

As Passed by the Senate

**130th General Assembly
Regular Session
2013-2014**

Am. S. B. No. 202

Senators Obhof, Kearney

**Cosponsors: Senators Seitz, Coley, Bacon, Eklund, Hughes, Oelslager,
Schiavoni**

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A B I L L

To amend sections 1701.01, 1701.11, 1701.71, 1704.01, 1
and 1704.05 of the Revised Code to provide 2
exceptions to the applicability of the Control 3
Share Acquisition Act, to require board approval 4
for Act opt-out amendments of a corporation's 5
regulations or articles of incorporation, and to 6
apply a three-year look-back period to ownership 7
of shares for purposes of determining 8
applicability of certain shareholder transaction 9
laws. 10

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

Section 1. That sections 1701.01, 1701.11, 1701.71, 1704.01, 11
and 1704.05 of the Revised Code be amended to read as follows: 12

Sec. 1701.01. As used in sections 1701.01 to 1701.98 of the 13
Revised Code, unless the context otherwise requires: 14

(A) "Corporation" or "domestic corporation" means a 15
corporation for profit formed under the laws of this state. 16

(B) "Foreign corporation" means a corporation for profit 17
formed under the laws of another state, and "foreign entity" means 18

an entity formed under the laws of another state. 19

(C) "State" means the United States; any state, territory, 20
insular possession, or other political subdivision of the United 21
States, including the District of Columbia; any foreign country or 22
nation; and any province, territory, or other political 23
subdivision of such foreign country or nation. 24

(D) "Articles" includes original articles of incorporation, 25
certificates of reorganization, amended articles, and amendments 26
to any of these, and, in the case of a corporation created before 27
September 1, 1851, the special charter and any amendments to it 28
made by special act of the general assembly or pursuant to general 29
law. 30

(E) "Incorporator" means a person who signed the original 31
articles of incorporation. 32

(F) "Shareholder" means a person whose name appears on the 33
books of the corporation as the owner of shares of the 34
corporation. Unless the articles, the regulations adopted by the 35
shareholders, the regulations adopted by the directors pursuant to 36
division (A)(1) of section 1701.10 of the Revised Code, or the 37
contract of subscription otherwise provides, "shareholder" 38
includes a subscriber to shares, whether the subscription is 39
received by the incorporators or pursuant to authorization by the 40
directors, and such shares shall be deemed to be outstanding 41
shares. 42

(G) "Person" includes, without limitation, a natural person, 43
a corporation, whether nonprofit or for profit, a partnership, a 44
limited liability company, an unincorporated society or 45
association, and two or more persons having a joint or common 46
interest. 47

(H) The location of the "principal office" of a corporation 48
is the place named as the principal office in its articles. 49

(I) The "express terms" of shares of a class are the 50
statements expressed in the articles with respect to such shares. 51

(J) Shares of a class are "junior" to shares of another class 52
when any of their dividend or distribution rights are subordinate 53
to, or dependent or contingent upon, any right of, or dividend on, 54
or distribution to, shares of such other class. 55

(K) "Treasury shares" means shares belonging to the 56
corporation and not retired that have been either issued and 57
thereafter acquired by the corporation or paid as a dividend or 58
distribution in shares of the corporation on treasury shares of 59
the same class; such shares shall be deemed to be issued, but they 60
shall not be considered as an asset or a liability of the 61
corporation, or as outstanding for dividend or distribution, 62
quorum, voting, or other purposes, except, when authorized by the 63
directors, for dividends or distributions in authorized but 64
unissued shares of the corporation of the same class. 65

(L) To "retire" a share means to restore it to the status of 66
an authorized but unissued share. 67

(M) "Redemption price of shares" means the amount required by 68
the articles to be paid on redemption of shares. 69

(N) "Liquidation price" means the amount or portion of assets 70
required by the articles to be distributed to the holders of 71
shares of any class upon dissolution, liquidation, merger, or 72
consolidation of the corporation, or upon sale of all or 73
substantially all of its assets. 74

(O) "Insolvent" means that the corporation is unable to pay 75
its obligations as they become due in the usual course of its 76
affairs. 77

(P) "Parent corporation" or "parent" means a domestic or 78
foreign corporation that owns and holds of record shares of 79
another corporation, domestic or foreign, entitling the holder of 80

the shares at the time to exercise a majority of the voting power 81
in the election of the directors of the other corporation without 82
regard to voting power that may thereafter exist upon a default, 83
failure, or other contingency; "subsidiary corporation" or 84
"subsidiary" means a domestic or foreign corporation of which 85
another corporation, domestic or foreign, is the parent. 86

(Q) "Combination" means a transaction, other than a merger or 87
consolidation, wherein either of the following applies: 88

(1) Voting shares of a domestic corporation are issued or 89
transferred in consideration in whole or in part for the transfer 90
to itself or to one or more of its subsidiaries, domestic or 91
foreign, of all or substantially all the assets of one or more 92
corporations, domestic or foreign, with or without good will or 93
the assumption of liabilities; 94

(2) Voting shares of a foreign parent corporation are issued 95
or transferred in consideration in whole or in part for the 96
transfer of such assets to one or more of its domestic 97
subsidiaries. 98

"Transferee corporation" in a combination means the 99
corporation, domestic or foreign, to which the assets are 100
transferred, and "transferor corporation" in a combination means 101
the corporation, domestic or foreign, transferring such assets and 102
to which, or to the shareholders of which, the voting shares of 103
the domestic or foreign corporation are issued or transferred. 104

(R) "Majority share acquisition" means the acquisition of 105
shares of a corporation, domestic or foreign, entitling the holder 106
of the shares to exercise a majority of the voting power in the 107
election of directors of such corporation without regard to voting 108
power that may thereafter exist upon a default, failure, or other 109
contingency, by either of the following: 110

(1) A domestic corporation in consideration in whole or in 111

part, for the issuance or transfer of its voting shares; 112

(2) A domestic or foreign subsidiary in consideration in 113
whole or in part for the issuance or transfer of voting shares of 114
its domestic parent. 115

(S) "Acquiring corporation" in a combination means the 116
domestic corporation whose voting shares are issued or transferred 117
by it or its subsidiary or subsidiaries to the transferor 118
corporation or corporations or the shareholders of the transferor 119
corporation or corporations; and "acquiring corporation" in a 120
majority share acquisition means the domestic corporation whose 121
voting shares are issued or transferred by it or its subsidiary in 122
consideration for shares of a domestic or foreign corporation 123
entitling the holder of the shares to exercise a majority of the 124
voting power in the election of directors of such corporation. 125

(T) When used in connection with a combination or a majority 126
share acquisition, "voting shares" means shares of a corporation, 127
domestic or foreign, entitling the holder of the shares to vote at 128
the time in the election of directors of such corporation without 129
regard to voting power which may thereafter exist upon a default, 130
failure, or other contingency. 131

(U) "An emergency" exists when the governor, or any other 132
person lawfully exercising the power and discharging the duties of 133
the office of governor, proclaims that an attack on the United 134
States or any nuclear, atomic, or other disaster has caused an 135
emergency for corporations, and such an emergency shall continue 136
until terminated by proclamation of the governor or any other 137
person lawfully exercising the powers and discharging the duties 138
of the office of governor. 139

(V) "Constituent corporation" means an existing corporation 140
merging into or into which is being merged one or more other 141
entities in a merger or an existing corporation being consolidated 142

with one or more other entities into a new entity in a 143
consolidation, whether any of the entities is domestic or foreign, 144
and "constituent entity" means any entity merging into or into 145
which is being merged one or more other entities in a merger, or 146
an existing entity being consolidated with one or more other 147
entities into a new entity in a consolidation, whether any of the 148
entities is domestic or foreign. 149

(W) "Surviving corporation" means the constituent domestic or 150
foreign corporation that is specified as the corporation into 151
which one or more other constituent entities are to be or have 152
been merged, and "surviving entity" means the constituent domestic 153
or foreign entity that is specified as the entity into which one 154
or more other constituent entities are to be or have been merged. 155

(X) "Close corporation agreement" means an agreement that 156
satisfies the three requirements of division (A) of section 157
1701.591 of the Revised Code. 158

(Y) "Issuing public corporation" means a domestic corporation 159
with fifty or more shareholders that has its principal place of 160
business, its principal executive offices, assets having 161
substantial value, or a substantial percentage of its assets 162
within this state, and as to which no valid close corporation 163
agreement exists under division (H) of section 1701.591 of the 164
Revised Code. 165

(Z)(1) "Control share acquisition" means the acquisition, 166
directly or indirectly, by any person of shares of an issuing 167
public corporation that, when added to all other shares of the 168
issuing public corporation in respect of which the person may 169
exercise or direct the exercise of voting power as provided in 170
this division, would entitle the person, immediately after the 171
acquisition, directly or indirectly, alone or with others, to 172
exercise or direct the exercise of the voting power of the issuing 173
public corporation in the election of directors within any of the 174

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| following ranges of such voting power: | 175 |
| (a) One-fifth or more but less than one-third of such voting power; | 176 |
| (b) One-third or more but less than a majority of such voting power; | 177 |
| (c) A majority or more of such voting power. | 178 |
| A bank, broker, nominee, trustee, or other person that acquires shares in the ordinary course of business for the benefit of others in good faith and not for the purpose of circumventing section 1701.831 of the Revised Code shall, however, be deemed to have voting power only of shares in respect of which such person would be able, without further instructions from others, to exercise or direct the exercise of votes on a proposed control share acquisition at a meeting of shareholders called under section 1701.831 of the Revised Code. | 179 |
| (2) The acquisition by any person of any shares of an issuing public corporation does not constitute a control share acquisition for the purpose of section 1701.831 of the Revised Code if the acquisition was or is consummated in, results from, or is the consequence of any of the following circumstances: | 180 |
| (a) Prior to November 19, 1982; | 181 |
| (b) Pursuant to a contract existing prior to November 19, 1982; | 182 |
| (c) By bequest or inheritance, by operation of law upon the death of an individual, or by any other transfer without valuable consideration, including a gift, that is made in good faith and not for the purpose of circumventing section 1701.831 of the Revised Code; | 183 |
| (d) Pursuant to the satisfaction of a pledge or other security interest created in good faith and not for the purpose of | 184 |

circumventing section 1701.831 of the Revised Code; 205

(e) Pursuant to a merger or consolidation adopted, or a 206
combination or majority share acquisition authorized, by vote of 207
the shareholders of the issuing public corporation in compliance 208
with section 1701.78, 1701.781, 1701.79, 1701.791, or 1701.83 of 209
the Revised Code, or pursuant to a merger adopted in compliance 210
with section 1701.802 of the Revised Code; 211

(f) The person's being entitled, immediately thereafter, to 212
exercise or direct the exercise of voting power of the issuing 213
public corporation in the election of directors within the same 214
range theretofore attained by that person either in compliance 215
with the provisions of section 1701.831 of the Revised Code or as 216
a result solely of the issuing public corporation's purchase of 217
shares issued by it; 218

(g) The person's being engaged in business as an underwriter 219
of securities who acquires the shares directly from the issuing 220
public corporation or an affiliate or associate of the issuing 221
public corporation through its participation in good faith in a 222
firm commitment underwriting registered under the "Securities Act 223
of 1933," 15 U.S.C. 77a et seq., and not for the purpose of 224
circumventing section 1701.831 of the Revised Code. 225

The acquisition by any person of shares of an issuing public 226
corporation in a manner described under division (Z)(2) of this 227
section shall be deemed a control share acquisition authorized 228
pursuant to section 1701.831 of the Revised Code within the range 229
of voting power under division (Z)(1)(a), (b), or (c) of this 230
section that such person is entitled to exercise after the 231
acquisition, provided, in the case of an acquisition in a manner 232
described under division (Z)(2)(c) or (d) of this section, the 233
transferor of shares to such person had previously obtained any 234
authorization of shareholders required under section 1701.831 of 235
the Revised Code in connection with the transferor's acquisition 236

of shares of the issuing public corporation. 237

(3) The acquisition of shares of an issuing public 238
corporation in good faith and not for the purpose of circumventing 239
section 1701.831 of the Revised Code from any person whose control 240
share acquisition previously had been authorized by shareholders 241
in compliance with section 1701.831 of the Revised Code, or from 242
any person whose previous acquisition of shares of an issuing 243
public corporation would have constituted a control share 244
acquisition but for division (Z)(2) or (3) of this section, does 245
not constitute a control share acquisition for the purpose of 246
section 1701.831 of the Revised Code unless such acquisition 247
entitles the person making the acquisition, directly or 248
indirectly, alone or with others, to exercise or direct the 249
exercise of voting power of the corporation in the election of 250
directors in excess of the range of voting power authorized 251
pursuant to section 1701.831 of the Revised Code, or deemed to be 252
so authorized under division (Z)(2) of this section. 253

(AA) "Acquiring person" means any person who has delivered an 254
acquiring person statement to an issuing public corporation 255
pursuant to section 1701.831 of the Revised Code. 256

(BB) "Acquiring person statement" means a written statement 257
that complies with division (B) of section 1701.831 of the Revised 258
Code. 259

(CC)(1) "Interested shares" means the shares of an issuing 260
public corporation in respect of which any of the following 261
persons may exercise or direct the exercise of the voting power of 262
the corporation in the election of directors: 263

(a) An acquiring person; 264

(b) Any officer of the issuing public corporation elected or 265
appointed by the directors of the issuing public corporation; 266

(c) Any employee of the issuing public corporation who is 267

also a director of such corporation; 268

(d) Any person that acquires such shares for valuable 269
consideration during the period beginning with the date of the 270
first public disclosure of a proposal for, or expression of 271
interest in, a control share acquisition of the issuing public 272
corporation; a transaction pursuant to section 1701.76, 1701.78, 273
1701.781, 1701.79, 1701.791, 1701.83, or 1701.86 of the Revised 274
Code that involves the issuing public corporation or its assets; 275
or any action that would directly or indirectly result in a change 276
in control of the issuing public corporation or its assets, and 277
ending on the record date established by the directors pursuant to 278
section 1701.45 and division (D) of section 1701.831 of the 279
Revised Code, if either of the following applies: 280

(i) The aggregate consideration paid or given by the person 281
who acquired the shares, and any other persons acting in concert 282
with the person, for all such shares exceeds two hundred fifty 283
thousand dollars; 284

(ii) The number of shares acquired by the person who acquired 285
the shares, and any other persons acting in concert with the 286
person, exceeds one-half of one per cent of the outstanding shares 287
of the corporation entitled to vote in the election of directors. 288

(e) Any person that transfers such shares for valuable 289
consideration after the record date described in division 290
(CC)(1)(d) of this section as to shares so transferred, if 291
accompanied by the voting power in the form of a blank proxy, an 292
agreement to vote as instructed by the transferee, or otherwise. 293

(2) If any part of this division is held to be illegal or 294
invalid in application, the illegality or invalidity does not 295
affect any legal and valid application thereof or any other 296
provision or application of this division or section 1701.831 of 297
the Revised Code that can be given effect without the invalid or 298

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| illegal provision, and the parts and applications of this division | 299 |
| are severable. | 300 |
| (DD) "Certificated security" and "uncertificated security" | 301 |
| have the same meanings as in section 1308.01 of the Revised Code. | 302 |
| (EE) "Entity" means any of the following: | 303 |
| (1) A for profit corporation existing under the laws of this | 304 |
| state or any other state; | 305 |
| (2) Any of the following organizations existing under the | 306 |
| laws of this state, the United States, or any other state: | 307 |
| (a) A business trust or association; | 308 |
| (b) A real estate investment trust; | 309 |
| (c) A common law trust; | 310 |
| (d) An unincorporated business or for profit organization, | 311 |
| including a general or limited partnership; | 312 |
| (e) A limited liability company; | 313 |
| (f) A nonprofit corporation. | 314 |
| Sec. 1701.11. (A)(1) Regulations for the government of a | 315 |
| corporation, the conduct of its affairs, and the management of its | 316 |
| property, consistent with law and the articles, may be adopted, | 317 |
| amended, or repealed in any of the following ways: | 318 |
| (a) Within ninety days after the corporation is formed, by | 319 |
| the directors in accordance with division (A)(1) of section | 320 |
| 1701.10 of the Revised Code; | 321 |
| (b) By the shareholders at a meeting held for that purpose, | 322 |
| by the affirmative vote of the holders of shares entitling them to | 323 |
| exercise a majority of the voting power of the corporation on the | 324 |
| proposal, or if the articles or regulations that have been adopted | 325 |
| so provide, by the affirmative vote of the holders entitling them | 326 |

to exercise a greater proportion than a majority of the voting 327
power of the corporation on the proposal; 328

(c) Without a meeting, by the written consent of the holders 329
of shares entitling them to exercise two-thirds of the voting 330
power of the corporation on the proposal, or if the articles or 331
regulations that have been adopted so provide or permit, by the 332
written consent of the holders of shares entitling them to 333
exercise a greater or lesser proportion but not less than a 334
majority of the voting power of the corporation on the proposal; 335

(d) If and to the extent that the articles or regulations so 336
provide or permit and unless a provision of the Revised Code 337
reserves such authority to shareholders, by the directors, 338
provided that no provision or permission in the articles or 339
regulations may divest shareholders of the power, or limit the 340
shareholders' power, to adopt, amend, or repeal regulations. 341

(2) Any amendment of regulations and any amended or new 342
regulations adopted by shareholders of an issuing public 343
corporation whose directors are classified pursuant to section 344
1701.57 of the Revised Code that would change or eliminate the 345
classification of directors shall be adopted only by the 346
shareholders at a meeting held for that purpose, by the 347
affirmative vote of holders of shares entitling them to exercise 348
the voting power of the corporation that is required for 349
shareholders at a meeting under division (A)(1)(b) of this 350
section, and also by the affirmative vote of the holders of a 351
majority of disinterested shares voted on the proposal determined 352
as specified in division (C)(9) of section 1704.01 of the Revised 353
Code. 354

(3) Any amendment of regulations and any amended or new 355
regulations adopted by shareholders of an issuing public 356
corporation that would provide that section 1701.831 of the 357
Revised Code does not apply to control share acquisitions of 358

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| <u>shares of the issuing public corporation shall be adopted:</u> | 359 |
| <u>(a) Upon the recommendation by the affirmative vote of a</u> | 360 |
| <u>majority of the authorized number of directors of the issuing</u> | 361 |
| <u>public corporation in favor of such amendment or new regulation;</u> | 362 |
| <u>and</u> | 363 |
| <u>(b) By the shareholders at a meeting held for that purpose,</u> | 364 |
| <u>by the affirmative vote of holders of shares entitling them to</u> | 365 |
| <u>exercise the voting power of the corporation that is required for</u> | 366 |
| <u>shareholders at a meeting under division (A)(1)(b) of this</u> | 367 |
| <u>section.</u> | 368 |
| (B) Without limiting the generality of the authority | 369 |
| described in division (A) of this section, the regulations may | 370 |
| include provisions with respect to all of the following: | 371 |
| (1) The place, if any, and time for holding, the manner of | 372 |
| and authority for calling, giving notice of, and conducting, and | 373 |
| the requirements of a quorum for, meetings of shareholders; | 374 |
| (2) The taking of a record of shareholders or the temporary | 375 |
| closing of books against transfers of shares; | 376 |
| (3) The number, classification, manner of fixing or changing | 377 |
| the number, qualifications, term of office, and compensation or | 378 |
| manner of fixing compensation, of directors; | 379 |
| (4) The place, if any, and time for holding, the manner of | 380 |
| and authority for calling, giving notice of, and conducting, and | 381 |
| the requirements of a quorum for, meetings of the directors; | 382 |
| (5) The appointment of an executive and other committees of | 383 |
| the directors, and their authority; | 384 |
| (6) The titles, qualifications, duties, term of office, | 385 |
| compensation or manner of fixing compensation, and the removal, of | 386 |
| officers; | 387 |
| (7) The terms on which new certificates for shares may be | 388 |

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| issued in the place of lost, stolen, or destroyed certificates; | 389 |
| (8) The manner in which and conditions upon which a | 390 |
| certificated security, and the conditions upon which an | 391 |
| uncertificated security, and the shares represented by a | 392 |
| certificated or uncertificated security, may be transferred, | 393 |
| restrictions on the right to transfer the shares, and reservations | 394 |
| of liens on the shares; | 395 |
| (9)(a) Restrictions on the transfer and the right to transfer | 396 |
| shares of either of the following: | 397 |
| (i) An issuing public corporation to any person in a control | 398 |
| share acquisition; | 399 |
| (ii) A corporation with fifty or more shareholders to any | 400 |
| person in an acquisition that would be a control share acquisition | 401 |
| if the corporation were an issuing public corporation. | 402 |
| (b) The restrictions on the transfer and the right to | 403 |
| transfer shares described in division (B)(9)(a)(i) and (ii) of | 404 |
| this section may include requirements and procedures for consent | 405 |
| to an acquisition of the shares by directors based on a | 406 |
| determination by the directors of the best interests of the | 407 |
| corporation and its shareholders, consent to an acquisition of the | 408 |
| shares by shareholders, and reasonable sanctions for a violation | 409 |
| of those requirements, including the right of the corporation to | 410 |
| refuse to transfer, to redeem, or to deny voting or other | 411 |
| shareholder rights appurtenant to shares acquired in an | 412 |
| acquisition of the shares. | 413 |
| (10) Defining, limiting, or regulating the exercise of the | 414 |
| authority of the corporation, the directors, or the officers; | 415 |
| (11) Defining, limiting, or regulating the exercise of the | 416 |
| authority of the shareholders; provided, that any amendment of the | 417 |
| regulations that would change or eliminate any such provision | 418 |
| shall be adopted only by the shareholders. | 419 |

(C) The shareholders of a corporation may adopt and may 420
authorize the directors to adopt, either before or during an 421
emergency, as that term is defined in division (U) of section 422
1701.01 of the Revised Code, emergency regulations that shall be 423
operative only during an emergency. The emergency regulations may 424
include any provisions that are authorized to be included in 425
regulations by divisions (A) and (B) of this section. In addition, 426
unless expressly prohibited by the articles or the regulations, 427
the emergency regulations may make any provision, notwithstanding 428
any different provisions in this chapter and notwithstanding any 429
different provisions in the articles or the regulations that are 430
not expressly stated to be operative during an emergency, that may 431
be practical or necessary with respect to the following: 432

(1) The place, if any, and time for holding, the manner of 433
and authority for calling, giving notice of, and conducting, and 434
the requirements of a quorum for, meetings of the directors; 435

(2) The creation and appointment of an executive and other 436
committees of the directors and the delegation of authority to the 437
committees by the board; 438

(3) The creation, existence, and filling of vacancies, 439
including temporary vacancies, in the office of director; 440

(4) The selection, by appointment, election, or otherwise, of 441
officers and other persons to serve as directors for a meeting of 442
the board in the absence from the meeting of one or more of the 443
directors; 444

(5) The creation, existence, and filling of vacancies, 445
including temporary vacancies, in any office; 446

(6) The order of rank and the succession to the duties and 447
authority of officers. 448

(D)(1) Unless the corporation complies with division (D)(2) 449
of this section, if the regulations are amended or new regulations 450

are adopted other than by the shareholders at a meeting held for 451
that purpose, the secretary of the corporation shall send a copy 452
of the amendment or the new regulations by mail, overnight 453
delivery service, or any other means of communication authorized 454
by the shareholder to whom a copy of the amendment or new 455
regulations is sent, to each shareholder of record as of the date 456
of the adoption of the amendment or the new regulations. 457

(2) Any corporation that files periodic reports with the 458
United States securities and exchange commission pursuant to 459
section 13 of the "Securities Exchange Act of 1934," 48 Stat. 881, 460
15 U.S.C. 78m, as amended, or section 15(d) of the "Securities 461
Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78o(d), as amended, 462
may satisfy the notice to shareholders of record requirement of 463
division (D)(1) of this section by including a copy of the 464
amendment or the new regulations in a report filed in accordance 465
with those sections within twenty days after the adoption of the 466
amendment or the new regulations. 467

(E) No person dealing with the corporation shall be charged 468
with constructive notice of the regulations. 469

(F) Unless expressly prohibited by the articles or the 470
regulations or unless otherwise provided by the emergency 471
regulations, the following special rules shall be applicable 472
during an emergency notwithstanding any different provision 473
elsewhere in this chapter: 474

(1) Meetings of the directors may be called by any officer or 475
director. 476

(2) Notice of the time and place of each meeting of the 477
directors shall be given to such of the directors as it may be 478
feasible to reach at the time and by the means of communication, 479
written or oral, personal or mass, as may be practicable at the 480
time. 481

(3) The director or directors present at any meeting of the 482
directors that has been duly called and notice of which has been 483
duly given shall constitute a quorum for the meeting, and, in the 484
absence of one or more of the directors, the director or directors 485
present may appoint one or more of the officers of the corporation 486
directors for the meeting. 487

(4) If none of the directors attends a meeting of the 488
directors that has been duly called and notice of which has been 489
duly given, the officers of the corporation who are present, not 490
exceeding three, in order of rank, shall be directors for the 491
meeting, shall constitute a quorum for the meeting, and may 492
appoint one or more of the other officers of the corporation 493
directors for the meeting. 494

(5) If the chief executive officer dies, is missing, or for 495
any other reason is temporarily or permanently incapable of 496
discharging the duties of the office, the next ranking officer who 497
is available shall assume the duties and authority of the office 498
of the deceased, missing, or incapacitated chief executive officer 499
until such time as the directors otherwise order. 500

(6) The offices of secretary and treasurer shall be deemed to 501
be of equal rank, and, within the same office and as between the 502
offices of secretary and treasurer, rank shall be determined by 503
priority in time of the first election to the office or, if two or 504
more persons have been first elected to the office at the same 505
time, by seniority in age. 506

Sec. 1701.71. (A)(1)(a) Except as otherwise provided in ~~this~~ 507
~~division~~ divisions (A)(1)(b), (c), and (d) of this section or 508
division (A)(2) of this section, the shareholders, at a meeting 509
held for that purpose, may adopt an amendment, including any 510
amendment that could be adopted by the directors, by the 511
affirmative vote of the holders of shares entitling them to 512

exercise two-thirds of the voting power of the corporation on the 513
proposal or, if the articles provide or permit, by the affirmative 514
vote of a greater or lesser proportion, but not less than a 515
majority, of such voting power, and by the affirmative vote of the 516
holders of shares of any particular class that is required by the 517
articles. ~~Any~~ 518

(b) Any amendment that would change or eliminate the 519
classification of directors of an issuing public corporation whose 520
directors are classified pursuant to section 1701.57 of the 521
Revised Code shall be adopted by the shareholders only at a 522
meeting expressly held for that purpose, by the affirmative votes 523
required under ~~this~~ division (A)(1)(a) of this section, and also 524
by the affirmative vote of the holders of at least a majority of 525
disinterested shares voted on the proposal determined as specified 526
in division (C)(9) of section 1704.01 of the Revised Code. ~~If~~ 527

(c) Any amendment that would provide that section 1701.831 of 528
the Revised Code does not apply to control share acquisitions of 529
shares of an issuing public corporation shall be adopted: 530

(i) Upon the recommendation by the affirmative vote of a 531
majority of the authorized number of directors of the issuing 532
public corporation in favor of such amendment; and 533

(ii) By the shareholders only at a meeting expressly held for 534
the purpose, by the affirmative votes required under division 535
(A)(1)(a) of this section. 536

(d) If, at the time an amendment to eliminate cumulative 537
voting rights permitted by division (B)(10) of section 1701.69 of 538
the Revised Code is acted upon by the shareholders, a corporation 539
does not have issued and outstanding shares that are listed on a 540
national securities exchange or are regularly quoted in an 541
over-the-counter market by one or more members of a national or 542
affiliated securities association, that amendment shall not be 543

adopted if the votes of a sufficient number of shares are cast 544
against the amendment that, if cumulatively voted at an election 545
of all the directors, or all the directors of a particular class, 546
as the case may be, would at the time the amendment is acted upon 547
by the shareholders be sufficient to elect at least one director. 548

(2) Whenever under division (B) of this section the holders 549
of shares of any particular class are entitled to vote as a class 550
on the adoption of an amendment, the amendment, in order to be 551
adopted, must receive the affirmative vote of the holders of at 552
least two-thirds of the shares of that class or, if the articles 553
provide or permit, a greater or lesser proportion, but not less 554
than a majority, of the shares of that class. If the proposed 555
amendment would authorize any particular corporate action that, 556
under any applicable provision of law or under the existing 557
articles, could be authorized only by or pursuant to a specified 558
vote of shareholders, the amendment, in order to be adopted, must 559
receive the affirmative vote so specified. 560

(B) Regardless of limitations or restrictions in the articles 561
on the voting rights of the shares of any class, the holders of 562
shares of a particular class, and in the cases specified in 563
divisions (B)(6), (7), and (8) of this section the holders of 564
shares of every class, shall be entitled to vote as a class on the 565
adoption of an amendment that does any of the following: 566

(1) Increases or decreases the par value of the issued shares 567
of the particular class, except in the case of an amendment to the 568
articles adopted by the directors pursuant to division (B)(10) of 569
section 1701.70 of the Revised Code; 570

(2) Changes issued shares of the particular class, whether 571
with or without par value, into a lesser number of shares of the 572
same class or into the same or a different number of shares of any 573
other class, with or without par value, previously or then 574
authorized; 575

(3) Changes the express terms, or adds express terms, of the 576
shares of the particular class in any manner substantially 577
prejudicial to the holders of the shares; 578

(4) Changes the express terms of issued shares of any class 579
senior to the particular class in any manner substantially 580
prejudicial to the holders of shares of the particular class; 581

(5) Authorizes shares of another class that are convertible 582
into, or authorizes the conversion of shares of another class 583
into, shares of the particular class, or authorizes the directors 584
to fix or alter conversion rights of shares of another class that 585
are convertible into shares of the particular class; provided, 586
however, both of the following apply: 587

(a) The failure to obtain the shareholders' approval only 588
prevents the conversion of the shares until the shareholders' 589
approval is obtained and does not otherwise affect the 590
authorization or any other express terms of the shares; 591

(b) The articles may provide that no vote of the holders of 592
common shares, as a class, is required in connection with the 593
authorization of shares of any class that are convertible into 594
common shares. 595

(6) Provides, in the case of an amendment described in 596
division (B)(1) or (2) of this section, that the stated capital of 597
the corporation shall be reduced or eliminated as a result of the 598
amendment, or provides, in the case of an amendment described in 599
division (B)(5) of this section, that the stated capital of the 600
corporation shall be reduced or eliminated upon the exercise of 601
such conversion rights, provided that any reduction or elimination 602
is consistent with section 1701.30 of the Revised Code; 603

(7) Changes substantially the purposes of the corporation, or 604
provides that a subsequent amendment to the articles may be 605
adopted that changes substantially the purposes of the 606

corporation; 607

(8) Changes a corporation into a nonprofit corporation. 608

(C) An amendment that changes a corporation into a nonprofit 609
corporation shall contain a statement of purposes proper in the 610
case of a nonprofit corporation and a statement that, after the 611
effective date of the amendment, the corporation shall be subject 612
to the provisions of the Revised Code relating to nonprofit 613
corporations. In the case of a corporation formed on or after June 614
9, 1927, the amendment also shall provide for the cancellation of 615
all outstanding shares and the terms and considerations, if any, 616
for the cancellation. In the case of a corporation formed prior to 617
June 9, 1927, the amendment may provide for the cancellation of 618
outstanding shares, but if it does not so provide, the amendment 619
shall contain a provision forbidding the payment of dividends or 620
distributions on any shares after the effective date of the 621
amendment. 622

Sec. 1704.01. As used in this chapter, unless the context 623
otherwise requires: 624

(A) "Corporation," "domestic corporation," "foreign 625
corporation," "state," "articles," "shareholder," "person," 626
"principal office," "express terms," "treasury shares," "parent 627
corporation," "parent," "subsidiary corporation," "subsidiary," 628
"combination," "transferee corporation," "majority share 629
acquisition," "acquiring corporation," "voting shares" when used 630
in connection with a combination or majority share acquisition, 631
"constituent corporation," "surviving corporation," "close 632
corporation agreement," and "issuing public corporation" have the 633
same meanings as in section 1701.01 of the Revised Code. 634

(B) "Chapter 1704. transaction" means any of the following: 635

(1) A merger, consolidation, combination, or majority share 636

acquisition between or involving an issuing public corporation or 637
any subsidiary of an issuing public corporation and any of the 638
following: 639

(a) An interested shareholder; 640

(b) A person, partnership, corporation, or other entity, 641
however organized, whether or not it is an interested shareholder, 642
that is, or after the merger, consolidation, combination, or 643
majority share acquisition would be, an affiliate or associate of 644
an interested shareholder. 645

(2)(a) Subject to the exception in division (B)(2)(b) of this 646
section, a purchase, lease, sale, distribution, dividend, 647
exchange, mortgage, pledge, transfer, or other disposition of 648
assets, directly or indirectly owned or controlled by the issuing 649
public corporation, by, to, with, or for the benefit of an 650
interested shareholder or an affiliate or associate of an 651
interested shareholder in one or more transactions, if, in any of 652
those transactions, the assets meet any of the following 653
conditions: 654

(i) The assets have an aggregate fair market value equal to 655
at least five per cent of the aggregate fair market value of all 656
the assets, determined on a consolidated basis, of the issuing 657
public corporation; 658

(ii) The assets have an aggregate fair market value equal to 659
at least five per cent of the aggregate fair market value of all 660
the outstanding shares of the issuing public corporation; 661

(iii) The assets represent at least ten per cent of the 662
earning power or income of the issuing public corporation, 663
determined on a consolidated after-tax basis and after excluding 664
any transaction other than in the ordinary course of business. 665

(b) One or more transactions in the ordinary course of 666
business of an issuing public corporation on terms no more 667

favorable to the interested shareholder than those acceptable to 668
third parties, as shown by contemporaneous transactions, is not a 669
Chapter 1704. transaction under division (B)(2)(a) of this 670
section. 671

(3)(a) Subject to the exception in division (B)(3)(b) of this 672
section, a purchase, lease, sale, exchange, transfer, or other 673
disposition of assets directly or indirectly owned or controlled 674
by the interested shareholder or an affiliate or associate of the 675
interested shareholder, by, to, with, or for the benefit of the 676
issuing public corporation in one or more transactions, if, in any 677
of those transactions, the assets meet any of the conditions set 678
forth in division (B)(2)(a)(i), (ii), or (iii) of this section. 679

(b) One or more transactions in the ordinary course of 680
business of an issuing public corporation on terms no more 681
favorable to the interested shareholder than those acceptable to 682
third parties, as shown by contemporaneous transactions, is not a 683
Chapter 1704. transaction under division (B)(3)(a) of this 684
section. 685

(4) The issuance or transfer to an interested shareholder or 686
an associate or affiliate of an interested shareholder of any 687
shares, or of any rights to acquire shares, of the issuing public 688
corporation or a subsidiary of the issuing public corporation by 689
the issuing public corporation or a subsidiary of the issuing 690
public corporation, in one or more transactions, if the shares, or 691
the rights, have an aggregate fair market value equal to at least 692
five per cent of the aggregate fair market value of all the 693
outstanding shares of the issuing public corporation and if the 694
shares, or the rights, are not issued or transferred pursuant to 695
the exercise of warrants, rights, or options to purchase that have 696
been issued, or pursuant to a dividend paid or a distribution 697
made, proportionately to all shareholders of the issuing public 698
corporation. 699

(5) The adoption of a plan or proposal for the dissolution, winding up of the affairs, or liquidation of the issuing public corporation that is proposed by, on behalf of, or pursuant to a written or unwritten agreement, arrangement, or understanding with an interested shareholder or an affiliate or associate of an interested shareholder.

(6) Any of the following, if the direct or indirect effect is to increase the proportionate share of the outstanding shares of the issuing public corporation or a subsidiary of the issuing public corporation beneficially owned by an interested shareholder or an affiliate or associate of an interested shareholder, unless the increase is the result of immaterial changes due to fractional share adjustments:

(a) A reclassification of securities, including a share split, a share dividend or other distribution of shares, or a reverse share split;

(b) A recapitalization of the issuing public corporation;

(c) A merger, consolidation, combination, or majority share acquisition between or involving the issuing public corporation and a subsidiary of the issuing public corporation;

(d) Any other transaction, whether or not with, into, or involving the interested shareholder, that is proposed by, on behalf of, or pursuant to a written or unwritten agreement, arrangement, or understanding with the interested shareholder or an affiliate or associate of the interested shareholder.

(7) Receipt by an interested shareholder or an affiliate or associate of an interested shareholder of the direct or indirect benefit of a loan, advance, pension or any other employee benefit plan termination, guarantee, pledge, mortgage, security agreement, financing statement, deed of trust, or other financial assistance, or a tax credit or other tax advantage, provided by or through the

issuing public corporation or any subsidiary of the issuing public 731
corporation unless the interested shareholder receives the benefit 732
proportionately as a holder of shares of the issuing public 733
corporation. 734

(C) When used in connection with a Chapter 1704. transaction: 735

(1) "Affiliate" means a person that directly, or indirectly 736
through one or more intermediaries, controls, is controlled by, is 737
under common control with, or acts in concert with, a specified 738
person. 739

(2) "Announcement date" means the date of the first public 740
announcement of a definitive proposal for a Chapter 1704. 741
transaction. 742

(3) "Associate" of a person means any of the following: 743

(a) A corporation, partnership, or other entity, however 744
organized, of which the person is an officer, director, or partner 745
or is the beneficial owner of shares entitling that person to 746
exercise at least ten per cent of the voting power in the election 747
of the directors or other governing body of that corporation, 748
partnership, or other entity; 749

(b) A trust or other estate, including any employee stock 750
ownership or benefit plan, however designated, in which the person 751
has a substantial beneficial interest or as to which the person 752
serves as trustee or in a similar fiduciary capacity; 753

(c) A relative or spouse of the person, or a relative of the 754
spouse of the person, who has the same principal residence as the 755
person. 756

(4) "Beneficial owner" of shares means a person who, with 757
respect to particular shares, meets any of the following 758
conditions: 759

(a) The person directly or indirectly, alone or with others, 760

including affiliates or associates of that person, beneficially 761
owns the shares; 762

(b) The person directly or indirectly, alone or with others, 763
including affiliates or associates of that person, has the right, 764
whether exercisable immediately or only after the passage of time, 765
conditionally, unconditionally, or otherwise, to acquire the 766
shares pursuant to a written or unwritten agreement, arrangement, 767
or understanding or upon the exercise of conversion rights, 768
exchange rights, warrants, calls, options, or otherwise; 769

(c) The person directly or indirectly, alone or with others, 770
including affiliates or associates of that person, has the right 771
to vote or direct the voting of the shares pursuant to a written 772
or unwritten agreement, arrangement, or understanding; 773

(d) The person has a written or unwritten agreement, 774
arrangement, or understanding with another person who is directly 775
or indirectly a beneficial owner, or whose affiliates or 776
associates are direct or indirect beneficial owners, of the 777
shares, if the agreement, arrangement, or understanding is for the 778
purpose of the first person's or the other person's acquiring, 779
holding, disposing of, voting, or directing the voting of the 780
shares to or for the benefit of the first person. A bank, broker, 781
nominee, trustee, or other person who acquires shares for the 782
benefit of others in the ordinary course of business in good faith 783
and not for the purpose of circumventing the provisions of this 784
chapter shall, however, be deemed to be the beneficial owner only 785
of shares in respect of which that person, without further 786
instruction from others, holds voting power. 787

(5) "Consummation date" means the date on which consummation 788
of a Chapter 1704. transaction occurs. 789

(6) "Control," "controlled by," or "under common control 790
with" refers to the possession, directly or indirectly, of the 791

power to direct or cause the direction of the management and 792
policies of a person, whether through the exercise of or the 793
ability to exercise voting power, by contract, or otherwise, 794
except that "control" of a corporation is not established for 795
purposes of this division if a person, in good faith and not for 796
the purpose of circumventing the provisions of this chapter, holds 797
voting power as an agent, custodian, bank, broker, nominee, or 798
trustee for one or more beneficial owners who do not individually 799
or as a group have control of the corporation. 800

(7) "Exchange Act" means the "Securities Exchange Act of 801
1934," 48 Stat. 881, 15 U.S.C.A. 78a-78jj, as amended, and any 802
successor or replacement legislation and amendments to the 803
successor or replacement legislation. 804

(8) "Interested shareholder," with respect to an issuing 805
public corporation, means a person other than the issuing public 806
corporation, a subsidiary of that issuing public corporation, any 807
employee stock ownership or benefit plan of the issuing public 808
corporation or a subsidiary of that issuing public corporation, or 809
any trustee or fiduciary with respect to any such plan acting in 810
such capacity who ~~is~~ meets either of the following criteria: 811

(a) Is the beneficial owner of a sufficient number of shares 812
of the issuing public corporation that, when added to all other 813
shares of the issuing public corporation in respect of which that 814
person may exercise or direct the exercise of voting power, would 815
entitle that person, directly or indirectly, alone or with others, 816
including affiliates and associates of that person, to exercise or 817
direct the exercise of ten per cent of the voting power of the 818
issuing public corporation in the election of directors after 819
taking into account all of that person's beneficially owned shares 820
that are not currently outstanding; 821

(b) At any time within the three-year period immediately 822
prior to the date on which it is sought to be determined whether 823

the person is an interested shareholder, was the beneficial owner 824
of a sufficient number of shares of the issuing public corporation 825
that, when added to all other shares of the issuing public 826
corporation in respect of which that person may have exercised or 827
directed the exercise of voting power at the time it beneficially 828
owned such shares, entitled that person, directly or indirectly, 829
alone or with others, including affiliates and associates of that 830
person, to exercise or direct the exercise of ten per cent of the 831
voting power of the issuing public corporation in election of 832
directors after taking into account all of the person's 833
beneficially owned shares that were not, at the time it 834
beneficially owned such shares, currently outstanding. 835

(9) "Disinterested shares" means voting shares beneficially 836
owned by any person not an interested shareholder or an affiliate 837
or associate of an interested shareholder. 838

(10) "Share acquisition date," with respect to any person, 839
means the date on which that person first becomes an interested 840
shareholder of an issuing public corporation. 841

(11) "Voting shares" means shares of a domestic or foreign 842
corporation, entitling the holder of the shares to vote at the 843
time in the election of directors of the corporation without 844
regard to the voting power represented by shares that thereafter 845
may exist upon a default, failure, or other contingency. 846

Sec. 1704.05. This chapter does not apply to any of the 847
following: 848

(A) A Chapter 1704. transaction if on the interested 849
shareholder's share acquisition date, the issuing public 850
corporation, other than a bank as defined in section 1101.01 of 851
the Revised Code, did not have a class of voting shares registered 852
or traded on a national securities exchange or registered under 853
section 12(g) of the Exchange Act or was not required to file 854

periodic reports and information pursuant to section 15(d) of the Exchange Act. 855
856

(B)(1) A Chapter 1704. transaction if the interested 857
shareholder was an interested shareholder on the date immediately 858
preceding the effective date of this section; except that this 859
chapter shall apply, and the share acquisition date shall be the 860
date, when the interested shareholder increases its beneficial 861
ownership of voting power of the issuing public corporation to a 862
proportion in excess of the proportion of voting power that the 863
interested shareholder beneficially owned on the date immediately 864
preceding the effective date of this section unless the interested 865
shareholder's subsequent increase in beneficial ownership results 866
from or is the consequence of any of the following circumstances: 867

(a) The increase is by bequest or inheritance, by operation 868
of law upon the death of any individual, or by any other transfer 869
without valuable consideration, including a gift, that is made in 870
good faith and not for the purpose of circumventing the provisions 871
of this chapter; 872

(b) The increase is pursuant to the satisfaction of a pledge 873
or other security interest created in good faith and not for the 874
purpose of circumventing the provisions of this chapter; 875

(c) The increase is the result solely of the purchase by the 876
issuing public corporation of shares issued by it; 877

(d) The increase is in accordance with approval by the 878
directors of the issuing public corporation before the increase 879
occurred. 880

(2) If this chapter would have applied to the increase of 881
beneficial ownership described in division (B)(1) of this section 882
but for the application of an exception described in division 883
(B)(1)(a), (b), (c), or (d) of this section, this chapter shall 884
apply if the interested shareholder's subsequent increase in its 885

proportion of beneficial ownership is not the result or a 886
consequence of any of the circumstances described in division 887
(B)(1)(a), (b), (c), or (d) of this section. 888

(C) A Chapter 1704. transaction if the interested shareholder 889
was an interested shareholder on the date immediately preceding 890
the effective date of this section and inadvertently increases its 891
beneficial ownership of voting power of the issuing public 892
corporation to a proportion in excess of the proportion of voting 893
power that the interested shareholder beneficially owned on the 894
date immediately preceding the effective date of this section, 895
provided that, as soon as practicable, the interested shareholder 896
divests itself of beneficial ownership of a sufficient number of 897
voting shares of the issuing public corporation that the 898
interested shareholder is no longer the beneficial owner of a 899
proportion of voting power in excess of the proportion of voting 900
power that the interested shareholder beneficially owned on the 901
date immediately preceding the effective date of this section. 902

(D)(1) A Chapter 1704. transaction if a person becomes an 903
interested shareholder through an acquisition of voting shares 904
that resulted from or was the consequence of any of the 905
circumstances described in division (B)(1)(a), (b), (c), or (d) of 906
this section, except that this chapter shall apply, and the share 907
acquisition date shall be the date, when the interested 908
shareholder increases its beneficial ownership of voting power of 909
the issuing public corporation to a proportion in excess of the 910
proportion of voting power that the interested shareholder 911
beneficially owned on the date on which it became an interested 912
shareholder unless the interested shareholder's subsequent 913
increase in beneficial ownership results from or is a consequence 914
of any of the circumstances described in division (B)(1)(a), (b), 915
(c), or (d) of this section. 916

(2) If this chapter would have applied to the acquisition of 917

voting shares described in division (D)(1) of this section but for 918
the application of an exception described in division (B)(1)(a), 919
(b), (c), or (d) of this section, this chapter shall apply if the 920
interested shareholder's subsequent increase in its proportion of 921
beneficial ownership is not the result or a consequence of any of 922
the circumstances described in division (B)(1)(a), (b), (c), or 923
(d) of this section. 924

(E) A Chapter 1704. transaction if a person became an 925
interested shareholder inadvertently, provided that, as soon as 926
practicable, the person divests itself of beneficial ownership of 927
a sufficient number of voting shares of the issuing public 928
corporation that the person no longer is an interested 929
shareholder. 930

(F)(1) Subject to division (F)(2) of this section, a Chapter 931
1704. transaction if the original articles of the issuing public 932
corporation state, or if the articles of the issuing public 933
corporation have been amended in compliance with the provisions of 934
section 1701.70, 1701.71, or 1701.72 of the Revised Code to state, 935
by specific reference to this chapter, that this chapter does not 936
apply to the corporation and if any of the following applies: 937

(a) The corporation had fewer than fifty shareholders or was 938
not an issuing public corporation when the statement initially was 939
set forth in the articles. 940

(b) No shareholder of the corporation qualified as an 941
interested shareholder when the statement was initially set forth 942
in the articles. 943

(c) The statement was contained in an amendment to the 944
articles and the amendment was approved, upon the recommendation 945
by the affirmative vote of a majority of the authorized number of 946
directors of the corporation in favor of such amendment, by the 947
holders of two-thirds of all outstanding shares of the corporation 948

entitled to vote in the election of directors and by the holders 949
of two-thirds of all outstanding disinterested shares of the 950
acquiring public corporation entitled to vote in the election of 951
directors. 952

(2) If, however, a Chapter 1704. transaction would have been 953
prohibited but for the adoption of an amendment to the articles in 954
compliance with division (F)(1)(b) or (c) of this section, the 955
issuing public corporation shall not engage in a Chapter 1704. 956
transaction for twelve months following the adoption of the 957
amendment; in addition, if this chapter would have applied to a 958
person who became an interested shareholder prior to the adoption 959
of such an amendment, this chapter shall continue to apply to a 960
Chapter 1704. transaction between the issuing public corporation 961
and the interested shareholder as if the amendment had not been 962
adopted. 963

(G) A Chapter 1704. transaction between an acquiring public 964
corporation and any employee benefit plan, or any trust under any 965
employee benefit plan, established by the issuing public 966
corporation, and any distribution or payment made by the employee 967
benefit plan or trust to any beneficiary. 968

(H) A Chapter 1704. transaction that involves any acquisition 969
of securities of an issuing public corporation pursuant to an 970
employee stock option plan, an employee stock purchase plan, an 971
employee stock bonus plan, an employee stock ownership plan, or 972
any similar plan designed to benefit one or more employees 973
established by the issuing public corporation, provided the 974
acquisition of the securities and the establishment of, any 975
amendment to, and the administration of the plan are in good faith 976
and not for the purpose of circumventing the provisions of this 977
chapter. 978

(I) A Chapter 1704. transaction that involves compensation 979
directly or indirectly received by a director, officer, employee, 980

agent, or independent contractor of an issuing public corporation 981
in return for services rendered or to be rendered to the issuing 982
public corporation, provided the payment of the compensation and 983
the services rendered, or to be rendered, are in good faith and 984
not for the purpose of circumventing the provisions of this 985
chapter. 986

(J) A Chapter 1704. transaction that involves any loan of 987
money or property of an issuing public corporation to a director, 988
officer, employee, agent, or independent contractor of the issuing 989
public corporation, provided the loan is designed to encourage the 990
rendering of needed, valuable, and efficient services to the 991
issuing public corporation and provided the loan is made and the 992
services are rendered, or are to be rendered, in good faith and 993
not for the purpose of circumventing the provisions of this 994
chapter. 995

(K) A Chapter 1704. transaction in which an issuing public 996
corporation makes a loan of money or other property to, guarantees 997
any loan of money or other property to, or guarantees any 998
obligation of, an employee stock ownership plan, as defined in 999
Section 4975(e)(7) of the "Internal Revenue Code of 1986," 68A 1000
Stat. 3, 26 U.S.C.A. 1, as amended, of the issuing public 1001
corporation. 1002

Section 2. That existing sections 1701.01, 1701.11, 1701.71, 1003
1704.01, and 1704.05 of the Revised Code are hereby repealed. 1004