

**As Reported by the House Insurance Committee**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**Sub. S. B. No. 284**

**Senators Hottinger, Peterson**

**Cosponsors: Senators Hackett, Brenner, Blessing, Huffman, S., Antonio, Burke, Craig, Dolan, Kunze, Maharath, Manning, O'Brien, Rulli, Schaffer, Thomas, Wilson, Yuko**

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**A BILL**

To amend sections 149.43, 3901.62, and 3901.64 and 1  
to enact sections 3902.36 and 5167.47 of the 2  
Revised Code to amend the law related to 3  
insurers receiving credit for reinsurance, 4  
mental health and substance use disorder benefit 5  
parity, and the release of the telephone number 6  
of a person involved in a motor vehicle 7  
accident. 8

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

**Section 1.** That sections 149.43, 3901.62, and 3901.64 be 9  
amended and sections 3902.36 and 5167.47 of the Revised Code be 10  
enacted to read as follows: 11

**Sec. 149.43.** (A) As used in this section: 12

(1) "Public record" means records kept by any public 13  
office, including, but not limited to, state, county, city, 14  
village, township, and school district units, and records 15  
pertaining to the delivery of educational services by an 16

alternative school in this state kept by the nonprofit or for-profit entity operating the alternative school pursuant to section 3313.533 of the Revised Code. "Public record" does not mean any of the following:

(a) Medical records;

(b) Records pertaining to probation and parole proceedings, to proceedings related to the imposition of community control sanctions and post-release control sanctions, or to proceedings related to determinations under section 2967.271 of the Revised Code regarding the release or maintained incarceration of an offender to whom that section applies;

(c) Records pertaining to actions under section 2151.85 and division (C) of section 2919.121 of the Revised Code and to appeals of actions arising under those sections;

(d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under sections 3705.12 to 3705.124 of the Revised Code;

(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;

(f) Records specified in division (A) of section 3107.52 of the Revised Code;

(g) Trial preparation records;

(h) Confidential law enforcement investigatory records;

(i) Records containing information that is confidential

under section 2710.03 or 4112.05 of the Revised Code;	45
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	46 47
(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;	48 49 50 51
(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;	52 53 54 55
(m) Intellectual property records;	56
(n) Donor profile records;	57
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	58 59
(p) Designated public service worker residential and familial information;	60 61
(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;	62 63 64 65 66
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	67 68
(s) In the case of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code or a review conducted pursuant to guidelines established by the	69 70 71

director of health under section 3701.70 of the Revised Code, 72  
records provided to the board or director, statements made by 73  
board members during meetings of the board or by persons 74  
participating in the director's review, and all work products of 75  
the board or director, and in the case of a child fatality 76  
review board, child fatality review data submitted by the board 77  
to the department of health or a national child death review 78  
database, other than the report prepared pursuant to division 79  
(A) of section 307.626 of the Revised Code; 80

(t) Records provided to and statements made by the 81  
executive director of a public children services agency or a 82  
prosecuting attorney acting pursuant to section 5153.171 of the 83  
Revised Code other than the information released under that 84  
section; 85

(u) Test materials, examinations, or evaluation tools used 86  
in an examination for licensure as a nursing home administrator 87  
that the board of executives of long-term services and supports 88  
administers under section 4751.15 of the Revised Code or 89  
contracts under that section with a private or government entity 90  
to administer; 91

(v) Records the release of which is prohibited by state or 92  
federal law; 93

(w) Proprietary information of or relating to any person 94  
that is submitted to or compiled by the Ohio venture capital 95  
authority created under section 150.01 of the Revised Code; 96

(x) Financial statements and data any person submits for 97  
any purpose to the Ohio housing finance agency or the 98  
controlling board in connection with applying for, receiving, or 99  
accounting for financial assistance from the agency, and 100

information that identifies any individual who benefits directly	101
or indirectly from financial assistance from the agency;	102
(y) Records listed in section 5101.29 of the Revised Code;	103
(z) Discharges recorded with a county recorder under	104
section 317.24 of the Revised Code, as specified in division (B)	105
(2) of that section;	106
(aa) Usage information including names and addresses of	107
specific residential and commercial customers of a municipally	108
owned or operated public utility;	109
(bb) Records described in division (C) of section 187.04	110
of the Revised Code that are not designated to be made available	111
to the public as provided in that division;	112
(cc) Information and records that are made confidential,	113
privileged, and not subject to disclosure under divisions (B)	114
and (C) of section 2949.221 of the Revised Code;	115
(dd) Personal information, as defined in section 149.45 of	116
the Revised Code;	117
(ee) The confidential name, address, and other personally	118
identifiable information of a program participant in the address	119
confidentiality program established under sections 111.41 to	120
111.47 of the Revised Code, including the contents of any	121
application for absent voter's ballots, absent voter's ballot	122
identification envelope statement of voter, or provisional	123
ballot affirmation completed by a program participant who has a	124
confidential voter registration record, and records or portions	125
of records pertaining to that program that identify the number	126
of program participants that reside within a precinct, ward,	127
township, municipal corporation, county, or any other geographic	128
area smaller than the state. As used in this division,	129

"confidential address" and "program participant" have the 130  
meaning defined in section 111.41 of the Revised Code. 131

(ff) Orders for active military service of an individual 132  
serving or with previous service in the armed forces of the 133  
United States, including a reserve component, or the Ohio 134  
organized militia, except that, such order becomes a public 135  
record on the day that is fifteen years after the published date 136  
or effective date of the call to order; 137

(gg) The name, address, contact information, or other 138  
personal information of an individual who is less than eighteen 139  
years of age that is included in any record related to a traffic 140  
accident involving a school vehicle in which the individual was 141  
an occupant at the time of the accident; 142

(hh) Protected health information, as defined in 45 C.F.R. 143  
160.103, that is in a claim for payment for a health care 144  
product, service, or procedure, as well as any other health 145  
claims data in another document that reveals the identity of an 146  
individual who is the subject of the data or could be used to 147  
reveal that individual's identity; 148

(ii) Any depiction by photograph, film, videotape, or 149  
printed or digital image under either of the following 150  
circumstances: 151

(i) The depiction is that of a victim of an offense the 152  
release of which would be, to a reasonable person of ordinary 153  
sensibilities, an offensive and objectionable intrusion into the 154  
victim's expectation of bodily privacy and integrity. 155

(ii) The depiction captures or depicts the victim of a 156  
sexually oriented offense, as defined in section 2950.01 of the 157  
Revised Code, at the actual occurrence of that offense. 158

(jj) Restricted portions of a body-worn camera or dashboard camera recording;	159 160
(kk) In the case of a fetal-infant mortality review board acting under sections 3707.70 to 3707.77 of the Revised Code, records, documents, reports, or other information presented to the board or a person abstracting such materials on the board's behalf, statements made by review board members during board meetings, all work products of the board, and data submitted by the board to the department of health or a national infant death review database, other than the report prepared pursuant to section 3707.77 of the Revised Code.	161 162 163 164 165 166 167 168 169
(ll) Records, documents, reports, or other information presented to the pregnancy-associated mortality review board established under section 3738.01 of the Revised Code, statements made by board members during board meetings, all work products of the board, and data submitted by the board to the department of health, other than the biennial reports prepared under section 3738.08 of the Revised Code;	170 171 172 173 174 175 176
(mm) Telephone numbers for a victim, as defined in section 2930.01 of the Revised Code, a witness to a crime, or a party to a motor vehicle accident subject to the requirements of section 5502.11 of the Revised Code that are listed on any law enforcement record or report, <u>other than when requested by an insurer or insurance agent investigating an insurance claim resulting from a motor vehicle accident.</u>	177 178 179 180 181 182 183
A record that is not a public record under division (A) (1) of this section and that, under law, is permanently retained becomes a public record on the day that is seventy-five years after the day on which the record was created, except for any record protected by the attorney-client privilege, a trial	184 185 186 187 188

preparation record as defined in this section, a statement 189  
prohibiting the release of identifying information signed under 190  
section 3107.083 of the Revised Code, a denial of release form 191  
filed pursuant to section 3107.46 of the Revised Code, or any 192  
record that is exempt from release or disclosure under section 193  
149.433 of the Revised Code. If the record is a birth 194  
certificate and a biological parent's name redaction request 195  
form has been accepted under section 3107.391 of the Revised 196  
Code, the name of that parent shall be redacted from the birth 197  
certificate before it is released under this paragraph. If any 198  
other section of the Revised Code establishes a time period for 199  
disclosure of a record that conflicts with the time period 200  
specified in this section, the time period in the other section 201  
prevails. 202

(2) "Confidential law enforcement investigatory record" 203  
means any record that pertains to a law enforcement matter of a 204  
criminal, quasi-criminal, civil, or administrative nature, but 205  
only to the extent that the release of the record would create a 206  
high probability of disclosure of any of the following: 207

(a) The identity of a suspect who has not been charged 208  
with the offense to which the record pertains, or of an 209  
information source or witness to whom confidentiality has been 210  
reasonably promised; 211

(b) Information provided by an information source or 212  
witness to whom confidentiality has been reasonably promised, 213  
which information would reasonably tend to disclose the source's 214  
or witness's identity; 215

(c) Specific confidential investigatory techniques or 216  
procedures or specific investigatory work product; 217



(d) Information that would endanger the life or physical 218  
safety of law enforcement personnel, a crime victim, a witness, 219  
or a confidential information source. 220

(3) "Medical record" means any document or combination of 221  
documents, except births, deaths, and the fact of admission to 222  
or discharge from a hospital, that pertains to the medical 223  
history, diagnosis, prognosis, or medical condition of a patient 224  
and that is generated and maintained in the process of medical 225  
treatment. 226

(4) "Trial preparation record" means any record that 227  
contains information that is specifically compiled in reasonable 228  
anticipation of, or in defense of, a civil or criminal action or 229  
proceeding, including the independent thought processes and 230  
personal trial preparation of an attorney. 231

(5) "Intellectual property record" means a record, other 232  
than a financial or administrative record, that is produced or 233  
collected by or for faculty or staff of a state institution of 234  
higher learning in the conduct of or as a result of study or 235  
research on an educational, commercial, scientific, artistic, 236  
technical, or scholarly issue, regardless of whether the study 237  
or research was sponsored by the institution alone or in 238  
conjunction with a governmental body or private concern, and 239  
that has not been publicly released, published, or patented. 240

(6) "Donor profile record" means all records about donors 241  
or potential donors to a public institution of higher education 242  
except the names and reported addresses of the actual donors and 243  
the date, amount, and conditions of the actual donation. 244

(7) "Designated public service worker" means a peace 245  
officer, parole officer, probation officer, bailiff, prosecuting 246

attorney, assistant prosecuting attorney, correctional employee, 247  
county or multicounty corrections officer, community-based 248  
correctional facility employee, youth services employee, 249  
firefighter, EMT, medical director or member of a cooperating 250  
physician advisory board of an emergency medical service 251  
organization, state board of pharmacy employee, investigator of 252  
the bureau of criminal identification and investigation, judge, 253  
magistrate, or federal law enforcement officer. 254

(8) "Designated public service worker residential and 255  
familial information" means any information that discloses any 256  
of the following about a designated public service worker: 257

(a) The address of the actual personal residence of a 258  
designated public service worker, except for the following 259  
information: 260

(i) The address of the actual personal residence of a 261  
prosecuting attorney or judge; and 262

(ii) The state or political subdivision in which a 263  
designated public service worker resides. 264

(b) Information compiled from referral to or participation 265  
in an employee assistance program; 266

(c) The social security number, the residential telephone 267  
number, any bank account, debit card, charge card, or credit 268  
card number, or the emergency telephone number of, or any 269  
medical information pertaining to, a designated public service 270  
worker; 271

(d) The name of any beneficiary of employment benefits, 272  
including, but not limited to, life insurance benefits, provided 273  
to a designated public service worker by the designated public 274  
service worker's employer; 275

(e) The identity and amount of any charitable or 276  
employment benefit deduction made by the designated public 277  
service worker's employer from the designated public service 278  
worker's compensation, unless the amount of the deduction is 279  
required by state or federal law; 280

(f) The name, the residential address, the name of the 281  
employer, the address of the employer, the social security 282  
number, the residential telephone number, any bank account, 283  
debit card, charge card, or credit card number, or the emergency 284  
telephone number of the spouse, a former spouse, or any child of 285  
a designated public service worker; 286

(g) A photograph of a peace officer who holds a position 287  
or has an assignment that may include undercover or plain 288  
clothes positions or assignments as determined by the peace 289  
officer's appointing authority. 290

(9) As used in divisions (A) (7) and (15) to (17) of this 291  
section: 292

"Peace officer" has the meaning defined in section 109.71 293  
of the Revised Code and also includes the superintendent and 294  
troopers of the state highway patrol; it does not include the 295  
sheriff of a county or a supervisory employee who, in the 296  
absence of the sheriff, is authorized to stand in for, exercise 297  
the authority of, and perform the duties of the sheriff. 298

"Correctional employee" means any employee of the 299  
department of rehabilitation and correction who in the course of 300  
performing the employee's job duties has or has had contact with 301  
inmates and persons under supervision. 302

"County or multicounty corrections officer" means any 303  
corrections officer employed by any county or multicounty 304

correctional facility. 305

"Youth services employee" means any employee of the 306  
department of youth services who in the course of performing the 307  
employee's job duties has or has had contact with children 308  
committed to the custody of the department of youth services. 309

"Firefighter" means any regular, paid or volunteer, member 310  
of a lawfully constituted fire department of a municipal 311  
corporation, township, fire district, or village. 312

"EMT" means EMTs-basic, EMTs-I, and paramedics that 313  
provide emergency medical services for a public emergency 314  
medical service organization. "Emergency medical service 315  
organization," "EMT-basic," "EMT-I," and "paramedic" have the 316  
meanings defined in section 4765.01 of the Revised Code. 317

"Investigator of the bureau of criminal identification and 318  
investigation" has the meaning defined in section 2903.11 of the 319  
Revised Code. 320

"Federal law enforcement officer" has the meaning defined 321  
in section 9.88 of the Revised Code. 322

(10) "Information pertaining to the recreational 323  
activities of a person under the age of eighteen" means 324  
information that is kept in the ordinary course of business by a 325  
public office, that pertains to the recreational activities of a 326  
person under the age of eighteen years, and that discloses any 327  
of the following: 328

(a) The address or telephone number of a person under the 329  
age of eighteen or the address or telephone number of that 330  
person's parent, guardian, custodian, or emergency contact 331  
person; 332

(b) The social security number, birth date, or	333
photographic image of a person under the age of eighteen;	334
(c) Any medical record, history, or information pertaining	335
to a person under the age of eighteen;	336
(d) Any additional information sought or required about a	337
person under the age of eighteen for the purpose of allowing	338
that person to participate in any recreational activity	339
conducted or sponsored by a public office or to use or obtain	340
admission privileges to any recreational facility owned or	341
operated by a public office.	342
(11) "Community control sanction" has the meaning defined	343
in section 2929.01 of the Revised Code.	344
(12) "Post-release control sanction" has the meaning	345
defined in section 2967.01 of the Revised Code.	346
(13) "Redaction" means obscuring or deleting any	347
information that is exempt from the duty to permit public	348
inspection or copying from an item that otherwise meets the	349
definition of a "record" in section 149.011 of the Revised Code.	350
(14) "Designee," "elected official," and "future official"	351
have the meanings defined in section 109.43 of the Revised Code.	352
(15) "Body-worn camera" means a visual and audio recording	353
device worn on the person of a peace officer while the peace	354
officer is engaged in the performance of the peace officer's	355
duties.	356
(16) "Dashboard camera" means a visual and audio recording	357
device mounted on a peace officer's vehicle or vessel that is	358
used while the peace officer is engaged in the performance of	359
the peace officer's duties.	360

(17) "Restricted portions of a body-worn camera or dashboard camera recording" means any visual or audio portion of a body-worn camera or dashboard camera recording that shows, communicates, or discloses any of the following:

(a) The image or identity of a child or information that could lead to the identification of a child who is a primary subject of the recording when the law enforcement agency knows or has reason to know the person is a child based on the law enforcement agency's records or the content of the recording;

(b) The death of a person or a deceased person's body, unless the death was caused by a peace officer or, subject to division (H)(1) of this section, the consent of the decedent's executor or administrator has been obtained;

(c) The death of a peace officer, firefighter, paramedic, or other first responder, occurring while the decedent was engaged in the performance of official duties, unless, subject to division (H)(1) of this section, the consent of the decedent's executor or administrator has been obtained;

(d) Grievous bodily harm, unless the injury was effected by a peace officer or, subject to division (H)(1) of this section, the consent of the injured person or the injured person's guardian has been obtained;

(e) An act of severe violence against a person that results in serious physical harm to the person, unless the act and injury was effected by a peace officer or, subject to division (H)(1) of this section, the consent of the injured person or the injured person's guardian has been obtained;

(f) Grievous bodily harm to a peace officer, firefighter, paramedic, or other first responder, occurring while the injured

person was engaged in the performance of official duties, 390  
unless, subject to division (H)(1) of this section, the consent 391  
of the injured person or the injured person's guardian has been 392  
obtained; 393

(g) An act of severe violence resulting in serious 394  
physical harm against a peace officer, firefighter, paramedic, 395  
or other first responder, occurring while the injured person was 396  
engaged in the performance of official duties, unless, subject 397  
to division (H)(1) of this section, the consent of the injured 398  
person or the injured person's guardian has been obtained; 399

(h) A person's nude body, unless, subject to division (H) 400  
(1) of this section, the person's consent has been obtained; 401

(i) Protected health information, the identity of a person 402  
in a health care facility who is not the subject of a law 403  
enforcement encounter, or any other information in a health care 404  
facility that could identify a person who is not the subject of 405  
a law enforcement encounter; 406

(j) Information that could identify the alleged victim of 407  
a sex offense, menacing by stalking, or domestic violence; 408

(k) Information, that does not constitute a confidential 409  
law enforcement investigatory record, that could identify a 410  
person who provides sensitive or confidential information to a 411  
law enforcement agency when the disclosure of the person's 412  
identity or the information provided could reasonably be 413  
expected to threaten or endanger the safety or property of the 414  
person or another person; 415

(l) Personal information of a person who is not arrested, 416  
cited, charged, or issued a written warning by a peace officer; 417

(m) Proprietary police contingency plans or tactics that 418

are intended to prevent crime and maintain public order and	419
safety;	420
(n) A personal conversation unrelated to work between	421
peace officers or between a peace officer and an employee of a	422
law enforcement agency;	423
(o) A conversation between a peace officer and a member of	424
the public that does not concern law enforcement activities;	425
(p) The interior of a residence, unless the interior of a	426
residence is the location of an adversarial encounter with, or a	427
use of force by, a peace officer;	428
(q) Any portion of the interior of a private business that	429
is not open to the public, unless an adversarial encounter with,	430
or a use of force by, a peace officer occurs in that location.	431
As used in division (A) (17) of this section:	432
"Grievous bodily harm" has the same meaning as in section	433
5924.120 of the Revised Code.	434
"Health care facility" has the same meaning as in section	435
1337.11 of the Revised Code.	436
"Protected health information" has the same meaning as in	437
45 C.F.R. 160.103.	438
"Law enforcement agency" has the same meaning as in	439
section 2925.61 of the Revised Code.	440
"Personal information" means any government-issued	441
identification number, date of birth, address, financial	442
information, or criminal justice information from the law	443
enforcement automated data system or similar databases.	444
"Sex offense" has the same meaning as in section 2907.10	445



of the Revised Code. 446

"Firefighter," "paramedic," and "first responder" have the 447  
same meanings as in section 4765.01 of the Revised Code. 448

(18) "Insurer" and "insurance agent" have the same 449  
meanings as in section 3905.01 of the Revised Code. 450

(B) (1) Upon request and subject to division (B) (8) of this 451  
section, all public records responsive to the request shall be 452  
promptly prepared and made available for inspection to any 453  
person at all reasonable times during regular business hours. 454  
Subject to division (B) (8) of this section, upon request by any 455  
person, a public office or person responsible for public records 456  
shall make copies of the requested public record available to 457  
the requester at cost and within a reasonable period of time. If 458  
a public record contains information that is exempt from the 459  
duty to permit public inspection or to copy the public record, 460  
the public office or the person responsible for the public 461  
record shall make available all of the information within the 462  
public record that is not exempt. When making that public record 463  
available for public inspection or copying that public record, 464  
the public office or the person responsible for the public 465  
record shall notify the requester of any redaction or make the 466  
redaction plainly visible. A redaction shall be deemed a denial 467  
of a request to inspect or copy the redacted information, except 468  
if federal or state law authorizes or requires a public office 469  
to make the redaction. 470

(2) To facilitate broader access to public records, a 471  
public office or the person responsible for public records shall 472  
organize and maintain public records in a manner that they can 473  
be made available for inspection or copying in accordance with 474  
division (B) of this section. A public office also shall have 475

available a copy of its current records retention schedule at a 476  
location readily available to the public. If a requester makes 477  
an ambiguous or overly broad request or has difficulty in making 478  
a request for copies or inspection of public records under this 479  
section such that the public office or the person responsible 480  
for the requested public record cannot reasonably identify what 481  
public records are being requested, the public office or the 482  
person responsible for the requested public record may deny the 483  
request but shall provide the requester with an opportunity to 484  
revise the request by informing the requester of the manner in 485  
which records are maintained by the public office and accessed 486  
in the ordinary course of the public office's or person's 487  
duties. 488

(3) If a request is ultimately denied, in part or in 489  
whole, the public office or the person responsible for the 490  
requested public record shall provide the requester with an 491  
explanation, including legal authority, setting forth why the 492  
request was denied. If the initial request was provided in 493  
writing, the explanation also shall be provided to the requester 494  
in writing. The explanation shall not preclude the public office 495  
or the person responsible for the requested public record from 496  
relying upon additional reasons or legal authority in defending 497  
an action commenced under division (C) of this section. 498

(4) Unless specifically required or authorized by state or 499  
federal law or in accordance with division (B) of this section, 500  
no public office or person responsible for public records may 501  
limit or condition the availability of public records by 502  
requiring disclosure of the requester's identity or the intended 503  
use of the requested public record. Any requirement that the 504  
requester disclose the requester's identity or the intended use 505  
of the requested public record constitutes a denial of the 506

request. 507

(5) A public office or person responsible for public 508  
records may ask a requester to make the request in writing, may 509  
ask for the requester's identity, and may inquire about the 510  
intended use of the information requested, but may do so only 511  
after disclosing to the requester that a written request is not 512  
mandatory, that the requester may decline to reveal the 513  
requester's identity or the intended use, and when a written 514  
request or disclosure of the identity or intended use would 515  
benefit the requester by enhancing the ability of the public 516  
office or person responsible for public records to identify, 517  
locate, or deliver the public records sought by the requester. 518

(6) If any person requests a copy of a public record in 519  
accordance with division (B) of this section, the public office 520  
or person responsible for the public record may require that 521  
person to pay in advance the cost involved in providing the copy 522  
of the public record in accordance with the choice made by the 523  
person requesting the copy under this division. The public 524  
office or the person responsible for the public record shall 525  
permit that person to choose to have the public record 526  
duplicated upon paper, upon the same medium upon which the 527  
public office or person responsible for the public record keeps 528  
it, or upon any other medium upon which the public office or 529  
person responsible for the public record determines that it 530  
reasonably can be duplicated as an integral part of the normal 531  
operations of the public office or person responsible for the 532  
public record. When the person requesting the copy makes a 533  
choice under this division, the public office or person 534  
responsible for the public record shall provide a copy of it in 535  
accordance with the choice made by that person. Nothing in this 536  
section requires a public office or person responsible for the 537

public record to allow the person requesting a copy of the 538  
public record to make the copies of the public record. 539

(7) (a) Upon a request made in accordance with division (B) 540  
of this section and subject to division (B) (6) of this section, 541  
a public office or person responsible for public records shall 542  
transmit a copy of a public record to any person by United 543  
States mail or by any other means of delivery or transmission 544  
within a reasonable period of time after receiving the request 545  
for the copy. The public office or person responsible for the 546  
public record may require the person making the request to pay 547  
in advance the cost of postage if the copy is transmitted by 548  
United States mail or the cost of delivery if the copy is 549  
transmitted other than by United States mail, and to pay in 550  
advance the costs incurred for other supplies used in the 551  
mailing, delivery, or transmission. 552

(b) Any public office may adopt a policy and procedures 553  
that it will follow in transmitting, within a reasonable period 554  
of time after receiving a request, copies of public records by 555  
United States mail or by any other means of delivery or 556  
transmission pursuant to division (B) (7) of this section. A 557  
public office that adopts a policy and procedures under division 558  
(B) (7) of this section shall comply with them in performing its 559  
duties under that division. 560

(c) In any policy and procedures adopted under division 561  
(B) (7) of this section: 562

(i) A public office may limit the number of records 563  
requested by a person that the office will physically deliver by 564  
United States mail or by another delivery service to ten per 565  
month, unless the person certifies to the office in writing that 566  
the person does not intend to use or forward the requested 567

records, or the information contained in them, for commercial 568  
purposes; 569

(ii) A public office that chooses to provide some or all 570  
of its public records on a web site that is fully accessible to 571  
and searchable by members of the public at all times, other than 572  
during acts of God outside the public office's control or 573  
maintenance, and that charges no fee to search, access, 574  
download, or otherwise receive records provided on the web site, 575  
may limit to ten per month the number of records requested by a 576  
person that the office will deliver in a digital format, unless 577  
the requested records are not provided on the web site and 578  
unless the person certifies to the office in writing that the 579  
person does not intend to use or forward the requested records, 580  
or the information contained in them, for commercial purposes. 581

(iii) For purposes of division (B) (7) of this section, 582  
"commercial" shall be narrowly construed and does not include 583  
reporting or gathering news, reporting or gathering information 584  
to assist citizen oversight or understanding of the operation or 585  
activities of government, or nonprofit educational research. 586

(8) A public office or person responsible for public 587  
records is not required to permit a person who is incarcerated 588  
pursuant to a criminal conviction or a juvenile adjudication to 589  
inspect or to obtain a copy of any public record concerning a 590  
criminal investigation or prosecution or concerning what would 591  
be a criminal investigation or prosecution if the subject of the 592  
investigation or prosecution were an adult, unless the request 593  
to inspect or to obtain a copy of the record is for the purpose 594  
of acquiring information that is subject to release as a public 595  
record under this section and the judge who imposed the sentence 596  
or made the adjudication with respect to the person, or the 597

judge's successor in office, finds that the information sought 598  
in the public record is necessary to support what appears to be 599  
a justiciable claim of the person. 600

(9) (a) Upon written request made and signed by a 601  
journalist, a public office, or person responsible for public 602  
records, having custody of the records of the agency employing a 603  
specified designated public service worker shall disclose to the 604  
journalist the address of the actual personal residence of the 605  
designated public service worker and, if the designated public 606  
service worker's spouse, former spouse, or child is employed by 607  
a public office, the name and address of the employer of the 608  
designated public service worker's spouse, former spouse, or 609  
child. The request shall include the journalist's name and title 610  
and the name and address of the journalist's employer and shall 611  
state that disclosure of the information sought would be in the 612  
public interest. 613

(b) Division (B) (9) (a) of this section also applies to 614  
journalist requests for: 615

(i) Customer information maintained by a municipally owned 616  
or operated public utility, other than social security numbers 617  
and any private financial information such as credit reports, 618  
payment methods, credit card numbers, and bank account 619  
information; 620

(ii) Information about minors involved in a school vehicle 621  
accident as provided in division (A) (1) (gg) of this section, 622  
other than personal information as defined in section 149.45 of 623  
the Revised Code. 624

(c) As used in division (B) (9) of this section, 625  
"journalist" means a person engaged in, connected with, or 626

employed by any news medium, including a newspaper, magazine, 627  
press association, news agency, or wire service, a radio or 628  
television station, or a similar medium, for the purpose of 629  
gathering, processing, transmitting, compiling, editing, or 630  
disseminating information for the general public. 631

(10) Upon a request made by a victim, victim's attorney, 632  
or victim's representative, as that term is used in section 633  
2930.02 of the Revised Code, a public office or person 634  
responsible for public records shall transmit a copy of a 635  
depiction of the victim as described in division ~~(A) (1) (gg)~~ (A) 636  
(1) (ii) of this section to the victim, victim's attorney, or 637  
victim's representative. 638

(C) (1) If a person allegedly is aggrieved by the failure 639  
of a public office or the person responsible for public records 640  
to promptly prepare a public record and to make it available to 641  
the person for inspection in accordance with division (B) of 642  
this section or by any other failure of a public office or the 643  
person responsible for public records to comply with an 644  
obligation in accordance with division (B) of this section, the 645  
person allegedly aggrieved may do only one of the following, and 646  
not both: 647

(a) File a complaint with the clerk of the court of claims 648  
or the clerk of the court of common pleas under section 2743.75 649  
of the Revised Code; 650

(b) Commence a mandamus action to obtain a judgment that 651  
orders the public office or the person responsible for the 652  
public record to comply with division (B) of this section, that 653  
awards court costs and reasonable attorney's fees to the person 654  
that instituted the mandamus action, and, if applicable, that 655  
includes an order fixing statutory damages under division (C) (2) 656

of this section. The mandamus action may be commenced in the 657  
court of common pleas of the county in which division (B) of 658  
this section allegedly was not complied with, in the supreme 659  
court pursuant to its original jurisdiction under Section 2 of 660  
Article IV, Ohio Constitution, or in the court of appeals for 661  
the appellate district in which division (B) of this section 662  
allegedly was not complied with pursuant to its original 663  
jurisdiction under Section 3 of Article IV, Ohio Constitution. 664

(2) If a requester transmits a written request by hand 665  
delivery, electronic submission, or certified mail to inspect or 666  
receive copies of any public record in a manner that fairly 667  
describes the public record or class of public records to the 668  
public office or person responsible for the requested public 669  
records, except as otherwise provided in this section, the 670  
requester shall be entitled to recover the amount of statutory 671  
damages set forth in this division if a court determines that 672  
the public office or the person responsible for public records 673  
failed to comply with an obligation in accordance with division 674  
(B) of this section. 675

The amount of statutory damages shall be fixed at one 676  
hundred dollars for each business day during which the public 677  
office or person responsible for the requested public records 678  
failed to comply with an obligation in accordance with division 679  
(B) of this section, beginning with the day on which the 680  
requester files a mandamus action to recover statutory damages, 681  
up to a maximum of one thousand dollars. The award of statutory 682  
damages shall not be construed as a penalty, but as compensation 683  
for injury arising from lost use of the requested information. 684  
The existence of this injury shall be conclusively presumed. The 685  
award of statutory damages shall be in addition to all other 686  
remedies authorized by this section. 687



The court may reduce an award of statutory damages or not 688  
award statutory damages if the court determines both of the 689  
following: 690

(a) That, based on the ordinary application of statutory 691  
law and case law as it existed at the time of the conduct or 692  
threatened conduct of the public office or person responsible 693  
for the requested public records that allegedly constitutes a 694  
failure to comply with an obligation in accordance with division 695  
(B) of this section and that was the basis of the mandamus 696  
action, a well-informed public office or person responsible for 697  
the requested public records reasonably would believe that the 698  
conduct or threatened conduct of the public office or person 699  
responsible for the requested public records did not constitute 700  
a failure to comply with an obligation in accordance with 701  
division (B) of this section; 702

(b) That a well-informed public office or person 703  
responsible for the requested public records reasonably would 704  
believe that the conduct or threatened conduct of the public 705  
office or person responsible for the requested public records 706  
would serve the public policy that underlies the authority that 707  
is asserted as permitting that conduct or threatened conduct. 708

(3) In a mandamus action filed under division (C)(1) of 709  
this section, the following apply: 710

(a) (i) If the court orders the public office or the person 711  
responsible for the public record to comply with division (B) of 712  
this section, the court shall determine and award to the relator 713  
all court costs, which shall be construed as remedial and not 714  
punitive. 715

(ii) If the court makes a determination described in 716

division (C) (3) (b) (iii) of this section, the court shall 717  
determine and award to the relator all court costs, which shall 718  
be construed as remedial and not punitive. 719

(b) If the court renders a judgment that orders the public 720  
office or the person responsible for the public record to comply 721  
with division (B) of this section or if the court determines any 722  
of the following, the court may award reasonable attorney's fees 723  
to the relator, subject to division (C) (4) of this section: 724

(i) The public office or the person responsible for the 725  
public records failed to respond affirmatively or negatively to 726  
the public records request in accordance with the time allowed 727  
under division (B) of this section. 728

(ii) The public office or the person responsible for the 729  
public records promised to permit the relator to inspect or 730  
receive copies of the public records requested within a 731  
specified period of time but failed to fulfill that promise 732  
within that specified period of time. 733

(iii) The public office or the person responsible for the 734  
public records acted in bad faith when the office or person 735  
voluntarily made the public records available to the relator for 736  
the first time after the relator commenced the mandamus action, 737  
but before the court issued any order concluding whether or not 738  
the public office or person was required to comply with division 739  
(B) of this section. No discovery may be conducted on the issue 740  
of the alleged bad faith of the public office or person 741  
responsible for the public records. This division shall not be 742  
construed as creating a presumption that the public office or 743  
the person responsible for the public records acted in bad faith 744  
when the office or person voluntarily made the public records 745  
available to the relator for the first time after the relator 746

commenced the mandamus action, but before the court issued any 747  
order described in this division. 748

(c) The court shall not award attorney's fees to the 749  
relator if the court determines both of the following: 750

(i) That, based on the ordinary application of statutory 751  
law and case law as it existed at the time of the conduct or 752  
threatened conduct of the public office or person responsible 753  
for the requested public records that allegedly constitutes a 754  
failure to comply with an obligation in accordance with division 755  
(B) of this section and that was the basis of the mandamus 756  
action, a well-informed public office or person responsible for 757  
the requested public records reasonably would believe that the 758  
conduct or threatened conduct of the public office or person 759  
responsible for the requested public records did not constitute 760  
a failure to comply with an obligation in accordance with 761  
division (B) of this section; 762

(ii) That a well-informed public office or person 763  
responsible for the requested public records reasonably would 764  
believe that the conduct or threatened conduct of the public 765  
office or person responsible for the requested public records 766  
would serve the public policy that underlies the authority that 767  
is asserted as permitting that conduct or threatened conduct. 768

(4) All of the following apply to any award of reasonable 769  
attorney's fees awarded under division (C) (3) (b) of this 770  
section: 771

(a) The fees shall be construed as remedial and not 772  
punitive. 773

(b) The fees awarded shall not exceed the total of the 774  
reasonable attorney's fees incurred before the public record was 775

made available to the relator and the fees described in division	776
(C) (4) (c) of this section.	777
(c) Reasonable attorney's fees shall include reasonable	778
fees incurred to produce proof of the reasonableness and amount	779
of the fees and to otherwise litigate entitlement to the fees.	780
(d) The court may reduce the amount of fees awarded if the	781
court determines that, given the factual circumstances involved	782
with the specific public records request, an alternative means	783
should have been pursued to more effectively and efficiently	784
resolve the dispute that was subject to the mandamus action	785
filed under division (C) (1) of this section.	786
(5) If the court does not issue a writ of mandamus under	787
division (C) of this section and the court determines at that	788
time that the bringing of the mandamus action was frivolous	789
conduct as defined in division (A) of section 2323.51 of the	790
Revised Code, the court may award to the public office all court	791
costs, expenses, and reasonable attorney's fees, as determined	792
by the court.	793
(D) Chapter 1347. of the Revised Code does not limit the	794
provisions of this section.	795
(E) (1) To ensure that all employees of public offices are	796
appropriately educated about a public office's obligations under	797
division (B) of this section, all elected officials or their	798
appropriate designees shall attend training approved by the	799
attorney general as provided in section 109.43 of the Revised	800
Code. A future official may satisfy the requirements of this	801
division by attending the training before taking office,	802
provided that the future official may not send a designee in the	803
future official's place.	804

(2) All public offices shall adopt a public records policy 805  
in compliance with this section for responding to public records 806  
requests. In adopting a public records policy under this 807  
division, a public office may obtain guidance from the model 808  
public records policy developed and provided to the public 809  
office by the attorney general under section 109.43 of the 810  
Revised Code. Except as otherwise provided in this section, the 811  
policy may not limit the number of public records that the 812  
public office will make available to a single person, may not 813  
limit the number of public records that it will make available 814  
during a fixed period of time, and may not establish a fixed 815  
period of time before it will respond to a request for 816  
inspection or copying of public records, unless that period is 817  
less than eight hours. 818

The public office shall distribute the public records 819  
policy adopted by the public office under this division to the 820  
employee of the public office who is the records custodian or 821  
records manager or otherwise has custody of the records of that 822  
office. The public office shall require that employee to 823  
acknowledge receipt of the copy of the public records policy. 824  
The public office shall create a poster that describes its 825  
public records policy and shall post the poster in a conspicuous 826  
place in the public office and in all locations where the public 827  
office has branch offices. The public office may post its public 828  
records policy on the internet web site of the public office if 829  
the public office maintains an internet web site. A public 830  
office that has established a manual or handbook of its general 831  
policies and procedures for all employees of the public office 832  
shall include the public records policy of the public office in 833  
the manual or handbook. 834

(F) (1) The bureau of motor vehicles may adopt rules 835

pursuant to Chapter 119. of the Revised Code to reasonably limit 836  
the number of bulk commercial special extraction requests made 837  
by a person for the same records or for updated records during a 838  
calendar year. The rules may include provisions for charges to 839  
be made for bulk commercial special extraction requests for the 840  
actual cost of the bureau, plus special extraction costs, plus 841  
ten per cent. The bureau may charge for expenses for redacting 842  
information, the release of which is prohibited by law. 843

(2) As used in division (F)(1) of this section: 844

(a) "Actual cost" means the cost of depleted supplies, 845  
records storage media costs, actual mailing and alternative 846  
delivery costs, or other transmitting costs, and any direct 847  
equipment operating and maintenance costs, including actual 848  
costs paid to private contractors for copying services. 849

(b) "Bulk commercial special extraction request" means a 850  
request for copies of a record for information in a format other 851  
than the format already available, or information that cannot be 852  
extracted without examination of all items in a records series, 853  
class of records, or database by a person who intends to use or 854  
forward the copies for surveys, marketing, solicitation, or 855  
resale for commercial purposes. "Bulk commercial special 856  
extraction request" does not include a request by a person who 857  
gives assurance to the bureau that the person making the request 858  
does not intend to use or forward the requested copies for 859  
surveys, marketing, solicitation, or resale for commercial 860  
purposes. 861

(c) "Commercial" means profit-seeking production, buying, 862  
or selling of any good, service, or other product. 863

(d) "Special extraction costs" means the cost of the time 864

spent by the lowest paid employee competent to perform the task, 865  
the actual amount paid to outside private contractors employed 866  
by the bureau, or the actual cost incurred to create computer 867  
programs to make the special extraction. "Special extraction 868  
costs" include any charges paid to a public agency for computer 869  
or records services. 870

(3) For purposes of divisions (F) (1) and (2) of this 871  
section, "surveys, marketing, solicitation, or resale for 872  
commercial purposes" shall be narrowly construed and does not 873  
include reporting or gathering news, reporting or gathering 874  
information to assist citizen oversight or understanding of the 875  
operation or activities of government, or nonprofit educational 876  
research. 877

(G) A request by a defendant, counsel of a defendant, or 878  
any agent of a defendant in a criminal action that public 879  
records related to that action be made available under this 880  
section shall be considered a demand for discovery pursuant to 881  
the Criminal Rules, except to the extent that the Criminal Rules 882  
plainly indicate a contrary intent. The defendant, counsel of 883  
the defendant, or agent of the defendant making a request under 884  
this division shall serve a copy of the request on the 885  
prosecuting attorney, director of law, or other chief legal 886  
officer responsible for prosecuting the action. 887

(H) (1) Any portion of a body-worn camera or dashboard 888  
camera recording described in divisions (A) (17) (b) to (h) of 889  
this section may be released by consent of the subject of the 890  
recording or a representative of that person, as specified in 891  
those divisions, only if either of the following applies: 892

(a) The recording will not be used in connection with any 893  
probable or pending criminal proceedings; 894

(b) The recording has been used in connection with a 895  
criminal proceeding that was dismissed or for which a judgment 896  
has been entered pursuant to Rule 32 of the Rules of Criminal 897  
Procedure, and will not be used again in connection with any 898  
probable or pending criminal proceedings. 899

(2) If a public office denies a request to release a 900  
restricted portion of a body-worn camera or dashboard camera 901  
recording, as defined in division (A) (17) of this section, any 902  
person may file a mandamus action pursuant to this section or a 903  
complaint with the clerk of the court of claims pursuant to 904  
section 2743.75 of the Revised Code, requesting the court to 905  
order the release of all or portions of the recording. If the 906  
court considering the request determines that the filing 907  
articulates by clear and convincing evidence that the public 908  
interest in the recording substantially outweighs privacy 909  
interests and other interests asserted to deny release, the 910  
court shall order the public office to release the recording. 911

**Sec. 3901.62.** (A) Except as provided in sections 3901.63 912  
and 3901.64 of the Revised Code, a domestic ceding insurer that 913  
is authorized to do any insurance business in this state may 914  
take credit for any reinsurance ceded as either an asset or a 915  
reduction of liability only if one of the following applies: 916

(1) The reinsurance is ceded to an assuming insurer that 917  
is authorized to do any insurance or reinsurance business in 918  
this state. 919

(2) The reinsurance is ceded to an assuming insurer that 920  
is accredited by the superintendent of insurance as a reinsurer 921  
in this state in accordance with division (B) of this section. 922

(3) The reinsurance is ceded to an assuming insurer that 923



is not authorized to do any insurance or reinsurance business in 924  
this state, provided the reinsurance is ceded to a reinsurance 925  
pool or other risk-sharing entity in which participation is 926  
required by law, rule, or regulation of the jurisdiction in 927  
which the pool or entity is located. 928

(4) The reinsurance is ceded to an assuming insurer that 929  
maintains a trust fund in a qualified United States financial 930  
institution, as defined in section 3901.63 of the Revised Code, 931  
for the payment of the valid claims of its United States 932  
policyholders and ceding insurers, and their assigns and 933  
successors in interest in accordance with division (C) of this 934  
section. 935

(5) The reinsurance is ceded to an assuming insurer that 936  
has been certified by the superintendent as a reinsurer in this 937  
state and that secures its obligations in accordance with 938  
division (D) of this section. 939

(6) The reinsurance is ceded to an assuming insurer that 940  
meets all of the conditions set forth in division (E) of this 941  
section. 942

(B) (1) In order to be eligible for accreditation under 943  
division (A) (2) of this section, the assuming insurer shall do 944  
all of the following: 945

(a) File with the superintendent evidence of its 946  
submission to this state's jurisdiction; 947

(b) Submit to this state's authority to examine its books 948  
and records; 949

(c) Maintain a license to transact insurance or 950  
reinsurance in at least one state or, in the case of a United 951  
States branch of a foreign or alien assuming insurer, be entered 952

through and licensed to transact insurance or reinsurance in at 953  
least one state; 954

(d) File annually with the superintendent a copy of its 955  
annual statement filed with the insurance department of its 956  
state of domicile, and a copy of its most recent audited 957  
financial statement; 958

(e) Demonstrate to the satisfaction of the superintendent 959  
that it has adequate financial capacity to meet its reinsurance 960  
obligations and is otherwise qualified to assume reinsurance 961  
from domestic insurers. 962

(2) An assuming insurer is considered to meet the 963  
requirement of division (B) (1) (e) of this section as of the time 964  
of its application to the superintendent for accreditation if it 965  
maintains a surplus with regard to policyholders in an amount 966  
not less than twenty million dollars, and the superintendent has 967  
not denied its accreditation within ninety days after submission 968  
of its application. 969

(C) (1) A trust maintained by an assuming insurer under 970  
division (A) (4) of this section shall meet the following 971  
requirements: 972

(a) In the case of a single assuming insurer, the trust 973  
shall consist of a trusteed account representing the assuming 974  
insurer's liabilities attributable to business underwritten in 975  
the United States. A trusteed surplus of not less than twenty 976  
million dollars shall be maintained by the assuming insurer, 977  
except that at any time after the assuming insurer has 978  
permanently discontinued underwriting new business secured by 979  
the trust for at least three full years, the superintendent with 980  
principal regulatory oversight of the trust may authorize a 981

reduction in the required trusted surplus, but only after a 982  
finding, based on an assessment of the risk, that the new 983  
required surplus level is adequate for the protection of ceding 984  
insurers within the United States, policyholders, and claimants 985  
in light of reasonably foreseeable adverse loss development. 986

The risk assessment may involve an actuarial review, 987  
including an independent analysis of reserves and cash flows, 988  
and shall consider all material risk factors, including when 989  
applicable the lines of business involved, the stability of the 990  
incurred loss estimates, and the effect of the surplus 991  
requirements on the assuming insurer's liquidity or solvency. 992

The minimum required trusted surplus shall not be reduced 993  
to an amount less than thirty per cent of the assuming insurer's 994  
liabilities attributable to reinsurance ceded by ceding insurers 995  
within the United States covered by the trust. 996

(b) In the case of a group of assuming insurers, including 997  
incorporated and individual unincorporated underwriters, the 998  
trust shall consist of a trusted account representing the 999  
group's liabilities attributable to business written in the 1000  
United States. A trusted surplus shall be maintained by the 1001  
group, of which surplus one hundred million dollars shall be 1002  
held jointly for the benefit of the United States ceding 1003  
insurers of any member of the group. The following requirements 1004  
apply to the group of assuming insurers: 1005

(i) The incorporated members of the group shall not engage 1006  
in any business other than underwriting as a member of the 1007  
group, and shall be subject to the same level of solvency 1008  
regulation and control by the group's domiciliary regulator as 1009  
are the unincorporated members. 1010

(ii) The group shall make available to the superintendent 1011  
of insurance an annual certification of the solvency of each 1012  
underwriter in the group. The certification shall be provided by 1013  
the group's domiciliary regulator and its independent public 1014  
accountants. 1015

(c) In the case of a group of incorporated insurers under 1016  
common administration with aggregate policyholders' surplus of 1017  
ten billion dollars that has continuously transacted an 1018  
insurance business outside the United States for at least three 1019  
years immediately prior to assuming reinsurance, the trust shall 1020  
be in an amount equal to the group's several liabilities 1021  
attributable to business ceded by United States ceding insurers 1022  
to any member of the group pursuant to reinsurance contracts 1023  
issued in the name of the group. A joint trusted surplus shall 1024  
be maintained by the group, of which surplus one hundred million 1025  
dollars shall be held jointly for the benefit of United States 1026  
ceding insurers of any member of the group as additional 1027  
security for any such liabilities. The following requirements 1028  
apply to the group of incorporated insurers: 1029

(i) The group shall comply with all filing requirements 1030  
contained in this section. 1031

(ii) The books and records of the group shall be subject 1032  
to examination by the superintendent in the same manner as the 1033  
books and records of insurers are subject to examination by the 1034  
superintendent in accordance with section 3901.07 of the Revised 1035  
Code. The group shall bear the expenses of these examinations in 1036  
the manner provided by that section. 1037

(iii) Each member of the group shall make available to the 1038  
superintendent an annual certification of the member's solvency 1039  
by the member's domiciliary regulator and an independent public 1040

accountant. 1041

(2) A trust maintained by an assuming insurer under 1042  
division (A)(4) of this section shall remain in effect for as 1043  
long as the assuming insurer has outstanding obligations due 1044  
under the reinsurance agreements subject to the trust. The trust 1045  
shall be in a form approved by the superintendent and shall 1046  
include the following: 1047

(a) The trust instrument shall provide that contested 1048  
claims are valid and enforceable upon the final order of any 1049  
court of competent jurisdiction in the United States. 1050

(b) The trust shall vest legal title to its assets in the 1051  
trustees of the trust for its United States policyholders and 1052  
ceding insurers, and their assigns and successors in interest. 1053

(c) The trust, and the assuming insurer maintaining the 1054  
trust, shall allow the superintendent to conduct examinations in 1055  
the same manner as the superintendent conducts examinations of 1056  
insurers under section 3901.07 of the Revised Code. 1057

(3) No later than the last day of February of each year, 1058  
the trustees of a trust maintained by an assuming insurer under 1059  
division (A)(4) of this section shall provide the superintendent 1060  
with a written report setting forth the balance of the trust and 1061  
listing the trust's investments as of the preceding thirty-first 1062  
day of December. The trustees shall certify the date of the 1063  
termination of the trust, if termination of the trust is 1064  
planned, or shall certify that the trust does not expire prior 1065  
to the following thirty-first day of December. 1066

(4) To enable the superintendent to determine the 1067  
sufficiency of a trust maintained by an assuming insurer under 1068  
division (A)(4) of this section, the assuming insurer shall 1069

annually report information on the trust to the superintendent 1070  
that is substantially the same as that information licensed 1071  
insurers are required to report under sections 3907.19, 3909.06, 1072  
and 3929.30 of the Revised Code on forms adopted under section 1073  
3901.77 of the Revised Code. 1074

(D) (1) In order to be eligible for certification under 1075  
division (A) (5) of this section, the assuming insurer shall do 1076  
all of the following: 1077

(a) Be domiciled and licensed to transact insurance or 1078  
reinsurance in a qualified jurisdiction as determined by the 1079  
superintendent pursuant to division (D) (3) of this section; 1080

(b) Maintain minimum capital and surplus, or its 1081  
equivalent, in an amount to be determined by the superintendent 1082  
in rule or regulation; 1083

(c) Maintain financial strength ratings from two or more 1084  
rating agencies that meet criteria the superintendent sets forth 1085  
in rule or regulation; 1086

(d) Agree to submit to the jurisdiction of this state, 1087  
appoint the superintendent as its agent for service of process 1088  
in this state, and agree to provide security for one hundred per 1089  
cent of the assuming insurer's liabilities attributable to 1090  
reinsurance ceded by ceding insurers in the United States if it 1091  
resists enforcement of a final judgment from the United States; 1092

(e) Agree to meet applicable information filing 1093  
requirements as determined by the superintendent with respect to 1094  
an initial application for certification and on an ongoing 1095  
basis; 1096

(f) Satisfy any other requirements for certification 1097  
considered relevant by the superintendent. 1098

(2) An association, including incorporated and individual unincorporated underwriters, may be a certified reinsurer. In order to be eligible for certification, an association, in addition to satisfying the requirements of division (D) (1) of this section, shall also meet the following requirements:

(a) The association shall satisfy its minimum capital and surplus requirements through the capital and surplus equivalents (net of liabilities), or the net liabilities, of the association and its members which shall include a joint central fund that may be applied to any unsatisfied obligation of the association or any of its members, in an amount determined by the superintendent in order to provide adequate protection.

(b) The incorporated members of the association shall not be engaged in any business other than underwriting as a member of the association, and shall be subject to the same level of regulation and solvency control by the association's domiciliary regulator as the unincorporated members.

(c) The association shall provide the superintendent an annual certification by the association's domiciliary regulator of the solvency of each underwriter member within ninety days after its financial statements are due to be filed with the association's domiciliary regulator. If a certification is unavailable, the association shall provide the superintendent with financial statements prepared by independent public accountants of each underwriter member of the association.

(3) The superintendent shall create and publish a list of qualified jurisdictions under which an assuming insurer licensed and domiciled in such jurisdiction is eligible to be considered by the superintendent for certification as a certified reinsurer.

(a) The superintendent shall consider the list of 1129  
qualified jurisdictions published through the national 1130  
association of insurance commissioner's committee process in 1131  
determining qualified jurisdictions. If the superintendent 1132  
approves a jurisdiction as qualified that does not appear on the 1133  
list, the superintendent shall provide justification in 1134  
accordance with criteria to be developed by the superintendent 1135  
under rule or regulation. 1136

(b) Jurisdictions within the United States that meet the 1137  
requirement for accreditation under the national association of 1138  
insurance commissioner's financial standards and accreditation 1139  
program shall be recognized as qualified. 1140

(c) To determine if a domiciliary jurisdiction not located 1141  
within the United States is eligible to be recognized as a 1142  
qualified jurisdiction, the superintendent shall evaluate the 1143  
appropriateness and effectiveness of the reinsurance supervisory 1144  
system of the jurisdiction, both initially and on an ongoing 1145  
basis, and consider the rights, benefits, and the extent of 1146  
reciprocal recognition afforded by the jurisdiction to 1147  
reinsurers licensed and domiciled in the United States. 1148

(d) A qualified jurisdiction shall agree to share 1149  
information and cooperate with the superintendent with respect 1150  
to all certified reinsurers domiciled within that jurisdiction. 1151

(e) A jurisdiction shall not be recognized as a qualified 1152  
jurisdiction if the superintendent has determined that the 1153  
jurisdiction does not adequately and promptly enforce final 1154  
judgments and arbitration awards from the United States. 1155

(f) If a certified reinsurer's domiciliary jurisdiction 1156  
ceases to be a qualified jurisdiction, the superintendent may 1157



revoke the reinsurer's certification or suspend the reinsurer's certification indefinitely. 1158  
1159

(g) The superintendent may consider additional factors as the superintendent considers appropriate. 1160  
1161

(4) The superintendent shall assign a rating to each certified reinsurer giving due consideration to the financial strength ratings assigned by rating agencies pursuant to division (D)(1)(c) of this section. The superintendent shall publish a list of all certified reinsurers and their ratings. 1162  
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(5) A certified reinsurer shall secure obligations assumed from a ceding insurer within the United States at a level consistent with its rating as specified by the superintendent in rule or regulation. 1167  
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(a) Except as otherwise provided in division (D)(5) of this section, a certified reinsurer shall maintain security in a form acceptable to the superintendent and consistent with section 3901.63 of the Revised Code, or in a multibeneficiary trust on behalf of the ceding insurer in accordance with division (A)(4) of this section, in order for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer. 1171  
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(b) If a certified reinsurer chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust for the benefit of the ceding insurer, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this division or comparable laws of other jurisdictions within the United States, and for its obligations 1179  
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subject to division (A) (4) of this section. 1187

(c) Upon termination of any such trust account described 1188  
in division (A) (4) of this section, a certified reinsurer shall 1189  
be bound by the language of the trust and agreement with the 1190  
superintendent that has principal regulatory oversight of each 1191  
trust account to fund any deficiency of any other trust account 1192  
out of the remaining surplus of such trust as a condition to 1193  
certification under division (D) (1) of this section. 1194

(d) The minimum trustee surplus requirements provided in 1195  
division (C) of this section are not applicable with respect to 1196  
a multibeneficiary trust maintained by a certified reinsurer for 1197  
the purpose of securing obligations incurred under division (A) 1198  
(5) of this section, except that such trust shall maintain a 1199  
minimum trustee surplus of ten million dollars. 1200

(e) With respect to obligations incurred by a certified 1201  
reinsurer under division (A) (5) of this section, if the security 1202  
is insufficient, the superintendent shall reduce the allowable 1203  
credit by an amount proportionate to the deficiency, and the 1204  
superintendent may impose further reductions in allowable credit 1205  
upon finding that there is a material risk that the certified 1206  
reinsurer's obligations will not be paid in full when due. 1207

(f) Except as otherwise provided in division (D) (5) of 1208  
this section, a reinsurer whose certification has been 1209  
terminated for any reason shall be treated under this section as 1210  
a certified reinsurer required to secure one hundred per cent of 1211  
its obligations. The superintendent may continue to assign a 1212  
higher rating to the reinsurer if the reinsurer is in inactive 1213  
status or the reinsurer's certification has been suspended. As 1214  
used in division (D) (5) (f) of this section, "terminated" means 1215  
revocation, suspension, voluntary surrender, or inactive status. 1216

(6) If an applicant for certification has been certified 1217  
as a reinsurer in a national association of insurance 1218  
commissioners accredited jurisdiction, the superintendent may 1219  
defer to that jurisdiction's certification and rating 1220  
assignment, and the assuming insurer shall be considered to be a 1221  
certified reinsurer in this state. 1222

(7) A certified reinsurer that ceases to assume new 1223  
business in this state may request to maintain its certification 1224  
in inactive status in order to continue to qualify for a 1225  
reduction in security for its in-force business. An inactive 1226  
certified reinsurer shall continue to comply with all applicable 1227  
requirements of division (A) (5) of this section, and the 1228  
superintendent shall assign a rating that takes into account, if 1229  
relevant, the reasons why the reinsurer is not assuming new 1230  
business. 1231

(E) (1) (a) The assuming insurer shall have its head office, 1232  
or be domiciled in, as applicable, and be licensed in a 1233  
reciprocal jurisdiction. 1234

(b) (i) The assuming insurer shall have and maintain, on an 1235  
ongoing basis, minimum capital and surplus, or its equivalent, 1236  
calculated according to the methodology of its domiciliary 1237  
jurisdiction, in an amount to be set forth in rule adopted by 1238  
the superintendent. 1239

(ii) If the assuming insurer is an association, including 1240  
incorporated and individual unincorporated underwriters, it 1241  
shall have and maintain, on an ongoing basis, minimum capital 1242  
and surplus equivalents, net of liabilities, calculated 1243  
according to the methodology applicable in its domiciliary 1244  
jurisdiction, and a central fund containing a balance in amounts 1245  
determined by the superintendent in rule or regulation. 1246

(c) (i) The assuming insurer shall have and maintain, on an 1247  
ongoing basis, a minimum solvency or capital ratio, as 1248  
applicable, that will be set forth in rule adopted by the 1249  
superintendent. 1250

(ii) If the assuming insurer is an association, including 1251  
incorporated and individual unincorporated underwriters, it 1252  
shall have and maintain, on an ongoing basis, a minimum solvency 1253  
or capital ratio in the reciprocal jurisdiction where the 1254  
assuming insurer has its head office or is domiciled, as 1255  
applicable, and is also licensed. 1256

(d) The assuming insurer shall agree and provide adequate 1257  
assurance to the superintendent, in a form specified in rule 1258  
adopted by the superintendent, as follows: 1259

(i) The assuming insurer shall provide prompt written 1260  
notice and explanation to the superintendent if it falls below 1261  
the minimum requirements set forth in division (E) (1) (b) or (c) 1262  
of this section, or if any regulatory action is taken against it 1263  
for serious noncompliance with applicable law. 1264

(ii) The assuming insurer shall consent in writing to the 1265  
jurisdiction of the courts of this state and to the appointment 1266  
of the superintendent as agent for service of process. The 1267  
superintendent may require that consent for service of process 1268  
be provided to the superintendent and included in each 1269  
reinsurance agreement. Nothing in this provision shall be 1270  
construed as limiting, or in any way altering, the capacity of 1271  
parties to a reinsurance agreement to agree to alternative 1272  
dispute resolution mechanisms, except to the extent such 1273  
agreements are unenforceable under applicable insolvency or 1274  
delinquency laws. 1275

(iii) The assuming insurer shall consent in writing to pay 1276  
all final judgments, wherever enforcement is sought, obtained by 1277  
a ceding insurer or its legal successor, that have been declared 1278  
enforceable in the jurisdiction where the judgment was obtained. 1279

(iv) Each reinsurance agreement shall include a provision 1280  
requiring the assuming insurer to provide security in an amount 1281  
equal to one hundred per cent of the assuming insurer's 1282  
liabilities attributable to reinsurance ceded pursuant to that 1283  
agreement if the assuming insurer resists enforcement of a final 1284  
judgment that is enforceable under the law of the jurisdiction 1285  
in which it was obtained or a properly enforceable arbitration 1286  
award, whether obtained by the ceding insurer or by its legal 1287  
successor on behalf of its resolution estate. 1288

(v) The assuming insurer shall confirm that it is not 1289  
presently participating in any solvent scheme of arrangement 1290  
that involves this state's ceding insurers, and agree to notify 1291  
the ceding insurer and the superintendent and to provide 1292  
security in an amount equal to one hundred per cent of the 1293  
assuming insurer's liabilities to the ceding insurer, should the 1294  
assuming insurer enter into such a solvent scheme of 1295  
arrangement. Such security shall be in a form consistent with 1296  
the provisions of division (A) (5) of this section and section 1297  
3901.63 of the Revised Code and as specified by the 1298  
superintendent in rule or regulation. 1299

(e) The assuming insurer or its legal successor shall 1300  
provide, if requested by the superintendent, on behalf of itself 1301  
and any legal predecessors, certain documentation to the 1302  
superintendent, as specified in rule adopted by the 1303  
superintendent. 1304

(f) The assuming insurer shall maintain a practice of 1305

prompt payment of claims under reinsurance agreements, pursuant 1306  
to criteria set forth in rule adopted by the superintendent. 1307

(g) The assuming insurer's supervisory authority shall 1308  
confirm to the superintendent on an annual basis, as of the 1309  
preceding thirty-first day of December, or on the annual date 1310  
that the assuming insurer is statutorily required to report to 1311  
the reciprocal jurisdiction, that the assuming insurer complies 1312  
with the requirements set forth in divisions (E) (1) (b) and (c) 1313  
of this section. 1314

(h) Nothing in division (E) of this section precludes an 1315  
assuming insurer from providing the superintendent with 1316  
information on a voluntary basis. 1317

(2) The superintendent shall timely create and publish a 1318  
list of reciprocal jurisdictions. 1319

(a) The superintendent's list shall include any reciprocal 1320  
jurisdiction as defined under divisions (E) (8) (b) (i) and (ii) of 1321  
this section, and shall consider any other reciprocal 1322  
jurisdiction included on the list compiled by the national 1323  
association of insurance commissioners. The superintendent may 1324  
approve a jurisdiction that does not appear on the national 1325  
association of insurance commissioners' list of reciprocal 1326  
jurisdictions in accordance with criteria established rules or 1327  
regulations issued by the superintendent. 1328

(b) (i) The superintendent may remove a jurisdiction from 1329  
the list of reciprocal jurisdictions upon a determination that 1330  
the jurisdiction no longer meets the requirements of a 1331  
reciprocal jurisdiction, in accordance with a process set forth 1332  
in rules or regulations issued by the superintendent, except 1333  
that the superintendent shall not remove from the list a 1334

reciprocal jurisdiction as defined under division (E) (8) (b) (i) 1335  
or (ii) of this section. 1336

(ii) Upon removal of a reciprocal jurisdiction from this 1337  
list credit for reinsurance ceded to an assuming insurer that 1338  
has its home office or is domiciled in that jurisdiction shall 1339  
be allowed, if otherwise allowed pursuant to sections 3901.61 to 1340  
3901.65 of the Revised Code. 1341

(3) (a) The superintendent shall timely create and publish 1342  
a list of assuming insurers that have satisfied the conditions 1343  
set forth in division (E) (1) of this section and to which 1344  
cessions shall be granted credit in accordance with this 1345  
section. 1346

(b) The superintendent may add an assuming insurer to such 1347  
list if a jurisdiction accredited by the national association of 1348  
insurance commissioners has added such assuming insurer to a 1349  
list of such assuming insurers or if, upon initial eligibility, 1350  
the assuming insurer submits the information to the 1351  
superintendent as required under division (E) (1) (d) of this 1352  
section and complies with any additional requirements that the 1353  
superintendent may impose by rule or regulation, except to the 1354  
extent that they conflict with an applicable covered agreement. 1355

(4) (a) If the superintendent determines that an assuming 1356  
insurer no longer meets one or more of the requirements 1357  
prescribed in division (E) (1) of this section, the 1358  
superintendent may revoke or suspend the eligibility of the 1359  
assuming insurer for recognition under this section in 1360  
accordance with rules adopted by the superintendent. 1361

(b) While an assuming insurer's eligibility is suspended, 1362  
no reinsurance agreement issued, amended, or renewed after the 1363

effective date of the suspension qualifies for credit except to 1364  
the extent that the assuming insurer's obligations under the 1365  
contract are secured in accordance with section 3901.63 of the 1366  
Revised Code. 1367

(c) If an assuming insurer's eligibility is revoked, no 1368  
credit for reinsurance may be granted after the effective date 1369  
of the revocation with respect to any reinsurance agreements 1370  
entered into by the assuming insurer, including reinsurance 1371  
agreements entered into prior to the date of revocation, except 1372  
to the extent that the assuming insurer's obligations under the 1373  
contract are secured in a form acceptable to the superintendent 1374  
and consistent with the provisions of section 3901.63 of the 1375  
Revised Code. 1376

(5) If subject to a legal process of rehabilitation, 1377  
liquidation, or conservation, as applicable, the ceding insurer, 1378  
or its representative, may seek and, if determined appropriate 1379  
by the court in which the proceedings are pending, may obtain an 1380  
order requiring that the assuming insurer post security for all 1381  
outstanding ceded liabilities. 1382

(6) Nothing in division (E) of this section shall limit, 1383  
or in any way alter, the capacity of parties to a reinsurance 1384  
agreement to agree on requirements for security or other terms 1385  
in that reinsurance agreement, except as expressly prohibited by 1386  
sections 3901.61 to 3901.65 of the Revised Code or other 1387  
applicable law, rule, or regulation. 1388

(7) (a) Credit may be taken under division (E) of this 1389  
section only for reinsurance agreements entered into, amended, 1390  
or renewed on or after the effective date of this amendment, and 1391  
only with respect to losses incurred and reserves reported on or 1392  
after the later of the following: 1393



(i) The date on which the assuming insurer has met all 1394  
eligibility requirements pursuant to division (E)(1) of this 1395  
section; 1396

(ii) The effective date of the new reinsurance agreement, 1397  
amendment, or renewal. 1398

(b) Division (E)(7)(a) of this section does not alter or 1399  
impair a ceding insurer's right to take credit for reinsurance, 1400  
to the extent that credit is not available under division (E) of 1401  
this section, as long as the reinsurance qualifies for credit 1402  
under any other applicable provision of sections 3901.61 to 1403  
3901.65 of the Revised Code. 1404

(c) Nothing in division (E)(7) of this section shall be 1405  
construed as authorizing an assuming insurer to withdraw or 1406  
reduce the security provided under any reinsurance agreement, 1407  
except as permitted by the terms of the agreement. 1408

(d) Nothing in division (E)(7) of this section shall 1409  
limit, or in any way alter, the capacity of parties to any 1410  
reinsurance agreement to renegotiate the agreement. 1411

(8) As used in division (E) of this section: 1412

(a) "Covered agreement" means an agreement entered into 1413  
pursuant to the Dodd-Frank Wall Street Reform and Consumer 1414  
Protection Act, 31 U.S.C. 313 and 314, that is currently in 1415  
effect or in a period of provisional application and addresses 1416  
the elimination, under specified conditions, of collateral 1417  
requirements as a condition for entering into any reinsurance 1418  
agreement with a ceding insurer domiciled in this state or for 1419  
allowing the ceding insurer to recognize credit for reinsurance. 1420

(b) "Reciprocal jurisdiction" means a jurisdiction that 1421  
meets one of the following: 1422

(i) A non-United States jurisdiction that is subject to 1423  
an in-force covered agreement with the United States, each 1424  
within its legal authority, or, in the case of a covered 1425  
agreement between the United States and the European Union, is a 1426  
member state of the European Union; 1427

(ii) A United States jurisdiction that meets the 1428  
requirements for accreditation under the national association of 1429  
insurance commissioners' financial standards and accreditation 1430  
program; 1431

(iii) A qualified jurisdiction, as determined by the 1432  
superintendent pursuant to division (D)(3) of this section, that 1433  
is not otherwise described in division (E)(8)(b)(i) or (ii) of 1434  
this section, and that meets certain additional requirements, 1435  
consistent with the terms and conditions of in-force covered 1436  
agreements, as specified in rule adopted by the superintendent. 1437

(F) An assuming insurer shall file a written instrument 1438  
appointing an attorney as its agent in this state upon whom all 1439  
service of process may be served. Service of process upon this 1440  
agent shall bring the assuming insurer within the jurisdiction 1441  
of the courts of this state as if served upon an agent pursuant 1442  
to section 3927.03 of the Revised Code. 1443

~~(F)~~(G) Nothing in this section shall prohibit the parties 1444  
to a reinsurance agreement from agreeing to provisions in the 1445  
agreement establishing security requirements that exceed the 1446  
minimum security requirements established for certified 1447  
reinsurers under this section. 1448

~~(G)(1)~~(H)(1) In order to facilitate the prompt payment of 1449  
claims, the superintendent may permit a certified reinsurer to 1450  
defer the posting of security for catastrophe recoverables for a 1451

period of up to one year from the date of the first instance of 1452  
a liability reserve entry by the ceding insurer as a result of a 1453  
loss from a catastrophic occurrence. 1454

(2) Upon notice by the ceding insurer to the 1455  
superintendent that the certified reinsurer has failed to pay 1456  
claims owed under a reinsurance agreement in a timely manner, 1457  
the superintendent shall notify the certified reinsurer that it 1458  
is no longer permitted to defer the posting of security for 1459  
catastrophe recoverables. 1460

(3) Reinsurance recoverables for only the following lines 1461  
of business, as reported on the national association of 1462  
insurance commissioners' annual financial statement related 1463  
specifically to the catastrophic occurrence, shall be included 1464  
in the deferral: 1465

(a) Fire; 1466

(b) Allied lines; 1467

(c) Farmowner's multiple peril; 1468

(d) Homeowners multiple peril; 1469

(e) Commercial multiple peril; 1470

(f) Inland marine; 1471

(g) Earthquake; 1472

(h) Auto physical damage. 1473

(4) The superintendent may adopt rules in accordance with 1474  
Chapter 119. of the Revised Code to establish the process for a 1475  
certified reinsurer to seek a deferral of posting of security 1476  
for catastrophe recoverables. 1477

**Sec. 3901.64.** (A) A domestic ceding insurer may take 1478

credit for any reinsurance ceded as provided in sections 3901.61 1479  
to 3901.63 of the Revised Code only if the reinsurance agreement 1480  
contained in the reinsurance contract, and any agreement that 1481  
provides security for the payment of the obligations under the 1482  
reinsurance agreement, including any trust agreement, provide, 1483  
in substance, for the following: 1484

(1) In the event of the insolvency of the ceding insurer, 1485  
the reinsurance, whether paid directly or from trust assets 1486  
securing the reinsurance agreement, shall be payable by the 1487  
assuming insurer on the basis of the liability of the ceding 1488  
insurer under the policy or contract reinsured, without any 1489  
diminution because the ceding insurer is insolvent or because 1490  
the liquidator or statutory receiver has failed to pay all or 1491  
any portion of any claims; 1492

(2) The reinsurance payments, whether paid directly or 1493  
from trust assets securing the reinsurance agreement, shall be 1494  
made by the assuming insurer directly to the ceding insurer, or 1495  
in the event of its insolvency or liquidation, to its liquidator 1496  
or statutory receiver except where the reinsurance contract or 1497  
other written agreement specifically provides for direct payment 1498  
of the reinsurance to the insured or beneficiary of the 1499  
insurance policy in the event of the insolvency of the ceding 1500  
insurer. 1501

(B) (1) The reinsurance agreement may provide that the 1502  
domiciliary liquidator or statutory receiver shall give written 1503  
notice to the assuming insurer that a claim is pending against 1504  
the ceding insurer on the policy or contract reinsured. The 1505  
notice shall be given within a reasonable amount of time after 1506  
the claim is filed with the liquidator or statutory receiver. 1507  
During the pendency of the claim, any assuming insurer may 1508

investigate the claim and interpose, at its own expense, in the 1509  
proceeding where the claim is to be adjudicated any defenses 1510  
which it deems to be available to the ceding insurer or its 1511  
liquidator. 1512

(2) The expense may be filed as a claim against the 1513  
insolvent ceding insurer to the extent of a proportionate share 1514  
of the benefit that may accrue to the ceding insurer solely as a 1515  
result of the defense undertaken by the assuming insurer. Where 1516  
two or more assuming insurers are involved in the same claim and 1517  
a majority in interest elect to interpose a defense to the 1518  
claim, the expense shall be apportioned in accordance with the 1519  
terms of the reinsurance agreement as though the expense had 1520  
been incurred by the ceding insurer. 1521

(C) If the assuming insurer is not licensed, or accredited 1522  
or certified to transact insurance or reinsurance in this state, 1523  
the credit permitted by division (A) (4) of section 3901.62 of 1524  
the Revised Code shall not be allowed unless the assuming 1525  
insurer agrees to do both of the following in the reinsurance 1526  
agreements: 1527

(1) (a) If the assuming insurer fails to perform its 1528  
obligations under the terms of the reinsurance agreement, at the 1529  
request of the ceding insurer, the assuming insurer shall submit 1530  
to the jurisdiction of any court of competent jurisdiction in 1531  
any state within the United States, comply with all requirements 1532  
necessary to give the court jurisdiction, and abide by the final 1533  
decision of the court or of any appellate court in the event of 1534  
an appeal. 1535

(b) The assuming insurer shall designate the 1536  
superintendent or a designated attorney as its true and lawful 1537  
attorney upon whom may be served any lawful process in any 1538

action, suit, or proceeding instituted by or on behalf of the 1539  
ceding insurer. 1540

(2) This division is not intended to conflict with or 1541  
override the obligation of the parties to a reinsurance 1542  
agreement to arbitrate their disputes, if this obligation is 1543  
created in the agreement. 1544

(D) If the assuming insurer does not meet the requirements 1545  
of division (A) (1), (2), ~~or (3)~~, or (6) of section 3901.62 of 1546  
the Revised Code, the credit permitted by divisions (A) (4) and 1547  
(5) of that section shall not be allowed unless the assuming 1548  
insurer agrees in the trust agreements to the following 1549  
conditions: 1550

(1) Notwithstanding any other provisions in the trust 1551  
instrument, if the trust fund is inadequate because it contains 1552  
an amount less than the amount required by division (C) (1) of 1553  
section 3901.62 of the Revised Code, or if the grantor of the 1554  
trust has been declared insolvent or placed into receivership, 1555  
rehabilitation, liquidation, or similar proceedings under the 1556  
laws of its state or country of domicile, the trustee shall 1557  
comply with an order of the superintendent with regulatory 1558  
oversight over the trust or with an order of a court of 1559  
competent jurisdiction directing the trustee to transfer to the 1560  
superintendent with regulatory oversight all of the assets of 1561  
the trust fund. 1562

(2) The assets shall be distributed by, and claims shall 1563  
be filed with and valued by, the superintendent with regulatory 1564  
oversight in accordance with the laws of the state, in which the 1565  
trust is domiciled, that are applicable to the liquidation of 1566  
domestic insurance companies. 1567

(3) If the superintendent with regulatory oversight 1568  
determines that the assets of the trust fund, or any part 1569  
thereof, are not necessary to satisfy the claims of the ceding 1570  
insurers within the United States or the grantor of the trust, 1571  
the superintendent with regulatory oversight shall return the 1572  
assets or part thereof to the trustee for distribution in 1573  
accordance with the trust agreement. 1574

(4) The grantor shall waive any right otherwise available 1575  
to it under the laws of the United States that are inconsistent 1576  
with this division. 1577

**Sec. 3902.36.** (A) As used in this section: 1578

(1) "Health benefit plan" and "health plan issuer" have 1579  
the same meanings as in section 3922.01 of the Revised Code. 1580

(2) "Mental Health Parity and Addiction Equity Act" means 1581  
the federal "Paul Wellstone and Pete Domenici Mental Health 1582  
Parity and Addiction Equity Act of 2008," Pub. L. No. 110-343, 1583  
as amended, and any federal regulations implementing that act. 1584

(B) Each health plan issuer and health benefit plan 1585  
subject to the Mental Health Parity and Addiction Equity Act 1586  
shall comply with all applicable requirements of that act. The 1587  
requirements of this section do not apply to a health plan 1588  
issuer or a health benefit plan that is exempt from the 1589  
requirements of that act by operation of law or other federal 1590  
guidance. 1591

(C) The superintendent of insurance shall implement and 1592  
enforce all applicable provisions of the Mental Health Parity 1593  
and Addiction Equity Act and shall do all of the following: 1594

(1) Proactively ensure compliance by health plan issuers; 1595

(2) Evaluate all consumer and provider complaints 1596  
regarding mental health and substance use disorder benefits for 1597  
possible parity violations; 1598

(3) Adopt rules in accordance with Chapter 119. of the 1599  
Revised Code as necessary to do both of the following: 1600

(a) Effectuate any provisions of the Mental Health Parity 1601  
and Addiction Equity Act that relate to the business of 1602  
insurance; 1603

(b) Enforce, monitor compliance with, and ensure continued 1604  
compliance with this section. 1605

(D) Nothing in this section is subject to the requirements 1606  
of section 3901.71 of the Revised Code. 1607

**Sec. 5167.47.** (A) When contracting with a medicaid managed 1608  
care organization, the department of medicaid shall require the 1609  
medicaid managed care organization to provide to medicaid 1610  
enrollees the same benefits and rights as required under 1611  
division (B) of section 3902.36 of the Revised Code. 1612

(B) The medicaid director shall do both of the following: 1613

(1) Implement and enforce division (B) of section 3902.36 1614  
of the Revised Code with respect to medicaid managed care 1615  
organizations; 1616

(2) Enforce, monitor compliance with, and ensure continued 1617  
compliance with this section. 1618

(C) The director may adopt rules under section 5167.02 of 1619  
the Revised Code as necessary to carry out the provisions of 1620  
this section. 1621

**Section 2.** That existing sections 149.43, 3901.62, and 1622



3901.64 of the Revised Code are hereby repealed.

1623