

IN THE SUPREME COURT

STATE OF OHIO

APPEAL FROM THE BOARD OF TAX APPEALS

POLARIS AMPHITHEATER CONCERTS, INC.,)	SUPREME COURT CASE
)	NUMBER 07-0347
)	
Appellant,)	
)	BOARD OF TAX APPEALS
vs.)	CASE NUMBER 2004-V-1294
)	
DELAWARE COUNTY BOARD OF)	
REVISION, DELAWARE COUNTY)	
AUDITOR, BOARD OF EDUCATION OF THE)	
OLENTANGY LOCAL SCHOOLS, AND TAX)	
COMMISSIONER OF THE STATE OF OHIO,)	
)	
Appellees.)	
)	

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SUPREME COURT OF OHIO

REPLY BRIEF OF APPELLANT

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INTRODUCTION

The Appellees Board of Education of the Olentangy Local School District and Delaware County Auditor and County Board of Revision have filed a joint brief in this appeal. This reply brief of the Appellant, Polaris Amphitheater Concerts, Inc., responds to the issues and arguments raised by the Appellees in their brief.

PROPOSITION OF LAW NO. I

IT IS UNREASONABLE AND UNLAWFUL TO ASSESS LAND IN OHIO AT VALUES THAT ARE NOT SUPPORTED IN THE RECORD.

In their brief the Appellees argue that the Appellant is precluded from challenging the Board of Tax Appeals valuation of the land in this appeal. The Appellant directs the Appellees and the Court to the recent decision in Dayton-Montgomery Cty. Port Auth. v. Montgomery Cty. Bd. of Revision, 113 Ohio St.3d 281, 2007-Ohio-1948 (hereinafter Dayton-Montgomery Cty. Port. Auth.), wherein the Court specifically addressed the issue of whether a party could contest either the land or the building value in an appeal. Specifically, the Court noted:

The Port Authority made no assignment of error concerning the land value. But even if it had, the Port Authority is arguably not a property party to assert that issue in its appeal, since it was benefited, not aggrieved, by that error. See generally, *Ohio Contract Carriers Assn., Inc. v. Pub. Util. Comm.* (1942), 140 Ohio St. 160, 23 O.O. 369, 42 N.E.2d 758, syllabus (appeals may be prosecuted “only to correct errors injuriously affecting the appellant”). To preserve the question properly, either party aggrieved by the BTA’s land valuation – the auditor or the board of education – should have filed its own appeal and specified the error. See *J.C. Penney Properties* at 205, 11 OBR 521, 465 N.E.2d 48; *Christian Church of Ohio v. Limbach* (1990), 53 Ohio St. 3d 270, 271, 560 N.E.2d 199, fn. 1 (appellee’s failure to file cross-appeal precluded consideration of the error it asserted); *Lenart v. Lindley* (1980), 61 Ohio St.2d 110, 115, 15 O.O.3d 152, 399 N.E.2d 1222, fn. 1 (appellee’s attempt to assert alternative grounds for affirmance of BTA decision was barred by failure to file a cross-appeal). Since that did not occur, we have no jurisdiction to correct the land valuation, and it follows that on

remand the BTA likewise has no authority to depart from its previous finding that the land should be valued at \$133,290.

Id. at page 290.

Like the appellant in Dayton-Montgomery Cty. Port Auth., the Appellant in this appeal did not contest the valuation of both the land and building in its notice of appeal to this Court, but, rather, only the issue of the value of the land. In Dayton-Montgomery Cty. Port Auth., the appellant only sought review of the Board of Tax Appeals valuation of the building. See also Dublin-Sawmill Properties v. Franklin Cty. Bd. of Revision (1993), 67 Ohio St.3d 575, 577. (“Appellant notes that it paid \$170,377 per acre for the land. Appellee Dublin City School District’s appraiser valued the land at \$180,000 per acre. However, the BTA found the value to be \$310,580 per acre and there is no probative evidence to support its finding... Accordingly, the decision of the BTA is reversed.”) As a result, the characterization of the case by the Appellees at page 1 in their brief is simply wrong. The Appellant is not seeking review of the valuation of the Polaris Amphitheater and the Appellant’s appeal is not illegal. The Board of Tax Appeals did not determine the value of Appellant’s land based upon the evidence in the Record, and there is no evidence in the record to support the Board of Tax Appeals adoption of the County Auditor’s valuation of the land in this case. The Board of Tax Appeals decision and order is unreasonable and unlawful. See Dayton-Montgomery Cty. Port Auth., at page 288 (“[W]hen the evidence presented to the board of revision or the BTA contradicts the auditor’s determination in whole or in part, and when no evidence has been adduced to support the auditor’s valuation, the BTA may not simply revert to the auditor’s determination. Whenever it

does so, the BTA is acting unlawfully by making a finding of value that is affirmatively contradicted by the only evidence in the record.”)

Beginning at page 2 in their brief the Appellees argue that improvements on land must be included in the valuation of land.¹ There is no evidence in this appeal that the County Auditor, Board of Revision or Board of Tax Appeals included the value of any of the improvements in their valuation of the land, the Appellee’s appraiser did not make any such calculation. There is no authority set forth in the Appellees’ brief to support this position. In fact, the statutes cited by the Appellees support the assessment and taxation of land and improvements as separate items for real property tax purposes.

Revised Code 5713.03 provides in pertinent part that:

The county auditor, from the best sources of information available, shall determine, as nearly as practicable, the true value of each separate tract, lot, or parcel of real property and of buildings, structures, and improvements located thereon...in accordance with the uniform rules and methods of valuing and assessing real property as adopted, prescribed, and promulgated by the tax commissioner.

The county auditor shall adopt and use a real property record approved by the commissioner for each tract, lot, or parcel of real property, setting forth the true and taxable value of land...and the true and taxable value of each building, structure, or improvement to land, which value shall be included as a separate part of the total value of each tract, lot, or parcel of real property.

(Emphasis added).

¹ The Appellees’ claim that the Appellant did not submit the actual site improvements costs is incorrect. See Supp. at pages 39-41. The Appellant’s appraisal considers all the “site improvements” cost discussed at page 12 in the Appellees brief. See Supp. at page 75 and 338. Moreover, to the extent that the definitional sections contained in The Appraisal of Real Estate and The Dictionary of Real Estate Appraisal cited by the Appellees conflict with the Ohio Administrative Code rules cited above, the Appellant submits that it is the Ohio Administrative Code rules promulgated by the Tax Commissioner for the benefit of county auditors throughout the State which control the assessment of real property in Ohio.

The Appellees argument at page 10 in their brief that the amendment to Revised Code 5715.19 (A) (1) (d) takes away the right of a taxpayer to contest either land value or building value is ridiculous. In many instances, such as special purpose property like the subject property, the land and improvement values are not linked. It was the conclusion of the Appellant's appraiser that the valuation of the land (under his highest and best use analysis) would be more appropriately valued under an office use based upon surrounding land use patterns and sales. Supp. at page 406 (TR. Volume I at pages 189-191).² The Appellees appraiser, Sam Koon, also valued the land significantly below the County Auditor's assessment based upon a retail use. Supp. at pages 210 and 228. The Board of Tax Appeal decision and order valuing the land at a value that is not supported in the Record is unreasonable and unlawful.

PROPOSITION OF LAW NO. II

IT IS UNREASONABLE AND UNLAWFUL TO ASSESS LAND IN EXCESS OF ITS FAIR MARKET VALUE AS DETERMINED UNDER ITS HIGHEST AND BEST USE.

Contrary to the claims of the Appellees in their brief at the bottom of page 3, Mr. Lorm's was not instructed to value the land in a certain manner. Under questioning by the hearing examiner before the Board of Tax Appeals Mr. Lorm's testified as follows:

A: I was just asked to estimate the market value of the land only under my opinion of highest and best use. So to answer your question, I did not consider any of the entertainment use or any of the existing improvements.

Q: Why wouldn't there have been consideration to an entertainment use if it might conceivably, possibly, have produced the highest value?

² The Appellees claim at page 3 in their brief that Mr. Lorm's usable acreage calculations are not supported in the record ignores the extensive engineering testimony and documentation submitted by the Appellant in this appeal in support of Mr. Lorm's highest and best use analysis and valuation of the land. See Supp. at pages 259-338, and 363-385 (TR. Volume I at pages 19-107).

A: I don't know of any entertainment use data that would support any values different than what I have done.

Q: Yet here, under restrictions with your assignment, you did not consider the existing use, why the difference?

A: Just asked to estimate land value under my opinion of highest best use. And I didn't consider entertainment as a potential highest and best use.

Supp. at page 405 (TR. Volume I at pages 185-87).

The Appellees suggest at the bottom of page 3 in their brief that Mr. Lorms should have prepared a valuation of the property based upon its current use.³ However, such a valuation for real property tax purposes would be contrary to the Court's decision in Dinner Bell Meats, Inc. v. Cuyahoga Cty. Bd of Revision (1984), 12 Ohio St.3d 270, 271 (noting that Section 2, Article XII of the Ohio Constitution mandates the valuations of property cannot be limited to considerations of current use only to the exclusion of all other relevant factors.). On redirect examination before the Board of Tax Appeals Mr. Lorm's testified to the difference between market value and value in use. Supp. at pages 406 and 407 (TR. Volume I at pages 190-193). Specifically, Mr. Lorm's was asked:

Q: When you do a value in use appraisal, are you restricted in the analysis that you would make under highest and best use?

A: Yes.

Q: Were you in any way restricted in your highest and best use of the subject property in this case?

A: No.

Supp. at page 406 (TR. Volume I at page 190).

³ At the top of page 5 in their brief the Appellees reference to Mr. Lorm's value for the 90 acre tract at \$7.2 million dollars is wrong. Mr. Lorms did not include the 8 acre residential parcel as part of his appraisal. See Supp. at pages 351-356. The Appellant did not contest the value of this parcel at the Board of Tax Appeals hearing. See Board of Tax Appeals decision and order at page 2 (Footnote 1).

The Appellees appraiser considered an amphitheater use in his valuation of the land and even he valued the land substantially less than the County Auditor and Board of Tax Appeals in this case. See Supp. at pages 458-459 (TR. Volume II at pages 40-41) and Supp. at page 228. The in this case land is overvalued based upon all the appraisal evidence contained in the record in this appeal. The Board of Tax Appeal decision and order is unreasonable and unlawful.

With respect to the Appellees discussion of Revised Code 5715.19 (A) (1) (d), the Appellees offer no support for their assertion that the determination of “land ... value has no legal consequence of any kind.” The record cards in this case, the Appellant’s notice of appeal to the Ohio Board of Tax Appeals, and the Board of Tax Appeals decision and order all set forth values for the land and building improvements. (Supp. at pages 5 and 351-355). And, contrary to the Appellees claim at page 8 in their brief that “the allocation, for instance, does not impact the amount of real estate taxes that are paid on the property,” completely ignores the statutory scheme in Ohio that exempts certain building improvements from taxation. See Revised Code Sections 5709.61 through 5709.88 and Revised Code Sections 3735.66 through 3735.671. Moreover, the Ohio Administrative Code rules cited by the Appellees in their brief specifically direct the County Auditor in the methodology to be used in valuing land and improvement to land. See Ohio Administrative Code Rule 5705-3-07 and Ohio Administrative Code Rule 5705-3-08 promulgated by the Tax Commissioner under the authority of Revised Code Section 5715.01. With respect to the valuation of land, Ohio Administrative Code Rule 5705-3-07 provides in part:

- (A) General – All land shall be appraised at its true value in money as of tax lien date of the year in which the appraisal or update of

values is made. In arriving at the true value in money the county auditor shall consider, along with other factors, not only the present use of the land but also its highest and best probable legal use consistent with existing zoning and building regulations. The requirement that land be classified under rule 5705-3-06 of the Administrative Code according to its principal use shall not affect the requirement of this rule that it be appraised at its highest and best probable legal use. The present improvements to the land, the demand and supply of land, the demand and supply of land for such use, financing method, the length of time until developed and the cost of development are factors that should be considered in determining the highest and best probable legal use of the land.

- (B) All relevant facts tending to influence the market value of land should be considered, including, but not limited to, size, shape, topography, soil and subsoil, drainage, utility connections, street or road, land pattern, neighborhood type and trend, amenities, zoning, restrictions, easements, hazards, etc.

(Emphasis added).

A separate rule, Ohio Administrative Code Rule 5705-3-08, which addresses the valuation of buildings, structures, fixtures and improvements to land provides:

- (A) General – The true value of improvements may be determined by either the market data, income or cost approach. Regardless of the approach used the total of the depreciated value of the improvements to land and the “true value” of the land should be the “true value” of the property as a whole, as defined in rule 5705-3-01 of the Administrative Code. While the cost approach will generally be used one of the other approaches should be used as a check on whether the determination of depreciation or obsolescence is correct.

In arriving at the value of the depreciated improvements by the market data approach the value of the entire property is estimated by the use of comparable sales after allowing for variations. The land value determined according to rule 5705-3-07 of the Administrative Code is then subtracted to arrive at the value of the improvements in their present or depreciated condition.

(Emphasis added).

Based upon the statutory directive to the county auditor under Revised Code 5713.03 to value the land and improvements thereon, and the above quoted Ohio Administrative Code rules, the Appellant's submits that the amendment to Revised Code 5715.19 (A)(1)(d) in 1982 cited by the Appellees in their brief is contrary to the assessment statutes. On its face, the amendment appears to take away the right of taxpayers to challenge determinations made by county auditors under statute. The Appellant submits that the 1982 amendment of the Revised Code 5715.19 (A)(1)(d) statute is inconsistent with the existing statutory scheme, and to the extent that it impacts the right of taxpayers to challenge property tax valuations in Ohio, is unconstitutional. As the Appellees note in their brief, Article XII, Section 2 of the Ohio Constitution provides that "land and improvements thereon shall be taxed by uniformed rule according to value." The only way to ensure that this constitutional mandate is being properly carried out is for complainants under Revised Code 5715.19 to have an opportunity to contest the value of land and improvements thereon, either individually or collectively in order to ensure that they are being taxed by uniform rule according to value. The Court has specifically recognized this right in several cases cited above. See Dayton-Montgomery Cty. Port Auth. v. Montgomery Cty. Bd. of Revision, 113 Ohio St.3d 281, 2007-Ohio-1948, and Dublin-Sawmill Properties v. Franklin Cty. Bd. of Revision (1993), 67 Ohio St.3d 575.

Article XII, Section 2 of the Ohio Constitution as well as Revised Code Section 5713.03 and the Ohio Administrative Code rules cited above do not support the Appellee argument that improvements to land should be included in the valuation and assessment of the land. The Appellees citation to Revised Code Section 5701.02 at page 13 in their brief specifically omits the remaining language of the definition of "real property," "realty" and "land" to include "all

building structures improvements and fixtures of whatever kind on the land,” these items are specified separate from “land itself” as defined in that Section. The Appellees attempt to lump land and improvements together for purposes of this appeal is simply not supported by the Ohio Constitution, the Revised Code, the Ohio Administrative Code and the case law before the Court.

Lastly, there is no support for the Appellees assertion at page 14 in their brief that an increase in land value would result in a corresponding decrease in improvement value. If the Appellees felt that the Board of Tax Appeals undervalued the improvements at the property in its decision, they could have appealed the decision to this Court, or at a minimum filed a notice of cross appeal under Revised Code 5717.04. The only appeal before the Court is Appellant’s appeal of the Board of Tax Appeals valuation of the land which the controverted evidence in the Record in this appeal does not support.

CONCLUSION

For the foregoing reasons, the Appellant Polaris Amphitheater Concerts, Inc. respectfully requests that this Court reverse the decision and order of the Ohio Board of Tax Appeals and remand the case to the Ohio Board of Tax Appeals with instructions to find the fair market value or true value in money of the subject land based upon the appraisal evidence in the Record.

Respectfully submitted,

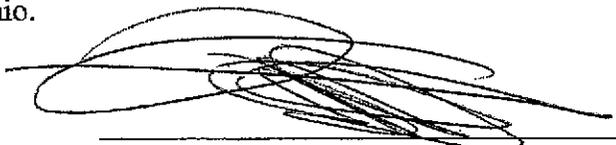


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CERTIFICATE OF SERVICE

A copy of the foregoing Brief of Appellant Polaris Amphitheater Concerts, Inc. was mailed via regular U.S. mail postage prepaid, the 26th day of September, 2007 to the following: Mark H. Gills, Rich, Crites & Dittmer, LLC, 300 East Broad Street, Suite 300, Columbus, Ohio 43215-3452, Attorney for the Appellee Board of Education of the Olentangy Local School District; and Christopher D. Betts, Assistant Delaware County Prosecutor, 140 North Sandusky Street, 3rd Floor, Delaware, Ohio 43015, Attorney for the Appellees Delaware County Board of Revision and Delaware County Auditor, and Marc Dann, Ohio Attorney General, State Office Tower, 17th Floor, 30 East Broad Street, Columbus, Ohio 43215-3428, Attorney for the Appellee Tax Commissioner of the State of Ohio.



Todd W. Sleggs, Esq. (0040921)

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state from a person who is not a registered wholesale distributor, without having a registration therefor.

(B) Each wholesale distributor and each retail dealer required to be registered under division (A) of this section shall apply for registration on or before the date that is two months after the effective date of this section, or on or before the first day of doing business that required the registration. The application shall be filed with the tax commissioner, in a form and providing such information as prescribed by the commissioner. The commissioner shall assign an account number to each registration and shall so notify the registrant. The registration shall remain in effect until canceled by the wholesale distributor or retail dealer upon the cessation of business.

(As enacted by S.B. 165, Laws 1993, effective October 29, 1993.)

¶ 115-960]

Sec. 3734.9012. Customer statement.—Each wholesale distributor required to be registered under division (A) of section 3734.9011 of the Revised Code shall provide its customers with a statement that the distributor is liable for the fee imposed by section 3734.901 of the Revised Code and the distributor's account number assigned by the tax commissioner. This section does not apply to sales at retail.

(As enacted by S.B. 165, Laws 1993, effective October 29, 1993.)

CHAPTER 3735—METROPOLITAN HOUSING AUTHORITY

¶ 116-000]

Sec. 3735.34. Exemption from taxation.—All property, both real and personal, acquired or owned by a metropolitan housing authority and used for the purposes of exercising the powers set forth in sections 3735.27 to 3735.50 of the Revised Code shall be public property used exclusively for a public purpose within the meaning of Section 2 of Article XII, Ohio Constitution, and shall be exempt from all taxation. All accounting and other transactions of the authority shall be subject to audit by the auditor of state.

(As amended by S.B. 296, Laws 1967; H.B. 201, Laws 1985; H.B. 325, Laws 1986, effective June 6, 1986.)

¶ 116-030]

Sec. 3735.35. Payments to county treasurer.—With respect to property, both real and personal, owned or acquired by a metropolitan housing authority for the purpose of exercising the powers set forth in sections 3735.27 to 3735.50, inclusive, of the Revised Code, such authority shall make annual payments to the county treasurer for distribution in the maximum amounts consistent with obtaining federal assistance under the "United States Housing Act of 1937" as now or hereafter amended, and general regulations or orders issued thereunder, pro-

¶ 115-965]

Sec. 3734.9013. Failure to file returns; failure to purchase fire from registered wholesaler.—(A) No person shall fail to file any return or report required to be filed by section 3734.904 of the Revised Code, or file or cause to be filed any incomplete, false, or fraudulent return, or statement, or aid or abet another in the filing of any false or fraudulent return, report, or statement.

(B) No person shall sell at retail any fire unless the fire was obtained from a wholesale dealer holding a current, valid registration or obtained under his own current, valid registration issued pursuant to section 3734.9011 of the Revised Code.

(As enacted by S.B. 165, Laws 1993, effective October 29, 1993.)

¶ 115-970]

Sec. 3734.9014. Registered wholesale distributors list.—The tax commissioner shall maintain a list of the wholesale distributors registered under division (A) of section 3734.9011 of the Revised Code. The list shall contain the name and address of each distributor and the account number assigned to each by the tax commissioner. The list and subsequent updates of it may be furnished to persons on the list and shall be open to public inspection in the office of the tax commissioner.

(As enacted by S.B. 165, Laws 1993, effective October 29, 1993.)

vided, no such annual payments shall be in an amount which would reduce the local contributions in the form of tax exemption to an amount below that required to enable such authority to receive the annual contributions contracted to be paid by the federal government in connection with such project, nor shall any such payment exceed the taxes which would be payable on the project if it were not tax exempt. Such payments shall be made to and shall be received by the treasurer on the certification of the county auditor to be credited to a fund to be designated as the "undivided public housing fund", and shall be distributed to the taxing subdivisions levying taxes in the subdivisions in which the property is located, in the same proportions in which the current general property tax is distributed.

¶ 116-060]

Sec. 3735.65. Definitions.—As used in sections 3735.65 to 3735.72 of the Revised Code:

(A) "Housing officer" means an officer or agency of a municipal corporation or county designated by the legislative authority of the municipal corporation or county, pursuant to section 3735.66 of the Revised Code, for each community reinvestment area to administer sections 3735.65 to 3735.69 of the Revised Code. One officer or agency may be designated as the housing officer for more than one community reinvestment area.

§ 3735.65. ¶ 116-060]

(B) "Community reinvestment area" means an area within a municipal corporation or unincorporated area of a county for which the legislative authority of the municipal corporation or, for the unincorporated area, of the county, has adopted a resolution under section 3735.66 of the Revised Code describing the boundaries of the area and containing a statement of finding that the area included in the description is one in which the housing facilities or structures of historical significance are located and new housing construction and repair of existing facilities or structures are discouraged.

(C) "Remodeling" means any change made in a structure for the purpose of making it structurally more sound, more habitable, or for the purpose of improving its appearance.

(D) "Structure of historical or architectural significance" means those designated as such by resolution of the legislative authority of a municipal corporation, for those located in a municipal corporation, or the county, for those located in the unincorporated area of the county based on age, rarity, architectural quality, or because of a previous designation by a historical society, association, or agency.

(As enacted by H.B. 754, Laws 1969, as amended by S.B. 251, Laws 1977, effective November 18, 1977.)

COMMUNITY REINVESTMENT AREAS

§ 116-090

Sec. 3735.66. Resolution describing boundaries of areas and eligibility for tax exemption; housing officer; determination by director of development.—The legislative authorities of municipal corporations and counties may survey the housing within their jurisdictions and, after the survey, may adopt resolutions describing the boundaries of community reinvestment areas which contain the conditions required for the finding under division (B) of section 3735.65 of the Revised Code. The findings resulting from the survey shall be incorporated in the resolution describing the boundaries of an area. The legislative authority may stipulate in the resolution that only new structures or remodeling classified as to use as commercial, industrial, or residential, or some combination thereof, and otherwise satisfying the requirements of section 3735.67 of the Revised Code are eligible for exemption from taxation under that section. If the resolution does not include such a stipulation, all new structures and remodeling satisfying the requirements of section 3735.67 of the Revised Code are eligible for exemption from taxation regardless of classification. Whether or not the resolution includes such a stipulation, the classification of the structures or remodeling eligible for exemption in the area shall at all times be consistent with zoning restrictions applicable to the area. For the purposes of sections 3735.65 to 3735.70 of the Revised Code, whether a structure or remodeling composed of multiple units is classified as commercial or residential shall be determined

§ 116-090 § 3735.66

by resolution or ordinance of the legislative authority or, in the absence of such a determination, by the classification of the use of the structure or remodeling under the applicable zoning regulations.

If construction or remodeling classified as residential is eligible for exemption from taxation, the resolution shall specify a percentage, not to exceed one hundred per cent, of the assessed valuation of such property to be exempted. The percentage specified shall apply to all residential construction or remodeling for which exemption is granted.

The resolution adopted pursuant to this section shall be published in a newspaper of general circulation in the municipal corporation, if the resolution is adopted by the legislative authority of a municipal corporation, or in a newspaper of general circulation in the county, if the resolution is adopted by the legislative authority of the county, once a week for two consecutive weeks immediately following its adoption.

Each legislative authority adopting a resolution pursuant to this section shall designate a housing officer. In addition, each such legislative authority, not later than fifteen days after the adoption of the resolution, shall petition the director of development for the director to confirm the findings described in the resolution. The petition shall be accompanied by a copy of the resolution and by a map of the community reinvestment area in sufficient detail to denote the specific boundaries of the area and to indicate zoning restrictions applicable to the area. The director shall determine whether the findings contained in the resolution are valid, and whether the classification of structures or remodeling eligible for exemption under the resolution is consistent with zoning restrictions applicable to the area as indicated on the map. Within thirty days of receiving the petition, the director shall forward the director's determination to the legislative authority. The legislative authority or housing officer shall not grant any exemption from taxation under section 3735.67 of the Revised Code until the director forwards the director's determination to the legislative authority. The director shall assign to each community reinvestment area a unique designation by which the area shall be identified for purposes of sections 3735.65 to 3735.70 of the Revised Code.

If zoning restrictions in any part of a community reinvestment area are changed at any time after the legislative authority petitions the director under this section, the legislative authority shall notify the director and shall submit a map of the area indicating the new zoning restrictions in the area.

(As enacted by H.B. 754, Laws 1967, as amended by S.B. 251, Laws 1977; S.B. 363, Laws 1992; S.B. 19, Laws 1994; H.B. 95, Laws 2003, effective June 26, 2003.)

§ 116-1101

Sec. 3735.67. Application for exemption from taxation.—(A) The owner of real property located

in a community reinvestment area and eligible for exemption from taxation under a resolution adopted pursuant to section 3735.66 of the Revised Code may file an application for an exemption from real property taxation of a percentage of the assessed valuation of a new structure or remodeling, completed after the effective date of the resolution adopted pursuant to section 3735.66 of the Revised Code, with the housing officer designated pursuant to section 3735.66 of the Revised Code for the community reinvestment area in which the property is located. If any part of the new structure or remodeling that would be exempted is of real property to be used for commercial or industrial purposes, the legislative authority and the owner of the property shall enter into a written agreement pursuant to section 3735.671 of the Revised Code prior to commencement of construction or remodeling; if such an agreement is subject to approval by the board of education of the school district within the territory of which the property is or will be located, the agreement shall not be formally approved by the legislative authority until the board of education approves the agreement in the manner prescribed by that section.

(B) The housing officer shall verify the construction of the new structure or the cost of the remodeling and the facts asserted in the application. The housing officer shall determine whether the construction or the cost of the remodeling meets the requirements for an exemption under this section. In cases involving a structure of historical or architectural significance, the housing officer shall not determine whether the remodeling meets the requirements for a tax exemption unless the appropriateness of the remodeling has been certified, in writing, by the society, association, agency, or legislative authority that has designated the structure or by any organization or person authorized, in writing, by such society, association, agency, or legislative authority to certify the appropriateness of the remodeling.

(C) If the construction or remodeling meets the requirements for exemption, the housing officer shall forward the application to the county auditor with a certification as to the division of this section under which the exemption is granted, and the period and percentage of the exemption as determined by the legislative authority pursuant to that division. If the construction or remodeling is of commercial or industrial property and the legislative authority is not required to certify a copy of a resolution under section 3735.671 of the Revised Code, the housing officer shall comply with the notice requirements prescribed under section 5709.83 of the Revised Code, unless the board has adopted a resolution under that section waiving its right to receive such a notice.

(D) The tax exemption shall first apply in the year the construction or remodeling would first be taxable but for this section. In the case of remodel-

ing that qualifies for exemption, a percentage, not to exceed one hundred per cent, of the amount by which the remodeling increased the assessed value of the structure shall be exempted from real property taxation. In the case of construction of a structure that qualifies for exemption, a percentage, not to exceed one hundred per cent, of the assessed value of the structure shall be exempted from real property taxation. In either case, the percentage shall be the percentage set forth in the agreement if the structure or remodeling is to be used for commercial or industrial purposes, or the percentage set forth in the resolution describing the community reinvestment area if the structure or remodeling is to be used for residential purposes.

The construction of new structures and the remodeling of existing structures are hereby declared to be a public purpose for which exemptions from real property taxation may be granted for the following periods:

(1) For every dwelling containing not more than two family units located within the same community reinvestment area and upon which the cost of remodeling is at least two thousand five hundred dollars, a period to be determined by the legislative authority adopting the resolution describing the community reinvestment area where the dwelling is located, but not exceeding ten years;

(2) For every dwelling containing more than two units and commercial or industrial properties located within the same community reinvestment area, upon which the cost of remodeling is at least five thousand dollars, a period to be determined by the legislative authority adopting the resolution, but not exceeding twelve years;

(3) For construction of every dwelling and commercial or industrial structure located within the same community reinvestment area, a period to be determined by the legislative authority adopting the resolution, but not exceeding fifteen years.

(E) Any person, board, or officer authorized by section 5715.19 of the Revised Code to file complaints with the county board of revision may file a complaint with the housing officer challenging the continued exemption of any property granted an exemption under this section. A complaint against exemption shall be filed prior to the thirty-first day of December of the tax year for which taxation of the property is requested. The housing officer shall determine whether the property continues to meet the requirements for exemption and shall certify the housing officer's findings to the complainant. If the housing officer determines that the property does not meet the requirements for exemption, the housing officer shall notify the county auditor, who shall correct the tax list and duplicate accordingly.

(As enacted by H.B. 754, Laws 1969; as amended by H.B. 1, 1971, Laws 1971; S.B. 251, Laws 1977; H.B. 103, Laws 1990; S.B. 19, Laws 1994; H.B. 627,

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Laws 1996, H.B. 95, Laws 2003, effective June 26, 2003.)

[§ 116-205]

☛ *Caution: Sec. 3735.671, as reproduced immediately below, is effective through March 21, 2005. For provisions effective March 22, 2005, see below. CCH.]*

Sec. 3735.671. [Exemption agreement.]—(A) If construction or remodeling of commercial or industrial property is to be exempted from taxation pursuant to section 3735.67 of the Revised Code, the legislative authority and the owner of the property, prior to the commencement of construction or remodeling, shall enter into a written agreement, binding on both parties for a period of time that does not end prior to the end of the period of the exemption, that includes all of the information and statements prescribed by this section. Agreements may include terms not prescribed by this section, but such terms shall in no way derogate from the information and statements prescribed by this section.

(1) Except as otherwise provided in division (A)(2), or (3) of this section, an agreement entered into under this section shall not be approved by the legislative authority unless the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves the agreement. For the purpose of obtaining such approval, the legislative authority shall certify a copy of the agreement to the board of education not later than forty-five days prior to approving the agreement, excluding Saturday, Sunday, and a legal holiday as defined in section 1.14 of the Revised Code. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the legislative authority not later than fourteen days prior to the date stipulated by the legislative authority as the date upon which approval of the agreement is to be formally considered by the legislative authority. The board of education may include in the resolution conditions under which the board would approve the agreement. The legislative authority may approve an agreement at any time after the board of education certifies its resolution approving the agreement to the legislative authority, or, if the board approves the agreement conditionally, at any time after the conditions are agreed to by the board and the legislative authority.

(2) Approval of an agreement by the board of education is not required under division (A)(1) of this section if, for each tax year the real property is exempted from taxation, the sum of the following quantities, as estimated at or prior to the time the agreement is formally approved by the legislative authority, equals or exceeds fifty per cent of the amount of taxes, as estimated at or prior to that time, that would have been charged and payable

that year upon the real property had that property not been exempted from taxation:

(a) The amount of taxes charged and payable on any portion of the assessed valuation of the new structure or remodeling that will not be exempted from taxation under the agreement;

(b) The amount of taxes charged and payable on tangible personal property located on the premises of the new structure or of the structure to be remodeled under the agreement, whether payable by the owner of the structure or by a related member, as defined in section 5733.042 of the Revised Code without regard to division (B) of that section;

(c) The amount of any cash payment by the owner of the new structure or structure to be remodeled to the school district, the dollar value, as mutually agreed to be the owner and the board of education, of any property or services provided by the owner of the property to the school district, whether by gift, loan, or otherwise, and any payment by the legislative authority to the school district pursuant to section 5709.82 of the Revised Code.

The estimates of quantities used for purposes of division (A)(2) of this section shall be estimated by the legislative authority. The legislative authority shall certify to the board of education that the estimates have been made in good faith. Departures of the actual quantities from the estimates subsequent to approval of the agreement by the board of education do not invalidate the agreement.

(3) If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board is not required under this division. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under this division fewer than forty-five business days prior to the legislative authority's execution of the agreement, the legislative authority shall deliver the notice to the board not later than the number of days prior to such execution as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(B) Each agreement shall include the following information:

(1) The names of all parties to the agreement;

(2) A description of the remodeling or construction, whether or not to be exempted from taxation, including existing or new structure size and cost thereof; the value of machinery, equipment, furniture, and fixtures, including an itemization of the value of machinery, equipment, furniture, and fixtures used at another location in this state prior to the agreement and relocated or to be relocated from

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that location to the property, and the value of machinery, equipment, furniture, and fixtures at the facility prior to the execution of the agreement; the value of inventory at the property, including an itemization of the value of inventory held at another location in this state prior to the agreement and relocated or to be relocated from that location to the property, and the value of inventory held at the property prior to the execution of the agreement;

(3) The scheduled starting and completion dates of remodeling or construction of real property or of investments made in machinery, equipment, furniture, fixtures, and inventory;

(4) Estimates of the number of employee positions to be created each year of the agreement and of the number of employee positions retained by the owner due to the remodeling or construction, itemized as to the number of full-time, part-time, permanent, and temporary positions;

(5) Estimates of the dollar amount of payroll attributable to the positions set forth in division (B)(4) of this section, similarly itemized;

(6) The number of employee positions, if any, at the property and at any other location in this state at the time the agreement is executed, itemized as to the number of full-time, part-time, permanent, and temporary positions.

(C) Each agreement shall set forth the following information and incorporate the following statements:

(1) A description of real property to be exempted from taxation under the agreement, the percentage of the assessed valuation of the real property exempted from taxation, and the period for which the exemption is granted, accompanied by the statement: "The exemption commences the first year for which the real property would first be taxable were that property not exempted from taxation. No exemption shall commence after . . . (insert date) nor extend beyond . . . (insert date)."

(2) "(insert name of owner) shall pay such real property taxes as are not exempted under this agreement and are charged against such property and shall file all tax reports and returns as required by law. If . . . (insert name of owner) fails to pay such taxes or file such returns and reports, exemptions from taxation granted under this agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter."

(3) "(insert name of owner) hereby certifies that at the time this agreement is executed, . . . (insert name of owner) does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State of Ohio, and does not owe delinquent taxes for which . . . (insert name of owner) is liable under Chapter 5733, 5735, 5739, 5741, 5743, 5747, or 5753 of the Ohio Revised Code, or, if such delinquent taxes are owed, . . .

(insert name of owner) currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition has been filed against . . . (insert name of owner). For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Revised Code governing payment of those taxes."

(4) ". . . (insert name of municipal corporation or county) shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve, and maintain exemptions from taxation granted under this agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions."

(5) "If for any reason . . . (insert name of municipal corporation or county) revokes the designation of the area, entitlements granted under this agreement shall continue for the number of years specified under this agreement, unless . . . (insert name of owner) materially fails to fulfill its obligations under this agreement and . . . (insert name of municipal corporation or county) terminates or modifies the exemptions from taxation pursuant to this agreement."

(6) "If . . . (insert name of owner) materially fails to fulfill its obligations under this agreement, or if . . . (insert name of municipal corporation or county) determines that the certification as to delinquent taxes required by this agreement is fraudulent, . . . (insert name of municipal corporation or county) may terminate or modify the exemptions from taxation granted under this agreement."

(7) ". . . (insert name of owner) shall provide to the proper tax incentive review council any information reasonably required by the council to evaluate the applicant's compliance with the agreement, including returns filed pursuant to section 5711.02 of the Ohio Revised Code if requested by the council."

(8) "This agreement is not transferable or assignable without the express, written approval of . . . (insert name of municipal corporation or county)."

(9) "Exemptions from taxation granted under this agreement shall be revoked if it is determined that . . . (insert name of owner), any successor to that person, or any related member (as those terms are defined in division (E) of section 3735.671 of the Ohio Revised Code) has violated the prohibition against entering into this agreement under division (E) of section 3735.671 or section 5709.62 or 5709.63 of the Ohio Revised Code prior to the time prescribed by that division or either of those sections."

(10) ". . . (insert name of owner) and . . . (insert name of municipal corporation or county) acknowledge that this agreement must be approved by formal action of the legislative authority of . . .

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(insert name of municipal corporation or county) as a condition for the agreement to take effect. This agreement takes effect upon such approval."

The statement described in division (C)(6) of this section may include the following statement, appended at the end of the statement: ", and may require the repayment of the amount of taxes that would have been payable had the property not been exempted from taxation under this agreement."

(D) Except as otherwise provided in this division, an agreement entered into under this section shall require that the owner pay an annual fee equal to the greater of one per cent of the amount of taxes exempted under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority and shall be used by the legislative authority exclusively for the purpose of complying with section 3735.672 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority may waive or reduce the amount of the fee, but such waiver or reduction does not affect the obligations of the legislative authority or the tax incentive review council to comply with section 3735.672 or 5709.85 of the Revised Code.

(E) If any person that is party to an agreement granting an exemption from taxation discontinues operations at the structure to which that exemption applies prior to the expiration of the term of the agreement, that person, any successor to that person, and any related member shall not enter into an agreement under this section or section 5709.62, 5709.63, or 5709.632 of the Revised Code, and no legislative authority shall enter into such an agreement with such a person, successor, or related member, prior to the expiration of five years after the discontinuation of operations. As used in this division, "successor" means a person to which the assets or equity of another person has been transferred, which transfer resulted in the full or partial nonrecognition of gain or loss, or resulted in a carryover basis, both as determined by rule adopted by the tax commissioner. "Related member" has the same meaning as defined in section 5733.042 of the Revised Code without regard to division (B) of that section.

The director of development shall review all agreements submitted to the director under division (F) of this section for the purpose of enforcing this division. If the director determines there has been a violation of this division, the director shall notify the legislative authority of such violation, and the legis-

lative authority immediately shall revoke the exemption granted under the agreement.

(F) When an agreement is entered into under this section, the legislative authority authorizing the agreement shall forward a copy of the agreement to the director of development within fifteen days after the agreement is entered into.

[***] *Caution: Sec. 3735.671, as reproduced below, amended by S.B. 165, Laws 2004, is effective March 22, 2005. For provisions effective through March 21, 2005, see above. CCH.]*

Sec. 3735.671. [Exemption agreement.]—(A) If construction or remodeling of commercial or industrial property is to be exempted from taxation pursuant to section 3735.67 of the Revised Code, the legislative authority and the owner of the property, prior to the commencement of construction or remodeling, shall enter into a written agreement, binding on both parties for a period of time that does not end prior to the end of the period of the exemption, that includes all of the information and statements prescribed by this section. Agreements may include terms not prescribed by this section, but such terms shall in no way derogate from the information and statements prescribed by this section.

(1) Except as otherwise provided in division (A)(2) or (3) of this section, an agreement entered into under this section shall not be approved by the legislative authority unless the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves the agreement. For the purpose of obtaining such approval, the legislative authority shall certify a copy of the agreement to the board of education not later than forty-five days prior to approving the agreement, excluding Saturday, Sunday, and a legal holiday as defined in section 1.14 of the Revised Code. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the legislative authority not later than fourteen days prior to the date stipulated by the legislative authority as the date upon which approval of the agreement is to be formally considered by the legislative authority. The board of education may include in the resolution conditions under which the board would approve the agreement. The legislative authority may approve an agreement at any time after the board of education certifies its resolution approving the agreement to the legislative authority, or, if the board approves the agreement conditionally, at any time after the conditions are agreed to by the board and the legislative authority.

(2) Approval of an agreement by the board of education is not required under division (A)(1) of this section if, for each tax year the real property is exempted from taxation, the sum of the following quantities, as estimated at or prior to the time the

agreement is formally approved by the legislative authority, equals or exceeds fifty per cent of the amount of taxes, as estimated at or prior to that time, that would have been charged and payable that year upon the real property had that property not been exempted from taxation:

(a) The amount of taxes charged and payable on any portion of the assessed valuation of the new structure or remodeling that will not be exempted from taxation under the agreement;

(b) The amount of taxes charged and payable on tangible personal property located on the premises of the new structure or of the structure to be remodeled under the agreement, whether payable by the owner of the structure or by a related member, as defined in section 5733.042 of the Revised Code without regard to division (B) of that section;

(c) The amount of any cash payment by the owner of the new structure or structure to be remodeled to the school district, the dollar value, as mutually agreed to by the owner and the board of education, of any property or services provided by the owner of the property to the school district, whether by gift, loan, or otherwise; and any payment by the legislative authority to the school district pursuant to section 5709.82 of the Revised Code.

The estimates of quantities used for purposes of division (A)(2) of this section shall be estimated by the legislative authority. The legislative authority shall certify to the board of education that the estimates have been made in good faith. Departures of the actual quantities from the estimates subsequent to approval of the agreement by the board of education do not invalidate the agreement.

(3) If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board is not required under this division. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under this division fewer than forty-five business days prior to the legislative authority's execution of the agreement, the legislative authority shall deliver the notice to the board not later than the number of days prior to such execution as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(B) Each agreement shall include the following information:

(1) The names of all parties to the agreement;

(2) A description of the remodeling or construction, whether or not to be exempted from taxation, including existing or new structure size and cost thereof; the value of machinery, equipment, furni-

ture, and fixtures, including an itemization of the value of machinery, equipment, furniture, and fixtures used at another location in this state prior to the agreement and relocated or to be relocated from that location to the property, and the value of machinery, equipment, furniture, and fixtures at the facility prior to the execution of the agreement; the value of inventory at the property, including an itemization of the value of inventory held at another location in this state prior to the agreement and relocated or to be relocated from that location to the property, and the value of inventory held at the property prior to the execution of the agreement;

(3) The scheduled starting and completion dates of remodeling or construction of real property or of investments made in machinery, equipment, furniture, fixtures, and inventory;

(4) Estimates of the number of employee positions to be created each year of the agreement and of the number of employee positions retained by the owner due to the remodeling or construction, itemized as to the number of full-time, part-time, permanent, and temporary positions;

(5) Estimates of the dollar amount of payroll attributable to the positions set forth in division (B)(4) of this section, similarly itemized;

(6) The number of employee positions, if any, at the property and at any other location in this state at the time the agreement is executed, itemized as to the number of full-time, part-time, permanent, and temporary positions.

(C) Each agreement shall set forth the following information and incorporate the following statements:

(1) A description of real property to be exempted from taxation under the agreement, the percentage of the assessed valuation of the real property exempted from taxation, and the period for which the exemption is granted, accompanied by the statement: "The exemption commences the first year for which the real property would first be taxable were that property not exempted from taxation. No exemption shall commence after... (insert date) nor extend beyond... (insert date)."

(2) "(insert name of owner) shall pay such real property taxes as are not exempted under this agreement and are charged against such property and shall file all tax reports and returns as required by law. If... (insert name of owner) fails to pay such taxes or file such returns and reports, exemptions from taxation granted under this agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter."

(3) "(insert name of owner) hereby certifies that at the time this agreement is executed, (insert name of owner) does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State of Ohio, and does not owe

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delinquent taxes for which.... (insert name of owner) is liable under Chapter 5733, 5735, 5739, 5741, 5743, 5747, or 5753 of the Ohio Revised Code, or, if such delinquent taxes are owed,.... (insert name of owner) currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition has been filed against.... (insert name of owner). For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Revised Code governing payment of those taxes."

(4) ".... (insert name of municipal corporation or county) shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve, and maintain exemptions from taxation granted under this agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions."

(5) "If for any reason.... (insert name of municipal corporation or county) revokes the designation of the area, entitlements granted under this agreement shall continue for the number of years specified under this agreement, unless.... (insert name of owner) materially fails to fulfill its obligations under this agreement and.... (insert name of municipal corporation or county) terminates or modifies the exemptions from taxation pursuant to this agreement."

(6) "If.... (insert name of owner) materially fails to fulfill its obligations under this agreement, or if.... (insert name of municipal corporation or county) determines that the certification as to delinquent taxes required by this agreement is fraudulent,.... (insert name of municipal corporation or county) may terminate or modify the exemptions from taxation granted under this agreement."

(7) ".... (insert name of owner) shall provide to the proper tax incentive review council any information reasonably required by the council to evaluate the applicant's compliance with the agreement, including returns filed pursuant to section 5711.02 of the Ohio Revised Code if requested by the council."

(8) "This agreement is not transferable or assignable without the express written approval of.... (insert name of municipal corporation or county)."

(9) "Exemptions from taxation granted under this agreement shall be revoked if it is determined that.... (insert name of owner), any successor to that person, or any related member (as those terms are defined in division (E) of section 3735.671 of the Ohio Revised Code) has violated the prohibition against entering into this agreement under division (E) of section 3735.671 or section 5709.62 or 5709.63 of the Ohio Revised Code prior to the time prescribed by that division or either of those sections."

(10) ".... (insert name of owner) and.... (insert name of municipal corporation or county) acknowledge that this agreement must be approved by formal action of the legislative authority of.... (insert name of municipal corporation or county) as a condition for the agreement to take effect. This agreement takes effect upon such approval."

The statement described in division (C)(6) of this section may include the following statement, appended at the end of the statement: ", and may require the repayment of the amount of taxes that would have been payable had the property not been exempted from taxation under this agreement." If the agreement includes a statement requiring repayment of exempted taxes, it also may authorize the legislative authority to secure repayment of such taxes by a lien on the exempted property in the amount required to be repaid. Such a lien shall attach and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a mortgage lien on real property.

(D) Except as otherwise provided in this division, an agreement entered into under this section shall require that the owner pay an annual fee equal to the greater of one per cent of the amount of taxes exempted under the agreement or five hundred dollars, provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority and shall be used by the legislative authority exclusively for the purpose of complying with section 3735.672 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority may waive or reduce the amount of the fee, but such waiver or reduction does not affect the obligations of the legislative authority or the tax incentive review council to comply with section 3735.672 or 5709.85 of the Revised Code.

(E) If any person that is party to an agreement granting an exemption from taxation discontinues operations at the structure to which that exemption applies prior to the expiration of the term of the agreement, that person, any successor to that person, and any related member shall not enter into an agreement under this section or section 5709.62, 5709.63, or 5709.632 of the Revised Code, and no legislative authority shall enter into such an agreement with such a person, successor, or related member, prior to the expiration of five years after the discontinuation of operations. As used in this division, "successor" means a person to which the assets or equity of another person has been transferred,

which transfer resulted in the full or partial nonrecognition of gain or loss, or resulted in a carryover basis, both as determined by rule adopted by the tax commissioner. "Related member" has the same meaning as defined in section 5733.042 of the Revised Code without regard to division (B) of that section.

The director of development shall review all agreements submitted to the director under division (F) of this section for the purpose of enforcing this division. If the director determines there has been a violation of this division, the director shall notify the legislative authority of such violation, and the legislative authority immediately shall revoke the exemption granted under the agreement.

(F) When an agreement is entered into under this section, the legislative authority authorizing the agreement shall forward a copy of the agreement to the director of development within fifteen days after the agreement is entered into.

(As enacted by S.B. 251, Laws 1977; as amended by S.B. 19, Laws 1994; H.B. 627; Laws 1996; H.B. 95, Laws 2003; S.B. 165, Laws 2004, effective March 22, 2005.)

¶ 116-230]

Sec. 3735.68. Revocation of tax exemption. — The housing officer shall make annual inspections of the properties within the community reinvestment area upon which are located structures or remodeling for which an exemption has been granted under section 3735.67 of the Revised Code. If the housing officer finds that the property has not been properly maintained or repaired due to the neglect of the owner, the housing officer may revoke the exemption at any time after the first year of exemption. If the owner of commercial or industrial property exempted from taxation under section 3735.67 of the Revised Code has materially failed to fulfill its obli-

gations under the written agreement entered into under section 3735.671 of the Revised Code, or if the owner is determined to have violated division (E) of that section, the legislative authority, subject to the terms of the agreement, may revoke the exemption at any time after the first year of exemption. The housing officer or legislative authority shall notify the county auditor and the owner of the property that the tax exemption no longer applies. If the housing officer or legislative authority revokes a tax exemption, the housing officer shall send a report of the revocation to the community reinvestment area housing council and to the tax incentive review council established pursuant to section 3735.69 or 5709.85 of the Revised Code, containing a statement of the findings as to the maintenance and repair of the property, failure to fulfill obligations under the written agreement, or violation of division (E) of section 3735.671 of the Revised Code, and the reason for revoking the exemption.

(As repealed and reenacted by S.B. 251, Laws 1977; as amended by S.B. 19, Laws 1994, effective July 1, 1994.)

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Sec. 3735.70. Appeals.—Any person aggrieved under sections 3735.65 to 3735.69 of the Revised Code may appeal to the community reinvestment area housing council, which shall have the authority to overrule any decision of a housing officer. Appeals may be taken from a decision of the council to the court of common pleas of the county where the area is located.

(As repealed and reenacted by S.B. 251, Laws 1977, effective November 18, 1977.)

¶ 116-290]

Secs. 3735.71 and 3735.72. (Repealed by S.B. 251, Laws 1977, effective November 18, 1977.)

CHAPTER 3737—FIRE MARSHAL; FIRE SAFETY

¶ 116-490]

Sec. 3737.71. Additional tax on fire insurance premiums; state fire marshal's fund.—Each insurance company doing business in this state shall pay to the state in installments, at the time of making the payments required by section 5729.05 of the Revised Code, in addition to the taxes required to be paid by it, three-fourths of one per cent on the gross premium receipts derived from fire insurance and that portion of the premium reasonably allocable to insurance against the hazard of fire included in other coverages except life and sickness and accident insurance, after deducting return premiums paid and considerations received for reinsurances as shown by the annual statement of such company made pursuant to sections 3929.30, 3931.06, and 5729.02 of the Revised Code. The money received shall be paid into the state treasury to the credit of the state fire marshal's fund, which is hereby created. The fund shall be used for the maintenance and administration of the office of the fire marshal and the Ohio fire academy established by section 3737.33 of the Revised Code. If the director of

commerce certifies to the director of budget and management that the cash balance in the state fire marshal's fund is in excess of the amount needed to pay ongoing operating expenses, the director may use the excess amount to acquire by purchase, lease, or otherwise, real property or interests in real property to be used for the benefit of the office of the state fire marshal, or to construct, acquire, enlarge, equip, furnish, or improve the fire marshal's office facilities or the facilities of the Ohio fire academy. The state fire marshal's fund shall be assessed a proportionate share of the administrative costs of the department of commerce in accordance with procedures prescribed by the director of commerce and approved by the director of budget and management. Such assessment shall be paid from the state fire marshal's fund to the division of administration fund.

(As enacted by H.B. 590, Laws 1978; as amended by H.B. 694, Laws 1981; H.B. 291, Laws 1983; H.B. 201, Laws 1985; H.B. 675, Laws 2002, effective March 14, 2003.)

[The next page is 9801.]

TITLE LVII

TAXATION

[All Chapters are reproduced in full unless otherwise indicated.—CCH.]

CHAPTER 5701

DEFINITIONS

[§ 125-000]

Sec. 5701.01. Person defined.—As used in Title LVII of the Revised Code, "person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, and any other business entities.

(As amended by S.B. 74, Laws 1994; H.B. 215, Laws 1997, effective June 30, 1997.)

[§ 125-030]

Sec. 5701.02. Real property and land defined.—As used in Title LVII of the Revised Code:

(A) "Real property," "realty," and "land" include land itself, whether laid out in town lots or otherwise, all growing crops, including deciduous and evergreen trees, plants, and shrubs; with all things contained therein, and, unless otherwise specified in section 5701.03 of the Revised Code, all buildings, structures, improvements, and fixtures of whatever kind on the land, and all rights and privileges belonging or appertaining thereto.

(As amended by H.B. 431, Laws 1991; S.B. 272, Laws 1992, effective July 20, 1992.)

[§ 125-035]

(B) "Building" means a permanent fabrication or construction, attached or affixed to land, consisting of foundations, walls, columns, girders, beams, floors, and a roof, or some combination of these elemental parts, that is intended as a habitation or shelter for people or animals or a shelter for tangible personal property, and that has structural integrity independent of the tangible personal property, if any; it is designed to shelter. "Building" includes a mobile home as defined in division (O) of section 4501.01 of the Revised Code and a manufactured home as defined in division (C)(4) of section 3781.06 of the Revised Code; if the home meets both of the following conditions:

(1) The home is affixed to a permanent foundation as defined in division (C)(5) of section 3781.06 of the Revised Code and is located on land owned by the owner of the home.

(2) The certificate of title for the home has been inactivated by the clerk of the court of common pleas that issued it pursuant to section 4505.11 of the Revised Code.

(As amended by H.B. 431, Laws 1991; S.B. 272, Laws 1992; S.B. 142, Laws 1998, effective March 29, 1999.)

[§ 125-040]

(C) "Fixture" means an item of tangible personal property that has become permanently attached or affixed to the land or to a building, structure, or improvement, and that primarily benefits the realty and not the business, if any, conducted by the occupant on the premises.

(As added by S.B. 272, Laws 1992, effective July 20, 1992.)

[§ 125-045]

(D) "Improvement" means, with respect to a building or structure, a permanent addition, enlargement, or alteration that had it been constructed at the same time as the building or structure, would have been considered a part of the building or structure.

(As amended by S.B. 272, Laws 1992, effective July 20, 1992.)

[§ 125-050]

(E) "Structure" means a permanent fabrication or construction, other than a building, that is attached or affixed to land, and that increases or enhances utilization or enjoyment of the land. "Structure" includes, but is not limited to, bridges, trestles, dams, storage silos for agricultural products, fences, and walls.

(As added by S.B. 272, Laws 1992, effective July 20, 1992.)

(Sec. 5701.02 is as amended by H.B. 431, Laws 1991; S.B. 272, Laws 1992; S.B. 142, Laws 1998, effective March 29, 1999.)

[§ 125-060]

Sec. 5701.03. Personal property defined.—As used in Title LVII of the Revised Code:

(A) "Personal property" includes every tangible thing that is the subject of ownership, whether animate or inanimate, including a business fixture, and that does not constitute real property, as defined in section 5701.02 of the Revised Code. "Personal property" also includes every share, portion, right, or interest, either legal or equitable, in and to every ship, vessel, or boat, used or designed to be used in business either exclusively or partially in navigating any of the waters within or bordering on this state, whether such ship, vessel, or boat is within the jurisdiction of this

[§ 131-285]

Sec. 5709.50. Tax exemptions for facilities and transfers of property.—(Repealed by H.B. 95, Laws 2003, effective June 26, 2003.)

[§ 131-300]

Sec. 5709.51. Penalty for obtaining certificate by fraud or misrepresentation.—(Repealed by H.B. 95, Laws 2003, effective June 26, 2003.)

[§ 131-320]

Sec. 5709.52. Transfer of certificate.—(Repealed by H.B. 95, Laws 2003, effective June 26, 2003.)

[§ 131-340]

Sec. 5709.53. Exemption for solar, wind or hydrothermal energy system.—A solar, wind, or hydrothermal energy system on which construction or installation is completed during the period from the effective date of this section through December 31, 1985, that meets the guidelines, established under division (B) of section 1551.20 of the Revised Code, is exempt from real property taxation.

(As added by H.B. 154, Laws 1979, effective August 14, 1979.)

Grape Products

[§ 131-360]

Sec. 5709.55. Grape products exemption.—Personal property used exclusively to transport, store, crush, press, process, ferment, or age grape agricultural products in the production of grape juice or grape wine, and grape juice or grape wine held in the course of business, but not held in labeled containers in which it will be sold, are exempt from personal property taxation if either of the following apply:

(A) The property is used or held by the holder of a liquor permit issued under section 4303.03 of the Revised Code whose primary business is the production of wine;

(B) The production is used or held by a person or enterprise engaged in agriculture that sells the grape agricultural products or juice or wine to a holder of a liquor permit issued under section 4303.03 of the Revised Code if the primary business of the permittee is the production of wine.

(As added by S.B. 9, Laws 1987, effective October 20, 1987.)

Enterprise Zones

[§ 131-380]

[**Caution:** Sec. 5709.61, as reproduced immediately below, is effective through May 5, 2005. For provisions effective May 6, 2005, see below, CCH.]

Sec. 5709.61. Definitions.—As used in sections 5709.61 to 5709.69 of the Revised Code:

(A) "Enterprise zone" or "zone" means any of the following:

(1) An area with a single continuous boundary designated in the manner set forth in section 5709.62 or 5709.63 of the Revised Code and certified by the director of development as having a population of at least four thousand according to the best and most recent data available to the director and having at least two of the following characteristics:

(a) It is located in a municipal corporation defined by the United States office of management and budget as a principal city of a metropolitan statistical area or in a city designated as an urban cluster in a rural statistical area;

(b) It is located in a county designated as being in the "Appalachian region" under the "Appalachian Regional Development Act of 1965," 79 Stat. 5, 40 App. U.S.C.A. 403, as amended;

(c) Its average rate of unemployment, during the most recent twelve-month period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the state of Ohio for the same period;

(d) There is a prevalence of commercial or industrial structures in the area that are vacant or demolished, or are vacant and the taxes charged thereon are delinquent, and certification of the area as an enterprise zone would likely result in the reduction of the rate of vacant or demolished structures or the rate of tax delinquency in the area;

(e) The population of all census tracts in the area, according to the federal census of 2000, decreased by at least ten per cent between the years 1980 and 2000;

(f) At least fifty-one per cent of the residents of the area have incomes of less than eighty per cent of the median income of residents of the municipal corporation or municipal corporations in which the area is located, as determined in the same manner specified under section 119(b) of the "Housing and Community Development Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended;

(g) The area contains structures previously used for industrial purposes, but currently not so used due to age, obsolescence, deterioration, relocation of the former occupant's operations, or cessation of operations resulting from unfavorable economic conditions either generally or in a specific economic sector;

(h) It is located within one or more adjacent city, local, or exempted village school districts; the income-weighted tax capacity of each of which is less than seventy per cent of the average of the income-weighted tax capacity of all city, local, or exempted village school districts in the state according to the most recent data available to the director from the department of taxation.

The director of development shall adopt rules in accordance with Chapter 119. of the Revised Code establishing conditions constituting the characteris-

tics described in divisions (A)(1)(d), (g), and (h) of this section.

If an area could not be certified as an enterprise zone unless it satisfied division (A)(1)(g) of this section, the legislative authority may enter into agreements in that zone under section 5709.62, 5709.63, or 5709.632 of the Revised Code only if such agreements result in the development of the facilities described in that division, the parcel of land on which such facilities are situated, or adjacent parcels. The director of development annually shall review all agreements in such zones to determine whether the agreements have resulted in such development; if the director determines that the agreements have not resulted in such development, the director immediately shall revoke certification of the zone and notify the legislative authority of such revocation. Any agreements entered into prior to revocation under this paragraph shall continue in effect for the period provided in the agreement.

(2) An area with a single continuous boundary designated in the manner set forth in section 5709.63 of the Revised Code and certified by the director of development as:

(a) Being located within a county that contains a population of three hundred thousand or less;

(b) Having a population of at least one thousand according to the best and most recent data available to the director;

(c) Having at least two of the characteristics described in divisions (A)(1)(b) to (f) of this section.

(3) An area with a single continuous boundary designated in the manner set forth under division (A)(1) of section 5709.632 of the Revised Code and certified by the director of development as having a population of at least four thousand, or under division (A)(2) of that section and certified as having a population of at least one thousand, according to the best and most recent data available to the director.

(B) "Enterprise" means any form of business organization including, but not limited to, any partnership, sole proprietorship, or corporation, including an S corporation as defined in section 1361 of the Internal Revenue Code and any corporation that is majority work-owned either directly through the ownership of stock or indirectly through participation in an employee stock ownership plan.

(C) "Facility" means an enterprise's place of business in a zone, including land, buildings, machinery, equipment, and other materials, except inventory, used in business. "Facility" includes land, buildings, machinery, production and station equipment, other equipment, and other materials, except inventory, used in business, to generate electricity, provided that, for purposes of sections 5709.61 to 5709.69 of the Revised Code, the value of the property at such a facility shall be reduced by the value, if any, that is not apportioned under section 5727.15 of the Revised Code to the taxing district in which the facility

is physically located. In the case of such a facility that is physically located in two adjacent taxing districts, the property located in each taxing district constitutes a separate facility.

"Facility" does not include any portion of an enterprise's place of business used primarily for making retail sales, unless the place of business is located in an impacted city as defined in section 1728.01 of the Revised Code.

(D) "Vacant facility" means a facility that has been vacant for at least ninety days immediately preceding the date on which an agreement is entered into under section 5709.62 or 5709.63 of the Revised Code.

(E) "Expand" means to make expenditures to add land, buildings, machinery, equipment, or other materials, except inventory, to a facility that equal at least ten per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(F) "Renovate" means to make expenditures to alter or repair a facility that equal at least fifty per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(G) "Occupy" means to make expenditures to alter or repair a facility equal to at least twenty per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(H) "Project site" means all or any part of a facility that is newly constructed, expanded, renovated, or occupied by an enterprise.

(I) "Project" means any undertaking by an enterprise to establish a facility or to improve a project site by expansion, renovation, or occupancy.

(J) "Position" means the position of one full-time employee performing a particular set of tasks and duties.

(K) "Full-time employee" means an individual who is employed for consideration by an enterprise for at least thirty-five hours a week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment.

(L) "New employee" means a full-time employee first employed by an enterprise at a facility that is a project site after the enterprise enters an agreement under section 5709.62 or 5709.63 of the Revised Code. "New employee" does not include an employee if, immediately prior to being employed by the enterprise, the employee was employed by an enterprise that is a related member or predecessor enterprise of that enterprise.

(M) "Unemployed person" means any person who is totally unemployed in this state, as that term is defined in division (M) of section 4141.01 of the Revised Code, for at least ten consecutive weeks

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immediately preceding that person's employment at a facility that is a project site, or who is so unemployed for at least twenty-six of the fifty-two weeks immediately preceding that person's employment at such a facility.

(N) "JTPA eligible employee" means any individual who is eligible for employment or training under the "Job Training Partnership Act," 96 Stat. 1324 (1982), 29 U.S.C. 1501, as amended.

(O) "First used in business" means that the property referred to has not been used in business in this state by the enterprise that owns it, or by an enterprise that is a related member or predecessor enterprise of such an enterprise, other than as inventory, prior to being used in business at a facility as the result of a project.

(P) "Training program" means any noncredit training program or course of study that is offered by any state college or university, university branch district, community college, technical college, non-profit college, or university certified under section 1713.02 of the Revised Code, school district, joint vocational school district, school registered and authorized to offer programs under section 3332.05 of the Revised Code, an entity administering any federal, state, or local adult education and training program, or any enterprise, and that meets all of the following requirements:

- (1) It is approved by the director of development;
- (2) It is established or operated to satisfy the need of a particular industry or enterprise for skilled or semi-skilled employees;
- (3) An individual is required to complete the course or program before filling a position at a project site.

(Q) "Development" means to engage in the process of clearing and grading land, making, installing, or constructing water distribution systems, sewers, sewage collection systems, steam, gas, and electric lines, roads, curbs, gutters, sidewalks, storm drainage facilities, and construction of other facilities or buildings, equal to at least fifty per cent of the market value of the facility prior to the expenditures, as determined for the purposes of local property taxation.

(R) "Large manufacturing facility" means a single Ohio facility that employed an average of at least one thousand individuals during the five calendar years preceding an agreement authorized under division (C)(3) of section 5709.62 or division (B)(2) of section 5709.63 of the Revised Code. For purposes of this division, both of the following apply:

- (1) A single Ohio manufacturing facility employed an average of at least one thousand individuals during the five calendar years preceding entering into such an agreement if one-fifth of the sum of the number of employees employed on the highest employment day during each of the five calendar years equals or exceeds one thousand.

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(2) The highest employment day is the day or days during a calendar year on which the number of employees employed at a single Ohio manufacturing facility was greater than on any other day during the calendar year.

(S) "Business cycle" means the cycle of business activity usually regarded as passing through alternating stages of prosperity and depression.

(T) "Making retail sales" means the effecting of point-of-final-purchase transactions at a facility open to the consuming public, wherein one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold.

(U) "Environmentally contaminated" means that hazardous substances exist at a facility under conditions that have caused or would cause the facility to be identified as contaminated by the state or federal environmental protection agency. These may include facilities located at sites identified in the master sites list or similar database maintained by the state environmental protection agency if the sites have been investigated by the agency and found to be contaminated.

(V) "Remediate" means to make expenditures to clean up an environmentally contaminated facility so that it is no longer environmentally contaminated that equal at least ten per cent of the real property market value of the facility prior to such expenditures as determined for the purposes of property taxation.

(W) "Related member" has the same meaning as defined in section 5733.042 of the Revised Code, without regard to division (B) of that section, except that it is used with respect to an enterprise rather than a taxpayer.

(X) "Predecessor enterprise" means an enterprise from which the assets or equity of another enterprise has been transferred, which transfer resulted in the full or partial nonrecognition of gain or loss, or resulted in a carryover basis, both as determined by rule adopted by the tax commissioner.

(Y) "Successor enterprise" means an enterprise to which the assets or equity of another enterprise has been transferred, which transfer resulted in the full or partial nonrecognition of gain or loss, or resulted in a carryover basis, both as determined by rule adopted by the tax commissioner.

Caution: Sec. 5709.61, as reproduced below, amended by H.B. 16, Laws 2005, is effective May 6, 2005. For provisions effective through May 5, 2005, see above. CCH.

Sec. 5709.61. Definitions.—As used in sections 5709.61 to 5709.69 of the Revised Code:

(A) "Enterprise zone" or "zone" means any of the following:

- (1) An area with a single continuous boundary designated in the manner set forth in section

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5709.62 or 5709.63 of the Revised Code and certified by the director of development as having a population of at least four thousand according to the best and most recent data available to the director and having at least two of the following characteristics:

(a) It is located in a municipal corporation defined by the United States office of management and budget as a principal city of a metropolitan statistical area;

(b) It is located in a county designated as being in the "Appalachian region" under the "Appalachian Regional Development Act of 1965," 79 Stat. S, 40 App. U.S.C.A. 403, as amended;

(c) Its average rate of unemployment, during the most recent twelve-month period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the state of Ohio for the same period;

(d) There is a prevalence of commercial or industrial structures in the area that are vacant or demolished, or are vacant and the taxes charged thereon are delinquent, and certification of the area as an enterprise zone would likely result in the reduction of the rate of vacant or demolished structures or the rate of tax delinquency in the area;

(e) The population of all census tracts in the area, according to the federal census of 2000, decreased by at least ten per cent between the years 1980 and 2000;

(f) At least fifty-one per cent of the residents of the area have incomes of less than eighty per cent of the median income of residents of the municipal corporation or municipal corporations in which the area is located, as determined in the same manner specified under section 119(b) of the "Housing and Community Development Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended;

(g) The area contains structures previously used for industrial purposes, but currently not so used due to age, obsolescence, deterioration, relocation of the former occupant's operations, or cessation of operations resulting from unfavorable economic conditions either generally or in a specific economic sector;

(h) It is located within one or more adjacent city, local, or exempted village school districts, the income-weighted tax capacity of each of which is less than seventy per cent of the average of the income-weighted tax capacity of all city, local, or exempted village school districts in the state according to the most recent data available to the director from the department of taxation.

The director of development shall adopt rules in accordance with Chapter 119, of the Revised Code establishing conditions constituting the characteristics described in divisions (A)(1)(d), (g), and (h) of this section.

If an area could not be certified as an enterprise zone unless it satisfied division (A)(1)(g) of this

section, the legislative authority may enter into agreements in that zone under section 5709.62, 5709.63, or 5709.632 of the Revised Code only if such agreements result in the development of the facilities described in that division, the parcel of land on which such facilities are situated, or adjacent parcels. The director of development annually shall review all agreements in such zones to determine whether the agreements have resulted in such development; if the director determines that the agreements have not resulted in such development, the director immediately shall revoke certification of the zone and notify the legislative authority of such revocation. Any agreements entered into prior to revocation under this paragraph shall continue in effect for the period provided in the agreement.

(2) An area with a single continuous boundary designated in the manner set forth in section 5709.63 of the Revised Code and certified by the director of development as:

(a) Being located within a county that contains a population of three hundred thousand or less;

(b) Having a population of at least one thousand according to the best and most recent data available to the director;

(c) Having at least two of the characteristics described in divisions (A)(1)(b) to (h) of this section;

(3) An area with a single continuous boundary designated in the manner set forth under division (A)(1) of section 5709.632 of the Revised Code and certified by the director of development as having a population of at least four thousand, or under division (A)(2) of that section and certified as having a population of at least one thousand, according to the best and most recent data available to the director.

(B) "Enterprise" means any form of business or organization including, but not limited to, any partnership, sole proprietorship, or corporation, including an S corporation as defined in section 1361 of the Internal Revenue Code and any corporation that is majority work-owned either directly through the ownership of stock or indirectly through participation in an employee stock ownership plan.

(C) "Facility" means an enterprise's place of business in a zone, including land, buildings, machinery, equipment, and other materials, except inventory, used in business. "Facility" includes land, buildings, machinery, production and station equipment, other equipment, and other materials, except inventory, used in business to generate electricity, provided that, for purposes of sections 5709.61 to 5709.69 of the Revised Code, the value of the property at such a facility shall be reduced by the value, if any, that is not apportioned under section 5727.15 of the Revised Code to the taxing district in which the facility is physically located. In the case of such a facility that is physically located in two adjacent taxing districts, the property located in each taxing district constitutes a separate facility.

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"Facility" does not include any portion of an enterprise's place of business used primarily for making retail sales, unless the place of business is located in an impacted city as defined in section 1728.01 of the Revised Code.

(D) "Vacant facility" means a facility that has been vacant for at least ninety days immediately preceding the date on which an agreement is entered into under section 5709.62 or 5709.63 of the Revised Code.

(E) "Expand" means to make expenditures to add land, buildings, machinery, equipment, or other materials, except inventory, to a facility that equal at least ten per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(F) "Renovate" means to make expenditures to alter or repair a facility that equal at least fifty per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(G) "Occupy" means to make expenditures to alter or repair a vacant facility equal to at least twenty per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(H) "Project site" means all or any part of a facility that is newly constructed, expanded, renovated, or occupied by an enterprise.

(I) "Project" means any undertaking by an enterprise to establish a facility or to improve a project site by expansion, renovation, or occupancy.

(J) "Position" means the position of one full-time employee performing a particular set of tasks and duties.

(K) "Full-time employee" means an individual who is employed for consideration by an enterprise for at least thirty-five hours a week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment.

(L) "New employee" means a full-time employee first employed by an enterprise at a facility that is a project site after the enterprise enters an agreement under section 5709.62 or 5709.63 of the Revised Code. "New employee" does not include an employee if, immediately prior to being employed by the enterprise, the employee was employed by an enterprise that is a related member or predecessor enterprise of that enterprise.

(M) "Unemployed person" means any person who is totally unemployed in this state, as that term is defined in division (M) of section 4141.01 of the Revised Code, for at least ten consecutive weeks immediately preceding that person's employment at a facility that is a project site, or who is so unemployed for at least twenty-six of the fifty-two weeks immediately preceding that person's employment at such a facility.

(N) "JTPA eligible employee" means any individual who is eligible for employment or training under the "Job Training Partnership Act," 96 Stat. 1324 (1982), 29 U.S.C. 1501, as amended.

(O) "First used in business" means that the property referred to has not been used in business in this state by the enterprise that owns it, or by an enterprise that is a related member or predecessor enterprise of such an enterprise, other than as inventory, prior to being used in business at a facility as the result of a project.

(P) "Training program" means any noncredit training program or course of study that is offered by any state college or university, university branch, district, community college, technical college, non-profit college or university, certified under section 1713.02 of the Revised Code, school, district, joint vocational school, district, school, registered and authorized to offer programs under section 3332.05 of the Revised Code; an entity administering any federal, state, or local adult education and training program; or any enterprise; and that meets all of the following requirements:

- (1) It is approved by the director of development.
- (2) It is established or operated to satisfy the need of a particular industry or enterprise for skilled or semi-skilled employees.
- (3) An individual is required to complete the course or program before filling a position at a project site.

(Q) "Development" means to engage in the process of clearing and grading land, making, installing, or constructing water distribution systems, sewers, sewage collection systems, steam, gas, and electric lines, roads, curbs, gutters, sidewalks, storm drainage facilities, and construction of other facilities or buildings equal to at least fifty per cent of the market value of the facility prior to the expenditures, as determined for the purposes of local property taxation.

(R) "Large manufacturing facility" means a single Ohio facility that employed an average of at least one thousand individuals during the five calendar years preceding an agreement authorized under division (C)(3) of section 5709.62 or division (B)(2) of section 5709.63 of the Revised Code. For purposes of this division, both of the following apply:

- (1) A single Ohio manufacturing facility employed an average of at least one thousand individuals during the five calendar years preceding entering into such an agreement if one-fifth of the sum of the number of employees employed on the highest employment day during each of the five calendar years equals or exceeds one thousand.
- (2) The highest employment day is the day or days during a calendar year on which the number of employees employed at a single Ohio manufacturing facility was greater than on any other day during the calendar year.

(S) "Business cycle" means the cycle of business activity usually regarded as passing through alternating stages of prosperity and depression.

(T) "Making retail sales" means the effecting of point-of-final-purchase transactions at a facility open to the consuming public, wherein one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold.

(U) "Environmentally contaminated" means that hazardous substances exist at a facility under conditions that have caused or would cause the facility to be identified as contaminated by the state or federal environmental protection agency. These may include facilities located at sites identified in the master sites list or similar database maintained by the state environmental protection agency if the sites have been investigated by the agency and found to be contaminated.

(V) "Remediate" means to make expenditures to clean up an environmentally contaminated facility so that it is no longer environmentally contaminated, that equal at least ten per cent of the real property market value of the facility prior to such expenditures as determined for the purposes of property taxation.

(W) "Related member" has the same meaning as defined in section 5733.042 of the Revised Code without regard to division (B) of that section, except that it is used with respect to an enterprise rather than a taxpayer.

(X) "Predecessor enterprise" means an enterprise from which the assets or equity of another enterprise has been transferred, which transfer resulted in the full or partial nonrecognition of gain or loss, or resulted in a carryover basis, both as determined by rule adopted by the tax commissioner.

(Y) "Successor enterprise" means an enterprise to which the assets or equity of another enterprise has been transferred, which transfer resulted in the full or partial nonrecognition of gain or loss, or resulted in a carryover basis, both as determined by rule adopted by the tax commissioner.

(As added by H.B. 351, Laws 1981; as amended by H.B. 536, Laws 1982; S.B. 9, H.B. 153, and H.B. 231, Laws 1987; H.B. 708, Laws 1988; H.B. 173, Laws 1989; S.B. 363, Laws 1992; S.B. 19, Laws 1994; H.B. 426, Laws 1998; H.B. 27, Laws 1999; H.B. 589, Laws 2000; H.B. 675, Laws 2002; H.B. 95, Laws 2003; H.B. 127, Laws 2003; H.B. 16, Laws 2005, effective May 6, 2005.)

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[**Caution:** Sec. 5709.62, as reproduced immediately below, is effective through May 5, 2005. For provisions effective May 6, 2005, see below. CCH.]

Sec. 5709.62. Certain municipal corporations may designate enterprise zones; agreement to

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provide employment in return for incentives; approval or disapproval by affected school district; programs for students.—(A) In any municipal corporation that is defined by the United States office of management and budget as a principal city of a metropolitan statistical area, or in a city designated as an urban cluster in a rural statistical area, the legislative authority of the municipal corporation may designate one or more areas within its municipal corporation as proposed enterprise zones. Upon designating an area, the legislative authority shall petition the director of development for certification of the area as having the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (E) of this section, on and after July 1, 1994, legislative authorities shall not enter into agreements under this section unless the legislative authority has petitioned the director and the director has certified the zone under this section as amended by that act; however, all agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code, and shall forward the findings to the legislative authority of the municipal corporation. If the director certifies the area as having those characteristics, and thereby certifies it as a zone, the legislative authority may enter into an agreement with an enterprise under division (C) of this section.

(B) Any enterprise that wishes to enter into an agreement with a municipal corporation under division (C) of this section shall submit a proposal to the legislative authority of the municipal corporation on a form prescribed by the director of development, together with the application fee established under section 5709.68 of the Revised Code. The form shall require the following information:

(1) An estimate of the number of new employees whom the enterprise intends to hire, or of the number of employees whom the enterprise intends to retain, within the zone at a facility that is a project site, and an estimate of the amount of payroll of the enterprise attributable to these employees;

(2) An estimate of the amount to be invested by the enterprise to establish, expand, renovate, or occupy a facility, including investment in new buildings, additions or improvements to existing buildings, machinery, equipment, furniture, fixtures, and inventory;

(3) A listing of the enterprise's current investment, if any, in a facility as of the date of the proposal's submission.

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The enterprise shall review and update the listings required under this division to reflect material changes, and any agreement entered into under division (C) of this section shall set forth final estimates and listings as of the time the agreement is entered into. The legislative authority may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(C) Upon receipt and investigation of a proposal under division (B) of this section, if the legislative authority finds that the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and improve the economic climate of the municipal corporation, the legislative authority, on or before October 15, 2009, may do one of the following:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to seventy-five per cent, of the assessed value of tangible personal property first used in business at the project site as a result of the agreement. If an exemption for inventory is specifically granted in the agreement pursuant to this division, the exemption applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except that, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(b) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to seventy-five per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the legislative authority;

(c) Provision for a specified number of years, not to exceed fifteen, of any optional services or assistance that the municipal corporation is authorized to provide with regard to the project site.

(2) Enter into an agreement under which the enterprise agrees to remediate an environmentally contaminated facility, to spend an amount equal to at least two hundred fifty per cent of the true value in money of the real property of the facility prior to remediation as determined for the purposes of property taxation to establish, expand, renovate, or oc-

cupy the remediated facility, and to hire new employees or preserve employment opportunities for existing employees at the remediated facility, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, not to exceed fifty per cent, of the assessed valuation of the real property of the facility prior to remediation;

(b) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, not to exceed one hundred per cent, of the increase in the assessed valuation of the real property of the facility during or after remediation;

(c) The incentive under division (C)(1)(a) of this section, except that the percentage of the assessed value of such property exempted from taxation shall not exceed one hundred per cent;

(d) The incentive under division (C)(1)(c) of this section.

(3) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or announced its intention to cease operation, in return for exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to one hundred per cent, of the assessed value of tangible personal property used in business at the project site as a result of the agreement, or of the assessed valuation of real property constituting the project site, or both.

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed seventy-five per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed sixty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of seventy-five per cent.

(2) Notwithstanding any provision of the Revised Code to the contrary, the exemptions described in divisions (C)(1)(a), (b), and (c), (C)(2)(a), (b), and (c), and (C)(3) of this section may be for up to fifteen years if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a number of years in excess of ten.

(3) For the purpose of obtaining the approval of a city, local, or exempted village school district under division (D)(1) or (2) of this section, the legislative authority shall deliver to the board of education a notice not later than forty-five days prior to approving the agreement, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage

to be exempted, an estimate of the true value of the property to be exempted, and the number of years the property is to be exempted. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the legislative authority not later than fourteen days prior to the date stipulated by the legislative authority as the date upon which approval of the agreement is to be formally considered by the legislative authority. The board of education may include in the resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.82 of the Revised Code. The legislative authority may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the legislative authority, or, if the board approves the agreement conditionally, at any time after the conditions are agreed to by the board and the legislative authority.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board is not required under this division. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under this division fewer than forty-five business days prior to the legislative authority's approval of the agreement, the legislative authority shall deliver the notice to the board not later than the number of days prior to such approval as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(4) The legislative authority shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

(E) This division applies to zones certified by the director of development under this section prior to July 22, 1994.

On or before October 15, 2009, the legislative authority that designated a zone to which this division applies may enter into an agreement with an enterprise if the legislative authority finds that the enterprise satisfies one of the criteria described in divisions (E)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the

number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the incentives described in division (C) of this section.

(F) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement is entered into under this section, if the legislative authority revokes its designation of a zone, or if the director of development revokes a zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(G) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority and shall be used by the legislative authority exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority may waive or reduce the amount of the fee charged against an enterprise, but such a waiver or reduction does not affect the obligations of the legislative authority or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code.

(H) When an agreement is entered into pursuant to this section, the legislative authority authorizing the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is

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entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be foregone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development along with the copy of the agreement forwarded under this division.

(I) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed, or annual report required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school, or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

(L) The tax commissioner's authority in determining the accuracy of any exemption granted by an agreement entered into under this section is limited to divisions (C)(1)(a) and (b), (C)(2)(a), (b), and (c), (C)(3), (D), and (I) of this section, and divisions (B)(1) to (10) of section 5709.631 of the Revised Code and, as authorized by law, to enforcing any modification to, or revocation of, that agreement by the legislative authority of a municipal corporation or the director of development.

Caution: Sec. 5709.62, as reproduced below, amended by H.B. 16, Laws 2005, is effective May 6, 2005. For provisions effective through May 5, 2005, see above. CCH.

Sec. 5709.62. Certain municipal corporations may designate enterprise zones; agreement to provide employment in return for incentives; approval or disapproval by affected school district; programs for students.—(A) In any municipal corporation that is defined by the United States office of management and budget as a principal city, of a metropolitan statistical area, the legislative authority of the municipal corporation may designate one or more areas within its municipal corporation as proposed enterprise zones. Upon designating

an area, the legislative authority shall petition the director of development for certification of the area as having the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (E) of this section, on and after July 1, 1994, legislative authorities shall not enter into agreements under this section unless the legislative authority has petitioned the director and the director has certified the zone under this section as amended by that act; however, all agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code, and shall forward the findings to the legislative authority of the municipal corporation. If the director certifies the area as having those characteristics, and thereby certifies it as a zone, the legislative authority may enter into an agreement with an enterprise under division (C) of this section.

(B) Any enterprise that wishes to enter into an agreement with a municipal corporation under division (C) of this section shall submit a proposal to the legislative authority of the municipal corporation on a form prescribed by the director of development, together with the application fee established under section 5709.68 of the Revised Code. The form shall require the following information:

(1) An estimate of the number of new employees whom the enterprise intends to hire, or of the number of employees whom the enterprise intends to retain, within the zone at a facility that is a project site, and an estimate of the amount of payroll of the enterprise attributable to these employees;

(2) An estimate of the amount to be invested by the enterprise to establish, expand, renovate, or occupy a facility, including investment in new buildings, additions or improvements to existing buildings, machinery, equipment, furniture, fixtures, and inventory;

(3) A listing of the enterprise's current investment, if any, in a facility as of the date of the proposal's submission.

The enterprise shall review and update the listings required under this division to reflect material changes, and any agreement entered into under division (C) of this section shall set forth final estimates and listings as of the time the agreement is entered into. The legislative authority may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

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(C) Upon receipt and investigation of a proposal under division (B) of this section, if the legislative authority finds that the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and improve the economic climate of the municipal corporation, the legislative authority, on or before October 15, 2009, may do one of the following:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to seventy-five per cent, of the assessed value of tangible personal property first used in business at the project site as a result of the agreement. If an exemption for inventory is specifically granted in the agreement pursuant to this division, the exemption applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except that, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(b) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to seventy-five per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the legislative authority;

(c) Provision for a specified number of years, not to exceed fifteen, of any optional services or assistance that the municipal corporation is authorized to provide with regard to the project site.

(2) Enter into an agreement under which the enterprise agrees to remediate an environmentally contaminated facility, to spend an amount equal to at least two hundred fifty per cent of the true value in money of the real property of the facility prior to remediation as determined for the purposes of property taxation to establish, expand, renovate, or occupy the remediated facility, and to hire new employees or preserve employment opportunities for existing employees at the remediated facility, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, not to exceed fifty per cent, of the assessed valuation of the real property of the facility prior to remediation;

(b) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, not to exceed one hundred per cent, of the increase in the assessed

valuation of the real property of the facility during or after remediation;

(c) The incentive under division (C)(1)(a) of this section, except that the percentage of the assessed value of such property exempted from taxation shall not exceed one hundred per cent;

(d) The incentive under division (C)(1)(c) of this section.

(3) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or announced its intention to cease operation, in return for exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to one hundred per cent, of the assessed value of tangible personal property used in business at the project site as a result of the agreement, or of the assessed valuation of real property constituting the project site, or both.

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed seventy-five per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed sixty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of seventy-five per cent.

(2) Notwithstanding any provision of the Revised Code to the contrary, the exemptions described in divisions (C)(1)(a), (b), and (c), (C)(2)(a), (b), and (c), and (C)(3) of this section may be for up to fifteen years if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a number of years in excess of ten.

(3) For the purpose of obtaining the approval of a city, local, or exempted village school district under division (D)(1) or (2) of this section, the legislative authority shall deliver to the board of education a notice not later than forty-five days prior to approving the agreement, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage to be exempted, an estimate of the true value of the property to be exempted, and the number of years the property is to be exempted. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the legislative authority not later than fourteen days prior to the date stipulated by the legislative authority as the date upon which approval of the agreement is to be formally considered by the legislative authority. The board of education may include in the resolution conditions under which the board would approve the

agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.82 of the Revised Code. The legislative authority may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the legislative authority, or, if the board approves the agreement conditionally, at any time after the conditions are agreed to by the board and the legislative authority.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board is not required under this division. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under this division fewer than forty-five business days prior to the legislative authority's approval of the agreement, the legislative authority shall deliver the notice to the board not later than the number of days prior to such approval as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(4) The legislative authority shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

(E) This division applies to zones certified by the director of development under this section prior to July 22, 1994.

On or before October 15, 2009, the legislative authority that designated a zone to which this division applies may enter into an agreement with an enterprise if the legislative authority finds that the enterprise satisfies one of the criteria described in divisions (E)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone; and the director of

development has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code;

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the incentives described in division (C) of this section.

(F) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement is entered into under this section, if the legislative authority revokes its designation of a zone, or if the director of development revokes a zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(G) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority and shall be used by the legislative authority exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority may waive or reduce the amount of the fee charged against an enterprise, but such a waiver or reduction does not affect the obligations of the legislative authority or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code.

(H) When an agreement is entered into pursuant to this section, the legislative authority authorizing the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be foregone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development along with the copy of the agreement forwarded under this division.

(I) After an agreement is entered into, the enterprise shall file with each personal property tax re-

turn required to be filed, or annual report required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

(L) The tax commissioner's authority in determining the accuracy of any exemption granted by an agreement entered into under this section is limited to divisions (C)(1)(a) and (b), (C)(2)(a), (b), and (c), (C)(3), (D), and (E) of this section and divisions (B)(1) to (10) of section 5709.631 of the Revised Code and, as authorized by law, to enforcing any modification to, or revocation of, that agreement by the legislative authority of a municipal corporation or the director of development.

(As added by H.B. 351, Laws 1981; as amended by H.B. 536, Laws 1982; H.B. 428, Laws 1986; S.B. 9 and H.B. 153, Laws 1987; H.B. 708, Laws 1988; H.B. 103, Laws 1990; H.B. 298, Laws 1991; S.B. 359, Laws 1992; S.B.'s 19 and 128, Laws 1994; H.B. 627, Laws 1996; H.B. 215, Laws 1997; H.B.'s 27, and 283, Laws 1999; H.B. 95, Laws 2003; S.B. 82 and H.B. 127, Laws 2003; H.B. 427, Laws 2004; H.B. 16, Laws 2005, effective May 6, 2005.)

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Sec. 5709.63. County commissioners may designate enterprise zones; certification; agreement with enterprise; approval or disapproval by affected school district; programs for students.—
(A) With the consent of the legislative authority of each affected municipal corporation or of a board of township trustees, a board of county commissioners may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in one or more municipal corporations or in unincorporated areas of the county as proposed enterprise zones. A board of county commissioners may designate no more than one area within a township, or within adjacent townships, as a proposed enterprise zone. The board shall petition the director of development for certification of the area as having the characteristics set forth in division (A)(1) or (2) of section 5709.61 of the Revised Code as amended by Substi-

tute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (D) of this section, on and after July 1, 1994, boards of county commissioners shall not enter into agreements under this section unless the board has petitioned the director and the director has certified the zone under this section as amended by that act; however, all agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. The director shall make the determination in the manner provided under section 5709.62 of the Revised Code.

Any enterprise wishing to enter into an agreement with the board under division (B) or (D) of this section shall submit a proposal to the board on the form and accompanied by the application fee prescribed under division (B) of section 5709.62 of the Revised Code. The enterprise shall review and update the estimates and listings required by the form in the manner required under that division. The board may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(B) If the board of county commissioners finds that an enterprise submitting a proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and to improve the economic climate of the municipal corporation or municipal corporations or the unincorporated areas in which the zone is located and to which the proposal applies, the board, on or before October 15, 2009, and with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees may do either of the following:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(a) When the facility is located in a municipal corporation, the board may enter into an agreement for one or more of the incentives provided in division (C) of section 5709.62 of the Revised Code, subject to division (D) of that section;

(b) When the facility is located in an unincorporated area, the board may enter into an agreement for one or more of the following incentives:

(1) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to sixty per cent, of the assessed value of tangible personal property first used in business at a project site as a result of the agreement. If an exemption for inventory is specifically granted in the agreement pursu-

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ant to this division, the exemption applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(ii) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to sixty per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the board.

(iii) Provision for a specified number of years, not to exceed fifteen, of any optional services or assistance the board is authorized to provide with regard to the project site;

(iv) The incentive described in division (C)(2) of section 5709.62 of the Revised Code.

(2) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or has announced its intention to cease operation, in return for exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to one hundred per cent, of tangible personal property used in business at the project site as a result of the agreement, or of real property constituting the project site, or both.

(C)(1)(a) Notwithstanding divisions (B)(1)(b)(i) and (ii) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed sixty per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed fifty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of sixty per cent.

(b) Notwithstanding any provision of the Revised Code to the contrary, the exemptions described in divisions (B)(1)(b)(i), (ii), (iii), and (iv) and (B)(2) of this section may be for up to fifteen years if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a number of years in excess of ten.

(c) For the purpose of obtaining the approval of a city, local, or exempted village school district under division (C)(1)(a), or (b) of this section, the board of county commissioners shall deliver to the board of education a notice not later than forty-five days prior to approving the agreement, excluding Satur-

days, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage to be exempted, an estimate of the true value of the property to be exempted, and the number of years the property is to be exempted. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the board of county commissioners not later than fourteen days prior to the date stipulated by the board of county commissioners as the date upon which approval of the agreement is to be formally considered by the board of county commissioners. The board of education may include in the resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.62 of the Revised Code. The board of county commissioners may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the board of county commissioners, or, if the board of education approves the agreement conditionally, at any time after the conditions are agreed to by the board of education and the board of county commissioners.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board of education is not required under division (C) of this section. If a board of education has adopted a resolution allowing a board of county commissioners to deliver the notice required under this division fewer than forty-five business days prior to approval of the agreement by the board of county commissioners, the board of county commissioners shall deliver the notice to the board of education not later than the number of days prior to such approval as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board of education shall certify a copy of the resolution to the board of county commissioners. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the board of county commissioners.

(2) The board of county commissioners shall comply with section 5709.63 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

(D) This division applies to zones certified by the director of development under this section prior to July 22, 1994.

On or before October 15, 2009, and with the consent of the legislative authority of each affected municipal corporation or board of township trustees of each affected township, the board of county commissioners that designated a zone to which this division applies may enter into an agreement with an enterprise if the board finds that the enterprise

satisfies one of the criteria described in divisions (D)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the incentives described in division (B) of this section.

(E) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement under this section is entered into, if the board of county commissioners revokes its designation of a zone, or if the director of development revokes a zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(F) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the board of county commissioners, once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the board and shall be used by the board exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The board may waive or reduce the amount of the

fee charged against an enterprise, but such waiver or reduction does not affect the obligations of the board or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code, respectively.

(G) With the approval of the legislative authority of a municipal corporation or the board of township trustees of a township in which a zone is designated under division (A) of this section, the board of county commissioners may delegate to that legislative authority or board any powers and duties of the board of county commissioners to negotiate and administer agreements with regard to that zone under this section.

(H) When an agreement is entered into pursuant to this section, the board of county commissioners authorizing the agreement or the legislative authority or board of township trustees that negotiates and administers the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be foregone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development along with the copy of the agreement forwarded under this division.

(I) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed, or annual report that is required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

(L) The tax commissioner's authority in determining the accuracy of any exemption granted by an agreement entered into under this section is limited to divisions (B)(1)(b)(i) and (ii), (B)(2), (C), and (I) of this section, division (B)(1)(b)(iv) of this section

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as it pertains to divisions (C)(2)(a), (b), and (c) of section 5709.62 of the Revised Code, and divisions (B)(1) to (10) of section 5709.631 of the Revised Code and, as authorized by law, to enforcing any modification to, or revocation of, that agreement by the board of county commissioners or the director of development or, if the board's powers and duties are delegated under division (G) of this section, by the legislative authority of a municipal corporation or board of township trustees.

(As added by H.B. 351, Laws 1981; as amended by H.B. 536, Laws 1982; S.B. 9 and H.B.'s 153 and 231, Laws 1987; H.B. 708, Laws 1988; H.B. 103, Laws 1990; S.B. 359, Laws 1992; S.B.'s 19 and 128, Laws 1994; H.B. 627, Laws 1996; H.B. 215, Laws 1997; H.B.'s 27 and 283, Laws 1999; H.B. 95, S.B. 82, and H.B. 127, Laws 2003; H.B. 427, Laws 2004, effective June 9, 2004.)

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[Caution: Sec. 5709.631, as reproduced immediately below, is effective through March 21, 2005. For provisions effective March 22, 2005, see below. CCH.]

Sec. 5709.631 Terms, information and statements to be included in agreements.—Each agreement entered into under sections 5709.62, 5709.63, and 5709.632 of the Revised Code on or after April 1, 1994, shall be in writing and shall include all of the information and statements prescribed by this section. Agreements may include terms not prescribed by this section, but such terms shall in no way derogate from the information and statements prescribed by this section.

(A) Each agreement shall include the following information:

- (1) The names of all parties to the agreement;
- (2) A description of the investments to be made by the applicant enterprise or by another party at the facility whether or not the investments are exempted from taxation, including existing or new building size and cost thereof; the value of machinery, equipment, furniture, and fixtures, including an itemization of the value of machinery, equipment, furniture, and fixtures used at another location in this state prior to the agreement and relocated or to be relocated from that location to the facility; and the value of machinery, equipment, furniture, and fixtures at the facility prior to the execution of the agreement that will not be exempted from taxation; the value of inventory at the facility, including an itemization of the value of inventory held at another location in this state prior to the agreement and relocated or to be relocated from that location to the facility, and the value of inventory held at the facility prior to the execution of the agreement that will not be exempted from taxation;
- (3) The scheduled starting and completion dates of investments made in building, machinery, equipment, furniture, fixtures, and inventory;

(4) Estimates of the number of employee positions to be created each year of the agreement and of the number of employee positions retained by the applicant enterprise due to the project, itemized as to the number of full-time, part-time, permanent, and temporary positions;

(5) Estimates of the dollar amount of payroll attributable to the positions set forth in division (A)(4) of this section, similarly itemized;

(6) The number of employee positions, if any, at the project site and at any other location in the state at the time the agreement is executed, itemized as to the number of full-time, part-time, permanent, and temporary positions;

(B) Each agreement shall set forth the following information and incorporate the following statements:

(1) A description of real property to be exempted from taxation under the agreement, the percentage of the assessed valuation of the real property exempted from taxation, and the period for which the exemption is granted, accompanied by the statement: "The exemption commences the first year for which the real property would first be taxable were that property not exempted from taxation. No exemption shall commence after (insert date) nor extend beyond (insert date)." The tax commissioner shall adopt rules prescribing the form the description of such property shall assume to ensure that the property to be exempted from taxation under the agreement is distinguishable from property that is not to be exempted under that agreement.

(2) A description of tangible personal property to be exempted from taxation under the agreement, the percentage of the assessed value of the tangible personal property exempted from taxation, and the period for which the exemption is granted, accompanied by the statement: "The minimum investment for tangible personal property to qualify for the exemption is \$ (insert dollar amount) to purchase machinery and equipment first used in business at the facility as a result of the project, \$ (insert dollar amount) for furniture and fixtures and other noninventory personal property first used in business at the facility as a result of the project, and \$ (insert dollar amount) for new inventory. The maximum investment for tangible personal property to qualify for the exemption is \$ (insert dollar amount) to purchase machinery and equipment first used in business at the facility as a result of the project, \$ (insert dollar amount) for furniture and fixtures and other noninventory personal property first used in business at the facility as a result of the project, and \$ (insert dollar amount) for new inventory. The exemption commences the first year for which the tangible personal property would first be taxable were that property not exempted from taxation. No exemption shall commence after tax return year (insert

year) nor extend beyond tax return year . . . (insert year). In no instance shall any tangible personal property be exempted from taxation for more than ten return years unless, under division (D)(2) of section 5709.62 or under division (C)(1)(b) of section 5709.63 of the Revised Code, the board of education approves exemption for a number of years in excess of ten, in which case the tangible personal property may be exempted from taxation for that number of years, not to exceed fifteen return years." No exemption shall be allowed for any type of tangible personal property if the total investment is less than the minimum dollar amount specified for that type of property. If, for a type of tangible personal property, there are no minimum or maximum investment dollar amounts specified in the statement or the dollar amounts are designated in the statement as not applicable, the exemption shall apply to the total cost of that type of tangible personal property first used in business at the facility as a result of the project. The tax commissioner shall adopt rules prescribing the form the description of such property shall assume to ensure that the property to be exempted from taxation under the agreement is distinguishable from property that is not to be exempted under that agreement.

(3) . . . (insert name of enterprise) shall pay such real and tangible personal property taxes as are not exempted under this agreement and are charged against such property and shall file all tax reports and returns as required by law. If . . . (insert name of enterprise) fails to pay such taxes or file such returns, and reports, all incentives granted under this agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter."

(4) . . . (insert name of enterprise) hereby certifies that at the time this agreement is executed, . . . (insert name of enterprise) does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State of Ohio, and does not owe delinquent taxes for which . . . (insert name of enterprise) is liable under Chapter 5727, 5733, 5735, 5739, 5741, 5743, 5747, or 5753, of the Revised Code, or, if such delinquent taxes are owed, . . . (insert name of enterprise) currently is paying the delinquent taxes pursuant to a delinquent tax contract enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition has been filed against . . . (insert name of enterprise). For the purposes of the certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Revised Code governing payment of those taxes."

(5) . . . (insert name of municipal corporation or county) shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve, and maintain exemptions from taxation granted

under this agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions."

(6) "If for any reason the enterprise zone designation expires, the Director of the Ohio Department of Development revokes certification of the zone, or . . . (insert name of municipal corporation or county) revokes the designation of the zone, entitlements granted under this agreement shall continue for the number of years specified under this agreement, unless . . . (insert name of enterprise) materially fails to fulfill its obligations under this agreement and . . . (insert name of municipal corporation or county) terminates or modifies the exemptions from taxation granted under this agreement."

(7) "If . . . (insert name of enterprise) materially fails to fulfill its obligations under this agreement, other than with respect to the number of employee positions estimated to be created or retained under this agreement, or if . . . (insert name of municipal corporation or county) determines that the certification as to delinquent taxes required by this agreement is fraudulent, (insert name of municipal corporation or county) may terminate or modify the exemptions from taxation granted under this agreement."

(8) . . . (insert name of enterprise) shall provide to the proper tax incentive review council any information reasonably required by the council to evaluate the enterprise's compliance with the agreement, including returns or annual reports filed pursuant to section 5711.02 or 5727.08 of the Ohio Revised Code if requested by the council."

(9) . . . (insert name of enterprise) and . . . (insert name of municipal corporation or county) acknowledge that this agreement must be approved by formal action of the legislative authority of . . . (insert name of municipal corporation or county) as a condition for the agreement to take effect. This agreement takes effect upon such approval."

(10) "This agreement is not transferable or assignable without the express, written approval of . . . (insert name of municipal corporation or county)."

(11) "Exemptions from taxation granted under this agreement shall be revoked if it is determined that . . . (insert name of enterprise), any successor enterprise, or any related member (as those terms are defined in section 5709.61 of the Ohio Revised Code) has violated the prohibition against entering into this agreement under division (E) of section 3735.671 or section 5709.62, 5709.63, or 5709.632 of the Ohio Revised Code prior to the time prescribed by that division or either of those sections."

(12) "In any three-year period during which this agreement is in effect, if the actual number of employee positions created or retained by . . . (insert name of enterprise) is not equal to or greater than seventy-five per cent. of the number of employee

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positions estimated to be created or retained under this agreement during that three-year period, . . . (insert name of enterprise) shall repay the amount of taxes on property that would have been payable had the property not been exempted from taxation under this agreement during that three-year period. In addition, the . . . (insert name of municipal corporation or county) may terminate or modify the exemptions from taxation granted under this agreement.

The statement described in division (B)(7) of this section may include the following statement, appended at the end of the statement: "and may require the repayment of the amount of taxes that would have been payable had the property not been exempted from taxation under this agreement."

(C) If the director of development had to issue a waiver, under section 5709.633 of the Revised Code as a condition for the agreement to be executed, the agreement shall include the following statement:

"Continuation of this agreement is subject to the validity of the circumstance upon which (insert name of enterprise) applied for, and the Director of the Ohio Department of Development issued, the waiver pursuant to section 5709.633 of the Ohio Revised Code. If, after formal approval of this agreement by . . . (insert name of municipal corporation or county), the Director or . . . (insert name of municipal corporation or county) discovers that such a circumstance did not exist, (insert name of enterprise) shall be deemed to have materially failed to comply with this agreement."

If the director issued a waiver on the basis of the circumstance described in division (B)(3) of section 5709.633 of the Ohio Revised Code, the conditions enumerated in divisions (B)(3)(a)(i) and (ii) or divisions (B)(3)(b)(i) and (ii) of that section shall be incorporated in the information described in divisions (A)(2), (3), and (4) of this section.

Caution: Sec. 5709.631, as reproduced below, amended by S.B. 165, Laws 2004, is effective March 22, 2005. For provisions effective through March 21, 2005, see above. CCH

Sec. 5709.631. Terms, information and statements to be included in agreements.—Each agreement entered into under sections 5709.62, 5709.63, and 5709.632 of the Revised Code on or after April 1, 1994, shall be in writing and shall include all of the information and statements prescribed by this section. Agreements may include terms not prescribed by this section, but such terms shall in no way derogate from the information and statements prescribed by this section.

(A) Each agreement shall include the following information:

(1) The names of all parties to the agreement;

(2) A description of the investments to be made by the applicant enterprise or by another party at the facility whether or not the investments are exempted from taxation, including existing or new building size and cost thereof; the value of machinery, equipment, furniture, and fixtures, including an itemization of the value of machinery, equipment, furniture, and fixtures used at another location in this state prior to the agreement and relocated or to be relocated from that location to the facility and the value of machinery, equipment, furniture, and fixtures at the facility prior to the execution of the agreement that will not be exempted from taxation; the value of inventory at the facility, including an itemization of the value of inventory held at another location in this state prior to the agreement and relocated or to be relocated from that location to the facility, and the value of inventory held at the facility prior to the execution of the agreement that will not be exempted from taxation;

(3) The scheduled starting and completion dates of investments made in building, machinery, equipment, furniture, fixtures, and inventory;

(4) Estimates of the number of employee positions to be created each year of the agreement and of the number of employee positions retained by the applicant enterprise due to the project, itemized as to the number of full-time, part-time, permanent, and temporary positions;

(5) Estimates of the dollar amount of payroll attributable to the positions set forth in division (A)(4) of this section, similarly itemized;

(6) The number of employee positions, if any, at the project site and at any other location in the state at the time the agreement is executed, itemized as to the number of full-time, part-time, permanent, and temporary positions.

(B) Each agreement shall set forth the following information and incorporate the following statements:

(1) A description of real property to be exempted from taxation under the agreement, the percentage of the assessed valuation of the real property exempted from taxation, and the period for which the exemption is granted, accompanied by the statement: "The exemption commences the first year for which the real property would first be taxable were that property not exempted from taxation. No exemption shall commence after . . . (insert date) nor extend beyond . . . (insert date)." The tax commissioner shall adopt rules prescribing the form the description of such property shall assume to ensure that the property to be exempted from taxation under the agreement is distinguishable from property that is not to be exempted under that agreement.

(2) A description of tangible personal property to be exempted from taxation under the agreement, the percentage of the assessed value of the tangible personal property exempted from taxation, and the

period for which the exemption is granted, accompanied by the statement: "The minimum investment for tangible personal property to qualify for the exemption is \$ (insert dollar amount) to purchase machinery and equipment first used in business at the facility as a result of the project, \$ (insert dollar amount) for furniture and fixtures and other noninventory personal property first used in business at the facility as a result of the project, and \$ (insert dollar amount) for new inventory. The maximum investment for tangible personal property to qualify for the exemption is \$ (insert dollar amount) to purchase machinery and equipment first used in business at the facility as a result of the project, \$ (insert dollar amount) for furniture and fixtures and other noninventory personal property first used in business at the facility as a result of the project, and \$ (insert dollar amount) for new inventory. The exemption commences the first year for which the tangible personal property would first be taxable were that property not exempted from taxation. No exemption shall commence after tax return year (insert year) nor extend beyond tax return year (insert year). In no instance shall any tangible personal property be exempted from taxation for more than ten return years unless, under division (D)(2) of section 5709.62 or under division (C)(1)(b) of section 5709.63 of the Revised Code, the board of education approves exemption for a number of years in excess of ten, in which case the tangible personal property may be exempted from taxation for that number of years, not to exceed fifteen return years." No exemption shall be allowed for any type of tangible personal property if the total investment is less than the minimum dollar amount specified for that type of property. If, for a type of tangible personal property, there are no minimum or maximum investment dollar amounts specified in the statement or the dollar amounts are designated in the statement as not applicable, the exemption shall apply to the total cost of that type of tangible personal property first used in business at the facility as a result of the project. The tax commissioner shall adopt rules prescribing the form the description of such property shall assume to ensure that the property to be exempted from taxation under the agreement is distinguishable from property that is not to be exempted under that agreement.

(3) " (insert name of enterprise) shall pay such real and tangible personal property taxes as are not exempted under this agreement and are charged against such property and shall file all tax reports and returns as required by law. If (insert name of enterprise) fails to pay such taxes or file such returns and reports, all incentives granted under this agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter."

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(4) " (insert name of enterprise) hereby certifies that at the time this agreement is executed, (insert name of enterprise) does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State of Ohio, and does not owe delinquent taxes for which (insert name of enterprise) is liable under Chapter 5727., 5733., 5735., 5739., 5741., 5743., 5747., or 5753. of the Revised Code, or, if such delinquent taxes are owed, (insert name of enterprise) currently is paying the delinquent taxes pursuant to a delinquent tax contract enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition has been filed against (insert name of enterprise). For the purposes of the certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Revised Code governing payment of those taxes."

(5) " (insert name of municipal corporation or county) shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve, and maintain exemptions from taxation granted under this agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions."

(6) "If for any reason the enterprise zone designation expires, the Director of the Ohio Department of Development revokes certification of the zone, or (insert name of municipal corporation or county) revokes the designation of the zone, entitlements granted under this agreement shall continue for the number of years specified under this agreement, unless (insert name of enterprise) materially fails to fulfill its obligations under this agreement and (insert name of municipal corporation or county) terminates or modifies the exemptions from taxation granted under this agreement."

(7) "If (insert name of enterprise) materially fails to fulfill its obligations under this agreement, other than with respect to the number of employee positions estimated to be created or retained under this agreement, or if (insert name of municipal corporation or county) determines that the certification as to delinquent taxes required by this agreement is fraudulent, (insert name of municipal corporation or county) may terminate or modify the exemptions from taxation granted under this agreement."

(8) " (insert name of enterprise) shall provide to the proper tax incentive review council any information reasonably required by the council to evaluate the enterprise's compliance with the agreement, including returns or annual reports filed pursuant to section 5711.02 or 5727.08 of the Ohio Revised Code if requested by the council."

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(9) " (insert name of enterprise) and (insert name of municipal corporation or county) acknowledge that this agreement must be approved by formal action of the legislative authority of (insert name of municipal corporation or county) as a condition for the agreement to take effect. This agreement takes effect upon such approval."

(10) "This agreement is not transferable or assignable without the express, written approval of (insert name of municipal corporation or county)."

(11) "Exemptions from taxation granted under this agreement shall be revoked if it is determined that (insert name of enterprise), any successor enterprise, or any related member (as those terms are defined in section 5709.61 of the Ohio Revised Code) has violated the prohibition against entering into this agreement under division (E) of section 3735.671 or section 5709.62, 5709.63, or 5709.632 of the Ohio Revised Code prior to the time prescribed by that division or either of those sections."

(12) "In any three-year period during which this agreement is in effect, if the actual number of employee positions created or retained by (insert name of enterprise) is not equal to or greater than seventy-five per cent of the number of employee positions estimated to be created or retained under this agreement during that three-year period, (insert name of enterprise) shall repay the amount of taxes on property that would have been payable had the property not been exempted from taxation under this agreement during that three-year period. In addition, the (insert name of municipal corporation or county) may terminate or modify the exemptions from taxation granted under this agreement."

The statement described in division (B)(7) of this section may include the following statement appended at the end of the statement and may require the repayment of the amount of taxes that would have been payable had the property not been exempted from taxation under this agreement. If the agreement includes a statement requiring repayment of exempted taxes, it also may authorize the legislative authority to secure repayment of such taxes by a lien on the exempted property in the amount required to be repaid. Such a lien on exempted real property shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a mortgage lien on real property. Notwithstanding section 5719.01 of the Revised Code, such a lien on exempted tangible personal property shall attach, and may be perfected, collected, and enforced, in the same manner as a security interest in goods under Chapter 1309, of the Revised Code, and shall otherwise have the same force and effect as such a security interest.

(C) If the director of development had to issue a waiver under section 5709.633 of the Revised Code

as a condition for the agreement to be executed, the agreement shall include the following statement:

"Continuation of this agreement is subject to the validity of the circumstance upon which (insert name of enterprise) applied for, and the Director of the Ohio Department of Development issued, the waiver pursuant to section 5709.633 of the Ohio Revised Code. If, after formal approval of this agreement by (insert name of municipal corporation or county), the Director or (insert name of municipal corporation or county) discovers that such a circumstance did not exist, (insert name of enterprise) shall be deemed to have materially failed to comply with this agreement."

If the director issued a waiver on the basis of the circumstance described in division (B)(3) of section 5709.633 of the Ohio Revised Code, the conditions enumerated in divisions (B)(3)(a)(i) and (ii) or divisions (B)(3)(b)(i) and (ii) of that section shall be incorporated in the information described in divisions (A)(2), (3), and (4) of this section.

(As added by S.B. 128, Laws 1994; as amended by S.B. 19, Laws 1994; H.B. 27, Laws 1999; H.B. 493, Laws 2000; H.B. 127, Laws 2003; H.B. 427, Laws 2004; S.B. 165, Laws 2004, effective March 22, 2005.)

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[Caution: Sec. 5709.632, as reproduced immediately below, is effective through May 5, 2005. For provisions effective May 6, 2005, see below. CCH.]

Sec. 5709.632. Agreement with enterprise which intends to establish or expand operations in or relocate to zone.—(A)(1) The legislative authority of a municipal corporation defined by the United States office of management and budget as a principal city of a metropolitan statistical area or designated as an urban cluster in a rural statistical area may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in the municipal corporation as a proposed enterprise zone.

(2) With the consent of the legislative authority of each affected municipal corporation, or of a board of township trustees, a board of county commissioners, may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in one or more municipal corporations or in unincorporated areas of the county as proposed urban jobs and enterprise zones, except that a board of county commissioners may designate no more than one area within a township, or within adjacent townships, as a proposed urban jobs and enterprise zone.

(3)(a) The legislative authority or board of county commissioners may petition the director of development for certification of the area as having the characteristics set forth in division (A)(3) of section 5709.61 of the Revised Code. Within sixty days after receiving such a petition, the director shall deter-

mine whether the area has the characteristics set forth in that division and forward the findings to the legislative authority or board of county commissioners. If the director certifies the area as having those characteristics and thereby certifies it as a zone, the legislative authority or board may enter into agreements with enterprises under division (B) of this section. Any enterprise wishing to enter into an agreement with a legislative authority or board, or commissioners under this section and satisfying one of the criteria described in divisions (B)(1) to (5) of this section shall submit a proposal to the legislative authority or board on the form prescribed under division (B) of section 5709.62 of the Revised Code and shall review and update the estimates and listings required by the form in the manner required under that division. The legislative authority or board may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(b) The legislative authority of a city designated as an urban cluster in a rural statistical area that has, pursuant to this section, as amended by Am. Sub. H.B. 95 of the 125th general assembly, designated one or more areas in the city as a proposed enterprise zone, shall not enter into an agreement under this section unless it has petitioned the director and the director has certified the proposed enterprise zone under division (A)(3)(a) of this section.

(B) Prior to entering into an agreement with an enterprise, the legislative authority or board of county commissioners shall determine whether the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and to improve the economic climate of the municipal corporation or municipal corporations or the unincorporated areas in which the zone is located and to which the proposal applies, and whether the enterprise satisfies one of the following criteria:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

(C) If the legislative authority or board determines that the enterprise is so qualified and satisfies one of the criteria described in divisions (B)(1) to (5) of this section, the legislative authority or board may, after complying with section 5709.83 of the Revised Code and on or before October 15, 2009, and, in the case of a board of commissioners, with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees, enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(1) When the facility is located in a municipal corporation, a legislative authority or board of commissioners may enter into an agreement for one or more of the incentives provided in division (C) of section 5709.62 of the Revised Code, subject to division (D) of that section.

(2) When the facility is located in an unincorporated area, a board of commissioners may enter into an agreement for one or more of the incentives provided in divisions (B)(1)(b), (B)(2), and (B)(3) of section 5709.63 of the Revised Code, subject to division (C) of that section.

(D) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement under this section is entered into, if the legislative authority or board of county commissioners revokes its designation of the zone, or if the director of development revokes the zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(E) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority or board of commissioners once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority or board and shall be used by the legislative authority or board exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the

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tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority or board may waive or reduce the amount of the fee charged against an enterprise, but such waiver or reduction does not affect the obligations of the legislative authority or board or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code, respectively.

(F) With the approval of the legislative authority of a municipal corporation or the board of township trustees of a township in which a zone is designated under division (A)(2) of this section, the board of county commissioners may delegate to that legislative authority or board any powers and duties of the board to negotiate and administer agreements with regard to that zone under this section.

(G) When an agreement is entered into pursuant to this section, the legislative authority or board of county commissioners authorizing the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be foregone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development along with the copy of the agreement forwarded under this division.

(H) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property and related costs and values, exempted from taxation under the agreement.

(I) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity; and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

[**Caution:** Sec. 5709.632, as reproduced below, amended by H.B. 16, Laws 2005, is effective May 6, 2005. For provisions effective through May 5, 2005, see above. CCH.]

Sec. 5709.632. Agreement with enterprise which intends to establish or expand operations in or relocate to zone.—(A)(1) The legislative au-

thority of a municipal corporation defined by the United States office of management and budget as a principal city of a metropolitan statistical area may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in the municipal corporation as a proposed enterprise zone.

(2) With the consent of the legislative authority of each affected municipal corporation or of a board of township trustees, a board of county commissioners may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in one or more municipal corporations or in unincorporated areas of the county as proposed urban jobs and enterprise zones, except that a board of county commissioners may designate no more than one area within a township, or within adjacent townships, as a proposed urban jobs and enterprise zone.

(3) The legislative authority or board of county commissioners may petition the director of development for certification of the area as having the characteristics set forth in division (A)(3) of section 5709.61 of the Revised Code. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in that division and forward the findings to the legislative authority or board of county commissioners. If the director certifies the area as having those characteristics and thereby certifies it as a zone, the legislative authority or board may enter into agreements with enterprises under division (B) of this section. Any enterprise wishing to enter into an agreement with a legislative authority or board of county commissioners under this section and satisfying one of the criteria described in divisions (B)(1) to (5) of this section shall submit a proposal to the legislative authority or board on the form prescribed under division (B) of section 5709.62 of the Revised Code and shall review and update the estimates and listings required by the form in the manner required under that division. The legislative authority or board may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(B) Prior to entering into an agreement with an enterprise, the legislative authority or board of county commissioners shall determine whether the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and to improve the economic climate of the municipal corporation or municipal corporations or the unincorporated areas in which the zone is located; and to which the proposal applies; and whether the enterprise satisfies one of the following criteria:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

(C) If the legislative authority or board determines that the enterprise is so qualified and satisfies one of the criteria described in divisions (B)(1) to (5) of this section, the legislative authority or board may, after complying with section 5709.83 of the Revised Code and on or before October 15, 2009, and, in the case of a board of commissioners, with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees, enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(1) When the facility is located in a municipal corporation, a legislative authority or board of commissioners may enter into an agreement for one or more of the incentives provided in division (C) of section 5709.62 of the Revised Code, subject to division (D) of that section;

(2) When the facility is located in an unincorporated area, a board of commissioners may enter into an agreement for one or more of the incentives provided in divisions (B)(1)(b), (B)(2), and (B)(3) of section 5709.63 of the Revised Code, subject to division (C) of that section;

(D) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement under this section is entered into, if the legislative authority or board of county commissioners revokes its designation of the zone, or if the director of development revokes the zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(E) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal

to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority or board of commissioners once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority or board and shall be used by the legislative authority or board exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority or board may waive or reduce the amount of the fee charged against an enterprise, but such waiver or reduction does not affect the obligations of the legislative authority or board or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code, respectively.

(F) With the approval of the legislative authority of a municipal corporation or the board of township trustees of a township in which a zone is designated, under division (A)(2) of this section, the board of county commissioners may delegate to that legislative authority or board any powers and duties of the board to negotiate and administer agreements with regard to that zone under this section.

(G) When an agreement is entered into pursuant to this section, the legislative authority or board of commissioners authorizing the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be foregone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development along with the copy of the agreement forwarded under this division.

(H) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(I) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and

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to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

(As added by S.B. 19, Laws 1994; as amended by: H.B. 215, Laws 1997; H.B. 283, Laws 1999; H.B. 95, Laws 2003; H.B. 427, Laws 2004; H.B. 16, Laws 2005, effective May 6, 2005.)

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Sec. 5709.633. Agreement prohibited where enterprise would be relocating from another Ohio location or where enterprise has discontinued operations under prior agreement; waiver.

(A)(1) Except as otherwise provided in division (B) of this section, no legislative authority or board of county commissioners shall enter into an agreement with an enterprise under division (E) of section 5709.62, division (D) of section 5709.63, or section 5709.632 of the Revised Code if that enterprise or a successor enterprise currently has operations at another location in this state and those operations will be relocated to an enterprise zone upon or as a result of that agreement.

(2) Except as otherwise provided in division (B) of this section, if an enterprise subject to an agreement granting an exemption from taxation under section 5709.62, 5709.63, or 5709.632 of the Revised Code expands its operations or relocates its operations to another location in this state that results in a reduction of its operations at any Ohio location, or discontinues operations at the project site to which that exemption applies prior to the expiration of the term of the agreement, no legislative authority shall enter into an agreement with such an enterprise, a related member, or a successor enterprise under section 5709.62, 5709.63, or 5709.632 of the Revised Code, prior to five years after such expansion, relocation, or discontinuation of operations. The director of development shall review all agreements entered into under those sections to determine whether there has been a violation of this paragraph and whether the requirements to be a facility have been met. If the director discovers there has been a violation of this paragraph or the requirements to be a facility have not been met, the agreement is void, and all incentives granted under the agreement shall cease immediately. The director shall certify to the legislative authority and to the board of education of the city, local, or exempted village school district to which operations were relocated that the agreement is void.

(B) Divisions (A)(1) and (2) of this section do not apply if the director of development waives application of those divisions. The director may waive application of division (A)(1) of this section if the enterprise or successor enterprise demonstrates, by documentation satisfactory to the director, that the relocation was necessitated by or results from one of the circumstances described in divisions (B)(1) to (3)

of this section, and the director determines that under the circumstance claimed and in light of the possible relocation issuance of a waiver is absolutely necessary to attract or retain employment opportunities in this state. The director may waive application of division (A)(2) of this section, except for the provision that the requirements to be a facility must be met, if the enterprise, related member, or successor enterprise demonstrates, by documentation satisfactory to the director, that the discontinuation of operations was necessitated by or resulted from one of the circumstances described in divisions (B)(1) to (3) of this section; and the director determines that under the circumstance claimed and in light of the possible relocation issuance of a waiver is absolutely necessary to attract or retain employment opportunities in this state.

The circumstance that may be claimed shall be one of the following:

(1) The project site at which operations are or will be discontinued cannot accommodate expansion plans of the enterprise due to inadequate land suitable for such expansion.

(2) Conditions in the markets in which the enterprise participates require that the enterprise relocate operations in order for the enterprise to become or remain competitive in that market. These conditions include, but are not limited to, any of the following:

(a) New or modified contracts with customers or suppliers, such as "just-in-time" supply or similar arrangements;

(b) Changes in the enterprise's production methods;

(c) Loss or impending loss of an existing contract requires expansion into another market in order to maintain production levels;

(d) Changes in ownership or other changes in control of the enterprise, or of a controlled group of corporations of which the enterprise is a subsidiary, that result from a decision on the part of owners or officers located outside this state.

(3) The enterprise currently is subject to a consolidation of its operations, or such a consolidation is imminent. For purposes of division (B)(3) of this section, "consolidation" means an enterprise combines the operations of two or more existing facilities and one of the following conditions is satisfied:

(a) At least one of the facilities currently is not located in this state, and the relocation of the operations of that facility would result in both of the following during the term of the agreement:

(i) The number of employees employed by the enterprise at its existing facilities in this state to which operations are relocated increases by not less than twenty-five per cent after the date the agreement is formally approved by the legislative authority;

(ii) The assessed value of tangible personal property first used in business at the project site, or the assessed value of real property constituting the project site, increases by not less than twenty-five per cent after the date the agreement is formally approved by the legislative authority.

(b) All of the facilities currently are in this state, and the relocation of the operations of any of those facilities would result in both of the following during the term of the agreement:

(i) The number of employees employed by the enterprise at its existing facilities in this state to which operations are relocated increases by not less than twenty-five per cent after the date the agreement is formally approved by the legislative authority;

(ii) The assessed value of tangible personal property first used in business at the project site, or the assessed value of real property constituting the project site, increases by not less than fifty per cent over the assessed value, determined at the time of relocation, of tangible personal property located at, and of real property constituting, the facilities in this state from which operations would be relocated.

For purposes of divisions (B)(3)(a) and (b) of this section, "assessed value of tangible personal property" and "assessed value of real property" mean the value of such property as assessed for purposes of property taxation and entered on the tax lists and duplicates of the county.

(C) To apply for a waiver under division (B) of this section, the enterprise and the legislative authority intending to enter into an agreement under section 5709.62, 5709.63, or 5709.632 of the Revised Code shall petition the director of development in a form acceptable to the director. The petition shall be accompanied by documentation demonstrating one or more of the circumstances described in divisions (B)(1), (2), or (3) of this section. Not later than thirty days after receiving such a petition, the director shall investigate the petition and accompanying documentation to determine the validity of the circumstance claimed therein, and shall issue to the enterprise and to the legislative authority the determination, in writing, waiving, or refusing to waive application of division (A) of this section.

(As added by S.B. 19, Laws 1994; as amended by H.B. 127, Laws 2003, effective March 11, 2004.)

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Sec. 5709.64. Enterprise may apply for tax incentive qualification certificate.—(A) If an enterprise has been granted an incentive for the current calendar year under an agreement entered pursuant to section 5709.62, 5709.63, or 5709.632 of the Revised Code, it may apply, on or before the thirtieth day of April of that year, to the director of development, on a form prescribed by the director, for a tax incentive qualification certificate. The enterprise qualifies for an initial certificate if, on or

before the last day of the calendar year immediately preceding that in which application is made, it satisfies all of the following requirements:

(1) The enterprise has established, expanded, renovated, or occupied a facility pursuant to the agreement under section 5709.62, 5709.63, or 5709.632 of the Revised Code.

(2) The enterprise has hired new employees to fill nonretail positions at the facility; at least twenty-five per cent of whom at the time they were employed were at least one of the following:

(a) Unemployed persons who had resided at least six months in the county in which the enterprise's project site is located;

(b) JPTA eligible employees who had resided at least six months in the county in which the enterprise's project site is located;

(c) Participants of the Ohio works first program under Chapter 5107, of the Revised Code or the prevention, retention, and contingency program under Chapter 5108, of the Revised Code or recipients of general assistance under former Chapter 5113, of the Revised Code, financial assistance under Chapter 5115, of the Revised Code, or unemployment compensation benefits who had resided at least six months in the county in which the enterprise's project site is located;

(d) Handicapped persons, as defined under division (A) of section 3304.11 of the Revised Code, who had resided at least six months in the county in which the enterprise's project site is located;

(e) Residents for at least one year of a zone located in the county in which the enterprise's project site is located.

The director of development shall, by rule, establish criteria for determining what constitutes a nonretail position at a facility.

(3) The average number of positions attributable to the enterprise in the municipal corporation during the calendar year immediately preceding the calendar year in which application is made exceeds the maximum number of positions attributable to the enterprise in the municipal corporation during the calendar year immediately preceding the first year the enterprise satisfies the requirements set forth in divisions (A)(1) and (2) of this section. If the enterprise is engaged in a business which, because of its seasonal nature, customarily enables the enterprise to operate at full capacity only during regularly recurring periods of the year, the average number of positions attributable to the enterprise in the municipal corporation during each period of the calendar year immediately preceding the calendar year in which application is made must exceed only the maximum number of positions attributable to the enterprise in each corresponding period of the calendar year immediately preceding the first year the enterprise satisfies the requirements of divisions (A)(1) and (2) of this section. The director of devel-

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opment shall, by rule, prescribe methods for determining whether an enterprise is engaged in a seasonal business and for determining the length of the corresponding periods to be compared.

(4) The enterprise has not closed or reduced employment at any place of business in the state for the primary purpose of establishing, expanding, renovating, or occupying a facility. The legislative authority of any municipal corporation or the board of county commissioners of any county that concludes that an enterprise has closed or reduced employment at a place of business in that municipal corporation or county for the primary purpose of establishing, expanding, renovating, or occupying a facility in a zone may appeal to the director to determine whether the enterprise has done so. Upon receiving such an appeal, the director shall investigate the allegations and make such a determination before issuing an initial or renewal tax incentive qualification certificate under this section.

Within sixty days after receiving an application under this division, the director shall review, investigate, and verify the application and determine whether the enterprise qualifies for a certificate. The application shall include an affidavit executed by the applicant verifying that the enterprise satisfies the requirements of division (A)(2) of this section, and shall contain such information and documents as the director requires, by rule, to ascertain whether the enterprise qualifies for a certificate. If the director finds the enterprise qualified, the director shall issue a tax incentive qualification certificate, which shall bear as its date of issuance the thirtieth day of June of the year of application, and shall state that the applicant is entitled to receive, for the taxable year that includes the certificate's date of issuance, the tax incentives provided under section 5709.65 of the Revised Code, with regard to the facility to which the certificate applies. If an enterprise is issued an initial certificate, it may apply, on or before the thirtieth day of April of each succeeding calendar year for which it has been granted an incentive under an agreement entered pursuant to section 5709.62, 5709.63, or 5709.632 of the Revised Code, for a renewal certificate. Subsequent to its initial certification, the enterprise qualifies for up to three successive renewal certificates if, on or before the last day of the calendar year immediately preceding that in which the application is made, it satisfies all the requirements of divisions (A)(1) to (4) of this section, and neither the zone's designation nor the zone's certification has been revoked prior to the fifteenth day of June of the year in which the application is made. The application shall include an affidavit executed by the applicant verifying that the enterprise satisfies the requirements of division (A)(2) of this section. An enterprise with ten or more supervisory personnel at the facility to which a certificate applies qualifies for any subsequent renewal certificates only if it meets all of the foregoing requirements and, in addition, at least

ten per cent of those supervisory personnel are employees who, when first hired by the enterprise, satisfied at least one of the criteria specified in divisions (A)(2)(a) to (e) of this section. If the enterprise qualifies, a renewal certificate shall be issued bearing as its date of issuance the thirtieth day of June of the year of application. The director shall send copies of the initial certificate, and each renewal certificate, by certified mail, to the enterprise, the tax commissioner, the board of county commissioners, and the chief executive of the municipal corporation in which the facility to which the certificate applies is located.

(B) If the director determines that an enterprise is not qualified for an initial or renewal tax incentive qualification certificate, the director shall send notice of this determination, specifying the reasons for it, by certified mail, to the applicant, the tax commissioner, the board of county commissioners, and the chief executive of the municipal corporation in which the facility to which the certificate would have applied is located. Within thirty days after receiving such a notice, an enterprise may request, in writing, a hearing before the director for the purpose of reviewing the application and the reasons for the determination. Within sixty days after receiving a request for a hearing, the director shall afford one and, within thirty days after the hearing, shall issue a redetermination of the enterprise's qualification for a certificate. If the enterprise is found to be qualified, the director shall proceed in the manner provided under division (A) of this section. If the enterprise is found to be unqualified, the director shall send notice of this finding, by certified mail, to the applicant, the tax commissioner, the board of county commissioners, and the chief executive of the municipal corporation in which the facility to which the certificate would have applied is located. The director's redetermination that an enterprise is unqualified may be appealed to the board of tax appeals in the manner provided under section 5717.02 of the Revised Code.

(As added by H.B. 351, Laws 1981, as amended by H.B. 536, Laws 1982; S.B. 9, and H.B. 153, Laws 1987; H.B. 708, Laws 1988; H.B. 298, Laws 1991; S.B. 19, Laws 1994; H.B. 249, Laws 1995; H.B. 408, Laws 1997; H.B. 95, Laws 2003, effective June 26, 2003.)

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Sec. 5709.65. Tax incentive to which enterprise is entitled.—(A) An enterprise issued a certificate under section 5709.64 of the Revised Code shall be entitled to the following tax incentives:

(1) With the exception of improvements to land or tangible personal property constituting or used in the retail portion, if any, of a facility, any improvement to land or tangible personal property at a facility for which a certificate is issued, first used in business at the facility as the result of a project, shall not be considered an asset of a corporate enter-

prise in determining the value of its issued and outstanding stock under division (A) of section 5733.05 of the Revised Code at the end of the taxable year that includes the certificate's date of issuance.

(2) With the exception of the original cost of improvements to land or tangible personal property constituting or used in the retail portion, if any, of a facility, the original cost of any improvement to land or tangible personal property at the facility for which the certificate is issued, first used in business at the facility as a result of a project, shall be excluded from the numerator upon computation of the property factor of a corporate enterprise under division (B)(2)(a) of section 5733.05 of the Revised Code, or of a noncorporate enterprise under division (A) of section 5747.21 of the Revised Code, for the taxable year that includes the certificate's date of issuance.

As used in divisions (A)(1) and (2) of this section, the "retail portion" of a facility is that part of a facility used primarily for making retail sales as defined in division (O) of section 5739.01 of the Revised Code.

(3) Compensation paid to new employees described under divisions (A)(2)(a) to (e) of section 5709.64 of the Revised Code at the facility for which the certificate is issued, who are hired as a result of a project, shall be excluded from the numerator upon computation of the payroll factor of a corporate enterprise under division (B)(2)(b) of section 5733.05 of the Revised Code, or of a noncorporate enterprise under division (B) of section 5747.21 of the Revised Code, for the taxable year that includes the certificate's date of issuance.

(4) An enterprise that reimburses its new employees described under divisions (A)(2)(a) to (e) of section 5709.64 of the Revised Code for all or part of the cost of day-care services necessary to enable them to be employed at a facility for which a certificate is issued shall be entitled to a credit equal to the amounts so reimbursed, up to a maximum of three hundred dollars for each child or dependent receiving the services, for the taxable year in which reimbursement is made, against the tax imposed by section 5733.06 of the Revised Code on a corporate enterprise, or by section 5747.02 of the Revised Code on the owners of a noncorporate enterprise, for the taxable year that includes the certificate's date of issuance. Only reimbursements of amounts paid by new employees to day-care centers licensed by the department of job and family services for day-care services provided during the first twenty-four months of employment as a new employee may be applied toward the credit provided under this division. Any enterprise claiming this credit shall maintain records verifying that the credit is claimed only for reimbursement of amounts expended by new employees for such services.

(5) For each new employee described in divisions (A)(2)(a) to (e) of section 5709.64 of the Revised Code who completes a training program and is subsequently employed by an enterprise for at least ninety days, if the enterprise pays or reimburses all or part of the cost of the employee's participation in the training program, it may claim a credit equal to the amount paid or reimbursed or one thousand dollars, whichever is less, in the taxable year in which the employee completes the ninety days of subsequent employment, against the tax imposed on a corporate enterprise by section 5733.06 of the Revised Code, or on the owners of a noncorporate enterprise by section 5747.02 of the Revised Code. Only one credit shall be allowed with respect to any individual. Attendance at a qualified training program under this section does not bar an otherwise eligible individual from receipt of benefits under Chapter 4141 of the Revised Code.

(B) None of the items set forth in divisions (A)(2) and (3) of this section shall be considered in making any allocation or apportionment under division (B)(2)(d) of section 5733.05 or division (D) of section 5747.21 of the Revised Code.

(C) All credits provided under this section to a noncorporate enterprise shall be divided pro rata among the owners of the enterprise subject to the tax imposed by section 5747.02 of the Revised Code, based upon their proportionate ownership interests in the enterprise. The enterprise shall file with the tax commissioner, on a form prescribed by the commissioner, a statement showing the total available credit and the portion thereof attributed to each owner. The statement shall identify each owner by name and social security number and shall be filed with the tax commissioner by the date prescribed by the commissioner, which shall be no earlier than the fifteenth day of the month following the close of the enterprise's taxable year for which the credit is claimed.

(D) All state income tax or corporation franchise tax credits provided under this section shall be claimed in the order required under section 5733.98 or 5747.98 of the Revised Code. The credits, to the extent they exceed the taxpayer's tax liability for the taxable year after allowance for any other credits that precede the credits under this section in that order, shall be carried forward to the next succeeding taxable year or years until fully utilized.

(As added by H.B. 351, Laws 1981; as amended by H.B. 428, Laws 1986; S.B. 317, Laws 1988; S.B. 269, S.B. 271 and H.B. 715, Laws 1994; H.B. 471, Laws 1999, effective July 1, 2000.)

† 131-570

Sec. 5709.66. Application by eligible enterprise for employee tax credit certificate.—(A) If an enterprise has been granted an incentive for the current calendar year under an agreement entered into pursuant to section 5709.62 or 5709.63 of the Revised Code and satisfies both of the requirements

† 131-570 § 5709.66

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described in divisions (A)(1) and (2) of this section at the time of application, it may apply to the director of development, on a form prescribed by the director, for the employee tax credit certificate under division (B) of this section.

(1) The enterprise has established, expanded, renovated, or occupied a facility pursuant to an agreement under section 5709.62 or 5709.63 of the Revised Code in a zone that is certified by the director of development as having one of the characteristics described in divisions (A)(1)(a) or (b) and at least one of the characteristics described in divisions (A)(1)(c) to (h) of section 5709.61 of the Revised Code.

(2) The enterprise or any predecessor enterprise has not closed or reduced employment at any place of business in this state within the twelve months preceding application unless the enterprise, since the date the agreement was formally approved by the legislative authority, has hired new employees equal in number to not less than fifty per cent of the total number of employees employed by the enterprise at other locations in this state on that date. The legislative authority of any municipal corporation or county that concludes that an enterprise or any predecessor enterprise has closed or reduced employment at a place of business in that municipal corporation or county may appeal to the director to determine whether the enterprise or any predecessor enterprise has done so. Upon receiving such an appeal, the director shall investigate the allegations and determine whether the enterprise satisfies the requirement of division (A)(2) of this section before proceeding under division (B) of this section.

Within sixty days after receiving an application under this section, the director shall review, investigate, and verify the application and determine whether the enterprise is eligible for the employee tax credit certificate under division (B) of this section. The application shall contain such information and documents as the director requires, by rule, to ascertain whether the enterprise is eligible for the certificate. On finding that the enterprise is eligible, the director shall proceed under division (B) of this section.

On determining that an enterprise is not eligible for the certificate under division (B) of this section, the director shall send notice of this determination, specifying the reasons for it, by certified mail, to the applicant, the board of county commissioners, and the chief executive of the municipal corporation in which the facility to which the certificate would have been given is located. Within thirty days after receiving such a notice, an enterprise may request, in writing, a hearing before the director for the purpose of reviewing the application and the reasons for the determination. Within sixty days after receiving a request for a hearing, the director shall afford one, and, within thirty days after the hearing, shall issue a redetermination of the enterprise's eligibility for the incentives. If the enterprise is found to

be eligible, the director shall proceed under division (B) of this section. If the enterprise is found to be ineligible, the director shall send notice of this finding, by certified mail, to the applicant, the board of commissioners of the county or the chief executive of the municipal corporation in which the facility to which the certificate would have been given is located. The director's redetermination that an enterprise is ineligible may be appealed to the board of tax appeals under section 5717.02 of the Revised Code.

(B)(1) If the director determines an enterprise to be eligible under division (A) of this section, the director shall determine if the enterprise is entitled to an employee tax credit certificate. An enterprise is entitled to an employee tax credit certificate for each eligible employee the enterprise hires. A taxpayer who is issued an employee tax credit certificate under this section may claim a nonrefundable credit of one thousand dollars against the tax imposed by section 5733.06 or 5747.02 of the Revised Code for each taxable year of the agreement entered into under section 5709.62 or 5709.63 of the Revised Code in which an eligible employee is employed for the taxpayer's full taxable year. If the eligible employee is employed for less than the taxpayer's full taxable year, the taxpayer may claim a reduced credit against the tax imposed by section 5733.06 or 5747.02 of the Revised Code. The reduced credit shall be computed by dividing the total number of days in the taxable year into one thousand dollars and multiplying the quotient by the number of days the eligible employee was employed in the taxable year. For purposes of the computation, the eligible employee shall be deemed to have been employed for each day of the taxable year commencing on the date of employment or ending on the date of termination of employment.

The credit provided under this division to a noncorporate enterprise or an enterprise that is an S corporation, as defined in section 1361 of the Internal Revenue Code shall be divided pro rata among the owners or shareholders of the enterprise subject to the tax imposed by section 5747.02 of the Revised Code, based on their proportionate ownership interests in the enterprise. The enterprise shall file with the tax commissioner, on a form prescribed by the tax commissioner, a statement showing the total available credit and the portion of that credit attributed to each owner or shareholder. The statement shall identify each owner or shareholder by name and social security number and shall be filed with the tax commissioner by the date prescribed by the tax commissioner, which shall be no earlier than the fifteenth day of the month following the close of the enterprise's taxable year for which the credit is claimed.

The taxpayer shall claim the credit in the order required under section 5733.98 or 5747.98 of the Revised Code. If the credit provided under this division exceeds the taxpayer's tax liability for the

taxable year after allowance for any other credits that precede the credit under this section in that order, the credit may be carried forward for the next three succeeding taxable years, but the amount of any excess credit allowed in any such year shall be deducted from the balance carried forward to the succeeding taxable year.

(2) As used in this division:

(a) "Eligible employee" means a new employee at a facility who, at the time the employee was hired to work at the facility, was a participant of the Ohio works' first program under Chapter 5107. of the Revised Code or the prevention, retention, and contingency program under Chapter 5108. of the Revised Code or a recipient of general assistance under former Chapter 5113. of the Revised Code and resided for at least one year in the county in which the facility is located; "Eligible employee" does not include any employee of the enterprise who is a new employee, as defined under section 122:17 of the Revised Code, on the basis of whom the enterprise has claimed a credit under that section.

(b) "Taxable year" has the same meaning as in section 5733.04 or 5747.01 of the Revised Code, as applicable to the enterprise claiming the credit.

(As added by S.B. 19, Laws 1994; as amended by H.B. 249 and S.B. 188, Laws 1995; H.B. 215, Laws 1997, effective June 30, 1997, first applicable to taxable years beginning in 1998 for personal income tax and to tax year 1999 for corporate income tax; H.B. 408, Laws 1997, effective October 1, 1997.)

§ 131-580

Sec. 5709.67. Duties of directors of development and job and family services and tax commissioner to administer provisions and adopt rules.—(A) Except as otherwise provided in sections 5709.61 to 5709.69 of the Revised Code, the director of development shall administer those sections and shall adopt rules necessary to implement and administer the enterprise zone program. The director shall assign to each zone currently certified a unique designation by which the zone shall be identified for purposes of administering sections 5709.61 to 5709.69 of the Revised Code. The tax commissioner shall administer all other tax incentives provided under sections 5709.61 to 5709.69 of the Revised Code and shall adopt rules necessary to carry out that duty. No tax incentive qualification certificate or employee tax credit certificate shall be issued or remain in effect unless the enterprise applying for or holding the certificate complies with all such rules. The director of job and family services shall administer the incentive provided under division (B)(1) of section 5709.66 of the Revised Code and shall adopt rules necessary to carry out that duty. No extension of benefits certificate shall be issued or remain in effect unless the enterprise applying for or holding the certificate complies with all such rules.

(B) Not later than the first day of August each year, the director of development shall report to the

general assembly on all of the following for the preceding calendar year:

(1) The cost to the state of the tax and other incentives provided under sections 5709.61 to 5709.69 of the Revised Code;

(2) The number of tax incentive qualification certificates, employee tax credit certificates, and extension of benefits certificates issued;

(3) The names of the municipal corporations and counties that have entered agreements under sections 5709.62, 5709.63, and 5709.632 of the Revised Code;

(4) The number of new employees hired as a result of the tax and other incentives provided under sections 5709.61 to 5709.69 of the Revised Code;

(5) Information on agreement terms concerning school district revenue that are not provided for in section 5709.631 of the Revised Code and that are forwarded to the director under division (H) of section 5709.62, division (H) of section 5709.63, or division (G) of section 5709.632 of the Revised Code.

The report shall include a finding by the director as to whether the incentives provided under sections 5709.61 to 5709.69 of the Revised Code have resulted in the creation of more positions in the state than would have been created without the incentives. The director shall send a copy of the report to each member of the general assembly and to the director of the legislative service commission.

(C) All forms used in connection with the administration of sections 5709.61 to 5709.69 of the Revised Code, except forms administered directly by the tax commissioner, by the director of job and family services, or by a county of municipal corporation, are subject to review and approval by the state forms management control center under sections 125.91 to 125.98 of the Revised Code.

(As added by H.B. 351, Laws 1981; as amended by H.B. 536, Laws 1982; H.B. 260, Laws 1983; H.B. 201, Laws 1985; H.B. 111, Laws 1989; as renumbered by S.B. 19, Laws 1994; H.B. 471, Laws 1999; S.B. 265, Laws 2000; S.B. 82, Laws 2003, effective February 12, 2004.)

§ 131-590

Sec. 5709.68. Municipal corporation or county to submit annual report on all agreements in effect; effect of noncompliance; application fee for agreements; reports by tax commissioner.—On or before the thirty-first day of March each year, a municipal corporation or county that has entered into an agreement with an enterprise under section 5709.62, 5709.63, or 5709.632 of the Revised Code shall submit to the director of development and the board of education of each school district of which a municipal corporation or township to which such an agreement applies is a part a report on all of those agreements in effect during the preceding calendar year. The report shall include all of the following information:

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(A)(1) The designation, assigned by the director of development, of each urban jobs and enterprise zone within the municipal corporation or county, the date each zone was certified, the name of each municipal corporation or township within each zone, and the total population of each zone according to the most recent data available;

(2) The number of enterprises that are subject to those agreements and the number of full-time employees subject to those agreements within each zone, each according to the most recent data available and identified, and categorized, by the appropriate, standard industrial code, and the rate of unemployment in the municipal corporation or county in which the zone is located for each year since each zone was certified;

(3) The number of agreements approved and executed during the calendar year for which the report is submitted, the total number of agreements in effect on the thirty-first day of December of the preceding calendar year, the number of agreements that expired during the calendar year for which the report is submitted, and the number of agreements scheduled to expire during the calendar year in which the report is submitted. For each agreement that expired during the calendar year for which the report is submitted, the municipal corporation or county shall include the amount of taxes exempted, and the estimated dollar value of any other incentives provided under the agreement.

(4) The number of agreements receiving compliance reviews by the tax incentive review council in the municipal corporation or county during the calendar year for which the report is submitted, including all of the following information:

(a) The number of agreements the terms of which an enterprise has complied with, indicating separately for each agreement the value of the real and personal property exempted pursuant to the agreement and a comparison of the stipulated and actual schedules for hiring new employees, for retaining existing employees, for the amount of payroll of the enterprise attributable to these employees, and for investing in establishing, expanding, renovating, or occupying a facility;

(b) The number of agreements the terms of which an enterprise has failed to comply with, indicating separately for each agreement the value of the real and personal property exempted pursuant to the agreement, and a comparison of the stipulated and actual schedules for hiring new employees, for retaining existing employees, for the amount of payroll of the enterprise attributable to these employees, and for investing in establishing, expanding, renovating, or occupying a facility;

(c) The number of agreements about which the tax incentive review council made recommendations to the legislative authority of the municipal corporation or county, and the number of those recommendations that have not been followed;

(d) The number of agreements rescinded during the calendar year for which the report is submitted.

(5) The number of enterprises that are subject to agreements that expanded within each zone, including the number of new employees hired and existing employees retained by each enterprise, and the number of new enterprises that are subject to agreements and that are established within each zone, including the number of new employees hired by each enterprise;

(6)(a) The number of enterprises that are subject to agreements and that closed or reduced employment at any place of business within the state for the primary purpose of establishing, expanding, renovating, or occupying a facility, indicating separately for each enterprise the political subdivision in which the enterprise closed or reduced employment at a place of business and the number of full-time employees transferred and retained by each place of business;

(b) The number of enterprises that are subject to agreements and that closed or reduced employment at any place of business outside the state for the primary purpose of establishing, expanding, renovating, or occupying a facility.

(7) For each agreement in effect during any part of the preceding year, the number of employees employed by the enterprise at the project site immediately prior to formal approval of the agreement, the number of employees employed by the enterprise at the project site on the thirty-first day of December of the preceding year, the payroll of the enterprise for the preceding year, the amount of taxes paid on tangible personal property situated at the project site and the amount of those taxes that were not paid because of the exemption granted under the agreement, and the amount of taxes paid on real property constituting the project site and the amount of those taxes that were not paid because of the exemption granted under the agreement. If an agreement was entered into under section 5709.632 of the Revised Code with an enterprise described in division (B)(2) of that section, the report shall include the number of employee positions at all of the enterprise's locations in this state. If an agreement is conditioned on a waiver issued under division (B), of section 5709.633 of the Revised Code on the basis of the circumstance described in division (B)(3)(a) or (b) of that section, the report shall include the number of employees at the facilities referred to in division (B)(3)(a)(i) or (b)(i) of that section, respectively;

(B) Upon the failure of a municipal corporation or county to comply with division (A) of this section:

(1) Beginning on the first day of April of the calendar year in which the municipal corporation or county fails to comply with that division, the municipal corporation or county shall not enter into any agreements with an enterprise under section 5709.62, 5709.63, or 5709.632 of the Revised Code.

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until the municipal corporation or county has complied with division (A) of this section.

(2) On the first day of each ensuing calendar month until the municipal corporation or county complies with division (A) of this section the director of development shall either order the proper county auditor to deduct from the next succeeding payment of taxes to the municipal corporation or county under section 321.31, 321.32, 321.33, or 321.34 of the Revised Code an amount equal to one thousand dollars for each calendar month the municipal corporation or county fails to comply with that division, or order the county auditor to deduct that amount from the next succeeding payment to the municipal corporation or county from the undivided local government fund under section 5747.51 of the Revised Code. At the time such a payment is made, the county auditor shall comply with the director's order by issuing a warrant, drawn on the fund from which the money would have been paid, to the director of development, who shall deposit the warrant into the state enterprise zone program administration fund created in division (C) of this section.

(C) The director, by rule, shall establish the state's application fee for applications submitted to a municipal corporation or county to enter into an agreement under section 5709.62, 5709.63, or 5709.632 of the Revised Code. In establishing the amount of the fee, the director shall consider the state's cost of administering the enterprise zone program, including the cost of reviewing the reports required under division (A) of this section. The director may change the amount of the fee at the times and in the increments the director considers necessary. Any municipal corporation or county that receives an application shall collect the application fee and remit the fee for deposit in the state treasury to the credit of the state enterprise zone program administration fund, which is hereby created. Money credited to the fund shall be used by the department of development to pay the costs of administering the enterprise zone program, including the cost of reviewing the reports required under division (A) of this section.

(D) On or before the thirtieth day of June each year, the director of development shall certify to the tax commissioner the information described under division (A)(7) of this section, derived from the reports submitted to the director under this section.

On the basis of the information certified under this division, the tax commissioner annually shall submit a report to the governor, the speaker of the house of representatives, the president of the senate, and the chairpersons of the ways and means committees of the respective houses of the general assembly, indicating for each enterprise zone the amount of state and local taxes that were not required to be paid because of exemptions granted under agreements entered into under section 5709.62, 5709.63, or 5709.632 of the Revised Code and the amount of

additional taxes paid from the payroll of new employees.

(As amended by S.B. 19, Laws 1994; S.B. 265, Laws 2000, effective March 12, 2001.)

Port Authority Property

¶ 131-600

Sec. 5709.71. Exemption of port authority property leased to railroad; payments.—(A) All real and tangible personal property owned by a port authority created prior to the effective date of this section pursuant to section 4582.22 of the Revised Code and leased or otherwise made available to a railroad company, as defined in section 5727.01 of the Revised Code, for use in its railroad operations shall be exempt from taxation for ten years beginning with the first year in which the property is so leased or otherwise made available.

(B) The port authority shall make annual payments in lieu of taxes for all property that is exempt from taxation under division (A) of this section. The payments shall be charged and collected in the same manner as the taxes that would have been charged against the property if it were not exempt from taxation under this section. The sum of the payments for each year shall equal one-tenth of the amount of taxes that would have been charged and payable against the property for the year the payments are due had this section not been in effect multiplied by the number of years for which the property has been exempt from taxation under division (A) of this section. Moneys collected as payments in lieu of taxes shall be distributed at the same time and in the same manner as real and public utility property tax payments in proportion to the taxes levied by the taxing districts within which such payments are made is located.

(C) The exemption provided under division (A) of this section and liability for payments under division (B) of this section shall first apply to property owned and leased by a port authority in tax year 1983.

(As added by H.B. 169, Laws 1984, effective March 15, 1984.)

Library Technology

¶ 131-620

Sec. 5709.72. Library technology development exemption.—All tangible and intangible personal property shall be exempt from taxation if the following conditions exist in the year for which exemption is sought:

(A) The owner is a nonprofit corporation that is exempt from federal income taxes under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954, as amended, and the owner's primary purposes are conducting research and development in library technology and providing computerized or automated services to public, charitable, or educational libraries;

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(B) The property is used in any of the following:

(1) Furnishing services to libraries and to similar information resource agencies or institutions whose activities directly benefit libraries, provided at least eight per cent of the owner's revenues from furnishing those services are paid by libraries, agencies, and institutions that are public, charitable, or educational;

(2) Conducting research and development in technology specifically for use in libraries, the majority of which are public, charitable, or educational;

(3) Providing products, internal support, or auxiliary services related to activities described in divisions (B)(1) and (2) of this section.

(As added by H.B. 146, Laws 1985, effective September 11, 1985.)

Township Tax Increment Financing

[§ 131-640]

[**Caution:** There are four versions of Sec. 5709.73. The first version, as reproduced immediately below, is effective through November 22, 2005. For alternate versions, see below. CCH.]

Sec. 5709.73. Tax exemption for increase in value of property due to public infrastructure improvements in unincorporated area of township.—(A) As used in this section and section 5709.74 of the Revised Code:

(1) "Business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined in section 1.14 of the Revised Code.

(2) "Further improvements" or "improvements" means the increase in the true value of real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of a resolution adopted under this section were it not for the exemption granted by that resolution. For purposes of division (B) of this section, "improvements" do not include any property used or to be used for residential purposes.

(3) "Housing renovation" means a project carried out for residential purposes.

(4) "Incentive district" has the same meaning as in section 5709.40 of the Revised Code, except that a blighted area is in the unincorporated area of a township.

(5) "Project" and "public infrastructure improvement" have the same meanings as in section 5709.40 of the Revised Code.

(B) A board of township trustees may, by unanimous vote, adopt a resolution that declares to be a public purpose any public infrastructure improvements made that are necessary for the development of certain parcels of land located in the unincorporated area of the township. Except as otherwise provided in division (D) of this section, the resolution may exempt from real property taxation not

more than seventy-five per cent of further improvements to a parcel of land which directly benefits from such public infrastructure improvements; the percentage exempted shall not, except as otherwise provided in division (D) of this section, exceed the estimated percentage of the incremental demand placed on the public infrastructure improvements that is directly attributable to the exempted improvement. For the purposes of this division, a public infrastructure improvement directly benefits a parcel of land only if a project on the parcel places direct, additional demand on the public infrastructure improvement, or, if the public infrastructure improvement has not yet been constructed, will place direct, additional demand on the public infrastructure improvement when completed. The resolution shall specify the percentage of the further improvements to be exempted.

(C) A board of township trustees may adopt, by unanimous vote, a resolution creating an incentive district and declaring improvements to parcels within the district to be a public purpose and exempt from taxation as provided in this section. The district shall be located within the unincorporated area of the township and shall not include any territory that is included within a district created under division (B) of section 5709.78 of the Revised Code. The resolution shall delineate the boundary of the district and specifically identify each parcel within the district. A district may not include any parcel that is or has been exempted from taxation under division (B) of this section or that is or has been within another district created under this division. A resolution may create more than one such district, and more than one resolution may be adopted under this division.

Not later than thirty days prior to adopting a resolution under this division, if the township intends to apply for exemptions from taxation under section 5709.911 of the Revised Code on behalf of owners of real property located within the proposed incentive district, the board shall conduct a public hearing on the proposed resolution. Not later than thirty days prior to the public hearing, the board shall give notice of the public hearing and the proposed resolution by first class mail to every real property owner whose property is located within the boundaries of the proposed incentive district that is the subject of the proposed resolution.

A resolution under this division shall specify the life of the district and the percentage of the improvements to be exempted and shall designate the public infrastructure improvements made or to be made that benefit or serve parcels in the district.

A resolution adopted under this division may authorize the use of service payments provided for in section 5709.74 of the Revised Code for the purpose of housing renovations within the district, provided that the resolution also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real

property in use for commercial or industrial purposes. Service payments may be used to finance or support loans, deferred loans, and grants to persons for the purpose of housing renovations within the district. The resolution shall designate the parcels within the district that are eligible for housing renovations. The resolution shall state separately the amount or the percentages of the expected aggregate service payments that are designated for each public infrastructure improvement and for the purpose of housing renovations:

Except with the approval of the board of education of each city, local, or exempted village school district within the territory of which the district is or will be located, the life of a district shall not exceed ten years, and the percentage of improvements to be exempted shall not exceed seventy-five per cent. With such approval, the life of a district may be not more than thirty years, and the percentage of improvements to be exempted may be not more than one hundred per cent.

Approval of a board of education shall be obtained in the manner provided in division (D) of this section for exemptions under division (B) of this section, except that the notice to the board of education shall delineate the boundaries of the district, specifically identify each parcel within the district, identify each anticipated improvement in the district, provide an estimate of the true value in money of each such improvement, specify the life of the district and the percentage of improvements that would be exempted, and indicate the date on which the board of township trustees intends to adopt the resolution.

A board of township trustees shall not adopt a resolution under this division after June 30, 2007.

(D) Improvements with respect to a parcel may be exempted from taxation under division (B) of this section for up to ten years or, with the approval of the board of education of the city, local, or exempted village school district within which the parcel is located, for up to thirty years. The percentage of the improvements exempted from taxation may, with such approval, exceed seventy-five per cent, but shall not exceed one hundred per cent. Not later than forty-five business days prior to adopting a resolution under this section declaring improvements to be a public purpose, the board of trustees shall deliver to the board of education a notice stating its intent to adopt a resolution making that declaration. The notice shall identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period for which the improvements would be exempted from taxation and the percentage of the improvements that would be exempted, and indicate the date on which the board of trustees intends to adopt the resolution. The board of education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified in the notice, may disapprove the exemption for

the number of years in excess of ten, may disapprove the exemption for the percentage of the improvements to be exempted in excess of seventy-five per cent, or both, or may approve the exemption on the condition that the board of trustees and the board of education negotiate an agreement providing for compensation to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and subsequent years of the exemption period or, in the case of exemption percentages in excess of seventy-five per cent, compensation equal in value to a percentage of the taxes that would be payable on the portion of the improvements in excess of seventy-five per cent were that portion to be subject to taxation. The board of education shall certify its resolution to the board of trustees not later than fourteen days prior to the date the board of trustees intends to adopt the resolution as indicated in the notice. If the board of education approves the exemption on the condition that a compensation agreement be negotiated, the board of education in its resolution shall propose a compensation percentage. If the board of education and the board of trustees negotiate a mutually acceptable compensation agreement, the resolution may declare the improvements a public purpose for the number of years specified in the resolution or, in the case of exemption percentages in excess of seventy-five per cent, for the exemption percentage specified in the resolution. In either case, if the board of education and the board of trustees fail to negotiate a mutually acceptable compensation agreement, the resolution may declare the improvements a public purpose for not more than ten years, but shall not exempt more than seventy-five per cent of the improvements from taxation, or, in the case of a resolution adopted under division (B) of this section, not more than the estimated percentage of the incremental demand as otherwise prescribed by division (B) of this section if that percentage is less than seventy-five per cent. If the board of education fails to certify a resolution to the board of trustees within the time prescribed by this section, the board of trustees thereupon may adopt the resolution and may declare the improvements a public purpose for up to thirty years or, in the case of exemption percentages proposed in excess of seventy-five per cent, for the exemption percentage specified in the resolution. The board of township trustees may adopt the resolution at any time after the board of education certifies its resolution approving the exemption to the board of township trustees, or, if the board of education approves the exemption on the condition that a mutually acceptable compensation agreement be negotiated, at any time after the compensation agreement is agreed to by the board of education and the board of township trustees.

If a board of education has adopted a resolution waiving its right to approve exemptions from taxation and the resolution remains in effect, approval of such exemptions by the board of education is not required under this division. If a board of education

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fails to provide a sufficient amount for the compensation of such employees, the auditor may apply to the tax commissioner for an additional allowance, and the additional amount of compensation allowed by the commissioner shall be certified to the board of county commissioners, and the same shall be final. The salaries and compensation of such experts, deputies, clerks, and employees shall be paid upon the warrant of the auditor out of the general fund or the real estate assessment fund of the county, or both. If the salaries and compensation are in whole or in part fixed by the commissioner, they shall constitute a charge against the county regardless of the amount of money in the county treasury levied or appropriated for such purposes.

(F) Any contract for goods or services related to the auditor's duties, as assessor, including contracts for mapping, computers, and reproduction on any medium of any documents, records, photographs, microfiche, or magnetic tapes, but not including contracts for the professional services of an appraiser, shall be awarded pursuant to the competitive bidding procedures set forth in sections 307.86 to 307.92 of the Revised Code and shall be paid for, upon the warrant of the auditor, from the real estate assessment fund.

(G) Experts, deputies, clerks, and other employees, in addition to their other duties, shall perform such services as the auditor directs in ascertaining such facts, description, location, character, dimensions of buildings and improvements, and other circumstances reflecting upon the value of real estate as will aid the auditor in fixing its true and taxable value and, in the case of land valued in accordance with section 5713.31 of the Revised Code, its current agricultural use value. The auditor may also summon and examine any person under oath in respect to any matter pertaining to the value of any real property within the county.

(As amended by S.B. 361, Laws 1953; S.B. 109, Laws 1957; S.B. 370, Laws 1959; H.B.'s 175 and 337, Laws 1965; S.B. 455, Laws 1972; S.B. 423, Laws 1974; H.B. 920, Laws 1976; H.B. 504, Laws 1979; H.B. 201, Laws 1982; H.B. 260, Laws 1983; S.B. 243, Laws 1992, effective August 19, 1992; H.B. 66, Laws 2005, effective June 30, 2005, applicable to tax year 2006.)

⁸ Note: Sec. 4, H.B. 177, Laws 1998, effective September 16, 1998, applicable to reductions in taxes under division (B) at section 323.152 of the Revised Code for tax years 1998 and thereafter, provides:

Sec. 4. Not later than February following the effective date of this act, each county auditor, by ordinary mail, shall send a notice substantially in the form of the notice prescribed by division (C)(2) of section 323.131 of the Revised Code, as amended by this act, to each owner of residential real property if all of the following apply:

(1) The property was conveyed during tax years 1995 through December 31 following the effective date of this act;

¶ 132-735

Sec. 5713.011. Notice to homeowner of right to 2-1/2% reduction.—If the county auditor⁸ determines under section 5713.01 of the Revised Code that the construction of a dwelling on a previously vacant parcel of land is not available for use or that an additional dwelling is constructed on a parcel of land and is now available for use, the county auditor, by ordinary mail, shall send to the owner of the dwelling a notice that the applicant may apply for a reduction in taxes under division (A)(2) of section 323.153 of the Revised Code. The notice shall be substantially in the form of the notice prescribed under division (C)(2) of section 323.131 of the Revised Code.

(As enacted by H.B. 177, Laws 1998, effective September 16, 1998; applicable to reductions in taxes under division (B) at section 323.152 of the Revised Code for tax years 1998 and thereafter.)

¶ 132-745

Sec. 5713.02. Duties of assessor.—An assessor, from the maps and descriptions furnished him by the county auditor and other sources of information, shall make a correct and pertinent description of each tract and lot of real property in his district. When he deems it necessary to obtain an accurate description of any separate tract or lot in his district, he may require the owner or occupier thereof to furnish such description, with any title papers he has in his possession. If such owner or occupier, upon demand, neglects or refuses to so furnish a satisfactory description of such parcel of real property, the assessor may employ a competent surveyor to make a description of the boundaries and location thereof, and a statement of the quantity of land therein. The expense of such survey shall be returned by such assessor to the county auditor, who shall add it to the tax assessed upon such real property, and it shall be collected by the county treasurer with such tax, and, when collected, shall be paid, on demand, to the person to whom it is due.

¶ 132-765

Sec. 5713.03. Taxable valuation of real property.—The county auditor, from the best sources of information available, shall determine, as nearly as practicable, the true value of each separate tract, lot, or parcel of real property and of buildings, structures, and improvements located thereon and

(2) Such property is not receiving the two and one-half per cent tax reduction;

(3) The owner does not receive a tax bill for the property because the bill is mailed or delivered to an agent of the owner or taxes are billed through an information exchange agreement under section 323.134 of the Revised Code;

(4) The county auditor has not previously mailed to the owner a notice substantially in the form of the notice prescribed by division (C)(2) of section 323.131 of the Revised Code, as amended by this act.

the current agricultural use value of land valued for tax purposes in accordance with section 5713.31 of the Revised Code, in every district, according to the rules prescribed by this chapter and section 5715.01 of the Revised Code, and in accordance with the uniform rules and methods of valuing and assessing real property as adopted, prescribed, and promulgated by the tax commissioner. He shall determine the taxable value of all real property by reducing its true or current agricultural use value by the percentage ordered by the commissioner. In determining the true value of any tract, lot, or parcel of real estate under this section, if such tract, lot, or parcel has been the subject of an arm's length sale between a willing seller and a willing buyer within a reasonable length of time, either before or after the tax lien date, the auditor shall consider the sale price of such tract, lot, or parcel to be the true value for taxation purposes. However, the sale price in an arm's length transaction between a willing seller and a willing buyer shall not be considered the true value of the property sold if subsequent to the sale:

(A) The tract, lot, or parcel of real estate loses value due to some casualty;

(B) An improvement is added to the property. Nothing in this section or section 5713.01 of the Revised Code and no rule adopted under section 5715.01 of the Revised Code shall require the county auditor to change the true value in money of any property in any year except a year in which the tax commissioner is required to determine under section 5715.24 of the Revised Code whether the property has been assessed as required by law.

The county auditor shall adopt and use a real property record approved by the commissioner for each tract, lot, or parcel of real property, setting forth the true and taxable value of land and, in the case of land valued in accordance with section 5713.31 of the Revised Code, its current agricultural use value, the number of acres of arable land, permanent pasture land, woodland, and wasteland in each tract, lot, or parcel. He shall record pertinent information and the true and taxable value of each building, structure, or improvement to land, which value shall be included as a separate part of the total value of each tract, lot, or parcel of real property.

(As added by H.B. 337, Laws 1965; as amended by S.B. 423, Laws 1974; H.B. 920, Laws 1976, effective October 11, 1976; H.B. 260, Laws 1983, effective September 27, 1983.)

¶ 132-790

Sec. 5713.04. Tracts to be valued separately; split listing for tax exemption; deductions.—Each separate parcel of real property shall be valued at its taxable value, excluding the value of the crops, deciduous and evergreen trees, plants, and shrubs growing thereon, and taking into account the diminution in value as the result of the existence of any conservation easement created under sections

5301.67 to 5301.69 of the Revised Code. The price for which such real property would sell at auction or forced sale shall not be taken as the criterion of its value. If the fee of the soil of a tract, parcel, or lot of land is in any person, natural or artificial, and the right to minerals therein in another, the land shall be valued and listed in accordance with such ownership in separate entries, specifying the interest listed, and be taxed to the parties owning the different interests.

If a separate parcel of improved or unimproved real property has a single ownership and is so used so that part thereof, if a separate entity, would be exempt from taxation, and the balance thereof would not be exempt from taxation, the listing thereof shall be split, and the part thereof used exclusively for an exempt purpose shall be regarded as a separate entity and be listed as exempt, and the balance thereof, used for a purpose not exempt shall, with the approaches thereto, be listed at its taxable value and taxed accordingly.

The county auditor shall deduct from the value of each separate parcel of real property the amount of land occupied and used by a canal or used as a public highway at the time of such assessment.

(As amended by S.B. 109, Laws 1957; S.B. 370, Laws 1959; H.B. 337, Laws 1965; H.B. 504, Laws 1979, effective March 14, 1980.)

¶ 132-820

Sec. 5713.041. Classification of property for purposes of tax reduction.—Each separate parcel of real property shall be classified by the county auditor according to its principal, current use. Vacant lots and tracts of land upon which there are no structures or improvements shall be classified in accordance with their location and their highest and best probable legal use. In the case of lands containing or producing minerals, the minerals or any rights to the minerals that are listed and taxed separately from such lands shall be separately classified if the lands are also used for agricultural purposes, whether or not the fee of the soil and the right to the minerals are owned by and assessed for taxation against the same person. For purposes of this section, lands and improvements thereon used for residential or agricultural purposes shall be classified as residential/agricultural real property, and all other lands and improvements thereon and minerals or rights to minerals shall be classified as nonresidential/agricultural real property. Each year the auditor shall reclassify each parcel of real property whose principal, current use has changed from the preceding year to a use appropriate to classification in the other class. The classification required by this section is solely for the purpose of making the reductions in taxes required by section 319.301 of the Revised Code, and this section shall not apply for purposes of classifying real property for any other purpose authorized or required by law or by rule of the tax commissioner.

¶ 132-790 § 5713.04

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land been valued on the basis of its agricultural use, shall be treated as an overpayment of real property taxes in the manner prescribed by section 5713.22 of the Revised Code.

(As enacted by H.B. 651, Laws 1975, effective November 26, 1975.)

CHAPTER 5715—BOARDS OF REVISION

§ 133-700

Sec. 5715.01. Assessment of real property; rules and procedure; county board of revision.

The tax commissioner shall direct and supervise the assessment for taxation of all real property. The commissioner shall adopt, prescribe, and promulgate rules for the determination of true value and taxable value of real property by uniform rule for such values and for the determination of the current agricultural use value of land devoted exclusively to agricultural use. The uniform rules shall prescribe methods of determining the true value and taxable value of real property and shall also prescribe the method for determining the current agricultural use value of land devoted exclusively to agricultural use, which method shall reflect standard and modern appraisal techniques that take into consideration the productivity of the soil under normal management practices, the average price patterns of the crops and products produced to determine the income potential to be capitalized, market value of the land for agricultural use, and other pertinent factors. The rules shall provide that in determining the true value of lands or improvements thereon for tax purposes, all facts and circumstances relating to the value of the property, its availability for the purposes for which it is constructed or being used, its obsolete character, if any, the income capacity of the property, if any, and any other factor that tends to prove its true value shall be used. The taxable value shall be that per cent of true value in money, or current agricultural use value in the case of land valued in accordance with section 5713.31 of the Revised Code, the commissioner by rule establishes, but it shall not exceed thirty-five percent. The uniform rules shall also prescribe methods of making the appraisals set forth in section 5713.03 of the Revised Code. The taxable value of each tract, lot, or parcel of real property and improvements thereon, determined in accordance with the uniform rules and methods prescribed thereby, shall be the taxable value of the tract, lot, or parcel for all purposes of sections 5713.01 to 5713.26, 5715.01 to 5715.51, and 5717.01 to 5717.06 of the Revised Code. County auditors shall, under the direction and supervision of the commissioner, be the chief assessing officers of their respective counties, and shall list and value the real property within their respective counties for taxation in accordance with this section and sections 5713.03 and 5713.31 of the Revised Code and with such rules of the commissioner. There shall also be a board in each county, known as the county board of

Sec. 5713.99. Penalty.—Whoever violates section 5713.37 of the Revised Code is guilty of a misdemeanor of the first degree.

(As enacted by S.B. 423, Laws 1974, effective July 26, 1974.)

revision, which shall hear complaints and revise assessments of real property for taxation.

The commissioner shall neither adopt nor enforce any rule that requires true value for any tax year to be any value other than the true value in money on the tax lien date of such tax year or that requires taxable value to be obtained in any way other than by reducing the true value, or in the case of land valued in accordance with section 5713.31 of the Revised Code, its current agricultural use value, by a specified, uniform percentage.

(As added by S.B. 199, Laws 1969, as amended by S.B. 455, Laws 1972; S.B. 423, Laws 1974; H.B. 920, Laws 1976; H.B. 260, Laws 1983, effective September 27, 1983.)

§ 133-745

Sec. 5715.012. Sales assessment ratios; restrictions.

The tax commissioner shall make sales assessment ratio studies of sales and assessments of real property for the purpose of determining the common level of assessment of real property within the counties pursuant to section 5715.19 of the Revised Code and for the purpose of equalization. Such studies shall be based on a representative sampling during the three years prior to the tax year to which the sample is applied of open market arms' length sales, by a willing seller to a willing buyer for a current like use within the class or classes of real property sampled by the board. Where there are not sufficient arms' length sales to constitute a representative sampling for such studies within a class, the commissioner may also conduct appraisals of real property in that class, which shall be a part of such studies. Such studies and other information of the commissioner may be used by the commissioner as guidelines, where applicable, in the equalization of a class or classes of real property. Such studies or other information of the commissioner shall not be applied by the commissioner on a taxing district, county-wide, or statewide basis for the purpose of equalization unless the commissioner first finds there are sufficient arms' length sales for a like use included in the sample in a class, or arms' length sales and appraisals conducted by the commissioner for a like use included in the sample in a class, to provide an indication that said sales or sales and appraisals in the class are representative of all parcels in the class.

In addition, the commissioner shall make other studies of the value of real property within the counties which may be used as guidelines, where

the manner provided by law for making corrections thereof. If the tax duplicate has been delivered to the county treasurer, the auditor shall certify such corrections to the treasurer, who shall enter such corrections on his tax duplicate.

¶ 134-025]

Sec. 5715.15. Reporting of omissions and corrections in property valuations.—When the county board of revision discovers that any taxable land, building, structure, improvement, minerals, or mineral rights have escaped taxation or been listed for taxation at less than their taxable value in a current year or in any year during the five years next preceding, the board may investigate the same and report to the county auditor all the facts and information in its possession which relate to the same. The auditor shall make the inquiries and corrections which he is authorized and required by law to make in other cases in which real property has escaped taxation or has been improperly listed or valued for taxation.

(As amended by S.B. 109, Laws 1957; S.B. 370, Laws 1959; H.B. 337, Laws 1965, effective November 5, 1965.)

¶ 134-045]

Sec. 5715.16. Corrections and assessments.—On the second Monday of June, annually, the county auditor shall lay before the county board of revision the returns of his assessment of real property for the current year, and such board shall forthwith proceed to revise the assessment and returns of such real property. If the board finds that any tract, lot, or parcel of land, or any buildings, structures, or improvements thereon, or any minerals therein, or rights thereto have been improperly listed either as to the name of the owner or the description or quantity thereof, or have been incorrectly valued, or have been omitted and not yet valued, it shall make the necessary corrections and give to each such incorrectly valued or omitted tract, lot, or parcel of land, or any buildings, structures, or improvements thereon, or any minerals therein or rights thereto, their corrected taxable value.

The auditor shall not make up his tax list and duplicate nor advertise as provided in section 5715.17 of the Revised Code until the board has completed its work under this section and returned to the auditor all the returns laid before it with the revisions thereof.

(As amended by S.B. 109, Laws 1957; S.B. 370, Laws 1959; H.B. 337, Laws 1965, effective November 5, 1965.)

¶ 134-065]

Sec. 5715.17. Notice of completion of work of equalization; county auditor to furnish certificates and notice.—When the county board of revision has completed its work of equalization and transmitted the returns to him, the county auditor

shall give notice by advertising in two newspapers of opposite politics published in and of general circulation throughout the county that the tax returns for the current year have been revised and the valuation completed and are open for public inspection in his office, and that complaints against any valuation or assessment, except the valuations fixed and assessments made by the department of taxation will be heard by the board, stating in the notice the time and place of the meeting of such board. Such advertisement shall be inserted in a conspicuous place in each such newspaper and be published daily for ten days, unless there is no daily newspaper published in and of general circulation throughout such county, in which event such advertisement shall be so published once each week for two weeks.

The auditor shall, upon request, furnish to any person a certificate setting forth the assessment and valuation of any tract, lot, or parcel of real estate or any specific personal property, and mail the same when requested to do so upon receipt of sufficient postage.

The auditor shall furnish notice to boards of education of school districts within the county of all hearings, and the results of such hearings, held in regard to the reduction or increasing of tax valuations in excess of one hundred thousand dollars directly affecting the revenue of such district.

(As amended by S.B. 361, Laws 1953; S.B. 115, Laws 1965, effective September 6, 1965.)

¶ 134-085]

Sec. 5715.18. Additional notice of change in assessment.—In addition to the printed notice prescribed in section 5715.17 of the Revised Code, the tax commissioner may provide such additional notice of any change made in the assessment of any tract, lot, or parcel of real estate, or improvement thereon or minerals or mineral rights therein in such form and at such times as the commissioner deems advisable. Such additional notices shall be delivered to the parties interested by the method the commissioner orders.

(As amended by H.B. 920, Laws 1976; H.B. 260, Laws 1983, effective September 27, 1983.)

¶ 134-100]

[Caution: The Ohio Supreme Court determined in Cincinnati School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision (2001), ¶ 403-001 and Rubbermaid, Inc. v. Wayne Cty. Auditor et al. (2002), ¶ 403-118 that R.C. 5715.13 and R.C. 5715.19, as amended by Sub. H.B. No. 694, violate Sec. 28, Article II of the Ohio Constitution. CCH.]

Sec. 5715.19. Complaints; tender of tax; determination of common level of assessment.—(A) As used in this section, "member" has the same meaning as in section 1705.01 of the Revised Code.

¶ 134-025 § 5715.15

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(1) Subject to division (A)(2) of this section, a complaint against any of the following determinations for the current tax year shall be filed with the county auditor on or before the thirty-first day of March of the ensuing tax year or the date of closing of the collection for the first half of real and public utility property taxes for the current tax year, whichever is later:

(a) Any classification made under section 5713.041 of the Revised Code;

(b) Any determination made under section 5713.32 or 5713.35 of the Revised Code;

(c) Any recoupment charge levied under section 5713.35 of the Revised Code;

(d) The determination of the total valuation or assessment of any parcel that appears on the tax list, except parcels assessed by the tax commissioner pursuant to section 5727.06 of the Revised Code;

(e) The determination of the total valuation of any parcel that appears on the agricultural land tax list, except parcels assessed by the tax commissioner pursuant to section 5727.06 of the Revised Code.

Any person owning taxable real property in the county or in a taxing district with territory in the county; such a person's spouse; an individual who is retained by such a person and who holds a designation from a professional assessment organization, such as the institute for professionals in taxation, the national council of property taxation, or the international association of assessing officers; a public accountant who holds a permit under section 4701.10 of the Revised Code; a general or residential real estate appraiser licensed or certified under Chapter 4763, of the Revised Code; or a real estate broker licensed under Chapter 4735, of the Revised Code, who is retained by such a person; if the person is a firm, company, association, partnership, limited liability company, or corporation, an officer, a salaried employee, a partner, or a member of that person; if the person is a trust, a trustee of the trust; the board of county commissioners; the prosecuting attorney or treasurer of the county; the board of township trustees of any township with territory within the county; the board of education of any school district with any territory in the county; or the mayor or legislative authority of any municipal corporation with any territory in the county may file such a complaint regarding any such determination affecting any real property in the county, except that a person owning taxable real property in another county may file such a complaint only with regard to any such determination affecting real property in the county that is located in the same taxing district as that person's real property is located. The county auditor shall present to the county board of revision all complaints filed with the auditor.

(2) As used in division (A)(2) of this section, "interim period" means, for each county, the tax year to which section 5715.24 of the Revised Code

applies and each subsequent tax year until the tax year in which that section applies again.

No person, board, or officer shall file a complaint against the valuation or assessment of any parcel that appears on the tax list if it filed a complaint against the valuation or assessment of that parcel for any prior tax year in the same interim period, unless the person, board, or officer alleges that the valuation or assessment should be changed due to one or more of the following circumstances that occurred after the tax lien date for the tax year for which the prior complaint was filed and that the circumstances were not taken into consideration with respect to the prior complaint:

(a) The property was sold in an arm's length transaction, as described in section 5713.03 of the Revised Code;

(b) The property lost value due to some casualty;

(c) Substantial improvement was added to the property;

(d) An increase or decrease of at least fifteen per cent in the property's occupancy has had a substantial economic impact on the property.

(3) If a county board of revision, the board of tax appeals, or any court dismisses a complaint filed under this section or section 5715.13 of the Revised Code for the reason that the act of filing the complaint was the unauthorized practice of law or the person filing the complaint was engaged in the unauthorized practice of law, the party affected by a decrease in valuation or the party's agent, or the person owning taxable real property in the county or in a taxing district with territory in the county, may refile the complaint, notwithstanding division (A)(2) of this section.

(B) Within thirty days after the last date such complaints may be filed, the auditor shall give notice of each complaint in which the stated amount of overvaluation, undervaluation, discriminatory valuation, illegal valuation, or incorrect determination is at least seventeen thousand five hundred dollars to each property owner whose property is the subject of the complaint, if the complaint was not filed by the owner or the owner's spouse, and to each board of education whose school district may be affected by the complaint. Within thirty days after receiving such notice, a board of education; a property owner; the owner's spouse; an individual who is retained by such an owner and who holds a designation from a professional assessment organization, such as the institute for professionals in taxation, the national council of property taxation, or the international association of assessing officers; a public accountant who holds a permit under section 4701.10 of the Revised Code; a general or residential real estate appraiser licensed or certified under Chapter 4763, of the Revised Code; or a real estate broker licensed under chapter 4735, of the Revised Code, who is retained by such a person; or, if the property owner is a firm, company, association, partnership, limited

liability company, corporation, or trust, an officer, a salaried employee, a partner, a member, or trustee of that property owner, may file a complaint in support of or objecting to the amount of alleged overvaluation, undervaluation, discriminatory valuation, illegal valuation, or incorrect determination stated in a previously filed complaint or objecting to the current valuation. Upon the filing of a complaint under this division, the board of education or the property owner shall be made a party to the action.

(C) Each board of revision shall notify any complainant and also the property owner, if the property owner's address is known, when a complaint is filed by one other than the property owner, by certified mail, not less than ten days prior to the hearing, of the time and place the same will be heard. The board of revision shall hear and render its decision on a complaint within ninety days after the filing thereof with the board, except that if a complaint is filed within thirty days after receiving notice from the auditor as provided in division (B) of this section, the board shall hear and render its decision within ninety days after such filing.

(D) The determination of any such complaint shall relate back to the date when the lien for taxes or recoupment charges for the current year attached or the date as of which liability for such year was determined. Liability for taxes and recoupment charges for such year and each succeeding year until the complaint is finally determined and for any penalty and interest for nonpayment thereof within the time required by law shall be based upon the determination, valuation, or assessment as finally determined. Each complaint shall state the amount of overvaluation, undervaluation, discriminatory valuation, illegal valuation, or incorrect classification or determination upon which the complaint is based. The treasurer shall accept any amount tendered as taxes or recoupment charge upon property concerning which a complaint is then pending, computed upon the claimed valuation as set forth in the complaint. If a complaint filed under this section for the current year is not determined by the board within the time prescribed for such determination, the complaint and any proceedings in relation thereto shall be continued by the board as a valid complaint for any ensuing year until such complaint is finally determined by the board or upon any appeal from a decision of the board. In such case, the original complaint shall continue in effect without further filing by the original taxpayer, the original taxpayer's assignee, or any other person or entity authorized to file a complaint under this section.

(E) If a taxpayer files a complaint as to the classification, valuation, assessment, or any determination affecting the taxpayer's own property and tenders less than the full amount of taxes or recoupment charges as finally determined, an interest charge shall accrue as follows:

(1) If the amount finally determined is less than the amount billed but more than the amount ten-

dered, the taxpayer shall pay interest at the rate per annum prescribed by section 5703.47 of the Revised Code, computed from the date that the taxes were due on the difference between the amount finally determined and the amount tendered. This interest charge shall be in lieu of any penalty or interest charge under section 323.121 of the Revised Code unless the taxpayer failed to file a complaint and tender an amount as taxes or recoupment charges within the time required by this section, in which case section 323.121 of the Revised Code applies.

(2) If the amount of taxes finally determined is equal to or greater than the amount billed and more than the amount tendered, the taxpayer shall pay interest at the rate prescribed by section 5703.47 of the Revised Code from the date the taxes were due on the difference between the amount finally determined and the amount tendered, such interest to be in lieu of any interest charge but in addition to any penalty prescribed by section 323.121 of the Revised Code.

(F) Upon request of a complainant, the tax commissioner shall determine the common level of assessment of real property in the county for the year stated in the request that is not valued under section 5713.31 of the Revised Code, which common level of assessment shall be expressed as a percentage of true value and the common level of assessment of lands valued under such section, which common level of assessment shall also be expressed as a percentage of the current agricultural use value of such lands. Such determination shall be made on the basis of the most recent available sales ratio studies of the commissioner and such other factual data as the commissioner deems pertinent.

(G) A complainant shall provide to the board of revision all information or evidence within the complainant's knowledge or possession that affects the real property that is the subject of the complaint. A complainant who fails to provide such information or evidence is precluded from introducing it on appeal to the board of tax appeals or the court of common pleas, except that the board of tax appeals or court may admit and consider the evidence if the complainant shows good cause for the complainant's failure to provide the information or evidence to the board of revision.

(H) In case of the pendency of any proceeding in court based upon an alleged excessive, discriminatory, or illegal valuation or incorrect classification or determination, the taxpayer may tender to the treasurer an amount as taxes upon property computed upon the claimed valuation as set forth in the complaint to the court. The treasurer may accept the tender. If the tender is not accepted, no penalty shall be assessed because of the nonpayment of the full taxes assessed.

(As amended by S.B. 109, Laws 1957; S.B. 370, Laws 1959; H.B. 1, Laws 1961; H.B. 337, Laws 1965; S.B. 428 and H.B. 931, Laws 1971; S.B. 423,

Laws 1974; H.B. 920, Laws 1976; H.B. 1, Laws 1977; H.B. 648, Laws 1978; H.B.'s 736 and 1238, Laws 1980; S.B. 6, Laws 1981; H.B. 379, Laws 1982; H.B. 260, Laws 1983; H.B. 379, Laws 1984; H.B. 603, Laws 1988; H.B. 694, Laws 1998, effective December 21, 1998, applicable to any complaint that was timely filed under either of those sections [5715.13 or 5715.19] respecting valuations for tax year 1994, 1995, 1996, or 1997, and to complaints filed for tax years 1998 and thereafter; H.B. 390, Laws 2002, effective March 4, 2002.)

§ 134-140]

Sec. 5715.20. Certification of action; time for appeal; tax commissioner may request decisions.—(A) Whenever a county board of revision renders a decision on a complaint filed under section 5715.19 of the Revised Code, it shall certify its action by certified mail to the person in whose name the property is listed or sought to be listed and to the complainant if the complainant is not the person in whose name the property is listed or sought to be listed. A person's time to file an appeal under section 5717.01 of the Revised Code commences with the mailing of notice of the decision to that person as provided in this section. The tax commissioner's time to file an appeal under section 5717.01 of the Revised Code commences with the last mailing to a person required to be mailed notice of the decision as provided in this division.

(B) The tax commissioner may order the county auditor to send to the commissioner the decisions of the board of revision rendered on complaints filed under section 5715.19 of the Revised Code in the manner and for the time period that the commissioner prescribes. Nothing in this division extends the commissioner's time to file an appeal under section 5717.01 of the Revised Code.

(As amended by (H.B. 675), Laws 2002, effective March 14, 2003.)

§ 134-160]

Sec. 5715.21. Payment of tax shall not abate complaint or appeal.—Payment of the whole or any part of any real property tax or assessment for any year or any recoupment charge as to which a complaint or appeal is pending shall not abate the complaint or appeal or in any way affect the hearing and determination thereof.

(As amended by S.B. 423, Laws 1974, effective July 26, 1974.)

§ 134-180]

Sec. 5715.22. Credit and repayment of overpaid taxes.—If upon consideration of any complaint against the valuation or assessment of real property filed under section 5715.19 of the Revised Code, or any appeal from the determination on such complaint, it is found that the amount of taxes, assessments, or recoupment charges paid for the year to which the complaint relates was in excess of the

amount due, then, whether or not the payment of said taxes, assessments, or charges was made under protest or duress, the county auditor shall, within thirty days after the certification to him of the final action upon such complaint or appeal, credit the amount of such overpayment upon the amount of any taxes, assessments, or charges then due from the person having made such overpayment, and at the next or any succeeding settlement the amount of any such credit shall be deducted from the amounts of any taxes, assessments, or charges distributable to the county or any taxing unit therein which has received the benefit of the taxes, assessments, or charges previously overpaid, in proportion to the benefits previously received. If after such credit has been made, there remains any balance of such overpayment, or if there are no taxes, assessments, or charges due from such person, upon application of the person overpaying such taxes the auditor shall forthwith draw a warrant on the county treasurer in favor of the person who has made such overpayment for the amount of such balance. The treasurer shall pay such warrant from the general revenue fund of the county. If there is insufficient money in said general revenue fund to make such payment, the treasurer shall pay such warrant out of any undivided tax funds thereafter received by him for distribution to any county or any taxing unit therein which has received the benefit of the taxes, assessments, or charges overpaid, in proportion to the benefits previously received, and the amount paid from the undivided tax funds shall be deducted from the money otherwise distributable to such county or other taxing unit of the county at the next or any succeeding settlement. At the next or any succeeding settlement after the refunding of such taxes, assessments, or charges, the treasurer shall reimburse the general revenue fund of the county for any payment made from such fund by deducting the amount of such payment from the money otherwise distributable to the county or other taxing unit in the county which has received the benefit of the taxes, assessments, or charges overpaid, in proportion to the benefits previously received.

(As amended by S.B. 423, Laws 1974, effective July 26, 1974.)

APPEALS TO BOARD OF TAX APPEALS.

§ 134-200]

Sec. 5715.23. Abstract of real property transmitted to tax commissioner.—Annually, immediately after the county board of revision has acted upon the assessments for the current year as required under section 5715.16 of the Revised Code and the county auditor has given notice by advertisement in two newspapers that the valuations have been revised and are open for public inspection as provided in section 5715.17 of the Revised Code, each auditor shall make out and transmit to the tax commissioner an abstract of the real property of each taxing district in his county, in which he shall set forth the aggregate amount and valuation of

journal shall be certified by the board by certified mail to all persons who were parties to the appeal before the board, the person in whose name the property is listed or sought to be listed; if the decision determines the valuation or liability of property for taxation and if such person is not a party to the appeal, the taxpayer or other person to whom notice of the tax assessment, valuation, determination, finding, computation, or order, or correction or re-determination thereof, by the tax commissioner was by law required to be given, the director of budget and management, if the revenues affected by such decision would accrue primarily to the state treasury, and the county auditors of the counties to the undivided general tax funds of which the revenues affected by such decision would primarily accrue.

(D) In the case of an appeal from a municipal board of appeal created under section 718.11 of the Revised Code, the order of the board of tax appeals and the date of the entry thereof upon the board's journal shall be certified by the board by certified mail to all persons who were parties to the appeal before the board.

(E) In the case of all other appeals or applications filed with and determined by the board, the board's order and the date when the order was filed by the secretary for journalization shall be certified by the board by certified mail to the person who is a party to such appeal or application, to such persons as the law requires, and to such other persons as the board deems proper.

(F) The orders of the board may affirm, reverse, vacate, modify, or remand the tax assessments, valuations, determinations, findings, computations, or orders complained of in the appeals determined by the board, and the board's decision shall become final and conclusive for the current year unless reversed, vacated, or modified as provided in section 5717.04 of the Revised Code. When an order of the board becomes final the tax commissioner and all officers to whom such decision has been certified shall make the changes in their tax lists or other records which the decision requires.

(G) If the board finds that issues not raised on the appeal are important to a determination of a controversy, the board may remand the cause for an administrative determination, and the issuance of a new tax assessment, valuation, determination, finding, computation, or order, unless the parties stipulate to the determination of such other issues without remand. An order remanding the cause is a final order. If the order relates to any issue other than a municipal income tax matter appealed under sections 718.11 and 5717.011 of the Revised Code, the order may be appealed to the court of appeals in Franklin county. If the order relates to a municipal income tax matter appealed under sections 718.11 and 5717.011 of the Revised Code, the order may be appealed to the court of appeals for the county in which the municipal corporation in which the dispute arose is primarily situated.

(As amended by H.B. 920, Laws 1976; H.B. 634, Laws 1977; H.B. 260, Laws 1983; H.B. 95, Laws 2003; effective January 1, 2004).

§ 135-200

Sec. 5717.04. Appeal from decision of board of tax appeals to supreme court; parties who may appeal; certification. The proceeding to obtain a reversal, vacation, or modification of a decision of the board of tax appeals shall be by appeal to the supreme court or the court of appeals for the county in which the property taxed is situate or in which the taxpayer resides. If the taxpayer is a corporation, then the proceeding to obtain such reversal, vacation, or modification shall be by appeal to the supreme court or to the court of appeals for the county in which the property taxed is situate, or the county of residence of the agent for service of process, tax notices, or demands, or the county in which the corporation has its principal place of business. In all other instances, the proceeding to obtain such reversal, vacation, or modification shall be by appeal to the court of appeals for Franklin County.

Appeals from decisions of the board determining appeals from decisions of county boards of revision may be instituted by any of the persons who were parties to the appeal before the board of tax appeals, by the person in whose name the property involved in the appeal is listed or sought to be listed, if such person was not a party to the appeal before the board of tax appeals, or by the county auditor of the county in which the property involved in the appeal is located.

Appeals from decisions of the board of tax appeals determining appeals from final determinations by the tax commissioner of any preliminary, amended, or final tax assessments, reassessments, valuations, determinations, findings, computations, or orders made by the commissioner may be instituted by any of the persons who were parties to the appeal or application before the board, by the person in whose name the property is listed or sought to be listed, if the decision appealed from determines the valuation or liability of property for taxation and if any such person was not a party to the appeal or application before the board, by the taxpayer or any other person to whom the decision of the board appealed from was by law required to be certified, by the director of budget and management, if the revenue affected by the decision of the board appealed from would accrue primarily to the state treasury, by the county auditor of the county to the undivided general tax funds of which the revenues affected by the decision of the board appealed from would primarily accrue, or by the tax commissioner.

Appeals from decisions of the board upon all other appeals or applications filed with and determined by the board may be instituted by any of the persons who were parties to such appeal or application before the board, by any persons to whom the decision of the board appealed from was by law required

to be certified, or by any other person to whom the board certified the decision appealed from, as authorized by section 5717.03 of the Revised Code.

Such appeals shall be taken within thirty days after the date of the entry of the decision of the board on the journal of its proceedings, as provided by such section, by the filing by appellant of a notice of appeal with the court to which the appeal is taken and the board. If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within ten days of the date on which the first notice of appeal was filed or within the time otherwise prescribed in this section, whichever is later. A notice of appeal shall set forth the decision of the board appealed from and the errors therein complained of. Proof of the filing of such notice with the board shall be filed with the court to which the appeal is being taken. The court in which notice of appeal is first filed shall have exclusive jurisdiction of the appeal.

In all such appeals the tax commissioner, or all persons to whom the decision of the board appealed from is required by such section to be certified, other than the appellant, shall be made appellees. Unless waived, notice of the appeal shall be served upon all appellees by certified mail. The prosecuting attorney shall represent the county auditor in any such appeal in which the auditor is a party.

The board, upon written demand filed by an appellant, shall within thirty days after the filing of such demand file with the court to which the appeal is being taken a certified transcript of the record of the proceedings of the board pertaining to the decision complained of and the evidence considered by the board in making such decision.

If upon hearing and consideration of such record and evidence the court decides that the decision of the board appealed from is reasonable and lawful it shall affirm the same, but if the court decides that such decision of the board is unreasonable or unlawful, the court shall reverse and vacate the decision or modify it and enter final judgment in accordance with such modification.

The clerk of the court shall certify the judgment of the court to the board, which shall certify such judgment to such public officials or take such other action in connection therewith as is required to give effect to the decision. The "taxpayer" includes any person required to return any property for taxation.

Any party to the appeal shall have the right to appeal from the judgment of the court of appeals on questions of law, as in other cases.

(As amended by H.B. 220, Laws 1953; S.B. 174, Laws 1973; H.B. 634, Laws 1977; H.B. 260, Laws 1983; H.B. 231, Laws 1987, effective October 5, 1987.)

[135-265]

Sec. 5717.05. Appeal from decision of county board of revision to court of common pleas; notice; transcript; judgment.—As an alternative

¶ 135-265 § 5717.05

to the appeal provided for in section 5717.01 of the Revised Code, an appeal from the decision of a county board of revision may be taken directly to the court of common pleas of the county by the person in whose name the property is listed or sought to be listed for taxation. The appeal shall be taken by the filing of a notice of appeal with the court and with the board within thirty days after notice of the decision of the board is mailed, as provided in section 5715.20 of the Revised Code. The county auditor and all parties to the proceeding before the board, other than the appellant, filing the appeal in the court, shall be made appellees, and notice of the appeal shall be served upon them by certified mail unless waived. The prosecuting attorney shall represent the auditor in the appeal.

When the appeal has been perfected by the filing of notice of appeal as required by this section, and an appeal from the same decision of the county board of revision is filed under section 5717.01 of the Revised Code with the board of tax appeals, the forum in which the first notice of appeal is filed shall have exclusive jurisdiction over the appeal.

Within thirty days after notice of appeal to the court has been filed with the county board of revision, the board shall certify to the court a transcript of the record of the proceedings of said board pertaining to the original complaint and all evidence offered in connection with that complaint.

The court may hear the appeal on the record and the evidence thus submitted, or it may hear and consider additional evidence. It shall determine the taxable value of the property whose valuation or assessment for taxation by the county board of revision is complained of, or if the complaint and appeal is against a discriminatory valuation, shall determine a valuation that shall correct the discrimination, and the court shall determine the liability of the property for assessment for taxation, if that question is in issue, and shall certify its judgment to the auditor, who shall correct the tax list and duplicate as required by the judgment.

In correcting a discriminatory valuation, the court shall increase or decrease the value of the property whose valuation or assessment by the county board of revision is complained of by a percent or amount that will cause the property to be listed and valued for taxation by an equal and uniform rule.

Any party to the appeal may appeal from the judgment of the court on questions of law as in other cases.

(As amended by S.B. 109, Laws 1957; S.B. 370, Laws 1959; H.B. 337, Laws 1965; H.B. 934, Laws 1988, effective March 17, 1989.)

[135-310]

Sec. 5717.06. Liability for taxes shall relate back.—In case of the institution of an appeal under sections 5717.01 to 5717.04 of the Revised Code,

600	Exempt property owned by United States of America
610	Exempt property owned by state of Ohio
620	Exempt property owned by counties
630	Exempt property owned by townships
640	Exempt property owned by municipalities
645	Exempt property owned or acquired by metropolitan housing authorities
650	Exempt property owned by board of education
660	Exempt property owned by park districts (public)
670	Exempt property owned by colleges, academies (private)
680	Charitable exemptions—hospitals—homes for aged, etc.
685	Churches, etc., public worship
690	Graveyards, monuments, and cemeteries
700	Community urban redevelopment corporation tax abatements (R.C. 1728.10)
710	Community reinvestment area tax abatements (R.C. 3735.61)
720	Municipal improvement tax abatements (R.C. 5709.41)
730	Municipal urban redevelopment tax abatements (R.C. 725.02)
740	Other tax abatements (R.C. 165.01 and 303.52)
800	Agricultural land and improvements owned by a public utility other than a railroad
810	Mineral land and improvements owned by a public utility other than a railroad
820	Industrial land and improvements owned by a public utility other than a railroad
830	Commercial land and improvements (including all residential property) owned by a public utility other than a railroad
840	Railroad real property used in operations
850	Railroad real property not used in operations
860	Railroad personal property used in operations
870	Railroad personal property not used in operations
880	Public Utility personal property other than railroads

(D) The coding system provided in this rule shall be effective for tax year 1985.

(E) Nothing contained in this rule however, shall cause the valuation of any parcel of real property to be other than its true value in money or be construed as an authorization for any parcel of real property in any class in any county to be valued for tax purposes at any other value than its "taxable value" as set out in rule 5705-3-01 of the Administrative Code.

HISTORY: Eff. 12-11-84 (1984-85 OMR 632)
1984-85 OMR 334; 10-20-81, 11-1-77

CROSS REFERENCES

RC 5703.05, Powers, duties, and functions of tax commissioner
RC 5713.041, Each parcel classified annually according to use

NOTES ON DECISIONS AND OPINIONS

12 OS(3d) 7, 12 OBR 6, 465 NE(2d) 421 (1984), *Roosevelt Properties Co v Kinney*. OAC 5705-3-06(B)(5), which excludes certain rental residential property from the definition of "residential property" entitled to an advantageous tax reduction factor, is consistent with RC 5713.041 and O Const Art XII, § 2a, which authorized the promulgation of the rule, with the equal protection clause, and with the "uniform rule" requirement of O Const Art XII, § 2.

BTA 82-A-217 (1983), *Sharon Land Co/Sharon Club Co v Medina County Bd of Revision*. There are but two classifications for real property in Ohio; O Const Art XII, § 2a provides that "[t]he two classes shall be: (a) residential and agricultural land and improvements; (b) all other land and improvements"; in conformity with O Const Art XII, § 2a. RC 5713.041 and OAC 5705-3-06 reiterate that there are but two classifications of real property and that the classes consist of residential and agricultural land and

improvements, and all other land and improvements; therefore a private country club is properly classified as commercial property with the "sub-use as golf course on a county property record card."

BTA 81-F-666 and 81-A-667 (1983), *Roosevelt Properties Co v Kinney*, affirmed by 12 OS(3d) 7, 12 OBR 6, 465 NE(2d) 421 (1984). OAC 5705-3-06 is a reasonable administrative regulation adopting the statutory directions found in RC 5713.041.

5705-3-07 Valuation of land

(A) General—All land shall be appraised at its true value in money as of tax lien date of the year in which the appraisal or update of values is made. In arriving at the true value in money the county auditor shall consider, along with other factors, not only the present use of the land but also its highest and best probable legal use consistent with existing zoning and building regulations. The requirement that land be classified under rule 5705-3-06 of the Administrative Code according to its principal use shall not affect the requirement of this rule that it be appraised at its highest and best probable legal use. The present improvements to the land, the demand and supply of land, the demand and supply of land for such use, financing method, the length of time until developed and the cost of development are factors that should be considered in determining the highest and best probable legal use of the land.

(B) All relevant facts tending to influence the market value of land should be considered, including, but not limited to, size, shape, topography, soil and subsoil, drainage, utility connections, street or road, land pattern, neighborhood type and trend, amenities, zoning, restrictions, easements, hazards, etc.

(C) Land may be valued by four principal methods:

(1) The preferred method is the market data or comparative process requiring the collection and analysis of actual arms-length sales and other market information on comparable sites made within a reasonable time of the date of the appraisal with adjustments for variations. This method should be used except in unusual circumstances.

(2) The allocation method in which the land value is estimated by subtracting the value of the improvements from a known sale price. This is primarily used in an area where there are very few sales of vacant land and the improvements to land are of a generally uniform type.

(3) The land residual method estimates land value by capitalizing the residual income imputable to land as derived from actual or hypothetical new improvements assuming highest and best use. This method is useful in arriving at land value when there are few or no sales or as a check against the market approach.

(4) The development method can be used in valuing land ready for development by estimating value as fully developed and subtracting the development, administrative and entrepreneurial costs.

(D) The county auditor shall deduct from the value of each separate parcel of real property the amount of land occupied and used by a canal or used as a public highway as provided in section 5713.04 of the Revised Code.

(E) Agricultural—Agricultural lands shall be classified and valued according to their characteristics and capabilities for use, based primarily on what they will produce under average conditions and typical management in the locality. Assessors should obtain and use information available relating to soil classification, land capabilities, land use and soil maps, production records, price records and other

information from the Ohio state university, Ohio agricultural research and development center, County A.S.C., soil conservation service, soil and water conservation districts and other sources. All agricultural lands shall first be valued according to their true value. Then if the owner applies to have his land valued according to its current value the land has for agricultural use the land may be valued according to rules 5705-5-01 to 5705-5-07 of the Administrative Code.

(F) ~~Industrial—Additional factors that shall be considered~~ in valuing industrial land are the convenience of location to shipping and labor sources as well as the proximity to related industries. Land not used in manufacturing shall be valued according to its value for use as parking lots, storage, waste or dump area, or other uses both present and probable.

(G) Commercial—In the valuation of commercial sites the location in the trading area, the purchasing power of the entire area, and the relative availability of sites shall be considered in addition to previously mentioned factors.

(H) Residential—Residential sites located in suburban and rural areas shall be valued by using the same factors that are used in valuing urban residential lands with the same facilities and amenities.

(I) Coal, mineral deposits, oil and gas—Coal and minerals shall be valued in the same manner and on the same price level as other real property. Some of the factors that shall be considered in valuing coal and mineral deposits are the quality and extent of the deposit, the active working area which at current production will be mined within five years, active reserves that will not be worked for five to ten years, inactive reserves that will not be worked until after ten years, and mined out or depleted areas.

Separate oil and gas rights shall be valued in accordance with the annual entry of the commissioner of tax equalization in the matter of adopting a uniform formula in regard to the valuation of oil and gas deposits in the eighty-eight counties of the state.

When rights to coal, minerals, oil and gas have not been separated from the fee, the value of the mineral deposits shall be added to the value of the surface.

(J) Pricing units and preparation of land unit price schedules, and depth tables. Land unit prices (price per acre, square foot or front foot) used shall be those appropriate and typically used in the market in pricing similar land. Generally per acre prices shall be used in pricing agricultural lands. Large industrial, commercial or residential tracts may be priced by the use of per acre or square foot prices. Front foot prices shall be used, generally, for the pricing of residential and commercial lots and lands in congested areas. Regardless of the pricing unit used, the result shall be the true value in money of the land.

(K) Each county auditor shall prepare, or have prepared, under his direction and supervision:

(1) Land schedules, setting forth land unit prices to be used in appraising the different classes of land.

(2) Tables, where applicable, showing depth, corner and alley influence factors, etc., to be used in conjunction with the unit prices.

(3) Tax maps that shall accurately indicate the area, acreage or dimensions of each lot, tract, or parcel of land in the county, together with the name of the owner, if possible, and the lot section, or survey number, showing the unit price used in pricing the various types of land.

One set of all land unit price schedules, depth, corner and alley influence tables, and tax maps with unit prices

shall be kept on file in the county auditor's office, open for public inspection during regular office hours.

HISTORY: Eff. 10-20-81
11-1-77; prior BTA-5-07

CROSS REFERENCES

RC 5713.01, County auditor shall be assessor, assessment, procedure, employment and compensation of employees

RC 5715.01, Tax commissioner to direct and supervise assessment of real property, procedures, county board of revision to hear complaints, rules of commissioner

NOTES ON DECISIONS AND OPINIONS

1 OS(3d) 40, 1 OBR 74, 437 NE(2d) 601 (BTA 1982), Beckett Ridge Assn No. 1 v Butler County Bd of Revision. Property designated as green space or common open space in a planned unit development has some taxable value, which may be reduced by zoning easements and other restrictions, and the county auditor must apply uniform standards, taking into consideration all relevant factors specified in RC 5713.03 and OAC 5702-3-07 in valuing the property.

No. 43969 (8th Dist Ct App, Cuyahoga, 4-8-82), Coventry Towers, Inc v Cuyahoga County Bd of Revision. In determining the true market value of an apartment complex for tax purposes, the appraisal may include a vacancy rate based on future trends rather than the actual vacancy rate.

BTA 82-C-685 (12-27-85), Muirfield Assn, Inc v Franklin County Bd of Revision. In valuing common open space property for tax purposes, the board of tax appeals must consider all the factors referred to in RC 5713.03 and OAC 5705-3-07 when common open space is encumbered by zoning, deed restrictions, easements, and other such burdens.

5705-3-08 Valuation of buildings, structures, fixtures and improvements to land

(A) General—The true value of improvements may be determined by either the market data, income or cost approach. Regardless of the approach used the total of the depreciated value of the improvements to land and the "true value" of the land should be the "true value" of the property as a whole, as defined in rule 5705-3-01 of the Administrative Code. While the cost approach will generally be used one of the other approaches should be used as a check on whether the determination of depreciation or obsolescence is correct.

In arriving at the value of the depreciated improvements by the market data approach the value of the entire property is estimated by the use of comparable sales after allowing for variations. The land value determined according to rule 5705-3-07 of the Administrative Code is then subtracted to arrive at the value of the improvements in their present or depreciated condition.

The building residual technique is used to estimate improvement values by the income approach. After land value is arrived at the value of the improvements is estimated by capitalizing the net income remaining after deduction for all expenses including interest on the land value.

In the use of the cost approach to estimate improvement value the replacement cost new is first estimated. From the cost new deductions are made for depreciation including physical deterioration, functional and economic obsolescence to arrive at the value of the improvements in their present condition.

(B) Building cost schedules When a general sexennial reappraisal is being made by the county auditor under the provisions of section 5713.01 of the Revised Code, all prices used in determining the replacement cost of buildings, structures, fixtures and improvements to land shall be prices prevailing during the year immediately preceding the tax lien date of the year the reappraisal is to be effective for tax purposes.

The county auditor is directed and ordered to prepare, or have prepared under his supervision, schedules of all building costs that will be used in appraising buildings, structures, fixtures and improvements to land in his county. He shall prepare separate schedules for residential, commercial, industrial and farm buildings. Building cost schedules shall be based on the prices of labor, materials, architects' or engineers' fees, plus contractors' overhead and profit, and other charges for the class, type or grade of building in the area to be appraised prevailing during the period specified by the preceding paragraph.

Residential building cost schedules shall include at least six grades of construction, ranging from very cheap to very expensive; namely, very cheap, cheap, ordinary or average, good, extra good or expensive, very expensive. Each grade shall be identified by number or letter. Additional grading may be obtained by adding or deducting a percentage for each grade by using a plus or minus sign, followed by the per cent used.

Farm building cost schedules shall include all farm buildings (exclusive of the farm dwelling which shall be priced according to the residential schedule) including general and special type barns, milk houses, machinery sheds, grainaries [sic], corn cribs, silos, hog houses, and other miscellaneous farm buildings.

The various schedules are to be used in estimating the replacement cost of each building, fixture or improvement to land thereto. In the third calendar year following the sexennial reappraisal each value shall be updated, either by percentage or otherwise so that it accurately reflects current market value in the county as of January of the current tax year. The selection of the method of updating values will depend on the manner in which the triennial update or equalization of true and taxable values required by rule 5705-3-02 of the Administrative Code is performed. The method selected should be one that will insure that the taxable values of new buildings, etc. will equal thirty-five per cent of the current true value in the same uniform manner as all other real property.

One set of all building schedules of every class, type and grade shall be kept on file in the county auditor's office and open for public inspection during the regular office hours.

(C) Building inspection—Each building shall be measured to determine the number of square or cubic feet it contains, and a sketch shall be drawn on the property record card. Major buildings such as dwellings and barns shall be sketched on the property record card with other minor buildings to be numbered, the number encircled to appear in the space for the sketch of buildings in its proper relation to the dwelling and barn, etc.

The exterior, and if possible, the interior of each building shall be inspected with notations being made on the record card of construction features, physical conditions, and other factors that would affect value. Each building shall be graded according to quality of construction.

Each county auditor shall describe in detail on his record card or sheet, and shall itemize, the precise indus-

trial and commercial property that he is valuing as "real property" as distinguished from "personal property." In questions of the classification of property as real or personal the county auditor shall be guided by rule 5703-3-01 of the Administrative Code.

(D) Estimation of depreciation and obsolescence—When the cost approach is used in appraising the buildings an estimate shall be made of depreciation including all types of obsolescence that must be deducted from replacement cost new of the improvements so that the total value of depreciated improvements and the land shall be equal to the true value of the entire property as defined in rule 5705-3-01 of the Administrative Code.

(1) In arriving at the true value, among other factors, the utility of the improvements to the land shall be considered. In the appraisal of commercial or investment type property the county auditor is directed to consider the terms of all outstanding leases and the amount, quality, and durability of income that the property would produce under normal management and the actual amounts being currently returned on similar investments, and to reflect these factors in his final determination of true value in money in any uniform logical way that he may see fit.

(2) Depreciation and obsolescence shall depend upon the following three factors:

(a) Physical depreciation is a loss in value resulting from physical deterioration due to age, wear and tear, disintegration, and the action of the elements. The amount deducted for physical depreciation shall reflect loss in value due to general deterioration and the need for rehabilitation.

(b) Functional obsolescence is a loss in value resulting from poor planning, overcapacity or undercapacity, due to age, size, style, technological improvements or other causes within the property. There are two types of functional obsolescence:

(i) Curable functional obsolescence which may be estimated at the amount it would cost to modernize the improvements.

(ii) Incurable functional obsolescence which may be estimated by considering the amount it would cost to replace the improvements with a modern structure suitable for the same purpose, or by the capitalization of the loss of income due to the degree of in-utility [sic] or extraordinary operating costs related to the structure.

(c) Economic obsolescence is a loss due to external economic forces, such as changes in the use of land, location, zoning or legislative enactments that might restrict or change property rights and values and other similar factors.

(3) In arriving at the rate of depreciation and obsolescence to be applied to buildings, structures, fixtures, and improvements to land, the auditor shall consider, among other things, the following:

(a) The rental income and sale prices in the current market for properties of similar type and condition.

(b) Type of construction.

(c) Type and extent of maintenance and repairs.

(d) Type and extent of replacements, restorations, or modernizations.

(e) Age.

(f) Actual use compared to use for which constructed.

(g) Location.

(h) Rapidly changing technological improvements in construction methods.

(i) Rapidly changing technological changes in manufacturing processes.

(j) Changes in consumer demand and other external economic forces.

(k) Any other recognized factor which may have a particular applicability in a given case.

HISTORY: Eff. 11-1-77
Prior BTA-5-08

CROSS REFERENCES

RC 5713.01, County auditor shall be assessor, assessment, procedure, employment and compensation of employees

RC 5715.01, Tax commissioner to direct and supervise assessment of real property, procedures, county board of revision to hear complaints, rules of commissioner

NOTES ON DECISIONS AND OPINIONS

No. 84AP-756 (10th Dist Ct App. Franklin. 3-7-85), Consolidated Aluminum Corp v Monroe County Bd of Revision. Appraisers' opinions based on the cost approach need not include a discussion of each subcategory of depreciation to demonstrate that physical depreciation was considered as OAC 5705-3-08(D) requires.

5705-3-09 Review of appraisal

(A) Following the initial inspection and extension of true values on the property record card, and prior to submitting the returns to the county board of revision as required by section 5715.16 of the Revised Code, each parcel of real property shall be reviewed in the field by competent appraisers. The purpose of this review is to insure that each property has been valued uniformly in relation to other properties at true value as defined in rule 5705-3-01 of the Administrative Code, so that when the values of land and improvements are added together, the resulting value indicates the true value in money of the entire property.

(B) In making this review all factors affecting value shall be considered including:

- (1) Mathematical accuracy.
- (2) Land classification and pricing.
- (3) Listing accuracy:
 - (a) Building measurements
 - (b) Construction features
 - (c) Construction quality grade
 - (d) Use of proper price schedule.
- (4) Proper application of depreciation and obsolescence.
- (5) Sales of comparable property for like use.

(C) If the reviewer finds that a property or properties have not been valued at true value he shall make the corrections needed to obtain the correct values and shall place said corrected values on the property record.

(D) As part of the appraisal review the county auditor shall prepare or have prepared an analysis of recent real estate transactions comparing the appraisal value to the prices paid for real property to determine whether all real property in the different subdivisions, neighborhoods and classes have been appraised uniformly at one hundred per cent of true value.

HISTORY: Eff. 10-20-81
11-1-77; prior BTA-5-09

CROSS REFERENCES

RC 5713.01, County auditor shall be assessor, assessment, procedure, employment and compensation of employees

RC 5715.01, Tax commissioner to direct and supervise assessment of real property, procedures, county board of revision to hear complaints, rules of commissioner

5705-3-10 Documents to be filed in the county auditor's office

The following shall be on file in the county auditor's office and open for public inspection during regular office hours after completion of the reappraisal:

- (A) One set of all tax maps showing land unit prices.
- (B) One set of depth and other land price schedules.
- (C) One set of all building schedules of every class, type and grade.
- (D) Property record card or sheet for each parcel of real property.

(E) In the event other approaches such as computer assisted appraisals, are used, as provided in rule 5705-3-03 of the Administrative Code documents describing the method and application.

HISTORY: Eff. 11-1-77
Prior BTA-5-10

CROSS REFERENCES

RC 5713.01, County auditor shall be assessor, assessment, procedure, employment and compensation of employees

RC 5715.01, Tax commissioner to direct and supervise assessment of real property, procedures, county board of revision to hear complaints, rules of commissioner

5705-3-11 Documents to be filed with the department of tax equalization

(A) Prior to the filing of the real property abstract wherein is set out the "true value in money" of the various classes of real property, the county auditor shall file the following with the department of tax equalization:

(1) One set of depth and other land price schedules including a county map showing tillable farm land prices used;

(2) One set of all building schedules of every class, type and grade;

(3) In the event other approaches, such as computer assisted appraisals, are used, as provided in rule 5705-3-03 of the Administrative Code, documents describing the method and application.

(B) These documents shall be open for public inspection during regular office hours.

HISTORY: Eff. 11-1-77
Prior BTA-5-11

CROSS REFERENCES

RC 5713.01, County auditor shall be assessor, assessment, procedure, employment and compensation of employees

RC 5715.01, Tax commissioner to direct and supervise assessment of real property, procedures, county board of revision to hear complaints, rules of commissioner

5705-3-12 Procedure after reappraisal or update

(A) Procedure after sexennial reappraisal:

(1) After the appraisal is completed the county auditor shall total the "true value in money" of land, building and total of agricultural, industrial, commercial and residential

§ 2

CONSTITUTION OF THE STATE OF OHIO

Article XII - Finance and Taxation

§ 2 Limitation on tax rate; exemption

No property, taxed according to value, shall be so taxed in excess of one per cent of its true value in money for all state and local purposes, but laws may be passed authorizing additional taxes to be levied outside of such limitation, either when approved by at least a majority of the electors of the taxing district voting on such proposition, or when provided for by the charter of a municipal corporation. Land and improvements thereon shall be taxed by uniform rule according to value, except that laws may be passed to reduce taxes by providing for a reduction in value of the homestead of permanently and totally disabled residents, residents sixty-five years of age and older, and residents sixty years of age or older who are surviving spouses of deceased residents who were sixty-five years of age or older or permanently and totally disabled and receiving a reduction in the value of their homestead at the time of death, provided the surviving spouse continues to reside in a qualifying homestead, and providing for income and other qualifications to obtain such reduction. Without limiting the general power, subject to the provisions of Article I of this constitution, to determine the subjects and methods of taxation or exemptions therefrom, general laws may be passed to exempt burying grounds, public school houses, houses used exclusively for public worship, institutions used exclusively for charitable purposes, and public property used exclusively for any public purpose, but all such laws shall be subject to alteration or repeal; and the value of all property so exempted shall, from time to time, be ascertained and published as may be directed by law.

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