

# AN ACT

To amend 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 and to enact sections 3901.411, 3970.01, 3970.02, 3970.03, 3970.04, 3970.05, 3970.06, 3970.07, and 3970.08 of the Revised Code regarding insurance regulations and taxes.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That 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 be amended and sections 3901.411, 3970.01, 3970.02, 3970.03, 3970.04, 3970.05, 3970.06, 3970.07, and 3970.08 of the Revised Code be enacted to read as follows:

Sec. 121.95. (A) As used in sections 121.95, 121.951, 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 restriction or the agency adopted the regulatory restriction under the agency's general authority;

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

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

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

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

- (1) An internal management rule;
- (2) An emergency rule;
- (3) A rule that state or federal law requires the state agency to adopt verbatim;
- (4) A regulatory restriction contained in materials or documents incorporated by reference into a rule pursuant to sections 121.71 to 121.75 of the Revised Code;
- (5) A rule adopted pursuant to section 1347.15 of the Revised Code;
- (6) A rule concerning instant lottery games;
- (7) A rule adopted by the Ohio casino control commission or the state lottery commission concerning sports gaming;
- (8) Any other rule that is not subject to review under Chapter 106. of the Revised Code;
- (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.

(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.

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.

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

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

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

(1) If it contains provisions or statements that are inequitable, untrue, misleading, or deceptive;

(2) Unless it contains a clear, concise, and complete statement of the following:

(a) The health care services and insurance or other benefits, if any, to which an enrollee is entitled under the health care plan;

(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;

(c) An enrollee's personal financial obligation for noncovered services;

(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;

(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.

(f) The method utilized by the health insuring corporation for resolving enrollee complaints;

(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.

(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 hospital. This continuation of coverage shall terminate at the earliest occurrence of any of the following:

(a) The enrollee's discharge from the hospital;

(b) The determination by the enrollee's attending physician that inpatient care is no longer medically indicated for the enrollee; however, nothing in division (D)(3)(b) of this section precludes a health insuring corporation from engaging in utilization review as described in the evidence of coverage.

(c) The enrollee's reaching the limit for contractual benefits;

(d) The effective date of any new coverage.

(4) Unless, with respect to a policy or contract that is not covered by section 3956.04 of the Revised Code, it contains a provision that states, in substance, that the health insuring corporation is not a member of any guaranty fund, and that in the event of the health insuring corporation's insolvency, an enrollee is protected only to the extent that the hold harmless provision required by section 1751.13 of the Revised Code applies to the health care services rendered;

(5) Unless it contains a provision that states, in substance, that in the event of the insolvency of the health insuring corporation, an enrollee may be financially responsible for health care services rendered by a provider or health care facility that is not under contract to the health insuring corporation, whether or not the health insuring corporation authorized the use of the provider or health care facility.

(E) Notwithstanding divisions (C) and (D) of this section, a health insuring corporation may use an evidence of coverage that provides for the coverage of beneficiaries enrolled in medicare pursuant to a medicare contract, or an evidence of coverage that provides for the coverage of beneficiaries enrolled in the federal employees health benefits program pursuant to 5 U.S.C.A. 8905, or an evidence of coverage that provides for the coverage of medicaid recipients, or an evidence of coverage that provides for the coverage of beneficiaries under any other federal health care program regulated by a federal regulatory body, or an evidence of coverage that provides for the coverage of beneficiaries under any contract covering officers or employees of the state that has been entered into by the department of administrative services, if both of the following apply:

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

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

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

(1) "Data" has the same meaning as in section 2913.01 of the Revised Code and additionally includes any other representation of information, knowledge, facts, concepts, or instructions that are

being or have been prepared in a formalized manner.

(2) "Deceptive" means that a statement, in whole or in part, would cause another to be deceived because it contains a misleading representation, withholds information, prevents the acquisition of information, or by any other conduct, act, or omission creates, confirms, or perpetuates a false impression, including, but not limited to, a false impression as to law, value, state of mind, or other objective or subjective fact.

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

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

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

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

(1) Present to, or cause to be presented to, an insurer any written or oral statement that is part of, or in support of, an application for insurance, a claim for payment pursuant to a policy, or a claim for any other benefit pursuant to a policy, knowing that the statement, or any part of the statement, is false or deceptive;

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

(C) Whoever violates this section is guilty of insurance fraud. Except as otherwise provided in this division, insurance fraud is a misdemeanor of the first degree. If the amount of the claim that is false or deceptive is one thousand dollars or more and is less than seven thousand five hundred dollars, insurance fraud is a felony of the fifth degree. If the amount of the claim that is false or deceptive is seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, insurance fraud is a felony of the fourth degree. If the amount of the claim that is false or deceptive is one hundred fifty thousand dollars or more, insurance fraud is a felony of the third degree.

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

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

(1) "Laws of this state relating to insurance" include but are not limited to Chapter 1751, notwithstanding section 1751.08, Chapter 1753., Title XXXIX, sections 5725.18 to 5725.25, and Chapter 5729. of the Revised Code. Sections 4717.31, 4717.33, 4717.34, 4717.35, and 4717.37 of the Revised Code are "laws of this state relating to insurance" to the extent those sections apply to insurance companies or insurance agents.

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

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

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

(2) Administer oaths, summon and compel by order or subpoena the attendance of witnesses to testify in relation to any matter which, by the laws of this state relating to insurance, is the subject of inquiry and investigation, and require the production of any book, paper, or document pertaining to such matter. A subpoena, notice, or order under this section may be served ~~by certified mail, return receipt requested. If the subpoena, notice, or order is returned because of inability to deliver, or if no return is received within thirty days of the date of mailing, the subpoena, notice, or order may be served by ordinary mail. If no return of ordinary mail is received within thirty days after the date of mailing, service shall be deemed to have been made. If the subpoena, notice, or order is returned because of inability to deliver, the superintendent may designate a person or persons to effect either personal or residence service upon the witness. Service of any subpoena, notice, or order and return may also be made in accordance with section 119.05 of the Revised Code or any other manner authorized under the Rules of Civil Procedure. Such service shall also may be made by an employee of the department designated by the superintendent, a sheriff, a deputy sheriff, an attorney, or any person authorized by the Rules of Civil Procedure to serve process.~~

In the case of disobedience of any notice, order, or subpoena served on a person or the refusal of a witness to testify to a matter regarding which the person may lawfully be interrogated, the court of common pleas of the county where venue is appropriate, on application by the superintendent, may compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court, or a refusal to testify therein.

Witnesses shall receive the fees and mileage allowed by section 119.094 of the Revised Code. All such fees, upon the presentation of proper vouchers approved by the superintendent, shall be paid out of the appropriation for the contingent fund of the department of insurance. The fees and mileage of witnesses not summoned by the superintendent or the superintendent's designee shall not be paid by the state.

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

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

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

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

Sec. 3901.24. No unauthorized foreign or alien insurer shall make, issue, circulate, or cause to be made, issued, or circulated, to residents of this state any estimate, illustration, circular, pamphlet, or letter, or cause to be made in any newspaper, magazine, or other publication or over any radio or television station, any announcement or statement to such residents misrepresenting its

financial condition or the terms of any contracts issued or to be issued or the benefits or advantages promised thereby, or the dividends or share of the surplus to be received thereon in violation of sections 3901.19 to 3901.26, inclusive, of the Revised Code, ~~and whenever~~. If the superintendent of insurance has reason to believe that any 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;

(c) Enter into any agreement to exchange securities of a domestic insurer;

(d) Seek to acquire or acquire, in the open market or otherwise, any voting security of a domestic insurer;

(e) Enter into an agreement to merge with, or otherwise to acquire control of, a domestic insurer.

(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:

(i) The person has filed with the superintendent of insurance a statement containing the information required by division (C) of this section;

(ii) The person has sent the statement to the domestic insurer;

(iii) The offer, request, invitation, agreement, or acquisition has been approved by the superintendent in the manner provided in division (F) of this section.

(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.

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

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

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

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

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

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

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

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

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

(8) The amount of each class of any security of such issuer or such controlling person which

is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party;

(9) A full description of any contracts, arrangements, or understandings with respect to any security of such issuer or such controlling person in which any acquiring party is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. The description shall identify the persons with whom such contracts, arrangements, or understandings have been made.

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

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

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

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

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

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

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

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

(D)(1) If the person required to file the statement required by division (B)(2) of this section is a partnership, limited partnership, syndicate, or other group, the superintendent may require that the information required by division (C) of this section be furnished with respect to each partner of such partnership or limited partnership, each member of such syndicate or group, and each person

that controls such partner or member. If any such partner, member, or person is a corporation, or the person required to file the statement is a corporation, the superintendent may require that the information required by division (C) of this section be furnished with respect to the corporation, each officer and director of the corporation, and each person that is directly or indirectly the beneficial owner of more than ten per cent of the outstanding voting securities of the corporation.

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

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

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

(a) After the change of control, the domestic insurer would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

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

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

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

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

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

(2)(a) Chapter 119. of the Revised Code, except for section 119.09 of the Revised Code, applies to any hearing held under division (F)(1) of this section, including the notice of the hearing, the conduct of the hearing, the orders issued pursuant to it, the review of the orders, and all other

matters relating to the holding of the hearing, but only to the extent that Chapter 119. of the Revised Code is not inconsistent or in conflict with this section.

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

(c) The hearing shall be held at the offices of the superintendent within ten calendar days, but not earlier than seven calendar days, of the date of transmission of the notice of hearing by any means, unless it is postponed or continued; but in no event shall the hearing be held unless notice is received at least three days prior to the hearing. The superintendent may postpone or continue the hearing upon receipt of a written request by an acquiring party, or upon the superintendent's motion, provided, however, a hearing in connection with a proposed change of control involving a depository institution or any affiliate thereof, within the meaning of Title I, section 104(c) of the "Gramm-Leach-Bliley Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999), and a domestic insurer, may be postponed or continued only upon the request of an acquiring party, or upon the superintendent's motion when the acquiring party agrees in writing to extend the sixty-day period provided for in section 104(c) of the "Gramm-Leach-Bliley Act," by a number of days equal to the number of days of such postponement or continuance.

(d) For the purpose of conducting any hearing held under this section, the superintendent may require the attendance of such witnesses and the production of such books, records, and papers as the superintendent desires, and may take the depositions of witnesses residing within or without the state in the same manner as is prescribed by law for the taking of depositions in civil actions in the court of common pleas, and for that purpose the superintendent may, and upon the request of an acquiring party shall, issue a subpoena for any witnesses or a subpoena duces tecum to compel the production of any books, records, or papers, directed to the sheriff of the county where such witness resides or is found, which shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. The fees of the sheriff shall be the same as that allowed in the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for

under section 119.094 of the Revised Code. Fees and mileage shall be paid from the fund in the state treasury for the use of the superintendent in the same manner as other expenses of the superintendent are paid. In any case of disobedience or neglect of any subpoena served on any person or the refusal of any witness to testify in any matter regarding which the witness may lawfully be interrogated, the court of common pleas of any county where such disobedience, neglect, or refusal occurs or any judge thereof, on application by the superintendent, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify therein.

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

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

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

In any hearing under this section, the superintendent may appoint a hearing officer to conduct the hearing; the hearing officer has the same powers and authority in conducting the hearing as is granted to the superintendent. The hearing officer shall have been admitted to the practice of law in the state and be possessed of any additional qualifications as the superintendent requires. The hearing officer shall submit to the superintendent a written report setting forth the hearing officer's finding of fact and conclusions of law and a recommendation of the action to be taken by the superintendent. A copy of the written report and recommendation shall, within seven days of the date of filing thereof, be served upon the acquiring party or the acquiring party's attorney or other representative of record, ~~by personal service, certified mail, electronic mail, or any other method designed to ensure and confirm receipt of the report in accordance with section 119.05 of the Revised Code.~~ The acquiring party may, within three days of receipt of the copy of the written report and recommendation, file with the superintendent written objections to the report and recommendation, which objections the superintendent shall consider before approving, modifying, or disapproving the recommendation. The superintendent may grant extensions of time to the acquiring party within which to file such objections. No recommendation of the hearing officer shall be approved, modified, or disapproved by the superintendent until after three days following the service of the report and recommendation as provided in this section. The superintendent may order additional testimony to be taken or permit the introduction of further documentary evidence. The

superintendent may approve, modify, or disapprove the recommendation of the hearing officer, and the order of the superintendent based on the report, recommendation, transcript of testimony, and evidence, or the objections of the acquiring party, and additional testimony and evidence shall have the same effect as if the hearing had been conducted by the superintendent. No such recommendation is final until confirmed and approved by the superintendent as indicated by the order entered in the record of proceedings, and if the superintendent modifies or disapproves the recommendations of the hearing officer, the reasons for the modification or disapproval shall be included in the record of proceedings.

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

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

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

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

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

(2) Any offer, request, invitation, agreement, or acquisition that the superintendent by order exempts from this section on either of the following bases:

(a) It has not been made or entered into for the purpose and does not have the effect of changing or influencing the control of a domestic insurer;

(b) It is not otherwise comprehended within the purposes of this section.

(H) Nothing in this section or in any other section of Title XXXIX of the Revised Code shall be construed to impair the authority of the attorney general to investigate or prosecute actions under any state or federal antitrust law with respect to any merger or other acquisition involving domestic insurers.

(I) In connection with a proposed change of control involving a depository institution or any affiliate thereof, within the meaning of Title I, section 104(c) of the "Gramm-Leach-Bliley Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999), and a domestic insurer, not later than sixty days after the date of the notification of the proposed change in control submitted pursuant to division (B)(2) of this section, the superintendent shall make any determination that the person acquiring control of the

insurer shall maintain or restore the capital of the insurer to the level required by the laws and regulations of this state.

Sec. 3901.36. (A)(1) Documents, materials, or other information in the possession or control of the department of insurance that are obtained by or disclosed to the superintendent of insurance or any other person in the course of an examination or investigation made pursuant to section 3901.35 of the Revised Code, all information reported pursuant to divisions (C)(2), (3), and (5) of section 3901.321 of the Revised Code, and all information reported pursuant to section 3901.33 of the Revised Code are recognized by this state as being proprietary and to contain trade secrets and shall be given confidential and privileged treatment and shall not be subject to section 149.43 of the Revised Code, subpoena, or discovery, and shall not be admissible in evidence in any private civil action. The superintendent shall not make the documents, materials, or other information public unless one of the following applies:

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

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

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

(2) For purposes of the information reported and provided to the superintendent of insurance pursuant to the group capital calculation requirements prescribed in division (L) of section 3901.33 of the Revised Code, the superintendent shall maintain the confidentiality of the group capital calculation and group capital ratio produced within the calculation and any group capital information received from an insurance holding company supervised by the United States federal reserve board or any United States group-wide supervisor.

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

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

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

(1) Share documents, materials, or other information, including the confidential and privileged documents, materials, or other information subject to division (A) of this section, including proprietary and trade secret documents and materials, with other local, state, federal, and international regulatory and law enforcement agencies, with the national association of insurance commissioners, with third-party consultants designated by the superintendent, and with members of any supervisory college described in section 3901.351 of the Revised Code, provided that the recipient agrees to maintain the confidential or privileged status of the confidential or privileged documents, materials, or other information and has verified in writing the legal authority to do so. The superintendent may share confidential and privileged documents, materials, or other information reported pursuant to section 3901.33 of the Revised Code only with superintendents of states having statutes or regulations substantially similar to division (A) of this section and who have agreed in writing not to disclose such information.

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

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

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

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



direction of the superintendent;

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

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

(4) Require prompt notice to be given to an insurer whose confidential information is in the possession of the national association of insurance commissioners or a third-party consultant designated by the superintendent pursuant to this section is subject to a request or subpoena to the national association of insurance commissioners or a third-party consultant designated by the superintendent for disclosure or production;

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

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

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

(F) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or other information described in this section shall occur as a result of sharing or receiving documents and information as authorized in division (C) of this section.

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

(H) The group capital calculation and resulting group capital ratio required under division (L) of section 3901.33 of the Revised Code and the liquidity stress test along with its results and supporting disclosures required under division (M) of section 3901.33 of the Revised Code are regulatory tools for assessing group risks and capital adequacy and group liquidity risks,

respectively, and are not intended as a means to rank insurers or insurance holding company systems generally.

Therefore, except as otherwise may be required under the provisions of sections 3901.31 to 3901.37 of the Revised Code, the making, publishing, disseminating, circulating, or placing before the public, or causing directly or indirectly to be made, published, disseminated, circulated, or placed before the public in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station or any electronic means of communication available to the public, or in any other way as an advertisement, announcement, or statement containing a representation or statement with regard to the group capital calculation, group capital ratio, the liquidity stress test results, or supporting disclosures for the liquidity stress test of any insurer or any insurer group, or of any component derived in the calculation by any insurer, broker, or other person engaged in any manner in the insurance business would be misleading and is therefore prohibited; provided, however, that if any materially false statement with respect to the group capital calculation, resulting group capital ratio, an inappropriate comparison of any amount to an insurer's or insurance group's group capital calculation or resulting group capital ratio, liquidity stress test result, supporting disclosures for the liquidity stress test, or an inappropriate comparison of any amount to an insurer's or insurance group's liquidity stress test result or supporting disclosures is published in any written publication and the insurer is able to demonstrate to the superintendent with substantial proof the falsity of such statement or the inappropriateness, as the case may be, then the insurer may publish announcements in a written publication if the sole purpose of the announcement is to rebut the materially false statement.

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

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

(a) A plan of self-insurance;

(b) Insurance arising out of workers' compensation;

(c) Automobile medical payment insurance;

(d) Insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance;

(e) A medicare supplement policy of insurance, as defined by the superintendent of insurance by rule;

(f) Coverage under a plan through medicare, medicaid, or the federal employees benefit program;

(g) Any coverage issued under Chapter 55 of Title 10 of the United States Code and any coverage issued as a supplement to that coverage.

(2) "Health plan issuer" means an entity subject to the insurance laws and rules of this state.

or subject to the jurisdiction of the superintendent of insurance, that contracts, or offers to contract, to provide, deliver, arrange for, apply for, or reimburse any of the costs of health care services under a health benefit plan.

(3) "Plan sponsor" means a person, other than a health plan issuer, who establishes, adopts, or maintains a health benefit plan that covers residents of this state, including a plan established, adopted, or maintained by an employer or jointly by an employer and one or more employee organizations, an association, a committee, a joint board of trustees, or any similar group of representatives who establish, adopt, or maintain a plan.

(B) The plan sponsor of a health benefit plan may, on behalf of individuals covered under the plan, provide consent to the transmission of all communications related to the plan by 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.

(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.

(D) Before providing delivery by electronic means to a group of covered individuals, the health plan issuer shall do both of the following:

(1) Provide the covered individuals an opportunity to opt out of delivery by electronic means;

(2) Document that the applicable requirements of section 3901.41 of the Revised Code have been met.

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:

(A) Class 1. The costs and expenses of administration, including but not limited to the following:

- (1) The actual and necessary costs of preserving or recovering the assets of the insurer;
- (2) Compensation for all services rendered in the liquidation;
- (3) Any necessary filing fees;
- (4) The fees and mileage payable to witnesses;
- (5) Reasonable attorney's fees;

(6) The reasonable expenses of a guaranty association or foreign guaranty association in handling claims.

(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~~ annuity policies, and funding agreements, whether for death proceeds, annuity proceeds, ~~or~~ investment values, principal, or interest, 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.

(C) Class 3. Claims of the federal government.

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

(E) Class 5. Claims of general creditors.

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

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

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

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

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

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

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

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

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

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

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

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

(5) "Suspension" means the termination of all authority to hold any license as an agent in this state, for either a specified period of time or an indefinite period of time and under any terms or conditions determined by the superintendent.

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

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

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

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

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

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

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

(7) Having been convicted of or pleaded guilty or no contest to a misdemeanor that involves the misuse or theft of money or property belonging to another, fraud, forgery, dishonest acts, or breach of a fiduciary duty, that is based on any act or omission relating to the business of insurance, securities, or financial services, or that involves moral turpitude regardless of whether a judgment has been entered by the court;

(8) Having admitted to committing, or having been found to have committed, any insurance unfair trade act or practice or insurance fraud;

(9) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence,

untrustworthiness, or financial irresponsibility, in the conduct of business in this state or elsewhere;

(10) Having an insurance agent license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;

(11) Forging or causing the forgery of an application for insurance or any document related to or used in an insurance transaction;

(12) Improperly using notes, any other reference material, equipment, or devices of any kind to complete an examination for an insurance agent license;

(13) Knowingly accepting insurance business from an individual who is not licensed;

(14) Failing to comply with any official invoice, notice, assessment, or order directing payment of federal, state, or local income tax, state or local sales tax, or workers' compensation premiums;

(15) Failing to timely submit an application for insurance. For purposes of division (B)(15) of this section, a submission is considered timely if it occurs within the time period expressly provided for by the insurer, or within seven days after the insurance agent accepts a premium or an order to bind coverage from a policyholder or applicant for insurance, whichever is later.

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

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

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

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

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

(21) Failing to provide a written response to the department of insurance within twenty-one calendar days after receipt of any written inquiry from the department, unless a reasonable extension of time has been requested of, and granted by, the superintendent or the superintendent's designee;

(22) Failing to appear to answer questions before the superintendent after being notified in writing by the superintendent of a scheduled interview, unless a reasonable extension of time has

been requested of, and granted by, the superintendent or the superintendent's designee;

(23) Transferring or placing insurance with an insurer other than the insurer expressly chosen by the applicant for insurance or policyholder without the consent of the applicant or policyholder or absent extenuating circumstances;

(24) Failing to inform a policyholder or applicant for insurance of the identity of the insurer or insurers, or the identity of any other insurance agent or licensee known to be involved in procuring, placing, or continuing the insurance for the policyholder or applicant, upon the binding of the coverage;

(25) In the case of an agent that is a business entity, failing to report an individual licensee's violation to the department when the violation was known or should have been known by one or more of the partners, officers, managers, or members of the business entity;

(26) Submitting or using a document in the conduct of the business of insurance when the person knew or should have known that the document contained a writing that was forged as defined in section 2913.01 of the Revised Code;

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

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

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

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

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

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

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

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

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

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

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

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

(35) In the case of an insurance agent that is a business entity, using a life license for the principal purpose of soliciting or placing insurance on the lives of the business entity's officers, employees, or shareholders, or on the lives of relatives of such officers, employees, or shareholders, or on the lives of persons for whom they, their relatives, or the business entity is agent, custodian, vendor, bailee, trustee, or payee;

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

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

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

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

(C) 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.

~~(D)~~ ~~(D)(1)~~ Before denying, revoking, suspending, or refusing to issue any license or imposing any penalty under this section, 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 residential address of a licensee or applicant, or the principal place of business address of a business entity, that is contained in the licensing records of the department.~~

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

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

~~(d) Any notice required to be served under Chapter 119. of the Revised Code shall also be served upon the party's attorney by ordinary mail if the attorney has entered an appearance in the matter.~~

~~(e) The superintendent may, at any time, perfect service on a party by personal delivery of the notice by an employee of the department.~~

~~(f) (2) Notices regarding the scheduling of hearings and all other matters not described in division (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.~~

~~(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.~~

~~(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:~~

~~(1) Assess a civil penalty in an amount not exceeding twenty-five thousand dollars per violation;~~

~~(2) Assess administrative costs to cover the expenses incurred by the department in the administrative action, including costs incurred in the investigation and hearing processes. Any costs collected shall be paid into the state treasury to the credit of the department of insurance operating~~

fund created in section 3901.021 of the Revised Code.

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

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

(5) Refuse to issue a license;

(6) Refuse to renew a license;

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

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

(9) Accept a surrender for cause offered by the licensee, which shall be for at least five years and shall prohibit the licensee from seeking any license authorized under this chapter during that time period. A surrender for cause shall be in lieu of revocation or suspension and may include a corrective action order as provided in division (E)(8) of this section.

(F) The superintendent may consider the following factors in denying a license, imposing suspensions, revocations, fines, or other penalties, and issuing orders under this section:

(1) Whether the person acted in good faith;

(2) Whether the person made restitution for any pecuniary losses suffered by other persons as a result of the person's actions;

(3) The actual harm or potential for harm to others;

(4) The degree of trust placed in the person by, and the vulnerability of, persons who were or could have been adversely affected by the person's actions;

(5) Whether the person was the subject of any previous administrative actions by the superintendent;

(6) The number of individuals adversely affected by the person's acts or omissions;

(7) Whether the person voluntarily reported the violation, and the extent of the person's cooperation and acceptance of responsibility;

(8) Whether the person obstructed or impeded, or attempted to obstruct or impede, the superintendent's investigation;

(9) The person's efforts to conceal the misconduct;

(10) Remedial efforts to prevent future violations;

(11) If the person was convicted of a criminal offense, the nature of the offense, whether the conviction was based on acts or omissions taken under any professional license, whether the offense

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

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

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

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

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

(H) If a violation described in this section has caused, is causing, or is about to cause substantial and material harm, the superintendent may issue an order requiring that person to cease and desist from engaging in the violation. Notice of the order shall be mailed by certified mail, return receipt requested, or served in any other manner provided for in this section, immediately after its issuance to the person subject to the order and to all persons known to be involved in the violation. The superintendent may thereafter publicize or otherwise make known to all interested parties that the order has been issued.

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

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

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

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

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

- (1) For each violation, a civil penalty of not more than twenty-five thousand dollars;
  - (2) Injunctive relief;
  - (3) Restitution;
  - (4) Any other appropriate relief.
- (J) With respect to a surety bail bond agent license:

(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.

(2) The superintendent may revoke a license as a surety bail bond agent if the licensee is adjudged bankrupt.

(K) Nothing in this section shall be construed to create or imply a private cause of action against an agent or insurer.

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:

(1) There was a material misrepresentation in the application for the license.

(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 incompetent.

(3) The licensee is a viatical settlement provider that demonstrates a pattern of unreasonable payments to viators.

(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.

(5) The licensee is a viatical settlement provider that has used a viatical settlement contract form that has not been approved under this chapter.

(6) The licensee is a viatical settlement provider that has failed to honor contractual obligations set out in a viatical settlement contract.

(7) The licensee no longer meets the requirements for initial licensure.

(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:

(a) A viatical settlement provider licensed in this state;

- (b) A viatical settlement purchaser;
- (c) A qualified institutional buyer;
- (d) A financing entity;
- (e) A special purpose entity;
- (f) A related provider trust.

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

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

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

~~served upon the attorney of the licensee or applicant by ordinary mail if the attorney has entered an appearance in the matter.~~

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

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

~~(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.~~

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

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

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

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

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

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

(F) Authorize the establishment of a FAIR plan (fair access to insurance requirements), and the Ohio fair plan underwriting association.

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

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

(B) "Homeowners insurance" means insurance on owner-occupied dwellings providing personal multi-peril property and liability coverages commonly known as homeowners insurance,

and is subject to such reasonable underwriting standards, exclusions, deductibles, rates, and conditions as are customarily used by member insurers for similar coverages.

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

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

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

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

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

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

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

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

~~(C) The board of governors of the association shall submit to the superintendent of insurance, for approval, a proposed plan of operation, approved by the superintendent of insurance, which shall provide for economical, fair, and nondiscriminatory administration of a program for the equitable apportionment among members of basic property insurance or homeowners insurance which may be afforded in urban areas to applicants whose property is insurable in accordance with~~

reasonable underwriting standards, but who are unable to procure such insurance through normal channels. The association is under no obligation to issue basic property insurance or homeowners insurance to any person, unless that person and that person's property ~~would be insurable in the normal insurance market, and such property, except for its location,~~ would constitute an insurable risk in accordance with reasonable underwriting standards. The plan of operation shall provide that the association, in determining whether the property is insurable, shall give no consideration to the condition of surrounding property or properties, where such condition is not within the control of the applicant. Rates for basic property insurance and homeowners insurance shall be subject to the approval of the superintendent. The plan of operation may also provide for assessment of all members in amounts sufficient to operate the association, maximum limits of liability per location to be placed through the program, reasonable underwriting standards for determining insurability of a risk, and the commission to be paid to the licensed producer designated by the applicant. The superintendent shall adopt such plan and all amendments thereto pursuant to Chapter 119. of the Revised Code.

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

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

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

(2) Such plan shall provide a method whereby member insurers may recoup assessments levied by the association. In order to recoup such assessments the plan may also provide for the calculation and use of rates or rating factors to be applied to direct premiums for basic property insurance and homeowners insurance located in this state. Such a provision is subject to the approval of the superintendent. Member insurers of the association implementing a change in rates pursuant to this section shall file such changes with the superintendent. Such changes shall not increase rates more than the amount authorized by the association and approved by the superintendent pursuant to the plan. The association may consult with member insurers or licensed rating bureaus in connection with the establishment and operation of any such provision.



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

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

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

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

(I) The board of governors shall adopt a written program for decreasing the overall utilization of the association as a source of insurance. The program shall set forth actions that the board shall take to decrease such utilization, including actions intended to reduce the number of policies issued, the number of persons whose properties are insured, and the total amount and kinds of insurance written by the association, provided this division does not authorize the board to take

action intended to decrease utilization of the association as a source of insurance if such action would substantially conflict with the purposes set forth in divisions (A), (B), and (D) of section 3929.41 of the Revised Code or the plan of operation of the association.

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

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

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

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

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

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

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

(F) An applicant shall, in accordance with rules promulgated by the superintendent, certify to the association whether or not ~~he~~ the applicant has received written notice from an authorized public entity stating that ~~his~~ the applicant's property is in violation of any building, housing, air pollution, sanitation, health, fire, or safety code, ordinance, or rule. ~~If the inspection report shows the property to be in such violation, or if the applicant otherwise~~ has received such written notice of any such violation, the applicant shall also submit to the association a detailed plan that indicates the manner and estimated period of time in which such violations will be corrected. If the association is satisfied

that the violations are subject to correction within a reasonable period of time and that the applicant otherwise meets the requirements of this section, it may cause a policy or binder of basic property insurance or homeowners insurance to be issued to the applicant on the condition that the plan be implemented on schedule ~~and that the property be reinspected~~. The form of the plan submitted by the applicant and the manner in which this division is implemented shall be in accordance with rules promulgated by the superintendent. Nothing in this division shall be construed to make the association responsible for the detection of any violation of a code, ordinance, or rule of the type described in this division.

Sec. 3929.481. The Ohio fair plan underwriting association is authorized to issue fair plan policies of insurance in its own name and to perform acts relative thereto in accordance with the plan of operation. The association is exempt from all license fees, and income, franchise, premium, and privilege taxes levied or assessed by this state or any political subdivision of this state, except that premium receipts from policies issued directly by the association are subject to the tax imposed by section 3737.71 of the Revised Code, computed upon the basis of a statement to be filed annually on or before the first day of March by the association with the superintendent of insurance in the form prescribed by ~~him the superintendent, and that annually on the first day of March the association shall pay to the superintendent a fee of one cent for each policy issued by it and then outstanding.~~

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

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

(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.

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

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

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

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

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

(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.

(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 the exemption.

(I) An insurer shall retain any insurance policy form, endorsement, or rate that is exempt from filing under division (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.

(J) No insurer shall make or issue a contract or policy except in accordance with the filings which are in effect for the insurer as provided in sections 3935.01 to 3935.17 of the Revised Code or

in accordance with division (F) ~~or (G)~~, or (H) of this section. This division does not apply to contracts or policies for inland marine risks as to which filings are not required.

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

(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.

(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. 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.

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

(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.

(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.

(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.

(3) Whenever the superintendent declares by rule pursuant to Chapter 119. of the Revised Code that a degree of competition that will assure that rates are not excessive does not exist in the market for a line of commercial insurance, or that the market is conducted in a manner that may result in inadequate rates or be destructive of competition or detrimental to solvency of insurers, the superintendent shall provide that every filing that would result in an increase or decrease of rates for any coverages for that line of commercial insurance shall be subject to this division. Such filing shall

be on file for a waiting period of thirty days before it becomes effective, which period may be extended by the superintendent for one additional period not to exceed fifteen days, if the superintendent gives written notice within such initial waiting period to the insurer or rating bureau that the superintendent needs such additional time for the consideration of such filing. A filing is deemed to comply with sections 3937.04 to 3937.17 of the Revised Code unless disapproved by the superintendent within the waiting period or its extension. Upon written application by such insurer or rating bureau, the superintendent may authorize a filing that the superintendent has reviewed to become effective before the expiration of the initial waiting period or its extension. If, during the initial waiting period or extension, the superintendent finds the filing to which sections 3937.04 to 3937.17 of the Revised Code apply does not comply with the sections, the superintendent shall disapprove the filing by sending written notice to the person who made the filing, specifying therein the reasons the filing fails to comply with the sections. Upon notice of disapproval, the person who made such a filing may request a hearing pursuant to section 3937.15 of the Revised Code.

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

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

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

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

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

(F) The superintendent may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision, or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders shall be made known to insurers and rating organizations affected thereby. The superintendent may make such examination as the superintendent considers advisable to ascertain whether any rates affected by such order meet the standards set forth in division (D) of section 3937.02 of the Revised Code.

(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.

(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.

(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.

(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.

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

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

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

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

(4) Order restitution to members.

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

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

~~(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.~~

~~(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.~~

~~(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.~~

(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.

(2) The superintendent shall, immediately after issuing an order pursuant to division (C)(1) of this section, serve notice of the order by certified mail, return receipt requested, or by any other manner described in division (B) of this section to the person subject to the order and all other persons involved in the violation. The notice shall specify the particular act, omission, practice, or transaction that is the subject of the order and set a date, not more than fifteen days after the date the order was issued, for a hearing on the continuation or revocation of the order. The person subject to



the order shall comply with the order immediately upon receiving the order. After an order is issued pursuant to division (C)(1) of this section, the superintendent may publicize and notify all interested parties that a cease-and-desist order was issued.

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

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

(D) If the superintendent has reasonable cause to believe that an order issued pursuant to this section has been violated in whole or in part, the superintendent may request the attorney general to commence any appropriate action against the violator. In an action described in this division, a court may impose any of the following penalties:

- (1) A civil penalty of not more than twenty-five thousand dollars per violation;
- (2) Injunctive relief;
- (3) Restitution;
- (4) Any other appropriate relief.

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

Sec. 3970.01. As used in this chapter:

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

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

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

(D) "Orthopedic condition" means a condition affecting the bones, skeletal muscle, cartilage, tendons, ligaments, and joints. "Orthopedic condition" includes elbow dysplasia, hip dysplasia, intervertebral disc degeneration, patellar luxation, and ruptured cranial cruciate ligaments. "Orthopedic condition" does not include cancer or metabolic, hemopoietic, or autoimmune diseases.

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

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

- (1) A veterinarian provided medical advice.

(2) The pet received previous treatment.

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

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

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

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

(J) "Waiting period" means a period of time specified in a pet insurance policy that is required to elapse before some or all of the coverage in the policy begins.

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

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

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

(1) Issued to any resident of this state;

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

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

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

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

(B) This chapter does not prohibit or limit the types of exclusions a pet insurer may use or apply to a pet insurance policy. This chapter does not require a pet insurer to use or apply to a pet insurance policy any of the limitations or exclusions defined in section 3970.01 of the Revised Code.

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

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

(a) A preexisting condition;

(b) A hereditary disorder;

(c) A congenital anomaly or disorder;

(d) A chronic condition.

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

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

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

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

(5) Disclosure of whether the underwriting company differs from the brand name used to market and sell the pet insurance policy or rider.

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

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

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

(C) A pet insurer shall clearly disclose a summary description of the basis or formula on which the pet insurer determines claim payments under the policy. This information shall also be posted through a clear and conspicuous link on the main page of the pet insurer's or pet insurer's program administrator's publicly accessible web site.

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

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

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

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

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

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

(F) If any medical examination by a licensed veterinarian is required to effectuate coverage, the pet insurer shall clearly and conspicuously disclose the required aspects of the examination prior to purchase of a pet insurance policy and, if applicable, disclose that examination documentation may result in a preexisting condition exclusion.

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

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

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

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

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

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

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

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

Sec. 3970.05. (A) A pet insurance policy may exclude coverage on the basis of one or more preexisting conditions so long as the pet insurer discloses the exclusion as required by section 3970.04 of the Revised Code. The pet insurer has the burden of proving that the preexisting condition exclusion applies to the condition for which a claim is made.

(B) A condition for which coverage is afforded under a pet insurance policy shall not be

considered a preexisting condition under any renewal of that policy.

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

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

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

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

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

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

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

(4) The waiting period and all associated requirements are clearly and prominently disclosed to the consumer prior to the purchase of the pet insurance policy.

(5) The waiting period shall not be applied to a renewal of existing coverage.

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.

(B) No pet insurer or agent shall market a wellness program as pet insurance.

(C) If a wellness program is sold by a pet insurer, all of the following apply:

(1) The purchase of the wellness program shall not be a requirement to purchase pet insurance;

(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;

(3) The terms and conditions for the wellness program shall be separate from any pet insurance sold by the pet insurer or agent;

(4) The products or coverage available through the wellness program shall not duplicate products or coverage available through the pet insurance;

(5) The advertising of the wellness program shall not be misleading and shall comply with division (C)(6) of this section;

(6) The pet insurer or agent shall clearly disclose both of the following to consumers:

(a) That wellness program is not pet insurance;

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

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

(2) Except as otherwise provided in division (D)(3) of this section, if a wellness program

undertakes to indemnify another party, pays a specified amount upon determinable contingencies, or provides coverage for a fortuitous event, the program is transacting the business of insurance and is subject to the requirements of this chapter and all other applicable laws.

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

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

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

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

(1) Preexisting conditions and waiting periods;

(2) The differences between pet insurance and wellness programs;

(3) Hereditary disorders, congenital anomalies or disorders, and chronic conditions, and how pet insurance policies and riders interact with those conditions or disorders;

(4) Rating, underwriting, renewal, and other related administrative topics.

(D) No additional training is required for a pet insurer or agent that has completed the training requirements of another state, if those requirements are the same or substantially similar to the requirements of this section.

Sec. 3970.08. The superintendent of insurance may adopt rules in accordance with Chapter 119. of the Revised Code for the purposes of administering and enforcing this chapter, which may include penalties for violations of this chapter.

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 liability insurance, fidelity bonds, surety bonds, employer liability not otherwise covered by Chapters 4121. and 4123. of the Revised Code, or liquor liability insurance carried by the professional employer organization, unless the professional employer organization agreement and applicable prearranged employment contract, insurance contract, or bond specifically states otherwise.

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

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.

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

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

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



exclusive of payments received pursuant to the medicaid program for the period ending September 30, 2009, as reflected in its annual statement for the preceding calendar year.

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

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

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

Sec. 5729.02. ~~Every (A) Subject to division (B) of this section, every~~ foreign insurance company shall set forth in its annual statement to the superintendent of insurance the gross amount of premiums received by it from policies covering risks within this state during the preceding calendar year, less return premiums paid for cancellations and considerations received for reinsurance of risks within this state, provided that dividends paid or otherwise allowed to policyholders shall 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 121.95 of the Revised Code to remove the regulatory restrictions that are necessary to meet the requirements for accreditation by the National Association of Insurance Commissioners' Financial Regulation Standards and Accreditation Committee. The Superintendent shall compute and state the total number of regulatory restrictions indicated in its amended base inventory, shall post the amended base inventory on its web site, and shall electronically transmit a copy of the amended base inventory to the Joint Committee on Agency Rule Review. The Superintendent shall use the amended base inventory for purposes of section 121.951 of the Revised Code.

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

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

SECTION 6. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following sections, presented in this act as composites of the sections as amended by the acts indicated, are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act:

Section 3901.04 of the Revised Code as amended by both H.B. 525 and S.B. 196 of the 127th General Assembly.

Section 3905.14 of the Revised Code as amended by both H.B. 263 and H.B. 339 of the 133rd General Assembly.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Sub. S. B. No. 175

135th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20 \_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_