As Introduced

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S. B. No. 306

Senator Lang

To amend sections 1345.02, 3901.046, 3964.03, 3964.194, 4509.70, and 4513.70 and to enact section 1345.82 of the Revised Code regarding electronic signatures in insurance transactions, the Ohio assigned risk insurance plan, special purpose financial captive insurance companies, civil actions related to towed vehicles that are brought by insurance companies, and to prohibit certain repair shop activities related to insurance policies.

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

Section 1. That sections 1345.02, 3901.046, 3964.03, 3964.194, 4509.70, and 4513.70 be amended and section 1345.82 of the Revised Code be enacted to read as follows:

Sec. 1345.02. (A) No supplier shall commit an unfair or deceptive act or practice in connection with a consumer transaction. Such an unfair or deceptive act or practice by a supplier violates this section whether it occurs before, during, or after the transaction.

(B) Without limiting the scope of division (A) of this section, the act or practice of a supplier in representing any of the following is deceptive:

(1) That the subject of a consumer transaction has sponsorship, approval, performance characteristics, accessories, uses, or benefits that it does not have;

(2) That the subject of a consumer transaction is of a particular standard, quality, grade, style, prescription, or model, if it is not;

(3) That the subject of a consumer transaction is new, or unused, if it is not;

(4) That the subject of a consumer transaction is available to the consumer for a reason that does not exist;

(5) That the subject of a consumer transaction has been supplied in accordance with a previous representation, if it has not, except that the act of a supplier in furnishing similar merchandise of equal or greater value as a good faith substitute does not violate this section;

(6) That the subject of a consumer transaction will be supplied in greater quantity than the supplier intends;

(7) That replacement or repair is needed, if it is not;

(8) That a specific price advantage exists, if it does not;

(9) That the supplier has a sponsorship, approval, or affiliation that the supplier does not have;

(10) That a consumer transaction involves or does not involve a warranty, a disclaimer of warranties or other rights, remedies, or obligations if the representation is false.

(C) In construing division (A) of this section, the court shall give due consideration and great weight to federal trade commission orders, trade regulation rules and guides, and the federal courts' interpretations of subsection 45 (a)(1) of the "Federal Trade Commission Act," 38 Stat. 717 (1914), 15 U.S.C.A. 41, as amended.

(D) No supplier shall offer to a consumer or represent that a consumer will receive a rebate, discount, or other benefit as an inducement for entering into a consumer transaction in return for giving the supplier the names of prospective consumers, or otherwise helping the supplier to enter into other consumer transactions, if earning the benefit is contingent upon an event occurring after the consumer enters into the transaction.

(E)(1) No supplier, in connection with a consumer transaction involving natural gas service or public telecommunications service to a consumer in this state, shall request or submit, or cause to be requested or submitted, a change in the consumer's provider of natural gas service or public telecommunications service, without first obtaining, or causing to be obtained, the verified consent of the consumer. For the purpose of this division and with respect to public telecommunications service only, the procedures necessary for verifying the consent of a consumer shall be those prescribed by rule by the public utilities commission for public telecommunications service under division (D) of section 4905.72 of the Revised Code. Also, for the purpose of this division, the act, omission, or failure of any officer, agent, or other individual, acting for or employed by another person, while acting within the scope of that authority or employment, is the act or failure of that other person.

(2) Consistent with the exclusion, under 47 C.F.R. 64.1100(a)(3), of commercial mobile radio service providers from the verification requirements adopted in 47 C.F.R. 64.1100, 64.1150, 64.1160, 64.1170, 64.1180, and 64.1190 by the federal communications commission, division (E)(1) of this section does not apply to a provider of commercial mobile radio service insofar as such provider is engaged in the provision of commercial mobile radio service. However, when that exclusion no longer is in effect, division (E)(1) of this section shall apply to such a provider.

(3) The attorney general may initiate criminal proceedings for a prosecution under division (C) of section 1345.99 of the Revised Code by presenting evidence of criminal violations to the prosecuting attorney of any county in which the offense may be prosecuted. If the prosecuting attorney does not prosecute the violations, or at the request of the prosecuting attorney, the attorney general may proceed in the prosecution with all the rights, privileges, and powers conferred by law on prosecuting attorneys, including the power to appear before grand juries and to interrogate witnesses before grand juries.

(F) Concerning a consumer transaction in connection with a residential mortgage, and without limiting the scope of division (A) or (B) of this section, the act of a supplier in doing either of the following is deceptive:

(1) Knowingly failing to provide disclosures required under state and federal law;

(2) Knowingly providing a disclosure that includes a material misrepresentation.

(G) Without limiting the scope of division (A) of this section, the failure of a supplier to obtain or maintain any registration, license, bond, or insurance required by state law or local ordinance for the supplier to engage in the supplier's trade or profession is an unfair or deceptive act or practice.

(H) A violation of section 111.242 of the Revised Code is an unfair or deceptive act or practice.

(I) A violation of section 1345.82 of the Revised Code is an unfair or deceptive act or practice.

Sec. 1345.82. (A)(1) As used in this section, "repair facility" means any garage, body shop, or other entity that undertakes the repair or replacement of those parts that generally constitute the exterior of a motor vehicle.

(2) "Repair facility" does not include an entity owned or operated by a motor vehicle dealer, as defined in section 4517.01 of the Revised Code.

(B) No repair facility shall require a consumer to sign a contract that interferes with a policy of insurance, prohibits an insurer or consumer from commencing an action under section 4513.70 of the Revised Code, or prohibits an insurer or consumer from filing a writ replevin under Chapter 2737. of the Revised Code.

(C) No repair facility shall require a consumer to sign a contract requiring the consumer to pay the legal fees of the repair facility for filing any action designed to return the vehicle to the consumer.

(D) No repair facility shall require a consumer to sign a contract prohibiting the consumer from transferring the title of the vehicle the consumer owns.

(E) No repair facility, or third party acting on behalf of a repair facility, shall represent, negotiate, obtain, or attempt to obtain an assignment of claims, rights, benefits, power of attorney, or proceeds from a consumer.

(F)(1) A repair facility shall cease assessing or accruing any and all charges for any fee reasonably related to storage, regardless of how the fee is listed on a bill or list of charges, once the repair facility has been notified by the insurer, or has otherwise determined, that the vehicle has been deemed a total loss.

(2) Notification under division (F)(1) of this section may occur via electronic mail, commercial carrier service, or the United States postal service.

(G) A repair facility shall allow prompt access to the vehicle by the insurer for the purposes of inspection and valuation of the loss. In no case shall access be prohibited during normal business hours after the vehicle is towed or otherwise delivered to the repair facility.

(H) A violation of this section constitutes a deceptive act or practice in connection with a consumer transaction in violation of section 1345.02 of the Revised Code and is subject to any applicable penalties prescribed under Chapter 1345. of the Revised Code.

Sec. 3901.046. (A) As used in this section:

(1) "Electronic signature" has the same meaning as in section 1306.01 of the Revised Code.

(2) "Insurer" has the same meaning as in section 3901.32 of the Revised Code.

(B) An insurer may use an electronic signature to comply with any signature requirement placed upon insurers by ~~this title~~the Revised Code, including any requirement that a document submitted by an insurer to the department of insurance be signed.

Sec. 3964.03. (A) A captive insurance company shall be organized under Chapter 1701., 1702., 1705., or 1706. of the Revised Code.

(B) A captive insurance company shall not operate in this state unless all of the following are met:

(1) The captive insurance company obtains from the superintendent a license to do the business of captive insurance in this state.

(2) The captive insurance company's board of directors holds at least one meeting each year in this state.

(3) The captive insurance company maintains its principal place of business in this state.

(4) The person managing the captive insurance company is a resident of this state.

(5) The captive insurance company appoints a registered agent to accept service of process and act on its behalf in this state.

(C) Whenever an agent required under division (B)(5) of this section cannot, with reasonable diligence, be found at the registered office of the captive insurance company, the superintendent shall be an agent of such a captive insurance company upon whom any process, notice, or demand may be served.

(D) A captive insurance company seeking a license to be a captive insurance company in this state shall file an application with the superintendent and shall submit all of the following along with the application:

(1) A certified copy of its articles of incorporation, bylaws, or other organizational document and code of regulations;

(2) A statement, made under oath by the president and secretary, in a form prescribed by the superintendent, showing the captive insurance company's financial condition;

(3) A statement of the captive insurance company's assets relative to its risks, detailing the amount of assets and their liquidity;

(4) An account of the adequacy of the expertise, experience, and character of the person or persons who will manage the captive insurance company;

(5) An account of the loss prevention programs of the persons that the captive insurance company insures;

(6) Actuarial assumptions and methodologies that will be utilized in calculating reserves;

(7) Any other information considered necessary by the superintendent to determine whether the proposed captive insurance company will be able to meet its obligations.

(E)(1) A special purpose financial captive insurance company shall follow the national association of insurance commissioner's accounting practices and procedures manual.

(2)(a) Upon request, the superintendent may allow a special purpose financial captive insurance company to ~~use~~ do either of the following:

(i) Use a reserve basis other than that found in the national association of insurance commissioner's accounting practices and procedures manual;

(ii) Admit an unimpaired asset held by the special purpose financial captive insurance company or any affiliate entity, which is intended to secure the reinsurance obligations of such parties, or which is not recognized as such in the national association of insurance commissioner's accounting practices and procedures manual.

(b) The superintendent, in accordance with Chapter 119. of the Revised Code, shall adopt rules that define acceptable alternative reserve bases.

(c) Such rules shall be adopted prior to availability for use of any such alternative reserve basis and shall ensure that the resulting reserves meet all of the following conditions:

(i) Quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring during the lifetime of the contracts. For policies or contracts with significant tail risk, reflects conditions appropriately adverse to quantify the tail risk.

(ii) Incorporate assumptions, risk analysis methods, and financial models and management techniques that are consistent with, but not necessarily identical to, those utilized within the company's overall risk assessment process, while recognizing potential differences in financial reporting structures and any prescribed assumptions or methods;

(iii) Provide margins for uncertainty including adverse deviation and estimation error, such that the greater the uncertainty the larger the margin and resulting reserve.

(d) An alternative basis for calculating a reserve or an admitted asset approved by the superintendent shall be treated as a public document after the date the alternative basis for calculating the reserve or admitted asset has been approved, regardless of the application of the uniform trade secrets act set forth in sections 1333.61 to 1333.69 of the Revised Code.

(3) The special purpose financial captive insurance company shall submit a request for an alternative reserve basis in writing, and affirmed by the company's appointed actuary, that includes, at a minimum, the following information for the superintendent to consider in evaluating the request:

(a) The reserves based on the national association of insurance commissioner's accounting practices and procedures manual and the reserves based on the proposed alternative method for calculation and the difference between these two calculations;

(b) A detailed analysis of the proposed alternative method explaining why the use of an alternative basis for calculating the reserve is appropriate;

(c) All assumptions utilized within the proposed alternative method, together with the source of the assumptions, as well as information, satisfactory to the superintendent, supporting the appropriateness of the assumptions and analysis and identifying the assumptions that result in the greatest variability in the reserve and how that analysis was used in setting those assumptions;

(d) A detailed overview of the corporate governance and oversight of the actuarial valuation function;

(e) Any other information the superintendent may require to assess the proposed alternative method for approval or disapproval.

(4) At the expense of the special purpose financial captive insurance company, the superintendent may require the company to secure the affirmation of an independent qualified actuary in support of any alternative basis for calculating the reserve that is requested pursuant to this section or to assist the superintendent in the review of said request.

(5) If the superintendent approves the use of an alternative basis for calculating a reserve, the special purpose financial captive insurance company, and the ceding insurer shall each include a note in its financial statements disclosing the use of a basis other than the national association of insurance commissioner's accounting practices and procedures manual and the difference between the reserve amount determined under the alternative basis and the reserve amount that would have been determined had the company utilized the national association of insurance commissioner's accounting practices and procedures manual.

(6)(a) The superintendent shall establish an acceptable total capital and surplus requirement for each insurance company that will cede risks and obligations to a special purpose financial captive insurance company. The total capital and surplus requirement must be met at the time the special purpose financial captive insurance company applies for a license to do the business of captive insurance. The total capital and surplus requirement shall be determined in accordance with a minimum required total capital and surplus methodology that meets both of the following requirements:

(i) Is consistent with current risk-based capital principles;

(ii) Takes into account all material risks and obligations, as well as the assets, of the insurance company.

(b) An insurance company ceding risks and obligations to a special purpose financial captive insurance company shall fully disclose all material risks and obligations, as well as its assets and all affiliated captive insurance company risks. The ceding insurance company shall advise the superintendent whenever there is a material change to such risks, obligations, or assets.

(F) In determining whether to approve an application for a license, the superintendent shall consider all of the following:

(1) The character, reputation, financial standing, and purposes of the incorporators, or other founders, of the captive insurance company;

(2) The character, reputation, financial responsibility, experience relating to insurance, and business qualifications of the officers and directors of the captive insurance company;

(3) The amount of liquidity and assets of the captive insurance company relative to the risks to be assumed;

(4) The adequacy of the expertise, experience, and character of the person or persons who will manage the captive insurance company;

(5) The overall soundness of the plan of operation;

(6) The adequacy of the loss prevention programs of the

persons that the captive insurance company insures.

(G)(1) Each captive insurance company that offers direct insurance to its parent shall submit to the superintendent for approval a detailed description of the coverages, deductibles, coverage limits, proposed rates or rating plans, documentation from a qualified actuary that demonstrates the actuarial soundness of the proposed rates or rating plans, and other such additional information as the superintendent may require.

(2)(a) Any captive insurance company licensed under the provisions of this chapter that seeks to make any material change to any item described in division (G)(1) of this section shall submit to the superintendent for approval a detailed description of the revision, documentation from a qualified actuary that demonstrates the actuarial soundness of the revised rates or rating plans, and other such additional information as the superintendent may require.

(b) Each filing under division (G)(2)(a) of this section is deemed approved thirty days after the filing is received by the superintendent of insurance, unless the filing is disapproved by the superintendent during that thirty-day period.

(c) If at any time subsequent to the thirty-day review period the superintendent finds that a filing does not demonstrate actuarial soundness, the superintendent shall hold a hearing requiring the captive insurance company to show cause why an order should not be made by the superintendent to disapprove the revised rates or rating plans.

(d) If, upon such a hearing, the superintendent finds that the captive insurance company failed to demonstrate the actuarial soundness of the rates or rating plans, the superintendent shall issue an order directing the captive insurance company to cease and desist from using the revised rates or rating plans and to use rates or rating plans as determined appropriate by the superintendent.

(H) Except as otherwise provided in this division, documents and information submitted by a captive insurance company pursuant to this section are not subject to section 149.43 of the Revised Code, and are confidential, and may not be disclosed by the superintendent or any employee of the department of insurance without the written consent of the company.

(1) Such documents and information may be discoverable in a civil action in which the captive insurance company filing the material is a party upon a finding by a court of competent jurisdiction that the information sought is relevant and necessary to the case and the information sought is unavailable from other, nonconfidential sources.

(2) The superintendent may, at the superintendent's sole discretion, share documents required under this section with the chief deputy rehabilitator, the chief deputy liquidator, other deputy rehabilitators and liquidators, and any other person employed by, or acting on behalf of the superintendent pursuant to Chapter 3901. or 3903. of the Revised Code, with other local, state, federal, and international regulatory and law enforcement agencies, with local, state, and federal prosecutors, and with the national association of insurance commissioners and its affiliates and subsidiaries provided that the recipient agrees to maintain the confidential or privileged status of the documents and has authority to do so.

(I)(1) Each applicant for a license to do the business of a captive insurance company in this state shall pay to the superintendent a nonrefundable fee of five hundred dollars for processing its application for a license. The superintendent is authorized to retain legal, financial, and examination services from outside the department, at the expense of the applicant. Each captive insurance company shall annually pay a license renewal fee of five hundred dollars.

(2) The fees collected pursuant to division (I)(1) of this section shall be deposited into the state treasury to the credit of the department of insurance operating fund.

Sec. 3964.194. (A) Notwithstanding any other section of the Revised Code, a counterparty may take credit for reinsurance ceded to a special purpose financial captive insurance company that is a subsidiary or affiliate of the counterparty, if assets valued using the basis of accounting applicable to the special purpose financial captive insurance company under division (E) of section 3964.03 of the Revised Code at least equal to the reserves as determined under the basis elected under division (E) of section 3964.03 of the Revised Code for the reinsurance are, notwithstanding section 3901.63 of the Revised Code, held directly by the ceding counterparty or ~~in trust on behalf of the ceding counterparty, as security for payment of~~ the special purpose financial captive insurance company for the purpose of supporting the obligations under the reinsurance contract ~~with the reinsuring special purpose financial captive insurance company~~.

(B) Such funds ~~shall~~ may be held in compliance with the requirements of section 3901.63 of the Revised Code.

(C) An Ohio domiciled counterparty in recording its investment in a special purpose financial captive insurance company domiciled in this state, shall value the investment using the special purpose financial captive insurance company's underlying audited statutory equity reflecting the reserves established pursuant to division (E) of section 3964.03 of the Revised Code.

(D) Notwithstanding any other provision of the Revised Code that would otherwise apply, any change in surplus that may be recognized by any Ohio domiciled ceding counterparty pursuant to this chapter may be recognized in such ceding counterparty's calculation of its investment in a United States insurance subsidiary, controlled and affiliated entity investment, or any of its Ohio domiciled parents' calculations of their investment in a United Stated insurance subsidiary, controlled, and affiliated entities.

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

Code, at the instance of any party in interest.

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

(C) Every form of a policy, endorsement, rider, manual of classifications, rules, and rates, every rating plan, and every modification of any of them proposed to be used by the assigned risk insurance plan shall be filed, or the plan may satisfy its obligation to make such filings, as described in section 3937.03 of the Revised Code.

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

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

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

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

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

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

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

(G)(1) Except as provided in division (G)(2) of this section, records created, held by, or pertaining to the assigned risk insurance plan are not public records under section 149.43 of the Revised Code, are confidential, and are not subject to inspection or disclosure.

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

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

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

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

(a) Establish procedures to register insurance agents;

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

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

(4) If an insurance agent is denied registration with the plan, or the insurance agent's registration is revoked, the plan may notify the superintendent of the plan's decision. The plan and manager are immune from civil liability for any decision to deny or revoke registration and from any decision to report denials or revocations to the superintendent.

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

(6)(a) An insurance agent shall not submit an application to the plan for automobile insurance coverage unless the agent exercises due diligence in confirming that the person seeking insurance is unable to obtain coverage through an insurer authorized to do business in this state.

(b) For the purposes of this section, due diligence requires an insurance agent to contact at least five of the authorized insurers the agent represents or, if the agent does not represent five authorized insurers that customarily write automobile insurance coverage, as many of such insurers as the agent represents.

(c) An insurance agent may assume that insurance coverage cannot be procured for the applicant through ordinary methods after each insurer contacted under division (H)(6)(b) of this section declines to provide coverage.

(d) An insurance agent may assume that an authorized insurer declines to provide coverage to the applicant seeking insurance upon either of the following:

(i) Receiving notice from the insurer declining coverage;

(ii) Receiving no response from the insurer within ten days after the date the insurance agent initially makes contact with the insurer.

(e) The determination of whether an insurance agent has adequately complied with the due diligence requirements is at the discretion of the manager of the plan.

(f) An agent shall not submit an application on behalf of an applicant to the plan for any automobile insurance policy if any insurer admitted, authorized, or otherwise eligible to do business in this state has in any way communicated a willingness to insure the applicant, even if coverage provided by the plan costs less than other insurers.

~~(g)~~ (7) The manager of the plan may revoke the registration of an insurance agent who fails to comply with either division ~~(H)(6)~~ (H)(5) or (6) of this section.

(I)(1) The manager of the plan may, as a condition of granting insurance under this section, require an applicant to take any action necessary to accomplish any of following:

(a) The promotion of vehicle safety, public safety, or increased ability of the plan to underwrite applicant risk;

(b) The prevention of fraud against the plan;

(c) The acquisition of any information the manager of the plan deems necessary to determine an applicant's current and continued eligibility for the plan.

(2)(a) The manager of the plan may request any information necessary to determine an applicant's eligibility for the plan.

(b) An applicant has the burden of proof to establish that the applicant is eligible for insurance under the plan.

(c) The determination of whether an applicant has adequately demonstrated eligibility for the plan is at the discretion of the manager of the plan.

(3) The plan may employ any form of technology necessary to review applications for eligibility, determine any conditions required for the issuance of coverage under this section, or to find and prevent fraudulent activities.

(4)(a) Consistent with the principle of the plan being a market of last resort, the plan may seek to place an applicant with any insurer admitted or authorized in this state, regardless of whether the agent submitting the application is appointed with the insurer.

(b) An agent whose applicant is placed with such an insurer is not eligible for compensation from that insurer unless the agent is appointed by the receiving insurer under Ohio law.

(5)(a) The manager of the plan may refuse to accept applications from any agent that the manager of the plan suspects has submitted applications that contain, or that are supported by, inaccurate or fraudulent information.

(b) The manager of the plan shall communicate any suspicion of fraudulent activity to the superintendent of insurance.

(c) The manager of the plan may resume accepting applications from an agent once the manager has determined that the fraudulent activity did not occur or has ceased.

(6) Knowingly submitting, or submitting with the purpose to defraud, false, manufactured, manipulated, or inaccurate information to the plan is insurance fraud and a violation of section 2913.47 of the Revised Code.

Sec. 4513.70. (A)(1) An insurance company may commence a civil action against a towing service or storage facility on its own behalf, on behalf of the holder of a policy of automobile insurance, or on behalf of a motor vehicle owner for either or both of the following reasons:

(a) The recovery of a motor vehicle that has been towed or stored and for which a claim has been filed with the insurance company;

(b) Objecting to the amount billed by the towing service or storage facility.

(2) The insurance company shall file the action in the municipal or county court with territorial jurisdiction over the location from which the vehicle was towed or stored, regardless of the value of the vehicle or the bill for services, within ~~thirty~~ forty-five days of receipt of the bill for services from the towing service or storage facility. If the insurance company objects to the amount billed by the towing service or storage facility, the complaint shall include the amount of the bill that is undisputed and the reasons the insurance company objects to the remainder of the bill. The insurance company shall file, along with the complaint, a copy of the bill and any evidence supporting the assertion that the billed amount is unreasonable. If the insurance company seeks the recovery of the vehicle, the

insurance company shall pay to the towing service or storage facility the undisputed amount of the bill.

(3) A towing service or storage facility shall not add any additional storage fees or similar fees related to the towing and storage of the vehicle to the disputed bill after an insurance company files an action in accordance with this section.

(B) Upon receipt of payment of the undisputed amount of the bill and not later than two business days after receiving service or written notice from the insurance company of a complaint filed under division (A) of this section, the towing service or storage facility shall release the vehicle that is the subject of the complaint to the owner of the vehicle or to a representative of the insurance company that filed the complaint. ~~If~~ For purposes of encouraging the quick return of a vehicle to its owner, if the towing service or storage facility fails to release the vehicle as required under this division, the court ~~may~~ shall issue an order that imposes a penalty of up to one hundred dollars per day against a towing service or storage facility for each day the towing service or storage facility violates that division. The towing service or storage facility shall pay any fines assessed under this section to the clerk of courts.

(C) The court shall make a determination as to whether the amount charged by the towing service or storage facility is unreasonable. If the court determines that the amount is reasonable, the court shall order the insurance company to pay the amount billed minus the undisputed amount that the insurance company paid to the towing service or storage facility under division (B) of this section if a payment was made under that division. If the court determines that the amount charged was unreasonable, the court shall determine a reasonable amount and order the insurance company to pay that amount minus the undisputed amount that the insurance company paid to the towing service or storage facility under division (B) of this section if a payment was made under that division. The court also may require either party to pay any additional amount and may impose any monetary penalties the court determines to be appropriate.

(D) As used in this section:

(1) "Storage facility" means any place to which a for-hire motor carrier delivers a towed motor vehicle for storage or any place that charges fees for storing a motor vehicle regardless of what person or entity towed or delivered the motor vehicle. "Storage facility" does not include either of the following:

(a) A place owned or operated by a motor vehicle dealer, as defined in section 4517.01 of the Revised Code;

(b) A salvage motor vehicle auction or a salvage motor vehicle pool as defined in section 4738.01 of the Revised Code.

(2) "Towing service" means any for-hire motor carrier that tows motor vehicles.

Section 2. That existing sections 1345.02, 3901.046, 3964.03, 3964.194, 4509.70, and 4513.70 of the Revised Code are hereby repealed.