

As Reported by the House Insurance Committee

135th General Assembly

Regular Session

2023-2024

Sub. S. B. No. 175

Senator Lang

**Cosponsors: Senators Hackett, Antonio, Brenner, Chavez, Cirino, Craig, DeMora,
Reineke, Rulli, Schaffer, Wilson**

Representative Lampton

A BILL

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

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

Section 1. That sections 121.95, 1751.11, 2913.47, 10
3901.04, 3901.221, 3901.24, 3901.321, 3901.36, 3903.42, 3905.14, 11
3916.15, 3929.41, 3929.42, 3929.43, 3929.44, 3929.481, 3935.04, 12
3937.03, 3961.08, 4125.041, 4509.70, 5725.18, and 5729.02 be 13
amended and sections 3901.411, 3970.01, 3970.02, 3970.03, 14
3970.04, 3970.05, 3970.06, 3970.07, and 3970.08 of the Revised 15
Code be enacted to read as follows: 16

Sec. 121.95. (A) As used in sections 121.95, 121.951, 17

121.952, 121.953, and 121.954 of the Revised Code, "state agency" means an administrative department created under section 121.02 of the Revised Code, an administrative department head appointed under section 121.03 of the Revised Code, and a state agency organized under an administrative department or administrative department head. "State agency" also includes the department of education and workforce, the state lottery commission, the Ohio casino control commission, the state racing commission, and the public utilities commission of Ohio. Rules adopted by an otherwise independent official or entity organized under a state agency shall be attributed to the agency under which the official or entity is organized for the purposes of sections 121.95, 121.951, 121.952, 121.953, and 121.954 of the Revised Code.

(B) Not later than December 31, 2019, a state agency shall review its existing rules to identify rules having one or more regulatory restrictions that require or prohibit an action and prepare a base inventory of the regulatory restrictions in its existing rules. Rules that include the words "shall," "must," "require," "shall not," "may not," and "prohibit" shall be considered to contain regulatory restrictions.

(C) In the base inventory, the state agency shall indicate all of the following concerning each regulatory restriction:

(1) A description of the regulatory restriction;

(2) The rule number of the rule in which the regulatory restriction appears;

(3) The statute under which the regulatory restriction was adopted;

(4) Whether state or federal law expressly and

specifically requires the agency to adopt the regulatory 47
restriction or the agency adopted the regulatory restriction 48
under the agency's general authority; 49

(5) Whether removing the regulatory restriction would 50
require a change to state or federal law, provided that removing 51
a regulatory restriction adopted under a law granting the agency 52
general authority shall be presumed not to require a change to 53
state or federal law; 54

(6) Any other information the joint committee on agency 55
rule review considers necessary. 56

(D) The state agency shall compute and state the total 57
number of regulatory restrictions indicated in the base 58
inventory, shall post the base inventory on its web site, and 59
shall electronically transmit a copy of the inventory to the 60
joint committee. The joint committee shall review the base 61
inventory, then transmit it electronically to the speaker of the 62
house of representatives and the president of the senate. 63

(E) The following types of rules or regulatory 64
restrictions are not required to be included in a state agency's 65
inventory of regulatory restrictions: 66

(1) An internal management rule; 67

(2) An emergency rule; 68

(3) A rule that state or federal law requires the state 69
agency to adopt verbatim; 70

(4) A regulatory restriction contained in materials or 71
documents incorporated by reference into a rule pursuant to 72
sections 121.71 to 121.75 of the Revised Code; 73

(5) A rule adopted pursuant to section 1347.15 of the 74

Revised Code;	75
(6) A rule concerning instant lottery games;	76
(7) A rule adopted by the Ohio casino control commission or the state lottery commission concerning sports gaming;	77 78
(8) Any other rule that is not subject to review under Chapter 106. of the Revised Code;	79 80
<u>(9) Any rule that is adopted as a requirement for the state agency to obtain or maintain accreditation or certification from a multistate organization consisting of at least forty-five participating states.</u>	81 82 83 84
(F) Beginning on October 17, 2019, and ending on June 30, 2025, a state agency may not adopt a new regulatory restriction unless it simultaneously removes two or more other existing regulatory restrictions. The state agency may not satisfy this section by merging two or more existing regulatory restrictions into a single surviving regulatory restriction.	85 86 87 88 89 90
Sec. 1751.11. (A) Every subscriber of a health insuring corporation is entitled to an evidence of coverage for the health care plan under which health care benefits are provided.	91 92 93
(B) Every subscriber of a health insuring corporation that offers basic health care services is entitled to an identification card or similar document that specifies the health insuring corporation's name as stated in its articles of incorporation, and any trade or fictitious names used by the health insuring corporation. The identification card or document shall list at least one toll-free telephone number that provides the subscriber with access, to information on a twenty-four- hours-per-day, seven-days-per-week basis, as to how health care services may be obtained. The identification card or document	94 95 96 97 98 99 100 101 102 103

shall also list at least one toll-free number that, during 104
normal business hours, provides the subscriber with access to 105
information on the coverage available under the subscriber's 106
health care plan and information on the health care plan's 107
internal and external review processes. 108

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

(D) No evidence of coverage or amendment shall be 132
delivered, issued for delivery, renewed, or used: 133

(1) If it contains provisions or statements that are inequitable, untrue, misleading, or deceptive;	134 135
(2) Unless it contains a clear, concise, and complete statement of the following:	136 137
(a) The health care services and insurance or other benefits, if any, to which an enrollee is entitled under the health care plan;	138 139 140
(b) Any exclusions or limitations on the health care services, type of health care services, benefits, or type of benefits to be provided, including copayments and deductibles;	141 142 143
(c) An enrollee's personal financial obligation for noncovered services;	144 145
(d) Where and in what manner general information and information as to how health care services may be obtained is available, including a toll-free telephone number;	146 147 148
(e) The premium rate with respect to individual and conversion contracts, and relevant copayment and deductible provisions with respect to all contracts. The statement of the premium rate, however, may be contained in a separate insert.	149 150 151 152
(f) The method utilized by the health insuring corporation for resolving enrollee complaints;	153 154
(g) The utilization review, internal review, and external review procedures established under sections 1751.77 to 1751.83 and Chapter 3922. of the Revised Code.	155 156 157
(3) Unless it provides for the continuation of an enrollee's coverage, in the event that the enrollee's coverage under the group policy, contract, certificate, or agreement terminates while the enrollee is receiving inpatient care in a	158 159 160 161

hospital. This continuation of coverage shall terminate at the	162
earliest occurrence of any of the following:	163
(a) The enrollee's discharge from the hospital;	164
(b) The determination by the enrollee's attending	165
physician that inpatient care is no longer medically indicated	166
for the enrollee; however, nothing in division (D) (3) (b) of this	167
section precludes a health insuring corporation from engaging in	168
utilization review as described in the evidence of coverage.	169
(c) The enrollee's reaching the limit for contractual	170
benefits;	171
(d) The effective date of any new coverage.	172
(4) <u>Unless, with respect to a policy or contract that is</u>	173
<u>not covered by section 3956.04 of the Revised Code,</u> it contains	174
a provision that states, in substance, that the health insuring	175
corporation is not a member of any guaranty fund, and that in	176
the event of the health insuring corporation's insolvency, an	177
enrollee is protected only to the extent that the hold harmless	178
provision required by section 1751.13 of the Revised Code	179
applies to the health care services rendered;	180
(5) Unless it contains a provision that states, in	181
substance, that in the event of the insolvency of the health	182
insuring corporation, an enrollee may be financially responsible	183
for health care services rendered by a provider or health care	184
facility that is not under contract to the health insuring	185
corporation, whether or not the health insuring corporation	186
authorized the use of the provider or health care facility.	187
(E) Notwithstanding divisions (C) and (D) of this section,	188
a health insuring corporation may use an evidence of coverage	189
that provides for the coverage of beneficiaries enrolled in	190

medicare pursuant to a medicare contract, or an evidence of 191
coverage that provides for the coverage of beneficiaries 192
enrolled in the federal employees health benefits program 193
pursuant to 5 U.S.C.A. 8905, or an evidence of coverage that 194
provides for the coverage of medicaid recipients, or an evidence 195
of coverage that provides for the coverage of beneficiaries 196
under any other federal health care program regulated by a 197
federal regulatory body, or an evidence of coverage that 198
provides for the coverage of beneficiaries under any contract 199
covering officers or employees of the state that has been 200
entered into by the department of administrative services, if 201
both of the following apply: 202

(1) The evidence of coverage has been approved by the 203
United States department of health and human services, the 204
United States office of personnel management, the department of 205
medicaid, or the department of administrative services. 206

(2) The evidence of coverage is filed with the 207
superintendent of insurance prior to use and is accompanied by 208
documentation of approval from the United States department of 209
health and human services, the United States office of personnel 210
management, the department of medicaid, or the department of 211
administrative services. 212

Sec. 2913.47. (A) As used in this section: 213

(1) "Data" has the same meaning as in section 2913.01 of 214
the Revised Code and additionally includes any other 215
representation of information, knowledge, facts, concepts, or 216
instructions that are being or have been prepared in a 217
formalized manner. 218

(2) "Deceptive" means that a statement, in whole or in 219

part, would cause another to be deceived because it contains a 220
misleading representation, withholds information, prevents the 221
acquisition of information, or by any other conduct, act, or 222
omission creates, confirms, or perpetuates a false impression, 223
including, but not limited to, a false impression as to law, 224
value, state of mind, or other objective or subjective fact. 225

(3) "Insurer" means any person that is authorized to 226
engage in the business of insurance in this state under Title 227
XXXIX of the Revised Code, the Ohio fair plan underwriting 228
association created under section 3929.43 of the Revised Code, 229
the assigned risk plan created under section 4509.70 of the 230
Revised Code, any health insuring corporation, and any legal 231
entity that is self-insured and provides benefits to its 232
employees or members. 233

(4) "Policy" means a policy, certificate, contract, or 234
plan that is issued by an insurer. 235

(5) "Statement" includes, but is not limited to, any 236
notice, letter, or memorandum; proof of loss; bill of lading; 237
receipt for payment; invoice, account, or other financial 238
statement; estimate of property damage; bill for services; 239
diagnosis or prognosis; prescription; hospital, medical, or 240
dental chart or other record; x-ray, photograph, videotape, or 241
movie film; test result; other evidence of loss, injury, or 242
expense; computer-generated document; and data in any form. 243

(B) No person, with purpose to defraud or knowing that the 244
person is facilitating a fraud, shall do either of the 245
following: 246

(1) Present to, or cause to be presented to, an insurer 247
any written or oral statement that is part of, or in support of, 248

an application for insurance, a claim for payment pursuant to a 249
policy, or a claim for any other benefit pursuant to a policy, 250
knowing that the statement, or any part of the statement, is 251
false or deceptive; 252

(2) Assist, aid, abet, solicit, procure, or conspire with 253
another to prepare or make any written or oral statement that is 254
intended to be presented to an insurer as part of, or in support 255
of, an application for insurance, a claim for payment pursuant 256
to a policy, or a claim for any other benefit pursuant to a 257
policy, knowing that the statement, or any part of the 258
statement, is false or deceptive. 259

(C) Whoever violates this section is guilty of insurance 260
fraud. Except as otherwise provided in this division, insurance 261
fraud is a misdemeanor of the first degree. If the amount of the 262
claim that is false or deceptive is one thousand dollars or more 263
and is less than seven thousand five hundred dollars, insurance 264
fraud is a felony of the fifth degree. If the amount of the 265
claim that is false or deceptive is seven thousand five hundred 266
dollars or more and is less than one hundred fifty thousand 267
dollars, insurance fraud is a felony of the fourth degree. If 268
the amount of the claim that is false or deceptive is one 269
hundred fifty thousand dollars or more, insurance fraud is a 270
felony of the third degree. 271

(D) This section shall not be construed to abrogate, 272
waive, or modify division (A) of section 2317.02 of the Revised 273
Code. 274

Sec. 3901.04. (A) As used in this section: 275

(1) "Laws of this state relating to insurance" include but 276
are not limited to Chapter 1751. notwithstanding section 277

1751.08, Chapter 1753., Title XXXIX, sections 5725.18 to 278
5725.25, and Chapter 5729. of the Revised Code. Sections 279
4717.31, 4717.33, 4717.34, 4717.35, and 4717.37 of the Revised 280
Code are "laws of this state relating to insurance" to the 281
extent those sections apply to insurance companies or insurance 282
agents. 283

(2) "Person" has the meaning defined in division (A) of 284
section 3901.19 of the Revised Code. 285

(B) Whenever it appears to the superintendent of 286
insurance, from the superintendent's files, upon complaint or 287
otherwise, that any person has engaged in, is engaged in, or is 288
about to engage in any act or practice declared to be illegal or 289
prohibited by the laws of this state relating to insurance, or 290
defined as unfair or deceptive by such laws, or when the 291
superintendent believes it to be in the best interest of the 292
public and necessary for the protection of the people in this 293
state, the superintendent or anyone designated by the 294
superintendent under the superintendent's official seal may do 295
any one or more of the following: 296

(1) Require any person to file with the superintendent, on 297
a form that is appropriate for review by the superintendent, an 298
original or additional statement or report in writing, under 299
oath or otherwise, as to any facts or circumstances concerning 300
the person's conduct of the business of insurance within this 301
state and as to any other information that the superintendent 302
considers to be material or relevant to such business; 303

(2) Administer oaths, summon and compel by order or 304
subpoena the attendance of witnesses to testify in relation to 305
any matter which, by the laws of this state relating to 306
insurance, is the subject of inquiry and investigation, and 307

require the production of any book, paper, or document 308
pertaining to such matter. A subpoena, notice, or order under 309
this section may be served ~~by certified mail, return receipt-~~ 310
~~requested. If the subpoena, notice, or order is returned because-~~ 311
~~of inability to deliver, or if no return is received within-~~ 312
~~thirty days of the date of mailing, the subpoena, notice, or-~~ 313
~~order may be served by ordinary mail. If no return of ordinary-~~ 314
~~mail is received within thirty days after the date of mailing,~~ 315
~~service shall be deemed to have been made. If the subpoena,~~ 316
~~notice, or order is returned because of inability to deliver,~~ 317
~~the superintendent may designate a person or persons to effect-~~ 318
~~either personal or residence service upon the witness. Service-~~ 319
~~of any subpoena, notice, or order and return may also be made in~~ 320
accordance with section 119.05 of the Revised Code or any other 321
manner authorized under the Rules of Civil Procedure. Such 322
service ~~shall also may be~~ made by an employee of the department 323
designated by the superintendent, a sheriff, a deputy sheriff, 324
an attorney, or any person authorized by the Rules of Civil 325
Procedure to serve process. 326

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

of the department of insurance. The fees and mileage of 339
witnesses not summoned by the superintendent or the 340
superintendent's designee shall not be paid by the state. 341

(3) In a case in which there is no administrative 342
procedure available to the superintendent to resolve a matter at 343
issue, request the attorney general to commence an action for a 344
declaratory judgment under Chapter 2721. of the Revised Code 345
with respect to the matter. 346

(4) Initiate criminal proceedings by presenting evidence 347
of the commission of any criminal offense established under the 348
laws of this state relating to insurance to the prosecuting 349
attorney of any county in which the offense may be prosecuted. 350
At the request of the prosecuting attorney, the attorney general 351
may assist in the prosecution of the violation with all the 352
rights, privileges, and powers conferred by law on prosecuting 353
attorneys including, but not limited to, the power to appear 354
before grand juries and to interrogate witnesses before grand 355
juries. 356

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

The notice shall specify the particular act, omission, 369
practice, or transaction that is subject to the cease and desist 370
order and shall set a date, not more than fifteen days after the 371
date of the cease-and-desist order, for a hearing on the 372
continuation or revocation of the order. The person shall comply 373
with the order immediately upon receipt of notice of the order. 374
The superintendent may, upon the application of a party and for 375
good cause shown, continue the hearing. Chapter 119. of the 376
Revised Code applies to such hearings to the extent that that 377
chapter does not conflict with the procedures set forth in this 378
section. The superintendent shall, within fifteen days after 379
objections are submitted to the hearing officer's report and 380
recommendation, issue a final order either confirming or 381
revoking the cease-and-desist order. The final order may be 382
appealed as provided under section 119.12 of the Revised Code. 383
The remedy under this section is cumulative and concurrent with 384
the remedies available under section 3901.22 of the Revised Code 385
and may be enforced by the attorney general at the request of 386
the superintendent as provided in division (E) of that section. 387

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

~~such an~~ insurer is engaging in such unlawful advertising, ~~he the~~
superintendent shall give notice of such fact ~~by registered mail~~
to ~~such the~~ insurer and to the insurance supervisory official of
the domiciliary state of ~~such the~~ insurer in accordance with
section 119.05 of the Revised Code. For the purpose of this
section, the domiciliary state of an alien insurer shall be
deemed to be the state of entry or the state of the principal
office in the United States.

Sec. 3901.321. (A) For the purposes of this section:

(1) "Acquiring party" means any person by whom or on whose
behalf a merger or other acquisition of control is to be
effected.

(2) "Domestic insurer" includes any person controlling a
domestic insurer unless the person, as determined by the
superintendent of insurance, is either directly or through its
affiliates primarily engaged in business other than the business
of insurance.

(3) "Person" does not include any securities broker
holding, in the usual and customary broker's function, less than
twenty per cent of the voting securities of an insurance company
or of any person that controls an insurance company.

(B) (1) Subject to compliance with division (B) (2) of this
section, no person other than the issuer shall do any of the
following if, as a result, the person would, directly or
indirectly, including by means of conversion or the exercise of
any right to acquire, be in control of a domestic insurer:

(a) Make a tender offer for any voting security of a
domestic insurer;

(b) Make a request or invitation for tenders of any voting

security of a domestic insurer;	429
(c) Enter into any agreement to exchange securities of a domestic insurer;	430 431
(d) Seek to acquire or acquire, in the open market or otherwise, any voting security of a domestic insurer;	432 433
(e) Enter into an agreement to merge with, or otherwise to acquire control of, a domestic insurer.	434 435
(2) (a) No person shall engage in any transaction described in division (B) (1) of this section, unless all of the following conditions are met:	436 437 438
(i) The person has filed with the superintendent of insurance a statement containing the information required by division (C) of this section;	439 440 441
(ii) The person has sent the statement to the domestic insurer;	442 443
(iii) The offer, request, invitation, agreement, or acquisition has been approved by the superintendent in the manner provided in division (F) of this section.	444 445 446
(b) The requirements of division (B) (2) (a) of this section shall be met at the time any offer, request, or invitation is made, or any agreement is entered into, or prior to the acquisition of the securities if no offer or agreement is involved.	447 448 449 450 451
(3) Any controlling person of a domestic insurer seeking to divest its controlling interest in the domestic insurer shall file a confidential notice of its proposed divestiture with the superintendent at least thirty days prior to the cessation of control, and provide a copy of the confidential notice to the	452 453 454 455 456

insurer. The superintendent may require the person seeking to 457
divest the controlling interest to file for and obtain approval 458
of the transaction. The information shall remain confidential 459
until the conclusion of the transaction unless the 460
superintendent, in the superintendent's discretion, determines 461
that the confidential treatment will interfere with enforcement 462
of this section. If the statement required by division (B) (2) of 463
this section is otherwise filed with the superintendent in 464
relation to all parties that acquire a controlling interest as a 465
result of the divestiture, this division shall not apply. 466

(C) The statement required by division (B) (2) of this 467
section shall be made under oath or affirmation, and shall 468
contain all of the following information: 469

(1) The name and address of each acquiring party; 470

(2) If the acquiring party is an individual, the 471
individual's principal occupation and all offices and positions 472
held during the past five years, and any conviction of crimes 473
other than minor traffic violations during the past ten years; 474

(3) If the acquiring party is not an individual, a report 475
of the nature of its business operations during the past five 476
years or for such lesser period as the acquiring party and any 477
of its predecessors shall have been in existence; an informative 478
description of the business intended to be done by the acquiring 479
party and the acquiring party's subsidiaries; and a list of all 480
individuals who are or who have been selected to become 481
directors or executive officers of the acquiring party, who 482
perform or will perform functions appropriate to such positions. 483
The list shall include for each individual the information 484
required by division (C) (2) of this section. 485

(4) The source, nature, and amount of the consideration 486
used or to be used in effecting the merger or other acquisition 487
of control, a description of any transaction in which funds were 488
or are to be obtained for any such purpose, including any pledge 489
of the domestic insurer's stock, or the stock of any of its 490
subsidiaries or controlling affiliates, and the identity of 491
persons furnishing such consideration; 492

(5) Fully audited financial information as to the earnings 493
and financial condition of each acquiring party for its 494
preceding five fiscal years, or for such lesser period as the 495
acquiring party and any of its predecessors shall have been in 496
existence, and similar unaudited information as of a date not 497
earlier than ninety days prior to the filing of the statement; 498

(6) Any plans or proposals which each acquiring party may 499
have to liquidate such domestic insurer, to sell its assets or 500
merge or consolidate it with any person, or to make any other 501
material change in its business or corporate structure or 502
management; 503

(7) The number of shares of any security of such issuer or 504
such controlling person that each acquiring party proposes to 505
acquire, and the terms of the offer, request, invitation, 506
agreement, or acquisition, and a statement as to the method by 507
which the fairness of the proposal was determined; 508

(8) The amount of each class of any security of such 509
issuer or such controlling person which is beneficially owned or 510
concerning which there is a right to acquire beneficial 511
ownership by each acquiring party; 512

(9) A full description of any contracts, arrangements, or 513
understandings with respect to any security of such issuer or 514

such controlling person in which any acquiring party is 515
involved, including but not limited to transfer of any of the 516
securities, joint ventures, loan or option arrangements, puts or 517
calls, guarantees of loans, guarantees against loss or 518
guarantees of profits, division of losses or profits, or the 519
giving or withholding of proxies. The description shall identify 520
the persons with whom such contracts, arrangements, or 521
understandings have been made. 522

(10) A description of the purchase of any security of such 523
issuer or such controlling person during the year preceding the 524
filing of the statement, by any acquiring party, including the 525
dates of purchase, names of the purchasers, and consideration 526
paid or agreed to be paid therefor; 527

(11) A description of any recommendations to purchase any 528
security of such issuer or such controlling person made during 529
the year preceding the filing of the statement, by any acquiring 530
party, or by anyone based upon interviews or at the suggestion 531
of the acquiring party; 532

(12) Copies of all tender offers for, requests, or 533
invitations for tenders of, exchange offers for, and agreements 534
to acquire or exchange any securities of such issuer or such 535
controlling person, and, if distributed, of additional 536
solicitation material relating thereto; 537

(13) The terms of any agreement, contract, or 538
understanding made with or proposed to be made with any broker 539
or dealer as to solicitation of securities of such issuer or 540
such controlling person for tender, and the amount of any fees, 541
commissions, or other compensation to be paid to brokers or 542
dealers with regard thereto; 543

(14) With respect to proposed affiliations between 544
depository institutions or any affiliate thereof, within the 545
meaning of Title I, section 104(c) of the "Gramm-Leach-Bliley 546
Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999), and a domestic 547
insurer, the proposed effective date of the acquisition or 548
change of control; 549

(15) An agreement by the person required to file the 550
statement required by division (B) of this section that the 551
person will provide the annual registration required by division 552
(K) of section 3901.33 of the Revised Code for so long as the 553
person has control of the domestic insurer; 554

(16) An acknowledgment by the person required to file the 555
statement required by division (B) of this section that the 556
person and all subsidiaries within the person's control in the 557
insurance holding company system will provide information to the 558
superintendent upon request as necessary to evaluate enterprise 559
risk to the insurer; 560

(17) Such additional information as the superintendent may 561
by rule prescribe as necessary or appropriate for the protection 562
of policyholders of the domestic insurer or in the public 563
interest. 564

(D) (1) If the person required to file the statement 565
required by division (B) (2) of this section is a partnership, 566
limited partnership, syndicate, or other group, the 567
superintendent may require that the information required by 568
division (C) of this section be furnished with respect to each 569
partner of such partnership or limited partnership, each member 570
of such syndicate or group, and each person that controls such 571
partner or member. If any such partner, member, or person is a 572
corporation, or the person required to file the statement is a 573

corporation, the superintendent may require that the information 574
required by division (C) of this section be furnished with 575
respect to the corporation, each officer and director of the 576
corporation, and each person that is directly or indirectly the 577
beneficial owner of more than ten per cent of the outstanding 578
voting securities of the corporation. 579

(2) If any material change occurs in the facts set forth 580
in the statement required by division (B) (2) of this section, an 581
amendment setting forth such change, together with copies of all 582
documents and other material relevant to the change, shall be 583
filed with the superintendent by the person subject to division 584
(B) (2) of this section and sent to the domestic insurer within 585
two business days after such person learns of the occurrence of 586
the material change. 587

(E) If any offer, request, invitation, agreement, or 588
acquisition described in division (B) (1) of this section is 589
proposed to be made by means of a registration statement under 590
the "Securities Act of 1933," 48 Stat. 74, 15 U.S.C.A. 78a, or 591
in circumstances requiring the disclosure of similar information 592
under the "Securities Exchange Act of 1934," 48 Stat. 881, 15 593
U.S.C.A. 78a, or under a state law requiring similar 594
registration or disclosure, the person required to file the 595
statement required by division (B) (2) of this section may use 596
such documents in furnishing the information required by that 597
statement. 598

(F) (1) The superintendent shall approve any merger or 599
other acquisition of control described in division (B) (1) of 600
this section unless, after a public hearing, the superintendent 601
finds that any of the following apply: 602

(a) After the change of control, the domestic insurer 603

would not be able to satisfy the requirements for the issuance 604
of a license to write the line or lines of insurance for which 605
it is presently licensed; 606

(b) The effect of the merger or other acquisition of 607
control would be substantially to lessen competition in 608
insurance in this state or tend to create a monopoly; 609

(c) The financial condition of any acquiring party is such 610
as might jeopardize the financial stability of the domestic 611
insurer, or prejudice the interests of its policyholders; 612

(d) The plans or proposals that the acquiring party has to 613
liquidate the domestic insurer, sell its assets, or consolidate 614
or merge it with any person, or to make any other material 615
change in its business or corporate structure or management, are 616
unfair and unreasonable to policyholders of the domestic insurer 617
and not in the public interest; 618

(e) The competence, experience, and integrity of those 619
persons that would control the operation of the domestic insurer 620
are such that it would not be in the interest of policyholders 621
of the domestic insurer and of the public to permit the merger 622
or other acquisition of control; 623

(f) The acquisition is likely to be hazardous or 624
prejudicial to the insurance-buying public. 625

(2) (a) Chapter 119. of the Revised Code, except for 626
section 119.09 of the Revised Code, applies to any hearing held 627
under division (F)(1) of this section, including the notice of 628
the hearing, the conduct of the hearing, the orders issued 629
pursuant to it, the review of the orders, and all other matters 630
relating to the holding of the hearing, but only to the extent 631
that Chapter 119. of the Revised Code is not inconsistent or in 632

conflict with this section. 633

(b) The notice of a hearing required under this division 634
shall be transmitted ~~by personal service, certified mail, e-~~ 635
~~mail, or any other method designed to ensure and confirm receipt~~ 636
~~of the notice, in accordance with sections 119.05 and 119.07 of~~ 637
~~the Revised Code to the persons and addresses designated to~~ 638
receive notices and correspondence in the information statement 639
filed under division (B) (2) of this section. ~~Confirmation of~~ 640
~~receipt of the notice, including electronic "Read Receipt"~~ 641
~~confirmation, shall constitute evidence of compliance with the~~ 642
~~requirement of this section. The notice of hearing shall include~~ 643
~~the reasons for the proposed action and a statement informing~~ 644
~~the acquiring party that the party is entitled to a hearing. The~~ 645
~~notice also shall inform the acquiring party that at the hearing~~ 646
~~the acquiring party may appear in person, by attorney, or by~~ 647
~~such other representative as is permitted to practice before the~~ 648
~~superintendent, or that the acquiring party may present its~~ 649
~~position, arguments, or contentions in writing, and that at the~~ 650
~~hearing the acquiring party may present evidence and examine~~ 651
~~witnesses appearing for and against the acquiring party. A copy~~ 652
~~of the notice also shall be transmitted to attorneys or other~~ 653
~~representatives of record representing the acquiring party.~~ 654

(c) The hearing shall be held at the offices of the 655
superintendent within ten calendar days, but not earlier than 656
seven calendar days, of the date of transmission of the notice 657
of hearing by any means, unless it is postponed or continued; 658
but in no event shall the hearing be held unless notice is 659
received at least three days prior to the hearing. The 660
superintendent may postpone or continue the hearing upon receipt 661
of a written request by an acquiring party, or upon the 662
superintendent's motion, provided, however, a hearing in 663

connection with a proposed change of control involving a 664
depository institution or any affiliate thereof, within the 665
meaning of Title I, section 104(c) of the "Gramm-Leach-Bliley 666
Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999), and a domestic 667
insurer, may be postponed or continued only upon the request of 668
an acquiring party, or upon the superintendent's motion when the 669
acquiring party agrees in writing to extend the sixty-day period 670
provided for in section 104(c) of the "Gramm-Leach-Bliley Act," 671
by a number of days equal to the number of days of such 672
postponement or continuance. 673

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

witness to testify in any matter regarding which the witness may 695
lawfully be interrogated, the court of common pleas of any 696
county where such disobedience, neglect, or refusal occurs or 697
any judge thereof, on application by the superintendent, shall 698
compel obedience by attachment proceedings for contempt, as in 699
the case of disobedience of the requirements of a subpoena 700
issued from the court or a refusal to testify therein. 701

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

The superintendent shall pass upon the admissibility of 709
evidence, but a party to the proceedings may at that time object 710
to the rulings of the superintendent, and if the superintendent 711
refuses to admit evidence, the party offering the evidence shall 712
proffer the evidence. The proffer shall be made a part of the 713
record of the hearing. 714

In any hearing held under this section, the superintendent 715
may call any person to testify under oath as upon cross- 716
examination. The superintendent, or any one delegated by the 717
superintendent to conduct a hearing, may administer oaths or 718
affirmations. 719

In any hearing under this section, the superintendent may 720
appoint a hearing officer to conduct the hearing; the hearing 721
officer has the same powers and authority in conducting the 722
hearing as is granted to the superintendent. The hearing officer 723
shall have been admitted to the practice of law in the state and 724

be possessed of any additional qualifications as the 725
superintendent requires. The hearing officer shall submit to the 726
superintendent a written report setting forth the hearing 727
officer's finding of fact and conclusions of law and a 728
recommendation of the action to be taken by the superintendent. 729
A copy of the written report and recommendation shall, within 730
seven days of the date of filing thereof, be served upon the 731
acquiring party or the acquiring party's attorney or other 732
representative of record, ~~by personal service, certified mail,~~ 733
~~electronic mail, or any other method designed to ensure and~~ 734
~~confirm receipt of the report in accordance with section 119.05~~ 735
of the Revised Code. The acquiring party may, within three days 736
of receipt of the copy of the written report and recommendation, 737
file with the superintendent written objections to the report 738
and recommendation, which objections the superintendent shall 739
consider before approving, modifying, or disapproving the 740
recommendation. The superintendent may grant extensions of time 741
to the acquiring party within which to file such objections. No 742
recommendation of the hearing officer shall be approved, 743
modified, or disapproved by the superintendent until after three 744
days following the service of the report and recommendation as 745
provided in this section. The superintendent may order 746
additional testimony to be taken or permit the introduction of 747
further documentary evidence. The superintendent may approve, 748
modify, or disapprove the recommendation of the hearing officer, 749
and the order of the superintendent based on the report, 750
recommendation, transcript of testimony, and evidence, or the 751
objections of the acquiring party, and additional testimony and 752
evidence shall have the same effect as if the hearing had been 753
conducted by the superintendent. No such recommendation is final 754
until confirmed and approved by the superintendent as indicated 755
by the order entered in the record of proceedings, and if the 756

superintendent modifies or disapproves the recommendations of 757
the hearing officer, the reasons for the modification or 758
disapproval shall be included in the record of proceedings. 759

After the order is entered, the superintendent shall 760
transmit in the manner and by any of the methods set forth in 761
division (F) (2) (b) of this section a certified copy of the order 762
and a statement of the time and method by which an appeal may be 763
perfected. A copy of the order shall be mailed to the attorneys 764
or other representatives of record representing the acquiring 765
party. 766

(e) An order of disapproval issued by the superintendent 767
may be appealed to the court of common pleas in accordance with 768
section 119.12 of the Revised Code by filing a notice of appeal 769
with the superintendent and a copy of the notice of appeal with 770
the court, within fifteen calendar days after the transmittal of 771
the copy of the order of disapproval. The notice of appeal shall 772
set forth the order appealed from and the grounds for appeal, in 773
accordance with section 119.12 of the Revised Code. 774

(3) The superintendent may retain at the acquiring party's 775
expense any attorneys, actuaries, accountants, and other experts 776
not otherwise a part of the superintendent's staff as may be 777
reasonably necessary to assist the superintendent in reviewing 778
the proposed acquisition of control. 779

(G) This section does not apply to either of the 780
following: 781

(1) Any transaction that is subject to section 3921.14, or 782
sections 3925.27 to 3925.31, 3941.35 to 3941.46, or section 783
3953.19 of the Revised Code; 784

(2) Any offer, request, invitation, agreement, or 785

acquisition that the superintendent by order exempts from this	786
section on either of the following bases:	787
(a) It has not been made or entered into for the purpose	788
and does not have the effect of changing or influencing the	789
control of a domestic insurer;	790
(b) It is not otherwise comprehended within the purposes	791
of this section.	792
(H) Nothing in this section or in any other section of	793
Title XXXIX of the Revised Code shall be construed to impair the	794
authority of the attorney general to investigate or prosecute	795
actions under any state or federal antitrust law with respect to	796
any merger or other acquisition involving domestic insurers.	797
(I) In connection with a proposed change of control	798
involving a depository institution or any affiliate thereof,	799
within the meaning of Title I, section 104(c) of the "Gramm-	800
Leach-Bliley Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999),	801
and a domestic insurer, not later than sixty days after the date	802
of the notification of the proposed change in control submitted	803
pursuant to division (B) (2) of this section, the superintendent	804
shall make any determination that the person acquiring control	805
of the insurer shall maintain or restore the capital of the	806
insurer to the level required by the laws and regulations of	807
this state.	808
Sec. 3901.36. (A) (1) Documents, materials, or other	809
information in the possession or control of the department of	810
insurance that are obtained by or disclosed to the	811
superintendent of insurance or any other person in the course of	812
an examination or investigation made pursuant to section 3901.35	813
of the Revised Code, <u>all information reported pursuant to</u>	814

divisions (C) (2), (3), and (5) of section 3901.321 of the 815
Revised Code, and all information reported pursuant to section 816
3901.33 of the Revised Code are recognized by this state as 817
being proprietary and to contain trade secrets and shall be 818
given confidential and privileged treatment and shall not be 819
subject to section 149.43 of the Revised Code, subpoena, or 820
discovery, and shall not be admissible in evidence in any 821
private civil action. The superintendent shall not make the 822
documents, materials, or other information public unless one of 823
the following applies: 824

(a) The superintendent uses the documents, materials, or 825
other information in furtherance of any regulatory or legal 826
action brought as a part of the superintendent's official 827
duties. 828

(b) The superintendent has obtained the prior written 829
consent of the insurer pertaining to the disclosure of the 830
documents, materials, or other information of the insurer. 831

(c) The superintendent, after giving the insurer and those 832
affiliates that are the subject of the documents, materials, or 833
other information notice and an opportunity to be heard in 834
accordance with Chapter 119. of the Revised Code, determines 835
that the interests of policyholders, shareholders, or the public 836
will be served by the disclosure, in which case the 837
superintendent may make disclosures as the superintendent 838
considers appropriate. 839

(2) For purposes of the information reported and provided 840
to the superintendent of insurance pursuant to the group capital 841
calculation requirements prescribed in division (L) of section 842
3901.33 of the Revised Code, the superintendent shall maintain 843
the confidentiality of the group capital calculation and group 844

capital ratio produced within the calculation and any group 845
capital information received from an insurance holding company 846
supervised by the United States federal reserve board or any 847
United States group-wide supervisor. 848

(3) For purposes of the information reported and provided 849
to the superintendent of insurance pursuant to the liquidity 850
stress test requirements prescribed in division (M) of section 851
3901.33 of the Revised Code, the superintendent shall maintain 852
the confidentiality of the liquidity stress test results and 853
supporting disclosures and any liquidity stress test information 854
received from an insurance holding company supervised by the 855
United States federal reserve board and non-United States group- 856
wide supervisors. 857

(B) Neither the superintendent nor any person who receives 858
documents, materials, or other information while acting under 859
the authority of the superintendent or with whom such documents, 860
materials, or other information are shared pursuant to this 861
section shall be permitted or required to testify in any private 862
civil action concerning any confidential documents, materials, 863
or information subject to division (A) of this section. 864

(C) In order to assist in the performance of the 865
superintendent's duties under this section, the superintendent 866
may do either of the following: 867

(1) Share documents, materials, or other information, 868
including the confidential and privileged documents, materials, 869
or other information subject to division (A) of this section, 870
including proprietary and trade secret documents and materials, 871
with other local, state, federal, and international regulatory 872
and law enforcement agencies, with the national association of 873
insurance commissioners, with third-party consultants designated 874

by the superintendent, and with members of any supervisory 875
college described in section 3901.351 of the Revised Code, 876
provided that the recipient agrees to maintain the confidential 877
or privileged status of the confidential or privileged 878
documents, materials, or other information and has verified in 879
writing the legal authority to do so. The superintendent may 880
share confidential and privileged documents, materials, or other 881
information reported pursuant to section 3901.33 of the Revised 882
Code only with superintendents of states having statutes or 883
regulations substantially similar to division (A) of this 884
section and who have agreed in writing not to disclose such 885
information. 886

(2) Receive documents, materials, or information, 887
including otherwise confidential and privileged documents, 888
materials, or information, including proprietary and trade- 889
secret information, from the national association of insurance 890
commissioners and its affiliates and subsidiaries and from 891
regulatory and law enforcement officials of other foreign or 892
domestic jurisdictions. The superintendent shall maintain as 893
confidential or privileged any such document, material, or 894
information received with notice or the understanding that it is 895
confidential or privileged under the laws of the jurisdiction 896
that is the source of the document, material, or information. 897

(D) The superintendent shall enter into written agreements 898
with the national association of insurance commissioners, and 899
any third-party consultant designated by the superintendent, 900
governing sharing and use of information provided pursuant to 901
sections 3901.32 to 3901.37 of the Revised Code consistent with 902
division (C) of this section. The written agreements shall do 903
all of the following: 904

(1) Specify procedures and protocols regarding the 905
confidentiality and security of information shared with the 906
national association of insurance commissioners or a third-party 907
consultant designated by the superintendent pursuant to sections 908
3901.32 to 3901.37 of the Revised Code, including procedures and 909
protocols for sharing by the national association of insurance 910
commissioners with other state, federal, or international 911
regulators. The agreement shall provide that the recipient 912
agrees in writing to maintain the confidentiality and privileged 913
status of the documents, materials, or other information and has 914
verified in writing the legal authority to maintain such 915
confidentiality. 916

(2) Specify that ownership of information shared with the 917
national association of insurance commissioners or a third-party 918
consultant pursuant to sections 3901.32 to 3901.37 of the 919
Revised Code remains with the superintendent and the national 920
association of insurance commissioners' or a third-party 921
consultant's, as designated by the superintendent, use of the 922
information is subject to the direction of the superintendent; 923

(3) (a) Prohibit the national association of insurance 924
commissioners or third-party consultant designated by the 925
superintendent from storing the information shared pursuant to 926
this section in a permanent database after the underlying 927
analysis is completed; 928

(b) Division (D) (3) (a) of this section does not apply to 929
documents, material, or information reported pursuant to the 930
liquidity stress test requirements prescribed in division (M) of 931
section 3901.33 of the Revised Code. 932

(4) Require prompt notice to be given to an insurer whose 933
confidential information is in the possession of the national 934

association of insurance commissioners or a third-party 935
consultant designated by the superintendent pursuant to this 936
section is subject to a request or subpoena to the national 937
association of insurance commissioners or a third-party 938
consultant designated by the superintendent for disclosure or 939
production; 940

(5) Require the national association of insurance 941
commissioners or a third-party consultant designated by the 942
superintendent to consent to intervention by an insurer in any 943
judicial or administrative action in which the national 944
association of insurance commissioners or a third-party 945
consultant designated by the superintendent may be required to 946
disclose confidential information about the insurer shared with 947
the national association of insurance commissioners or a third- 948
party consultant pursuant to sections 3901.32 to 3901.37 of the 949
Revised Code; 950

(6) For documents, material, or information reporting 951
pursuant to the liquidity stress test requirements prescribed in 952
division (M) of section 3901.33 of the Revised Code, in the case 953
of an agreement involving a third-party consultant, provide for 954
notification of the identity of the consultant to the applicable 955
insurers. 956

(E) The sharing of information by the superintendent 957
pursuant to sections 3901.32 to 3901.37 of the Revised Code 958
shall not constitute a delegation of regulatory or rule-making 959
authority. The superintendent is solely responsible for the 960
administration, execution, and enforcement of the provisions of 961
sections 3901.32 to 3901.37 of the Revised Code. 962

(F) No waiver of any applicable privilege or claim of 963
confidentiality in the documents, materials, or other 964

information described in this section shall occur as a result of 965
sharing or receiving documents and information as authorized in 966
division (C) of this section. 967

(G) Documents, materials, or other information in the 968
possession or control of the national association of insurance 969
commissioners or a third-party consultant designated by the 970
superintendent pursuant to this section shall be given 971
confidential and privileged treatment and shall not be subject 972
to section 149.43 of the Revised Code, subpoena, or discovery, 973
and shall not be admissible in evidence in any private civil 974
action. 975

(H) The group capital calculation and resulting group 976
capital ratio required under division (L) of section 3901.33 of 977
the Revised Code and the liquidity stress test along with its 978
results and supporting disclosures required under division (M) 979
of section 3901.33 of the Revised Code are regulatory tools for 980
assessing group risks and capital adequacy and group liquidity 981
risks, respectively, and are not intended as a means to rank 982
insurers or insurance holding company systems generally. 983

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

calculation, group capital ratio, the liquidity stress test 995
results, or supporting disclosures for the liquidity stress test 996
of any insurer or any insurer group, or of any component derived 997
in the calculation by any insurer, broker, or other person 998
engaged in any manner in the insurance business would be 999
misleading and is therefore prohibited; provided, however, that 1000
if any materially false statement with respect to the group 1001
capital calculation, resulting group capital ratio, an 1002
inappropriate comparison of any amount to an insurer's or 1003
insurance group's group capital calculation or resulting group 1004
capital ratio, liquidity stress test result, supporting 1005
disclosures for the liquidity stress test, or an inappropriate 1006
comparison of any amount to an insurer's or insurance group's 1007
liquidity stress test result or supporting disclosures is 1008
published in any written publication and the insurer is able to 1009
demonstrate to the superintendent with substantial proof the 1010
falsity of such statement or the inappropriateness, as the case 1011
may be, then the insurer may publish announcements in a written 1012
publication if the sole purpose of the announcement is to rebut 1013
the materially false statement. 1014

Sec. 3901.411. (A) As used in this section: 1015

(1) "Health benefit plan" means a policy, contract, 1016
certificate, or agreement entered into, offered, or issued by an 1017
insurer to provide, deliver, arrange for, pay for, or reimburse 1018
any of the costs of health care services, including a vision or 1019
dental benefit plan. "Health benefit plan" does not include any 1020
of the following: 1021

(a) A plan of self-insurance; 1022

(b) Insurance arising out of workers' compensation; 1023

<u>(c) Automobile medical payment insurance;</u>	1024
<u>(d) Insurance under which benefits are payable with or</u>	1025
<u>without regard to fault and which is statutorily required to be</u>	1026
<u>contained in any liability insurance policy or equivalent self-</u>	1027
<u>insurance;</u>	1028
<u>(e) A medicare supplement policy of insurance, as defined</u>	1029
<u>by the superintendent of insurance by rule;</u>	1030
<u>(f) Coverage under a plan through medicare, medicaid, or</u>	1031
<u>the federal employees benefit program;</u>	1032
<u>(g) Any coverage issued under Chapter 55 of Title 10 of</u>	1033
<u>the United States Code and any coverage issued as a supplement</u>	1034
<u>to that coverage.</u>	1035
<u>(2) "Health plan issuer" means an entity subject to the</u>	1036
<u>insurance laws and rules of this state, or subject to the</u>	1037
<u>jurisdiction of the superintendent of insurance, that contracts,</u>	1038
<u>or offers to contract, to provide, deliver, arrange for, apply</u>	1039
<u>for, or reimburse any of the costs of health care services under</u>	1040
<u>a health benefit plan.</u>	1041
<u>(3) "Plan sponsor" means a person, other than a health</u>	1042
<u>plan issuer, who establishes, adopts, or maintains a health</u>	1043
<u>benefit plan that covers residents of this state, including a</u>	1044
<u>plan established, adopted, or maintained by an employer or</u>	1045
<u>jointly by an employer and one or more employee organizations,</u>	1046
<u>an association, a committee, a joint board of trustees, or any</u>	1047
<u>similar group of representatives who establish, adopt, or</u>	1048
<u>maintain a plan.</u>	1049
<u>(B) The plan sponsor of a health benefit plan may, on</u>	1050
<u>behalf of individuals covered under the plan, provide consent to</u>	1051
<u>the transmission of all communications related to the plan by</u>	1052

electronic means, as provided in section 3901.41 of the Revised Code, and to the electronic delivery of any health insurance identification card required by sections 1739.061, 1751.111, 3923.601, and 3923.83 of the Revised Code. 1053
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(C) Before consenting on behalf of covered individuals, a plan sponsor shall confirm that the primary covered individuals in question routinely use electronic communications during the normal course of employment. 1057
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(D) Before providing delivery by electronic means to a group of covered individuals, the health plan issuer shall do both of the following: 1061
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(1) Provide the covered individuals an opportunity to opt out of delivery by electronic means; 1064
1065

(2) Document that the applicable requirements of section 3901.41 of the Revised Code have been met. 1066
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Sec. 3903.42. The priority of distribution of claims from the insurer's estate shall be in accordance with the order in which each class of claims is set forth in this section. Every claim in each class shall be paid in full or adequate funds retained for such payment before the members of the next class receive any payment. No subclasses shall be established within any class. The order of distribution of claims shall be: 1068
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(A) Class 1. The costs and expenses of administration, including but not limited to the following: 1075
1076

(1) The actual and necessary costs of preserving or recovering the assets of the insurer; 1077
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(2) Compensation for all services rendered in the liquidation; 1079
1080

(3) Any necessary filing fees;	1081
(4) The fees and mileage payable to witnesses;	1082
(5) Reasonable attorney's fees;	1083
(6) The reasonable expenses of a guaranty association or foreign guaranty association in handling claims.	1084 1085
(B) Class 2. All claims under policies for losses incurred, including third party claims, all claims of contracted providers against a medicaid health insuring corporation for covered health care services provided to medicaid recipients, all claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property that are not under policies, and all claims of a guaranty association or foreign guaranty association. All claims under life insurance and , <u>annuity policies, and funding agreements,</u> whether for death proceeds, annuity proceeds, or investment values, <u>principal, or interest,</u> shall be treated as loss claims. That portion of any loss, indemnification for which is provided by other benefits or advantages recovered by the claimant, shall not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. No payment by an employer to an employee shall be treated as a gratuity. Claims under nonassessable policies for unearned premium or other premium refunds.	1086 1087 1088 1089 1090 1091 1092 1093 1094 1095 1096 1097 1098 1099 1100 1101 1102 1103 1104 1105
(C) Class 3. Claims of the federal government.	1106
(D) Class 4. Debts due to employees for services performed to the extent that they do not exceed one thousand dollars and represent payment for services performed within one year before	1107 1108 1109

the filing of the complaint for liquidation. Officers and 1110
directors shall not be entitled to the benefit of this priority. 1111
Such priority shall be in lieu of any other similar priority 1112
that may be authorized by law as to wages or compensation of 1113
employees. 1114

(E) Class 5. Claims of general creditors. 1115

(F) Class 6. Claims of any state or local government. 1116
Claims, including those of any state or local governmental body 1117
for a penalty or forfeiture, shall be allowed in this class only 1118
to the extent of the pecuniary loss sustained from the act, 1119
transaction, or proceeding out of which the penalty or 1120
forfeiture arose, with reasonable and actual costs occasioned 1121
thereby. The remainder of such claims shall be postponed to the 1122
class of claims under division (J) of this section. 1123

(G) Class 7. Claims filed late or any other claims other 1124
than claims under divisions (H), (I), and (J) of this section. 1125

(H) Class 8. Surplus or contribution notes, or similar 1126
obligations, and premium refunds on assessable policies. 1127
Payments to members of domestic mutual insurance companies shall 1128
be limited in accordance with law. 1129

(I) Class 9. Interest at the legal rate compounded 1130
annually on all claims in the classes prescribed in divisions 1131
(A) to (H) of this section, except for claims of the federal 1132
government, from the date of the order for liquidation or the 1133
date on which the claim becomes due, whichever is later, until 1134
the date on which the interest or dividend is declared, 1135
according to the terms of a plan proposed by the liquidator and 1136
approved by the court supervising the liquidation. The 1137
liquidator, with the approval of the court, may make reasonable 1138

approximate computations of interest to be paid under this 1139
division. 1140

(J) Class 10. The claims of shareholders or other owners. 1141

If any provision of this section or the application of any 1142
provision of this section to any person or circumstance is held 1143
invalid, the invalidity does not affect other provisions or 1144
applications of this section, and to this end the provisions are 1145
severable. 1146

(K) As used in sections 3903.42 and 3903.421 of the 1147
Revised Code, "contracted provider" and "medicaid recipient" 1148
have the same meanings as in section 3903.14 of the Revised 1149
Code. 1150

Sec. 3905.14. (A) As used in sections 3905.14 to 3905.16 1151
of the Revised Code: 1152

(1) "Insurance agent" includes a limited lines insurance 1153
agent, surety bail bond agent, and surplus line broker. 1154

(2) "Refusal to issue or renew" means the decision of the 1155
superintendent of insurance not to process either the initial 1156
application for a license as an agent or the renewal of such a 1157
license. 1158

(3) "Revocation" means the permanent termination of all 1159
authority to hold any license as an agent in this state. 1160

(4) "Surrender for cause" means the voluntary termination 1161
of all authority to hold any license as an agent in this state, 1162
in lieu of a revocation or suspension order. 1163

(5) "Suspension" means the termination of all authority to 1164
hold any license as an agent in this state, for either a 1165
specified period of time or an indefinite period of time and 1166

under any terms or conditions determined by the superintendent. 1167

(B) The superintendent may, except as provided in division 1168
(C) of this section, suspend, revoke, or refuse to issue or 1169
renew any license of an insurance agent, assess a civil penalty, 1170
or impose any other sanction or sanctions authorized under this 1171
chapter, for one or more of the following reasons: 1172

(1) Providing incorrect, misleading, incomplete, or 1173
materially untrue information in a license or appointment 1174
application; 1175

(2) Violating or failing to comply with any insurance law, 1176
rule, subpoena, consent agreement, or order of the 1177
superintendent or of the insurance authority of another state; 1178

(3) Obtaining, maintaining, or attempting to obtain or 1179
maintain a license through misrepresentation or fraud; 1180

(4) Improperly withholding, misappropriating, or 1181
converting any money or property received in the course of doing 1182
insurance business; 1183

(5) Intentionally misrepresenting the terms, benefits, 1184
value, cost, or effective dates of any actual or proposed 1185
insurance contract or application for insurance; 1186

(6) Having been convicted of or pleaded guilty or no 1187
contest to a felony regardless of whether a judgment of 1188
conviction has been entered by the court; 1189

(7) Having been convicted of or pleaded guilty or no 1190
contest to a misdemeanor that involves the misuse or theft of 1191
money or property belonging to another, fraud, forgery, 1192
dishonest acts, or breach of a fiduciary duty, that is based on 1193
any act or omission relating to the business of insurance, 1194

securities, or financial services, or that involves moral	1195
turpitude regardless of whether a judgment has been entered by	1196
the court;	1197
(8) Having admitted to committing, or having been found to	1198
have committed, any insurance unfair trade act or practice or	1199
insurance fraud;	1200
(9) Using fraudulent, coercive, or dishonest practices, or	1201
demonstrating incompetence, untrustworthiness, or financial	1202
irresponsibility, in the conduct of business in this state or	1203
elsewhere;	1204
(10) Having an insurance agent license, or its equivalent,	1205
denied, suspended, or revoked in any other state, province,	1206
district, or territory;	1207
(11) Forging or causing the forgery of an application for	1208
insurance or any document related to or used in an insurance	1209
transaction;	1210
(12) Improperly using notes, any other reference material,	1211
equipment, or devices of any kind to complete an examination for	1212
an insurance agent license;	1213
(13) Knowingly accepting insurance business from an	1214
individual who is not licensed;	1215
(14) Failing to comply with any official invoice, notice,	1216
assessment, or order directing payment of federal, state, or	1217
local income tax, state or local sales tax, or workers'	1218
compensation premiums;	1219
(15) Failing to timely submit an application for	1220
insurance. For purposes of division (B)(15) of this section, a	1221
submission is considered timely if it occurs within the time	1222

period expressly provided for by the insurer, or within seven 1223
days after the insurance agent accepts a premium or an order to 1224
bind coverage from a policyholder or applicant for insurance, 1225
whichever is later. 1226

(16) Failing to disclose to an applicant for insurance or 1227
policyholder upon accepting a premium or an order to bind 1228
coverage from the applicant or policyholder, that the person has 1229
not been appointed by the insurer; 1230

(17) Having any professional license or financial industry 1231
regulatory authority registration suspended or revoked or having 1232
been barred from participation in any industry; 1233

(18) Having been subject to a cease and desist order or 1234
permanent injunction related to mishandling of funds or breach 1235
of fiduciary responsibilities or for unlicensed or unregistered 1236
activities; 1237

(19) Causing or permitting a policyholder or applicant for 1238
insurance to designate the insurance agent or the insurance 1239
agent's spouse, parent, child, or sibling as the beneficiary of 1240
a policy or annuity sold by the insurance agent or of a policy 1241
or annuity for which the agent, at any time, was designated as 1242
the agent of record, unless the insurance agent or a relative of 1243
the insurance agent is the insured or applicant; 1244

(20) Causing or permitting a policyholder or applicant for 1245
insurance to designate the insurance agent or the insurance 1246
agent's spouse, parent, child, or sibling as the owner or 1247
beneficiary of a trust funded, in whole or in part, by a policy 1248
or annuity sold by the insurance agent or by a policy or annuity 1249
for which the agent, at any time, was designated as the agent of 1250
record, unless the insurance agent or a relative of the 1251

insurance agent is the insured or applicant;	1252
(21) Failing to provide a written response to the	1253
department of insurance within twenty-one calendar days after	1254
receipt of any written inquiry from the department, unless a	1255
reasonable extension of time has been requested of, and granted	1256
by, the superintendent or the superintendent's designee;	1257
(22) Failing to appear to answer questions before the	1258
superintendent after being notified in writing by the	1259
superintendent of a scheduled interview, unless a reasonable	1260
extension of time has been requested of, and granted by, the	1261
superintendent or the superintendent's designee;	1262
(23) Transferring or placing insurance with an insurer	1263
other than the insurer expressly chosen by the applicant for	1264
insurance or policyholder without the consent of the applicant	1265
or policyholder or absent extenuating circumstances;	1266
(24) Failing to inform a policyholder or applicant for	1267
insurance of the identity of the insurer or insurers, or the	1268
identity of any other insurance agent or licensee known to be	1269
involved in procuring, placing, or continuing the insurance for	1270
the policyholder or applicant, upon the binding of the coverage;	1271
(25) In the case of an agent that is a business entity,	1272
failing to report an individual licensee's violation to the	1273
department when the violation was known or should have been	1274
known by one or more of the partners, officers, managers, or	1275
members of the business entity;	1276
(26) Submitting or using a document in the conduct of the	1277
business of insurance when the person knew or should have known	1278
that the document contained a writing that was forged as defined	1279
in section 2913.01 of the Revised Code;	1280

(27) Misrepresenting the person's qualifications, status 1281
or relationship to another person, agency, or entity, or using 1282
in any way a professional designation that has not been 1283
conferred upon the person by the appropriate accrediting 1284
organization; 1285

(28) Obtaining a premium loan or policy surrender or 1286
causing a premium loan or policy surrender to be made to or in 1287
the name of an insured or policyholder without that person's 1288
knowledge and written authorization; 1289

(29) Using paper, software, or any other materials of or 1290
provided by an insurer after the insurer has terminated the 1291
authority of the licensee, if the use of such materials would 1292
cause a reasonable person to believe that the licensee was 1293
acting on behalf of or otherwise representing the insurer; 1294

(30) Soliciting, procuring an application for, or placing, 1295
either directly or indirectly, any insurance policy when the 1296
person is not authorized under this chapter to engage in such 1297
activity; 1298

(31) Soliciting, selling, or negotiating any product or 1299
service that offers benefits similar to insurance but is not 1300
regulated by the superintendent, without fully disclosing, 1301
orally and in writing, to the prospective purchaser that the 1302
product or service is not insurance and is not regulated by the 1303
superintendent; 1304

(32) Failing to fulfill a refund obligation to a 1305
policyholder or applicant in a timely manner. For purposes of 1306
division (B) (32) of this section, a rebuttable presumption 1307
exists that a refund obligation is not fulfilled in a timely 1308
manner unless it is fulfilled within one of the following time 1309

periods: 1310

(a) Thirty days after the date the policyholder, 1311
applicant, or insurer takes or requests action resulting in a 1312
refund; 1313

(b) Thirty days after the date of the insurer's refund 1314
check, if the agent is expected to issue a portion of the total 1315
refund; 1316

(c) Forty-five days after the date of the agent's 1317
statement of account on which the refund first appears. 1318

The presumption may be rebutted by proof that the 1319
policyholder or applicant consented to the delay or agreed to 1320
permit the agent to apply the refund to amounts due for other 1321
coverages. 1322

(33) With respect to a surety bail bond agent license, 1323
rebating or offering to rebate, or unlawfully dividing or 1324
offering to divide, any commission, premium, or fee; 1325

(34) Using a license for the principal purpose of 1326
procuring, receiving, or forwarding applications for insurance 1327
of any kind, other than life, or soliciting, placing, or 1328
effecting such insurance directly or indirectly upon or in 1329
connection with the property of the licensee or that of 1330
relatives, employers, employees, or that for which they or the 1331
licensee is an agent, custodian, vendor, bailee, trustee, or 1332
payee; 1333

(35) In the case of an insurance agent that is a business 1334
entity, using a life license for the principal purpose of 1335
soliciting or placing insurance on the lives of the business 1336
entity's officers, employees, or shareholders, or on the lives 1337
of relatives of such officers, employees, or shareholders, or on 1338

the lives of persons for whom they, their relatives, or the 1339
business entity is agent, custodian, vendor, bailee, trustee, or 1340
payee; 1341

(36) Offering, selling, soliciting, or negotiating 1342
policies, contracts, agreements, or applications for insurance, 1343
or annuities providing fixed, variable, or fixed and variable 1344
benefits, or contractual payments, for or on behalf of any 1345
insurer or multiple employer welfare arrangement not authorized 1346
to transact business in this state, or for or on behalf of any 1347
spurious, fictitious, nonexistent, dissolved, inactive, 1348
liquidated or liquidating, or bankrupt insurer or multiple 1349
employer welfare arrangement; 1350

(37) In the case of a resident business entity, failing to 1351
be qualified to do business in this state under Title XVII of 1352
the Revised Code, failing to be in good standing with the 1353
secretary of state, or failing to maintain a valid appointment 1354
of statutory agent with the secretary of state; 1355

(38) In the case of a nonresident agent, failing to 1356
maintain licensure as an insurance agent in the agent's home 1357
state for the lines of authority held in this state; 1358

(39) Knowingly aiding and abetting another person or 1359
entity in the violation of any insurance law of this state or 1360
the rules adopted under it. 1361

(C) The superintendent shall not refuse to issue a license 1362
to an applicant because of a conviction of or plea of guilty or 1363
no contest to an offense unless the refusal is in accordance 1364
with section 9.79 of the Revised Code. 1365

~~(D)~~ (D) (1) Before denying, revoking, suspending, or 1366
refusing to issue any license or imposing any penalty under this 1367

section, the superintendent shall provide the licensee or 1368
applicant with notice and an opportunity for hearing as provided 1369
in Chapter 119. of the Revised Code, ~~except as follows:~~ 1370

~~(1)(a) Any notice of opportunity for hearing, the hearing-~~ 1371
~~officer's findings and recommendations, or the superintendent's-~~ 1372
~~order shall be served by certified mail at the last known-~~ 1373
~~address of the licensee or applicant. Service shall be evidenced-~~ 1374
~~by return receipt signed by any person.~~ 1375

~~For purposes of this section, the "last known address" is-~~ 1376
~~the residential address of a licensee or applicant, or the-~~ 1377
~~principal place of business address of a business entity, that-~~ 1378
~~is contained in the licensing records of the department.~~ 1379

~~(b) If the certified mail envelope is returned with an-~~ 1380
~~endorsement showing that service was refused, or that the-~~ 1381
~~envelope was unclaimed, the notice and all subsequent notices-~~ 1382
~~required by Chapter 119. of the Revised Code may be served by-~~ 1383
~~ordinary mail to the last known address of the licensee or-~~ 1384
~~applicant. The mailing shall be evidenced by a certificate of-~~ 1385
~~mailing. Service is deemed complete as of the date of such-~~ 1386
~~certificate provided that the ordinary mail envelope is not-~~ 1387
~~returned by the postal authorities with an endorsement showing-~~ 1388
~~failure of delivery. The time period in which to request a-~~ 1389
~~hearing, as provided in Chapter 119. of the Revised Code, begins-~~ 1390
~~to run on the date of mailing.~~ 1391

~~(c) If service by ordinary mail fails, the superintendent-~~ 1392
~~may cause a summary of the substantive provisions of the notice-~~ 1393
~~to be published once a week for three consecutive weeks in a-~~ 1394
~~newspaper of general circulation in the county where the last-~~ 1395
~~known place of residence or business of the party is located.~~ 1396
~~The notice is considered served on the date of the third-~~ 1397

~~publication.~~ 1398

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

including costs incurred in the investigation and hearing 1427
processes. Any costs collected shall be paid into the state 1428
treasury to the credit of the department of insurance operating 1429
fund created in section 3901.021 of the Revised Code. 1430

(3) Suspend all of the person's licenses for all lines of 1431
insurance for either a specified period of time or an indefinite 1432
period of time and under such terms and conditions as the 1433
superintendent may determine; 1434

(4) Permanently revoke all of the person's licenses for 1435
all lines of insurance; 1436

(5) Refuse to issue a license; 1437

(6) Refuse to renew a license; 1438

(7) Prohibit the person from being employed in any 1439
capacity in the business of insurance and from having any 1440
financial interest in any insurance agency, company, surety bail 1441
bond business, or third-party administrator in this state. The 1442
superintendent may, in the superintendent's discretion, 1443
determine the nature, conditions, and duration of such 1444
restrictions. 1445

(8) Order corrective actions in lieu of or in addition to 1446
the other penalties listed in division (E) of this section. Such 1447
an order may provide for the suspension of civil penalties, 1448
license revocation, license suspension, or refusal to issue or 1449
renew a license if the licensee complies with the terms and 1450
conditions of the corrective action order. 1451

(9) Accept a surrender for cause offered by the licensee, 1452
which shall be for at least five years and shall prohibit the 1453
licensee from seeking any license authorized under this chapter 1454
during that time period. A surrender for cause shall be in lieu 1455

of revocation or suspension and may include a corrective action	1456
order as provided in division (E) (8) of this section.	1457
(F) The superintendent may consider the following factors	1458
in denying a license, imposing suspensions, revocations, fines,	1459
or other penalties, and issuing orders under this section:	1460
(1) Whether the person acted in good faith;	1461
(2) Whether the person made restitution for any pecuniary	1462
losses suffered by other persons as a result of the person's	1463
actions;	1464
(3) The actual harm or potential for harm to others;	1465
(4) The degree of trust placed in the person by, and the	1466
vulnerability of, persons who were or could have been adversely	1467
affected by the person's actions;	1468
(5) Whether the person was the subject of any previous	1469
administrative actions by the superintendent;	1470
(6) The number of individuals adversely affected by the	1471
person's acts or omissions;	1472
(7) Whether the person voluntarily reported the violation,	1473
and the extent of the person's cooperation and acceptance of	1474
responsibility;	1475
(8) Whether the person obstructed or impeded, or attempted	1476
to obstruct or impede, the superintendent's investigation;	1477
(9) The person's efforts to conceal the misconduct;	1478
(10) Remedial efforts to prevent future violations;	1479
(11) If the person was convicted of a criminal offense,	1480
the nature of the offense, whether the conviction was based on	1481
acts or omissions taken under any professional license, whether	1482

the offense involved the breach of a fiduciary duty, the amount 1483
of time that has passed, and the person's activities subsequent 1484
to the conviction; 1485

(12) Such other factors as the superintendent determines 1486
to be appropriate under the circumstances. 1487

(G) (1) A violation described in division (B) (1), (2), (3), 1488
(4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), 1489
(16), (17), (18), (19), (20), (22), (23), (24), (25), (26), 1490
(27), (28), (29), (30), (31), (32), (33), (34), (35), or (36) of 1491
this section is a class A offense for which the superintendent 1492
may impose any penalty set forth in division (E) of this 1493
section. 1494

(2) A violation described in division (B) (15) or (21) of 1495
this section, or a failure to comply with section 3905.061, 1496
3905.071, or 3905.22 of the Revised Code, is a class B offense 1497
for which the superintendent may impose any penalty set forth in 1498
division (E) (1), (2), (8), or (9) of this section. 1499

(3) If the superintendent determines that a violation 1500
described in division (B) (36) of this section has occurred, the 1501
superintendent shall impose a minimum of a two-year suspension 1502
on all of the person's licenses for all lines of insurance. 1503

(H) If a violation described in this section has caused, 1504
is causing, or is about to cause substantial and material harm, 1505
the superintendent may issue an order requiring that person to 1506
cease and desist from engaging in the violation. Notice of the 1507
order shall be mailed by certified mail, return receipt 1508
requested, or served in any other manner provided for in this 1509
section, immediately after its issuance to the person subject to 1510
the order and to all persons known to be involved in the 1511

violation. The superintendent may thereafter publicize or 1512
otherwise make known to all interested parties that the order 1513
has been issued. 1514

The notice shall specify the particular act, omission, 1515
practice, or transaction that is subject to the cease-and-desist 1516
order and shall set a date, not more than fifteen days after the 1517
date of the order, for a hearing on the continuation or 1518
revocation of the order. The person shall comply with the order 1519
immediately upon receipt of notice of the order. 1520

The superintendent may, upon the application of a party 1521
and for good cause shown, continue the hearing. Chapter 119. of 1522
the Revised Code applies to such hearings to the extent that 1523
that chapter does not conflict with the procedures set forth in 1524
this section. The superintendent shall, within fifteen days 1525
after objections are submitted to the hearing officer's report 1526
and recommendation, issue a final order either confirming or 1527
revoking the cease-and-desist order. The final order may be 1528
appealed as provided under section 119.12 of the Revised Code. 1529

The remedy under this division is cumulative and 1530
concurrent with the other remedies available under this section. 1531

(I) If the superintendent has reasonable cause to believe 1532
that an order issued under this section has been violated in 1533
whole or in part, the superintendent may request the attorney 1534
general to commence and prosecute any appropriate action or 1535
proceeding in the name of the state against such person. 1536

The court may, in an action brought pursuant to this 1537
division, impose any of the following: 1538

(1) For each violation, a civil penalty of not more than 1539
twenty-five thousand dollars; 1540

(2) Injunctive relief;	1541
(3) Restitution;	1542
(4) Any other appropriate relief.	1543
(J) With respect to a surety bail bond agent license:	1544
(1) Upon the suspension or revocation of a license, or the eligibility of a surety bail bond agent to hold a license, the superintendent likewise may suspend or revoke the license or eligibility of any surety bail bond agent who is employed by or associated with that agent and who knowingly was a party to the act that resulted in the suspension or revocation.	1545 1546 1547 1548 1549 1550
(2) The superintendent may revoke a license as a surety bail bond agent if the licensee is adjudged bankrupt.	1551 1552
(K) Nothing in this section shall be construed to create or imply a private cause of action against an agent or insurer.	1553 1554
Sec. 3916.15. (A) The superintendent of insurance may, except as provided in division (B) of this section, refuse to issue or may suspend, revoke, or refuse to renew the license of a viatical settlement provider or viatical settlement broker, if the superintendent finds that any of the following apply:	1555 1556 1557 1558 1559
(1) There was a material misrepresentation in the application for the license.	1560 1561
(2) The applicant or licensee or any officer, partner, member, key management personnel, or designee of the applicant or licensee has been convicted of fraudulent or dishonest practices, is subject to a final administrative action in another state, has been the subject of an administrative or civil action brought by the department of commerce, division of securities, or is otherwise shown to be untrustworthy or	1562 1563 1564 1565 1566 1567 1568

incompetent.	1569
(3) The licensee is a viatical settlement provider that demonstrates a pattern of unreasonable payments to viators.	1570 1571
(4) The licensee or any officer, partner, member, key management personnel, or designee of the licensee has been convicted of or has pleaded guilty or no contest to a felony or to a misdemeanor involving fraud, moral turpitude, dishonesty, or breach of trust, regardless of whether a judgment of conviction has been entered by the court.	1572 1573 1574 1575 1576 1577
(5) The licensee is a viatical settlement provider that has used a viatical settlement contract form that has not been approved under this chapter.	1578 1579 1580
(6) The licensee is a viatical settlement provider that has failed to honor contractual obligations set out in a viatical settlement contract.	1581 1582 1583
(7) The licensee no longer meets the requirements for initial licensure.	1584 1585
(8) The licensee is a viatical settlement provider that has assigned, transferred, or pledged a viaticated policy to a person that the licensee knew or should have known was not one of the following:	1586 1587 1588 1589
(a) A viatical settlement provider licensed in this state;	1590
(b) A viatical settlement purchaser;	1591
(c) A qualified institutional buyer;	1592
(d) A financing entity;	1593
(e) A special purpose entity;	1594
(f) A related provider trust.	1595

(9) The licensee or any officer, partner, member, key management personnel, or designee of the licensee has violated any provision of this chapter or any rule adopted under this chapter.

(10) The licensee or any officer, partner, member, key management personnel, or designee of the licensee has committed any coercive, fraudulent, or dishonest act, or made any untrue, deceptive, or misleading statement, in connection with a viatical settlement transaction or a proposed viatical settlement transaction.

(B) The superintendent shall not refuse to issue a license to an applicant because of a conviction of or plea of guilty or no contest to an offense unless the refusal is in accordance with section 9.79 of the Revised Code.

~~(C) (1)~~ Before the superintendent refuses to issue a license under this chapter, or suspends, revokes, or refuses to renew the license of a viatical settlement provider or viatical settlement broker, the superintendent shall provide the licensee or applicant with notice and an opportunity for hearing as provided in Chapter 119. of the Revised Code, ~~except as follows:~~

~~(1)(a) Any notice of opportunity for hearing, the hearing officer's findings and recommendations, or the superintendent's order shall be served by certified mail at the last known address of the licensee or applicant. Service shall be evidenced by return receipt signed by any person.~~

~~For purposes of this section, the "last known address" is the address that appears in the licensing records of the department of insurance.~~

~~(b) If the certified mail envelope is returned with an~~

~~endorsement showing that service was refused, or that the~~ 1625
~~envelope was unclaimed, the notice and all subsequent notices~~ 1626
~~required by Chapter 119. of the Revised Code may be served by~~ 1627
~~ordinary mail to the last known address of the licensee or~~ 1628
~~applicant. The mailing shall be evidenced by a certificate of~~ 1629
~~mailing. Service is deemed complete as of the date of such~~ 1630
~~certificate provided that the ordinary mail envelope is not~~ 1631
~~returned by the postal authorities with an endorsement showing~~ 1632
~~failure of delivery. The time period in which to request a~~ 1633
~~hearing, as provided in Chapter 119. of the Revised Code, begins~~ 1634
~~to run on the date of mailing.~~ 1635

~~(c) If service by ordinary mail fails, the superintendent~~ 1636
~~shall cause a summary of the substantive provisions of the~~ 1637
~~notice to be published once a week for three consecutive weeks~~ 1638
~~in a newspaper of general circulation in the county where the~~ 1639
~~last known place of residence or business of the licensee or~~ 1640
~~applicant is located. The notice is considered served on the~~ 1641
~~date of the third publication.~~ 1642

~~(d) Any notice required to be served under Chapter 119. of~~ 1643
~~the Revised Code shall also be served upon the attorney of the~~ 1644
~~licensee or applicant by ordinary mail if the attorney has~~ 1645
~~entered an appearance in the matter.~~ 1646

~~(e) The superintendent may, at any time, perfect service~~ 1647
~~on a licensee or applicant by personal delivery of the notice by~~ 1648
~~an employee of the department.~~ 1649

~~(f) (2) Notices regarding the scheduling of hearings and~~ 1650
~~all other matters not described in division (C) (1) (a) of this~~ 1651
~~section for which Chapter 119. of the Revised Code does not~~ 1652
~~require a particular type of service shall be sent by ordinary~~ 1653
~~mail to the licensee or applicant and to the attorney of the~~ 1654

licensee or applicant. 1655

~~(2)~~ (3) Any subpoena for the appearance of a witness or 1656
the production of documents or other evidence at a hearing, or 1657
for the purpose of taking testimony for use at a hearing, shall 1658
be served by certified mail, return receipt requested, by an 1659
attorney or by an employee of the department designated by the 1660
superintendent. Such subpoenas shall be enforced in the manner 1661
provided in section 119.09 of the Revised Code. Nothing in this 1662
section shall be construed as limiting the superintendent's 1663
other statutory powers to issue subpoenas. 1664

Sec. 3929.41. The purposes of sections 3929.41 to 3929.49 1665
of the Revised Code are to: 1666

(A) Assure stability in the property insurance market ~~for~~ 1667
~~property located in urban areas of the state;~~ 1668

(B) Assure the availability of basic property insurance as 1669
defined by sections 3929.41 to 3929.49 of the Revised Code; 1670

(C) Assure the availability, at the option of the 1671
applicant, of homeowners insurance as defined in division (B) of 1672
section 3929.42 of the Revised Code; 1673

(D) Encourage maximum use, in obtaining basic property 1674
insurance, of the normal insurance market provided by authorized 1675
insurers; 1676

(E) Provide for the equitable distribution among 1677
authorized insurers of the responsibility for insuring eligible 1678
property, for which basic property insurance cannot be obtained 1679
through the normal insurance market; 1680

(F) Authorize the establishment of a FAIR plan (fair 1681
access to insurance requirements), and the Ohio fair plan 1682

underwriting association. 1683

Sec. 3929.42. As used in sections 3929.41 to 3929.49 of 1684
the Revised Code, or any regulations adopted pursuant thereto: 1685

(A) "Basic property insurance" means insurance against 1686
direct loss to property as defined and limited in standard fire 1687
policies and extended coverage endorsements thereon, as approved 1688
by the superintendent of insurance, and insurance for such 1689
types, classes and locations of property against the perils of 1690
vandalism, malicious mischief, burglary, or theft, as the 1691
superintendent shall designate. Such insurance shall not include 1692
automobile insurance nor insurance on such types of 1693
manufacturing risks as may be excluded by the superintendent. 1694

(B) "Homeowners insurance" means insurance on owner- 1695
occupied dwellings providing personal multi-peril property and 1696
liability coverages commonly known as homeowners insurance, and 1697
is subject to such reasonable underwriting standards, 1698
exclusions, deductibles, rates, and conditions as are 1699
customarily used by member insurers for similar coverages. 1700

(C) "Insurer" includes any insurance company or group of 1701
companies under common ownership which is authorized to engage 1702
in the business of property insurance in this state. 1703

(D) "Association" means the Ohio fair plan underwriting 1704
association created by section 3929.43 of the Revised Code. 1705

~~(E) "Urban area" means this state or any municipality, or 1706
any other political subdivision or part thereof, as designated 1707
by the superintendent of insurance, or by the association with 1708
the approval of the superintendent. 1709~~

~~(F) "Fair plan" means a plan to assure fair access to 1710
insurance requirements. 1711~~

~~(G)~~ (F) "Premiums written" means gross direct premiums, 1712
including that portion of premium which is attributable to a 1713
riot loading or factor, excluding that portion of premium on 1714
risks ceded to the association, charged with respect to property 1715
in the state on all policies of basic property insurance and 1716
homeowners insurance and the basic property insurance premium 1717
components of all multi-peril policies, as computed by the 1718
association, covering property in this state, less all premiums 1719
and dividends returned, paid, or credited to policyholders, or 1720
the unused or unabsorbed portions of premium deposits. 1721

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

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

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

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

paid to the licensed producer designated by the applicant. The 1774
superintendent shall adopt such plan and all amendments thereto 1775
pursuant to Chapter 119. of the Revised Code. 1776

~~If the superintendent disapproves the proposed plan of 1777
operation, the board of governors shall, within fifteen days, 1778
submit for approval an appropriately revised plan of operation 1779
and if the board of governors fails to do so, or if the revised 1780
plan submitted is unacceptable, the superintendent shall 1781
promulgate a plan of operation. 1782~~

If amendment of the plan of operation is requested by the 1783
superintendent or the board of governors, the board of governors 1784
shall submit to the superintendent, for approval, such 1785
amendments. If such amendments are not approved by the 1786
superintendent, the board of governors shall, within fifteen 1787
days, submit for approval an appropriately revised amendment. If 1788
the board of governors fails to do so, or if the amendment is 1789
not approved by the superintendent, the superintendent shall 1790
promulgate such amendment as the superintendent finds necessary. 1791

(D) (1) The plan of operation may provide for periodic 1792
advance assessments against member insurers in amounts 1793
considered necessary to cover any deficit or projected deficit 1794
arising out of the operation of the association. Any provision 1795
in the plan for implementation of such advance assessments shall 1796
be approved by the superintendent. Any such provision in the 1797
plan shall also provide for quarterly or other periodic 1798
installment payment of such assessments upon request. 1799

(2) Such plan shall provide a method whereby member 1800
insurers may recoup assessments levied by the association. In 1801
order to recoup such assessments the plan may also provide for 1802
the calculation and use of rates or rating factors to be applied 1803

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

(E) Any insurer which is a member of the association shall 1814
participate in the writings, expenses, profits, and losses of 1815
the association in the proportion that its premiums written bear 1816
to the aggregate premiums written by all members of the 1817
association, except that this division shall not be construed to 1818
preclude the board of governors from taking action to adjust 1819
assessments in accordance with a program adopted pursuant to 1820
division (I) of this section. 1821

(F) Such plan shall require the issuance of a binder or 1822
policy providing coverage for which the applicant tenders an 1823
amount equal to the annual premium as estimated by the 1824
association, or an appropriate percentage of that annual premium 1825
as determined by the association. The binder or policy shall 1826
take effect, at the earliest, the day after the association 1827
receives the application, provided that the application meets 1828
the underwriting standards of the association, for such term, 1829
and under such conditions as are determined by the 1830
superintendent. The superintendent may alter such time 1831
requirement on a specific risk under such conditions as the 1832
superintendent finds appropriate. 1833

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

(H) The plan shall be administered under the supervision 1865
of the superintendent. 1866

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

(J) (1) Except as provided in division (J) (2) of this 1880
section, records created, held by, or pertaining to the 1881
association are not public records under section 149.43 of the 1882
Revised Code, are confidential, and are not subject to 1883
inspection or disclosure. 1884

(2) Division (J) (1) of this section does not apply to the 1885
plan of operation and other information required to be filed 1886
with the superintendent under this chapter unless otherwise 1887
prohibited from release by law. 1888

Sec. 3929.44. (A) Any person having an insurable interest 1889
in real property or tangible personal property, or both, at a 1890
fixed location ~~in an urban area~~, who has been unable to obtain 1891
basic property insurance or homeowners insurance, ~~shall be~~ 1892
~~granted, upon application~~ may apply to the Ohio fair plan 1893
underwriting association, ~~an inspection of the property by~~ 1894

~~representatives of the inspection bureau.~~ 1895

~~(B) Promptly after the request for inspection is received,~~ 1896
~~an inspection shall be made. An inspection report shall be made~~ 1897
~~available to the applicant upon request.~~ 1898
The association may 1899
engage an inspection bureau or other organization to assist in 1900
collection of information necessary to underwrite risk for basic 1901
property insurance or homeowners insurance.

(C) The association, if it finds ~~that the inspection~~ 1902
~~report shows~~ the property to be insurable by meeting the 1903
reasonable underwriting standards contained in the plan of 1904
operation approved by the superintendent of insurance, shall 1905
cause a policy or binder of basic property insurance or, ~~at the~~ 1906
~~option of the applicant,~~ homeowners insurance, to be issued to 1907
the applicant upon payment of the premium. 1908

(D) As part of an application for a policy of basic 1909
property insurance or homeowners insurance, an applicant shall, 1910
in accordance with procedures and requirements set forth in 1911
rules promulgated by the superintendent, certify at least two 1912
insurance companies ~~that~~ had been contacted and from whom 1913
coverage was not available. 1914

(E) As a condition of the issuance of a binder or policy 1915
of basic property insurance or homeowners insurance, an 1916
applicant shall, in accordance with procedures and requirements 1917
set forth in rules promulgated by the superintendent, certify to 1918
the association that there are no outstanding taxes, 1919
assessments, penalties, or charges with respect to the property 1920
to be insured. 1921

(F) An applicant shall, in accordance with rules 1922
promulgated by the superintendent, certify to the association 1923

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

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

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

Sec. 3935.04. As used in sections 3935.01 to 3935.17 of 1961
the Revised Code, "filing" or "filings" means the whole or any 1962
part thereof. 1963

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

the filing becomes effective. Trade secrets contained in any 1986
filing or in any supporting information shall not be open to 1987
public inspection, are not a public record under section 149.43 1988
of the Revised Code, and the release of such trade secrets is 1989
prohibited. Specific inland marine rates on risks specially 1990
rated, made by a rating bureau, shall be filed with the 1991
superintendent. 1992

(2) As used in division (A)(1) of this section, "trade 1993
secret" has the same meaning as in section 1333.61 of the 1994
Revised Code. 1995

(B) An insurer may satisfy its obligation to make such 1996
filings by becoming a member of, or a subscriber to, a licensed 1997
rating bureau which makes such filings, and by authorizing the 1998
superintendent to accept such filings on its behalf, but 1999
sections 3935.01 to 3935.17 of the Revised Code do not require 2000
any insurer to become a member of, or a subscriber to, any 2001
rating bureau. 2002

(C) The superintendent shall review filings as soon as 2003
reasonably possible after they have been made in order to 2004
determine whether they meet the requirements of sections 3935.01 2005
to 3935.17 of the Revised Code. 2006

(D) Subject to the exception specified in division (E) of 2007
this section, each filing shall be on file for a waiting period 2008
of thirty days before it becomes effective. Upon written 2009
application by such insurer or rating bureau, the superintendent 2010
may authorize a filing which the superintendent has reviewed to 2011
become effective before the expiration of the waiting period. A 2012
filing complies with sections 3935.01 to 3935.17 of the Revised 2013
Code unless it is disapproved by the superintendent within the 2014
waiting period. 2015

(E) Specific inland marine rates on risks specially rated 2016
by a rating bureau become effective when filed and comply with 2017
sections 3935.01 to 3935.17 of the Revised Code until the 2018
superintendent reviews the filing and so long thereafter as the 2019
filing remains in effect. 2020

(F) Notwithstanding Chapter 119. of the Revised Code, the 2021
superintendent may, by written order, without notice or hearing, 2022
suspend or modify the requirements of a filing as to any kind of 2023
insurance, subdivision or combination thereof, or classes of 2024
risks, the rates for which cannot practicably be filed before 2025
they are used. Such orders shall be made known to insurers and 2026
rating bureaus affected thereby. The superintendent may make 2027
such examinations as the superintendent deems advisable to 2028
ascertain whether any rates affected by such order meet the 2029
standards set forth in division (B) of section 3935.03 of the 2030
Revised Code. 2031

(G) Upon the written application of the insured, stating 2032
the insured's reasons therefor, ~~filed with and approved by the~~ 2033
~~superintendent,~~ a rate in excess of that provided by a filing 2034
otherwise applicable may be used on any specific risk. 2035

(H) A commercial insurance policy form or endorsement that 2036
is unique in character and designed for a particular risk is 2037
exempt from filing, except that the superintendent may, by 2038
regulation or order, prescribe specific restrictions relating to 2039
the exemption. 2040

(I) An insurer shall retain any insurance policy form, 2041
endorsement, or rate that is exempt from filing under division 2042
(F), (G), or (H) of this section and all supporting 2043
documentation, for not less than three years after the effective 2044
date of the exempt policy form, endorsement, or rate. Upon 2045

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

(J) No insurer shall make or issue a contract or policy 2050
except in accordance with the filings which are in effect for 2051
the insurer as provided in sections 3935.01 to 3935.17 of the 2052
Revised Code or in accordance with division (F) ~~or~~, (G), or (H) 2053
of this section. This division does not apply to contracts or 2054
policies for inland marine risks as to which filings are not 2055
required. 2056

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

section 149.43 of the Revised Code, and the release of such trade secrets is prohibited. 2077
2078

(2) As used in division (A) (1) of this section, "trade secret" has the same meaning as in section 1333.61 of the Revised Code. 2079
2080
2081

(B) An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the superintendent to accept such filings on its behalf. 2082
2083
2084
2085
Sections 3937.01 to 3937.17 of the Revised Code do not require an insurer to become a member of or a subscriber to any rating organization. 2086
2087
2088

(C) (1) For purposes of this division: 2089

(a) "Commercial insurance" means any commercial casualty or commercial liability insurance except sickness and accident, fidelity and surety, and automobile insurance as defined in section 3937.30 of the Revised Code. 2090
2091
2092
2093

(b) "Personal lines coverage" means any policy of insurance issued to a natural person for personal or family protection, including, but not limited to, personal automobile, homeowner's, tenant's, and personal umbrella liability coverages. 2094
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(2) Except as provided in division (C) (3) of this section, each filing shall become effective immediately upon its filing and is deemed to comply with such sections, unless disapproved by the superintendent as provided in this section or section 3937.04 of the Revised Code. 2099
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2101
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(3) Whenever the superintendent declares by rule pursuant to Chapter 119. of the Revised Code that a degree of competition 2104
2105

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

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

(3) of this section, the superintendent shall consider all 2137
relevant structural factors in determining the conditions of the 2138
market, including: the number of insurers actively engaged in 2139
providing coverage; market shares; changes in market shares; and 2140
ease of entry. 2141

(5) This division does not apply to any filings required 2142
under Chapter 3937. of the Revised Code for personal lines 2143
coverage. 2144

(6) Any rule adopted by the superintendent under this 2145
division shall expire one year after its issuance unless 2146
rescinded earlier or extended by rule adopted by the 2147
superintendent. 2148

(D) A special filing may be made with respect to a surety 2149
or guaranty bond required by law, by court or executive order, 2150
or by order, rule, or regulation of a public body not covered by 2151
a previous filing. 2152

(E) Special filings may be made at any time with respect 2153
to any individual or special risks whose size, classification, 2154
degree of exposure to loss, previous loss experience, or other 2155
relevant factors call for the exercise of sound underwriting 2156
judgment in the promulgation of rates appropriate to such 2157
individual or special risks. The superintendent may make such 2158
examination as the superintendent considers advisable to 2159
ascertain whether such rates meet the standards set forth in 2160
division (D) of section 3937.02 of the Revised Code. 2161

(F) The superintendent may, by written order, suspend or 2162
modify the requirement of filing as to any kind of insurance, 2163
subdivision, or combination thereof, or as to classes of risks, 2164
the rates for which cannot practicably be filed before they are 2165

used. Such orders shall be made known to insurers and rating 2166
organizations affected thereby. The superintendent may make such 2167
examination as the superintendent considers advisable to 2168
ascertain whether any rates affected by such order meet the 2169
standards set forth in division (D) of section 3937.02 of the 2170
Revised Code. 2171

(G) Upon the written application of the insured, stating 2172
the insured's reasons therefor, ~~filed with and approved by the~~ 2173
~~superintendent,~~ a rate in excess of that provided by a filing 2174
otherwise applicable may be used on any specific risk. 2175

(H) A commercial insurance policy form or endorsement that 2176
is unique in character and designed for a particular risk is 2177
exempt from filing, except that the superintendent may, by 2178
regulation or order, prescribe specific restrictions relating to 2179
this exemption. 2180

(I) An insurer shall retain any insurance policy form, 2181
endorsement, or rate that is exempt from filing under division 2182
(E), (F), (G), or (H) of this section and all supporting 2183
documentation for not less than three years after the effective 2184
date of the exempt policy form, endorsement, or rate. Upon 2185
request of the superintendent during that period, the insurer 2186
shall make such policy form, endorsement, or rate, and the 2187
supporting documentation available for inspection by the 2188
superintendent. 2189

(J) No insurer shall make or issue a contract or policy 2190
except in accordance with filings which are in effect for said 2191
insurer as provided in sections 3937.01 to 3937.17 of the 2192
Revised Code or in accordance with division (E), (F), (G), or 2193
(H) of this section. 2194

Sec. 3961.08. (A) No person shall fail to comply with 2195
sections 3961.01 to 3961.09 of the Revised Code. If the 2196
superintendent of insurance determines that any person has 2197
violated sections 3961.01 to 3961.07 of the Revised Code, the 2198
superintendent may take one or more of the following actions: 2199

(1) Assess a civil penalty in an amount not to exceed 2200
twenty-five thousand dollars per violation if the person knew or 2201
should have known of the violation; 2202

(2) Assess administrative costs to cover the expenses 2203
incurred in the administrative action, including, but not 2204
limited to, expenses incurred in the investigation and hearing 2205
process. Costs collected under this division shall be paid into 2206
the state treasury to the credit of the department of insurance 2207
operating fund created in section 3901.021 of the Revised Code. 2208

(3) Order corrective actions in lieu of or in addition to 2209
the other penalties described in this section, including, but 2210
not limited to, suspending civil penalties if a discount medical 2211
plan organization complies with the terms of the corrective 2212
action order; 2213

(4) Order restitution to members. 2214

~~(B) (1)~~ Before imposing a penalty under division (A) of 2215
this section, the superintendent shall give a discount medical 2216
plan organization notice and opportunity for hearing as 2217
described in Chapter 119. of the Revised Code ~~to the extent that~~ 2218
~~Chapter 119. of the Revised Code does not conflict with any of~~ 2219
~~the following service requirements:~~ 2220

~~(1) (a) A notice of opportunity for hearing, a hearing~~ 2221
~~officer's findings and recommendations, or any order issued by~~ 2222
~~the superintendent under division (A) of this section shall be~~ 2223

~~served by certified mail, return receipt requested, to the last
known address of a discount medical plan organization. For
purposes of division (B) of this section, an organization's last
known address is the address listed on the organization's
disclosures required under section 3961.04 of the Revised Code.~~

~~(b) If the certified mail envelope described in division
(B) (1) (a) of this section is returned to the superintendent with
an endorsement showing that service was refused or that the
envelope was unclaimed, the notices, findings and
recommendations, and orders described in division (B) (1) (a) of
this section and all subsequent notices required under Chapter
119. of the Revised Code may be served by ordinary mail to the
discount medical plan organization's last known address. The
time period to request an administrative hearing described in
Chapter 119. of the Revised Code shall begin to run from the
date the ordinary mailing was sent. A certificate of mailing
shall evidence any mailings sent by ordinary mail pursuant to
this division and shall complete service to the organization
unless the ordinary mail envelope is returned to the
superintendent with an endorsement showing failure of delivery.~~

~~(c) If service by ordinary mail as described in division
(B) (1) (b) of this section fails, the superintendent may publish
a summary of the substantive provisions of the notice, findings
and recommendations, or orders described in division (B) (1) (a)
of this section once a week for three consecutive weeks in a
newspaper of general circulation in the county of the discount
medical plan organization's last known address. The notice shall
be considered served on the date of the third publication.~~

~~(d) Any notice required to be served under Chapter 119. of
the Revised Code also shall be served upon the party's attorney~~

~~by ordinary mail if the party's attorney has entered an appearance in the matter.~~ 2254
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~~(e) In lieu of certified or ordinary mail or publication notice as described in divisions (B) (1) (a), (b), and (c) of this section, the superintendent may perfect service on a party by personal delivery of the notice by the superintendent's designee.~~ 2256
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~~(f) (2) Notices regarding the scheduling of hearings and all other notices not described in division (B) (1) (a) of this section for which Chapter 119. of the Revised Code does not require a particular type of service shall be sent by ordinary mail to the party and the party's attorney.~~ 2261
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~~(2) (3) A subpoena or subpoena duces tecum from the superintendent or the superintendent's designee or attorney to a witness for appearance at a hearing, for the production of documents or other evidence, or for taking testimony for use at a hearing shall be served by certified mail, return receipt requested. The subpoenas described in this division shall be enforced in the manner described in section 119.09 of the Revised Code. Nothing in this division shall be construed to limit the superintendent's other statutory powers to issue subpoenas.~~ 2266
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(C) (1) If a violation of sections 3961.01 to 3961.07 of the Revised Code has caused, is causing, or is about to cause substantial and material harm, the superintendent may issue a cease-and-desist order requiring a person to cease and desist from engaging in a violation. 2276
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(2) The superintendent shall, immediately after issuing an order pursuant to division (C) (1) of this section, serve notice 2281
2282

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

(3) Upon application by the person subject to the order 2295
and for good cause, the superintendent may continue the hearing 2296
date described in division (C) (2) of this section. Chapter 119. 2297
of the Revised Code applies to the hearing on the order to the 2298
extent that the chapter does not conflict with the procedures 2299
described in this section. The superintendent shall, within 2300
fifteen days after objections are submitted concerning the 2301
hearing officer's report and recommendations, issue a final 2302
order either confirming or revoking the cease-and-desist order 2303
described in division (C) (1) of this section. The final order 2304
may be appealed as described in section 119.12 of the Revised 2305
Code. 2306

(4) The remedy described in division (C) of this section 2307
is cumulative and concurrent with other remedies available under 2308
this section. 2309

(D) If the superintendent has reasonable cause to believe 2310
that an order issued pursuant to this section has been violated 2311
in whole or in part, the superintendent may request the attorney 2312

general to commence any appropriate action against the violator. 2313
In an action described in this division, a court may impose any 2314
of the following penalties: 2315

(1) A civil penalty of not more than twenty-five thousand 2316
dollars per violation; 2317

(2) Injunctive relief; 2318

(3) Restitution; 2319

(4) Any other appropriate relief. 2320

(E) The superintendent shall deposit any penalties 2321
assessed under division (A)(1) or (D) of this section into the 2322
state treasury to the credit of the department of insurance 2323
operating fund created in section 3901.021 of the Revised Code. 2324

Sec. 3970.01. As used in this chapter: 2325

(A) "Chronic condition" means a condition that can be 2326
treated or managed, but not cured. 2327

(B) "Congenital anomaly or disorder" means a condition 2328
that is present from birth, whether inherited or caused by the 2329
environment, which may cause or contribute to illness or 2330
disease. 2331

(C) "Hereditary disorder" means an abnormality that is 2332
genetically transmitted from parent to offspring and may cause 2333
illness or disease. 2334

(D) "Orthopedic condition" means a condition affecting the 2335
bones, skeletal muscle, cartilage, tendons, ligaments, and 2336
joints. "Orthopedic condition" includes elbow dysplasia, hip 2337
dysplasia, intervertebral disc degeneration, patellar luxation, 2338
and ruptured cranial cruciate ligaments. "Orthopedic condition" 2339

does not include cancer or metabolic, hemopoietic, or autoimmune 2340
diseases. 2341

(E) "Pet insurance" means a property insurance policy that 2342
provides coverage for accidents and illnesses of pets. 2343

(F) "Preexisting condition" means any condition for which 2344
any of the following are true prior to the effective date of a 2345
pet insurance policy or during any waiting period: 2346

(1) A veterinarian provided medical advice. 2347

(2) The pet received previous treatment. 2348

(3) Based on information from verifiable sources, the pet 2349
had signs or symptoms directly related to the condition for 2350
which a claim is being made. 2351

(G) "Renewal" means to issue and deliver, at the end of a 2352
pet insurance policy period, a policy that supersedes a policy 2353
previously issued and delivered by the same pet insurer or an 2354
affiliated pet insurer, and which provides types and limits of 2355
coverage substantially similar to those contained in the policy 2356
being superseded. 2357

(H) "Veterinarian" means an individual who holds a valid 2358
license to practice veterinary medicine under Chapter 4741. of 2359
the Revised Code or from the appropriate licensing entity in the 2360
jurisdiction in which the veterinarian practices. 2361

(I) "Veterinary expenses" means the costs associated with 2362
medical advice, diagnosis, care, or treatment provided by a 2363
veterinarian, including the cost of drugs prescribed by a 2364
veterinarian. 2365

(J) "Waiting period" means a period of time specified in a 2366
pet insurance policy that is required to elapse before some or 2367

all of the coverage in the policy begins. 2368

(K) "Wellness program" means a subscription- or 2369
reimbursement-based program that is separate from a pet 2370
insurance policy and provides goods or services to promote the 2371
general health, safety, or well-being of the pet. 2372

Sec. 3970.02. (A) The purpose of this chapter is to 2373
promote the public welfare by creating a comprehensive legal 2374
framework within which pet insurance may be sold, issued, and 2375
delivered in this state. 2376

(B) The requirements of this chapter apply to pet 2377
insurance policies that are: 2378

(1) Issued to any resident of this state; 2379

(2) Sold, solicited, or negotiated in this state; 2380

(3) Delivered or issued for delivery in this state. 2381

(C) Pet insurers and pet insurance policies are subject to 2382
all other applicable laws, except that the specific provisions 2383
of this chapter supersede any conflicting general provisions of 2384
law that would otherwise apply. 2385

Sec. 3970.03. (A) If a pet insurance policy includes any 2386
of the terms defined in section 3970.01 of the Revised Code, 2387
those terms shall have the same meaning prescribed by that 2388
section, and the policy shall restate the definition of each 2389
such term. The pet insurer shall also make the definition 2390
available through a clear and conspicuous link on the main page 2391
of the pet insurer's or pet insurer's program administrator's 2392
publicly accessible web site. 2393

(B) This chapter does not prohibit or limit the types of 2394
exclusions a pet insurer may use or apply to a pet insurance 2395

policy. This chapter does not require a pet insurer to use or 2396
apply to a pet insurance policy any of the limitations or 2397
exclusions defined in section 3970.01 of the Revised Code. 2398

Sec. 3970.04. (A) A pet insurance policy shall include all 2399
of the following: 2400

(1) Disclosure of whether the pet insurance policy 2401
excludes coverage due to any of the following: 2402

(a) A preexisting condition; 2403

(b) A hereditary disorder; 2404

(c) A congenital anomaly or disorder; 2405

(d) A chronic condition. 2406

(2) Disclosure of whether the pet insurance policy 2407
excludes coverage for any reason other than those listed in 2408
division (A) (1) of this section and, if so, the following 2409
statement: 2410

"Other exclusions may apply. Please refer to the 2411
exclusions section for more information." 2412

(3) Disclosure of whether the pet insurance policy or 2413
rider limits coverage through a waiting period, affiliation 2414
period, deductible, coinsurance, or an annual or lifetime policy 2415
limit; 2416

(4) Disclosure of whether the pet insurer reduces coverage 2417
or increases premiums based on the insured's claim history, the 2418
age of the covered pet, or a change in the geographic location 2419
of the insured; 2420

(5) Disclosure of whether the underwriting company differs 2421
from the brand name used to market and sell the pet insurance 2422

policy or rider. 2423

(B) (1) Pet insurance may be canceled by the purchaser 2424
within thirty days after the purchaser first receives the 2425
associated policy, rider, or certificate. The pet insurer shall 2426
issue a full refund to the purchaser within thirty days after 2427
receiving timely notice of cancellation under this division, so 2428
long as no claim has been made under the pet insurance. The 2429
purchaser may provide notice of cancellation to the pet insurer 2430
or through the insurance agent from which the pet insurance was 2431
purchased. 2432

(2) Pet insurance policies shall include a notice 2433
prominently printed on the first page, or attached to the first 2434
page, that provides specific instructions for canceling the 2435
insurance under division (B) (1) of this section. The notice 2436
shall include the following statement, or a substantially 2437
similar statement: 2438

"You have thirty (30) days from the day you receive this 2439
pet insurance policy, rider, or certificate to review it and, if 2440
you decide not to keep it, cancel the pet insurance. You do not 2441
have to tell the company why you are canceling the insurance. If 2442
you decide not to keep the insurance, you may cancel it by 2443
giving notice to the company at its administrative office or to 2444
the insurance agent from which you bought the insurance. If you 2445
cancel the insurance within that time, and have not filed a 2446
claim, the company is required by law to grant a full refund 2447
within 30 days after it receives your notice of cancellation. 2448
The refund will be sent directly to the person who paid for the 2449
insurance. The pet insurance policy, rider, or certificate will 2450
be void as if it had never been issued." 2451

(C) A pet insurer shall clearly disclose a summary 2452

description of the basis or formula on which the pet insurer 2453
determines claim payments under the policy. This information 2454
shall also be posted through a clear and conspicuous link on the 2455
main page of the pet insurer's or pet insurer's program 2456
administrator's publicly accessible web site. 2457

(D) A pet insurer that uses a benefit schedule to 2458
determine claim payment under a pet insurance policy shall do 2459
both of the following: 2460

(1) Clearly disclose the applicable benefit schedule in 2461
the policy. 2462

(2) Disclose all benefit schedules used by the pet insurer 2463
under its pet insurance policies through a clear and conspicuous 2464
link on the main page of the pet insurer's or pet insurer's 2465
program administrator's publicly accessible web site. 2466

(E) A pet insurer that determines claim payments under a 2467
pet insurance policy based on usual and customary fees, or any 2468
other reimbursement limitation based on prevailing veterinary 2469
service provider charges, shall do both of the following: 2470

(1) Include a usual and customary fee limitation provision 2471
in the policy or rider that clearly describes the pet insurer's 2472
basis for determining usual and customary fees and how that 2473
basis is applied in calculating claim payments; 2474

(2) Disclose the pet insurer's basis for determining usual 2475
and customary fees through a clear and conspicuous link on the 2476
main page of the pet insurer's or pet insurer's program 2477
administrator's publicly accessible web site. 2478

(F) If any medical examination by a licensed veterinarian 2479
is required to effectuate coverage, the pet insurer shall 2480
clearly and conspicuously disclose the required aspects of the 2481

examination prior to purchase of a pet insurance policy and, if 2482
applicable, disclose that examination documentation may result 2483
in a preexisting condition exclusion. 2484

(G) A pet insurer shall clearly and conspicuously disclose 2485
to the purchaser any requirements relating to waiting periods. 2486

(H) A pet insurer shall include a summary of all pet 2487
insurance provisions required by divisions (A) to (G) of this 2488
section in a separate document titled "Insurer Disclosure of 2489
Important Policy Provisions," and do both of the following: 2490

(1) Post the document through a clear and conspicuous link 2491
on the main page of the pet insurer's or pet insurer's program 2492
administrator's publicly accessible web site; 2493

(2) Upon delivery of any new pet insurance policy, provide 2494
the purchaser with a copy of the document in at least twelve 2495
point font. 2496

(I) At the time a pet insurance policy is issued or 2497
delivered to a policyholder, the pet insurer shall include a 2498
written disclosure with both of the following: 2499

(1) The address and customer service telephone number of 2500
the pet insurer or the agent; 2501

(2) If the policy is issued or delivered by an agent, a 2502
statement advising the policyholder to contact the agent for 2503
assistance. 2504

(J) The disclosures required by this section are in 2505
addition to any other disclosures required by law. 2506

Sec. 3970.05. (A) A pet insurance policy may exclude 2507
coverage on the basis of one or more preexisting conditions so 2508
long as the pet insurer discloses the exclusion as required by 2509

section 3970.04 of the Revised Code. The pet insurer has the 2510
burden of proving that the preexisting condition exclusion 2511
applies to the condition for which a claim is made. 2512

(B) A condition for which coverage is afforded under a pet 2513
insurance policy shall not be considered a preexisting condition 2514
under any renewal of that policy. 2515

(C) A pet insurer may issue a pet insurance policy that 2516
imposes a waiting period upon effectuation of the policy, 2517
subject to all of the following conditions: 2518

(1) The waiting period shall not exceed thirty days for 2519
illnesses or orthopedic conditions not resulting from an 2520
accident. 2521

(2) The waiting period shall not apply to an accident. 2522

(3) The policy contract shall allow the waiting period to 2523
be waived upon completion of a medical examination, to which all 2524
of the following apply: 2525

(a) The pet insurer may require the examination to be 2526
conducted by a licensed veterinarian after the purchase of the 2527
policy. 2528

(b) The medical examination shall be paid for by the 2529
policyholder, unless the policy contract specifies that the pet 2530
insurer will pay for the examination. 2531

(c) The pet insurer may specify elements to be included as 2532
part of the examination and require documentation thereof, 2533
provided the specifications do not unreasonably restrict a 2534
consumer's ability to waive the waiting period. 2535

(4) The waiting period and all associated requirements are 2536
clearly and prominently disclosed to the consumer prior to the 2537

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

(b) The address and customer service telephone number of 2565
the pet insurer or agent. 2566

(D)(1) All coverage included in a pet insurance policy is 2567
considered insurance, regardless of whether the coverage is 2568
described as a wellness benefit. 2569

(2) Except as otherwise provided in division (D)(3) of 2570
this section, if a wellness program undertakes to indemnify 2571
another party, pays a specified amount upon determinable 2572
contingencies, or provides coverage for a fortuitous event, the 2573
program is transacting the business of insurance and is subject 2574
to the requirements of this chapter and all other applicable 2575
laws. 2576

(3) A wellness program contract directly between a service 2577
provider and a pet owner that involves only those two parties is 2578
not transacting the business of insurance unless the contract 2579
has other characteristics of insurance. 2580

Sec. 3970.07. (A) No pet insurer shall sell, solicit, or 2581
negotiate a pet insurance product until after the agent is 2582
appropriately licensed and has completed the required training 2583
identified in division (C) of this section. 2584

(B) A pet insurer shall ensure that the pet insurer's 2585
agents are trained under division (C) of this section and have 2586
been appropriately trained on the coverage and conditions of its 2587
pet insurance products. 2588

(C) A pet insurer transacting pet insurance shall be 2589
trained on the following topics: 2590

(1) Preexisting conditions and waiting periods; 2591

(2) The differences between pet insurance and wellness 2592

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

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

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

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

(C) Every form of a policy, endorsement, rider, manual of 2651

classifications, rules, and rates, every rating plan, and every 2652
modification of any of them proposed to be used by the assigned 2653
risk insurance plan shall be filed, or the plan may satisfy its 2654
obligation to make such filings, as described in section 3937.03 2655
of the Revised Code. 2656

(D) Any automobile insurance policy issued by the assigned 2657
risk insurance plan under division (B) of this section: 2658

(1) Shall be recognized as if issued by an insurance 2659
company authorized to do business in this state; 2660

(2) Shall meet all requirements of proof of financial 2661
responsibility as described in division (K) of section 4509.01 2662
of the Revised Code. 2663

(E) Proof of financial responsibility provided by the 2664
assigned risk insurance plan to an automobile insurance 2665
policyholder that meets the requirements described in division 2666
(G) (1) (a) or (b) of section 4509.101 of the Revised Code shall 2667
be recognized as if issued by an insurance company authorized to 2668
do business in this state to demonstrate proof of financial 2669
responsibility under section 4509.101 of the Revised Code. 2670

(F) The assigned risk insurance plan designated in 2671
division (A) of this section shall do both of the following: 2672

(1) Make annual audited financial reports available to the 2673
superintendent of insurance promptly upon the completion of such 2674
audit; 2675

(2) Upon reasonable notice, make available to the 2676
superintendent of insurance all books and records relating to 2677
the insurance transactions of the assigned risk insurance plan. 2678

(G) (1) Except as provided in division (G) (2) of this 2679

section, records created, held by, or pertaining to the assigned 2680
risk insurance plan are not public records under section 149.43 2681
of the Revised Code, are confidential, and are not subject to 2682
inspection or disclosure. 2683

(2) Division (G)(1) of this section does not apply to the 2684
plan of operation and other information required to be filed 2685
under this section with the superintendent unless otherwise 2686
prohibited from release by law. 2687

(H)(1) For the purposes of division (H) of this section, 2688
"insurance agent" has the same meaning as in section 3905.01 of 2689
the Revised Code. 2690

(2) Provided that the assigned risk insurance plan 2691
establishes registration procedures for insurance agents under 2692
division (H)(3) of this section, the plan shall not accept an 2693
application for an automobile insurance policy issued under 2694
division (B) of this section unless that application is 2695
submitted through an insurance agent registered in accordance 2696
with those procedures. 2697

(3) The plan may do all of the following: 2698

(a) Establish procedures to register insurance agents; 2699

(b) Establish separate registrations for commercial and 2700
personal insurance agents, or one registration for both; 2701

(c) Empower the manager of the plan to make determinations 2702
on registration status, including by revoking an insurance 2703
agent's registration. 2704

(4) If an insurance agent is denied registration with the 2705
plan, or the insurance agent's registration is revoked, the plan 2706
may notify the superintendent of the plan's decision. The plan 2707

and manager are immune from civil liability for any decision to 2708
deny or revoke registration and from any decision to report 2709
denials or revocations to the superintendent. 2710

(5) All insurance agents submitting applications to the 2711
plan for automobile insurance coverage have an affirmative duty 2712
to ensure that all information included in the application and 2713
any supporting materials is true and accurate. 2714

Sec. 5725.18. (A) An annual franchise tax on the privilege 2715
of being an insurance company is hereby levied on each domestic 2716
insurance company. In the month of May, annually, the treasurer 2717
of state shall charge for collection from each domestic 2718
insurance company a franchise tax in the amount computed in 2719
accordance with the following, as applicable: 2720

(1) With respect to a domestic insurance company that is a 2721
health insuring corporation, one per cent of all premium rate 2722
payments received, exclusive of payments received under the 2723
medicare program and exclusive of payments received pursuant to 2724
the medicaid program for the period ending September 30, 2009, 2725
as reflected in its annual report for the preceding calendar 2726
year; 2727

(2) With respect to a domestic insurance company that is 2728
not a health insuring corporation, one and four-tenths per cent 2729
of the gross amount of premiums received from policies covering 2730
risks within this state, exclusive of premiums received under 2731
the medicare program and exclusive of payments received pursuant 2732
to the medicaid program for the period ending September 30, 2733
2009, as reflected in its annual statement for the preceding 2734
calendar year, and, if the company operates a health insuring 2735
corporation as a line of business, one per cent of all premium 2736
rate payments received from that line of business, exclusive of 2737

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

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

(B) The gross amount of premium rate payments or premiums 2751
used to compute the applicable tax in accordance with division 2752
(A) of this section is subject to the deductions prescribed by 2753
division (B) of section 5729.02 and section 5729.03 of the 2754
Revised Code for foreign insurance companies. The objects of 2755
such tax are those declared in section 5725.24 of the Revised 2756
Code, to which only such tax shall be applied. 2757

(C) In no case shall such tax be less than two hundred 2758
fifty dollars. 2759

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

not be deducted except as provided in section 5729.04 of the Revised Code. If the superintendent has reason to suspect the correctness of such statement ~~he~~ the superintendent may make an examination at the expense of the state of the books of such company or its agents for the purpose of verifying them.

Where insurance against fire is included with insurance against other perils at an undivided premium, a reasonable allocation from such entire premium shall be made for the fire portion of the coverage in such manner as the superintendent of insurance may direct.

Every insurance company incorporated under the laws of this state, and controlled by a foreign affiliate, that claims to be a domestic insurance company, as that term is defined in division (D) of section 5725.01 of the Revised Code, shall set forth in its annual report information from which the superintendent can determine the validity of such claim.

(B) The gross amount of premiums for bail bonds written by a foreign insurance company included in the annual statement required under division (A) of this section shall equal the company's direct written premiums determined under section 3905.901 of the Revised Code and reported on the company's corresponding annual statement of condition.

Section 2. That existing sections 121.95, 1751.11, 2913.47, 3901.04, 3901.221, 3901.24, 3901.321, 3901.36, 3903.42, 3905.14, 3916.15, 3929.41, 3929.42, 3929.43, 3929.44, 3929.481, 3935.04, 3937.03, 3961.08, 4125.041, 4509.70, 5725.18, and 5729.02 of the Revised Code are hereby repealed.

Section 3. As soon as practicable after the effective date of this section, the Superintendent of Insurance shall amend the

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

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

Section 5. The amendment by this act of sections 3970.01, 2817
3970.02, 3970.03, 3970.04, 3970.05, 3970.06, 3970.07, and 2818
3970.08 of the Revised Code take effect ninety days after the 2819
effective date of this section. 2820

Section 6. The General Assembly, applying the principle 2821
stated in division (B) of section 1.52 of the Revised Code that 2822
amendments are to be harmonized if reasonably capable of 2823
simultaneous operation, finds that the following sections, 2824
presented in this act as composites of the sections as amended 2825
by the acts indicated, are the resulting versions of the 2826

sections in effect prior to the effective date of the sections	2827
as presented in this act:	2828
Section 3901.04 of the Revised Code as amended by both	2829
H.B. 525 and S.B. 196 of the 127th General Assembly.	2830
Section 3905.14 of the Revised Code as amended by both	2831
H.B. 263 and H.B. 339 of the 133rd General Assembly.	2832