," is not, in the absence of 3261
other language in the trust instrument or other evidence to the 3262
contrary, a sufficient indication of an intent to negate the 3263
application of division (B)(2)(b) of this section. 3264

(2) Subject to division (C)(1) of this section, attaching 3265
words of survivorship to a future interest under the terms of a 3266
trust, such as "for my spouse for life, then to my children who 3267
survive my spouse" or "for my spouse for life, then to my 3268
then-living children" is, in the absence of other language in the 3269
trust instrument or other evidence to the contrary, a sufficient 3270
indication of an intent to negate the application of division 3271
(B)(2)(b) of this section. Words of survivorship under division 3272
(C)(2) of this section include words of survivorship that relate 3273
to the distribution date or to an earlier or an unspecified time, 3274

whether those words of survivorship are expressed as 3275
condition-precedent, condition-subsequent, or in any other form. 3276

(3) A residuary clause in a will is not a sufficient 3277
indication of an intent that is contrary to the application of 3278
this section, whether or not the will specifically provides that 3279
lapsed or failed devises are to pass under the residuary clause. A 3280
residuary clause in a revocable trust instrument is not a 3281
sufficient indication of an intent that is contrary to the 3282
application of this section unless the distribution date is the 3283
date of the settlor's death and the revocable trust instrument 3284
specifically provides that upon lapse or failure the nonresiduary 3285
devise, or nonresiduary devises in general, pass under the 3286
residuary clause. 3287

(D) If, after the application of divisions (B) and (C) of 3288
this section there is no surviving taker of the property, and a 3289
contrary intent does not appear in the instrument creating the 3290
future interest, the property passes in the following order: 3291

(1) If the future interest was created by the exercise of a 3292
power of appointment, the property passes under the donor's 3293
gift-in-default clause, if any, which clause is treated as 3294
creating a future interest under the terms of a trust. 3295

(2) If no taker is produced under division (D)(1) of this 3296
section and the trust was created in a nonresiduary devise in the 3297
transferor's will or in a codicil to the transferor's will, the 3298
property passes under the residuary clause in the transferor's 3299
will. For purposes of division (D)(2) of this section, the 3300
residuary clause is treated as creating a future interest under 3301
the terms of a trust. 3302

(3) If no taker is produced under divisions (D)(1) and (2) of 3303
this section, the transferor is deceased, and the trust was 3304
created in a nonresiduary gift under the terms of a revocable 3305

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. 3306
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(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. 3311
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(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. 3321
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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: 3326
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(1) To determine whether the policy is or remains a proper investment; 3332
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(2) To diversify the investment in the policy relative to any other life insurance policies or to any other trust assets; 3334
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(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; 3336
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(4) To investigate the financial strength or changes in the financial strength of the life insurance company maintaining the policy; 3344
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(5) To inquire about changes in the health or financial condition of the insured or insureds under the policy. 3347
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(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. 3349
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(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. 3355
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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: 3360
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(1) A statement that the trust exists and the date the trust instrument was executed; 3364
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(2) The identity of the settlor;	3366
(3) The identity and address of the currently acting trustee;	3367
(4) The powers of the trustee;	3368
(5) The revocability or irrevocability of the trust and the identity of any person holding a power to revoke the trust;	3369 3370
(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.	3371 3372 3373
(B) Any trustee may sign or otherwise authenticate a certification of trust.	3374 3375
(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.	3376 3377 3378 3379
(D) A certification of trust is not required to contain the dispositive terms of a trust.	3380 3381
(E) <u>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.</u>	3382 3383 3384
<u>(F)</u> 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.	3385 3386 3387 3388 3389
(F) <u>(G)</u> 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	3390 3391 3392 3393 3394 3395

or part of the trust instrument is held by the person relying upon 3396
the certification. 3397

~~(G)~~(H) A person who in good faith enters into a transaction 3398
in reliance upon a certification of trust may enforce the 3399
transaction against the trust property as if the representations 3400
contained in the certification were correct. 3401

~~(H)~~(I) This section does not affect the use or validity of a 3402
memorandum of trust under section 5301.255 of the Revised Code. 3403

~~(I)~~(J) This section does not limit the right of a person to 3404
obtain a copy of the trust instrument in a judicial proceeding 3405
concerning the trust. 3406

Sec. 5810.14. (A) Personal property may be transferred to a 3407
trustee as authorized by section 5804.01 of the Revised Code by 3408
executing the necessary written instrument that identifies the 3409
personal property transferred and identifies the trustee by name 3410
followed by the designation "trustee." 3411

(B) The future transfer of personal property to a trustee as 3412
a designated beneficiary, including, but not limited to, a 3413
transfer on death designation or payable on death designation, 3414
participation in a joint ownership arrangement, or any other 3415
contractual transfer arrangement, that is made by executing the 3416
necessary written instrument identifying the trustee by name 3417
followed by the designation "trustee" shall be considered a 3418
transfer of the personal property to the trustee serving at the 3419
time of the future transfer. A certification of trust under 3420
section 5810.13 of the Revised Code may establish the identity of 3421
the trustee and any succession of trustees. 3422

(C) A written instrument transferring personal property to a 3423
trust or a written instrument providing for the future transfer of 3424
personal property to a trust, by identifying the trust without 3425

identifying the trustee, shall be considered a transfer of the 3426
personal property to the trustee serving at the time of transfer. 3427
A certification of trust under section 5810.13 of the Revised Code 3428
may establish the identity of the trustee and any succession of 3429
trustees. 3430

(D) An instrument of transfer under this section may, but is 3431
not required to, contain any additional identifying information, 3432
including the trust name, the name of the settlor, the date of 3433
trust creation, and the date of applicable trust amendments. 3434

(E) Nothing in this section is intended to affect the 3435
operation of section 5301.03 of the Revised Code. 3436

(F) Nothing in this section is intended to affect or be in 3437
conflict with division (E) of section 5301.071 of the Revised Code 3438
that addresses transfers of real property to or from trusts and 3439
trustees. 3440

Section 2. That existing sections 1337.092, 1337.12, 2101.24, 3441
2109.21, 2111.02, 2111.12, 2111.121, 5301.071, 5747.02, 5801.10, 3442
5804.12, 5808.14, 5808.17, and 5810.13 and sections 1337.09, 3443
1337.091, 1337.093, 1337.18, 1337.19, 1337.20, and 2107.52 of the 3444
Revised Code are hereby repealed. 3445

Section 3. Section 2101.24 of the Revised Code is presented 3446
in this act as a composite of the section as amended by both Sub. 3447
H.B. 416 and Sub. H.B. 426 of the 126th General Assembly. The 3448
General Assembly, applying the principle stated in division (B) of 3449
section 1.52 of the Revised Code that amendments are to be 3450
harmonized if reasonably capable of simultaneous operation, finds 3451
that the composite is the resulting version of the section in 3452
effect prior to the effective date of the section as presented in 3453
this act. 3454

Section 4. The General Assembly hereby declares its intent by 3455
this act to clarify the procedure for resolution of issues created 3456
by the past or future repeal or reenactment of the federal estate 3457
tax, federal generation-skipping transfer tax, and Ohio estate 3458
tax. 3459

Section 5. The amendment of sections 1337.092, 1337.12, 3460
2101.24, 2109.21, 2111.02, 2111.12, 2111.121, 5301.071, 5747.02, 3461
5808.14, 5808.17, and 5810.13, and the enactment of new section 3462
2107.52 and sections 1337.21, 1337.22, 1337.23, 1337.24, 1337.25, 3463
1337.26, 1337.27, 1337.28, 1337.29, 1337.30, 1337.31, 1337.32, 3464
1337.33, 1337.34, 1337.35, 1337.36, 1337.37, 1337.38, 1337.39, 3465
1337.40, 1337.41, 1337.42, 1337.43, 1337.44, 1337.45, 1337.46, 3466
1337.47, 1337.48, 1337.49, 1337.50, 1337.51, 1337.52, 1337.53, 3467
1337.54, 1337.55, 1337.56, 1337.57, 1337.58, 1337.59, 1337.60, 3468
1337.61, 1337.62, 1337.63, 1337.64, 3793.31, 3793.32, 3793.33, 3469
3793.34, 3793.35, 3793.36, 3793.37, 3793.38, 3793.39, 5808.18, 3470
5808.19, 5809.031, and 5810.14 of the Revised Code shall take 3471
effect on the ninetieth day after the effective date of this act. 3472

Section 6. This act is hereby declared to be an emergency 3473
measure necessary for the immediate preservation of the public 3474
peace, health, and safety. The reason for such necessity is that 3475
the federal estate tax and federal generation-skipping transfer 3476
tax have been repealed and then reenacted, adversely affecting 3477
wills and trust instruments that did not deal with such repeal. 3478
Therefore, this act shall go into immediate effect. 3479