### As Reported by the Senate Insurance Committee

## 135th General Assembly

# Regular Session 2023-2024

Sub. S. B. No. 175

#### **Senator Lang**

#### **Cosponsor: Senator Hackett**

## A BILL

То	amend se	ctions 121.95, 1751.11, 2913.47,	1
	3901.04,	3901.221, 3901.24, 3901.321, 3901.36,	2
	3903.42,	3905.14, 3916.15, 3929.41, 3929.42,	3
	3929.43,	3929.44, 3929.481, 3935.04, 3937.03,	4
	3961.08,	4125.041, 4509.70, 5725.18, and 5729.02	5
	and to en	nact sections 3901.411, 3970.01,	6
	3970.02,	3970.03, 3970.04, 3970.05, 3970.06,	7
	3970.07,	and 3970.08 of the Revised Code	8
	regardino	g insurance regulations and taxes.	9

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

<b>Section 1</b> . That sections 121.95, 1751.11, 2913.47,	10
3901.04, 3901.221, 3901.24, 3901.321, 3901.36, 3903.42, 3905.14,	11
3916.15, 3929.41, 3929.42, 3929.43, 3929.44, 3929.481, 3935.04,	12
3937.03, 3961.08, 4125.041, 4509.70, 5725.18, and 5729.02 be	13
amended and sections 3901.411, 3970.01, 3970.02, 3970.03,	14
3970.04, 3970.05, 3970.06, 3970.07, and 3970.08 of the Revised	15
Code be enacted to read as follows:	16
Sec. 121.95. (A) As used in sections 121.95, 121.951,	17
121.952, 121.953, and 121.954 of the Revised Code, "state	18

agency" means an administrative department created under section	19
121.02 of the Revised Code, an administrative department head	20
appointed under section 121.03 of the Revised Code, and a state	21
agency organized under an administrative department or	22
administrative department head. "State agency" also includes the	23
department of education and workforce, the state lottery	24
commission, the Ohio casino control commission, the state racing	25
commission, and the public utilities commission of Ohio. Rules	26
adopted by an otherwise independent official or entity organized	27
under a state agency shall be attributed to the agency under	28
which the official or entity is organized for the purposes of	29
sections 121.95, 121.951, 121.952, 121.953, and 121.954 of the	30
Revised Code.	31
(B) Not later than December 31, 2019, a state agency shall	32
review its existing rules to identify rules having one or more	33
regulatory restrictions that require or prohibit an action and	34
prepare a base inventory of the regulatory restrictions in its	35
existing rules. Rules that include the words "shall," "must,"	36
"require," "shall not," "may not," and "prohibit" shall be	37
considered to contain regulatory restrictions.	38
(C) In the base inventory, the state agency shall indicate	39
all of the following concerning each regulatory restriction:	40
(1) A description of the regulatory restriction;	41
(2) The rule number of the rule in which the regulatory	42
restriction appears;	43
(3) The statute under which the regulatory restriction was	44
adopted;	45
(4) Whether state or federal law expressly and	46

specifically requires the agency to adopt the regulatory

(6) A rule concerning instant lottery games;	76
(7) A rule adopted by the Ohio casino control commission	77
or the state lottery commission concerning sports gaming;	78
(8) Any other rule that is not subject to review under	79
Chapter 106. of the Revised Code;	80
(9) Any rule that is adopted as a requirement for the	81
state agency to obtain or maintain accreditation or	82
certification from a multistate organization consisting of at	83
least forty-five participating states.	84
(F) Beginning on October 17, 2019, and ending on June 30,	85
2025, a state agency may not adopt a new regulatory restriction	86
unless it simultaneously removes two or more other existing	87
regulatory restrictions. The state agency may not satisfy this	88
section by merging two or more existing regulatory restrictions	89
into a single surviving regulatory restriction.	90
Sec. 1751.11. (A) Every subscriber of a health insuring	91
Sec. 1751.11. (A) Every subscriber of a health insuring corporation is entitled to an evidence of coverage for the	91 92
corporation is entitled to an evidence of coverage for the health care plan under which health care benefits are provided.	92
corporation is entitled to an evidence of coverage for the health care plan under which health care benefits are provided.  (B) Every subscriber of a health insuring corporation that	92 93
corporation is entitled to an evidence of coverage for the health care plan under which health care benefits are provided.  (B) Every subscriber of a health insuring corporation that offers basic health care services is entitled to an	92 93 94
corporation is entitled to an evidence of coverage for the health care plan under which health care benefits are provided.  (B) Every subscriber of a health insuring corporation that offers basic health care services is entitled to an identification card or similar document that specifies the	92 93 94 95
corporation is entitled to an evidence of coverage for the health care plan under which health care benefits are provided.  (B) Every subscriber of a health insuring corporation that offers basic health care services is entitled to an	92 93 94 95 96
corporation is entitled to an evidence of coverage for the health care plan under which health care benefits are provided.  (B) Every subscriber of a health insuring corporation that offers basic health care services is entitled to an identification card or similar document that specifies the health insuring corporation's name as stated in its articles of	92 93 94 95 96 97
corporation is entitled to an evidence of coverage for the health care plan under which health care benefits are provided.  (B) Every subscriber of a health insuring corporation that offers basic health care services is entitled to an identification card or similar document that specifies the health insuring corporation's name as stated in its articles of incorporation, and any trade or fictitious names used by the	92 93 94 95 96 97
corporation is entitled to an evidence of coverage for the health care plan under which health care benefits are provided.  (B) Every subscriber of a health insuring corporation that offers basic health care services is entitled to an identification card or similar document that specifies the health insuring corporation's name as stated in its articles of incorporation, and any trade or fictitious names used by the health insuring corporation. The identification card or document	92 93 94 95 96 97 98
corporation is entitled to an evidence of coverage for the health care plan under which health care benefits are provided.  (B) Every subscriber of a health insuring corporation that offers basic health care services is entitled to an identification card or similar document that specifies the health insuring corporation's name as stated in its articles of incorporation, and any trade or fictitious names used by the health insuring corporation. The identification card or document shall list at least one toll-free telephone number that provides	92 93 94 95 96 97 98 99
corporation is entitled to an evidence of coverage for the health care plan under which health care benefits are provided.  (B) Every subscriber of a health insuring corporation that offers basic health care services is entitled to an identification card or similar document that specifies the health insuring corporation's name as stated in its articles of incorporation, and any trade or fictitious names used by the health insuring corporation. The identification card or document shall list at least one toll-free telephone number that provides the subscriber with access, to information on a twenty-four-	92 93 94 95 96 97 98 99 100 101

normal business hours, provides the subscriber with access to 105 information on the coverage available under the subscriber's 106 health care plan and information on the health care plan's 107 internal and external review processes.

- (C) No evidence of coverage, or amendment to the evidence 109 of coverage, shall be delivered, issued for delivery, renewed, 110 or used, until the form of the evidence of coverage or amendment 111 has been filed by the health insuring corporation with the 112 superintendent of insurance. If the superintendent does not 113 114 disapprove the evidence of coverage or amendment within sixty days after it is filed it shall be deemed approved, unless the 115 superintendent sooner gives approval for the evidence of 116 117 coverage or amendment. With respect to an amendment to an approved evidence of coverage, the superintendent only may 118 disapprove provisions amended or added to the evidence of 119 coverage. If the superintendent determines within the sixty-day 120 period that any evidence of coverage or amendment fails to meet 121 the requirements of this section, the superintendent shall so 122 notify the health insuring corporation and it shall be unlawful 123 for the health insuring corporation to use such evidence of 124 125 coverage or amendment. At any time, the superintendent, upon at least thirty days' written notice to a health insuring 126 corporation, may withdraw an approval, deemed or actual, of any 127 evidence of coverage or amendment on any of the grounds stated 128 in this section. Such disapproval shall be effected by a written 129 order, which shall state the grounds for disapproval and shall 130 be issued in accordance with Chapter 119. of the Revised Code. 131
- (D) No evidence of coverage or amendment shall be 132 delivered, issued for delivery, renewed, or used: 133
  - (1) If it contains provisions or statements that are

earliest occurrence of any of the following:	163
(a) The enrollee's discharge from the hospital;	164
(b) The determination by the enrollee's attending	165
physician that inpatient care is no longer medically indicated	166
for the enrollee; however, nothing in division (D)(3)(b) of this	167
section precludes a health insuring corporation from engaging in	168
utilization review as described in the evidence of coverage.	169
(c) The enrollee's reaching the limit for contractual	170
benefits;	171
(d) The effective date of any new coverage.	172
(4) Unless, with respect to a policy or contract that is	173
not covered by section 3956.04 of the Revised Code, it contains	174
a provision that states, in substance, that the health insuring	175
corporation is not a member of any guaranty fund, and that in	176
the event of the health insuring corporation's insolvency, an	177
enrollee is protected only to the extent that the hold harmless	178
provision required by section 1751.13 of the Revised Code	179
applies to the health care services rendered;	180
(5) Unless it contains a provision that states, in	181
substance, that in the event of the insolvency of the health	182
insuring corporation, an enrollee may be financially responsible	183
for health care services rendered by a provider or health care	184
facility that is not under contract to the health insuring	185
corporation, whether or not the health insuring corporation	186
authorized the use of the provider or health care facility.	187
(E) Notwithstanding divisions (C) and (D) of this section,	188
a health insuring corporation may use an evidence of coverage	189
that provides for the coverage of beneficiaries enrolled in	190
medicare pursuant to a medicare contract, or an evidence of	191

formalized manner.

218

219

220

coverage that provides for the coverage of beneficiaries	192
enrolled in the federal employees health benefits program	193
pursuant to 5 U.S.C.A. 8905, or an evidence of coverage that	194
provides for the coverage of medicaid recipients, or an evidence	195
of coverage that provides for the coverage of beneficiaries	196
under any other federal health care program regulated by a	197
federal regulatory body, or an evidence of coverage that	198
provides for the coverage of beneficiaries under any contract	199
covering officers or employees of the state that has been	200
entered into by the department of administrative services, if	201
both of the following apply:	202
(1) The evidence of coverage has been approved by the	203
United States department of health and human services, the	204
United States office of personnel management, the department of	205
medicaid, or the department of administrative services.	206
(2) The evidence of coverage is filed with the	207
superintendent of insurance prior to use and is accompanied by	208
documentation of approval from the United States department of	209
health and human services, the United States office of personnel	210
management, the department of medicaid, or the department of	211
administrative services.	212
Sec. 2913.47. (A) As used in this section:	213
(1) "Data" has the same meaning as in section 2913.01 of	214
the Revised Code and additionally includes any other	215
representation of information, knowledge, facts, concepts, or	216
instructions that are being or have been prepared in a	217

(2) "Deceptive" means that a statement, in whole or in

part, would cause another to be deceived because it contains a

misleading representation, withholds information, prevents the	221
acquisition of information, or by any other conduct, act, or	222
omission creates, confirms, or perpetuates a false impression,	223
including, but not limited to, a false impression as to law,	224
value, state of mind, or other objective or subjective fact.	225
(3) "Insurer" means any person that is authorized to	226
engage in the business of insurance in this state under Title	227
XXXIX of the Revised Code, the Ohio fair plan underwriting	228
association created under section 3929.43 of the Revised Code,	229
the assigned risk plan created under section 4509.70 of the	230
Revised Code, any health insuring corporation, and any legal	231
entity that is self-insured and provides benefits to its	232
employees or members.	233
(4) "Policy" means a policy, certificate, contract, or	234
plan that is issued by an insurer.	235
(5) "Statement" includes, but is not limited to, any	236
notice, letter, or memorandum; proof of loss; bill of lading;	237
receipt for payment; invoice, account, or other financial	238
statement; estimate of property damage; bill for services;	239
diagnosis or prognosis; prescription; hospital, medical, or	240
dental chart or other record; x-ray, photograph, videotape, or	241
movie film; test result; other evidence of loss, injury, or	242
expense; computer-generated document; and data in any form.	243
(B) No person, with purpose to defraud or knowing that the	244
person is facilitating a fraud, shall do either of the	245
following:	246
(1) Present to, or cause to be presented to, an insurer	247
any written or oral statement that is part of, or in support of,	248

an application for insurance, a claim for payment pursuant to a

policy, or a claim for any other benefit pursuant to a policy,	250
knowing that the statement, or any part of the statement, is	251
false or deceptive;	252
(2) Assist, aid, abet, solicit, procure, or conspire with	253
another to prepare or make any written or oral statement that is	254
intended to be presented to an insurer as part of, or in support	255
of, an application for insurance, a claim for payment pursuant	256
to a policy, or a claim for any other benefit pursuant to a	257
policy, knowing that the statement, or any part of the	258
statement, is false or deceptive.	259
(C) Whoever violates this section is guilty of insurance	260
fraud. Except as otherwise provided in this division, insurance	261
fraud is a misdemeanor of the first degree. If the amount of the	262
claim that is false or deceptive is one thousand dollars or more	263
and is less than seven thousand five hundred dollars, insurance	264
fraud is a felony of the fifth degree. If the amount of the	265
claim that is false or deceptive is seven thousand five hundred	266
dollars or more and is less than one hundred fifty thousand	267
dollars, insurance fraud is a felony of the fourth degree. If	268
the amount of the claim that is false or deceptive is one	269
hundred fifty thousand dollars or more, insurance fraud is a	270
felony of the third degree.	271
(D) This section shall not be construed to abrogate,	272
waive, or modify division (A) of section 2317.02 of the Revised	273
Code.	274
Sec. 3901.04. (A) As used in this section:	275
(1) "Laws of this state relating to insurance" include but	276
are not limited to Chapter 1751. notwithstanding section	277

1751.08, Chapter 1753., Title XXXIX, sections 5725.18 to

5725.25, and Chapter 5729. of the Revised Code. Sections	279
4717.31, 4717.33, 4717.34, 4717.35, and 4717.37 of the Revised	280
Code are "laws of this state relating to insurance" to the	281
extent those sections apply to insurance companies or insurance	282
agents.	283
(2) "Person" has the meaning defined in division (A) of	284
section 3901.19 of the Revised Code.	285
(B) Whenever it appears to the superintendent of	286
insurance, from the superintendent's files, upon complaint or	287
otherwise, that any person has engaged in, is engaged in, or is	288
about to engage in any act or practice declared to be illegal or	289
prohibited by the laws of this state relating to insurance, or	290
defined as unfair or deceptive by such laws, or when the	291
superintendent believes it to be in the best interest of the	292
public and necessary for the protection of the people in this	293
state, the superintendent or anyone designated by the	294
superintendent under the superintendent's official seal may do	295
any one or more of the following:	296
(1) Require any person to file with the superintendent, on	297
a form that is appropriate for review by the superintendent, an	298
original or additional statement or report in writing, under	299
oath or otherwise, as to any facts or circumstances concerning	300
the person's conduct of the business of insurance within this	301
state and as to any other information that the superintendent	302
considers to be material or relevant to such business;	303
(2) Administer oaths, summon and compel by order or	304
subpoena the attendance of witnesses to testify in relation to	305
any matter which, by the laws of this state relating to	306
insurance, is the subject of inquiry and investigation, and	307

require the production of any book, paper, or document

pertaining to such matter. A subpoena, notice, or order under	309
this section may be served <del>by certified mail, return receipt</del>	310
requested. If the subpoena, notice, or order is returned because	311
of inability to deliver, or if no return is received within-	312
thirty days of the date of mailing, the subpoena, notice, or-	313
order may be served by ordinary mail. If no return of ordinary	314
mail is received within thirty days after the date of mailing,	315
service shall be deemed to have been made. If the subpoena,	316
notice, or order is returned because of inability to deliver,	317
the superintendent may designate a person or persons to effect	318
either personal or residence service upon the witness. Service	319
of any subpoena, notice, or order and return may also be made in	320
accordance with section 119.05 of the Revised Code or any other	321
manner authorized under the Rules of Civil Procedure. Such	322
service shall also may be made by an employee of the department	323
designated by the superintendent, a sheriff, a deputy sheriff,	324
an attorney, or any person authorized by the Rules of Civil	325
Procedure to serve process.	326

In the case of disobedience of any notice, order, or 327 subpoena served on a person or the refusal of a witness to 328 testify to a matter regarding which the person may lawfully be 329 interrogated, the court of common pleas of the county where 330 venue is appropriate, on application by the superintendent, may 331 compel obedience by attachment proceedings for contempt, as in 332 the case of disobedience of the requirements of a subpoena 333 issued from such court, or a refusal to testify therein. 334 Witnesses shall receive the fees and mileage allowed by section 335 119.094 of the Revised Code. All such fees, upon the 336 presentation of proper vouchers approved by the superintendent, 337 shall be paid out of the appropriation for the contingent fund 338 of the department of insurance. The fees and mileage of 339

witnesses not summoned by the superintendent or the 340 superintendent's designee shall not be paid by the state. 341

(3) In a case in which there is no administrative 342

- (3) In a case in which there is no administrative 342 procedure available to the superintendent to resolve a matter at 343 issue, request the attorney general to commence an action for a 344 declaratory judgment under Chapter 2721. of the Revised Code 345 with respect to the matter. 346
- (4) Initiate criminal proceedings by presenting evidence 347 of the commission of any criminal offense established under the 348 laws of this state relating to insurance to the prosecuting 349 attorney of any county in which the offense may be prosecuted. 350 At the request of the prosecuting attorney, the attorney general 351 may assist in the prosecution of the violation with all the 352 rights, privileges, and powers conferred by law on prosecuting 353 attorneys including, but not limited to, the power to appear 354 before grand juries and to interrogate witnesses before grand 355 juries. 356

Sec. 3901.221. If a violation of section 3901.20 of the 357 Revised Code has caused, is causing, or is about to cause 358 substantial and material harm, the superintendent of insurance 359 360 may issue an order that the person cease and desist from any activity violating such section. Notice of the order shall be 361 mailed by certified mail, return receipt requested, or served in-362 any manner provided in served in accordance with section 3901.04 363 119.05 of the Revised Code, immediately after its issuance by 364 the superintendent to the person subject to the order and to all 365 persons known to be involved in the violation. The 366 superintendent may thereafter publicize or otherwise make known 367 to all interested persons that the order has been issued. 368

The notice shall specify the particular act, omission,

practice, or transaction that is subject to the cease and desist	370
order and shall set a date, not more than fifteen days after the	371
date of the cease-and-desist order, for a hearing on the	372
continuation or revocation of the order. The person shall comply	373
with the order immediately upon receipt of notice of the order.	374
The superintendent may, upon the application of a party and for	375
good cause shown, continue the hearing. Chapter 119. of the	376
Revised Code applies to such hearings to the extent that that	377
chapter does not conflict with the procedures set forth in this	378
section. The superintendent shall, within fifteen days after	379
objections are submitted to the hearing officer's report and	380
recommendation, issue a final order either confirming or	381
revoking the cease-and-desist order. The final order may be	382
appealed as provided under section 119.12 of the Revised Code.	383
The remedy under this section is cumulative and concurrent with	384
the remedies available under section 3901.22 of the Revised Code	385
and may be enforced by the attorney general at the request of	386
the superintendent as provided in division (E) of that section.	387

Sec. 3901.24. No unauthorized foreign or alien insurer 388 shall make, issue, circulate, or cause to be made, issued, or 389 circulated, to residents of this state any estimate, 390 illustration, circular, pamphlet, or letter, or cause to be made 391 in any newspaper, magazine, or other publication or over any 392 radio or television station, any announcement or statement to 393 such residents misrepresenting its financial condition or the 394 terms of any contracts issued or to be issued or the benefits or 395 advantages promised thereby, or the dividends or share of the 396 surplus to be received thereon in violation of sections 3901.19 397 to 3901.26, inclusive, of the Revised Code, and whenever . If 398 the superintendent of insurance has reason to believe that any 399 such an insurer is engaging in such unlawful advertising, he the 400

superintendent shall give notice of such fact by registered mail	401
to such the insurer and to the insurance supervisory official of	402
the domiciliary state of such the insurer in accordance with	403
section 119.05 of the Revised Code. For the purpose of this	404
section, the domiciliary state of an alien insurer shall be	405
deemed to be the state of entry or the state of the principal	406
office in the United States.	407
Sec. 3901.321. (A) For the purposes of this section:	408
(1) "Acquiring party" means any person by whom or on whose	409
behalf a merger or other acquisition of control is to be	410
effected.	411
(2) "Domestic insurer" includes any person controlling a	412
domestic insurer unless the person, as determined by the	413
superintendent of insurance, is either directly or through its	414
affiliates primarily engaged in business other than the business	415
of insurance.	416
(3) "Person" does not include any securities broker	417
holding, in the usual and customary broker's function, less than	418
twenty per cent of the voting securities of an insurance company	419
or of any person that controls an insurance company.	420
(B)(1) Subject to compliance with division (B)(2) of this	421
section, no person other than the issuer shall do any of the	422
following if, as a result, the person would, directly or	423
indirectly, including by means of conversion or the exercise of	424
any right to acquire, be in control of a domestic insurer:	425
(a) Make a tender offer for any voting security of a	426
domestic insurer;	427
(b) Make a request or invitation for tenders of any voting	428
security of a domestic insurer;	429

(c) Enter into any agreement to exchange securities of a	430
domestic insurer;	431
(d) Seek to acquire or acquire, in the open market or	432
otherwise, any voting security of a domestic insurer;	433
(e) Enter into an agreement to merge with, or otherwise to	434
acquire control of, a domestic insurer.	435
(2)(a) No person shall engage in any transaction described	436
in division (B)(1) of this section, unless all of the following	437
conditions are met:	438
(i) The person has filed with the superintendent of	439
insurance a statement containing the information required by	440
division (C) of this section;	441
(ii) The person has sent the statement to the domestic	442
insurer;	443
(iii) The offer, request, invitation, agreement, or	444
acquisition has been approved by the superintendent in the	445
manner provided in division (F) of this section.	446
(b) The requirements of division (B)(2)(a) of this section	447
shall be met at the time any offer, request, or invitation is	448
made, or any agreement is entered into, or prior to the	449
acquisition of the securities if no offer or agreement is	450
involved.	451
(3) Any controlling person of a domestic insurer seeking	452
to divest its controlling interest in the domestic insurer shall	453
file a confidential notice of its proposed divestiture with the	454
superintendent at least thirty days prior to the cessation of	455
control, and provide a copy of the confidential notice to the	456
insurer. The superintendent may require the person seeking to	457

divest the controlling interest to file for and obtain approval	458
of the transaction. The information shall remain confidential	459
until the conclusion of the transaction unless the	460
superintendent, in the superintendent's discretion, determines	461
that the confidential treatment will interfere with enforcement	462
of this section. If the statement required by division (B)(2) of	463
this section is otherwise filed with the superintendent in	464
relation to all parties that acquire a controlling interest as a	465
result of the divestiture, this division shall not apply.	466
(C) The statement required by division (B)(2) of this	467
section shall be made under oath or affirmation, and shall	468
contain all of the following information:	469
(1) The name and address of each acquiring party;	470
(2) If the acquiring party is an individual, the	471
individual's principal occupation and all offices and positions	472
held during the past five years, and any conviction of crimes	473
other than minor traffic violations during the past ten years;	474
(3) If the acquiring party is not an individual, a report	475
of the nature of its business operations during the past five	476
years or for such lesser period as the acquiring party and any	477
of its predecessors shall have been in existence; an informative	478
description of the business intended to be done by the acquiring	479
party and the acquiring party's subsidiaries; and a list of all	480
individuals who are or who have been selected to become	481
directors or executive officers of the acquiring party, who	482
perform or will perform functions appropriate to such positions.	483
The list shall include for each individual the information	484
required by division (C)(2) of this section.	485

(4) The source, nature, and amount of the consideration

used or to be used in effecting the merger or other acquisition	487
of control, a description of any transaction in which funds were	488
or are to be obtained for any such purpose, including any pledge	489
of the domestic insurer's stock, or the stock of any of its	490
subsidiaries or controlling affiliates, and the identity of	491
persons furnishing such consideration;	492
(5) Fully audited financial information as to the earnings	493
and financial condition of each acquiring party for its	494
preceding five fiscal years, or for such lesser period as the	495
acquiring party and any of its predecessors shall have been in	496
existence, and similar unaudited information as of a date not	497
earlier than ninety days prior to the filing of the statement;	498
(6) Any plans or proposals which each acquiring party may	499
have to liquidate such domestic insurer, to sell its assets or	500
merge or consolidate it with any person, or to make any other	501
material change in its business or corporate structure or	502
management;	503
(7) The number of shares of any security of such issuer or	504
such controlling person that each acquiring party proposes to	505
acquire, and the terms of the offer, request, invitation,	506
agreement, or acquisition, and a statement as to the method by	507
which the fairness of the proposal was determined;	508
(8) The amount of each class of any security of such	509
issuer or such controlling person which is beneficially owned or	510
concerning which there is a right to acquire beneficial	511
ownership by each acquiring party;	512
(9) A full description of any contracts, arrangements, or	513
understandings with respect to any security of such issuer or	514
such controlling person in which any acquiring party is	515

involved, including but not limited to transfer of any of the	516
securities, joint ventures, loan or option arrangements, puts or	517
calls, guarantees of loans, guarantees against loss or	518
guarantees of profits, division of losses or profits, or the	519
giving or withholding of proxies. The description shall identify	520
the persons with whom such contracts, arrangements, or	521
understandings have been made.	522
(10) A description of the purchase of any security of such	523
issuer or such controlling person during the year preceding the	524
filing of the statement, by any acquiring party, including the	525
dates of purchase, names of the purchasers, and consideration	526
paid or agreed to be paid therefor;	527
(11) A description of any recommendations to purchase any	528
security of such issuer or such controlling person made during	529
the year preceding the filing of the statement, by any acquiring	530
party, or by anyone based upon interviews or at the suggestion	531
of the acquiring party;	532
(12) Copies of all tender offers for, requests, or	533
invitations for tenders of, exchange offers for, and agreements	534
to acquire or exchange any securities of such issuer or such	535
controlling person, and, if distributed, of additional	536
solicitation material relating thereto;	537
(13) The terms of any agreement, contract, or	538
understanding made with or proposed to be made with any broker	539
or dealer as to solicitation of securities of such issuer or	540
such controlling person for tender, and the amount of any fees,	541
commissions, or other compensation to be paid to brokers or	542
dealers with regard thereto;	543

(14) With respect to proposed affiliations between

depository institutions or any affiliate thereof, within the

545

meaning of Title I, section 104(c) of the "Gramm-Leach-Bliley	546
Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999), and a domestic	547
insurer, the proposed effective date of the acquisition or	548
change of control;	549
(15) An agreement by the person required to file the	550
statement required by division (B) of this section that the	551
person will provide the annual registration required by division	552
(K) of section 3901.33 of the Revised Code for so long as the	553
person has control of the domestic insurer;	554
(16) An acknowledgment by the person required to file the	555
statement required by division (B) of this section that the	556
person and all subsidiaries within the person's control in the	557
insurance holding company system will provide information to the	558
superintendent upon request as necessary to evaluate enterprise	559
risk to the insurer;	560
(17) Such additional information as the superintendent may	561
by rule prescribe as necessary or appropriate for the protection	562
of policyholders of the domestic insurer or in the public	563
interest.	564
(D)(1) If the person required to file the statement	565
required by division (B)(2) of this section is a partnership,	566
limited partnership, syndicate, or other group, the	567
superintendent may require that the information required by	568
division (C) of this section be furnished with respect to each	569
partner of such partnership or limited partnership, each member	570
of such syndicate or group, and each person that controls such	571
partner or member. If any such partner, member, or person is a	572
corporation, or the person required to file the statement is a	573
corporation, the superintendent may require that the information	574

604

required by division (C) of this section be furnished with	575
respect to the corporation, each officer and director of the	576
corporation, and each person that is directly or indirectly the	577
beneficial owner of more than ten per cent of the outstanding	578
voting securities of the corporation.	579
(2) If any material change occurs in the facts set forth	580
in the statement required by division (B)(2) of this section, an	581
amendment setting forth such change, together with copies of all	582
documents and other material relevant to the change, shall be	583
filed with the superintendent by the person subject to division	584
(B)(2) of this section and sent to the domestic insurer within	585
two business days after such person learns of the occurrence of	586
the material change.	587
(E) If any offer, request, invitation, agreement, or	588
acquisition described in division (B)(1) of this section is	589
proposed to be made by means of a registration statement under	590
the "Securities Act of 1933," 48 Stat. 74, 15 U.S.C.A. 78a, or	591
in circumstances requiring the disclosure of similar information	592
under the "Securities Exchange Act of 1934," 48 Stat. 881, 15	593
U.S.C.A. 78a, or under a state law requiring similar	594
registration or disclosure, the person required to file the	595
statement required by division (B)(2) of this section may use	596
such documents in furnishing the information required by that	597
statement.	598
(F)(1) The superintendent shall approve any merger or	599
other acquisition of control described in division (B)(1) of	600
this section unless, after a public hearing, the superintendent	601
finds that any of the following apply:	602

(a) After the change of control, the domestic insurer

would not be able to satisfy the requirements for the issuance

of a license to write the line or lines of insurance for which	605
it is presently licensed;	606
(b) The effect of the merger or other acquisition of	607
control would be substantially to lessen competition in	608
insurance in this state or tend to create a monopoly;	609
(c) The financial condition of any acquiring party is such	610
as might jeopardize the financial stability of the domestic	611
insurer, or prejudice the interests of its policyholders;	612
(d) The plans or proposals that the acquiring party has to	613
liquidate the domestic insurer, sell its assets, or consolidate	614
or merge it with any person, or to make any other material	615
change in its business or corporate structure or management, are	616
unfair and unreasonable to policyholders of the domestic insurer	617
and not in the public interest;	618
(e) The competence, experience, and integrity of those	619
persons that would control the operation of the domestic insurer	620
are such that it would not be in the interest of policyholders	621
of the domestic insurer and of the public to permit the merger	622
or other acquisition of control;	623
(f) The acquisition is likely to be hazardous or	624
prejudicial to the insurance-buying public.	625
(2)(a) Chapter 119. of the Revised Code, except for	626
section 119.09 of the Revised Code, applies to any hearing held	627
under division (F)(1) of this section, including the notice of	628
the hearing, the conduct of the hearing, the orders issued	629
pursuant to it, the review of the orders, and all other matters	630
relating to the holding of the hearing, but only to the extent	631
that Chapter 119. of the Revised Code is not inconsistent or in	632
conflict with this section.	633

663

664

(b) The notice of a hearing required under this division	634
shall be transmitted by personal service, certified mail, e-	635
mail, or any other method designed to ensure and confirm receipt	636
of the notice, in accordance with sections 119.05 and 119.07 of	637
the Revised Code to the persons and addresses designated to	638
receive notices and correspondence in the information statement	639
filed under division (B)(2) of this section. Confirmation of	640
receipt of the notice, including electronic "Read Receipt"	641
confirmation, shall constitute evidence of compliance with the	642
requirement of this section. The notice of hearing shall include	643
the reasons for the proposed action and a statement informing	644
the acquiring party that the party is entitled to a hearing. The	645
notice also shall inform the acquiring party that at the hearing	646
the acquiring party may appear in person, by attorney, or by	647
such other representative as is permitted to practice before the	648
superintendent, or that the acquiring party may present its	649
position, arguments, or contentions in writing, and that at the	650
hearing the acquiring party may present evidence and examine	651
witnesses appearing for and against the acquiring party. A copy	652
of the notice also shall be transmitted to attorneys or other	653
representatives of record representing the acquiring party.	654
(c) The hearing shall be held at the offices of the	655
superintendent within ten calendar days, but not earlier than	656
seven calendar days, of the date of transmission of the notice	657
of hearing by any means, unless it is postponed or continued;	658
but in no event shall the hearing be held unless notice is	659
received at least three days prior to the hearing. The	660
superintendent may postpone or continue the hearing upon receipt	661

of a written request by an acquiring party, or upon the

superintendent's motion, provided, however, a hearing in

connection with a proposed change of control involving a

depository institution or any affiliate thereof, within the 665 meaning of Title I, section 104(c) of the "Gramm-Leach-Bliley 666 Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999), and a domestic 667 insurer, may be postponed or continued only upon the request of 668 an acquiring party, or upon the superintendent's motion when the 669 acquiring party agrees in writing to extend the sixty-day period 670 provided for in section 104(c) of the "Gramm-Leach-Bliley Act," 671 by a number of days equal to the number of days of such 672 postponement or continuance. 673

(d) For the purpose of conducting any hearing held under 674 this section, the superintendent may require the attendance of 675 such witnesses and the production of such books, records, and 676 papers as the superintendent desires, and may take the 677 depositions of witnesses residing within or without the state in 678 the same manner as is prescribed by law for the taking of 679 depositions in civil actions in the court of common pleas, and 680 for that purpose the superintendent may, and upon the request of 681 an acquiring party shall, issue a subpoena for any witnesses or 682 683 a subpoena duces tecum to compel the production of any books, records, or papers, directed to the sheriff of the county where 684 such witness resides or is found, which shall be served and 685 returned in the same manner as a subpoena in a criminal case is 686 served and returned. The fees of the sheriff shall be the same 687 as that allowed in the court of common pleas in criminal cases. 688 Witnesses shall be paid the fees and mileage provided for under 689 section 119.094 of the Revised Code. Fees and mileage shall be 690 paid from the fund in the state treasury for the use of the 691 superintendent in the same manner as other expenses of the 692 superintendent are paid. In any case of disobedience or neglect 693 of any subpoena served on any person or the refusal of any 694 witness to testify in any matter regarding which the witness may 695

lawfully be interrogated, the court of common pleas of any	696
county where such disobedience, neglect, or refusal occurs or	697
any judge thereof, on application by the superintendent, shall	698
compel obedience by attachment proceedings for contempt, as in	699
the case of disobedience of the requirements of a subpoena	700
issued from the court or a refusal to testify therein.	701

In any hearing held under this section, a record of the 702 testimony, as provided by stenographic means or by use of audio 703 electronic recording devices, as determined by the 704 superintendent, and other evidence submitted shall be taken at 705 the expense of the superintendent. The record shall include all 706 of the testimony and other evidence, and rulings on the 707 admissibility thereof, presented at the hearing. 708

The superintendent shall pass upon the admissibility of evidence, but a party to the proceedings may at that time object to the rulings of the superintendent, and if the superintendent refuses to admit evidence, the party offering the evidence shall proffer the evidence. The proffer shall be made a part of the record of the hearing.

In any hearing held under this section, the superintendent 715 may call any person to testify under oath as upon cross-716 examination. The superintendent, or any one delegated by the 717 superintendent to conduct a hearing, may administer oaths or 718 affirmations.

In any hearing under this section, the superintendent may appoint a hearing officer to conduct the hearing; the hearing officer has the same powers and authority in conducting the hearing as is granted to the superintendent. The hearing officer shall have been admitted to the practice of law in the state and be possessed of any additional qualifications as the

superintendent requires. The hearing officer shall submit to the	726
superintendent a written report setting forth the hearing	727
officer's finding of fact and conclusions of law and a	728
recommendation of the action to be taken by the superintendent.	729
A copy of the written report and recommendation shall, within	730
seven days of the date of filing thereof, be served upon the	731
acquiring party or the acquiring party's attorney or other	732
representative of record, by personal service, certified mail,	733
electronic mail, or any other method designed to ensure and	734
confirm receipt of the report in accordance with section 119.05	735
of the Revised Code. The acquiring party may, within three days	736
of receipt of the copy of the written report and recommendation,	737
file with the superintendent written objections to the report	738
and recommendation, which objections the superintendent shall	739
consider before approving, modifying, or disapproving the	740
recommendation. The superintendent may grant extensions of time	741
to the acquiring party within which to file such objections. No	742
recommendation of the hearing officer shall be approved,	743
modified, or disapproved by the superintendent until after three	744
days following the service of the report and recommendation as	745
provided in this section. The superintendent may order	746
additional testimony to be taken or permit the introduction of	747
further documentary evidence. The superintendent may approve,	748
modify, or disapprove the recommendation of the hearing officer,	749
and the order of the superintendent based on the report,	750
recommendation, transcript of testimony, and evidence, or the	751
objections of the acquiring party, and additional testimony and	752
evidence shall have the same effect as if the hearing had been	753
conducted by the superintendent. No such recommendation is final	754
until confirmed and approved by the superintendent as indicated	755
by the order entered in the record of proceedings, and if the	756
superintendent modifies or disapproves the recommendations of	757

3953.19 of the Revised Code;

(2) Any offer, request, invitation, agreement, or

acquisition that the superintendent by order exempts from this

784

785

786

the hearing officer, the reasons for the modification or	758
disapproval shall be included in the record of proceedings.	759
After the order is entered, the superintendent shall	760
transmit in the manner and by any of the methods set forth in	761
division (F)(2)(b) of this section a certified copy of the order	762
and a statement of the time and method by which an appeal may be	763
perfected. A copy of the order shall be mailed to the attorneys	764
or other representatives of record representing the acquiring	765
party.	766
(e) An order of disapproval issued by the superintendent	767
may be appealed to the court of common pleas in accordance with	768
section 119.12 of the Revised Code by filing a notice of appeal	769
with the superintendent and a copy of the notice of appeal with	770
the court, within fifteen calendar days after the transmittal of	771
the copy of the order of disapproval. The notice of appeal shall	772
set forth the order appealed from and the grounds for appeal, in	773
accordance with section 119.12 of the Revised Code.	774
(3) The superintendent may retain at the acquiring party's	775
expense any attorneys, actuaries, accountants, and other experts	776
not otherwise a part of the superintendent's staff as may be	777
reasonably necessary to assist the superintendent in reviewing	778
the proposed acquisition of control.	779
(G) This section does not apply to either of the	780
following:	781
(1) Any transaction that is subject to section 3921.14, or	782
sections 3925.27 to 3925.31, 3941.35 to 3941.46, or section	783

section on either of the following bases:	787
(a) It has not been made or entered into for the purpose	788
and does not have the effect of changing or influencing the	789
control of a domestic insurer;	790
(b) It is not otherwise comprehended within the purposes	791
of this section.	792
(H) Nothing in this section or in any other section of	793
Title XXXIX of the Revised Code shall be construed to impair the	794
authority of the attorney general to investigate or prosecute	795
actions under any state or federal antitrust law with respect to	796
any merger or other acquisition involving domestic insurers.	797
(I) In connection with a proposed change of control	798
involving a depository institution or any affiliate thereof,	799
within the meaning of Title I, section 104(c) of the "Gramm-	800
Leach-Bliley Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999),	801
and a domestic insurer, not later than sixty days after the date	802
of the notification of the proposed change in control submitted	803
pursuant to division (B)(2) of this section, the superintendent	804
shall make any determination that the person acquiring control	805
of the insurer shall maintain or restore the capital of the	806
insurer to the level required by the laws and regulations of	807
this state.	808
Sec. 3901.36. (A) (1) Documents, materials, or other	809
information in the possession or control of the department of	810
insurance that are obtained by or disclosed to the	811
superintendent of insurance or any other person in the course of	812
an examination or investigation made pursuant to section 3901.35	813
of the Revised Code, all information reported pursuant to	814
divisions (C) (2), (3), and (5) of section 3901.321 of the	815

844

845

Revised Code, and all information reported pursuant to section	816
3901.33 of the Revised Code are recognized by this state as	817
being proprietary and to contain trade secrets and shall be	818
given confidential and privileged treatment and shall not be	819
subject to section 149.43 of the Revised Code, subpoena, or	820
discovery, and shall not be admissible in evidence in any	821
private civil action. The superintendent shall not make the	822
documents, materials, or other information public unless one of	823
the following applies:	824
(a) The superintendent uses the documents, materials, or	825
other information in furtherance of any regulatory or legal	826
action brought as a part of the superintendent's official	827
duties.	828
(b) The superintendent has obtained the prior written	829
consent of the insurer pertaining to the disclosure of the	830
documents, materials, or other information of the insurer.	831
(c) The superintendent, after giving the insurer and those	832
affiliates that are the subject of the documents, materials, or	833
other information notice and an opportunity to be heard in	834
accordance with Chapter 119. of the Revised Code, determines	835
that the interests of policyholders, shareholders, or the public	836
will be served by the disclosure, in which case the	837
superintendent may make disclosures as the superintendent	838
considers appropriate.	839
(2) For purposes of the information reported and provided	840
to the superintendent of insurance pursuant to the group capital	841
calculation requirements prescribed in division (L) of section	842

3901.33 of the Revised Code, the superintendent shall maintain

the confidentiality of the group capital calculation and group

capital ratio produced within the calculation and any group

capital information received from an insurance holding company 846 supervised by the United States federal reserve board or any 847 United States group-wide supervisor. 848

- (3) For purposes of the information reported and provided to the superintendent of insurance pursuant to the liquidity stress test requirements prescribed in division (M) of section 3901.33 of the Revised Code, the superintendent shall maintain the confidentiality of the liquidity stress test results and supporting disclosures and any liquidity stress test information received from an insurance holding company supervised by the United States federal reserve board and non-United States groupwide supervisors.
- (B) Neither the superintendent nor any person who receives documents, materials, or other information while acting under the authority of the superintendent or with whom such documents, materials, or other information are shared pursuant to this section shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to division (A) of this section.
- (C) In order to assist in the performance of the superintendent's duties under this section, the superintendent may do either of the following:
- (1) Share documents, materials, or other information, including the confidential and privileged documents, materials, or other information subject to division (A) of this section, including proprietary and trade secret documents and materials, with other local, state, federal, and international regulatory and law enforcement agencies, with the national association of insurance commissioners, with third-party consultants designated by the superintendent, and with members of any supervisory

college described in section 3901.351 of the Revised Code, 876 provided that the recipient agrees to maintain the confidential 877 or privileged status of the confidential or privileged 878 documents, materials, or other information and has verified in 879 writing the legal authority to do so. The superintendent may 880 share confidential and privileged documents, materials, or other 881 882 information reported pursuant to section 3901.33 of the Revised Code only with superintendents of states having statutes or 883 regulations substantially similar to division (A) of this 884 section and who have agreed in writing not to disclose such 885 information. 886

- (2) Receive documents, materials, or information, 887 including otherwise confidential and privileged documents, 888 materials, or information, including proprietary and trade-889 secret information, from the national association of insurance 890 commissioners and its affiliates and subsidiaries and from 891 regulatory and law enforcement officials of other foreign or 892 domestic jurisdictions. The superintendent shall maintain as 893 confidential or privileged any such document, material, or 894 information received with notice or the understanding that it is 895 confidential or privileged under the laws of the jurisdiction 896 that is the source of the document, material, or information. 897
- (D) The superintendent shall enter into written agreements 898 with the national association of insurance commissioners, and 899 any third-party consultant designated by the superintendent, 900 governing sharing and use of information provided pursuant to 901 sections 3901.32 to 3901.37 of the Revised Code consistent with 902 division (C) of this section. The written agreements shall do 903 all of the following: 904
  - (1) Specify procedures and protocols regarding the

935

confidentiality and security of information shared with the	906
national association of insurance commissioners or a third-party	907
consultant designated by the superintendent pursuant to sections	908
3901.32 to 3901.37 of the Revised Code, including procedures and	909
protocols for sharing by the national association of insurance	910
commissioners with other state, federal, or international	911
regulators. The agreement shall provide that the recipient	912
agrees in writing to maintain the confidentiality and privileged	913
status of the documents, materials, or other information and has	914
verified in writing the legal authority to maintain such	915
confidentiality.	916
(2) Specify that ownership of information shared with the	917
national association of insurance commissioners or a third-party	918
consultant pursuant to sections 3901.32 to 3901.37 of the	919
Revised Code remains with the superintendent and the national	920
association of insurance commissioners' or a third-party	921
consultant's, as designated by the superintendent, use of the	922
information is subject to the direction of the superintendent;	923
(3)(a) Prohibit the national association of insurance	924
commissioners or third-party consultant designated by the	925
superintendent from storing the information shared pursuant to	926
this section in a permanent database after the underlying	927
analysis is completed;	928
(b) Division (D)(3)(a) of this section does not apply to	929
documents, material, or information reported pursuant to the	930
liquidity stress test requirements prescribed in division (M) of	931
section 3901.33 of the Revised Code.	932
(4) Require prompt notice to be given to an insurer whose	933

confidential information is in the possession of the national

association of insurance commissioners or a third-party

961

962

963

964

965

consultant designated by the superintendent pursuant to this	936
section is subject to a request or subpoena to the national	937
association of insurance commissioners or a third-party	938
consultant designated by the superintendent for disclosure or	939
production;	940
(5) Require the national association of insurance	941
commissioners or a third-party consultant designated by the	942
superintendent to consent to intervention by an insurer in any	943
judicial or administrative action in which the national	944
association of insurance commissioners or a third-party	945
consultant designated by the superintendent may be required to	946
disclose confidential information about the insurer shared with	947
the national association of insurance commissioners or a third-	948
party consultant pursuant to sections 3901.32 to 3901.37 of the	949
Revised Code;	950
(6) For documents, material, or information reporting	951
pursuant to the liquidity stress test requirements prescribed in	952
division (M) of section 3901.33 of the Revised Code, in the case	953
of an agreement involving a third-party consultant, provide for	954
notification of the identity of the consultant to the applicable	955
insurers.	956
(E) The sharing of information by the superintendent	957
pursuant to sections 3901.32 to 3901.37 of the Revised Code	958
shall not constitute a delegation of regulatory or rule-making	959
authority. The superintendent is solely responsible for the	960

administration, execution, and enforcement of the provisions of

(F) No waiver of any applicable privilege or claim of

information described in this section shall occur as a result of

sections 3901.32 to 3901.37 of the Revised Code.

confidentiality in the documents, materials, or other

967

sharing or receiving documents and information as authorized in division (C) of this section.

- (G) Documents, materials, or other information in the 968 possession or control of the national association of insurance 969 commissioners or a third-party consultant designated by the 970 superintendent pursuant to this section shall be given 971 confidential and privileged treatment and shall not be subject 972 to section 149.43 of the Revised Code, subpoena, or discovery, 973 and shall not be admissible in evidence in any private civil 974 action. 975
- (H) The group capital calculation and resulting group 976 capital ratio required under division (L) of section 3901.33 of 977 the Revised Code and the liquidity stress test along with its 978 results and supporting disclosures required under division (M) 979 of section 3901.33 of the Revised Code are regulatory tools for 980 assessing group risks and capital adequacy and group liquidity 981 risks, respectively, and are not intended as a means to rank 982 insurers or insurance holding company systems generally. 983

Therefore, except as otherwise may be required under the 984 provisions of sections 3901.31 to 3901.37 of the Revised Code, 985 the making, publishing, disseminating, circulating, or placing 986 before the public, or causing directly or indirectly to be made, 987 published, disseminated, circulated, or placed before the public 988 in a newspaper, magazine or other publication, or in the form of 989 a notice, circular, pamphlet, letter, or poster, or over any 990 radio or television station or any electronic means of 991 communication available to the public, or in any other way as an 992 advertisement, announcement, or statement containing a 993 representation or statement with regard to the group capital 994 995 calculation, group capital ratio, the liquidity stress test

results, or supporting disclosures for the liquidity stress test	996
of any insurer or any insurer group, or of any component derived	997
in the calculation by any insurer, broker, or other person	998
engaged in any manner in the insurance business would be	999
misleading and is therefore prohibited; provided, however, that	1000
if any materially false statement with respect to the group	1001
capital calculation, resulting group capital ratio, an	1002
inappropriate comparison of any amount to an insurer's or	1003
insurance group's group capital calculation or resulting group	1004
capital ratio, liquidity stress test result, supporting	1005
disclosures for the liquidity stress test, or an inappropriate	1006
comparison of any amount to an insurer's or insurance group's	1007
liquidity stress test result or supporting disclosures is	1008
published in any written publication and the insurer is able to	1009
demonstrate to the superintendent with substantial proof the	1010
falsity of such statement or the inappropriateness, as the case	1011
may be, then the insurer may publish announcements in a written	1012
publication if the sole purpose of the announcement is to rebut	1013
the materially false statement.	1014
Sec. 3901.411. (A) As used in this section:	1015
(1) "Health benefit plan" means a policy, contract,	1016
certificate, or agreement entered into, offered, or issued by an	1017
insurer to provide, deliver, arrange for, pay for, or reimburse	1018
any of the costs of health care services, including a vision or	1019
dental benefit plan. "Health benefit plan" does not include any	1020
of the following:	1021
(a) A plan of self-insurance;	1022
(b) Insurance arising out of workers' compensation;	1023

(c) Automobile medical payment insurance;

(d) Insurance under which benefits are payable with or	1025
without regard to fault and which is statutorily required to be	1026
contained in any liability insurance policy or equivalent self-	1027
<pre>insurance;</pre>	1028
(e) A medicare supplement policy of insurance, as defined	1029
by the superintendent of insurance by rule;	1030
(f) Coverage under a plan through medicare, medicaid, or	1031
the federal employees benefit program;	1032
(g) Any coverage issued under Chapter 55 of Title 10 of	1033
the United States Code and any coverage issued as a supplement	1034
to that coverage.	1035
(2) "Health plan issuer" means an entity subject to the	1036
insurance laws and rules of this state, or subject to the	1037
jurisdiction of the superintendent of insurance, that contracts,	1038
or offers to contract, to provide, deliver, arrange for, apply	1039
for, or reimburse any of the costs of health care services under	1040
a health benefit plan.	1041
(3) "Plan sponsor" means a person, other than a health	1042
plan issuer, who establishes, adopts, or maintains a health	1043
benefit plan that covers residents of this state, including a	1044
plan established, adopted, or maintained by an employer or	1045
jointly by an employer and one or more employee organizations,	1046
an association, a committee, a joint board of trustees, or any	1047
similar group of representatives who establish, adopt, or	1048
maintain a plan.	1049
(B) The plan sponsor of a health benefit plan may, on	1050
behalf of individuals covered under the plan, provide consent to	1051
the transmission of all communications related to the plan by	1052
electronic means, as provided in section 3901.41 of the Revised	1053

Code, and to the electronic delivery of any health insurance	1054
identification card required by sections 1739.061, 1751.111,	1055
3923.601, and 3923.83 of the Revised Code.	1056
(C) Defense consorting on behalf of consort individuals	1057
(C) Before consenting on behalf of covered individuals, a	1057
plan sponsor shall confirm that the primary covered individuals	1058
in question routinely use electronic communications during the	1059
normal course of employment.	1060
(D) Before providing delivery by electronic means to a	1061
group of covered individuals, the health plan issuer shall do	1062
both of the following:	1063
(1) Provide the covered individuals an opportunity to opt	1064
out of delivery by electronic means;	1065
(2) Document that the applicable requirements of section	1066
3901.41 of the Revised Code have been met.	1067
Sec. 3903.42. The priority of distribution of claims from	1068
the insurer's estate shall be in accordance with the order in	1069
which each class of claims is set forth in this section. Every	1070
claim in each class shall be paid in full or adequate funds	1071
retained for such payment before the members of the next class	1072
receive any payment. No subclasses shall be established within	1073
any class. The order of distribution of claims shall be:	1074
(A) Class 1. The costs and expenses of administration,	1075
including but not limited to the following:	1076
(1) The actual and necessary costs of preserving or	1077
recovering the assets of the insurer;	1078
(2) Compensation for all services rendered in the	1079
liquidation;	1080
(3) Any necessary filing fees;	1081

(4) The fees and mileage payable to witnesses;	1082
(5) Reasonable attorney's fees;	1083
(6) The reasonable expenses of a guaranty association or	1084
foreign guaranty association in handling claims.	1085
(B) Class 2. All claims under policies for losses	1086
incurred, including third party claims, all claims of contracted	1087
providers against a medicaid health insuring corporation for	1088
covered health care services provided to medicaid recipients,	1089
all claims against the insurer for liability for bodily injury	1090
or for injury to or destruction of tangible property that are	1091
not under policies, and all claims of a guaranty association or	1092
foreign guaranty association. All claims under life insurance	1093
and , annuity policies, and funding agreements, whether for	1094
death proceeds, annuity proceeds, or investment values,	1095
principal, or interest, shall be treated as loss claims. That	1096
portion of any loss, indemnification for which is provided by	1097
other benefits or advantages recovered by the claimant, shall	1098
not be included in this class, other than benefits or advantages	1099
recovered or recoverable in discharge of familial obligations of	1100
support or by way of succession at death or as proceeds of life	1101
insurance, or as gratuities. No payment by an employer to an	1102
employee shall be treated as a gratuity. Claims under	1103
nonassessable policies for unearned premium or other premium	1104
refunds.	1105
(C) Class 3. Claims of the federal government.	1106
(D) Class 4. Debts due to employees for services performed	1107
to the extent that they do not exceed one thousand dollars and	1108
represent payment for services performed within one year before	1109
the filing of the complaint for liquidation. Officers and	1110

directors shall not be entitled to the benefit of this priority.	1111
Such priority shall be in lieu of any other similar priority	1112
that may be authorized by law as to wages or compensation of	1113
employees.	1114
(E) Class 5. Claims of general creditors.	1115
(F) Class 6. Claims of any state or local government.	1116
Claims, including those of any state or local governmental body	1117
for a penalty or forfeiture, shall be allowed in this class only	1118
to the extent of the pecuniary loss sustained from the act,	1119
transaction, or proceeding out of which the penalty or	1120
forfeiture arose, with reasonable and actual costs occasioned	1121
thereby. The remainder of such claims shall be postponed to the	1122
class of claims under division (J) of this section.	1123
(G) Class 7. Claims filed late or any other claims other	1124
than claims under divisions $(H)$ , $(I)$ , and $(J)$ of this section.	1125
(H) Class 8. Surplus or contribution notes, or similar	1126
obligations, and premium refunds on assessable policies.	1127
Payments to members of domestic mutual insurance companies shall	1128
be limited in accordance with law.	1129
(I) Class 9. Interest at the legal rate compounded	1130
annually on all claims in the classes prescribed in divisions	1131
(A) to (H) of this section, except for claims of the federal	1132
government, from the date of the order for liquidation or the	1133
date on which the claim becomes due, whichever is later, until	1134
the date on which the interest or dividend is declared,	1135
according to the terms of a plan proposed by the liquidator and	1136
approved by the court supervising the liquidation. The	1137
liquidator, with the approval of the court, may make reasonable	1138
approximate computations of interest to be paid under this	1139

division.	1140
(J) Class 10. The claims of shareholders or other owners.	1141
If any provision of this section or the application of any	1142
provision of this section to any person or circumstance is held	1143
invalid, the invalidity does not affect other provisions or	1144
applications of this section, and to this end the provisions are	1145
severable.	1146
(K) As used in sections 3903.42 and 3903.421 of the	1147
Revised Code, "contracted provider" and "medicaid recipient"	1148
have the same meanings as in section 3903.14 of the Revised	1149
Code.	1150
Sec. 3905.14. (A) As used in sections 3905.14 to 3905.16	1151
of the Revised Code:	1152
(1) "Insurance agent" includes a limited lines insurance	1153
agent, surety bail bond agent, and surplus line broker.	1154
(2) "Refusal to issue or renew" means the decision of the	1155
superintendent of insurance not to process either the initial	1156
application for a license as an agent or the renewal of such a	1157
license.	1158
(3) "Revocation" means the permanent termination of all	1159
authority to hold any license as an agent in this state.	1160
(4) "Surrender for cause" means the voluntary termination	1161
of all authority to hold any license as an agent in this state,	1162
in lieu of a revocation or suspension order.	1163
(5) "Suspension" means the termination of all authority to	1164
hold any license as an agent in this state, for either a	1165
specified period of time or an indefinite period of time and	1166
under any terms or conditions determined by the superintendent.	1167

(B) The superintendent may, except as provided in division	1168
(C) of this section, suspend, revoke, or refuse to issue or	1169
renew any license of an insurance agent, assess a civil penalty,	1170
or impose any other sanction or sanctions authorized under this	1171
chapter, for one or more of the following reasons:	1172
(1) Providing incorrect, misleading, incomplete, or	1173
materially untrue information in a license or appointment	1174
application;	1175
(2) Violating or failing to comply with any insurance law,	1176
rule, subpoena, consent agreement, or order of the	1177
superintendent or of the insurance authority of another state;	1178
(3) Obtaining, maintaining, or attempting to obtain or	1179
maintain a license through misrepresentation or fraud;	1180
(4) Improperly withholding, misappropriating, or	1181
converting any money or property received in the course of doing	1182
insurance business;	1183
(5) Intentionally misrepresenting the terms, benefits,	1184
value, cost, or effective dates of any actual or proposed	1185
insurance contract or application for insurance;	1186
(6) Having been convicted of or pleaded guilty or no	1187
contest to a felony regardless of whether a judgment of	1188
conviction has been entered by the court;	1189
(7) Having been convicted of or pleaded guilty or no	1190
contest to a misdemeanor that involves the misuse or theft of	1191
money or property belonging to another, fraud, forgery,	1192
dishonest acts, or breach of a fiduciary duty, that is based on	1193
any act or omission relating to the business of insurance,	1194
securities, or financial services, or that involves moral	1195
turpitude regardless of whether a judgment has been entered by	1196

the court;	1197
(8) Having admitted to committing, or having been found to	1198
have committed, any insurance unfair trade act or practice or	1199
insurance fraud;	1200
(9) Using fraudulent, coercive, or dishonest practices, or	1201
demonstrating incompetence, untrustworthiness, or financial	1202
irresponsibility, in the conduct of business in this state or	1203
elsewhere;	1204
(10) Having an insurance agent license, or its equivalent,	1205
denied, suspended, or revoked in any other state, province,	1206
district, or territory;	1207
(11) Forging or causing the forgery of an application for	1208
insurance or any document related to or used in an insurance	1209
transaction;	1210
(12) Improperly using notes, any other reference material,	1211
equipment, or devices of any kind to complete an examination for	1212
an insurance agent license;	1213
(13) Knowingly accepting insurance business from an	1214
<pre>individual who is not licensed;</pre>	1215
(14) Failing to comply with any official invoice, notice,	1216
assessment, or order directing payment of federal, state, or	1217
local income tax, state or local sales tax, or workers'	1218
compensation premiums;	1219
(15) Failing to timely submit an application for	1220
insurance. For purposes of division (B)(15) of this section, a	1221
submission is considered timely if it occurs within the time	1222
period expressly provided for by the insurer, or within seven	1223
days after the insurance agent accepts a premium or an order to	1224

bind coverage from a policyholder or applicant for insurance,	1225
whichever is later.	1226
(16) Failing to disclose to an applicant for insurance or	1227
policyholder upon accepting a premium or an order to bind	1228
coverage from the applicant or policyholder, that the person has	1229
not been appointed by the insurer;	1230
(17) Having any professional license or financial industry	1231
regulatory authority registration suspended or revoked or having	1232
been barred from participation in any industry;	1233
(18) Having been subject to a cease and desist order or	1234
permanent injunction related to mishandling of funds or breach	1235
of fiduciary responsibilities or for unlicensed or unregistered	1236
activities;	1237
(19) Causing or permitting a policyholder or applicant for	1238
insurance to designate the insurance agent or the insurance	1239
agent's spouse, parent, child, or sibling as the beneficiary of	1240
a policy or annuity sold by the insurance agent or of a policy	1241
or annuity for which the agent, at any time, was designated as	1242
the agent of record, unless the insurance agent or a relative of	1243
the insurance agent is the insured or applicant;	1244
(20) Causing or permitting a policyholder or applicant for	1245
insurance to designate the insurance agent or the insurance	1246
agent's spouse, parent, child, or sibling as the owner or	1247
beneficiary of a trust funded, in whole or in part, by a policy	1248
or annuity sold by the insurance agent or by a policy or annuity	1249
for which the agent, at any time, was designated as the agent of	1250
record, unless the insurance agent or a relative of the	1251
insurance agent is the insured or applicant;	1252
(21) Failing to provide a written response to the	1253

department of insurance within twenty-one calendar days after	1254
receipt of any written inquiry from the department, unless a	1255
reasonable extension of time has been requested of, and granted	1256
by, the superintendent or the superintendent's designee;	1257
(22) Failing to appear to answer questions before the	1258
superintendent after being notified in writing by the	1259
superintendent of a scheduled interview, unless a reasonable	1260
extension of time has been requested of, and granted by, the	1261
superintendent or the superintendent's designee;	1262
(23) Transferring or placing insurance with an insurer	1263
other than the insurer expressly chosen by the applicant for	1264
insurance or policyholder without the consent of the applicant	1265
or policyholder or absent extenuating circumstances;	1266
(24) Failing to inform a policyholder or applicant for	1267
insurance of the identity of the insurer or insurers, or the	1268
identity of any other insurance agent or licensee known to be	1269
involved in procuring, placing, or continuing the insurance for	1270
the policyholder or applicant, upon the binding of the coverage;	1271
(25) In the case of an agent that is a business entity,	1272
failing to report an individual licensee's violation to the	1273
department when the violation was known or should have been	1274
known by one or more of the partners, officers, managers, or	1275
members of the business entity;	1276
(26) Submitting or using a document in the conduct of the	1277
business of insurance when the person knew or should have known	1278
that the document contained a writing that was forged as defined	1279
in section 2913.01 of the Revised Code;	1280
(27) Misrepresenting the person's qualifications, status	1281
or relationship to another person, agency, or entity, or using	1282

in any way a professional designation that has not been	1283
conferred upon the person by the appropriate accrediting	1284
organization;	1285
(28) Obtaining a premium loan or policy surrender or	1286
causing a premium loan or policy surrender to be made to or in	1287
the name of an insured or policyholder without that person's	1288
knowledge and written authorization;	1289
(29) Using paper, software, or any other materials of or	1290
provided by an insurer after the insurer has terminated the	1291
authority of the licensee, if the use of such materials would	1292
cause a reasonable person to believe that the licensee was	1293
acting on behalf of or otherwise representing the insurer;	1294
(30) Soliciting, procuring an application for, or placing,	1295
either directly or indirectly, any insurance policy when the	1296
person is not authorized under this chapter to engage in such	1297
activity;	1298
(31) Soliciting, selling, or negotiating any product or	1299
service that offers benefits similar to insurance but is not	1300
regulated by the superintendent, without fully disclosing,	1301
orally and in writing, to the prospective purchaser that the	1302
product or service is not insurance and is not regulated by the	1303
superintendent;	1304
(32) Failing to fulfill a refund obligation to a	1305
policyholder or applicant in a timely manner. For purposes of	1306
division (B)(32) of this section, a rebuttable presumption	1307
exists that a refund obligation is not fulfilled in a timely	1308
manner unless it is fulfilled within one of the following time	1309
periods:	1310
(a) Thirty days after the date the policyholder,	1311

applicant, or insurer takes or requests action resulting in a	1312
refund;	1313
(b) Thirty days after the date of the insurer's refund	1314
check, if the agent is expected to issue a portion of the total	1315
refund;	1316
(c) Forty-five days after the date of the agent's	1317
statement of account on which the refund first appears.	1318
The presumption may be rebutted by proof that the	1319
policyholder or applicant consented to the delay or agreed to	1320
permit the agent to apply the refund to amounts due for other	1321
coverages.	1322
(33) With respect to a surety bail bond agent license,	1323
rebating or offering to rebate, or unlawfully dividing or	1324
offering to divide, any commission, premium, or fee;	1325
(34) Using a license for the principal purpose of	1326
procuring, receiving, or forwarding applications for insurance	1327
of any kind, other than life, or soliciting, placing, or	1328
effecting such insurance directly or indirectly upon or in	1329
connection with the property of the licensee or that of	1330
relatives, employers, employees, or that for which they or the	1331
licensee is an agent, custodian, vendor, bailee, trustee, or	1332
payee;	1333
(35) In the case of an insurance agent that is a business	1334
entity, using a life license for the principal purpose of	1335
soliciting or placing insurance on the lives of the business	1336
entity's officers, employees, or shareholders, or on the lives	1337
of relatives of such officers, employees, or shareholders, or on	1338
the lives of persons for whom they, their relatives, or the	1339
business entity is agent, custodian, vendor, bailee, trustee, or	1340

payee;	1341
(36) Offering, selling, soliciting, or negotiating	1342
policies, contracts, agreements, or applications for insurance,	1343
or annuities providing fixed, variable, or fixed and variable	1344
benefits, or contractual payments, for or on behalf of any	1345
insurer or multiple employer welfare arrangement not authorized	1346
to transact business in this state, or for or on behalf of any	1347
spurious, fictitious, nonexistent, dissolved, inactive,	1348
liquidated or liquidating, or bankrupt insurer or multiple	1349
employer welfare arrangement;	1350
(37) In the case of a resident business entity, failing to	1351
be qualified to do business in this state under Title XVII of	1352
the Revised Code, failing to be in good standing with the	1353
secretary of state, or failing to maintain a valid appointment	1354
of statutory agent with the secretary of state;	1355
(38) In the case of a nonresident agent, failing to	1356
maintain licensure as an insurance agent in the agent's home	1357
state for the lines of authority held in this state;	1358
(39) Knowingly aiding and abetting another person or	1359
entity in the violation of any insurance law of this state or	1360
the rules adopted under it.	1361
(C) The superintendent shall not refuse to issue a license	1362
to an applicant because of a conviction of or plea of guilty or	1363
no contest to an offense unless the refusal is in accordance	1364
with section 9.79 of the Revised Code.	1365
$\frac{(D)}{(D)}$ (D) (1) Before denying, revoking, suspending, or	1366
refusing to issue any license or imposing any penalty under this	1367
section, the superintendent shall provide the licensee or	1368
applicant with notice and an opportunity for hearing as provided	1369

in Chapter 119. of the Revised Code, except as follows:	1370
(1)(a) Any notice of opportunity for hearing, the hearing	1371
officer's findings and recommendations, or the superintendent's-	1372
order shall be served by certified mail at the last known-	1373
address of the licensee or applicant. Service shall be evidenced	1374
by return receipt signed by any person.	1375
For purposes of this section, the "last known address" is	1376
the residential address of a licensee or applicant, or the-	1377
principal place of business address of a business entity, that	1378
is contained in the licensing records of the department.	1379
(b) If the certified mail envelope is returned with an-	1380
endorsement showing that service was refused, or that the	1381
envelope was unclaimed, the notice and all subsequent notices-	1382
required by Chapter 119. of the Revised Code may be served by	1383
ordinary mail to the last known address of the licensee or	1384
applicant. The mailing shall be evidenced by a certificate of	1385
mailing. Service is deemed complete as of the date of such-	1386
certificate provided that the ordinary mail envelope is not-	1387
returned by the postal authorities with an endorsement showing	1388
failure of delivery. The time period in which to request a	1389
hearing, as provided in Chapter 119. of the Revised Code, begins	1390
to run on the date of mailing.	1391
(c) If service by ordinary mail fails, the superintendent	1392
may cause a summary of the substantive provisions of the notice-	1393
to be published once a week for three consecutive weeks in a	1394
newspaper of general circulation in the county where the last-	1395
known place of residence or business of the party is located.	1396
The notice is considered served on the date of the third-	1397
publication.	1398

(d) Any notice required to be served under Chapter 119. of	1399
the Revised Code shall also be served upon the party's attorney	1400
by ordinary mail if the attorney has entered an appearance in	1401
the matter.	1402
(e) The superintendent may, at any time, perfect service	1403
on a party by personal delivery of the notice by an employee of-	1404
the department.	1405
$\frac{(f)-(2)}{(2)}$ Notices regarding the scheduling of hearings and	1406
all other matters <del>not described in division (D)(1)(a) of this</del>	1407
section for which Chapter 119. of the Revised Code does not	1408
require a particular type of service shall be sent by ordinary	1409
mail to the party and to the party's attorney.	1410
$\frac{(2)-(3)}{(3)}$ Any subpoena for the appearance of a witness or	1411
the production of documents or other evidence at a hearing, or	1412
for the purpose of taking testimony for use at a hearing, shall	1413
be served by certified mail, return receipt requested, by an	1414
attorney or by an employee of the department designated by the	1415
superintendent. Such subpoenas shall be enforced in the manner	1416
provided in section 119.09 of the Revised Code. Nothing in this	1417
section shall be construed as limiting the superintendent's	1418
other statutory powers to issue subpoenas.	1419
(E) If the superintendent determines that a violation	1420
described in this section has occurred, the superintendent may	1421
take one or more of the following actions:	1422
(1) Assess a civil penalty in an amount not exceeding	1423
twenty-five thousand dollars per violation;	1424
(2) Assess administrative costs to cover the expenses	1425
incurred by the department in the administrative action,	1426
including costs incurred in the investigation and hearing	1427

processes. Any costs collected shall be paid into the state	1428
treasury to the credit of the department of insurance operating	1429
fund created in section 3901.021 of the Revised Code.	1430
(3) Suspend all of the person's licenses for all lines of	1431
insurance for either a specified period of time or an indefinite	1432
period of time and under such terms and conditions as the	1433
superintendent may determine;	1434
(4) Permanently revoke all of the person's licenses for	1435
all lines of insurance;	1436
(5) Refuse to issue a license;	1437
(6) Refuse to renew a license;	1438
(7) Prohibit the person from being employed in any	1439
capacity in the business of insurance and from having any	1440
financial interest in any insurance agency, company, surety bail	1441
bond business, or third-party administrator in this state. The	1442
superintendent may, in the superintendent's discretion,	1443
determine the nature, conditions, and duration of such	1444
restrictions.	1445
(8) Order corrective actions in lieu of or in addition to	1446
the other penalties listed in division (E) of this section. Such	1447
an order may provide for the suspension of civil penalties,	1448
license revocation, license suspension, or refusal to issue or	1449
renew a license if the licensee complies with the terms and	1450
conditions of the corrective action order.	1451
(9) Accept a surrender for cause offered by the licensee,	1452
which shall be for at least five years and shall prohibit the	1453
licensee from seeking any license authorized under this chapter	1454
during that time period. A surrender for cause shall be in lieu	1455
of revocation or suspension and may include a corrective action	1456

order as provided in division (E)(8) of this section.	1457
(F) The superintendent may consider the following factors	1458
in denying a license, imposing suspensions, revocations, fines,	1459
or other penalties, and issuing orders under this section:	1460
(1) Whether the person acted in good faith;	1461
(2) Whether the person made restitution for any pecuniary	1462
losses suffered by other persons as a result of the person's	1463
actions;	1464
(3) The actual harm or potential for harm to others;	1465
(4) The degree of trust placed in the person by, and the	1466
vulnerability of, persons who were or could have been adversely	1467
affected by the person's actions;	1468
(5) Whether the person was the subject of any previous	1469
administrative actions by the superintendent;	1470
(6) The number of individuals adversely affected by the	1471
person's acts or omissions;	1472
(7) Whether the person voluntarily reported the violation,	1473
and the extent of the person's cooperation and acceptance of	1474
responsibility;	1475
(8) Whether the person obstructed or impeded, or attempted	1476
to obstruct or impede, the superintendent's investigation;	1477
(9) The person's efforts to conceal the misconduct;	1478
(10) Remedial efforts to prevent future violations;	1479
(11) If the person was convicted of a criminal offense,	1480
the nature of the offense, whether the conviction was based on	1481
acts or omissions taken under any professional license, whether	1482
the offense involved the breach of a fiduciary duty, the amount	1483

of time that has passed, and the person's activities subsequent	1484
to the conviction;	1485
(12) Such other factors as the superintendent determines	1486
to be appropriate under the circumstances.	1487
	1 400
(G) (1) A violation described in division (B) (1), (2), (3), (4) $(5)$ $(6)$ $(7)$ $(9)$ $(10)$ $(11)$ $(12)$ $(13)$ $(14)$	1488
(4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (16), (17), (10), (10), (20), (20), (21), (25), (26)	1489
(16), (17), (18), (19), (20), (22), (23), (24), (25), (26),	1490
(27), (28), (29), (30), (31), (32), (33), (34), (35), or (36) of	1491
this section is a class A offense for which the superintendent	1492
may impose any penalty set forth in division (E) of this	1493
section.	1494
(2) A violation described in division (B)(15) or (21) of	1495
this section, or a failure to comply with section 3905.061,	1496
3905.071, or 3905.22 of the Revised Code, is a class B offense	1497
for which the superintendent may impose any penalty set forth in	1498
division $(E)(1)$ , $(2)$ , $(8)$ , or $(9)$ of this section.	1499
(3) If the superintendent determines that a violation	1500
described in division (B)(36) of this section has occurred, the	1501
superintendent shall impose a minimum of a two-year suspension	1502
on all of the person's licenses for all lines of insurance.	1503
(H) If a violation described in this section has caused,	1504
is causing, or is about to cause substantial and material harm,	1505
the superintendent may issue an order requiring that person to	1506
cease and desist from engaging in the violation. Notice of the	1507
order shall be mailed by certified mail, return receipt	1508
requested, or served in any other manner provided for in this	1509
section, immediately after its issuance to the person subject to	1510
the order and to all persons known to be involved in the	1511
violation. The superintendent may thereafter publicize or	1512

otherwise make known to all interested parties that the order	1513
has been issued.	1514
The notice shall specify the particular act, omission,	1515
practice, or transaction that is subject to the cease-and-desist	1516
order and shall set a date, not more than fifteen days after the	1517
date of the order, for a hearing on the continuation or	1517
revocation of the order. The person shall comply with the order	1519
immediately upon receipt of notice of the order.	1520
The superintendent may, upon the application of a party	1521
and for good cause shown, continue the hearing. Chapter 119. of	1522
the Revised Code applies to such hearings to the extent that	1523
that chapter does not conflict with the procedures set forth in	1524
this section. The superintendent shall, within fifteen days	1525
after objections are submitted to the hearing officer's report	1526
and recommendation, issue a final order either confirming or	1527
revoking the cease-and-desist order. The final order may be	1528
appealed as provided under section 119.12 of the Revised Code.	1529
The remedy under this division is cumulative and	1530
concurrent with the other remedies available under this section.	1531
(I) If the superintendent has reasonable cause to believe	1532
that an order issued under this section has been violated in	1533
whole or in part, the superintendent may request the attorney	1534
general to commence and prosecute any appropriate action or	1535
proceeding in the name of the state against such person.	1536
The court may, in an action brought pursuant to this	1537
division, impose any of the following:	1538
(1) For each violation, a civil penalty of not more than	1539
twenty-five thousand dollars;	1540
(2) Injunctive relief;	1541

(3) Restitution;	1542
(4) Any other appropriate relief.	1543
(J) With respect to a surety bail bond agent license:	1544
(1) Upon the suspension or revocation of a license, or the	1545
eligibility of a surety bail bond agent to hold a license, the	1546
superintendent likewise may suspend or revoke the license or	1547
eligibility of any surety bail bond agent who is employed by or	1548
associated with that agent and who knowingly was a party to the	1549
act that resulted in the suspension or revocation.	1550
(2) The superintendent may revoke a license as a surety	1551
bail bond agent if the licensee is adjudged bankrupt.	1552
(K) Nothing in this section shall be construed to create	1553
or imply a private cause of action against an agent or insurer.	1554
Sec. 3916.15. (A) The superintendent of insurance may,	1555
except as provided in division (B) of this section, refuse to	1556
issue or may suspend, revoke, or refuse to renew the license of	1557
a viatical settlement provider or viatical settlement broker, if	1558
the superintendent finds that any of the following apply:	1559
(1) There was a material misrepresentation in the	1560
application for the license.	1561
(2) The applicant or licensee or any officer, partner,	1562
member, key management personnel, or designee of the applicant	1563
or licensee has been convicted of fraudulent or dishonest	1564
practices, is subject to a final administrative action in	1565
another state, has been the subject of an administrative or	1566
civil action brought by the department of commerce, division of	1567
securities, or is otherwise shown to be untrustworthy or	1568

(3) The licensee is a viatical settlement provider that	1570
demonstrates a pattern of unreasonable payments to viators.	1571
(4) The licensee or any officer, partner, member, key	1572
management personnel, or designee of the licensee has been	1573
convicted of or has pleaded guilty or no contest to a felony or	1574
to a misdemeanor involving fraud, moral turpitude, dishonesty,	1575
or breach of trust, regardless of whether a judgment of	1576
conviction has been entered by the court.	1577
(5) The licensee is a viatical settlement provider that	1578
has used a viatical settlement contract form that has not been	1579
approved under this chapter.	1580
(6) The licensee is a viatical settlement provider that	1581
has failed to honor contractual obligations set out in a	1582
viatical settlement contract.	1583
(7) The licensee no longer meets the requirements for	1584
initial licensure.	1585
(8) The licensee is a viatical settlement provider that	1586
has assigned, transferred, or pledged a viaticated policy to a	1587
person that the licensee knew or should have known was not one	1588
of the following:	1589
(a) A viatical settlement provider licensed in this state;	1590
(b) A viatical settlement purchaser;	1591
(c) A qualified institutional buyer;	1592
(d) A financing entity;	1593
(e) A special purpose entity;	1594
(f) A related provider trust.	1595
(9) The licensee or any officer, partner, member, key	1596

management personnel, or designee of the licensee has violated	1597
any provision of this chapter or any rule adopted under this	1598
chapter.	1599
(10) The licensee or any officer, partner, member, key	1600
management personnel, or designee of the licensee has committed	1601
any coercive, fraudulent, or dishonest act, or made any untrue,	1602
deceptive, or misleading statement, in connection with a	1603
viatical settlement transaction or a proposed viatical	1604
settlement transaction.	1605
(B) The superintendent shall not refuse to issue a license	1606
to an applicant because of a conviction of or plea of guilty or	1607
no contest to an offense unless the refusal is in accordance	1608
with section 9.79 of the Revised Code.	1609
$\frac{(C)}{(C)}$ (C) (1) Before the superintendent refuses to issue a	1610
license under this chapter, or suspends, revokes, or refuses to	1611
renew the license of a viatical settlement provider or viatical	1612
settlement broker, the superintendent shall provide the licensee	1613
or applicant with notice and an opportunity for hearing as	1614
provided in Chapter 119. of the Revised Code, except as follows:	1615
(1)(a) Any notice of opportunity for hearing, the hearing	1616
officer's findings and recommendations, or the superintendent's	1617
order shall be served by certified mail at the last known-	1618
address of the licensee or applicant. Service shall be evidenced	1619
by return receipt signed by any person.	1620
For purposes of this section, the "last known address" is	1621
the address that appears in the licensing records of the	1622
department of insurance.	1623
(b) If the certified mail envelope is returned with an	1624
endorsement showing that service was refused, or that the	1625

envelope was unclaimed, the notice and all subsequent notices	1626
required by Chapter 119. of the Revised Code may be served by	1627
ordinary mail to the last known address of the licensee or-	1628
applicant. The mailing shall be evidenced by a certificate of	1629
mailing. Service is deemed complete as of the date of such-	1630
certificate provided that the ordinary mail envelope is not-	1631
returned by the postal authorities with an endorsement showing-	1632
failure of delivery. The time period in which to request a	1633
hearing, as provided in Chapter 119. of the Revised Code, begins-	1634
to run on the date of mailing.	1635
(c) If service by ordinary mail fails, the superintendent	1636
shall cause a summary of the substantive provisions of the	1637
notice to be published once a week for three consecutive weeks-	1638
in a newspaper of general circulation in the county where the	1639
last known place of residence or business of the licensee or	1640
applicant is located. The notice is considered served on the	1641
applicant is located. The notice is considered served on the date of the third publication.	1641 1642
	-
date of the third publication.	1642
date of the third publication.  (d) Any notice required to be served under Chapter 119. of	1642
date of the third publication.  (d) Any notice required to be served under Chapter 119. of the Revised Code shall also be served upon the attorney of the	1642 1643 1644
date of the third publication.  (d) Any notice required to be served under Chapter 119. of the Revised Code shall also be served upon the attorney of the licensee or applicant by ordinary mail if the attorney has entered an appearance in the matter.	1642 1643 1644 1645
date of the third publication.  (d) Any notice required to be served under Chapter 119. of the Revised Code shall also be served upon the attorney of the licensee or applicant by ordinary mail if the attorney has	1642 1643 1644 1645 1646
date of the third publication.  (d) Any notice required to be served under Chapter 119. of the Revised Code shall also be served upon the attorney of the licensee or applicant by ordinary mail if the attorney has entered an appearance in the matter.  (e) The superintendent may, at any time, perfect service	1642 1643 1644 1645 1646
date of the third publication.  (d) Any notice required to be served under Chapter 119. of the Revised Code shall also be served upon the attorney of the licensee or applicant by ordinary mail if the attorney has entered an appearance in the matter.  (e) The superintendent may, at any time, perfect service on a licensee or applicant by personal delivery of the notice by an employee of the department.	1642 1643 1644 1645 1646 1647 1648 1649
date of the third publication.  (d) Any notice required to be served under Chapter 119. of the Revised Code shall also be served upon the attorney of the licensee or applicant by ordinary mail if the attorney has entered an appearance in the matter.  (e) The superintendent may, at any time, perfect service on a licensee or applicant by personal delivery of the notice by an employee of the department.  (f) (2) Notices regarding the scheduling of hearings and	1642 1643 1644 1645 1646 1647 1648 1649
date of the third publication.  (d) Any notice required to be served under Chapter 119. of the Revised Code shall also be served upon the attorney of the licensee or applicant by ordinary mail if the attorney has entered an appearance in the matter.  (e) The superintendent may, at any time, perfect service on a licensee or applicant by personal delivery of the notice by an employee of the department.  (f) (2) Notices regarding the scheduling of hearings and all other matters not described in division (C)(1)(a) of this	1642 1643 1644 1645 1646 1647 1648 1649 1650 1651
date of the third publication.  (d) Any notice required to be served under Chapter 119. of the Revised Code shall also be served upon the attorney of the licensee or applicant by ordinary mail if the attorney has entered an appearance in the matter.  (e) The superintendent may, at any time, perfect service on a licensee or applicant by personal delivery of the notice by an employee of the department.  (f) (2) Notices regarding the scheduling of hearings and all other matters not described in division (C)(1)(a) of this section for which Chapter 119. of the Revised Code does not	1642 1643 1644 1645 1646 1647 1648 1649 1650 1651 1652
date of the third publication.  (d) Any notice required to be served under Chapter 119. of the Revised Code shall also be served upon the attorney of the licensee or applicant by ordinary mail if the attorney has entered an appearance in the matter.  (e) The superintendent may, at any time, perfect service on a licensee or applicant by personal delivery of the notice by an employee of the department.  (f)—(2) Notices regarding the scheduling of hearings and all other matters not described in division (C)(1)(a) of this section—for which Chapter 119. of the Revised Code does not require a particular type of service shall be sent by ordinary	1642 1643 1644 1645 1646 1647 1648 1649 1650 1651 1652 1653
date of the third publication.  (d) Any notice required to be served under Chapter 119. of the Revised Code shall also be served upon the attorney of the licensee or applicant by ordinary mail if the attorney has entered an appearance in the matter.  (e) The superintendent may, at any time, perfect service on a licensee or applicant by personal delivery of the notice by an employee of the department.  (f) (2) Notices regarding the scheduling of hearings and all other matters not described in division (C)(1)(a) of this section for which Chapter 119. of the Revised Code does not	1642 1643 1644 1645 1646 1647 1648 1649 1650 1651 1652

$\frac{(2)-(3)}{(3)}$ Any subpoena for the appearance of a witness or	1656
the production of documents or other evidence at a hearing, or	1657
for the purpose of taking testimony for use at a hearing, shall	1658
be served by certified mail, return receipt requested, by an	1659
attorney or by an employee of the department designated by the	1660
superintendent. Such subpoenas shall be enforced in the manner	1661
provided in section 119.09 of the Revised Code. Nothing in this	1662
section shall be construed as limiting the superintendent's	1663
other statutory powers to issue subpoenas.	1664
Sec. 3929.41. The purposes of sections 3929.41 to 3929.49	1665
of the Revised Code are to:	1666
(A) Assure stability in the property insurance market <del>-for-</del>	1667
property located in urban areas of the state;	1668
(B) Assure the availability of basic property insurance as	1669
defined by sections 3929.41 to 3929.49 of the Revised Code;	1670
(C) Assure the availability, at the option of the	1671
applicant, of homeowners insurance as defined in division (B) of	1672
section 3929.42 of the Revised Code;	1673
(D) Encourage maximum use, in obtaining basic property	1674
insurance, of the normal insurance market provided by authorized	1675
insurers;	1676
(E) Provide for the equitable distribution among	1677
authorized insurers of the responsibility for insuring eligible	1678
property, for which basic property insurance cannot be obtained	1679
through the normal insurance market;	1680
(F) Authorize the establishment of a FAIR plan (fair	1681
access to insurance requirements), and the Ohio fair plan	1682
underwriting association.	1683

Sec. 3929.42. As used in sections 3929.41 to 3929.49 of	1684
the Revised Code, or any regulations adopted pursuant thereto:	1685
(A) "Basic property insurance" means insurance against	1686
direct loss to property as defined and limited in standard fire	1687
policies and extended coverage endorsements thereon, as approved	1688
by the superintendent of insurance, and insurance for such	1689
types, classes and locations of property against the perils of	1690
vandalism, malicious mischief, burglary, or theft, as the	1691
superintendent shall designate. Such insurance shall not include	1692
automobile insurance nor insurance on such types of	1693
manufacturing risks as may be excluded by the superintendent.	1694
(B) "Homeowners insurance" means insurance on owner-	1695
occupied dwellings providing personal multi-peril property and	1696
liability coverages commonly known as homeowners insurance, and	1697
is subject to such reasonable underwriting standards,	1698
exclusions, deductibles, rates, and conditions as are	1699
customarily used by member insurers for similar coverages.	1700
(C) "Insurer" includes any insurance company or group of	1701
companies under common ownership which is authorized to engage	1702
in the business of property insurance in this state.	1703
(D) "Association" means the Ohio fair plan underwriting	1704
association created by section 3929.43 of the Revised Code.	1705
(E) "Urban area" means this state or any municipality, or	1706
any other political subdivision or part thereof, as designated	1707
by the superintendent of insurance, or by the association with	1708
the approval of the superintendent.	1709
(F) "Fair plan" means a plan to assure fair access to	1710
insurance requirements.	1711
(G) (F) "Premiums written" means gross direct premiums,	1712

including that portion of premium which is attributable to a	1713
riot loading or factor, excluding that portion of premium on	1714
risks ceded to the association, charged with respect to property	1715
in the state on all policies of basic property insurance and	1716
homeowners insurance and the basic property insurance premium	1717
components of all multi-peril policies, as computed by the	1718
association, covering property in this state, less all premiums	1719
and dividends returned, paid, or credited to policyholders, or	1720
the unused or unabsorbed portions of premium deposits.	1721

(H) (G) "Inspection bureau" means any fire insurance 1722 rating bureau or other organization designated by the 1723 association, with the approval of the superintendent of 1724 insurance, to perform inspections to determine the condition of 1725 the properties for which the to assist in the collection of 1726 information necessary to determine eligibility and rating for 1727 basic property insurance or homeowners insurance is sought and 1728 to perform such other duties as may be authorized by the-1729 association with the approval of the superintendent. 1730

Sec. 3929.43. (A) The Ohio fair plan underwriting 1731 association is hereby created consisting of all insurers 1732 authorized to write within this state, on a direct basis, basic 1733 property insurance or any component thereof in multi-peril 1734 policies, to assist applicants in urban areas to secure basic 1735 property insurance or homeowners insurance, and to formulate and 1736 administer a program for the equitable apportionment of basic 1737 property insurance or homeowners insurance which cannot be 1738 obtained in the normal market. Every such insurer shall be a 1739 member of the association and shall remain a member as a 1740 condition of its authority to write any of such insurance in 1741 this state. 1742

(B) The association, pursuant to sections 3929.41 to	1743
3929.49 of the Revised Code, and the plan of operation, with	1744
respect to basic property insurance or homeowners insurance, may	1745
assume and cede reinsurance on insurable risks written by its	1746
members.	1747

(C) The board of governors of the association shall submit 1748 to the superintendent of insurance, for approval, a proposed-1749 plan of operation, approved by the superintendent of insurance, 1750 which shall provide for economical, fair, and nondiscriminatory 1751 administration of a program for the equitable apportionment 1752 among members of basic property insurance or homeowners 1753 insurance which may be afforded in urban areas to applicants 1754 whose property is insurable in accordance with reasonable 1755 underwriting standards, but who are unable to procure such 1756 insurance through normal channels. The association is under no 1757 obligation to issue basic property insurance or homeowners 1758 insurance to any person, unless that person and that person's 1759 property would be insurable in the normal insurance market, and 1760 such property, except for its location, would constitute an 1761 insurable risk in accordance with reasonable underwriting 1762 1763 standards. The plan of operation shall provide that the association, in determining whether the property is insurable, 1764 shall give no consideration to the condition of surrounding 1765 property or properties, where such condition is not within the 1766 control of the applicant. Rates for basic property insurance and 1767 homeowners insurance shall be subject to the approval of the 1768 superintendent. The plan of operation may also provide for 1769 assessment of all members in amounts sufficient to operate the 1770 association, maximum limits of liability per location to be 1771 placed through the program, reasonable underwriting standards 1772 for determining insurability of a risk, and the commission to be 1773

1803

paid to the licensed producer designated by the applicant. The	1774
superintendent shall adopt such plan and all amendments thereto	1775
pursuant to Chapter 119. of the Revised Code.	1776
If the superintendent disapproves the proposed plan of	1777
operation, the board of governors shall, within fifteen days,	1778
submit for approval an appropriately revised plan of operation-	1779
and if the board of governors fails to do so, or if the revised	1780
plan submitted is unacceptable, the superintendent shall	1781
promulgate a plan of operation.	1782
If amendment of the plan of operation is requested by the	1783
superintendent or the board of governors, the board of governors	1784
shall submit to the superintendent, for approval, such	1785
amendments. If such amendments are not approved by the	1786
superintendent, the board of governors shall, within fifteen	1787
days, submit for approval an appropriately revised amendment. If	1788
the board of governors fails to do so, or if the amendment is	1789
not approved by the superintendent, the superintendent shall	1790
promulgate such amendment as the superintendent finds necessary.	1791
(D)(1) The plan of operation may provide for periodic	1792
advance assessments against member insurers in amounts	1793
considered necessary to cover any deficit or projected deficit	1794
arising out of the operation of the association. Any provision	1795
in the plan for implementation of such advance assessments shall	1796
be approved by the superintendent. Any such provision in the	1797
plan shall also provide for quarterly or other periodic	1798
installment payment of such assessments upon request.	1799
(2) Such plan shall provide a method whereby member	1800
insurers may recoup assessments levied by the association. In	1801
order to recoup such assessments the plan may also provide for	1802
	1000

the calculation and use of rates or rating factors to be applied

to direct premiums for basic property insurance and homeowners	1804
insurance located in this state. Such a provision is subject to	1805
the approval of the superintendent. Member insurers of the	1806
association implementing a change in rates pursuant to this	1807
section shall file such changes with the superintendent. Such	1808
changes shall not increase rates more than the amount authorized	1809
by the association and approved by the superintendent pursuant	1810
to the plan. The association may consult with member insurers or	1811
licensed rating bureaus in connection with the establishment and	1812
operation of any such provision.	1813

- (E) Any insurer which is a member of the association shall 1814 participate in the writings, expenses, profits, and losses of 1815 the association in the proportion that its premiums written bear 1816 to the aggregate premiums written by all members of the 1817 association, except that this division shall not be construed to 1818 preclude the board of governors from taking action to adjust 1819 assessments in accordance with a program adopted pursuant to 1820 division (I) of this section. 1821
- (F) Such plan shall require the issuance of a binder or 1822 policy providing coverage for which the applicant tenders an 1823 amount equal to the annual premium as estimated by the 1824 association, or an appropriate percentage of that annual premium 1825 as determined by the association. The binder or policy shall 1826 take effect, at the earliest, the day after the association 1827 receives the application, provided that the application meets 1828 the underwriting standards of the association, for such term, 1829 and under such conditions as are determined by the 1830 superintendent. The superintendent may alter such time 1831 requirement on a specific risk under such conditions as the 1832 superintendent finds appropriate. 1833

(G) The association shall be governed by a board of	1834
governors consisting of twelve members, four of whom shall be	1835
appointed by the governor with the advice and consent of the	1836
senate. One of such members shall be a licensed agent writing	1837
basic property insurance for more than one insurer. None of the	1838
other three such members shall be a director, officer, salaried	1839
employee, agent, or substantial shareholder of any insurance	1840
company and not more than two of these three members shall be	1841
members of the same political party. Terms of office of members	1842
appointed by the governor shall be for two years, commencing on	1843
the nineteenth day of September and ending on the eighteenth day	1844
of September. Each member shall hold office from the date of	1845
appointment until the end of the term for which the member was	1846
appointed. Any member appointed to fill a vacancy occurring	1847
prior to the expiration of the term for which the member's	1848
predecessor was appointed shall hold office for the remainder of	1849
such term. Any appointed member shall continue in office	1850
subsequent to the expiration date of the member's term until the	1851
member's successor takes office, or until a period of sixty days	1852
has elapsed, whichever occurs first. The remaining eight members	1853
shall be representatives from member companies, at least five of	1854
whom shall be Ohio domiciled members, elected annually by	1855
accumulated voting by members of the association whose votes	1856
shall be weighed in accordance with each member's premiums	1857
written during the second preceding calendar year. Not more than	1858
one insurer in a group under the same management or ownership	1859
shall serve on the board of governors at the same time. The	1860
eight representatives of member companies shall be elected at a	1861
meeting of the members or their authorized representatives,	1862
which shall be held at a time and place designated by the	1863
superintendent.	1864

- (H) The plan shall be administered under the supervision 1865 of the superintendent.
- (I) The board of governors shall adopt a written program 1867 for decreasing the overall utilization of the association as a 1868 source of insurance. The program shall set forth actions that 1869 the board shall take to decrease such utilization, including 1870 actions intended to reduce the number of policies issued, the 1871 number of persons whose properties are insured, and the total 1872 amount and kinds of insurance written by the association, 1873 provided this division does not authorize the board to take 1874 action intended to decrease utilization of the association as a 1875 source of insurance if such action would substantially conflict 1876 with the purposes set forth in divisions (A), (B), and (D) of 1877 section 3929.41 of the Revised Code or the plan of operation of 1878 the association. 1879
- (J) (1) Except as provided in division (J) (2) of this

  section, records created, held by, or pertaining to the

  association are not public records under section 149.43 of the

  Revised Code, are confidential, and are not subject to

  inspection or disclosure.

  1884
- (2) Division (J)(1) of this section does not apply to the 1885 plan of operation and other information required to be filed 1886 with the superintendent under this chapter unless otherwise 1887 prohibited from release by law.
- Sec. 3929.44. (A) Any person having an insurable interest

  in real property or tangible personal property, or both, at a

  fixed location—in an urban area, who has been unable to obtain

  basic property insurance or homeowners insurance, shall be

  granted, upon application may apply to the Ohio fair plan

  underwriting association, an inspection of the property by

  1894

1920

1921

1922

1923

## representatives of the inspection bureau. 1895 (B) Promptly after the request for inspection is received, 1896 an inspection shall be made. An inspection report shall be made 1897 available to the applicant upon requestThe association may 1898 engage an inspection bureau or other organization to assist in 1899 collection of information necessary to underwrite risk for basic 1900 property insurance or homeowners insurance. 1901 (C) The association, if it finds that the inspection-1902 1903 report shows the property to be insurable by meeting the reasonable underwriting standards contained in the plan of 1904 operation approved by the superintendent of insurance, shall 1905 cause a policy or binder of basic property insurance or, at the 1906 option of the applicant, homeowners insurance, to be issued to 1907 the applicant upon payment of the premium. 1908 (D) As part of an application for a policy of basic 1909 1910 property insurance or homeowners insurance, an applicant shall, in accordance with procedures and requirements set forth in 1911 rules promulgated by the superintendent, certify at least two 1912 insurance companies that had been contacted and from whom 1913 1914 coverage was not available. (E) As a condition of the issuance of a binder or policy 1915 of basic property insurance or homeowners insurance, an 1916 applicant shall, in accordance with procedures and requirements 1917 set forth in rules promulgated by the superintendent, certify to 1918 the association that there are no outstanding taxes, 1919

assessments, penalties, or charges with respect to the property

(F) An applicant shall, in accordance with rules

promulgated by the superintendent, certify to the association

to be insured.

whether or not he the applicant has received written notice from	1924
an authorized public entity stating that <u>his</u> the applicant's	1925
property is in violation of any building, housing, air	1926
pollution, sanitation, health, fire, or safety code, ordinance,	1927
or rule. If the inspection report shows the property to be in-	1928
such violation, or if the applicant otherwise has received such	1929
written notice of any such violation, the applicant shall also	1930
submit to the association a detailed plan that indicates the	1931
manner and estimated period of time in which such violations	1932
will be corrected. If the association is satisfied that the	1933
violations are subject to correction within a reasonable period	1934
of time and that the applicant otherwise meets the requirements	1935
of this section, it may cause a policy or binder of basic	1936
property insurance or homeowners insurance to be issued to the	1937
applicant on the condition that the plan be implemented on	1938
schedule-and that the property be reinspected. The form of the	1939
plan submitted by the applicant and the manner in which this	1940
division is implemented shall be in accordance with rules	1941
promulgated by the superintendent. Nothing in this division	1942
shall be construed to make the association responsible for the	1943
detection of any violation of a code, ordinance, or rule of the	1944
type described in this division.	1945

Sec. 3929.481. The Ohio fair plan underwriting association 1946 is authorized to issue fair plan policies of insurance in its 1947 own name and to perform acts relative thereto in accordance with 1948 the plan of operation. The association is exempt from all 1949 license fees, and income, franchise, premium, and privilege 1950 taxes levied or assessed by this state or any political 1951 subdivision of this state, except that premium receipts from 1952 policies issued directly by the association are subject to the 1953 tax imposed by section 3737.71 of the Revised Code, computed 1954

upon the basis of a statement to be filed annually on or before	1955
the first day of March by the association with the	1956
superintendent of insurance in the form prescribed by him the	1957
superintendent, and that annually on the first day of March the	1958
association shall pay to the superintendent a fee of one cent-	1959
for each policy issued by it and then outstanding.	1960

Sec. 3935.04. As used in sections 3935.01 to 3935.17 of 1961 the Revised Code, "filing" or "filings" means the whole or any 1962 part thereof.

(A) (1) Every insurer shall file with the superintendent of 1964 insurance, except as to inland marine risks which by general 1965 custom of the business are not written according to manual rates 1966 or rating plans, every form of a policy, endorsement, rider, 1967 manual, minimum class rate, rating schedule, or rating plan, and 1968 every other rating rule, and every modification of any of them, 1969 which it proposes to use. Every such filing shall state the 1970 proposed effective date thereof, and shall indicate the 1971 character and extent of the coverage contemplated. When a filing 1972 is not accompanied by the information upon which the insurer 1973 supports the filing, and the superintendent does not have 1974 sufficient information to determine whether the filing meets the 1975 requirements of sections 3935.01 to 3935.17 of the Revised Code, 1976 the superintendent shall require the insurer to furnish the 1977 information upon which it supports the filing, and in such event 1978 the waiting period shall commence as of the date the information 1979 is furnished. The information furnished in support of a filing 1980 may include the experience or judgment of the insurer or rating 1981 bureau making the filing, its interpretation of any statistical 1982 data it relies upon, the experience of other insurers or rating 1983 bureaus, or any other relevant factors. A filing and any 1984 supporting information shall be open to public inspection after 1985

the filing becomes effective. Trade secrets contained in any	1986
filing or in any supporting information shall not be open to	1987
public inspection, are not a public record under section 149.43	1988
of the Revised Code, and the release of such trade secrets is	1989
prohibited. Specific inland marine rates on risks specially	1990
rated, made by a rating bureau, shall be filed with the	1991
superintendent.	1992
(2) As used in division (A)(1) of this section, "trade	1993
secret" has the same meaning as in section 1333.61 of the	1994
Revised Code.	1995

- (B) An insurer may satisfy its obligation to make such
  filings by becoming a member of, or a subscriber to, a licensed
  1997
  rating bureau which makes such filings, and by authorizing the
  superintendent to accept such filings on its behalf, but
  1999
  sections 3935.01 to 3935.17 of the Revised Code do not require
  2000
  any insurer to become a member of, or a subscriber to, any
  2001
  rating bureau.
- (C) The superintendent shall review filings as soon as 2003 reasonably possible after they have been made in order to 2004 determine whether they meet the requirements of sections 3935.01 2005 to 3935.17 of the Revised Code. 2006
- (D) Subject to the exception specified in division (E) of 2007 this section, each filing shall be on file for a waiting period 2008 of thirty days before it becomes effective. Upon written 2009 application by such insurer or rating bureau, the superintendent 2010 may authorize a filing which the superintendent has reviewed to 2011 become effective before the expiration of the waiting period. A 2012 filing complies with sections 3935.01 to 3935.17 of the Revised 2013 Code unless it is disapproved by the superintendent within the 2014 waiting period. 2015

(E) Specific inland marine rates on risks specially rated	2016
by a rating bureau become effective when filed and comply with	2017
sections 3935.01 to 3935.17 of the Revised Code until the	2018
superintendent reviews the filing and so long thereafter as the	2019
filing remains in effect.	2020
(F) Notwithstanding Chapter 119. of the Revised Code, the	2021
superintendent may, by written order, without notice or hearing,	2022
suspend or modify the requirements of a filing as to any kind of	2023
insurance, subdivision or combination thereof, or classes of	2024
risks, the rates for which cannot practicably be filed before	2025
they are used. Such orders shall be made known to insurers and	2026
rating bureaus affected thereby. The superintendent may make	2027
such examinations as the superintendent deems advisable to	2028
ascertain whether any rates affected by such order meet the	2029
standards set forth in division (B) of section 3935.03 of the	2030
Revised Code.	2031
(G) Upon the written application of the insured, stating	2032
the insured's reasons therefor, filed with and approved by the	2033
superintendent, a rate in excess of that provided by a filing	2034
otherwise applicable may be used on any specific risk.	2035
(H) A commercial insurance policy form or endorsement that	2036
is unique in character and designed for a particular risk is	2037
exempt from filing, except that the superintendent may, by	2038
regulation or order, prescribe specific restrictions relating to	2039
the exemption.	2040
(I) An insurer shall retain any insurance policy form,	2041
endorsement, or rate that is exempt from filing under division	2042
(F), (G), or (H) of this section and all supporting	2043
documentation, for not less than three years after the effective	2044
date of the exempt policy form, endorsement, or rate. Upon	2045

request of the superintendent during that period, the insurer	2046
shall make such policy form, endorsement, or rate, and the	2047
supporting documentation available for inspection by the	2048
superintendent.	2049

(J) No insurer shall make or issue a contract or policy 2050 except in accordance with the filings which are in effect for 2051 the insurer as provided in sections 3935.01 to 3935.17 of the 2052 Revised Code or in accordance with division (F) or (G), or (H) 2053 of this section. This division does not apply to contracts or 2054 policies for inland marine risks as to which filings are not 2055 required.

Sec. 3937.03. (A) (1) Every insurer shall file with the 2057 superintendent of insurance every form of a policy, endorsement, 2058 rider, manual of classifications, rules, and rates, every rating 2059 plan, and every modification of any of them which it proposes to 2060 use. Every such filing shall state any proposed effective date 2061 and indicate the character and extent of the coverage 2062 2063 contemplated. When a filing is not accompanied by the information upon which the insurer supports such filing, and the 2064 superintendent does not have sufficient information to determine 2065 whether such filing complies with sections 3937.01 to 3937.17 of 2066 the Revised Code, the superintendent may require such insurer to 2067 furnish the information upon which it supports such filing. Any 2068 filing may be supported by the experience or judgment of the 2069 insurer or rating organization making the filing, the experience 2070 of other insurers or rating organizations, or any other factors 2071 which the insurer or rating organization considers relevant. A 2072 filing and any supporting information shall be open to public 2073 inspection after the filing becomes effective. Trade secrets 2074 contained in any filing or in any supporting information shall 2075 not be open to public inspection, are not a public record under 2076

section 149.43 of the Revised Code, and the release of such	2077
trade secrets is prohibited.	2078
(2) As used in division (A)(1) of this section, "trade	2079
secret" has the same meaning as in section 1333.61 of the	2080
Revised Code.	2081
(B) An insurer may satisfy its obligation to make such	2082
filings by becoming a member of, or a subscriber to, a licensed	2083
rating organization which makes such filings, and by authorizing	2084
the superintendent to accept such filings on its behalf.	2085
Sections 3937.01 to 3937.17 of the Revised Code do not require	2086
an insurer to become a member of or a subscriber to any rating	2087
organization.	2088
(C)(1) For purposes of this division:	2089
(a) "Commercial insurance" means any commercial casualty	2090
or commercial liability insurance except sickness and accident,	2091
fidelity and surety, and automobile insurance as defined in	2092
section 3937.30 of the Revised Code.	2093
(b) "Personal lines coverage" means any policy of	2094
insurance issued to a natural person for personal or family	2095
protection, including, but not limited to, personal automobile,	2096
homeowner's, tenant's, and personal umbrella liability	2097
coverages.	2098
(2) Except as provided in division (C)(3) of this section,	2099
each filing shall become effective immediately upon its filing	2100
and is deemed to comply with such sections, unless disapproved	2101
by the superintendent as provided in this section or section	2102
3937.04 of the Revised Code.	2103
(3) Whenever the superintendent declares by rule pursuant	2104
to Chapter 119. of the Revised Code that a degree of competition	2105

that will assure that rates are not excessive does not exist in	2106
the market for a line of commercial insurance, or that the	2107
market is conducted in a manner that may result in inadequate	2108
rates or be destructive of competition or detrimental to	2109
solvency of insurers, the superintendent shall provide that	2110
every filing that would result in an increase or decrease of	2111
rates for any coverages for that line of commercial insurance	2112
shall be subject to this division. Such filing shall be on file	2113
for a waiting period of thirty days before it becomes effective,	2114
which period may be extended by the superintendent for one	2115
additional period not to exceed fifteen days, if the	2116
superintendent gives written notice within such initial waiting	2117
period to the insurer or rating bureau that the superintendent	2118
needs such additional time for the consideration of such filing.	2119
A filing is deemed to comply with sections 3937.04 to 3937.17 of	2120
the Revised Code unless disapproved by the superintendent within	2121
the waiting period or its extension. Upon written application by	2122
such insurer or rating bureau, the superintendent may authorize	2123
a filing that the superintendent has reviewed to become	2124
effective before the expiration of the initial waiting period or	2125
its extension. If, during the initial waiting period or	2126
extension, the superintendent finds the filing to which sections	2127
3937.04 to 3937.17 of the Revised Code apply does not comply	2128
with the sections, the superintendent shall disapprove the	2129
filing by sending written notice to the person who made the	2130
filing, specifying therein the reasons the filing fails to	2131
comply with the sections. Upon notice of disapproval, the person	2132
who made such a filing may request a hearing pursuant to section	2133
3937.15 of the Revised Code.	2134

(4) In determining whether circumstances exist in a market 2135 for a line of commercial insurance as required in division (C) 2136

(3) of this section, the superintendent shall consider all	2137
relevant structural factors in determining the conditions of the	2138
market, including: the number of insurers actively engaged in	2139
providing coverage; market shares; changes in market shares; and	2140
ease of entry.	2141
(5) This division does not apply to any filings required	2142
under Chapter 3937. of the Revised Code for personal lines	2143
coverage.	2144
(6) Any rule adopted by the superintendent under this	2145
division shall expire one year after its issuance unless	2146
rescinded earlier or extended by rule adopted by the	2147
superintendent.	2148
(D) A special filing may be made with respect to a surety	2149
or guaranty bond required by law, by court or executive order,	2150
or by order, rule, or regulation of a public body not covered by	2151
a previous filing.	2152
(E) Special filings may be made at any time with respect	2153
to any individual or special risks whose size, classification,	2154
degree of exposure to loss, previous loss experience, or other	2155
relevant factors call for the exercise of sound underwriting	2156
judgment in the promulgation of rates appropriate to such	2157
individual or special risks. The superintendent may make such	2158
examination as the superintendent considers advisable to	2159
ascertain whether such rates meet the standards set forth in	2160
division (D) of section 3937.02 of the Revised Code.	2161
(F) The superintendent may, by written order, suspend or	2162
modify the requirement of filing as to any kind of insurance,	2163
subdivision, or combination thereof, or as to classes of risks,	2164
the rates for which cannot practicably be filed before they are	2165

used. Such orders shall be made known to insurers and rating	2166
organizations affected thereby. The superintendent may make such	2167
examination as the superintendent considers advisable to	2168
ascertain whether any rates affected by such order meet the	2169
standards set forth in division (D) of section 3937.02 of the	2170
Revised Code.	2171
(G) Upon the written application of the insured, stating	2172
the insured's reasons therefor, filed with and approved by the	2173
superintendent, a rate in excess of that provided by a filing	2174
otherwise applicable may be used on any specific risk.	2175
(H) A commercial insurance policy form or endorsement that	2176
is unique in character and designed for a particular risk is	2177
exempt from filing, except that the superintendent may, by	2178
regulation or order, prescribe specific restrictions relating to	2179
this exemption.	2180
(I) An insurer shall retain any insurance policy form,	2181
endorsement, or rate that is exempt from filing under division	2182
(E), (F), (G), or (H) of this section and all supporting	2183
documentation for not less than three years after the effective	2184
date of the exempt policy form, endorsement, or rate. Upon	2185
request of the superintendent during that period, the insurer	2186
shall make such policy form, endorsement, or rate, and the	2187
supporting documentation available for inspection by the	2188
superintendent.	2189
(J) No insurer shall make or issue a contract or policy	2190
except in accordance with filings which are in effect for said	2191
insurer as provided in sections 3937.01 to 3937.17 of the	2192
Revised Code or in accordance with division (E), (F), (G), or	2193
(H) of this section.	2194

Sec. 3961.08. (A) No person shall fail to comply with	2195
sections 3961.01 to 3961.09 of the Revised Code. If the	2196
superintendent of insurance determines that any person has	2197
violated sections 3961.01 to 3961.07 of the Revised Code, the	2198
superintendent may take one or more of the following actions:	2199
(1) Assess a civil penalty in an amount not to exceed	2200
twenty-five thousand dollars per violation if the person knew or	2201
should have known of the violation;	2202
(2) Assess administrative costs to cover the expenses	2203
incurred in the administrative action, including, but not	2204
limited to, expenses incurred in the investigation and hearing	2205
process. Costs collected under this division shall be paid into	2206
the state treasury to the credit of the department of insurance	2207
operating fund created in section 3901.021 of the Revised Code.	2208
(3) Order corrective actions in lieu of or in addition to	2209
the other penalties described in this section, including, but	2210
not limited to, suspending civil penalties if a discount medical	2211
plan organization complies with the terms of the corrective	2212
action order;	2213
(4) Order restitution to members.	2214
$\frac{B}{B}$ (B) (1) Before imposing a penalty under division (A) of	2215
this section, the superintendent shall give a discount medical	2216
plan organization notice and opportunity for hearing as	2217
described in Chapter 119. of the Revised Code to the extent that	2218
Chapter 119. of the Revised Code does not conflict with any of	2219
the following service requirements:	2220
(1) (a) A notice of opportunity for hearing, a hearing	2221
officer's findings and recommendations, or any order issued by	2222
the superintendent under division (A) of this section shall be	2223

served by certified mail, return receipt requested, to the last	2224
known address of a discount medical plan organization. For	2225
purposes of division (B) of this section, an organization's last	2226
known address is the address listed on the organization's	2227
disclosures required under section 3961.04 of the Revised Code.	2228
(b) If the certified mail envelope described in division	2229
(B)(1)(a) of this section is returned to the superintendent with	2230
an endorsement showing that service was refused or that the	2231
envelope was unclaimed, the notices, findings and	2232
recommendations, and orders described in division (B)(1)(a) of-	2233
this section and all subsequent notices required under Chapter-	2234
119. of the Revised Code may be served by ordinary mail to the	2235
discount medical plan organization's last known address. The	2236
time period to request an administrative hearing described in	2237
Chapter 119. of the Revised Code shall begin to run from the	2238
date the ordinary mailing was sent. A certificate of mailing	2239
shall evidence any mailings sent by ordinary mail pursuant to	2240
this division and shall complete service to the organization	2241
unless the ordinary mail envelope is returned to the	2242
superintendent with an endorsement showing failure of delivery.	2243
(c) If service by ordinary mail as described in division	2244
(B)(1)(b) of this section fails, the superintendent may publish	2245
a summary of the substantive provisions of the notice, findings	2246
and recommendations, or orders described in division (B)(1)(a)	2247
of this section once a week for three consecutive weeks in a	2248
newspaper of general circulation in the county of the discount-	2249
medical plan organization's last known address. The notice shall	2250
be considered served on the date of the third publication.	2251
(d) Any notice required to be served under Chapter 119. of	2252
the Revised Code also shall be served upon the party's attorney	2253

by ordinary mail if the party's attorney has entered an 2	2254
appearance in the matter.	2255
(e) In lieu of certified or ordinary mail or publication 2	2256
· · ·	2257
	2258
	2259
	2260
designee.	1200
$\frac{f}{(f)}$ Notices regarding the scheduling of hearings and	2261
all other notices <del>not described in division (B)(1)(a) of this</del> 2	2262
section for which Chapter 119. of the Revised Code does not	2263
require a particular type of service shall be sent by ordinary 2	2264
mail to the party and the party's attorney.	2265
$\frac{(2)}{(3)}$ A subpoena or subpoena duces tecum from the	2266
	2267
	2268
11 3,	2269
, , , , , , , , , , , , , , , , , , , ,	2270
, , , , , , , , , , , , , , , , , , , ,	2271
-	2272
	2273
	2274
	2275
(C)(1) If a violation of sections 3961.01 to 3961.07 of 2	2276
the Revised Code has caused, is causing, or is about to cause 2	2277
substantial and material harm, the superintendent may issue a	2278
cease-and-desist order requiring a person to cease and desist	2279
from engaging in a violation. 2	2280
(2) The superintendent shall, immediately after issuing an 2	2281
order pursuant to division (C)(1) of this section, serve notice 2	2282

2307

2308

2309

of the order by certified mail, return receipt requested, or by	2283
any other manner described in division (B) of this section to	2284
the person subject to the order and all other persons involved	2285
in the violation. The notice shall specify the particular act,	2286
omission, practice, or transaction that is the subject of the	2287
order and set a date, not more than fifteen days after the date	2288
the order was issued, for a hearing on the continuation or	2289
revocation of the order. The person subject to the order shall	2290
comply with the order immediately upon receiving the order.	2291
After an order is issued pursuant to division (C)(1) of this	2292
section, the superintendent may publicize and notify all	2293
interested parties that a cease-and-desist order was issued.	2294

- (3) Upon application by the person subject to the order 2295 and for good cause, the superintendent may continue the hearing 2296 date described in division (C)(2) of this section. Chapter 119. 2297 of the Revised Code applies to the hearing on the order to the 2298 extent that the chapter does not conflict with the procedures 2299 described in this section. The superintendent shall, within 2300 fifteen days after objections are submitted concerning the 2301 hearing officer's report and recommendations, issue a final 2302 order either confirming or revoking the cease-and-desist order 2303 described in division (C)(1) of this section. The final order 2304 may be appealed as described in section 119.12 of the Revised 2305 Code. 2306
- (4) The remedy described in division (C) of this section is cumulative and concurrent with other remedies available under this section.
- (D) If the superintendent has reasonable cause to believe 2310 that an order issued pursuant to this section has been violated 2311 in whole or in part, the superintendent may request the attorney 2312

general to commence any appropriate action against the violator.	2313
In an action described in this division, a court may impose any	2314
of the following penalties:	2315
(1) A civil penalty of not more than twenty-five thousand	2316
dollars per violation;	2317
(2) Injunctive relief;	2318
(3) Restitution;	2319
(4) Any other appropriate relief.	2320
(E) The superintendent shall deposit any penalties	2321
assessed under division (A)(1) or (D) of this section into the	2322
state treasury to the credit of the department of insurance	2323
operating fund created in section 3901.021 of the Revised Code.	2324
Sec. 3970.01. As used in this chapter:	2325
(A) "Chronic condition" means a condition that can be	2326
treated or managed, but not cured.	2327
(B) "Congenital anomaly or disorder" means a condition	2328
that is present from birth, whether inherited or caused by the	2329
environment, which may cause or contribute to illness or	2330
disease.	2331
(C) "Hereditary disorder" means an abnormality that is	2332
genetically transmitted from parent to offspring and may cause	2333
illness or disease.	2334
(D) "Orthopedic condition" means a condition affecting the	2335
bones, skeletal muscle, cartilage, tendons, ligaments, and	2336
joints. "Orthopedic condition" includes elbow dysplasia, hip	2337
dysplasia, intervertebral disc degeneration, patellar luxation,	2338
and ruptured cranial cruciate ligaments. "Orthopedic condition"	2339

does not include cancer or metabolic, hemopoietic, or autoimmune	2340
diseases.	2341
(E) "Pet insurance" means a property insurance policy that	2342
provides coverage for accidents and illnesses of pets.	2343
(F) "Preexisting condition" means any condition for which	2344
any of the following are true prior to the effective date of a	2345
pet insurance policy or during any waiting period:	2346
(1) A veterinarian provided medical advice.	2347
(2) The pet received previous treatment.	2348
(3) Based on information from verifiable sources, the pet	2349
had signs or symptoms directly related to the condition for	2350
which a claim is being made.	2351
(G) "Renewal" means to issue and deliver, at the end of a	2352
pet insurance policy period, a policy that supersedes a policy	2353
previously issued and delivered by the same pet insurer or an	2354
affiliated pet insurer, and which provides types and limits of	2355
coverage substantially similar to those contained in the policy	2356
being superseded.	2357
(H) "Veterinarian" means an individual who holds a valid	2358
license to practice veterinary medicine under Chapter 4741. of	2359
the Revised Code or from the appropriate licensing entity in the	2360
jurisdiction in which the veterinarian practices.	2361
(I) "Veterinary expenses" means the costs associated with	2362
medical advice, diagnosis, care, or treatment provided by a	2363
veterinarian, including the cost of drugs prescribed by a	2364
veterinarian.	2365
(J) "Waiting period" means a period of time specified in a	2366
pet insurance policy that is required to elapse before some or	2367

all of the coverage in the policy begins.	2368
(K) "Wellness program" means a subscription- or	2369
reimbursement-based program that is separate from a pet	2370
insurance policy and provides goods or services to promote the	2371
general health, safety, or well-being of the pet.	2372
Sec. 3970.02. (A) The purpose of this chapter is to	2373
promote the public welfare by creating a comprehensive legal	2374
framework within which pet insurance may be sold, issued, and	2375
<u>delivered in this state.</u>	2376
(B) The requirements of this chapter apply to pet	2377
<pre>insurance policies that are:</pre>	2378
(1) Issued to any resident of this state;	2379
(2) Sold, solicited, or negotiated in this state;	2380
(3) Delivered or issued for delivery in this state.	2381
(C) Pet insurers and pet insurance policies are subject to	2382
all other applicable laws, except that the specific provisions	2383
of this chapter supersede any conflicting general provisions of	2384
law that would otherwise apply.	2385
Sec. 3970.03. (A) If a pet insurance policy includes any	2386
of the terms defined in section 3970.01 of the Revised Code,	2387
those terms shall have the same meaning prescribed by that	2388
section, and the policy shall restate the definition of each	2389
such term. The pet insurer shall also make the definition	2390
available through a clear and conspicuous link on the main page	2391
of the pet insurer's or pet insurer's program administrator's	2392
publicly accessible web site.	2393
(B) This chapter does not prohibit or limit the types of	2394
exclusions a pet insurer may use or apply to a pet insurance	2395

policy. This chapter does not require a pet insurer to use or	2396
apply to a pet insurance policy any of the limitations or	2397
exclusions defined in section 3970.01 of the Revised Code.	2398
Sec. 3970.04. (A) A pet insurance policy shall include all	2399
of the following:	2400
(1) Disclosure of whether the pet insurance policy	2401
<pre>excludes coverage due to any of the following:</pre>	2402
(a) A preexisting condition;	2403
(b) A hereditary disorder;	2404
(c) A congenital anomaly or disorder;	2405
(d) A chronic condition.	2406
(2) Disclosure of whether the pet insurance policy	2407
excludes coverage for any reason other than those listed in	2408
division (A)(1) of this section and, if so, the following	2409
<pre>statement:</pre>	2410
"Other exclusions may apply. Please refer to the	2411
<pre>exclusions section for more information."</pre>	2412
(3) Disclosure of whether the pet insurance policy or	2413
rider limits coverage through a waiting period, affiliation	2414
period, deductible, coinsurance, or an annual or lifetime policy	2415
<pre>limit;</pre>	2416
(4) Disclosure of whether the pet insurer reduces coverage	2417
or increases premiums based on the insured's claim history, the	2418
age of the covered pet, or a change in the geographic location	2419
of the insured;	2420
(5) Disclosure of whether the underwriting company differs	2421
from the hrand name used to market and sell the net insurance	2422

policy or rider.	2423
(B) (1) Pet insurance may be canceled by the purchaser	2424
within thirty days after the purchaser first receives the	2425
associated policy, rider, or certificate. The pet insurer shall	2426
issue a full refund to the purchaser within thirty days after	2427
receiving timely notice of cancellation under this division, so	2428
long as no claim has been made under the pet insurance. The	2429
purchaser may provide notice of cancellation to the pet insurer	2430
or through the insurance agent from which the pet insurance was	2431
purchased.	2432
(2) Pet insurance policies shall include a notice	2433
prominently printed on the first page, or attached to the first	2434
page, that provides specific instructions for canceling the	2435
insurance under division (B)(1) of this section. The notice	2436
shall include the following statement, or a substantially	2437
<pre>similar statement:</pre>	2438
"You have thirty (30) days from the day you receive this	2439
pet insurance policy, rider, or certificate to review it and, if	2440
you decide not to keep it, cancel the pet insurance. You do not	2441
have to tell the company why you are canceling the insurance. If	2442
you decide not to keep the insurance, you may cancel it by	2443
giving notice to the company at its administrative office or to	2444
the insurance agent from which you bought the insurance. If you	2445
cancel the insurance within that time, and have not filed a	2446
claim, the company is required by law to grant a full refund	2447
within 30 days after it receives your notice of cancellation.	2448
The refund will be sent directly to the person who paid for the	2449
insurance. The pet insurance policy, rider, or certificate will	2450
be void as if it had never been issued."	2451
(C) A pet insurer shall clearly disclose a summary	2452

description of the basis or formula on which the pet insurer	2453
determines claim payments under the policy. This information	2454
shall also be posted through a clear and conspicuous link on the	2455
main page of the pet insurer's or pet insurer's program	2456
administrator's publicly accessible web site.	2457
(D) A pet insurer that uses a benefit schedule to	2458
determine claim payment under a pet insurance policy shall do	2459
both of the following:	2460
(1) Clearly disclose the applicable benefit schedule in	2461
the policy.	2462
(2) Disclose all benefit schedules used by the pet insurer	2463
under its pet insurance policies through a clear and conspicuous	2464
link on the main page of the pet insurer's or pet insurer's	2465
<pre>program administrator's publicly accessible web site.</pre>	2466
(E) A pet insurer that determines claim payments under a	2467
pet insurance policy based on usual and customary fees, or any	2468
other reimbursement limitation based on prevailing veterinary	2469
service provider charges, shall do both of the following:	2470
(1) Include a usual and customary fee limitation provision	2471
in the policy or rider that clearly describes the pet insurer's	2472
basis for determining usual and customary fees and how that	2473
basis is applied in calculating claim payments;	2474
(2) Disclose the pet insurer's basis for determining usual	2475
and customary fees through a clear and conspicuous link on the	2476
main page of the pet insurer's or pet insurer's program	2477
administrator's publicly accessible web site.	2478
(F) If any medical examination by a licensed veterinarian	2479
is required to effectuate coverage, the pet insurer shall	2480
clearly and conspicuously disclose the required aspects of the	2481

examination prior to purchase of a pet insurance policy and, if	2482
applicable, disclose that examination documentation may result	2483
in a preexisting condition exclusion.	2484
(G) A pet insurer shall clearly and conspicuously disclose	2485
to the purchaser any requirements relating to waiting periods.	2486
(H) A pet insurer shall include a summary of all pet	2487
insurance provisions required by divisions (A) to (G) of this	2488
section in a separate document titled "Insurer Disclosure of	2489
Important Policy Provisions," and do both of the following:	2490
(1) Post the document through a clear and conspicuous link	2491
on the main page of the pet insurer's or pet insurer's program	2492
administrator's publicly accessible web site;	2493
(2) Upon delivery of any new pet insurance policy, provide	2494
the purchaser with a copy of the document in at least twelve	2495
<pre>point font.</pre>	2496
(I) At the time a pet insurance policy is issued or	2497
delivered to a policyholder, the pet insurer shall include a	2498
written disclosure with both of the following:	2499
(1) The address and customer service telephone number of	2500
the pet insurer or the agent;	2501
(2) If the policy is issued or delivered by an agent, a	2502
statement advising the policyholder to contact the agent for	2503
assistance.	2504
(J) The disclosures required by this section are in	2505
addition to any other disclosures required by law.	2506
Sec. 3970.05. (A) A pet insurance policy may exclude	2507
coverage on the basis of one or more preexisting conditions so	2508
long as the pet insurer discloses the exclusion as required by	2509

section 3970.04 of the Revised Code. The pet insurer has the	2510
burden of proving that the preexisting condition exclusion	2511
applies to the condition for which a claim is made.	2512
(B) A condition for which coverage is afforded under a pet	2513
insurance policy shall not be considered a preexisting condition	2514
under any renewal of that policy.	2515
(C) A pet insurer may issue a pet insurance policy that	2516
imposes a waiting period upon effectuation of the policy,	2517
subject to all of the following conditions:	2518
(1) The waiting period shall not exceed thirty days for	2519
illnesses or orthopedic conditions not resulting from an	2520
accident.	2521
(2) The waiting period shall not apply to an accident.	2522
(3) The policy contract shall allow the waiting period to	2523
be waived upon completion of a medical examination, to which all	2524
of the following apply:	2525
(a) The pet insurer may require the examination to be	2526
conducted by a licensed veterinarian after the purchase of the	2527
policy.	2528
(b) The medical examination shall be paid for by the	2529
policyholder, unless the policy contract specifies that the pet_	2530
insurer will pay for the examination.	2531
(c) The pet insurer may specify elements to be included as	2532
part of the examination and require documentation thereof,	2533
provided the specifications do not unreasonably restrict a	2534
consumer's ability to waive the waiting period.	2535
(4) The waiting period and all associated requirements are	2536
clearly and prominently disclosed to the consumer prior to the	2537

purchase of the pet insurance policy.	2538
(5) The waiting period shall not be applied to a renewal	2539
of existing coverage.	2540
Sec. 3970.06. (A) No pet insurer shall condition	2541
eligibility to purchase pet insurance on participation, or lack	2542
of participation, in a separate wellness program.	2543
(B) No pet insurer or agent shall market a wellness	2544
<pre>program as pet insurance.</pre>	2545
(C) If a wellness program is sold by a pet insurer, all of	2546
the following apply:	2547
(1) The purchase of the wellness program shall not be a	2548
requirement to purchase pet insurance;	2549
(2) The costs of the wellness program shall be separate	2550
and identifiable from any premiums or other costs for pet	2551
insurance sold by a pet insurer or agent;	2552
(3) The terms and conditions for the wellness program	2553
shall be separate from any pet insurance sold by the pet insurer	2554
or agent;	2555
(4) The products or coverage available through the	2556
wellness program shall not duplicate products or coverage	2557
available through the pet insurance;	2558
(5) The advertising of the wellness program shall not be	2559
misleading and shall comply with division (C)(6) of this	2560
<pre>section;</pre>	2561
(6) The pet insurer or agent shall clearly disclose both	2562
of the following to consumers:	2563
(a) That wellness program is not pet insurance;	2564

(b) The address and customer service telephone number of	2565
the pet insurer or agent.	2566
(D)(1) All coverage included in a pet insurance policy is	2567
considered insurance, regardless of whether the coverage is	2568
described as a wellness benefit.	2569
(2) Except as otherwise provided in division (D)(3) of	2570
this section, if a wellness program undertakes to indemnify	2571
another party, pays a specified amount upon determinable	2572
contingencies, or provides coverage for a fortuitous event, the	2573
program is transacting the business of insurance and is subject	2574
to the requirements of this chapter and all other applicable	2575
laws.	2576
(3) A wellness program contract directly between a service	2577
provider and a pet owner that involves only those two parties is	2578
not transacting the business of insurance unless the contract	2579
has other characteristics of insurance.	2580
Sec. 3970.07. (A) No pet insurer shall sell, solicit, or	2581
negotiate a pet insurance product until after the agent is	2582
appropriately licensed and has completed the required training	2583
identified in division (C) of this section.	2584
(B) A pet insurer shall ensure that the pet insurer's	2585
agents are trained under division (C) of this section and have	2586
been appropriately trained on the coverage and conditions of its	2587
<pre>pet insurance products.</pre>	2588
(C) A pet insurer transacting pet insurance shall be	2589
trained on the following topics:	2590
(1) Preexisting conditions and waiting periods;	2591
(2) The differences between pet insurance and wellness	2592

programs;	2593
(3) Hereditary disorders, congenital anomalies or	2594
disorders, and chronic conditions, and how pet insurance	2595
policies and riders interact with those conditions or disorders;	2596
(4) Rating, underwriting, renewal, and other related	2597
administrative topics.	2598
(D) No additional training is required for a pet insurer	2599
or agent that has completed the training requirements of another	2600
state, if those requirements are the same or substantially	2601
similar to the requirements of this section.	2602
Sec. 3970.08. The superintendent of insurance may adopt_	2603
rules in accordance with Chapter 119. of the Revised Code for	2604
the purposes of administering and enforcing this chapter, which	2605
may include penalties for violations of this chapter.	2606
Sec. 4125.041. A shared employee under a professional	2607
employer organization agreement shall not, solely as a result of	2608
being a shared employee, be considered an employee of the	2609
professional employer organization for purposes of general	2610
liability insurance, fidelity bonds, surety bonds, employer	2611
liability not otherwise covered by Chapters 4121. and 4123. of	2612
the Revised Code, or liquor liability insurance carried by the	2613
professional employer organization, unless the professional	2614
employer organization agreement and applicable prearranged	2615
employment contract, insurance contract, or bond specifically	2616
states otherwise.	2617
A shared employee shall be considered an employee of the	2618
professional employer organization for purposes of determining	2619
whether a professional employer organization who sponsors a	2620
group health benefit plan is a small employer under division (N)	2621

2651

(1) of section 3924.01 of the Revised Code. A fully insured	2622
health benefit plan sponsored by a professional employer	2623
organization is not subject to sections 3924.01 to 3924.14 of	2624
the Revised Code if the professional employer organization is	2625
not a small employer for purposes of those sections.	2626

Sec. 4509.70. (A) After consultation with the insurance 2627 companies authorized to issue automobile liability or physical 2628 damage policies, or both, in this state, the superintendent of 2629 insurance shall approve a reasonable plan, fair and equitable to 2630 2631 the insurers and to their policyholders, for the apportionment among such companies of applicants for such policies and for 2632 motor-vehicle liability policies who are in good faith entitled 2633 to but are unable to procure such policies through ordinary 2634 methods. When any such plan has been approved by the 2635 superintendent, all such insurance companies shall subscribe and 2636 participate. Any applicant for such policy, any person insured 2637 under such plan of operation, and any insurance company 2638 affected, may appeal to the superintendent of insurance from any 2639 ruling or decision of the manager or committee designated in the 2640 plan to operate the assigned risk insurance plan. Any order or 2641 act of the superintendent under this section is subject to 2642 review as provided in sections 119.01 to 119.13 of the Revised 2643 Code, at the instance of any party in interest. 2644

- (B) The plan described in division (A) of this section may 2645 permit the assigned risk insurance plan to directly issue and 2646 process claims arising from such policies described in division 2647 (A) of this section to applicants of automobile insurance 2648 policies who are in good faith entitled to but are unable to 2649 procure such policies through ordinary methods. 2650
  - (C) Every form of a policy, endorsement, rider, manual of

classifications, rules, and rates, every rating plan, and every	2652
modification of any of them proposed to be used by the assigned	2653
risk insurance plan shall be filed, or the plan may satisfy its	2654
obligation to make such filings, as described in section 3937.03	2655
of the Revised Code.	2656
(D) Any automobile insurance policy issued by the assigned	2657
risk insurance plan under division (B) of this section:	2658
(1) Shall be recognized as if issued by an insurance	2659
company authorized to do business in this state;	2660
(2) Shall meet all requirements of proof of financial	2661
responsibility as described in division (K) of section 4509.01	2662
of the Revised Code.	2663
(E) Proof of financial responsibility provided by the	2664
assigned risk insurance plan to an automobile insurance	2665
policyholder that meets the requirements described in division	2666
(G)(1)(a) or (b) of section 4509.101 of the Revised Code shall	2667
be recognized as if issued by an insurance company authorized to	2668
do business in this state to demonstrate proof of financial	2669
responsibility under section 4509.101 of the Revised Code.	2670
(F) The assigned risk insurance plan designated in	2671
division (A) of this section shall do both of the following:	2672
(1) Make annual audited financial reports available to the	2673
superintendent of insurance promptly upon the completion of such	2674
audit;	2675
(2) Upon reasonable notice, make available to the	2676
superintendent of insurance all books and records relating to	2677
the insurance transactions of the assigned risk insurance plan.	2678
(G)(1) Except as provided in division (G)(2) of this	2679

section, records created, held by, or pertaining to the assigned	2680
risk insurance plan are not public records under section 149.43	2681
of the Revised Code, are confidential, and are not subject to	2682
inspection or disclosure.	2683
(2) Division (G)(1) of this section does not apply to the	2684
plan of operation and other information required to be filed	2685
under this section with the superintendent unless otherwise	2686
prohibited from release by law.	2687
(H) (1) For the purposes of division (H) of this section,	2688
"insurance agent" has the same meaning as in section 3905.01 of	2689
the Revised Code.	2690
(2) Provided that the assigned risk insurance plan	2691
establishes registration procedures for insurance agents under	2692
division (H)(3) of this section, the plan shall not accept an	2693
application for an automobile insurance policy issued under	2694
division (B) of this section unless that application is	2695
submitted through an insurance agent registered in accordance	2696
with those procedures.	2697
(3) The plan may do all of the following:	2698
(a) Establish procedures to register insurance agents;	2699
(b) Establish separate registrations for commercial and	2700
personal insurance agents, or one registration for both;	2701
(c) Empower the manager of the plan to make determinations	2702
on registration status, including by revoking an insurance	2703
agent's registration.	2704
(4) If an insurance agent is denied registration with the	2705
plan, or the insurance agent's registration is revoked, the plan	2706
may notify the superintendent of the plan's decision. The plan	2707

and manager are immune from civil liability for any decision to	2708
deny or revoke registration and from any decision to report	2709
denials or revocations to the superintendent.	2710
(5) All insurance agents submitting applications to the	2711
plan for automobile insurance coverage have an affirmative duty	2712
to ensure that all information included in the application and	2713
any supporting materials is true and accurate.	2714
Sec. 5725.18. (A) An annual franchise tax on the privilege	2715
of being an insurance company is hereby levied on each domestic	2716
insurance company. In the month of May, annually, the treasurer	2717
of state shall charge for collection from each domestic	2718
insurance company a franchise tax in the amount computed in	2719
accordance with the following, as applicable:	2720
(1) With respect to a domestic insurance company that is a	2721
health insuring corporation, one per cent of all premium rate	2722
payments received, exclusive of payments received under the	2723
medicare program and exclusive of payments received pursuant to	2724
the medicaid program for the period ending September 30, 2009,	2725
as reflected in its annual report for the preceding calendar	2726
year;	2727
(2) With respect to a domestic insurance company that is	2728
not a health insuring corporation, one and four-tenths per cent	2729
of the gross amount of premiums received from policies covering	2730
risks within this state, exclusive of premiums received under	2731
the medicare program and exclusive of payments received pursuant	2732
to the medicaid program for the period ending September 30,	2733
2009, as reflected in its annual statement for the preceding	2734
calendar year, and, if the company operates a health insuring	2735
corporation as a line of business, one per cent of all premium	2736
rate payments received from that line of business, exclusive of	2737

2751

2752

2753

2754

2755

2756

2757

payments received under the medicare program and exclusive of	2738
payments received pursuant to the medicaid program for the	2739
period ending September 30, 2009, as reflected in its annual	2740
statement for the preceding calendar year.	2741

Domestic insurance companies, including health insuring 2742 corporations, receiving payments pursuant to the medicaid 2743 program during the period beginning October 1, 2009, and ending 2744 December 31, 2009, shall file with the 2009 annual statement to 2745 the superintendent a schedule that reflects those payments 2746 2747 received pursuant to the medicaid program for that period. The payments reflected in the schedule, plus all other taxable 2748 premiums, are subject to the annual franchise tax due to be paid 2749 in 2010. 2750

- (B) The gross amount of premium rate payments or premiums used to compute the applicable tax in accordance with division

  (A) of this section is subject to the deductions prescribed by division (B) of section 5729.02 and section 5729.03 of the Revised Code for foreign insurance companies. The objects of such tax are those declared in section 5725.24 of the Revised Code, to which only such tax shall be applied.
- (C) In no case shall such tax be less than two hundred 2758 fifty dollars.

Sec. 5729.02. Every (A) Subject to division (B) of this 2760 section, every foreign insurance company shall set forth in its 2761 annual statement to the superintendent of insurance the gross 2762 amount of premiums received by it from policies covering risks 2763 within this state during the preceding calendar year, less 2764 return premiums paid for cancellations and considerations 2765 received for reinsurance of risks within this state, provided 2766 that dividends paid or otherwise allowed to policyholders shall 2767

not be deducted except as provided in section 5729.04 of the	2768
Revised Code. If the superintendent has reason to suspect the	2769
correctness of such statement <u>he</u> the superintendent may make an	2770
examination at the expense of the state of the books of such	2771
company or its agents for the purpose of verifying them.	2772
Where insurance against fire is included with insurance	2773
against other perils at an undivided premium, a reasonable	2774
allocation from such entire premium shall be made for the fire	2775
portion of the coverage in such manner as the superintendent of	2776
insurance may direct.	2777
Every insurance company incorporated under the laws of	2778
this state, and controlled by a foreign affiliate, that claims	2779
to be a domestic insurance company, as that term is defined in	2780
division (D) of section 5725.01 of the Revised Code, shall set	2781
forth in its annual report information from which the	2782
superintendent can determine the validity of such claim.	2783
(B) The gross amount of premiums for bail bonds written by	2784
a foreign insurance company included in the annual statement	2785
required under division (A) of this section shall equal the	2786
<pre>company's direct written premiums determined under section</pre>	2787
3905.901 of the Revised Code and reported on the company's	2788
corresponding annual statement of condition.	2789
Section 2. That existing sections 121.95, 1751.11,	2790
2913.47, 3901.04, 3901.221, 3901.24, 3901.321, 3901.36, 3903.42,	2791
3905.14, 3916.15, 3929.41, 3929.42, 3929.43, 3929.44, 3929.481,	2792
3935.04, 3937.03, 3961.08, 4125.041, 4509.70, 5725.18, and	2793
5729.02 of the Revised Code are hereby repealed.	2794
Section 3. As soon as practicable after the effective date	2795

of this section, the Superintendent of Insurance shall amend the 2796

base inventory of regulatory restrictions prepared under section	2797
121.95 of the Revised Code to remove the regulatory restrictions	2798
that are necessary to meet the requirements for accreditation by	2799
the National Association of Insurance Commissioners' Financial	2800
Regulation Standards and Accreditation Committee. The	2801
Superintendent shall compute and state the total number of	2802
regulatory restrictions indicated in its amended base inventory,	2803
shall post the amended base inventory on its web site, and shall	2804
electronically transmit a copy of the amended base inventory to	2805
the Joint Committee on Agency Rule Review. The Superintendent	2806
shall use the amended base inventory for purposes of section	2807
121.951 of the Revised Code.	2808

Section 4. The amendment by this act of sections 5725.18 2809 and 5729.02 of the Revised Code applies to premiums reported on 2810 annual statements filed in 2021 and thereafter. If the amendment 2811 results in a reduction in the amount of tax due from an 2812 insurance company as determined from an annual statement filed 2813 before the amendment's effective date, the insurance company may 2814 submit an application for refund for the amount overpaid under 2815 section 5725.222 or 5729.102 of the Revised Code. 2816

 Section 5. The amendment by this act of sections 3970.01,
 2817

 3970.02, 3970.03, 3970.04, 3970.05, 3970.06, 3970.07, and
 2818

 3970.08 of the Revised Code take effect ninety days after the
 2819

 effective date of this section.
 2820

Section 6. The General Assembly, applying the principle

stated in division (B) of section 1.52 of the Revised Code that

amendments are to be harmonized if reasonably capable of

simultaneous operation, finds that the following sections,

presented in this act as composites of the sections as amended

by the acts indicated, are the resulting versions of the

2821

2822

Sub. S. B. No. 175 As Reported by the Senate Insurance Committee	Page 98
sections in effect prior to the effective date of the sections	2827
as presented in this act:	2828
Section 3901.04 of the Revised Code as amended by both	2829
H.B. 525 and S.B. 196 of the 127th General Assembly.	2830
Section 3905.14 of the Revised Code as amended by both	2831
H.B. 263 and H.B. 339 of the 133rd General Assembly.	2832