A BILL

To amend sections 319.202, 319.54, 322.01, 322.02, and 322.07 of the Revised Code to apply the real estate transfer tax to transfers of a controlling interest in a pass-through entity that, directly or indirectly, owns real estate.

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

Section 1. That sections 319.202, 319.54, 322.01, 322.02, and 322.07 of the Revised Code be amended to read as follows:

Sec. 319.202. (A) Before the county auditor indorses any real property conveyance or manufactured or mobile home conveyance presented to the auditor pursuant to section 319.20 of the Revised Code or registers any manufactured or mobile home conveyance pursuant to section 4503.061 of the Revised Code, the grantee or the grantee's representative shall submit in triplicate a statement, prescribed by the tax commissioner, and other information as the county auditor may require, declaring the value of real property or manufactured or mobile home conveyed, except that when the transfer is exempt under division (G)(3) of section 319.54 of the Revised Code only a statement of
the reason for the exemption shall be required. Each statement submitted under this section shall contain the information required under divisions (A)(1) and (B)(2) of this section.

(A)(1) Each statement submitted under this section shall either:

1. Contain an affirmation by the grantee that the grantor has been asked by the grantee or the grantee's representative whether to the best of the grantor's knowledge either the preceding or the current year's taxes on the real property or the current or following year's taxes on the manufactured or mobile home conveyed will be reduced under division (A) of section 323.152 or under section 4503.065 of the Revised Code and that the grantor indicated that to the best of the grantor's knowledge the taxes will not be so reduced; or

2. Be accompanied by a sworn or affirmed instrument stating:

(i) To the best of the grantor's knowledge the real property or the manufactured or mobile home that is the subject of the conveyance is eligible for and will receive a reduction in taxes for or payable in the current year under division (A) of section 323.152 or under section 4503.065 of the Revised Code and that the reduction or reductions will be reflected in the grantee's taxes;

(ii) The estimated amount of such reductions that will be reflected in the grantee's taxes;

(iii) That the grantor and the grantee have considered and accounted for the total estimated amount of such reductions to the satisfaction of both the grantee and the grantor. The auditor shall indorse the instrument, return it to the grantee...
or the grantee's representative, and provide a copy of the
indorsed instrument to the grantor or the grantor's
representative.

(2) Each statement submitted under this section shall
either:

(1) Contain an affirmation by the grantee that the
grantor has been asked by the grantee or the grantee's
representative whether to the best of the grantor's knowledge
the real property conveyed qualified for the current
agricultural use valuation under section 5713.30 of the Revised
Code either for the preceding or the current year and that the
grantor indicated that to the best of the grantor's knowledge
the property conveyed was not so qualified; or

(2) Be accompanied by a sworn or affirmed instrument
stating:

(a) To the best of the grantor's knowledge the real
property conveyed was qualified for the current agricultural use
valuation under section 5713.30 of the Revised Code either for
the preceding or the current year;

(b) To the extent that the property will not continue
to qualify for the current agricultural use valuation either for
the current or the succeeding year, that the property will be
subject to a recoupment charge equal to the tax savings in
accordance with section 5713.34 of the Revised Code;

(c) That the grantor and the grantee have considered
and accounted for the total estimated amount of such recoupment,
if any, to the satisfaction of both the grantee and the grantor.
The auditor shall indorse the instrument, forward it to the
grantee or the grantee's representative, and provide a copy of
the indorsed instrument to the grantor or the grantor's representative.

(B) As used in this section, "qualifying transfer" means the transfer of more than fifty per cent of the ownership interest in a pass-through entity that, directly or indirectly, owns real property. A "qualifying transfer" may occur in one transaction or in a series of transactions. Transactions which occur within one year of each other shall be considered a series of transactions.

Within thirty days after the qualifying transfer of an ownership interest in a pass-through entity, the transferor of the ownership interest shall submit to the county auditor of each county in which the real property owned by the entity is located a statement, prescribed by the tax commissioner, and any other information as the auditor may require, except that, when the qualifying transfer is exempt under division (G)(3) of section 319.54 of the Revised Code, only a statement of the reason for exemption shall be required. Each statement shall include the following information:

(1) The total amount paid to the transferor as consideration for the ownership interest, and the portion of that total that is attributable to real property located in the county and owned, directly or indirectly, by the entity;

(2) The percentage of the ownership interest in the entity being transferred;

(3) With respect to real property owned indirectly by the entity in which the ownership interest is being transferred, that entity's percentage ownership interest in the person that directly owns the property.
(C) The grantor or transferor shall pay the fee required by division (G)(3) or (4) of section 319.54 of the Revised Code; and, in the event the board of county commissioners of the county has levied a real property or a manufactured home transfer tax pursuant to Chapter 322. of the Revised Code, the amount required by the real property or manufactured home transfer tax so levied. Payment of the fee or tax imposed on a qualifying transfer of an ownership interest in a pass-through entity shall accompany the statement filed by the transferor under division (B) of this section. If the conveyance or qualifying transfer is exempt from the fee provided for in division (G)(3) or (4) of section 319.54 of the Revised Code and the tax, if any, levied pursuant to Chapter 322. of the Revised Code, the reason for such exemption shall be shown on the statement. "Value" means, in the case of any deed or certificate of title not a gift in whole or part, the amount of the full consideration therefor, paid or to be paid for the real estate or manufactured or mobile home described in the deed or title, including the amount of any mortgage or vendor's lien thereon. If property sold under a land installment contract is conveyed by the seller under such contract to a third party and the contract has been of record at least twelve months prior to the date of conveyance, "value" means the unpaid balance owed to the seller under the contract at the time of the conveyance, but the statement shall set forth the amount paid under such contract prior to the date of conveyance. In the case of a gift in whole or part, "value" means the estimated price the real estate or manufactured or mobile home described in the deed or certificate of title would bring in the open market and under the then existing and prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels. In the case
of the qualifying transfer of an ownership interest in a pass-
through entity, "value" means the portion of the total amount
paid as consideration for the ownership interest that is
reported under division (B)(1) of this section as being
attributable to real property located in the county and owned,
directly or indirectly, by the entity. No person shall willfully
falsify the value of property conveyed or of an ownership
interest subject to a qualifying transfer.

(D) The auditor shall indorse each conveyance on its face
to indicate the amount of the conveyance fee and compliance with
this section and if the property is residential rental property
include a statement that the grantee shall file with the county
auditor the information required under division (A) or (C) of
section 5323.02 of the Revised Code. The auditor shall retain
the original copy of the statement of value, forward to the tax
commissioner one copy on which shall be noted the most recent
assessed value of the property, and furnish one copy to the
grantee or the grantee's representative.

(E) In order to achieve uniform administration and
collection of the transfer fee required by division divisions
(G)(3) and (4) of section 319.54 of the Revised Code, the tax
commissioner shall adopt and promulgate rules for the
administration and enforcement of the levy and collection of
such fee.

(F) As used in this section, "residential rental property"
has the same meaning as in section 5323.01 of the Revised Code.

Sec. 319.54. (A) On all moneys collected by the county
treasurer on any tax duplicate of the county, other than estate
tax duplicates, and on all moneys received as advance payments
of personal property and classified property taxes, the county
auditor, on settlement with the treasurer and tax commissioner, on or before the date prescribed by law for such settlement or any lawful extension of such date, shall be allowed as compensation for the county auditor's services the following percentages:

(1) On the first one hundred thousand dollars, two and one-half per cent;

(2) On the next two million dollars, eight thousand three hundred eighteen ten-thousandths of one per cent;

(3) On the next two million dollars, six thousand six hundred fifty-five ten-thousandths of one per cent;

(4) On all further sums, one thousand six hundred sixty-three ten-thousandths of one per cent.

If any settlement is not made on or before the date prescribed by law for such settlement or any lawful extension of such date, the aggregate compensation allowed to the auditor shall be reduced one per cent for each day such settlement is delayed after the prescribed date. No penalty shall apply if the auditor and treasurer grant all requests for advances up to ninety per cent of the settlement pursuant to section 321.34 of the Revised Code. The compensation allowed in accordance with this section on settlements made before the dates prescribed by law, or the reduced compensation allowed in accordance with this section on settlements made after the date prescribed by law or any lawful extension of such date, shall be apportioned ratably by the auditor and deducted from the shares or portions of the revenue payable to the state as well as to the county, townships, municipal corporations, and school districts.

(B) For the purpose of reimbursing county auditors for the
expenses associated with the increased number of applications 197
for reductions in real property taxes under sections 323.152 and 198
4503.065 of the Revised Code that result from the amendment of 199
those sections by Am. Sub. H.B. 119 of the 127th general 200
assembly, there shall be paid from the state's general revenue 201
fund to the county treasury, to the credit of the real estate 202
assessment fund created by section 325.31 of the Revised Code, 203
an amount equal to one per cent of the total annual amount of 204
property tax relief reimbursement paid to that county under 205
sections 323.156 and 4503.068 of the Revised Code for the 206
preceding tax year. Payments made under this division shall be 207
made at the same times and in the same manner as payments made 208
under section 323.156 of the Revised Code.

(C) From all moneys collected by the county treasurer on 209
any tax duplicate of the county, other than estate tax 210
duplicates, and on all moneys received as advance payments of 211
personal property and classified property taxes, there shall be 212
paid into the county treasury to the credit of the real estate 213
assessment fund created by section 325.31 of the Revised Code, 214
an amount to be determined by the county auditor, which shall 215
not exceed the percentages prescribed in divisions (C)(1) and 216
(2) of this section.

(1) For payments made after June 30, 2007, and before 217
2011, the following percentages:

(a) On the first five hundred thousand dollars, four per 218
cent;

(b) On the next five million dollars, two per cent;

(c) On the next five million dollars, one per cent;

(d) On all further sums not exceeding one hundred fifty 219
million dollars, three-quarters of one per cent;

(e) On amounts exceeding one hundred fifty million dollars, five hundred eighty-five thousandths of one per cent.

(2) For payments made in or after 2011, the following percentages:

(a) On the first five hundred thousand dollars, four per cent;
(b) On the next ten million dollars, two per cent;
(c) On amounts exceeding ten million five hundred thousand dollars, three-fourths of one per cent.

Such compensation shall be apportioned ratably by the auditor and deducted from the shares or portions of the revenue payable to the state as well as to the county, townships, municipal corporations, and school districts.

(D) Each county auditor shall receive four per cent of the amount of tax collected and paid into the county treasury, on property omitted and placed by the county auditor on the tax duplicate.

(E) On all estate tax moneys collected by the county treasurer, the county auditor, on settlement annually with the tax commissioner, shall be allowed, as compensation for the auditor's services under Chapter 5731. of the Revised Code, the following percentages:

(1) Four per cent on the first one hundred thousand dollars;
(2) One-half of one per cent on all additional sums.

Such percentages shall be computed upon the amount
collected and reported at each annual settlement, and shall be for the use of the general fund of the county.

(F) On all cigarette license moneys collected by the county treasurer, the county auditor, on settlement semiannually with the treasurer, shall be allowed as compensation for the auditor's services in the issuing of such licenses one-half of one per cent of such moneys, to be apportioned ratably and deducted from the shares of the revenue payable to the county and subdivisions, for the use of the general fund of the county.

(G) The county auditor shall charge and receive fees as follows:

(1) For deeds of land sold for taxes to be paid by the purchaser, five dollars;

(2) For the transfer or entry of land, lot, or part of lot, or the transfer or entry on or after January 1, 2000, of a used manufactured home or mobile home as defined in section 5739.0210 of the Revised Code, fifty cents for each transfer or entry, to be paid by the person requiring it;

(3) For receiving statements of value under division (A) of section 319.202 of the Revised Code and for administering that section 319.202 of the Revised Code, one dollar, or ten cents for each one hundred dollars or fraction of one hundred dollars, whichever is greater, of the value of the real property transferred or, for sales occurring on or after January 1, 2000, the value of the used manufactured home or used mobile home, as defined in section 5739.0210 of the Revised Code, transferred, except no fee shall be charged when the transfer is made:

(a) To or from the United States, this state, or any instrumentality, agency, or political subdivision of the United
(b) Solely in order to provide or release security for a debt or obligation;

(c) To confirm or correct a deed previously executed and recorded or when a current owner on any record made available to the general public on the internet or a publicly accessible database and the general tax list of real and public utility property and the general duplicate of real and public utility property is a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation and is changing the current owner name listed on any record made available to the general public on the internet or a publicly accessible database and the general tax list of real and public utility property and the general duplicate of real and public utility property to the initials of the current owner as prescribed in division (B)(1) of section 319.28 of the Revised Code;

(d) To evidence a gift, in trust or otherwise and whether revocable or irrevocable, between husband and wife, or parent and child or the spouse of either;

(e) On sale for delinquent taxes or assessments;

(f) Pursuant to court order, to the extent that such transfer is not the result of a sale effected or completed pursuant to such order;

(g) Pursuant to a reorganization of corporations or unincorporated associations or pursuant to the dissolution of a corporation, to the extent that the corporation conveys the
property to a stockholder as a distribution in kind of the
corporation's assets in exchange for the stockholder's shares in
the dissolved corporation;

(h) By a subsidiary corporation to its parent corporation
for no consideration, nominal consideration, or in sole
consideration of the cancellation or surrender of the
subsidiary's stock;

(i) By lease, whether or not it extends to mineral or
mineral rights, unless the lease is for a term of years
renewable forever;

(j) When the value of the real property or the
manufactured or mobile home or the value of the interest that is
conveyed does not exceed one hundred dollars;

(k) Of an occupied residential property, including a
manufactured or mobile home, being transferred to the builder of
a new residence or to the dealer of a new manufactured or mobile
home when the former residence is traded as part of the
consideration for the new residence or new manufactured or
mobile home;

(l) To a grantee other than a dealer in real property or
in manufactured or mobile homes, solely for the purpose of, and
as a step in, the prompt sale of the real property or
manufactured or mobile home to others;

(m) To or from a person when no money or other valuable
and tangible consideration readily convertible into money is
paid or to be paid for the real estate or manufactured or mobile
home and the transaction is not a gift;

(n) Pursuant to division (B) of section 317.22 of the
Revised Code, or section 2113.61 of the Revised Code, between
spouses or to a surviving spouse pursuant to section 5302.17 of the Revised Code as it existed prior to April 4, 1985, between persons pursuant to section 5302.17 or 5302.18 of the Revised Code on or after April 4, 1985, to a person who is a surviving, survivorship tenant pursuant to section 5302.17 of the Revised Code on or after April 4, 1985, or pursuant to section 5309.45 of the Revised Code;

(o) To a trustee acting on behalf of minor children of the deceased;

(p) Of an easement or right-of-way when the value of the interest conveyed does not exceed one thousand dollars;

(q) Of property sold to a surviving spouse pursuant to section 2106.16 of the Revised Code;

(r) To or from an organization exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, provided such transfer is without consideration and is in furtherance of the charitable or public purposes of such organization;

(s) Among the heirs at law or devisees, including a surviving spouse, of a common decedent, when no consideration in money is paid or to be paid for the real property or manufactured or mobile home;

(t) To a trustee of a trust, when the grantor of the trust has reserved an unlimited power to revoke the trust;

(u) To the grantor of a trust by a trustee of the trust, when the transfer is made to the grantor pursuant to the exercise of the grantor's power to revoke the trust or to withdraw trust assets;
(v) To the beneficiaries of a trust if the fee was paid on
the transfer from the grantor of the trust to the trustee or if
the transfer is made pursuant to trust provisions which became
irrevocable at the death of the grantor;

(w) To a corporation for incorporation into a sports
facility constructed pursuant to section 307.696 of the Revised
Code;

(x) Between persons pursuant to section 5302.18 of the
Revised Code;

(y) From a county land reutilization corporation organized
under Chapter 1724. of the Revised Code, or its wholly owned
subsidiary, to a third party.

(4) For receiving statements under division (B) of section
319.202 of the Revised Code and for administering that section,
the greater of one dollar or ten cents for each one hundred
dollars or fraction of one hundred dollars of the value
determined by calculating the sum of the following amounts:

(a) With respect to real property owned directly by the
pass-through entity in which the ownership interest is being
transferred, the product of the value of the real property owned
directly by the pass-through entity and the percentage of the
ownership interest in that entity being transferred;

(b) With respect to real property owned indirectly by the
pass-through entity in which the ownership interest is being
transferred, the product of the value of the real property owned
indirectly by the pass-through entity, the percentage of the
ownership interest in that entity being transferred, and the
percentage of the ownership interest held by that entity in the
person that directly owns the real property.
No fee shall be charged under division (G)(4) of this section if the transfer is made as described in divisions (G)(3)(a) to (y) of this section.

As used in division (G)(4) of this section, "value" means the portion of the total amount paid as consideration for the ownership interest that is reported under division (B)(1) of section 319.202 of the Revised Code as being attributable to real property located in the county and owned, directly or indirectly, by the pass-through entity.

(5) For the cost of publishing the delinquent manufactured home tax list, the delinquent tax list, and the delinquent vacant land tax list, a flat fee, as determined by the county auditor, to be charged to the owner of a home on the delinquent manufactured home tax list or the property owner of land on the delinquent tax list or the delinquent vacant land tax list.

The auditor shall compute and collect the fee. The auditor shall maintain a numbered receipt system, as prescribed by the tax commissioner, and use such receipt system to provide a receipt to each person paying a fee. The auditor shall deposit the receipts of the fees on conveyances and transfers of ownership interest in the county treasury daily to the credit of the general fund of the county, except that fees charged and received under division (G)(3) of this section for a transfer of real property to a county land reutilization corporation shall be credited to the county land reutilization corporation fund established under section 321.263 of the Revised Code.

The real property transfer fee provided for in division (G)(3) of this section shall be applicable to any conveyance of real property presented to the auditor on or after January 1, 1968, regardless of its time of execution or delivery.
The transfer fee for a used manufactured home or used mobile home shall be computed by and paid to the county auditor of the county in which the home is located immediately prior to the transfer.

(H) If, within thirty days after the qualifying transfer of an ownership interest in a pass-through entity, the transferor fails to pay the fee imposed under division (G)(4) of this section or any tax levied pursuant to section 322.02 of the Revised Code, the county auditor shall charge a penalty on any real property in the county owned, directly or indirectly, by the pass-through entity equal to the true value in money of that property multiplied by the aggregate rate of those unpaid fees or taxes applicable to the property.

The auditor shall enter any such penalty as a separate item on the tax list for the current tax year to be collected by the county treasurer in the same manner and at the same time as property taxes levied against the property for the current year are collected. The penalty is a lien of the state upon the property as of the first day of the tax year in which the penalty is charged as provided under section 323.11 of the Revised Code.

(I) As used in this section, "qualifying transfer" has the same meaning as in section 319.202 of the Revised Code.

Sec. 322.01. As used in sections 322.01 to 322.07 of the Revised Code:

(A) "Value" means, in the case of any deed not a gift in whole or part, the amount of the full consideration therefor, paid or to be paid for the real estate described in the deed, including the amount of any liens thereon, with the following
exceptions:

(1) The amount owed on a debt secured by a mortgage which has been of record at least twelve months prior to the date of the conveyance and which is assumed by the purchaser;

(2) The difference between the full amount of consideration and the unpaid balance owed to the seller at the time of the conveyance of property to a third party under a land installment contract that has been of record at least twelve months prior to the date of conveyance.

(B) "Value" means, in the case of a manufactured or mobile home that is not a gift in whole or in part, the amount of the full consideration paid or to be paid for the home, including the amounts of any liens thereon.

(C) "Value" means, in the case of a gift in whole or part, the estimated price the real estate described in the deed, or the manufactured or mobile home, would bring in the open market and under the then existing and prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

(D) "Value" means, in the case of the qualifying transfer of an ownership interest in a pass-through entity, the portion of the total amount paid as consideration for the ownership interest that is reported under division (B)(1) of section 319.202 of the Revised Code as being attributable to real property located in the county and owned, directly or indirectly, by the entity.

(E) "Deed" means any deed, instrument, or writing by which any real property or any interest in real property is granted,
assigned, transferred, or otherwise conveyed except that it does not include any deed, instrument, or writing which grants, assigns, transfers, or otherwise conveys any real property or interests in real property exempted from the fee required by division (G)(3) of section 319.54 of the Revised Code.

(F) "Manufactured home" has the same meaning as in division (C)(4) of section 3781.06 of the Revised Code.

(G) "Mobile home" has the same meaning as in division (O) of section 4501.01 of the Revised Code.

(H) "Qualifying transfer" has the same meaning as in section 319.202 of the Revised Code.

Sec. 322.02. (A) For the purpose of paying the costs of enforcing and administering the tax and providing additional general revenue for the county, any county may levy and collect a tax to be known as the real property transfer tax on each upon both of the following:

(1) Each deed conveying real property or any interest in real property located wholly or partially within the boundaries of the county at a

(2) Each qualifying transfer of an ownership in a pass-through entity that, directly or indirectly, owns real property located in the county.

The rate of the tax shall not exceed thirty cents per hundred dollars for each one hundred dollars or fraction thereof of the value of the real property or interest in real property located within the boundaries of the county granted, assigned, transferred, or otherwise conveyed by the deed, or owned directly or indirectly by a pass-through entity in which an ownership interest is transferred. The tax shall be levied
pursuant to a resolution adopted by the board of county commissioners of the county and, except as provided in division (A) of section 322.07 of the Revised Code, shall be levied at a uniform rate upon all deeds as defined in division (D) of section 322.01 of the Revised Code and qualifying transfers of ownership interest. Prior to the adoption of any such resolution, the board of county commissioners shall conduct two public hearings thereon, the second hearing to be not less than three nor more than ten days after the first. Notice of the date, time, and place of the hearings shall be given by publication in a newspaper of general circulation in the county once a week on the same day of the week for two consecutive weeks or as provided in section 7.16 of the Revised Code. The second publication shall be not less than ten nor more than thirty days prior to the first hearing. The tax shall be levied upon the grantor named in the deed or the transferor of the ownership interest and shall be paid by the grantor or transferor for the use of the county to the county auditor. The tax levied upon a deed shall be paid at the time of the delivery of the deed as provided in section 319.202 of the Revised Code and prior to the presentation of the deed to the recorder of the county for recording.

(B) No resolution levying a real property transfer tax pursuant to this section or a manufactured home transfer tax pursuant to section 322.06 of the Revised Code shall be effective sooner than thirty days following its adoption. Such a resolution is subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code, unless the resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, in which case it shall go into immediate effect. An emergency measure
must receive an affirmative vote of all of the members of the board of commissioners, and shall state the reasons for the necessity. A resolution may direct the board of elections to submit the question of levying the tax to the electors of the county at the next primary or general election in the county occurring not less than ninety days after the resolution is certified to the board. No such resolution shall go into effect unless approved by a majority of those voting upon it.

Sec. 322.07. (A) By resolution the board of county commissioners may prescribe a lower rate for the real property transfer tax levied under section 322.02 of the Revised Code than the uniform rate that is otherwise levied. The lower rate shall apply to any deed conveying, or any qualifying transfer of an ownership in a pass-through entity that directly or indirectly owns, a homestead receiving a reduction in taxes under division (A) of section 323.152 of the Revised Code.

(B) A board of county commissioners that prescribes a lower real property transfer tax rate under division (A) of this section shall prescribe the same lower rate for the manufactured home transfer tax if it levies a manufactured home transfer tax under section 322.06 of the Revised Code. The lower manufactured home transfer tax rate shall apply to any certificate of title conveying a used manufactured or used mobile home receiving a reduction in assessable value under section 4503.065 of the Revised Code.

Section 2. That existing sections 319.202, 319.54, 322.01, 322.02, and 322.07 of the Revised Code are hereby repealed.

Section 3. The fee imposed under division (G)(4) of section 319.54 of the Revised Code, as amended by this act, applies to qualifying transfers of an ownership interest
occurring on or after the effective date this act.