

As Introduced

**135th General Assembly
Regular Session
2023-2024**

S. B. No. 175

Senator Lang

A BILL

To amend sections 3901.041, 3935.04, 3937.03, 1
4125.041, 5725.18, and 5729.02 of the Revised 2
Code regarding insurance regulations and taxes. 3

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

Section 1. That sections 3901.041, 3935.04, 3937.03, 4
4125.041, 5725.18, and 5729.02 of the Revised Code be amended to 5
read as follows: 6

Sec. 3901.041. The superintendent of insurance shall 7
adopt, amend, and rescind rules and make adjudications, 8
necessary to discharge the superintendent's duties and exercise 9
the superintendent's powers, including, but not limited to, the 10
superintendent's duties and powers under Chapters 1751. and 11
1753. and Title XXXIX of the Revised Code, subject to Chapter 12
119. of the Revised Code. 13

Notwithstanding any provision of section 121.95 of the 14
Revised Code to the contrary, a regulatory restriction contained 15
in a rule adopted or amended under this section that is 16
necessary to meet the requirements for accreditation by the 17
national association of insurance commissioners' financial 18
regulation standards and accreditation committee is not subject 19

to sections 121.95 to 121.953 of the Revised Code. 20

Sec. 3935.04. As used in sections 3935.01 to 3935.17 of 21
the Revised Code, "filing" or "filings" means the whole or any 22
part thereof. 23

(A) (1) Every insurer shall file with the superintendent of 24
insurance, except as to inland marine risks which by general 25
custom of the business are not written according to manual rates 26
or rating plans, every form of a policy, endorsement, rider, 27
manual, minimum class rate, rating schedule, or rating plan, and 28
every other rating rule, and every modification of any of them, 29
which it proposes to use. Every such filing shall state the 30
proposed effective date thereof, and shall indicate the 31
character and extent of the coverage contemplated. When a filing 32
is not accompanied by the information upon which the insurer 33
supports the filing, and the superintendent does not have 34
sufficient information to determine whether the filing meets the 35
requirements of sections 3935.01 to 3935.17 of the Revised Code, 36
the superintendent shall require the insurer to furnish the 37
information upon which it supports the filing, and in such event 38
the waiting period shall commence as of the date the information 39
is furnished. The information furnished in support of a filing 40
may include the experience or judgment of the insurer or rating 41
bureau making the filing, its interpretation of any statistical 42
data it relies upon, the experience of other insurers or rating 43
bureaus, or any other relevant factors. A filing and any 44
supporting information shall be open to public inspection after 45
the filing becomes effective. Trade secrets contained in any 46
filing or in any supporting information shall not be open to 47
public inspection, are not a public record under section 149.43 48
of the Revised Code, and the release of such trade secrets is 49
prohibited. Specific inland marine rates on risks specially 50

rated, made by a rating bureau, shall be filed with the 51
superintendent. 52

(2) As used in division (A)(1) of this section, "trade 53
secret" has the same meaning as in section 1333.61 of the 54
Revised Code. 55

(B) An insurer may satisfy its obligation to make such 56
filings by becoming a member of, or a subscriber to, a licensed 57
rating bureau which makes such filings, and by authorizing the 58
superintendent to accept such filings on its behalf, but 59
sections 3935.01 to 3935.17 of the Revised Code do not require 60
any insurer to become a member of, or a subscriber to, any 61
rating bureau. 62

(C) The superintendent shall review filings as soon as 63
reasonably possible after they have been made in order to 64
determine whether they meet the requirements of sections 3935.01 65
to 3935.17 of the Revised Code. 66

(D) Subject to the exception specified in division (E) of 67
this section, each filing shall be on file for a waiting period 68
of thirty days before it becomes effective. Upon written 69
application by such insurer or rating bureau, the superintendent 70
may authorize a filing which the superintendent has reviewed to 71
become effective before the expiration of the waiting period. A 72
filing complies with sections 3935.01 to 3935.17 of the Revised 73
Code unless it is disapproved by the superintendent within the 74
waiting period. 75

(E) Specific inland marine rates on risks specially rated 76
by a rating bureau become effective when filed and comply with 77
sections 3935.01 to 3935.17 of the Revised Code until the 78
superintendent reviews the filing and so long thereafter as the 79

filing remains in effect. 80

(F) Notwithstanding Chapter 119. of the Revised Code, the 81
superintendent may, by written order, without notice or hearing, 82
suspend or modify the requirements of a filing as to any kind of 83
insurance, subdivision or combination thereof, or classes of 84
risks, the rates for which cannot practicably be filed before 85
they are used. Such orders shall be made known to insurers and 86
rating bureaus affected thereby. The superintendent may make 87
such examinations as the superintendent deems advisable to 88
ascertain whether any rates affected by such order meet the 89
standards set forth in division (B) of section 3935.03 of the 90
Revised Code. 91

(G) Upon the written application of the insured, stating 92
the insured's reasons therefor, ~~filed with and approved by the~~ 93
~~superintendent,~~ a rate in excess of that provided by a filing 94
otherwise applicable may be used on any specific risk. 95

(H) A commercial insurance policy form or endorsement that 96
is unique in character and designed for a particular risk is 97
exempt from filing, except that the superintendent may, by 98
regulation or order, prescribe specific restrictions relating to 99
the exemption. 100

(I) An insurer shall retain any insurance policy form, 101
endorsement, or rate that is exempt from filing under division 102
(F), (G), or (H) of this section and all supporting 103
documentation, for not less than three years after the effective 104
date of the exempt policy form, endorsement, or rate. Upon 105
request of the superintendent during that period, the insurer 106
shall make such policy form, endorsement, or rate, and the 107
supporting documentation available for inspection by the 108
superintendent. 109

(J) No insurer shall make or issue a contract or policy 110
except in accordance with the filings which are in effect for 111
the insurer as provided in sections 3935.01 to 3935.17 of the 112
Revised Code or in accordance with division (F) ~~or~~, (G), or (H) 113
of this section. This division does not apply to contracts or 114
policies for inland marine risks as to which filings are not 115
required. 116

Sec. 3937.03. (A) (1) Every insurer shall file with the 117
superintendent of insurance every form of a policy, endorsement, 118
rider, manual of classifications, rules, and rates, every rating 119
plan, and every modification of any of them which it proposes to 120
use. Every such filing shall state any proposed effective date 121
and indicate the character and extent of the coverage 122
contemplated. When a filing is not accompanied by the 123
information upon which the insurer supports such filing, and the 124
superintendent does not have sufficient information to determine 125
whether such filing complies with sections 3937.01 to 3937.17 of 126
the Revised Code, the superintendent may require such insurer to 127
furnish the information upon which it supports such filing. Any 128
filing may be supported by the experience or judgment of the 129
insurer or rating organization making the filing, the experience 130
of other insurers or rating organizations, or any other factors 131
which the insurer or rating organization considers relevant. A 132
filing and any supporting information shall be open to public 133
inspection after the filing becomes effective. Trade secrets 134
contained in any filing or in any supporting information shall 135
not be open to public inspection, are not a public record under 136
section 149.43 of the Revised Code, and the release of such 137
trade secrets is prohibited. 138

(2) As used in division (A) (1) of this section, "trade 139
secret" has the same meaning as in section 1333.61 of the 140

Revised Code.	141
(B) An insurer may satisfy its obligation to make such	142
filings by becoming a member of, or a subscriber to, a licensed	143
rating organization which makes such filings, and by authorizing	144
the superintendent to accept such filings on its behalf.	145
Sections 3937.01 to 3937.17 of the Revised Code do not require	146
an insurer to become a member of or a subscriber to any rating	147
organization.	148
(C) (1) For purposes of this division:	149
(a) "Commercial insurance" means any commercial casualty	150
or commercial liability insurance except sickness and accident,	151
fidelity and surety, and automobile insurance as defined in	152
section 3937.30 of the Revised Code.	153
(b) "Personal lines coverage" means any policy of	154
insurance issued to a natural person for personal or family	155
protection, including, but not limited to, personal automobile,	156
homeowner's, tenant's, and personal umbrella liability	157
coverages.	158
(2) Except as provided in division (C) (3) of this section,	159
each filing shall become effective immediately upon its filing	160
and is deemed to comply with such sections, unless disapproved	161
by the superintendent as provided in this section or section	162
3937.04 of the Revised Code.	163
(3) Whenever the superintendent declares by rule pursuant	164
to Chapter 119. of the Revised Code that a degree of competition	165
that will assure that rates are not excessive does not exist in	166
the market for a line of commercial insurance, or that the	167
market is conducted in a manner that may result in inadequate	168
rates or be destructive of competition or detrimental to	169

solvency of insurers, the superintendent shall provide that 170
every filing that would result in an increase or decrease of 171
rates for any coverages for that line of commercial insurance 172
shall be subject to this division. Such filing shall be on file 173
for a waiting period of thirty days before it becomes effective, 174
which period may be extended by the superintendent for one 175
additional period not to exceed fifteen days, if the 176
superintendent gives written notice within such initial waiting 177
period to the insurer or rating bureau that the superintendent 178
needs such additional time for the consideration of such filing. 179
A filing is deemed to comply with sections 3937.04 to 3937.17 of 180
the Revised Code unless disapproved by the superintendent within 181
the waiting period or its extension. Upon written application by 182
such insurer or rating bureau, the superintendent may authorize 183
a filing that the superintendent has reviewed to become 184
effective before the expiration of the initial waiting period or 185
its extension. If, during the initial waiting period or 186
extension, the superintendent finds the filing to which sections 187
3937.04 to 3937.17 of the Revised Code apply does not comply 188
with the sections, the superintendent shall disapprove the 189
filing by sending written notice to the person who made the 190
filing, specifying therein the reasons the filing fails to 191
comply with the sections. Upon notice of disapproval, the person 192
who made such a filing may request a hearing pursuant to section 193
3937.15 of the Revised Code. 194

(4) In determining whether circumstances exist in a market 195
for a line of commercial insurance as required in division (C) 196
(3) of this section, the superintendent shall consider all 197
relevant structural factors in determining the conditions of the 198
market, including: the number of insurers actively engaged in 199
providing coverage; market shares; changes in market shares; and 200

ease of entry.	201
(5) This division does not apply to any filings required	202
under Chapter 3937. of the Revised Code for personal lines	203
coverage.	204
(6) Any rule adopted by the superintendent under this	205
division shall expire one year after its issuance unless	206
rescinded earlier or extended by rule adopted by the	207
superintendent.	208
(D) A special filing may be made with respect to a surety	209
or guaranty bond required by law, by court or executive order,	210
or by order, rule, or regulation of a public body not covered by	211
a previous filing.	212
(E) Special filings may be made at any time with respect	213
to any individual or special risks whose size, classification,	214
degree of exposure to loss, previous loss experience, or other	215
relevant factors call for the exercise of sound underwriting	216
judgment in the promulgation of rates appropriate to such	217
individual or special risks. The superintendent may make such	218
examination as the superintendent considers advisable to	219
ascertain whether such rates meet the standards set forth in	220
division (D) of section 3937.02 of the Revised Code.	221
(F) The superintendent may, by written order, suspend or	222
modify the requirement of filing as to any kind of insurance,	223
subdivision, or combination thereof, or as to classes of risks,	224
the rates for which cannot practicably be filed before they are	225
used. Such orders shall be made known to insurers and rating	226
organizations affected thereby. The superintendent may make such	227
examination as the superintendent considers advisable to	228
ascertain whether any rates affected by such order meet the	229

standards set forth in division (D) of section 3937.02 of the Revised Code. 230
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(G) Upon the written application of the insured, stating the insured's reasons therefor, ~~filed with and approved by the superintendent,~~ a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk. 232
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(H) A commercial insurance policy form or endorsement that is unique in character and designed for a particular risk is exempt from filing, except that the superintendent may, by regulation or order, prescribe specific restrictions relating to this exemption. 236
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(I) An insurer shall retain any insurance policy form, endorsement, or rate that is exempt from filing under division (E), (F), (G), or (H) of this section and all supporting documentation for not less than three years after the effective date of the exempt policy form, endorsement, or rate. Upon request of the superintendent during that period, the insurer shall make such policy form, endorsement, or rate, and the supporting documentation available for inspection by the superintendent. 241
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(J) No insurer shall make or issue a contract or policy except in accordance with filings which are in effect for said insurer as provided in sections 3937.01 to 3937.17 of the Revised Code or in accordance with division (E), (F), (G), or (H) of this section. 250
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Sec. 4125.041. A shared employee under a professional employer organization agreement shall not, solely as a result of being a shared employee, be considered an employee of the professional employer organization for purposes of general 255
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liability insurance, fidelity bonds, surety bonds, employer 259
liability not otherwise covered by Chapters 4121. and 4123. of 260
the Revised Code, or liquor liability insurance carried by the 261
professional employer organization, unless the professional 262
employer organization agreement and applicable prearranged 263
employment contract, insurance contract, or bond specifically 264
states otherwise. 265

A shared employee shall be considered an employee of the 266
professional employer organization for purposes of determining 267
whether a professional employer organization who sponsors a 268
group health benefit plan is a small employer under division (N) 269
(1) of section 3924.01 of the Revised Code. A fully insured 270
health benefit plan sponsored by a professional employer 271
organization is not subject to sections 3924.01 to 3924.14 of 272
the Revised Code if the professional employer organization is 273
not a small employer for purposes of those sections. 274

Sec. 5725.18. (A) An annual franchise tax on the privilege 275
of being an insurance company is hereby levied on each domestic 276
insurance company. In the month of May, annually, the treasurer 277
of state shall charge for collection from each domestic 278
insurance company a franchise tax in the amount computed in 279
accordance with the following, as applicable: 280

(1) With respect to a domestic insurance company that is a 281
health insuring corporation, one per cent of all premium rate 282
payments received, exclusive of payments received under the 283
medicare program and exclusive of payments received pursuant to 284
the medicaid program for the period ending September 30, 2009, 285
as reflected in its annual report for the preceding calendar 286
year; 287

(2) With respect to a domestic insurance company that is 288

not a health insuring corporation, one and four-tenths per cent 289
of the gross amount of premiums received from policies covering 290
risks within this state, exclusive of premiums received under 291
the medicare program and exclusive of payments received pursuant 292
to the medicaid program for the period ending September 30, 293
2009, as reflected in its annual statement for the preceding 294
calendar year, and, if the company operates a health insuring 295
corporation as a line of business, one per cent of all premium 296
rate payments received from that line of business, exclusive of 297
payments received under the medicare program and exclusive of 298
payments received pursuant to the medicaid program for the 299
period ending September 30, 2009, as reflected in its annual 300
statement for the preceding calendar year. 301

Domestic insurance companies, including health insuring 302
corporations, receiving payments pursuant to the medicaid 303
program during the period beginning October 1, 2009, and ending 304
December 31, 2009, shall file with the 2009 annual statement to 305
the superintendent a schedule that reflects those payments 306
received pursuant to the medicaid program for that period. The 307
payments reflected in the schedule, plus all other taxable 308
premiums, are subject to the annual franchise tax due to be paid 309
in 2010. 310

(B) The gross amount of premium rate payments or premiums 311
used to compute the applicable tax in accordance with division 312
(A) of this section is subject to the deductions prescribed by 313
division (B) of section 5729.02 and section 5729.03 of the 314
Revised Code for foreign insurance companies. The objects of 315
such tax are those declared in section 5725.24 of the Revised 316
Code, to which only such tax shall be applied. 317

(C) In no case shall such tax be less than two hundred 318

fifty dollars. 319

Sec. 5729.02. ~~Every~~ (A) Subject to division (B) of this 320
section, every foreign insurance company shall set forth in its 321
annual statement to the superintendent of insurance the gross 322
amount of premiums received by it from policies covering risks 323
within this state during the preceding calendar year, less 324
return premiums paid for cancellations and considerations 325
received for reinsurance of risks within this state, provided 326
that dividends paid or otherwise allowed to policyholders shall 327
not be deducted except as provided in section 5729.04 of the 328
Revised Code. If the superintendent has reason to suspect the 329
correctness of such statement ~~he~~ the superintendent may make an 330
examination at the expense of the state of the books of such 331
company or its agents for the purpose of verifying them. 332

Where insurance against fire is included with insurance 333
against other perils at an undivided premium, a reasonable 334
allocation from such entire premium shall be made for the fire 335
portion of the coverage in such manner as the superintendent of 336
insurance may direct. 337

Every insurance company incorporated under the laws of 338
this state, and controlled by a foreign affiliate, that claims 339
to be a domestic insurance company, as that term is defined in 340
division (D) of section 5725.01 of the Revised Code, shall set 341
forth in its annual report information from which the 342
superintendent can determine the validity of such claim. 343

(B) The gross amount of premiums for bail bonds written by 344
a foreign insurance company included in the annual statement 345
required under division (A) of this section shall equal the 346
company's direct written premiums determined under section 347
3905.901 of the Revised Code and reported on the company's 348

<u>corresponding annual statement of condition.</u>	349
Section 2. That existing sections 3901.041, 3935.04,	350
3937.03, 4125.041, 5725.18, and 5729.02 of the Revised Code are	351
hereby repealed.	352
Section 3. As soon as practicable after the effective date	353
of this section, the Superintendent of Insurance shall amend the	354
base inventory of regulatory restrictions prepared under section	355
121.95 of the Revised Code to remove the regulatory restrictions	356
that are necessary to meet the requirements for accreditation by	357
the National Association of Insurance Commissioners' Financial	358
Regulation Standards and Accreditation Committee. The	359
Superintendent shall compute and state the total number of	360
regulatory restrictions indicated in its amended base inventory,	361
shall post the amended base inventory on its web site, and shall	362
electronically transmit a copy of the amended base inventory to	363
the Joint Committee on Agency Rule Review. The Superintendent	364
shall use the amended base inventory for purposes of section	365
121.951 of the Revised Code.	366
Section 4. The amendment by this act of sections 5725.18	367
and 5729.02 of the Revised Code applies to premiums reported on	368
annual statements filed in 2021 and thereafter. If the amendment	369
results in a reduction in the amount of tax due from an	370
insurance company as determined from an annual statement filed	371
before the amendment's effective date, the insurance company may	372
submit an application for refund for the amount overpaid under	373
section 5725.222 or 5729.102 of the Revised Code.	374