

As Introduced

**124th General Assembly
Regular Session
2001-2002**

S. B. No. 138

SENATOR Nein

A BILL

To amend sections 1101.01, 1121.11, 1121.18, 1151.01, 1155.091, 1155.16, 1161.01, 1163.121, 1163.20, 1321.09, 1321.55, 1321.76, 1322.06, 1707.12, 1733.01, 1733.32, 1733.327, 1751.19, 3901.36, 3901.44, 3901.48, 3901.70, 3901.83, 3903.11, 3903.72, 3903.83, 3903.88, 3905.492, 3905.50, 3999.36, and 4727.18 and to enact sections 1181.25 and 3901.045 of the Revised Code relative to the circumstances under which the Department of Insurance and the Division of Financial Institutions may share confidential documents and information with, and receive such documents and information from, other specified regulators and officials, or otherwise disclose these documents and information.

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

Section 1. That sections 1101.01, 1121.11, 1121.18, 1151.01, 1155.091, 1155.16, 1161.01, 1163.121, 1163.20, 1321.09, 1321.55, 1321.76, 1322.06, 1707.12, 1733.01, 1733.32, 1733.327, 1751.19, 3901.36, 3901.44, 3901.48, 3901.70, 3901.83, 3903.11, 3903.72, 3903.83, 3903.88, 3905.492, 3905.50, 3999.36, and 4727.18 be amended and sections 1181.25 and 3901.045 of the Revised Code be

enacted to read as follows: 22

Sec. 1101.01. As used in Chapters 1101. to 1127. of the 23
Revised Code, unless the context requires otherwise: 24

(A) "Affiliate" has the same meaning as in division (A)(1) of 25
section 1109.53 of the Revised Code and includes a subsidiary of a 26
bank. 27

(B) "Bank" means a corporation that solicits, receives, or 28
accepts money or its equivalent for deposit as a business, whether 29
the deposit is made by check or is evidenced by a certificate of 30
deposit, passbook, note, receipt, ledger card, or otherwise. 31
"Bank" also includes a state bank or a corporation doing business 32
as a bank or savings bank under authority granted by the bank 33
regulatory authority of another state of the United States or 34
another country, but does not include a savings association, 35
savings bank, or credit union. 36

(C) "Banking office" means an office or other place at which 37
a bank receives money or its equivalent from the public for 38
deposit and conducts a general banking business. "Banking office" 39
does not include any of the following: 40

(1) Any location at which a bank receives, but does not 41
accept, cash or other items for subsequent deposit, such as by 42
mail or armored car service or at a lock box or night depository; 43

(2) Any structure located within five hundred yards of a 44
banking office and operated as an extension of the services of the 45
banking office; 46

(3) Any automated teller machine or other money transmission 47
device owned, leased, or operated by a bank; 48

(4) Any facility located within the geographical limits of a 49
military installation at which a bank only accepts deposits and 50

cashes checks;	51
(5) Any location at which a bank takes and processes applications for loans and may disburse loan proceeds, but does not accept deposits;	52 53 54
(6) Any location at which a bank is engaged solely in providing administrative support services for its own operations or for other depository institutions.	55 56 57
(D) "Branch" means a banking office that is not also the bank's principal place of business consistent with its articles of incorporation or articles of association.	58 59 60
(E) "Capital" means the sum of a bank's:	61
(1) Paid-in capital and surplus relating to common stock;	62
(2) To the extent permitted by the superintendent of financial institutions, paid-in capital and surplus relating to preferred stock;	63 64 65
(3) Undivided profits; and	66
(4) To the extent permitted by the superintendent the proceeds of the sale of debt securities and other assets and reserves.	67 68 69
(F) "Control" has the same meaning as in division (H) of section 1109.53 of the Revised Code.	70 71
(G) "Controlling shareholder" means a person who, directly or indirectly, controls a bank.	72 73
(H) "Debt securities" means obligations issued by a bank the holders of which, in the event of the insolvency or liquidation of the bank, are subordinated in right of payment to the bank's depositors and general creditors.	74 75 76 77
(I) "Federal savings association" means a federal savings and loan association or a federal savings bank doing business under	78 79

authority granted by the office of thrift supervision. 80

(J) "Financial institution regulatory authority" includes a 81
regulator of a business activity in which a bank or trust company 82
is engaged, to the extent that the regulator has jurisdiction over 83
a bank or trust company engaged in that business activity. 84

(K) "National bank" means a bank doing business under 85
authority granted by the comptroller of the currency. 86

~~(K)~~(L) "Net income" means all income realized or earned less 87
all expenses realized or accrued. 88

~~(L)~~(M) "Paid-in capital" means the aggregate par value of all 89
of a bank's outstanding shares of all classes. 90

~~(M)~~(N) "Reorganization" means a consolidation, merger, or 91
transfer of assets and liabilities pursuant to Chapter 1115. of 92
the Revised Code. 93

~~(N)~~(O) "Savings association" means a savings and loan 94
association doing business under authority granted by the 95
superintendent of financial institutions pursuant to Chapter 1151. 96
of the Revised Code, a savings and loan association doing business 97
under authority granted by the regulatory authority of another 98
state, or a federal savings association. 99

~~(O)~~(P) "Savings bank" means a savings bank doing business 100
under authority granted by the superintendent of financial 101
institutions pursuant to Chapter 1161. of the Revised Code or a 102
savings bank doing business under authority granted by the 103
regulatory authority of another state. 104

~~(P)~~(Q) "State bank" means a bank doing business under 105
authority granted by the superintendent of financial institutions. 106

~~(Q)~~(R) "Subsidiary" has the same meaning as in section 107
1109.53 of the Revised Code. 108

~~(R)~~(S) "Surplus" means the total of amounts paid for shares 109

in excess of their respective par values, amounts contributed 110
other than for shares, and amounts transferred from undivided 111
profits, less amounts transferred to stated capital. 112

~~(S)~~(T) "Trust company" means a corporation qualified and 113
licensed under section 1111.06 of the Revised Code to solicit or 114
engage in trust business in this state, or a person that is 115
required by Chapter 1111. of the Revised Code to be a corporation 116
qualified and licensed under section 1111.06 of the Revised Code 117
to solicit or engage in trust business in this state. 118

~~(T)~~(U) "Undivided profits" means the cumulative undistributed 119
amount of a bank's net income not otherwise allocated. 120
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Sec. 1121.11. (A) In administering Chapters 1101. to 1127. of 122
the Revised Code and fulfilling the duties imposed by those 123
chapters, including the duty imposed by section 1121.10 of the 124
Revised Code, the superintendent of financial institutions may do 125
any of the following: 126

(1) Participate with financial institution regulatory 127
authorities of this and other states, the United States, and other 128
countries in any of the following: 129

(a) Programs for alternate examinations of the records and 130
affairs of banks and trust companies over which they have 131
concurrent jurisdiction; 132

(b) Joint or concurrent examinations of the records and 133
affairs of banks and trust companies over which they have 134
concurrent jurisdiction; 135

(c) Coordinated examinations of the records and affairs of 136
banks and trust companies over which they have collective 137
jurisdiction. 138

(2) Conduct, participate in, or coordinate independent, 139

concurrent, joint, or coordinated examinations of the records and
affairs of banks and trust companies and otherwise act on behalf
of financial institution regulatory authorities of this and other
states, the United States, and other countries having jurisdiction
over the banks and trust companies;

(3) Rely on information leading to, arising from, or obtained
in the course of examinations conducted by financial institution
regulatory authorities of this and other states, the United
States, and other countries when both of the following apply:

(a) Pursuant to agreement and applicable law, the
superintendent may receive and use the information leading to,
arising from, or obtained in the course of the other regulatory
authorities' examinations in administering Chapters 1101. to 1127.
of the Revised Code and acting under the authority of those
chapters;

(b) In the superintendent's judgment the other regulatory
authorities' personnel, practices, and authority warrant the
superintendent's reliance.

(4) Authorize financial institution regulatory authorities of
this and other states, the United States, and other countries to
receive and use information leading to, arising from, or obtained
in the course of examinations conducted by the division of
financial institutions in the same manner and for the purposes
they could use information leading to, arising from, or obtained
in the course of their own examinations when both of the following
apply:

(a) Pursuant to applicable law, information leading to,
arising from, or obtained in the course of examinations the other
regulatory authorities conduct is protected from general
disclosure and may only be disclosed for purposes similar to those

provided in section 1121.18 of the Revised Code, which are 171
principally regulatory in nature, for disclosure of information 172
leading to, arising from, or obtained in the course of 173
examinations conducted by the division; 174

(b) Pursuant to agreement and applicable law, information 175
leading to, arising from, or obtained in the course of 176
examinations conducted by the division will, in the other 177
regulatory authorities' possession or the possession of any 178
persons to whom the other regulatory authorities disclosed the 179
information as a part of examinations of those persons, be 180
protected from disclosure to the same extent as information 181
leading to, arising from, or obtained in the course of those 182
regulatory authorities' examinations. 183

(5) Rely on the actions of financial institution regulatory 184
authorities of this and other states, the United States, or other 185
countries, or participate with them jointly, in responding to 186
violations of law, unsafe or unsound practices, breaches of 187
fiduciary duty, or other regulatory concerns affecting banks and 188
trust companies over which they have concurrent jurisdiction when 189
the other regulatory authorities have adequate personnel, 190
practices, and authority to warrant the reliance; 191

(6) Implement other cooperative arrangements with financial 192
institution regulatory authorities of this and other states, the 193
United States, and other countries consistent with safety and 194
soundness. 195

(B) No person shall use any reliance by the superintendent, 196
in whole or in part, on financial institution regulatory 197
authorities of this or other states, the United States, or other 198
countries in accordance with division (A) of this section to 199
support any assertion of either of the following: 200

(1) Failure of the superintendent or division to properly 201

administer Chapters 1101. to 1127. of the Revised Code or fulfill 202
the duties imposed by those chapters; 203

(2) Disagreement by the superintendent or division with any 204
action taken by financial institution regulatory authorities of 205
this or other states, the United States, or other countries. 206

(C) In conducting, participating in, or coordinating 207
independent, concurrent, joint, or coordinated examinations of the 208
records and affairs of banks and trust companies, the 209
superintendent may purchase services from financial institution 210
regulatory authorities of this and other states, the United 211
States, and other countries, including services provided by 212
employees of other financial institution regulatory authorities in 213
their capacities as employees of other financial institution 214
regulatory authorities. The purchase of services from one or more 215
financial institution regulatory authorities of this and other 216
states, the United States, or other countries is the purchase of 217
services from a sole source provider and is not the employment of 218
any financial institution regulatory authority or any of its 219
employees. 220

The authority to purchase services pursuant to this division 221
does not impair the superintendent's authority to purchase 222
services from any other source. 223

(D) For purposes of this section, a bank or trust company is 224
engaged in a business activity, and a regulator of that business 225
activity has jurisdiction over the bank or trust company, whether 226
the bank or trust company conducts the activity directly or a 227
subsidiary or affiliate of the bank or trust company conducts the 228
activity. 229

Sec. 1121.18. (A) Information leading to, arising from, or 230
obtained in the course of the examination of a bank or any 231
examination conducted pursuant to the authority of section 1121.10 232

or 1121.11 of the Revised Code is privileged and confidential. No 233
person, including any person to whom the information is disclosed 234
under the authority of this section, shall disclose information 235
leading to, arising from, or obtained in the course of an 236
examination, except as specifically provided in this section. 237

(B) The superintendent of financial institutions and the 238
superintendent's agents and employees may disclose information 239
leading to, arising from, or obtained in the course of an 240
examination conducted pursuant to section 1121.10 or 1121.11 of 241
the Revised Code as follows: 242

(1) To the governor, director of commerce, or deputy director 243
of commerce to enable them to act in the interests of the public; 244
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(2) To the banking commission to enable the commission to 246
effectively advise the superintendent and take action on any 247
matter the superintendent presents to the commission; 248

(3) To financial institution regulatory authorities of this 249
and other states, the United States, and other countries to assist 250
them in their regulatory duties; 251

(4) To the directors, officers, agents, and parent company of 252
the bank or other person examined to assist them in conducting the 253
business of the bank or other person examined in a safe and sound 254
manner and in compliance with law; 255

(5) To law enforcement authorities conducting criminal 256
investigations. 257

(C)(1) Information leading to, arising from, or obtained in 258
the course of an examination of a bank or other person pursuant to 259
section 1121.10 or 1121.11 of the Revised Code shall not be 260
discoverable from any source, and shall not be introduced into 261
evidence, except in the following circumstances: 262

(a) In connection with criminal proceedings; 263

(b) When, in the opinion of the superintendent, it is 264
appropriate with regard to enforcement actions taken and decisions 265
made by the superintendent under the authority of Chapters 1101. 266
to 1127. of the Revised Code regarding a bank, trust company, or 267
other person; 268

(c) When litigation has been initiated by the superintendent 269
in furtherance of the powers, duties, and obligations imposed upon 270
the superintendent by Chapters 1101. to 1127. of the Revised Code; 271

(d) When authorized by agreements between the superintendent 272
and financial institution regulatory authorities of this and other 273
states, the United States, and other countries authorized by 274
section 1121.11 of the Revised Code; 275

(e) When and in the manner authorized in section 1181.25 of 276
the Revised Code. 277

(2) The discovery of information leading to, arising from, or 278
obtained in the course of an examination pursuant to division 279
(C)(1)(b), (c), or (d) of this section shall be limited to 280
information that directly relates to the bank, trust company, 281
regulated person, or other person who is the subject of the 282
enforcement action, decision, or litigation. 283

(D) A report of an examination conducted pursuant to section 284
1121.10 or 1121.11 of the Revised Code is the property of the 285
division of financial institutions. Under no circumstances may the 286
bank or other person examined, its directors, officers, employees, 287
agents, regulated persons, or contractors, or any person having 288
knowledge or possession of a report of examination, or any of its 289
contents, disclose or make public in any manner the report of 290
examination or its contents. The authority provided in division 291
(B)(4) of this section for use of examination information to 292
assist in conducting the business of the bank or other person 293
examined in a safe and sound manner and in compliance with law 294

shall not be construed to authorize disclosure of a report of
examination or any of its contents in conducting business with the
examined bank's or person's customers, creditors, or shareholders,
or with other persons.

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(E) Whoever violates this section shall be removed from
office, shall be liable, with the violator's bond in damages to
the person injured by the disclosure of information, and is guilty
of a felony of the fourth degree.

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Sec. 1151.01. In sections of the Revised Code making
reference to savings and loan associations and to the division of
savings and loan associations or the division of financial
institutions:

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(A) "Savings and loan association" means a corporation
organized for the purpose of raising money to be loaned to its
members or to others; "building and loan association" and "savings
association" may be used interchangeably with and shall for all
purposes have the same meaning as "savings and loan association";
and "division of building and loan associations" and "division of
savings and loan associations" may be used interchangeably with
and shall for all purposes have the same meaning as "division of
financial institutions."

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(B) "Controlling person" means any person or entity which,
either directly or indirectly, or acting in concert with one or
more other persons or entities, owns, controls, or holds with
power to vote, or holds proxies representing, fifteen per cent or
more of the voting shares or rights of a savings and loan
association or controls in any manner the election or appointment
of a majority of the directors of an association. However, a
director of an association will not be deemed to be a controlling
person of such association based upon the director's voting, or
acting in concert with other directors in voting, proxies obtained

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in connection with a solicitation of proxies or obtained from 326
savings account holders and borrowers if such proxies are voted as 327
directed by a majority of the entire board of directors of the 328
association, or of a committee of such directors if such 329
committee's composition and authority are controlled by a majority 330
vote of the entire board and if its authority is revocable by such 331
a majority. 332

(C) "Domestic association" means a savings and loan 333
association organized under the laws of this state or a savings 334
association chartered under the laws of the United States, the 335
home office of which is located within this state. 336

(D) "Foreign savings association" means a savings and loan 337
association that is chartered under the laws of another state. 338

(E) "Foreign federal association" means a savings association 339
chartered under the laws of the United States, the home office of 340
which is located in another state. 341

(F) "Another state" means any state of the United States 342
other than this state, and includes the District of Columbia and 343
any other territory, insular possession, or political subdivision 344
of the United States. 345

(G) "Banking office" means an office or other place at which 346
a savings association receives money or its equivalent from the 347
public for deposit and conducts the general business of a savings 348
association. "Banking office" does not include any of the 349
following: 350

(1) Any location at which a savings association receives, but 351
does not accept, cash or other items for subsequent deposit, such 352
as by mail or armored car service or at a lock box or night 353
depository; 354

(2) Any structure located within five hundred yards of a 355
banking office and operated as an extension of the services of the 356

banking office;	357
(3) Any remote service unit or automated teller machine owned, leased, or operated by a savings association;	358 359
(4) Any facility located within the geographical limits of a military installation at which a savings association only accepts deposits and cashes checks;	360 361 362
(5) Any location at which a savings association takes and processes applications for loans and from which it may disburse loan proceeds, but does not accept deposits;	363 364 365
(6) Any location at which a savings association is engaged solely in providing administrative support services for its own operations or for other financial institutions.	366 367 368
(H) "Branch" means a banking office that is not also the savings association's principal office consistent with its articles of incorporation.	369 370 371
(I) "Superintendent," "superintendent of building and loan associations," or "superintendent of savings and loan associations" means the superintendent of the division of financial institutions of this state. Whenever the division or superintendent of savings and loan associations or building and loan associations is referred to or designated in any statute, rule, contract, or other document, the reference or designation shall be deemed to refer to the division or superintendent of financial institutions, as the case may be.	372 373 374 375 376 377 378 379 380
(J) "Savings bank" means a savings bank doing business under authority granted by the superintendent pursuant to Chapter 1161. of the Revised Code or under the regulatory authority of another state.	381 382 383 384
(K) "Bank" has the same meaning as in section 1101.01 of the Revised Code.	385 386

(L) "Financial institution regulatory authority" includes a 387
regulator of a business activity in which a savings and loan 388
association is engaged, to the extent that the regulator has 389
jurisdiction over a savings and loan association engaged in that 390
business activity. 391

Sec. 1155.091. (A) In administering Chapters 1151. to 1157. 392
of the Revised Code and fulfilling the duties imposed by those 393
chapters, including the duty imposed by section 1151.09 of the 394
Revised Code, the superintendent of financial institutions may do 395
any of the following: 396

(1) Participate with financial institution regulatory 397
authorities of this and other states, the United States, and other 398
countries in any of the following: 399

(a) Programs for alternate examinations of the records and 400
affairs of savings and loan associations over which they have 401
concurrent jurisdiction; 402

(b) Joint or concurrent examinations of the records and 403
affairs of savings and loan associations over which they have 404
concurrent jurisdiction; 405

(c) Coordinated examinations of the records and affairs of 406
savings and loan associations over which they have collective 407
jurisdiction. 408

(2) Conduct, participate in, or coordinate independent, 409
concurrent, joint, or coordinated examinations of the records and 410
affairs of savings and loan associations and otherwise act on 411
behalf of financial institution regulatory authorities of this and 412
other states, the United States, and other countries having 413
jurisdiction over the savings and loan associations; 414

(3) Rely on information leading to, arising from, or obtained 415
in the course of examinations conducted by financial institution 416

regulatory authorities of this and other states, the United 417
States, and other countries when both of the following apply: 418
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(a) Pursuant to agreement and applicable law, the 420
superintendent may receive and use the information leading to, 421
arising from, or obtained in the course of the other regulatory 422
authorities' examinations in administering Chapters 1151. to 1157. 423
of the Revised Code and acting under the authority of those 424
chapters; 425

(b) In the superintendent's judgment the other regulatory 426
authorities' personnel, practices, and authority warrant the 427
superintendent's reliance. 428

(4) Authorize financial institution regulatory authorities of 429
this and other states, the United States, and other countries to 430
receive and use information leading to, arising from, or obtained 431
in the course of examinations conducted by the division of 432
financial institutions in the same manner and for the purposes 433
they could use information leading to, arising from, or obtained 434
in the course of their own examinations when both of the following 435
apply: 436

(a) Pursuant to applicable law, information leading to, 437
arising from, or obtained in the course of examinations the other 438
regulatory authorities conduct is protected from general 439
disclosure and may only be disclosed for purposes similar to those 440
provided in section 1155.16 of the Revised Code, which are 441
principally regulatory in nature, for disclosure of information 442
leading to, arising from, or obtained in the course of 443
examinations conducted by the division; 444

(b) Pursuant to agreement and applicable law, information 445
leading to, arising from, or obtained in the course of 446
examinations conducted by the division will, in the other 447
regulatory authorities' possession or the possession of any 448

persons to whom the other regulatory authorities disclosed the 449
information as a part of examinations of those persons, be 450
protected from disclosure to the same extent as information 451
leading to, arising from, or obtained in the course of those 452
regulatory authorities' examinations. 453

(5) Rely on the actions of financial institution regulatory 454
authorities of this and other states, the United States, or other 455
countries, or participate with them jointly, in responding to 456
violations of law, unsafe or unsound practices, breaches of 457
fiduciary duty, or other regulatory concerns affecting savings and 458
loan associations over which they have concurrent jurisdiction 459
when the other regulatory authorities have adequate personnel, 460
practices, and authority to warrant the reliance; 461

(6) Implement other cooperative arrangements with financial 462
institution regulatory authorities of this and other states, the 463
United States, and other countries consistent with safety and 464
soundness. 465

(B) No person shall use any reliance by the superintendent, 466
in whole or in part, on financial institution regulatory 467
authorities of this or other states, the United States, or other 468
countries in accordance with division (A) of this section to 469
support any assertion of either of the following: 470

(1) Failure of the superintendent or division to properly 471
administer Chapters 1151. to 1157. of the Revised Code or fulfill 472
the duties imposed by those chapters; 473

(2) Disagreement by the superintendent or division with any 474
action taken by financial institution regulatory authorities of 475
this or other states, the United States, or other countries. 476

(C) In conducting, participating in, or coordinating 477
independent, concurrent, joint, or coordinated examinations of the 478
records and affairs of savings and loan associations, the 479

superintendent may purchase services from financial institution 480
regulatory authorities of this and other states, the United 481
States, and other countries, including services provided by 482
employees of other financial institution regulatory authorities. 483
The purchase of services from one or more financial institution 484
regulatory authorities of this and other states, the United 485
States, and other countries is the purchase of services from a 486
sole source provider and is not the employment of any financial 487
institution regulatory authority or any of its employees. 488

The authority to purchase services pursuant to this division 489
does not impair the superintendent's authority to purchase 490
services from any other source. 491

(D) For purposes of this section, a savings and loan 492
association is engaged in a business activity, and a regulator of 493
that business activity has jurisdiction over the savings and loan 494
association, whether the savings and loan association conducts the 495
activity directly or a subsidiary or affiliate of the savings and 496
loan association conducts the activity. 497

Sec. 1155.16. (A)(1) Except as provided in division (B) of 498
this section, the superintendent of savings and loan associations, 499
the superintendent's agents, and employees shall keep privileged 500
and confidential the examination reports, information obtained in 501
an examination, or any other information obtained by reason of 502
their official position. This section does not prevent the 503
superintendent from properly releasing to or exchanging 504
information relating to a savings and loan association, or its 505
affairs, with the governor, the director of commerce, the deputy 506
director of commerce, or representatives of state or federal 507
financial institution regulatory ~~agencies or governmental~~ 508
authorities, or prevent such release by the association or its 509
officers or directors, in the conduct of the business of the 510

association. 511

(2) Any person who receives privileged and confidential 512
examination reports or other information under the authority of 513
this section is also subject to the requirements of this section 514
and such person, knowing that such examination reports or 515
information are privileged and confidential, shall not purposely 516
divulge such reports or information in any manner. 517

(3) If the superintendent, an agent of the superintendent, or 518
an employee of the superintendent purposely makes, or causes to be 519
made, any false statements or reports regarding the affairs or 520
condition of a savings and loan association, the act constitutes 521
falsification under section 2921.13 of the Revised Code. 522

(B) Examination reports, information obtained in an 523
examination, and any other information obtained by reason of the 524
official position of the division of savings and loan associations 525
shall not be discoverable from any source, and shall not be 526
introduced into evidence, except in the following situations: 527

(1) In connection with criminal proceedings; 528

(2) When, in the opinion of the superintendent, it is 529
necessary for the superintendent or for the agents or employees of 530
the superintendent to take enforcement action under Chapter 1151., 531
1153., 1155., or 1157. of the Revised Code regarding the affairs 532
of the savings and loan association examined; 533

(3) When litigation has been initiated by the superintendent 534
in furtherance of the powers, duties, and obligations imposed upon 535
the superintendent by Chapter 1151., 1153., 1155., or 1157. of the 536
Revised Code; 537

(4) When authorized by agreements between the superintendent 538
and financial institution regulatory authorities of this and other 539
states, the United States, and other countries authorized by 540
section 1155.091 of the Revised Code; 541

(5) When and in the manner authorized in section 1181.25 of 542
the Revised Code. 543

(C) The discovery of examination reports and other related 544
material pursuant to divisions (B)(2) and (3) of this section 545
shall be limited to information that directly relates to the 546
association that is the subject of the enforcement action or the 547
litigation. 548

(D)(1) No person shall fail to comply with division (A)(1), 549
(2), or (3) of this section. 550

(2) Whoever violates division (D)(1) of this section is 551
guilty of a felony of the fourth degree. 552

Sec. 1161.01. (A) In sections of the Revised Code making 553
reference to savings banks and to the division of savings banks or 554
the division of financial institutions: 555

(1) "Savings bank" means a corporation that has its home 556
office located in this state, that is organized for the purposes 557
of receiving deposits and raising money to be loaned to its 558
members or to others, and that maintains at least sixty per cent 559
of its total assets in the housing-related and other investments 560
set forth in section 7701(a)(19)(C) of the "Internal Revenue Code 561
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. "Savings 562
bank" does not include banks, savings and loan associations, or 563
credit unions. 564

(2) "Foreign savings bank" means a savings bank organized 565
under the laws of another state, the home office of which is 566
located outside this state. 567

(3) "Controlling person" means any person or entity which, 568
either directly or indirectly, or acting in concert with one or 569
more other persons or entities, owns, controls, or holds with 570
power to vote, or holds proxies representing, fifteen per cent or 571

more of the voting shares or rights of a savings bank or controls 572
in any manner the election or appointment of a majority of the 573
directors of a savings bank. However, a director of a savings bank 574
is not deemed to be a controlling person of the savings bank based 575
upon the director's voting, or acting in concert with other 576
directors in voting, proxies obtained in connection with a 577
solicitation of proxies or obtained from savings account holders 578
and borrowers if such proxies are voted as directed by a majority 579
of the entire board of directors of the savings bank, or of a 580
committee of the directors if the committee's composition and 581
authority are controlled by a majority vote of the entire board 582
and if its authority is revocable by such a majority. 583

(4) "Division of savings banks" may be used interchangeably 584
with, and for all purposes has the same meaning as, "division of 585
financial institutions." 586

(5) "Another state" means any state of the United States 587
other than this state, and includes the District of Columbia and 588
any other territory, insular possession, or political subdivision 589
of the United States. 590

(6) "Banking office" means an office or other place at which 591
a savings bank receives money or its equivalent from the public 592
for deposit and conducts the general business of a savings bank. 593
"Banking office" does not include any of the following: 594

(a) Any location at which a savings bank receives, but does 595
not accept, cash or other items for subsequent deposit, such as by 596
mail or armored car service or at a lock box or night depository; 597

(b) Any structure located within five hundred yards of a 598
banking office and operated as an extension of the services of the 599
banking office; 600

(c) Any remote service unit or automated teller machine 601
owned, leased, or operated by a savings bank; 602

(d) Any facility located within the geographical limits of a military installation at which a savings bank only accepts deposits and cashes checks;

(e) Any location at which a savings bank takes and processes applications for loans and from which it may disburse loan proceeds, but does not accept deposits;

(f) Any location at which a savings bank is engaged solely in providing administrative services for its own operations or for other financial institutions.

(7) "Branch" means a banking office that is not also the savings bank's principal office consistent with its articles of incorporation.

(8) "Superintendent" or "superintendent of savings banks" means the superintendent of the division of financial institutions of this state. Whenever the division or superintendent of savings banks is referred to or designated in any statute, rule, contract, or other document, the reference or designation shall be deemed to refer to the division or superintendent of financial institutions, as the case may be.

(9) "Savings and loan association" means a domestic association, a foreign savings association, or a foreign federal association, as defined in section 1151.01 of the Revised Code.

(10) "Bank" has the same meaning as in section 1101.01 of the Revised Code.

(11) "Financial institution regulatory authority" includes a regulator of a business activity in which a savings bank is engaged, to the extent that the regulator has jurisdiction over a savings bank engaged in that business activity.

(B) For purposes of any chapter of the Revised Code, except Chapters 1101., 1103., 1105., 1107., 1109., 1111., 1113., 1115.,

1117., 1119., 1121., 1123., 1125., 1127., 1133., 1151., 1153., 633
1155., 1157., 1161., 1163., 1165., and 1181. of the Revised Code, 634
"building and loan association," "savings and loan association," 635
or "financial institution" includes a savings bank as defined in 636
section 1161.01 of the Revised Code, unless the context clearly 637
requires otherwise. 638

Sec. 1163.121. (A) In administering Chapters 1161. to 1165. 639
of the Revised Code and fulfilling the duties imposed by those 640
chapters, including the duty imposed by section 1163.12 of the 641
Revised Code, the superintendent of financial institutions may do 642
any of the following: 643

(1) Participate with financial institution regulatory 644
authorities of this and other states, the United States, and other 645
countries in any of the following: 646

(a) Programs for alternate examinations of the records and 647
affairs of savings banks over which they have concurrent 648
jurisdiction; 649

(b) Joint or concurrent examinations of the records and 650
affairs of savings banks over which they have concurrent 651
jurisdiction; 652

(c) Coordinated examinations of the records and affairs of 653
savings banks over which they have collective jurisdiction. 654

(2) Conduct, participate in, or coordinate independent, 655
concurrent, joint, or coordinated examinations of the records and 656
affairs of savings banks and otherwise act on behalf of financial 657
institution regulatory authorities of this and other states, the 658
United States, and other countries having jurisdiction over the 659
savings banks; 660

(3) Rely on information leading to, arising from, or obtained 661
in the course of examinations conducted by financial institution 662

regulatory authorities of this and other states, the United 663
States, and other countries when both of the following apply: 664
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(a) Pursuant to agreement and applicable law, the 666
superintendent may receive and use the information leading to, 667
arising from, or obtained in the course of the other regulatory 668
authorities' examinations in administering Chapters 1161. to 1165. 669
of the Revised Code and acting under the authority of those 670
chapters; 671

(b) In the superintendent's judgment the other regulatory 672
authorities' personnel, practices, and authority warrant the 673
superintendent's reliance. 674

(4) Authorize financial institution regulatory authorities of 675
this and other states, the United States, and other countries to 676
receive and use information leading to, arising from, or obtained 677
in the course of examinations conducted by the division of 678
financial institutions in the same manner and for the purposes 679
they could use information leading to, arising from, or obtained 680
in the course of their own examinations when both of the following 681
apply: 682

(a) Pursuant to applicable law, information leading to, 683
arising from, or obtained in the course of examinations the other 684
regulatory authorities conduct is protected from general 685
disclosure and may only be disclosed for purposes similar to those 686
provided in section 1163.20 of the Revised Code, which are 687
principally regulatory in nature, for disclosure of information 688
leading to, arising from, or obtained in the course of 689
examinations conducted by the division; 690

(b) Pursuant to agreement and applicable law, information 691
leading to, arising from, or obtained in the course of 692
examinations conducted by the division will, in the other 693
regulatory authorities' possession or the possession of any 694

persons to whom the other regulatory authorities disclosed the 695
information as a part of examinations of those persons, be 696
protected from disclosure to the same extent as information 697
leading to, arising from, or obtained in the course of those 698
regulatory authorities' examinations. 699

(5) Rely on the actions of financial institution regulatory 700
authorities of this and other states, the United States, or other 701
countries, or participate with them jointly, in responding to 702
violations of law, unsafe or unsound practices, breaches of 703
fiduciary duty, or other regulatory concerns affecting savings 704
banks over which they have concurrent jurisdiction when the other 705
regulatory authorities have adequate personnel, practices, and 706
authority to warrant the reliance; 707

(6) Implement other cooperative arrangements with financial 708
institution regulatory authorities of this and other states, the 709
United States, and other countries consistent with safety and 710
soundness. 711

(B) No person shall use any reliance by the superintendent, 712
in whole or in part, on financial institution regulatory 713
authorities of this or other states, the United States, or other 714
countries in accordance with division (A) of this section to 715
support any assertion of either of the following: 716

(1) Failure of the superintendent or division to properly 717
administer Chapters 1161. to 1165. of the Revised Code or fulfill 718
the duties imposed by those chapters; 719

(2) Disagreement by the superintendent or division with any 720
action taken by financial institution regulatory authorities of 721
this or other states, the United States, or other countries. 722

(C) In conducting, participating in, or coordinating 723
independent, concurrent, joint, or coordinated examinations of the 724
records and affairs of savings banks, the superintendent may 725

purchase services from financial institution regulatory 726
authorities of this and other states, the United States, and other 727
countries, including services provided by employees of other 728
financial institution regulatory authorities. The purchase of 729
services from one or more financial institution regulatory 730
authorities of this and other states, the United States, and other 731
countries is the purchase of services from a sole source provider 732
and is not the employment of any financial institution regulatory 733
authority or any of its employees. 734

The authority to purchase services pursuant to this division 735
does not impair the superintendent's authority to purchase 736
services from any other source. 737

(D) For purposes of this section, a savings bank is engaged 738
in a business activity, and a regulator of that business activity 739
has jurisdiction over the savings bank, whether the savings bank 740
conducts the activity directly or a subsidiary or affiliate of the 741
savings bank conducts the activity. 742

Sec. 1163.20. (A)(1) Except as provided in division (B) of 743
this section, the superintendent of savings banks, his agents, and 744
employees shall keep privileged and confidential the examination 745
reports, information obtained in an examination, or any other 746
information obtained by reason of their official position. This 747
section does not prevent the superintendent from properly 748
releasing to or exchanging information relating to a savings bank, 749
or its affairs, with the governor, the director of commerce, the 750
deputy director of commerce, or representatives of state or 751
federal financial institution regulatory ~~agencies or governmental~~ 752
authorities, or prevent such release by the savings bank or its 753
officers or directors, in the conduct of the business of the 754
savings bank. 755

(2) Any person who receives privileged and confidential 756

examination reports or other information under the authority of
this section also is subject to the requirements of this section.
No person, knowing that the examination reports or information are
privileged and confidential, shall purposely divulge the reports
or information in any manner.

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(3) Neither the superintendent, nor any agent or employee of
the superintendent, shall purposely make, or cause to be made, any
false statements or reports regarding the affairs or condition of
a savings bank.

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(B) Examination reports, information obtained in an
examination, and any other information obtained by reason of the
official position of the division of savings banks shall not be
discoverable from any source, and shall not be introduced into
evidence, except in the following situations:

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(1) In connection with criminal proceedings;

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(2) When, in the opinion of the superintendent, it is
necessary for the superintendent, his agents, or employees to take
enforcement action under this chapter or Chapter 1161. or 1165. of
the Revised Code regarding the affairs of the savings bank
examined;

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(3) When litigation has been initiated by the superintendent
in furtherance of the powers, duties, and obligations imposed upon
the superintendent by this chapter or Chapter 1161. or 1165. of
the Revised Code;

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(4) When authorized by agreements between the superintendent
and financial institution regulatory authorities of this and other
states, the United States, and other countries authorized by
section 1163.121 of the Revised Code;

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(5) When and in the manner authorized in section 1181.25 of
the Revised Code.

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(C) The discovery of examination reports and other related 787
material pursuant to divisions (B)(2) and (3) of this section 788
shall be limited to information that directly relates to the 789
savings bank which is the subject of the enforcement action or the 790
litigation. 791

(D)(1) No person shall fail to comply with division (A)(1), 792
(2), or (3) of this section. 793

(2) Whoever violates division (D)(1) of this section is 794
guilty of a felony of the fourth degree. 795

Sec. 1181.25. The superintendent of financial institutions 796
may introduce into evidence or disclose, or authorize to be 797
introduced into evidence or disclosed, information that, under 798
sections 1121.18, 1155.16, 1163.20, 1321.09, 1321.55, 1322.06, 799
1733.32, 1733.327, and 4727.18 of the Revised Code, is privileged, 800
confidential, or otherwise not public information or a public 801
record, provided that the superintendent acts only as provided in 802
those sections or in the following circumstances: 803

(A) When in the opinion of the superintendent, it is 804
appropriate with regard to any enforcement actions taken and 805
decisions made by the superintendent under Chapters 1315., 1321., 806
1322., 1733., 4712., 4727., and 4728. of the Revised Code or Title 807
XI of the Revised Code; 808

(B) When litigation has been initiated by the superintendent 809
in furtherance of the powers, duties, and obligations imposed upon 810
the superintendent by Chapters 1315., 1321., 1322., 1733., 4712., 811
4727., and 4728. of the Revised Code or Title XI of the Revised 812
Code; 813

(C) When in the opinion of the superintendent, it is 814
appropriate with regard to enforcement actions taken or decisions 815
made by other financial institution regulators to whom the 816

superintendent has provided the information pursuant to authority in Chapters 1315., 1321., 1322., 1733., 4712., 4727., and 4728. of the Revised Code or Title XI of the Revised Code.

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Sec. 1321.09. (A) Every licensee shall keep and use in the licensee's business such books, accounts, and records as will enable the division of financial institutions to determine whether the licensee is complying with sections 1321.01 to 1321.19 of the Revised Code and with the orders and rules made by the division under those sections. Every licensee shall preserve such books, accounts, and records for at least two years after making the final entry on any loan recorded therein. Accounting systems maintained in whole or in part by mechanical or electronic data processing methods that provide information equivalent to that otherwise required are acceptable for this purpose.

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As required by the superintendent of financial institutions, every licensee each year shall file a report with the division giving such relevant information concerning the business and operations, during the preceding calendar year, of each licensed place of business conducted by the licensee within the state. If a licensee has more than one place of business within this state it is optional with the licensee to furnish the report for each location, or a composite report for all locations. Such report shall be made under oath in the form prescribed by the division, which shall make and publish annually an analysis and recapitulation of such reports. Such licensee reports are not public records and shall only be used by the division for the purpose of enforcing sections 1321.01 to 1321.19 of the Revised Code or any rules or orders made in compliance with those sections. Such licensee reports may be introduced into evidence or disclosed when and in the manner authorized in section 1181.25 of the Revised Code, or in connection with criminal proceedings.

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This section does not prevent the division from releasing to 848
or exchanging with other financial institution regulatory 849
authorities information relating to licensees. 850

(B) For purposes of this section, "financial institution 851
regulatory authority" includes a regulator of a business activity 852
in which a licensee is engaged, to the extent that the regulator 853
has jurisdiction over a licensee engaged in that business 854
activity. A licensee is engaged in a business activity, and a 855
regulator of that business activity has jurisdiction over the 856
licensee, whether the licensee conducts the activity directly or a 857
subsidiary or affiliate of the licensee conducts the activity. 858

Sec. 1321.55. (A) Every registrant shall keep records 859
pertaining to loans made under sections 1321.51 to 1321.60 of the 860
Revised Code. Such records shall be segregated from records 861
pertaining to transactions that are not subject to these sections 862
of the Revised Code. Every registrant shall preserve records 863
pertaining to loans made under sections 1321.51 to 1321.60 of the 864
Revised Code for at least two years after making the final entry 865
on such records. Accounting systems maintained in whole or in part 866
by mechanical or electronic data processing methods that provide 867
information equivalent to that otherwise required are acceptable 868
for this purpose. At least once each eighteen-month cycle, the 869
division of financial institutions shall make or cause to be made 870
an examination of records pertaining to loans made under sections 871
1321.51 to 1321.60 of the Revised Code, for the purpose of 872
determining whether the registrant is complying with these 873
sections and of verifying the registrant's annual report. 874

(B)(1) As required by the superintendent of financial 875
institutions, each registrant shall file with the division each 876
year a report under oath or affirmation, on forms supplied by the 877
division, concerning the business and operations for the preceding 878

calendar year. Whenever a registrant operates two or more
registered offices or whenever two or more affiliated registrants
operate registered offices, then a composite report of the group
of registered offices may be filed in lieu of individual reports.

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(2) The division shall publish annually an analysis of the
information required under division (B)(1) of this section, but
the individual reports shall not be public records and shall not
be open to public inspection.

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(C) All information obtained by the superintendent or the
superintendent's deputies, examiners, assistants, agents, or
clerks by reason of their official position, including information
obtained by such persons from the annual report of a registrant or
in the course of examining a registrant or investigating an
applicant for a certificate, is privileged and confidential. All
such information shall remain privileged and confidential for all
purposes except when it is necessary for the superintendent and
the superintendent's deputies, examiners, assistants, agents, or
clerks to take official action regarding the affairs of the
registrant or in connection with criminal proceedings. Such
information may also be introduced into evidence or disclosed when
and in the manner authorized in section 1181.25 of the Revised
Code.

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(D) No person is in violation of sections 1321.51 to 1321.60
of the Revised Code for any act taken or omission made in reliance
on a written notice, interpretation, or examination report from
the superintendent.

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(E) This section does not prevent the division from releasing
to or exchanging with other financial institution regulatory
authorities information relating to registrants.

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(F) For purposes of this section, "financial institution
regulatory authority" includes a regulator of a business activity

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in which a registrant is engaged, to the extent that the regulator 910
has jurisdiction over a registrant engaged in that business 911
activity. A registrant is engaged in a business activity, and a 912
regulator of that business activity has jurisdiction over the 913
registrant, whether the registrant conducts the activity directly 914
or a subsidiary or affiliate of the registrant conducts the 915
activity. 916

Sec. 1321.76. (A) Each licensee shall keep records of its 917
insurance premium finance transactions conducted under sections 918
1321.71 to 1321.83 of the Revised Code. Such records shall be 919
maintained separately from any records pertaining to transactions 920
that are not subject to those sections. Each licensee shall 921
preserve its records pertaining to insurance premium finance 922
transactions conducted under sections 1321.71 to 1321.83 of the 923
Revised Code for at least two years after the final entry on such 924
records. Preservation of records by means of accounting systems 925
maintained in whole or in part by mechanical or electronic data 926
processing methods constitutes compliance with this division. 927

The division of financial institutions for purposes of 928
determining whether a licensee is complying with sections 1321.71 929
to 1321.83 of the Revised Code, may make or cause to be made an 930
examination of records pertaining to insurance premium finance 931
transactions conducted under those sections. 932

(B) If a licensee's books, records, data, and other documents 933
are located outside this state, the licensee shall, upon the 934
request of the superintendent of financial institutions, deposit 935
with the division an amount equal to the estimated costs, as 936
determined by the superintendent, of an examination of the 937
licensee conducted outside this state. After the actual costs of 938
the examination have been determined and itemized by the division, 939
the division shall return to the licensee any amount it had 940

deposited in excess of the actual costs. 941

(C) All information obtained by the superintendent or the 942
superintendent's deputies, examiners, assistants, agents, or 943
clerks by reason of their official position, including information 944
obtained by such persons in the course of examining a licensee or 945
investigating an applicant for a license, is privileged and 946
confidential. All such information shall remain privileged and 947
confidential for all purposes except when, in the opinion of the 948
superintendent, it is necessary for the superintendent and the 949
superintendent's deputies, examiners, assistants, agents, or 950
clerks to take official action in administering and enforcing 951
sections 1321.71 to 1321.83 of the Revised Code or in connection 952
with criminal proceedings. Such information may also be introduced 953
into evidence or disclosed when and in the manner authorized in 954
section 1181.25 of the Revised Code. 955

(D) This section does not prevent the division from releasing 956
to or exchanging with other financial institution regulatory 957
authorities information relating to licensees. 958

(E) For purposes of this section, "financial institution 959
regulatory authority" includes a regulator of a business activity 960
in which a licensee is engaged, to the extent that the regulator 961
has jurisdiction over a licensee engaged in that business 962
activity. A licensee is engaged in a business activity, and a 963
regulator of that business activity has jurisdiction over the 964
licensee, whether the licensee conducts the activity directly or a 965
subsidiary or affiliate of the licensee conducts the activity. 966

Sec. 1322.06. (A) As often as the superintendent of financial 967
institutions considers it necessary, the superintendent may 968
examine the registrant's records pertaining to business transacted 969
pursuant to sections 1322.01 to 1322.12 of the Revised Code. 970

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(B) A registrant shall maintain records pertaining to 972
business transacted pursuant to sections 1322.01 to 1322.12 of the 973
Revised Code for two years or more after the final entry on such 974
records. No registrant shall fail to comply with this division. 975

(C) All information obtained by the superintendent or the 976
superintendent's deputies, examiners, assistants, agents, or 977
clerks by reason of their official position, including information 978
obtained by such persons in the course of examining a registrant 979
or investigating an applicant for a certificate of registration, 980
is privileged and confidential. All such information shall remain 981
privileged and confidential for all purposes except when it is 982
necessary for the superintendent and the superintendent's 983
deputies, examiners, assistants, agents, or clerks to take 984
official action regarding the affairs of the registrant or in 985
connection with criminal proceedings. Such information may also be 986
introduced into evidence or disclosed when and in the manner 987
authorized in section 1181.25 of the Revised Code. 988

(D) This section does not prevent the division from releasing 989
to or exchanging with other financial institution regulatory 990
authorities information relating to registrants. 991

(E) For purposes of this section, "financial institution 992
regulatory authority" includes a regulator of a business activity 993
in which a registrant is engaged, to the extent that the regulator 994
has jurisdiction over a registrant engaged in that business 995
activity. A registrant is engaged in a business activity, and a 996
regulator of that business activity has jurisdiction over the 997
registrant, whether the registrant conducts the activity directly 998
or a subsidiary or affiliate of the registrant conducts the 999
activity. 1000

Sec. 1707.12. (A) All applications and other papers filed 1001
with the division of securities shall be open to inspection at all 1002

reasonable times, except for unreasonable or improper purposes. 1003

(B) Information obtained by the division through any 1004
investigation shall be retained by the division and shall not be 1005
available to inspection by persons other than those having a 1006
direct economic interest in the information or the transaction 1007
under investigation, or by ~~a law enforcement officer pursuant to~~ 1008
~~the duties of his office~~ law enforcement agencies, state agencies, 1009
federal agencies, and other entities as set forth by rules adopted 1010
by the division. 1011

(C) Confidential law enforcement investigatory records and 1012
trial preparation records of the division of securities or any 1013
other law enforcement or administrative agency which are in the 1014
possession of the division of securities shall in no event be 1015
available to inspection by other than law enforcement agencies, 1016
state agencies, federal agencies, and other entities as set forth 1017
by rules adopted by the division. 1018

(D) All public records shall be prepared and made available 1019
promptly to any member of the general public at all reasonable 1020
times for inspection. Upon request, the custodian of public 1021
records shall make copies of the records available at cost, within 1022
a reasonable period of time. To facilitate public access, the 1023
division shall maintain public records in such a manner that they 1024
can be made available pursuant to this section. 1025

(E) No employee or representative of the division or the 1026
department of commerce shall be required to testify concerning any 1027
document or record subject to division (B) or (C) of this section, 1028
except as set forth by rules adopted by the division. 1029

(F) As used in this section: 1030

(1) "Confidential law enforcement investigatory record" means 1031
any record that pertains to a law enforcement matter of a 1032
criminal, quasi-criminal, civil, or administrative nature, 1033

provided that release of the record would create a high 1034
probability of disclosure of any of the following: 1035

(a) The identity of a suspect who has not been charged with 1036
the offense to which the record pertains, or of an information 1037
source or witness to whom confidentiality reasonably has been 1038
promised; 1039

(b) Information provided by an information source or witness 1040
to whom confidentiality reasonably has been promised, which 1041
information reasonably would tend to disclose ~~his~~ the identity of 1042
the information source or witness; 1043

(c) Specific confidential investigatory techniques or 1044
procedures or specific investigatory work product. 1045

(2) "Trial preparation record" means any record that contains 1046
information that is specifically compiled in reasonable 1047
anticipation of, or in defense of, a criminal, quasi-criminal, 1048
civil, or administrative action or proceeding, including, but not 1049
limited to, the independent thought processes and personal trial 1050
preparation of an attorney and division personnel, their notes, 1051
diaries, and memoranda. 1052

Sec. 1733.01. As used in this chapter, unless the context 1053
otherwise requires: 1054

(A) "Credit union" means a corporation organized and 1055
qualified as such under this chapter. In addition to the powers 1056
enumerated in this chapter and unless restricted in this chapter, 1057
every credit union has the general powers conferred upon 1058
corporations by Chapter 1701. of the Revised Code. A credit union 1059
is a nonprofit cooperative financial institution and as such is 1060
organized and operates for the mutual benefit and general welfare 1061
of its members with the earnings, savings, benefits, or services 1062
of the credit union being distributed to its members as patron 1063

savers and borrowers and not to its members as individuals. 1064

(B) "Corporate credit union" means a credit union, 1065
eligibility for membership in which is being a credit union 1066
qualified to do business in this state. Such credit union shall 1067
use the term "corporate" in its official name. 1068

(C) "Foreign credit union" means a credit union formed under 1069
the laws of another state which are substantially similar to this 1070
chapter. 1071

(D) "Member" means a person who is a member of a credit 1072
union. 1073

(E) "Association member" means any member of a credit union 1074
other than a credit union or an individual member. 1075

(F) "Voting member" means an association member or an 1076
individual member who is qualified to vote as provided by law, the 1077
articles, or the regulations. 1078

(G) "Person" includes, without limitation, an individual, a 1079
corporation, an unincorporated society or association, or any 1080
other organization of individuals. 1081

(H) "Articles" includes original articles of incorporation, 1082
agreements of merger, amended articles, and amendments to any of 1083
these. 1084

(I) "Regulations" includes the code of regulations of a 1085
credit union and any amendments thereto or an amended code of 1086
regulations and any amendments thereto. 1087

(J) Persons having a "common bond of association" include 1088
those persons and their families. 1089

(K) "Membership share" means a share of the credit union, the 1090
subscription to which shall be a prerequisite for membership in 1091
the credit union. 1092

(L) "Share account" means an account established for a member 1093
for which no share certificates are issued but which are included 1094
in the registry of shares, which includes all transactions of the 1095
credit union pertaining to such shares. 1096

(M) "Undivided earnings" consist of all accumulated net 1097
earnings and reserves required under division (B) of section 1098
1733.31 of the Revised Code. 1099

(N) "State" means the United States, any state, territory, 1100
insular possession, or other political subdivision of the United 1101
States, including the District of Columbia. 1102

(O) An "emergency" exists when an emergency exists for other 1103
corporations as the same is defined and described in section 1104
1701.01 of the Revised Code. 1105

(P) "Superintendent of credit unions" means the "division of 1106
financial institutions" or the "superintendent of the division of 1107
financial institutions of this state"; and whenever the context 1108
requires it, may be read as "director of commerce" or as "chief of 1109
the division of financial institutions." Whenever the division or 1110
superintendent of credit unions is referred to or designated in 1111
any statute, rule, contract, or other document, the reference or 1112
designation shall be deemed to refer to the division or 1113
superintendent of financial institutions, as the case may be. 1114

(Q) "Outside auditor" means an accountant who is licensed to 1115
practice as a certified public accountant or public accountant by 1116
this state, and who is retained by a credit union to audit its 1117
accounts, but who is not otherwise employed by the credit union. 1118

(R) "Regulated individual" means a director, committee 1119
member, officer, or employee of a credit union. 1120

(S) "Financial institution regulatory authority" includes a 1121
regulator of business activity in which a credit union is engaged, 1122
to the extent that the regulator has jurisdiction over a credit 1123

union engaged in that business activity. 1124

Sec. 1733.32. (A)(1) The superintendent of financial 1125
institutions shall see that the laws relating to credit unions are 1126
executed and enforced. 1127

(2) The deputy superintendent for credit unions shall be the 1128
principal supervisor of credit unions. In that position the deputy 1129
superintendent for credit unions shall, notwithstanding division 1130
(A)(3) of this section, be responsible for conducting examinations 1131
and preparing examination reports under that division. In 1132
addition, the deputy superintendent for credit unions shall, 1133
notwithstanding sections 1733.191, 1733.41, 1733.411, and 1733.412 1134
of the Revised Code, have the authority to adopt rules in 1135
accordance with those sections, and, notwithstanding section 1136
1733.05 of the Revised Code, shall have the authority to approve 1137
issues and matters pertaining to fields of membership. In 1138
performing or exercising any of the examination, rule-making, or 1139
other regulatory functions, powers, or duties vested by division 1140
(A)(2) of this section in the deputy superintendent for credit 1141
unions, the deputy superintendent for credit unions shall be 1142
subject to the control of the superintendent of financial 1143
institutions. 1144

(3) The superintendent shall develop and implement a system 1145
for evaluating the safety and soundness of credit unions and for 1146
determining when examinations and supervisory actions are 1147
necessary. Credit unions shall be subject to periodic 1148
examinations, as specified in rules adopted by the superintendent, 1149
and their books, records, and accounts shall be open to the 1150
inspection of the superintendent at all times. For the purpose of 1151
such examination or inspection, the superintendent may subpoena 1152
witnesses, administer oaths, receive testimony, and order the 1153
submission of documents. 1154

(B) Every credit union shall prepare and submit, on forms 1155
provided by the superintendent, a financial report to the 1156
superintendent showing its assets and liabilities whenever 1157
requested to do so by the superintendent. Every financial report 1158
shall be verified by the oaths of the two principal officers in 1159
charge of the affairs of the credit union at the time of such 1160
verification and shall be submitted to the superintendent within 1161
thirty days after the superintendent requests the financial 1162
report. 1163

(C) An annual financial report of the affairs and business of 1164
the credit union, showing its condition as of the thirty-first day 1165
of December unless otherwise authorized by the superintendent, 1166
shall be filed with the superintendent not later than the date 1167
authorized in the rules adopted by the superintendent. 1168

(D) If a financial report or an annual financial report is 1169
not filed with the superintendent in accordance with division (B) 1170
or (C) of this section, the superintendent may do both of the 1171
following: 1172

(1) Assess a fine, determined by rule adopted by the 1173
superintendent, for each day the report is in arrears; 1174

(2) If the superintendent gives written notice to the 1175
president of the credit union of the superintendent's intention to 1176
do so, issue an order revoking the credit union's articles of 1177
incorporation and appointing a liquidating agent to liquidate the 1178
credit union in accordance with section 1733.37 of the Revised 1179
Code. 1180

(E)(1) Except as provided in division (E)(2) of this section, 1181
each credit union doing business in this state shall remit, 1182
semiannually and within fifteen days after billing, to the 1183
treasurer of state, a supervisory fee in an amount determined by 1184
the superintendent and confirmed by the credit union council. The 1185

supervisory fee described in division (E)(1) of this section shall 1186
be based on a percentage of the gross assets of the credit union 1187
as shown by its last annual financial report filed with the 1188
superintendent in accordance with division (C) of this section. 1189
The minimum supervisory fee shall be determined by the 1190
superintendent and confirmed by the credit union council. 1191

(2) Each corporate credit union doing business in this state 1192
shall remit, semiannually and within fifteen days after billing, 1193
to the treasurer of state, a supervisory fee determined by rule 1194
adopted by the superintendent and confirmed by the credit union 1195
council. The aggregate annual amount of the fee shall not exceed 1196
the annual operating fee that the national credit union 1197
administration charges a federally chartered credit union pursuant 1198
to the "Federal Credit Union Act," 84 Stat. 994 (1970), 12 1199
U.S.C.A. 1751. 1200

(3) The superintendent annually shall present to the credit 1201
union council for confirmation the supervisory fees to be billed 1202
credit unions and corporate credit unions pursuant to division (E) 1203
of this section. 1204

(4) If any supervisory fee is not remitted in accordance with 1205
division (E)(1) or (2) of this section, the superintendent may 1206
assess a fine, determined by rule adopted by the superintendent, 1207
for each day that each fee is in arrears. 1208

(5)(a) Subject to division (E)(5)(b) of this section, the 1209
total amount of each semiannual billing to all credit unions and 1210
corporate credit unions combined shall equal one-half of the 1211
appropriation made by the main operating appropriation act, 1212
including any modifications made by the controlling board, to the 1213
division of financial institutions for the regulation of credit 1214
unions for the fiscal year in which the billings occur, except 1215
that the superintendent, in determining the supervisory fees, may 1216
take into consideration any funds lapsed from the appropriation 1217

made in the previous fiscal year. 1218

(b) If during the period between the credit union council's 1219
confirmation of supervisory fees and when supervisory fees 1220
described in this section are collected, the credit union council 1221
determines additional money is required to adequately fund the 1222
operations of the division of financial institutions for that 1223
fiscal year, the credit union council may, by the affirmative vote 1224
of five of its members, increase the supervisory fees billed. The 1225
superintendent promptly shall notify each credit union and 1226
corporate credit union of the increased supervisory fees, and each 1227
credit union or corporate credit union shall pay the increased 1228
supervisory fees billed by the superintendent. 1229

(6) The fees or fines collected pursuant to this section 1230
shall be credited to the credit unions fund created in section 1231
1733.321 of the Revised Code. 1232

(F) A report of such examination shall be forwarded to the 1233
president of each credit union after the completion of the 1234
examination. Such report may contain comments relative to the 1235
management of the affairs of the credit union and also as to the 1236
general condition of its assets. Within thirty days of the receipt 1237
of such report, a meeting of the directors shall be called to 1238
consider matters contained in the report, and the president shall 1239
notify the superintendent of any action taken at such meeting. 1240
1241

(G)(1) The superintendent shall furnish reports of 1242
examinations or other appropriate information to any organization 1243
referred to in section 1733.041 of the Revised Code when requested 1244
by such organization and authorized by the credit union. The 1245
superintendent may charge a fee for such reports and other 1246
information as may be established by rules adopted by the 1247
superintendent. 1248

(2) A report of examination furnished pursuant to division 1249
(G)(1) of this section is the property of the division of credit 1250
unions and may be used by the examined credit union only in the 1251
conduct of its business. Under no circumstances may the credit 1252
union, its current or former directors, officers, employees, 1253
agents, shareholders, participants in the conduct of its affairs, 1254
or their agents disclose or make public, in any manner, a report 1255
of examination or its contents. 1256

(H) Except as provided in this division, information obtained 1257
by the superintendent of credit unions and the superintendent's 1258
employees as a result of or arising out of the examination or 1259
independent audit of a credit union, from required reports, or 1260
because of their official position, shall be confidential. Such 1261
information may be disclosed only in connection with criminal 1262
proceedings or, subject to section 1733.327 of the Revised Code, 1263
when it is necessary for the superintendent to take official 1264
action pursuant to Chapter 1733. of the Revised Code and the rules 1265
adopted thereunder regarding the affairs of the credit union 1266
examined. Such information may also be introduced into evidence or 1267
disclosed when and in the manner authorized in section 1181.25 of 1268
the Revised Code. This division does not prevent the 1269
superintendent from properly exchanging information relating to an 1270
examined credit union pursuant to division (F) or (G) of this 1271
section or with officials of properly authorized state or federal 1272
~~supervisory~~ financial institution regulatory authorities or with 1273
any insurer recognized under section 1733.041 or any surety 1274
recognized under section 1733.23 of the Revised Code. This 1275
division also does not prevent the superintendent from disclosing 1276
information contained in the financial reports or annual financial 1277
reports described in division (B) or (C) of this section to 1278
recognized credit union trade associations. 1279

(I) For purposes of this section, a credit union is engaged 1281
in a business activity, and a regulator of that business activity 1282
has jurisdiction over the credit union, whether the credit union 1283
conducts the activity directly or a subsidiary or affiliate of the 1284
credit union conducts the activity. 1285

Sec. 1733.327. (A) All conferences and administrative 1286
proceedings under sections 1733.324 and 1733.325 of the Revised 1287
Code, the fact of their actual or anticipated occurrence, and all 1288
notices, agreements, hearings, orders, records, evidence, 1289
transcripts, and other writings, happenings, or things pertaining 1290
to those conferences or proceedings, shall be kept confidential as 1291
among the superintendent of credit unions, the director of 1292
commerce, the deputy director of financial institutions, the 1293
governor, the credit union or regulated individual who is party to 1294
the conference or proceedings, witnesses in the conference or 1295
proceedings, and other persons specifically designated by the 1296
superintendent or director. In designating specific persons who 1297
may be present or acquire knowledge of matters made confidential 1298
by this division, the superintendent and director shall not 1299
exclude attorneys or other suitable representatives of the credit 1300
union, or of any regulated individual, who is party to the 1301
conference or proceedings. If the conference or proceedings apply 1302
to a regulated individual, the superintendent and director shall 1303
not exclude suitable representatives of the credit union of which 1304
such regulated individual is an officer, director, or employee. 1305

(B) Division (A) of this section ceases to apply upon the 1306
occurrence of any of the following: 1307

(1) An action is brought to recover a forfeiture for the 1308
violation of an agreement concluded, or a final or summary 1309
cease-and-desist order issued, under section 1733.324 or 1733.325 1310
of the Revised Code. A forfeiture, in the absence of such an 1311

action for recovery, does not waive division (A) of this section 1312
except insofar as the forfeiture must be reflected or reported in 1313
the financial records or reports of the credit union or regulated 1314
individual. 1315

(2) Information made confidential by division (A) of this 1316
section is needed as evidence in a criminal proceeding; in 1317
proceedings under section 1733.37 of the Revised Code; or in the 1318
work of a committee of the general assembly. 1319

(3) The superintendent furnishes information made 1320
confidential by division (A) of this section to the applicable 1321
insurer recognized under section 1733.041 of the Revised Code. 1322

(4) The superintendent furnishes information made 1323
confidential by division (A) of this section to financial 1324
institution regulatory authorities as authorized in section 1325
1733.32 of the Revised Code. 1326

(5) Information made confidential by division (A) of this 1327
section is disclosed when and in the manner authorized in section 1328
1181.25 of the Revised Code. 1329

(C) No officer or employee of the division of credit unions, 1330
of the department of commerce or any of its other divisions, or of 1331
the governor's office shall violate division (A) of this section. 1332

Sec. 1751.19. (A) A health insuring corporation shall 1333
establish and maintain a complaint system that has been approved 1334
by the superintendent of insurance to provide adequate and 1335
reasonable procedures for the expeditious resolution of written 1336
complaints initiated by subscribers or enrollees concerning any 1337
matter relating to services provided, directly or indirectly, by 1338
the health insuring corporation, including, but not limited to, 1339
complaints regarding cancellations or nonrenewals of coverage. 1340
Complaints regarding a health insuring corporation's decision to 1341

deny, reduce, or terminate coverage for health care services are 1342
subject to section 1751.83 of the Revised Code. 1343

(B) A health insuring corporation shall provide a timely 1344
written response to each written complaint it receives. 1345

(C)(1) Copies of complaints and responses, including medical 1346
records related to those complaints, shall be available to the 1347
superintendent and the director of health for inspection for three 1348
years. Any document or information provided to the superintendent 1349
pursuant to this division that contains a medical record is 1350
confidential, and is not a public record subject to section 149.43 1351
of the Revised Code. 1352

(2) Notwithstanding division (C)(1) of this section, the 1353
superintendent may share documents and information that contain a 1354
medical record in connection with the investigation or prosecution 1355
of any illegal or criminal activity with the chief deputy 1356
rehabilitator, the chief deputy liquidator, other deputy 1357
rehabilitators and liquidators, and any other person employed by, 1358
or acting on behalf of, the superintendent pursuant to Chapter 1359
3901. or 3903. of the Revised Code, with other local, state, 1360
federal, and international regulatory and law enforcement 1361
agencies, with local, state, and federal prosecutors, and with the 1362
national association of insurance commissioners and its affiliates 1363
and subsidiaries, provided that the recipient agrees to maintain 1364
the confidential or privileged status of the confidential or 1365
privileged document or information and has authority to do so. 1366

(3) Nothing in this section shall prohibit the superintendent 1367
from receiving documents and information in accordance with 1368
section 3901.045 of the Revised Code. 1369

(4) The superintendent may enter into agreements governing 1370
the sharing and use of documents and information consistent with 1371
the requirements of this section. 1372

(5) No waiver of any applicable privilege or claim of confidentiality in the documents and information described in division (C)(1) of this section occurs as a result of sharing or receiving documents and information as authorized in divisions (C)(2) and (3) of this section. 1373
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(D) A health insuring corporation shall establish and maintain a procedure to accept complaints over the telephone or in person. These complaints are not subject to the reporting requirement under division (C) of section 1751.32 of the Revised Code. 1378
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(E) A health insuring corporation may comply with this section and section 1751.83 of the Revised Code by establishing one system for receiving and reviewing complaints and requests for internal review from enrollees and subscribers if the system meets the requirements of both sections. 1383
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Sec. 3901.045. (A) The superintendent of insurance may receive documents and information, including otherwise confidential or privileged documents and information, from local, state, federal, and international regulatory and law enforcement agencies, from local, state, and federal prosecutors, and from the national association of insurance commissioners and its affiliates and subsidiaries, provided that the superintendent maintains as confidential or privileged any document or information received with notice or the understanding that the document or information is confidential or privileged under the laws of the jurisdiction that is the source of the document or information. 1388
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(B) The superintendent may also receive documents and information, including otherwise confidential or privileged documents and information, from the chief deputy rehabilitator, the chief deputy liquidator, other deputy rehabilitators and liquidators, and from any other person employed by, or acting on 1399
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behalf of, the superintendent pursuant to Chapter 3901. or 3903. 1404
of the Revised Code, provided that the superintendent maintains as 1405
confidential or privileged any document or information received 1406
with the notice or understanding that the document or information 1407
is confidential or privileged, except that the superintendent may 1408
share and disclose such a document or information when authorized 1409
by other sections of the Revised Code. 1410

(C) The superintendent has the authority to maintain as 1411
confidential or privileged the documents and information received 1412
pursuant to this section. 1413

(D) The superintendent's authority to receive documents and 1414
information under this section, from the persons and subject to 1415
the conditions listed in this section, is not limited in any way 1416
by section 1751.19, 3901.36, 3901.44, 3901.48, 3901.70, 3901.83, 1417
3903.11, 3903.72, 3903.88, 3905.492, 3905.50, or 3999.36 of the 1418
Revised Code. 1419

Sec. 3901.36. (A) All information, documents, and copies 1420
thereof obtained by or disclosed to the superintendent of 1421
insurance or any other person in the course of an examination or 1422
investigation made pursuant to section 3901.35 of the Revised Code 1423
and all information reported pursuant to section 3901.33 of the 1424
Revised Code shall be given confidential and privileged treatment 1425
and shall not be subject to subpoena or be made public by the 1426
superintendent or any other person, except to insurance regulatory 1427
authorities of other states, without the prior written consent of 1428
the insurer to which it pertains, unless the superintendent, after 1429
giving the insurer and its affiliates who would be affected 1430
thereby notice and opportunity to be heard, determines that the 1431
interests of policyholders, shareholders, or the public will be 1432
served by the publication thereof, in which event he may publish 1433
all or any part thereof in such manner as he considers 1434

appropriate. 1435

(B) Notwithstanding division (A) of this section, the 1436
superintendent may do any of the following: 1437

(1) Disclose documents and information that are the subject 1438
of this section upon obtaining prior written consent from the 1439
insurer to which the documents and information pertain; 1440

(2) Disclose documents and information that are the subject 1441
of this section in such a manner as the superintendent considers 1442
appropriate, after giving the insurer and its affiliates notice 1443
and an opportunity to be heard in accordance with Chapter 119. of 1444
the Revised Code, if the superintendent determines that the 1445
interests of policyholders, shareholders, or the public will be 1446
served by the disclosure; 1447

(3) Share documents and information that are the subject of 1448
this section with the chief deputy rehabilitator, the chief deputy 1449
liquidator, other deputy rehabilitators and liquidators, and any 1450
other person employed by, or acting on behalf of, the 1451
superintendent pursuant to Chapter 3901. or 3903. of the Revised 1452
Code, with other local, state, federal, and international 1453
regulatory and law enforcement agencies, with local, state, and 1454
federal prosecutors, and with the national association of 1455
insurance commissioners and its affiliates and subsidiaries, 1456
provided that the recipient agrees to maintain the confidential or 1457
privileged status of the confidential or privileged document or 1458
information and has authority to do so; 1459

(4) Disclose documents and information that are the subject 1460
of this section in the furtherance of any regulatory or legal 1461
action brought by or on behalf of the superintendent or the state, 1462
resulting from the exercise of the superintendent's official 1463
duties. 1464

(C) Notwithstanding divisions (A) and (B) of this section, 1465

the superintendent may authorize the national association of insurance commissioners and its affiliates and subsidiaries by agreement to share confidential or privileged documents or information received pursuant to division (B)(3) of this section with local, state, federal, and international regulatory and law enforcement agencies and with local, state, and federal prosecutors, provided that the recipient agrees to maintain the confidential or privileged status of the confidential or privileged document or information and has authority to do so.

(D) Notwithstanding divisions (A) and (B) of this section, the chief deputy rehabilitator, the chief deputy liquidator, and other deputy rehabilitators and liquidators may disclose documents and information that are the subject of this section in the furtherance of any regulatory or legal action resulting from the exercise of the superintendent's official duties.

(E) Nothing in this section shall prohibit the superintendent from receiving documents and information in accordance with section 3901.045 of the Revised Code.

(F) The superintendent may enter into agreements governing the sharing and use of documents and information consistent with the requirements of this section.

(G)(1) No waiver of any applicable privilege or claim of confidentiality in the documents and information described in this section shall occur as a result of sharing or receiving documents and information as authorized in divisions (B)(3), (C), and (E) of this section.

(2) The disclosure of a document or information in connection with a regulatory or legal action pursuant to divisions (B)(4) and (D) of this section does not prohibit an insurer or any other person from taking steps to limit the dissemination of the document or information to persons not involved in or the subject

of the regulatory or legal action on the basis of any recognized 1497
privilege arising under any other section of the Revised Code or 1498
the common law. 1499

Sec. 3901.44. (A) As used in this section, "insurance fraud 1500
investigation" means any investigation conducted by the 1501
superintendent of insurance or a designee of the superintendent 1502
that relates to a fraudulent insurance act as defined in section 1503
3999.31 of the Revised Code. 1504

(B) All ~~papers~~, documents, reports, and evidence in the 1505
possession of the superintendent or the superintendent's designee 1506
that pertain to an insurance fraud investigation are confidential 1507
law enforcement investigatory records under section 149.43 of the 1508
Revised Code. Notwithstanding such section, the superintendent 1509
shall not prohibit public inspection of such records that pertain 1510
to an insurance fraud investigation after the expiration of all 1511
federal and state statutes of limitations applicable to the 1512
particular offense to which the papers, documents, reports, and 1513
evidence relate. 1514

(C) All ~~papers~~, documents, reports, and evidence in the 1515
possession of the superintendent that do not pertain to such an 1516
insurance fraud investigation are public records under section 1517
149.43 of the Revised Code, and are not by such possession alone 1518
confidential law enforcement investigatory records. 1519

(D) All ~~papers~~, documents, reports, and evidence in the 1520
possession of the superintendent or the superintendent's designee 1521
that pertain to such an insurance fraud investigation are not 1522
subject to subpoena in civil actions by any court of this state 1523
until opened for public inspection by the superintendent in 1524
accordance with division (B) of this section or with section 1525
149.43 of the Revised Code, unless the superintendent or the 1526
superintendent's designee consents, or until after reasonable 1527

notice to the superintendent and opportunity for hearing, the 1528
court determines the superintendent would not be hindered 1529
unnecessarily by such subpoena. 1530

(E) Notwithstanding divisions (B), (C), and (D) of this 1531
section, the superintendent may do either of the following: 1532

(1) Share documents, reports, and evidence that are the 1533
subject of this section with the chief deputy rehabilitator, the 1534
chief deputy liquidator, other deputy rehabilitators and 1535
liquidators, and any other person employed by, or acting on behalf 1536
of, the superintendent pursuant to Chapter 3901. or 3903. of the 1537
Revised Code, with other local, state, federal, and international 1538
regulatory and law enforcement agencies, with local, state, and 1539
federal prosecutors, with the national association of insurance 1540
commissioners and its affiliates and subsidiaries, with insurers, 1541
and with investigators hired by insurers, provided that the 1542
recipient agrees to maintain the confidential or privileged status 1543
of the confidential or privileged document, report, or evidence 1544
and has authority to do so; 1545

(2) Disclose documents, reports, and evidence that are the 1546
subject of this section in the furtherance of any regulatory or 1547
legal action brought by or on behalf of the superintendent or the 1548
state, resulting from the exercise of the superintendent's 1549
official duties. 1550

(F) Notwithstanding divisions (B), (C), (D), and (E) of this 1551
section, the superintendent may authorize the national association 1552
of insurance commissioners and its affiliates and subsidiaries by 1553
agreement to share confidential or privileged documents, reports, 1554
and evidence received pursuant to division (E)(1) of this section 1555
with local, state, federal, and international regulatory and law 1556
enforcement agencies and with local, state, and federal 1557
prosecutors, provided that the recipient agrees to maintain the 1558
confidential or privileged status of the confidential or 1559

privileged document, report, or evidence and has authority to do 1560
so. 1561

(G) Notwithstanding divisions (B), (C), (D), and (E) of this 1562
section, the chief deputy rehabilitator, the chief deputy 1563
liquidator, and other deputy rehabilitators and liquidators may 1564
disclose documents, reports, and evidence that are the subject of 1565
this section in the furtherance of any regulatory or legal action 1566
resulting from the exercise of the superintendent's official 1567
duties. 1568

(H) Nothing in this section shall prohibit the superintendent 1569
from receiving documents, reports, and evidence in accordance with 1570
section 3901.045 of the Revised Code. 1571

(I) The superintendent may enter into agreements governing 1572
the sharing and use of documents, reports, and evidence consistent 1573
with the requirements of this section. 1574

(J)(1) No waiver of any applicable privilege or claim of 1575
confidentiality in the documents, reports, and evidence described 1576
in this section shall occur as a result of sharing or receiving 1577
documents, reports, and evidence as authorized in divisions 1578
(E)(1), (F), and (H) of this section. 1579

(2) The disclosure of a document, report, or evidence in 1580
connection with a regulatory or legal action pursuant to divisions 1581
(E)(2) and (G) of this section does not prohibit an insurer or any 1582
other person from taking steps to limit the dissemination of the 1583
document, report, or evidence to persons not involved in or the 1584
subject of the regulatory or legal action on the basis of any 1585
recognized privilege arising under any other section of the 1586
Revised Code or the common law. 1587

(K) The superintendent and the superintendent's designee are 1588
not subject to subpoena in civil actions by any court of this 1589
state to testify concerning any matter of which they have 1590

knowledge pursuant to a pending insurance fraud investigation by 1591
the superintendent. 1592

Sec. 3901.48. (A) The original work papers of a certified 1593
public accountant performing an audit of an insurance company or 1594
health insuring corporation doing business in this state that is 1595
required by rule or by any section of the Revised Code to file an 1596
audited financial report with the superintendent of insurance 1597
shall remain the property of the certified public accountant. Any 1598
copies of these work papers voluntarily given to the 1599
superintendent shall be the property of the superintendent. The 1600
original work papers or any copies of them, whether in possession 1601
of the certified public accountant or the department of insurance, 1602
are confidential and privileged and are not a public record as 1603
defined in section 149.43 of the Revised Code. The original work 1604
papers and any copies of them are not subject to subpoena and 1605
shall not be made public by the superintendent or any other 1606
person. ~~However, the original work papers and any copies of them~~ 1607
~~may be released by the superintendent to the insurance regulatory~~ 1608
~~authority of any other state if that authority agrees to maintain~~ 1609
~~the confidentiality of the work papers or copies and if the work~~ 1610
~~papers and copies are not public records under the laws of that~~ 1611
~~state.~~ 1612

(B) The work papers of the superintendent or of the person 1613
appointed by the superintendent, resulting from the conduct of an 1614
examination made pursuant to section 3901.07 of the Revised Code 1615
or from the conduct of a financial analysis of any entity subject 1616
to examination by the superintendent, including but not limited to 1617
any insurance company, health insuring corporation, fraternal 1618
benefit society, or multiple employer welfare arrangement, are 1619
confidential and privileged and are not a public record as defined 1620
in section 149.43 of the Revised Code. The original work papers 1621
and any copies of them are not subject to subpoena and shall not 1622

be made public by the superintendent or any other person. ~~However,~~ 1623
~~the original work papers and any copies of them may be released by~~ 1624
~~the superintendent to the insurance regulatory authority of any~~ 1625
~~other state if that authority agrees to maintain the~~ 1626
~~confidentiality of the work papers or copies and if the work~~ 1627
~~papers and copies are not public records under the laws of that~~ 1628
~~state.~~ 1629

(C) The work papers of the superintendent or of any person 1630
appointed by the superintendent, resulting from the conduct of a 1631
performance regulation examination made pursuant to authority 1632
granted under section 3901.011 of the Revised Code, are 1633
confidential and privileged and are not a public record as defined 1634
in section 149.43 of the Revised Code. The original work papers 1635
and any copies of them are not subject to subpoena and shall not 1636
be made public by the superintendent or any other person. ~~However,~~ 1637
~~the original work papers and any copies of them may be released by~~ 1638
~~the superintendent to the insurance regulatory authority of any~~ 1639
~~other state if that authority agrees to maintain the~~ 1640
~~confidentiality of the work papers or copies and if the work~~ 1641
~~papers and copies are not public records under the laws of that~~ 1642
~~state.~~ 1643

(D) Notwithstanding divisions (A), (B), and (C) of this 1644
section, the superintendent may do either of the following: 1645

(1) Share work papers that are the subject of this section 1646
with the chief deputy rehabilitator, the chief deputy liquidator, 1647
other deputy rehabilitators and liquidators, and any other person 1648
employed by, or acting on behalf of, the superintendent pursuant 1649
to Chapter 3901. or 3903. of the Revised Code, with other local, 1650
state, federal, and international regulatory and law enforcement 1651
agencies, with local, state, and federal prosecutors, and with the 1652
national association of insurance commissioners and its affiliates 1653
and subsidiaries, provided that the recipient agrees to maintain 1654

the confidential or privileged status of the confidential or 1655
privileged work paper and has authority to do so; 1656

(2) Disclose work papers that are the subject of this section 1657
in the furtherance of any regulatory or legal action brought by or 1658
on behalf of the superintendent or the state, resulting from the 1659
exercise of the superintendent's official duties. 1660

(E) Notwithstanding divisions (A), (B), (C), and (D) of this 1662
section, the superintendent may authorize the national association 1663
of insurance commissioners and its affiliates and subsidiaries by 1664
agreement to share confidential or privileged work papers received 1665
pursuant to division (D)(1) of this section with local, state, 1666
federal, and international regulatory and law enforcement agencies 1667
and with local, state, and federal prosecutors, provided that the 1668
recipient agrees to maintain the confidential or privileged status 1669
of the confidential or privileged work paper and has authority to 1670
do so. 1671

(F) Notwithstanding divisions (A), (B), (C), and (D) of this 1672
section, the chief deputy rehabilitator, the chief deputy 1673
liquidator, and other deputy rehabilitators and liquidators may 1674
disclose work papers that are the subject of this section in 1675
furtherance of any regulatory or legal action resulting from the 1676
exercise of the superintendent's official duties. 1677

(G) Nothing in this section shall prohibit the superintendent 1678
from receiving work papers in accordance with section 3901.045 of 1679
the Revised Code. 1680

(H) The superintendent may enter into agreements governing 1681
the sharing and use of work papers consistent with the 1682
requirements of this section. 1683

(I)(1) No waiver of any applicable privilege or claim of 1684
confidentiality in the work papers, or copies thereof, that are 1685

the subject of this section shall occur as a result of sharing or receiving work papers as authorized in divisions (D)(1), (E), and (G) of this section.

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(2) The disclosure of work papers in connection with a regulatory or legal action pursuant to divisions (D)(2) and (F) of this section does not prohibit an insurer or any other person from taking steps to limit the dissemination of the work papers to persons not involved in or the subject of the regulatory or legal action on the basis of any recognized privilege arising under any other section of the Revised Code or the common law.

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Sec. 3901.70. (A) Each report obtained by or disclosed to the superintendent of insurance pursuant to sections 3901.67 to 3901.70 of the Revised Code is confidential and privileged and is not subject to subpoena. Except as provided in ~~divisions~~ division (B) ~~and (C)~~ of this section, the report shall not be made public by the superintendent, ~~the national association of insurance commissioners,~~ or any other persons.

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~~(B) A report may be provided by the superintendent to the insurance regulatory authority of another state or to the national association of insurance commissioners without first obtaining the written consent of the insurer to which it pertains.~~

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~~(C) The superintendent, after conducting a hearing in accordance with Chapter 119. of the Revised Code, may determine that the interest of policyholders, shareholders, or the public will be served by the publication of the report and may publish all or any part of the report in such manner as the superintendent may consider appropriate. Notwithstanding division (A) of this section, the superintendent may do any of the following:~~

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(1) Disclose a report that is the subject of this section upon obtaining a prior written consent from the insurer to which the report pertains;

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(2) Share a report that is the subject of this section with the chief deputy rehabilitator, the chief deputy liquidator, other deputy rehabilitators and liquidators, and any other person employed by, or acting on behalf of, the superintendent pursuant to Chapter 3901. or 3903. of the Revised Code, with other local, state, federal, and international regulatory and law enforcement agencies, with local, state, and federal prosecutors, and with the national association of insurance commissioners and its affiliates and subsidiaries, provided that the recipient agrees to maintain the confidential or privileged status of the confidential or privileged report and has authority to do so;

(3) Disclose a report that is the subject of this section in the furtherance of any regulatory or legal action brought by or on behalf of the superintendent or the state, resulting from the exercise of the superintendent's official duties;

(4) Disclose or publish all or any part of a report that is the subject of this section in such a manner as the superintendent considers appropriate after conducting a hearing in accordance with Chapter 119. of the Revised Code and determining that the interests of policyholders, shareholders, or the public will be served by the disclosure or publication of the report.

(C) Notwithstanding divisions (A) and (B) of this section, the superintendent may authorize the national association of insurance commissioners and its affiliates and subsidiaries by agreement to share confidential or privileged reports received pursuant to division (B)(2) of this section with local, state, federal, and international regulatory and law enforcement agencies and with local, state, and federal prosecutors, provided that the recipient agrees to maintain the confidential or privileged status of the confidential or privileged report and has authority to do so.

(D) Notwithstanding divisions (A) and (B) of this section,

the chief deputy rehabilitator, the chief deputy liquidator, and
other deputy rehabilitators and liquidators may disclose a report
that is the subject of this section in the furtherance of any
regulatory or legal action resulting from the exercise of the
superintendent's official duties. 1749
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(E) Nothing in this section shall prohibit the superintendent
from receiving reports in accordance with section 3901.045 of the
Revised Code. 1754
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(F) The superintendent may enter into agreements governing
the sharing, use, and disclosure of reports consistent with the
requirements of this section. 1757
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(G)(1) No waiver of any applicable privilege or claim of
confidentiality in the reports that are the subject of this
section shall occur as a result of sharing or receiving reports as
authorized in divisions (B)(2), (C), and (E) of this section. 1760
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(2) The disclosure of a report in connection with a
regulatory or legal action pursuant to divisions (B)(3) and (D) of
this section does not prohibit an insurer or any other person from
taking steps to limit the dissemination of the report to persons
not involved in or the subject of the regulatory or legal action
on the basis of any recognized privilege arising under any other
section of the Revised Code or the common law. 1764
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Sec. 3901.83. (A) When a record containing information
pertaining to the medical history, diagnosis, prognosis, or
medical condition of an enrollee of a health insuring corporation,
insured of an insurer, or plan member of a public employee benefit
plan is provided to the superintendent of insurance for any reason
under sections 1751.77 to 1751.88, 3923.66 to 3923.70, or 3923.75
to 3923.79 of the Revised Code, regardless of the source, the
superintendent shall maintain the confidentiality of the record.
The record in the superintendent's possession is not a public 1771
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record under section 149.43 of the Revised Code, except to the 1780
extent that information from the record is used in preparing 1781
reports under section 3901.82 of the Revised Code. 1782

(B) Notwithstanding division (A) of this section, the 1783
superintendent may share a record that is the subject of this 1784
section in connection with the investigation or proecution of any 1785
illegal or criminal activity with the chief deputy rehabilitator, 1786
the chief deputy liquidator, other deputy rehabilitators and 1787
liquidators, and any other person employed by, or acting on behalf 1788
of, the superintendent pursuant to Chapter 3901. or 3903. of the 1789
Revised Code, with other local, state, federal, and international 1790
regulatory and law enforcement agencies, with local, state, and 1791
federal prosecutors, and with the national association of 1792
insurance commissioners and its affiliates and subsidiaries, 1793
provided that the recipient agrees to maintain the confidential or 1794
privileged status of the confidential or privileged record and has 1795
authority to do so. 1796

(C) Nothing in this section shall prohibit the superintendent 1797
from receiving records in accordance with section 3901.045 of the 1798
Revised Code. 1799

(D) The superintendent may enter into agreements governing 1800
the sharing and use of records consistent with the requirements of 1801
this section. 1802

(E) No waiver of any applicable privilege or claim of 1803
confidentiality in the records that are the subject of this 1804
section shall occur as a result of sharing or receiving records as 1805
authorized in divisions (B) and (C) of this section. 1806

Sec. 3903.11. (A) In all proceedings and judicial reviews 1807
thereof under sections 3903.09 and 3903.10 of the Revised Code, 1808
all records of the insurer, other documents, and all department of 1809
insurance files and court records and papers, so far as they 1810

pertain to or are a part of the record of the proceedings, shall 1811
be and remain confidential and privileged except as is necessary 1812
to enforce compliance with those sections, unless and until the 1813
court of common pleas, after hearing arguments from the parties in 1814
chambers, shall order otherwise, or unless the insurer requests in 1815
writing that the matter be made public. Until such court order or 1816
such request from the insurer, all papers filed with the clerk of 1817
the court shall be held by the clerk in a confidential file. 1818

(B) Notwithstanding division (A) of this section, the 1819
superintendent may do either of the following: 1820

(1) Share the documents and information that are the subject 1821
of this section with the chief deputy rehabilitator, the chief 1822
deputy liquidator, other deputy rehabilitators and liquidators, 1823
and any other person employed by, or acting on behalf of, the 1824
superintendent pursuant to Chapter 3901. or 3903. of the Revised 1825
Code, with other local, state, federal, and international 1826
regulatory and law enforcement agencies, with local, state, and 1827
federal prosecutors, and with the national association of 1828
insurance commissioners and its affiliates and subsidiaries, 1829
provided that the recipient agrees to maintain the confidential or 1830
privileged status of the confidential or privileged document or 1831
information and has authority to do so; 1832

(2) Disclose documents and information that are the subject 1833
of this section in the furtherance of any regulatory or legal 1834
action brought by or on behalf of the superintendent or the state, 1835
resulting from the exercise of the superintendent's official 1836
duties. 1837

(C) Notwithstanding divisions (A) and (B) of this section, 1838
the superintendent may authorize the national association of 1839
insurance commissioners and its affiliates and subsidiaries by 1840
agreement to share confidential or privileged documents or 1841
information received pursuant to division (B)(1) of this section 1842

with local, state, federal, and international regulatory and law 1843
enforcement agencies and with local, state, and federal 1844
prosecutors, provided that the recipient agrees to maintain the 1845
confidential or privileged status of the confidential or 1846
privileged document or information and has authority to do so. 1847

(D) Notwithstanding divisions (A) and (B) of this section, 1848
the chief deputy rehabilitator, the chief deputy liquidator, and 1849
other deputy rehabilitators and liquidators may disclose documents 1850
and information that are the subject of this section in the 1851
furtherance of any regulatory or legal action resulting from the 1852
exercise of the superintendent's official duties. 1853

(E) Nothing in this section shall prohibit the superintendent 1854
from receiving documents or information in accordance with section 1855
3901.045 of the Revised Code. 1856

(F) The superintendent may enter into agreements governing 1857
the sharing and use of documents and information consistent with 1858
the requirements of this section. 1859

(G)(1) No waiver of any applicable privilege or claim of 1860
confidentiality in the documents and information described in this 1861
section shall occur as a result of sharing or receiving documents 1862
and information as authorized in divisions (B)(1), (C), and (E) of 1863
this section. 1864

(2) The disclosure of documents or information in connection 1865
with a regulatory or legal action pursuant to divisions (B)(2) and 1866
(D) of this section does not prohibit an insurer or any other 1867
person from taking steps to limit the dissemination of the 1868
document or information to persons not involved in or the subject 1869
of the regulatory or legal action on the basis of any recognized 1870
privilege arising under any other section of the Revised Code or 1871
the common law. 1872

Sec. 3903.72. (A) The superintendent of insurance shall 1873
annually value, or cause to be valued, the reserve liabilities, 1874
referred to in this section as reserves, for all outstanding life 1875
insurance policies and annuity and pure endowment contracts of 1876
every life insurance company doing business in this state. The 1877
superintendent may certify the amount of such reserves, specifying 1878
the mortality tables, rates of interest, and net level premium 1879
method and other methods used to calculate reserves. In 1880
calculating reserves, the superintendent may use group methods and 1881
approximate averages for fractions of a year or otherwise. The 1882
valuation of the reserves of a company organized under the laws of 1883
a foreign government shall be limited to its United States 1884
business. 1885

In lieu of a valuation of the reserves of a foreign company, 1886
the superintendent may accept the valuation made, or caused to be 1887
made, by the insurance supervisory official of any state or other 1888
jurisdiction when such valuation complies with the minimum 1889
standards required by this section, provided such official accepts 1890
the certificate of valuation of the superintendent when such 1891
certificate states that the valuation was made in a specified 1892
manner and when such valuation complies with the minimum standards 1893
required by the law of that state or jurisdiction. 1894

A company, which adopts a standard of valuation producing 1895
aggregate reserves greater than those required by this section, 1896
may adopt a lower standard of valuation with the approval of the 1897
superintendent, but not lower than the minimum provided by this 1898
section. However, the holding of additional reserves previously 1899
determined by a qualified actuary to be necessary for the actuary 1900
to render the opinions required by divisions (B)(1) and (2) of 1901
this section shall not be deemed to be the adoption of a higher 1902
standard of valuation. 1903

(B)(1) Every life insurance company doing business in this 1904

state shall annually submit to the superintendent the opinion of a
qualified actuary as to whether the reserves and related actuarial
items held in support of the policies and contracts specified by
rule by the superintendent are computed appropriately, are based
on assumptions that satisfy contractual provisions, and are
consistent with prior reported amounts. The opinion shall be
submitted no later than March 1, 1996, and no later than the first
day of March of each year thereafter. The superintendent shall
adopt rules establishing the form and content of this opinion, and
may require the life insurance company to supply information in
addition to that contained in the actuarial opinion.

As used in this section, a "qualified actuary" means a person
who is a member in good standing of the American academy of
actuaries and who meets the requirements set by rule by the
superintendent.

(2)(a) Every life insurance company, except as exempted by
rule adopted by the superintendent, shall also include in the
annual opinion required by division (B)(1) of this section an
opinion of the same qualified actuary as to whether the reserves
and related actuarial items held in support of the policies and
contracts specified by rule by the superintendent, when considered
in light of the assets held by the company with respect to the
reserves and related actuarial items, including, but not limited
to, the investment earnings on the assets and the considerations
anticipated to be received and retained under the policies and
contracts, make adequate provision for the company's obligations
under the policies and contracts, including, but not limited to,
the benefits under and the expenses associated with the policies
and contracts.

(b) The superintendent may provide by rule for a transition
period for establishing any higher reserves that the qualified
actuary may consider necessary to render the opinion required by

division (B) of this section. 1937

(c) Each opinion required by division (B) of this section 1938
shall be supported by a memorandum prepared in form and content as 1939
specified by rule by the superintendent. 1940

(d) If a life insurance company fails to provide a supporting 1941
memorandum within the period of time specified by rule by the 1942
superintendent, or if the superintendent determines that a 1943
supporting memorandum fails to meet the standards set out in the 1944
rule, or is otherwise unacceptable to the superintendent, the 1945
superintendent may employ, at the expense of the insurance 1946
company, a qualified actuary to review the opinion and the basis 1947
for the opinion and prepare such supporting memorandum as is 1948
required by the superintendent. 1949

(3) Every opinion required by division (B) of this section is 1950
governed by the following: 1951

(a) The opinion shall be submitted with the annual statement 1952
reflecting the valuation of the reserve liabilities. 1953

(b) The opinion shall apply to all business in force 1954
including individual and group health insurance plans. 1955

(c) The opinion shall be based on standards adopted from time 1956
to time by the actuarial standards board of the American academy 1957
of actuaries and on such additional standards as the 1958
superintendent may prescribe by rule. 1959

(d) In the case of an opinion required to be submitted by a 1960
foreign or alien life insurance company, the superintendent may 1961
accept the opinion filed by that company with the insurance 1962
regulatory authority of another state if the superintendent 1963
determines that the opinion reasonably meets the requirements 1964
applicable to a company domiciled in this state. 1965

(e) Except in cases of fraud or willful misconduct, the 1966

qualified actuary is not liable for damages in any civil action to
any person, other than the insurance company and the
superintendent, for any act, error, omission, decision, or conduct
with respect to the actuary's opinion.

(f) The superintendent shall establish by rule penalties for
an insurance company's or qualified actuary's failure to comply
with this section.

(g) The superintendent shall keep as confidential and
privileged any memorandum received in support of a qualified
actuary's opinion and also any other material provided by the
insurance company to the superintendent in connection with the
opinion. The memorandum and other materials shall not be made
public, and shall not be subject to subpoena other than for the
purpose of defending an action required by this section or rules
adopted under this section. However, ~~the memorandum and other~~
~~materials may be released by the superintendent with the written~~
~~consent of the company, and may be released to the American~~
~~academy of actuaries upon the superintendent's receipt of a~~
~~request from the academy stating that the memorandum and other~~
~~materials are required for the purpose of professional~~
~~disciplinary proceedings. A request from the American academy of~~
~~actuaries shall set forth the procedures to be used by the academy~~
~~for preserving the confidentiality of the memorandum and other~~
~~materials, which procedures shall be satisfactory to the~~
~~superintendent prior to the superintendent's release of the~~
~~memorandum and other materials. If if any portion of a~~
confidential and privileged memorandum is cited by the company in
its marketing, is cited before any governmental agency other than
a state insurance regulatory authority, or is released by the
company to the news media, the entire memorandum shall no longer
be confidential and privileged.

(h) Notwithstanding division (B)(3)(g) of this section, the

<u>superintendent may do any of the following:</u>	1999
<u>(i) Disclose memoranda and other materials described in this section upon obtaining prior written consent from the insurer to which the memorandum or other materials pertain;</u>	2000 2001 2002
<u>(ii) Disclose memoranda and other materials described in this section to the American academy of actuaries upon receipt of a written request from the academy stating that a memorandum or other material is required for the purpose of professional disciplinary proceedings. A request from the American academy of actuaries shall set forth the procedures to be used by the academy for preserving the confidential and privileged status of the memorandum or other material. If the procedures set forth are not satisfactory to the superintendent, the superintendent shall not release the memorandum or other material to the academy.</u>	2003 2004 2005 2006 2007 2008 2009 2010 2011 2012
<u>(iii) Share memoranda and other materials described in this section with the chief deputy rehabilitator, the chief deputy liquidator, other deputy rehabilitators and liquidators, and any other person employed by, or acting on behalf of, the superintendent pursuant to Chapter 3901. or 3903. of the Revised Code, with other local, state, federal, and international regulatory and law enforcement agencies, with local, state, and federal prosecutors, and with the national association of insurance commissioners and its affiliates and subsidiaries, provided that the recipient agrees to maintain the confidential or privileged status of any confidential or privileged memorandum or other material and has authority to do so;</u>	2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023 2024
<u>(iv) Disclose memoranda and other materials described in this section in the furtherance of any regulatory or legal action brought by or on behalf of the superintendent or the state, resulting from the exercise of the superintendent's official duties.</u>	2025 2026 2027 2028 2029

(i) Notwithstanding divisions (B)(3)(g) and (h) of this section, the superintendent may authorize the national association of insurance commissioners and its affiliates and subsidiaries by agreement to share confidential or privileged memoranda and other material received pursuant to division (B)(3)(h)(iii) of this section with local, state, federal, and international regulatory and law enforcement agencies and with local, state, and federal prosecutors, provided that the recipient agrees to maintain the confidential or privileged status of the confidential or privileged memorandum or other material and has authority to do so. 2030
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(j) Notwithstanding divisions (B)(3)(g) and (h) of this section, the chief deputy rehabilitator, the chief deputy liquidator, and other deputy rehabilitators and liquidators may disclose memoranda and other material described in this section in the furtherance of any regulatory or legal action resulting from the exercise of the superintendent's official duties. 2041
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(k) Nothing in this section shall prohibit the superintendent from receiving memoranda and other material in accordance with section 3901.045 of the Revised Code. 2047
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(l) The superintendent may enter into agreements governing the sharing and use of memoranda and materials consistent with the requirements of this section. 2050
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(m)(i) No waiver of any applicable privilege or claim of confidentiality in the memoranda and materials described in this section shall occur as a result of sharing or receiving memoranda and material as authorized in divisions (B)(3)(h)(ii) and (iii), (B)(3)(i), and (B)(3)(k) of this section. 2053
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(ii) The disclosure of any memorandum or material in connection with a regulatory or legal action pursuant to divisions (B)(3)(h)(iv) and (B)(3)(j) of this section does not prohibit an 2058
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insurer or any other person from taking steps to limit the 2061
dissemination of the memorandum or material to persons not 2062
involved in or the subject of the regulatory or legal action on 2063
the basis of any recognized privilege arising under any other 2064
section of the Revised Code or the common law. 2065

(C) Except in the case of policies and contracts to which 2066
division (D) of this section applies, the minimum standard for the 2067
valuation of reserves shall be the method set forth in section 2068
3915.04 of the Revised Code, using four per cent interest and the 2069
American experience table of mortality; provided that in no event 2070
shall a company's aggregate reserves for policies and contracts 2071
which guarantee nonforfeiture benefits be less than the aggregate 2072
reserves calculated in accordance with the standard used in 2073
calculating nonforfeiture benefits for such policies and 2074
contracts. 2075

Reserves for such policies and contracts may be calculated 2076
according to standards which produce aggregate reserves greater 2077
than the minimum reserves required by this division. 2078

(D) This division applies to all life insurance policies and 2079
annuity and pure endowment contracts issued on and after November 2080
5, 1959, or each earlier date not before July 17, 1947, elected by 2081
the company for one or more of such policies or contracts as the 2082
date on which it would comply with the provisions of the 2083
nonforfeiture law for life insurance provided in section 3915.07 2084
of the Revised Code or with the provisions of this division. The 2085
minimum standard for the valuation of all such policies and 2086
contracts shall be the commissioner's reserve valuation method 2087
defined in division (E), (F), (H), or (K) of this section and the 2088
following tables and interest rates: 2089

(1) For ordinary life insurance policies, excluding 2090
disability and accidental death benefits, issued on the standard 2091
basis: 2092

(a) On and after November 5, 1959, or an earlier date, not 2093
before July 17, 1947, specified in a written notice by the company 2094
to the superintendent of its election to use this table and before 2095
division (D)(1)(b) of this section became operative for subsequent 2096
policy issues, the commissioners 1941 standard ordinary mortality 2097
table and three and one-half per cent interest; 2098

(b) On and after January 1, 1966, or an earlier date, not 2099
before November 5, 1959, specified in a written notice by the 2100
company to the superintendent of its election to use this table 2101
and before division (D)(1)(c) of this section becomes operative 2102
for subsequent policy issues, the commissioners 1958 standard 2103
ordinary mortality table and three and one-half per cent interest 2104
before January 1, 1975; four per cent interest on and after 2105
January 1, 1975 and before January 1, 1979; and four and one-half 2106
per cent interest on and after January 1, 1979; provided that 2107
modified premiums and present values for female risks may be 2108
calculated at an age three years younger than the actual age of 2109
the insured for policies issued before January 1, 1979, and at an 2110
age six years younger for policies issued on and after January 1, 2111
1979. 2112

(c) On and after January 1, 1989, or an earlier date, not 2113
before January 1, 1983, specified in a written notice by the 2114
company to the superintendent of its election to use this table, 2115
the commissioners 1980 standard ordinary mortality table and the 2116
applicable valuation interest rate as defined in section 3903.721 2117
of the Revised Code. The company may elect to use the 2118
commissioners 1980 standard ordinary mortality table with ten-year 2119
select mortality factors for any specified plan of life insurance. 2120
The superintendent may approve the use of any ordinary mortality 2121
table adopted after 1980 by the national association of insurance 2122
commissioners for determining the minimum standard for the 2123
valuation of such policies. 2124

(2) For industrial life insurance policies, excluding 2125
disability and accidental death benefits, issued on the standard 2126
basis: 2127

(a) On and after November 5, 1959, or an earlier date, not 2128
before July 17, 1947, specified in a written notice by the company 2129
to the superintendent of its election to use this table and before 2130
division (D)(2)(b) of this section became operative for subsequent 2131
policy issues, the 1941 standard industrial mortality table and 2132
three and one-half per cent interest; 2133

(b) On and after January 1, 1968, or an earlier date, not 2134
before September 2, 1963, specified in a written notice by the 2135
company to the superintendent of its election to use this table, 2136
the commissioners 1961 standard industrial mortality table and 2137
three and one-half per cent interest before January 1, 1975; four 2138
per cent interest on and after January 1, 1975 and before January 2139
1, 1979; four and one-half per cent interest on and after January 2140
1, 1979 and before January 1, 1989, or before an earlier date, not 2141
before January 1, 1983, specified in a written notice by the 2142
company to the superintendent of its election to issue such 2143
policies pursuant to the provisions of the nonforfeiture law for 2144
life insurance provided in section 3915.071 of the Revised Code. 2145
On and after January 1, 1989, or such earlier date, the interest 2146
rate to be used in calculating the minimum reserve for such 2147
policies is the applicable valuation interest rate as defined in 2148
section 3903.721 of the Revised Code. The superintendent may 2149
approve the use of any industrial mortality table adopted after 2150
1980 by the national association of insurance commissioners for 2151
determining the minimum standard for the valuation of such 2152
policies. 2153

(3) For all individual annuity and pure endowment contracts, 2154
excluding disability and accidental death benefits, issued: 2155

(a) On and after November 5, 1959, or an earlier date, not 2156

before July 17, 1947, as of which the company elected to comply 2157
with this division (D)(3)(a) and before division (D)(3)(b) of this 2158
section became operative for subsequent contract issues, the 1937 2159
standard annuity mortality table, or, at the option of the 2160
company, the annuity mortality table for 1949, ultimate, or any 2161
modification of either table approved by the superintendent and 2162
three and one-half per cent interest; 2163

(b) On and after January 1, 1979, or an earlier date, not 2164
before January 1, 1975, specified by the company in a written 2165
notice to the superintendent of its election to use this table, 2166
the 1971 individual annuity mortality table or any modification of 2167
that table approved by the superintendent and four per cent 2168
interest on and after January 1, 1975 and before January 1, 1979; 2169
four and one-half per cent interest on and after January 1, 1979, 2170
and before January 1, 1983; and the valuation interest rate as 2171
defined in section 3903.721 of the Revised Code on and after 2172
January 1, 1983, except that on and after January 1, 1975, and 2173
before January 1, 1979, the interest rate is six per cent for 2174
single premium immediate contracts and on and after January 1, 2175
1979, and before January 1, 1983, the interest rate is five and 2176
one-half per cent for single premium deferred contracts and seven 2177
and one-half per cent for single premium immediate contracts. The 2178
superintendent may approve the use of any individual annuity 2179
mortality table adopted after 1980 by the national association of 2180
insurance commissioners, either as adopted or as modified by the 2181
superintendent, for determining the minimum standard for the 2182
valuation of such contracts. 2183

(4) For all annuity and pure endowment contracts, excluding 2184
disability and accidental death benefits, purchased under group 2185
annuity and pure endowment contracts: 2186

(a) On and after November 5, 1959, or an earlier date, not 2187
before July 17, 1947, as of which the company elected to comply 2188

with this division (D)(4)(a) and before division (D)(4)(b) of this section became operative for subsequent contract purchases, the group annuity mortality table for 1951, any modification of this table approved by the superintendent, or either of the tables, or modification of either of them, specified in division (D)(3)(a) of this section for individual annuity and pure endowment contracts and three and one-half per cent interest;

(b) On and after January 1, 1979, or an earlier date, not before January 1, 1975, specified by the company in a written notice to the superintendent of its election to use this table, the 1971 group annuity mortality table, or any modification of that table approved by the superintendent, and six per cent interest on and after January 1, 1975, and before January 1, 1979; seven and one-half per cent interest on and after January 1, 1979, and before January 1, 1983, and the valuation interest rate as defined in section 3903.721 of the Revised Code on and after January 1, 1983. The superintendent may approve the use of any group annuity mortality table adopted after 1980 by the national association of insurance commissioners, either as adopted or as modified by the superintendent, for determining the minimum standard for the valuation of such contracts.

(5) For total and permanent disability benefits in or supplementary to ordinary policies and contracts issued:

(a) On and after July 17, 1947, and before January 1, 1961, the class (3) disability table (1926) and three and one-half per cent interest. This table, for active lives, shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(b) On and after January 1, 1961, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries, with due regard for the type of benefit; except that a company may, at its option,

use the class (3) disability table (1926) for policies and 2221
contracts issued on and after January 1, 1961, and before January 2222
1, 1966. Any such table, for active lives, shall be combined with 2223
a mortality table permitted for calculating the reserves for life 2224
insurance policies. The interest rate to be used in calculating 2225
minimum reserves for such benefits may not exceed the applicable 2226
rate specified in division (D)(1) of this section for ordinary 2227
life insurance policies. The superintendent may approve the use of 2228
any table of disablement rates and termination rates adopted after 2229
1980 by the national association of insurance commissioners for 2230
determining the minimum standard for the valuation of such total 2231
and permanent benefits. 2232

(6) For accidental death benefits in or supplementary to 2233
policies issued: 2234

(a) On and after July 17, 1947, and before January 1, 1961, 2235
the inter-company double indemnity mortality table and three and 2236
one-half per cent interest. This table shall be combined with a 2237
mortality table permitted for calculating the reserves for life 2238
insurance policies. 2239

(b) On and after January 1, 1961, the 1959 accidental death 2240
benefits table; except that a company may, at its option, use the 2241
inter-company double indemnity mortality table for policies issued 2242
on and after January 1, 1961, and before January 1, 1966. Either 2243
table shall be combined with a mortality table permitted for 2244
calculating the reserves for life insurance policies. The interest 2245
rate to be used in calculating the minimum reserves for such 2246
benefits may not exceed the applicable rate specified in division 2247
(D)(1) of this section for ordinary life insurance policies. The 2248
superintendent may approve the use of any accidental death 2249
benefits table adopted after 1980 by the national association of 2250
insurance commissioners for determining the minimum standard for 2251
the valuation of such accidental death benefits. 2252

(7) For group life insurance, life insurance issued on the 2253
substandard basis and all other special benefits, such tables as 2254
may be approved by the superintendent and interest not to exceed 2255
the applicable rate used in division (D)(1) of this section for 2256
ordinary life insurance policies. 2257

(E) This division defines the commissioners reserve valuation 2258
method for all policies, riders, and supplemental policy 2259
provisions, with life insurance or endowment benefits, or both, 2260
providing for uniform amounts of life insurance and requiring 2261
uniform premiums. Reserves for such policies, riders, and 2262
provisions, except as otherwise provided in divisions (F) and (K) 2263
of this section, shall be the excess, if any, of the present value 2264
on the valuation date of the future guaranteed benefits over the 2265
present value on that date of the future modified net premiums. 2266
The modified net premium is a uniform percentage of each contract 2267
premium specified for the guaranteed benefits such that the 2268
present value, at the date of issue, of all modified net premiums 2269
shall be equal to the present value, on the date of issue, of the 2270
future guaranteed benefits plus the excess of division (E)(1) over 2271
division (E)(2) of this section, as follows: 2272

(1) A net level annual premium equal to the present value, at 2273
the date of issue, of such benefits provided for after the first 2274
policy year, divided by the present value, at the date of issue, 2275
of an annuity of one per annum payable on the first and each 2276
subsequent anniversary of the policy on which a premium falls due; 2277
provided that such net level annual premium shall not exceed the 2278
net level annual premium on the nineteen-year premium whole life 2279
plan for insurance of the same amount at an age one year higher 2280
than the age at issue of the policy. 2281

(2) A net one-year term premium for such benefits provided 2282
for in the first policy year. 2283

(F) This division defines the commissioners reserve valuation 2284

method for all life insurance policies issued on or after January 1, 1989, that have a first year premium in excess of the premium for the second policy year and for which excess no comparable benefit is provided in the first year and that provide either an endowment benefit or cash surrender value, or both, in an amount greater than the excess. Reserves for such policies before the assumed ending date shall be the greater of the amount calculated in accordance with division (E) of this section and the reserve calculated in accordance with that division but with the following changes:

(1) The value defined in division (E)(1) of this section shall be reduced by fifteen per cent of the amount of such excess first-year premium;

(2) All present values of benefits and premiums shall be determined without reference to premiums and benefits provided for by the policy after the assumed ending date;

(3) The policy shall be assumed to mature on the assumed ending date in the amount of its endowment benefits and cash surrender value. The assumed ending date is the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess first-year premium.

On and after the assumed ending date, the reserve for such policies shall be calculated in accordance with division (E) of this section.

(G) Reserves according to the commissioners reserve valuation method for:

(1) All policies, riders, and supplemental policy provisions providing varying amounts of life insurance or requiring payment of varying premiums;

(2) Group annuity and pure endowment contracts purchased

under a retirement plan or plan of deferred compensation, 2316
established or maintained by an employer, including a partnership 2317
or sole proprietorship, or by an employee organization, or by 2318
both, other than a plan providing individual retirement accounts 2319
or individual retirement annuities under section 408 of the 2320
Internal Revenue Code of 1954, as amended; 2321

(3) Disability and accidental death benefits in all policies 2322
and contracts; and 2323

(4) All other benefits, except life insurance and endowment 2324
benefits in life insurance policies and benefits provided by all 2325
other annuity and pure endowment contracts, shall be calculated by 2326
a method consistent with the principles of division (E) of this 2327
section. 2328

Extra premiums charged because of impairments or special 2329
hazards shall be disregarded in determining modified net premiums. 2330

(H) This division defines the commissioners annuity reserve 2331
valuation method for all annuity and pure endowment contracts 2332
other than group annuity and pure endowment contracts purchased 2333
under a retirement plan or plan of deferred compensation, 2334
established or maintained by an employer, including a partnership 2335
or sole proprietorship, or by an employee organization, or by 2336
both, other than a plan providing individual retirement accounts 2337
or individual retirement annuities under section 408 of the 2338
Internal Revenue Code of 1954, as amended. 2339

Reserves for benefits under such contracts, excluding 2340
disability and accidental death benefits, shall be the greatest of 2341
the respective excesses of the present values, at the date of 2342
valuation, of the future guaranteed benefits, including guaranteed 2343
nonforfeiture benefits, provided for by such contract at the end 2344
of each respective contract year, over the present value, at the 2345
date of valuation, of any future valuation considerations derived 2346

from future gross considerations required by the terms of the 2347
contract that become payable prior to the end of each such 2348
respective contract year. The future guaranteed benefits shall be 2349
determined by using the mortality table, if any, and the interest 2350
rate, or rates, specified in such contracts for determining 2351
guaranteed benefits. The valuation considerations are the portions 2352
of the respective gross considerations applied under the terms of 2353
such contracts to determine nonforfeiture values. 2354

(I) In no event shall a company's aggregate reserves for all 2355
life insurance policies, to which division (D) of this section 2356
applies, excluding disability and accidental death benefits, be 2357
less than the aggregate reserves calculated in accordance with the 2358
method set forth in divisions (E), (F), (G), (K), and (L) of this 2359
section and the mortality table or tables and rate or rates of 2360
interest used in calculating nonforfeiture benefits for such 2361
policies. 2362

In no event shall the aggregate reserves for all policies, 2363
contracts, and benefits be less than the aggregate reserves 2364
determined by the qualified actuary to be necessary to render the 2365
opinion required by division (B) of this section. 2366

(J) Reserves for any category of policies, contracts, or 2367
benefits as established by the superintendent may be calculated, 2368
at the option of the company, according to any standards which 2369
produce aggregate reserves for such category greater than those 2370
calculated according to the minimum standards provided in this 2371
section, but the rate or rates of interest used for policies and 2372
contracts, other than annuity and pure endowment contracts, shall 2373
not be higher than the corresponding rate or rates of interest 2374
used in calculating any nonforfeiture benefits provided for in 2375
such standards. 2376

(K) If in any contract year the valuation net premium 2377
calculated by the method used in calculating the reserve for a 2378

policy or contract but using the minimum valuation standards of 2379
mortality and rate of interest is more than the gross premium for 2380
such policy or contract, the minimum reserve required for such 2381
policy or contract shall be the greater of either the reserve 2382
calculated according to the mortality table, rate of interest, and 2383
method actually used for such policy or contract, or the reserve 2384
calculated by such method but using the minimum valuation 2385
standards of mortality and rate of interest and replacing the 2386
valuation net premium by the actual gross premium in each contract 2387
year for which the valuation net premium exceeds the actual gross 2388
premium. The minimum valuation standards of mortality and rate of 2389
interest referred to in this division are those required by 2390
division (D) of this section. 2391

For the purposes of this division, the minimum reserve for 2392
any policy to which the provisions of division (F) of this section 2393
apply shall be calculated as if the method used in calculating the 2394
reserve for such policy were the method defined in division (E) of 2395
this section. The minimum reserve for such policy shall be the 2396
greater of the reserve calculated in accordance with division (F) 2397
of this section and in accordance with this division. 2398

(L) Methods for determining the reserves for plans of life 2399
insurance or annuity which are of such a nature that minimum 2400
reserves cannot be determined by the methods described in this 2401
section shall be promulgated by rule adopted by the 2402
superintendent. The reserves to be held under such plans must be 2403
appropriate in relation to the benefits and the pattern of 2404
premiums for each plan and must be computed by methods which are 2405
consistent with the principles of this section. This division 2406
applies to any plan of life insurance which provides for future 2407
premium determination, the amounts of which are to be determined 2408
by the company on the basis of an estimate of future experience 2409
made at the time of any such determination. 2410

(M) The superintendent shall adopt rules specifying minimum 2411
reserve standards for the valuation of individual and group health 2412
plans. 2413

Sec. 3903.83. (A) For purposes of sections 3903.81 to 3903.93 2414
of the Revised Code, a "company action level event" is any of the 2415
following events: 2416

(1) A domestic or foreign insurer's filing of an RBC report 2417
that indicates that the insurer's total adjusted capital is 2418
greater than or equal to its regulatory action level RBC but less 2419
than its company action level RBC; 2420

(2) A life or health insurer's filing of an RBC report that 2421
indicates that the insurer's total adjusted capital is greater 2422
than or equal to its company action level RBC but less than the 2423
product of 2.5 and its authorized control level RBC, and that 2424
indicates a negative trend; 2425

(3) The notification by the superintendent of insurance to an 2426
insurer of an adjustment to the insurer's RBC report, which 2427
adjusted RBC report shows the insurer's total adjusted capital 2428
within the range described in either division (A)(1) or (2) of 2429
this section, provided that the insurer does not challenge the 2430
adjusted RBC report under section 3903.87 of the Revised Code; 2431

(4) The superintendent's notification to an insurer, 2432
following the hearing required under section 3903.87 of the 2433
Revised Code, that the superintendent has rejected the insurer's 2434
challenge to an adjusted RBC report showing the insurer's total 2435
adjusted capital within the range described in either division 2436
(A)(1) or (2) of this section. 2437

(B) In the case of a company action level event, the insurer 2438
shall prepare and submit to the superintendent an RBC plan that 2439
shall: 2440

(1) Identify the conditions that contributed to the company	2441
action level event;	2442
(2) Contain proposals of corrective actions that the insurer	2443
intends to take to eliminate the conditions leading to the company	2444
action level event;	2445
(3) Provide projections of the insurer's financial results in	2446
the current year and at least the four succeeding years, both in	2447
the absence of the proposed corrective actions and giving effect	2448
to the proposed corrective actions. The projections shall include	2449
projections of statutory operating income, net income, capital,	2450
and surplus. Projections for both new and renewal business may	2451
include separate projections for each major line of business, and	2452
may separately identify each significant income, expense, and	2453
benefit component of the projection.	2454
(4) Identify the key assumptions impacting the insurer's	2455
projections made pursuant to division (B)(3) of this section, and	2456
describe the sensitivity of the projections to the assumptions;	2457
(5) Identify the quality of, and problems associated with,	2458
the insurer's business, including, but not limited to, its assets,	2459
anticipated business growth and associated surplus strain,	2460
extraordinary exposure to risk, mix of business, and use of	2461
reinsurance.	2462
(C) The RBC plan shall be submitted within forty-five days	2463
after a company action level event. However, if an insurer has	2464
challenged an adjusted RBC report pursuant to section 3903.87 of	2465
the Revised Code, the RBC plan need not be submitted until after	2466
the hearing required under section 3903.87 of the Revised Code. If	2467
the superintendent rejects the insurer's challenge, the RBC plan	2468
shall be submitted within forty-five days after the	2469
superintendent's notification to the insurer of the rejection of	2470
the challenge.	2471

(D)(1) Within sixty days after an insurer submits an RBC plan 2472
to the superintendent, the superintendent shall either require the 2473
insurer to implement the RBC plan or shall notify the insurer that 2474
the RBC plan is unsatisfactory in the judgment of the 2475
superintendent. If the superintendent has determined that the RBC 2476
plan is unsatisfactory, the notification to the insurer shall set 2477
forth the reasons for the determination, and may set forth 2478
proposed revisions that will render the RBC plan satisfactory in 2479
the judgment of the superintendent. Upon such notification from 2480
the superintendent, the insurer shall prepare and submit a revised 2481
RBC plan, which may incorporate by reference any revisions 2482
proposed by the superintendent. 2483

(2) If an insurer challenges, under section 3903.87 of the 2484
Revised Code, a notification from the Superintendent that the 2485
insurer's RBC plan or a revised RBC plan is unsatisfactory, 2486
submission of a revised RBC plan need not be made unless the 2487
superintendent rejects the insurer's challenge following the 2488
hearing required by section 3903.87 of the Revised Code and then 2489
notifies the insurer of this rejection. 2490

(3) An insurer shall submit a revised RBC plan to the 2491
superintendent within forty-five days after receiving notification 2492
from the superintendent that its RBC plan is unsatisfactory, or, 2493
that its challenge to a notification made under division (D)(1) of 2494
this section has been rejected, as applicable. 2495

(E) Notwithstanding division (D) of this section, if the 2496
superintendent notifies an insurer that its RBC plan or revised 2497
RBC plan is unsatisfactory, the superintendent may, at the 2498
superintendent's discretion, but subject to the insurer's right to 2499
a hearing under section 3903.87 of the Revised Code, specify in 2500
the notification that the notification constitutes a regulatory 2501
action level event. 2502

(F) Every domestic insurer that submits an RBC plan or 2503

revised RBC plan to the superintendent shall file a copy of the
RBC plan or revised RBC plan with the insurance regulatory
authority of every state in which the insurer is authorized to do
business upon receiving the insurance regulatory authority's
written request for a copy of the plan, if the state has a
confidentiality law with provisions substantially similar to those
set forth in divisions (A) and (B) of section 3903.88 of the
Revised Code. The insurer shall file the copy in that state no
later than the later of:

(1) Fifteen days after receiving the request for a copy of
the plan;

(2) The date on which the RBC plan or revised RBC plan is
filed pursuant to division (C) or (D) of this section.

Sec. 3903.88. (A) The superintendent of insurance shall keep
all of the following confidential:

(1) An RBC report, to the extent that information contained
in the report is not required to be included in an annual
statement available to the public;

(2) An RBC plan;

(3) The results of, or a report on, an examination or
analysis conducted pursuant to division (B)(2) of section 3903.84
of the Revised Code, and a corrective order issued pursuant to
division (B)(3) of section 3903.84 of the Revised Code.

(B) The plans, reports, information, and orders described in
division (A) of this section ~~shall~~ are confidential and privileged
and not be subject to subpoena, ~~except for use by the~~
~~superintendent in accordance with the insurance laws of this~~
~~state.~~

(C) Notwithstanding divisions (A) and (B) of this section,
the superintendent may do any of the following:

(1) Use the plans, reports, information, and orders that are 2534
the subject of this section in accordance with the insurance laws 2535
of this state; 2536

(2) Share the plans, reports, information, and orders that 2537
are the subject of this section with the chief deputy 2538
rehabilitator, the chief deputy liquidator, other deputy 2539
rehabilitators and liquidators, and any other person employed by, 2540
or acting on behalf of, the superintendent pursuant to Chapter 2541
3901. or 3903. of the Revised Code, with other local, state, 2542
federal, and international regulatory and law enforcement 2543
agencies, with local, state, and federal prosecutors, and with the 2544
national association of insurance commissioners and its affiliates 2545
and subsidiaries, provided that the recipient agrees to maintain 2546
the confidential or privileged status of the confidential or 2547
privileged plan, report, information, or order and has authority 2548
to do so; 2549

(3) Disclose plans, reports, information, and orders that are 2550
the subject of this section in the furtherance of any regulatory 2551
or legal action brought by or on behalf of the superintendent or 2552
the state, resulting from the exercise of the superintendent's 2553
official duties. 2554

(D) Notwithstanding divisions (A), (B), and (C) of this 2555
section, the superintendent may authorize the national association 2556
of insurance commissioners and its affiliates and subsidiaries by 2557
agreement to share confidential or privileged plans, reports, 2558
information, and orders received pursuant to division (C)(2) of 2559
this section with local, state, federal, and international 2560
regulatory and law enforcement agencies and with local, state, and 2561
federal prosecutors, provided that the recipient agrees to 2562
maintain the confidential or privileged status of the confidential 2563
or privileged plan, report, information, or order and has 2564
authority to do so. 2565

(E) Notwithstanding divisions (A), (B), and (C) of this section, the chief deputy rehabilitator, the chief deputy liquidator, and other deputy rehabilitators and liquidators may disclose plans, reports, information, and orders that are the subject of this section in the furtherance of any regulatory or legal action resulting from the exercise of the superintendent's official duties. 2566
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(F) Nothing in this section shall prohibit the superintendent from receiving plans, reports, information, and orders in accordance with section 3901.045 of the Revised Code. 2573
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(G) The superintendent may enter into agreements governing the sharing and use of plans, reports, information, and orders consistent with the requirements of this section. 2576
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(H)(1) No waiver of any applicable privilege or claim of confidentiality in the plans, reports, information, and orders that are the subject of this section shall occur as a result of sharing or receiving plans, reports, information, and orders as authorized in divisions (C)(2), (D), and (F) of this section. 2579
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(2) The disclosure of a plan, report, information, or order in connection with a regulatory or legal action pursuant to divisions (C)(3) and (E) of this section does not prohibit an insurer or any other person from taking steps to limit the dissemination of the plan, report, information, or order to persons not involved in or the subject of the regulatory or legal action on the basis of any recognized privilege arising under any other section of the Revised Code or the common law. 2584
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(I) The comparison of an insurer's total adjusted capital to any of its RBC levels shall not be used to rank insurers. 2592
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~~(D)~~(J) RBC instructions, RBC reports, adjusted RBC reports, RBC plans, and revised RBC plans, shall not be used by the superintendent for ratemaking, considered or introduced as 2594
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evidence in any rate proceeding, or used by the superintendent to 2597
calculate or derive any elements of an appropriate premium level 2598
or rate of return for any line of insurance that an insurer or any 2599
affiliate is authorized to write. 2600

~~(E)~~(K) Except as otherwise required under Title XXXIX of the 2601
Revised Code, it is an unfair and deceptive act or practice in the 2602
business of insurance for any person, as defined in division (A) 2603
of section 3901.19 of the Revised Code, to make, publish, 2604
disseminate, circulate, or place before the public, or to cause, 2605
directly or indirectly, to be made, published, disseminated, 2606
circulated, or placed before the public, in a newspaper, magazine, 2607
or other publication, in the form of a notice, circular, pamphlet, 2608
letter, or poster, or over any radio or television station, or in 2609
any other manner, an advertisement, announcement, or statement, 2610
written or oral, that contains an assertion, representation, or 2611
statement, regarding the RBC levels of any insurer or any 2612
component derived in the calculation of the RBC levels. 2613

~~(F)~~(L) If any materially false statement is published 2614
comparing an insurer's total adjusted capital to its RBC levels, 2615
or any inappropriate comparison of any other amount to any of the 2616
insurers' RBC levels is published, and the insurer is able to 2617
demonstrate to the superintendent with substantial proof the 2618
falsity of the statement or the inappropriateness of the 2619
comparison, then the insurer may publish with the superintendent's 2620
approval an announcement in a written publication to rebut the 2621
materially false statement or inappropriate comparison. 2622

Sec. 3905.492. (A)(1) All records and other information 2623
obtained by the superintendent of insurance or the 2624
superintendent's deputies, examiners, assistants, or other 2625
employees, or agents relating to an investigation of an applicant 2626
for licensure under this chapter, or of an agent, solicitor, 2627
broker, or other person licensed under this chapter or Chapter 2628

3951., 3957., or 3959. of the Revised Code, are confidential and 2629
are not public records as defined in section 149.43 of the Revised 2630
Code until the applicant or licensee is provided notice and 2631
opportunity for hearing pursuant to Chapter 119. of the Revised 2632
Code with respect to such records or information. If no 2633
administrative action is initiated with respect to a particular 2634
matter about which the superintendent obtained records or other 2635
information as part of an investigation, all such records and 2636
information relating to that matter shall remain confidential for 2637
three years after the file on the matter is closed. 2638

(2) Division (A)(1) of this section applies only to 2639
investigations that could result in administrative action under 2640
Title XVII or XXXIX or Chapter 119. of the Revised Code. 2641

(B) The records and other information described in division 2642
(A) of this section shall remain confidential for all purposes 2643
except when it is appropriate for the superintendent and the 2644
superintendent's deputies, examiners, assistants, or other 2645
employees, or agents to take official action regarding the affairs 2646
of the applicant or licensee or in connection with actual or 2647
potential criminal proceedings. 2648

~~(C) Employees or agents of the department of insurance shall 2649
not be required by any court in this state to testify in a civil 2650
action, if such testimony concerns any matter related to records 2651
or any other information considered confidential under this 2652
section of which they have knowledge. 2653~~

~~(D) This section does not apply to any complaint or action 2654
under section 3905.04 of the Revised Code. Notwithstanding 2655
divisions (A) and (B) of this section, the superintendent may do 2656
either of the following: 2657~~

(1) Share records and other information that are the subject 2658
of this section with the chief deputy rehabilitator, the chief 2659
deputy liquidator, other deputy rehabilitators and liquidators, 2660

and any other person employed by, or acting on behalf of, the 2661
superintendent pursuant to Chapter 3901. or 3903. of the Revised 2662
Code, with other local, state, federal, and international 2663
regulatory and law enforcement agencies, with local, state, and 2664
federal prosecutors, and with the national association of 2665
insurance commissioners and its affiliates and subsidiaries, 2666
provided that the recipient agrees to maintain the confidential 2667
status of the confidential record or other information and has 2668
authority to do so; 2669

(2) Disclose records and other information that are the 2670
subject of this section in the furtherance of any regulatory or 2671
legal action brought by or on behalf of the superintendent or the 2672
state, resulting from the exercise of the superintendent's 2673
official duties. 2674

(D) Notwithstanding divisions (A), (B), and (C) of this 2675
section, the superintendent may authorize the national association 2676
of insurance commissioners and its affiliates and subsidiaries by 2677
agreement to share confidential records and other information 2678
received pursuant to division (C)(1) of this section with local, 2679
state, federal, and international regulatory and law enforcement 2680
agencies and with local, state, and federal prosecutors, provided 2681
that the recipient agrees to maintain the confidential status of 2682
the confidential record or other information and has authority to 2683
do so. 2684

(E) Notwithstanding divisions (A), (B), and (C) of this 2685
section, the chief deputy rehabilitator, the chief deputy 2686
liquidator, and other deputy rehabilitators and liquidators may 2687
disclose records and other information that are the subject of 2688
this section in the furtherance of any regulatory or legal action 2689
resulting from the exercise of the superintendent's official 2690
duties. 2691

(F) Nothing in this section shall prohibit the superintendent 2692

from receiving records and other information in accordance with 2693
section 3901.045 of the Revised Code. 2694

(G)(1) No waiver of any applicable privilege or claim of 2695
confidentiality in the records and other information that are the 2696
subject of this section shall occur as a result of sharing or 2697
receiving records or other information as authorized in divisions 2698
(C)(1), (D), and (F) of this section. 2699

(2) The disclosure of records or other information in 2700
connection with a regulatory or legal action pursuant to divisions 2701
(C)(2) and (E) of this section does not prohibit an insurer or any 2702
other person from taking steps to limit the dissemination of the 2703
record or other information to persons not involved in or the 2704
subject of the regulatory or legal action on the basis of any 2705
recognized privilege arising under any other section of the 2706
Revised Code or the common law. 2707

(H) Employees or agents of the department of insurance shall 2708
not be required by any court in this state to testify in a civil 2709
action, if the testimony concerns any matter related to records or 2710
other information considered confidential under this section of 2711
which they have knowledge. 2712

(I) This section does not apply to any complaint or action 2713
under section 3905.04 of the Revised Code. 2714

Sec. 3905.50. (A)(1) Except as provided in division (A)(2) or 2715
(3) of this section, this section applies to every contract of 2716
agency between a property and casualty insurance company and an 2717
independent insurance agent, as defined in division (A) of section 2718
3905.47 of the Revised Code, which has been in effect for not less 2719
than two years. 2720

(2) This section does not apply to a contract of exclusive 2721
employment by, or an exclusive agency contract with, a single 2722

insurer or group of insurers under common ownership or control. 2723

(3) This section does not apply to an agent whose license has 2724
been suspended or revoked by the superintendent of insurance, an 2725
agent who has demonstrated gross incompetence, or an agent whose 2726
contract has been terminated for insolvency, abandonment, gross or 2727
willful misconduct, or failure to pay to the insurer, in 2728
accordance with the agency contract, moneys due to the insurer 2729
upon written demand of the insurer. 2730

(B) No insurer shall terminate an independent insurance agent 2731
contract of agency except by mutual agreement of the parties or 2732
upon one hundred eighty days' written notice to the independent 2733
insurance agent. 2734

(1) Such notice shall include specific reasons for the 2735
termination of the agent. 2736

(2) Such notice shall be sent by certified mail, return 2737
receipt requested, to the last known address of the agency. 2738

(C) During the one hundred eighty day notice period, an 2739
independent insurance agent shall not write or bind any new 2740
policies on behalf of an insurer without written approval from the 2741
insurer. However, during such period, an independent insurance 2742
agent, subject to the current underwriting rules, guidelines, 2743
commission rates, and practices of the insurer, may renew or 2744
effect any necessary changes or endorsements of outstanding 2745
policies of insurance that are in force prior to the date of 2746
receipt of the notice of termination. 2747

(D) None of the following constitutes an acceptable reason 2748
for the termination of a contract of agency: 2749

(1) Claims experience of the agent in a single year; 2750

(2) Claims experience due to ~~catastrophies~~ catastrophes of 2751
nature covered by a policy; 2752

(3) Claims experience under uninsured and underinsured 2753
motorist coverages. 2754

(E) An agent aggrieved by the conduct of an insurer in its 2755
breach or termination of a contract of agency may file with the 2756
superintendent a request that the superintendent review the action 2757
to determine whether it is in accord with this section and the 2758
lawful provisions of the contract of agency and send a copy of the 2759
request to the insurer at the address of the office issuing the 2760
notice of termination. Upon receipt of such a request, an insurer 2761
shall promptly provide the independent insurance agent and 2762
superintendent with documentation in support of the insurer's 2763
stated reason for termination. 2764

(F) The superintendent shall promptly investigate the 2765
allegation. If the superintendent has reasonable cause to believe 2766
that this section or the lawful provisions of the contract of 2767
agency have been violated, ~~he~~ the superintendent shall, within 2768
thirty days of receipt of a request for review, conduct an 2769
adjudication hearing subject to Chapter 119. of the Revised Code, 2770
held upon not less than ten days' written notice to the agent and 2771
the insurer. Pending a final order in the adjudication hearing, 2772
the superintendent may take such interim action as necessary to 2773
protect the parties or the public. During the pendency of the 2774
proceeding before the superintendent, the contract of agency 2775
subject to the proceeding continues in force and division (C) of 2776
this section applies. The superintendent shall, within thirty days 2777
following such hearing, issue an order approving or disapproving 2778
the action of the insurer. All final orders and decisions of the 2779
superintendent are subject to judicial review as provided in 2780
Chapter 119. of the Revised Code. 2781

(G) An insurer shall not cancel or nonrenew any policy of 2782
insurance written through an agent upon the sole ground of the 2783
termination of the agency until the expiration of the policy term 2784

or the twelve-month period following the effective date of the
termination of the contract of agency, whichever is earlier.
However, during such period, an independent insurance agent may,
subject to the current underwriting rules, guidelines, commission
rates, and practices of the insurer, effect any necessary changes
or endorsements to outstanding policies of insurance that are in
force prior to the date of termination.

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This section does not abridge, restrict, or supersede the
rights of an agent to the ownership of expirations provided for in
any contract with an insurer.

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(H) Any information or documentation provided to an agent or
the superintendent by an insurer under this section is
confidential and shall be used by the superintendent only in the
exercise of the proper functions authorized by this section. No
insurer is liable for furnishing information or documentation in
compliance with this section if the insurer acts without malice
and in the reasonable belief that such information or
documentation is warranted by this section.

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(I) Notwithstanding division (H) of this section, the
superintendent may do either of the following:

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(1) Share the information or documentation that is the
subject of this section with the chief deputy rehabilitator, the
chief deputy liquidator, other deputy rehabilitators and
liquidators, and any other person employed by, or acting on behalf
of, the superintendent pursuant to Chapter 3901. or 3903. of the
Revised Code, with other local, state, federal, and international
regulatory and law enforcement agencies, with local, state, and
federal prosecutors, and with the national association of
insurance commissioners and its affiliates and subsidiaries,
provided that the recipient agrees to maintain the confidential
status of the confidential information or documentation and has
authority to do so;

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(2) Disclose any information or documentation that is the subject of this section in the furtherance of any regulatory or legal action brought by or on behalf of the superintendent or the state, resulting from the exercise of the superintendent's official duties. 2817
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(J) Notwithstanding divisions (H) and (I) of this section, the superintendent may authorize the national association of insurance commissioners and its affiliates and subsidiaries by agreement to share confidential information and documentation received pursuant to division (I)(1) of this section with local, state, federal, and international regulatory and law enforcement agencies and with local, state, and federal prosecutors, provided that the recipient agrees to maintain the confidential status of the confidential information or documentation and has authority to do so. 2822
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(K) Notwithstanding divisions (H) and (I) of this section, the chief deputy rehabilitator, the chief deputy liquidator, and other deputy rehabilitators and liquidators may disclose information and documentation that is the subject of this section in the furtherance of any regulatory or legal action resulting from the exercise of the superintendent's official duties. 2832
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(L) Nothing in this section shall prohibit the superintendent from receiving information and documentation in accordance with section 3901.045 of the Revised Code. 2838
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(M) The superintendent may enter into agreements governing the sharing and use of information and documentation consistent with the requirements of this section. 2841
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(N)(1) No waiver of any applicable privilege or claim of confidentiality in the information and documentation that is the subject of this section shall occur as a result of sharing or receiving information and documentation as authorized in divisions 2844
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(I)(1), (J), and (L) of this section. 2848

(2) The disclosure of information or documentation in 2849
connection with a regulatory or legal action pursuant to divisions 2850
(I)(2) and (K) of this section does not prohibit an insurer or any 2851
other person from taking steps to limit the dissemination of the 2852
information or documentation to persons not involved in or the 2853
subject of the regulatory or legal action on the basis of any 2854
recognized privilege arising under any other section of the 2855
Revised Code or the common law. 2856

Sec. 3999.36. (A) As used in this section and sections 2857
3999.37 and 3999.38 of the Revised Code: 2858

(1) "Insurer" means any person that is authorized to engage 2859
in the business of insurance in this state under Title XXXIX of 2860
the Revised Code, any health insuring corporation, or any other 2861
person engaging either directly or indirectly in this state in the 2862
business of insurance or entering into contracts substantially 2863
amounting to insurance under section 3905.42 of the Revised Code. 2864

(2) "Impaired" or "impairment" means a financial situation in 2865
which the insurer's assets are less than the sum of the insurer's 2866
minimum required capital, minimum required surplus, and all 2867
liabilities, as determined in accordance with the requirements for 2868
the preparation and filing of the insurer's annual financial 2869
statement. 2870

(3) "Chief executive officer" means the person, irrespective 2871
of the person's title, designated by the board of directors or 2872
trustees of an insurer as the person charged with the 2873
responsibility of administering and implementing the insurer's 2874
policies and procedures. 2875

(B) Whenever a chief executive officer of an insurer knows or 2876
has reason to know that the insurer is impaired, the chief 2877

executive officer shall provide written notice of the impairment 2878
to the superintendent of insurance and to each member of the board 2879
of directors or trustees of the insurer. The chief executive 2880
officer shall provide the notice as soon as reasonably possible, 2881
but no later than thirty days after the chief executive officer 2882
knows or has reason to know of the impairment. No chief executive 2883
officer shall fail to provide notice in compliance with this 2884
division. 2885

(C) The notice received by the superintendent under division 2886
(B) of this section is confidential and is not a public record 2887
under section 149.43 of the Revised Code. 2888

(D) Notwithstanding division (C) of this section, the 2889
superintendent may do any of the following: 2890

(1) Disclose the notice upon obtaining prior written consent 2891
from the insurer to which the notice pertains; 2892

(2) Share the notice that is the subject of this section with 2893
the chief deputy rehabilitator, the chief deputy liquidator, other 2894
deputy rehabilitators and liquidators, and any other person 2895
employed by, or acting on behalf of, the superintendent pursuant 2896
to Chapter 3901. or 3903. of the Revised Code, with other local, 2897
state, federal, and international regulatory and law enforcement 2898
agencies, with local, state, and federal prosecutors, and with the 2899
national association of insurance commissioners and its affiliates 2900
and subsidiaries, provided that the recipient agrees to maintain 2901
the confidential status of the notice and has authority to do so; 2902

(3) Disclose the notice in the furtherance of any regulatory 2903
or legal action brought by or on behalf of the superintendent or 2904
the state, resulting from the exercise of the superintendent's 2905
official duties. 2906

(E) Notwithstanding divisions (C) and (D) of this section, 2907
the superintendent may authorize the national association of 2908

insurance commissioners and its affiliates and subsidiaries by 2909
agreement to share confidential notices received pursuant to 2910
division (D)(2) of this section with local, state, federal, and 2911
international regulatory and law enforcement agencies and with 2912
local, state, and federal prosecutors, provided that the recipient 2913
agrees to maintain the confidential status of the notice and has 2914
authority to do so. 2915

(F) Notwithstanding divisions (C) and (D) of this section, 2916
the chief deputy rehabilitator, the chief deputy liquidator and 2917
other deputy rehabilitators and liquidators may disclose notices 2918
in the furtherance of any regulatory or legal action resulting 2919
from the exercise of the superintendent's official duties. 2920

(G) Nothing in this section shall prohibit the superintendent 2921
from receiving notices in accordance with section 3901.045 of the 2922
Revised Code. 2923

(H) The superintendent may enter into agreements governing 2924
the sharing and use of notices consistent with the requirements of 2925
this section. 2926

(I)(1) No waiver of any applicable privilege or claim of 2927
confidentiality in the notices that are the subject of this 2928
section shall occur as a result of sharing or receiving notices as 2929
authorized in divisions (D)(2), (E), and (G) of this section. 2930

(2) The disclosure of a notice in connection with a 2931
regulatory or legal action pursuant to divisions (D)(3) and (F) of 2932
this section does not prohibit an insurer or any other person from 2933
taking steps to limit the dissemination of the notice to persons 2934
not involved in or the subject of the regulatory or legal action 2935
on the basis of any recognized privilege arising under any other 2936
section of the Revised Code or the common law. 2937

Sec. 4727.18. (A) Except as otherwise provided in this 2938

division (C) of this section, any information arising from, 2939
obtained by, or contained in an investigation of a person licensed 2940
as a pawnbroker under this chapter performed by the superintendent 2941
of financial institutions is confidential information and is not a 2942
public record under section 149.43 of the Revised Code. ~~The~~ 2943
~~superintendent, however, may share investigation information with~~ 2944
~~a law enforcement agency.~~ 2945

(B) Except as ~~otherwise~~ provided in ~~this~~ division (C) of this 2946
section, any information arising from, obtained by, or contained 2947
in an investigation by the superintendent of any person the 2948
superintendent reasonably suspects has violated or is violating 2949
this chapter is confidential information and not a public record 2950
under section 149.43 of the Revised Code. ~~The superintendent,~~ 2951
~~however, may share investigation information with a law~~ 2952
~~enforcement agency.~~ 2953

(C) Information made confidential by division (A) or (B) of 2954
this section may only be disclosed, discovered, or introduced into 2955
evidence as follows: 2956

(1) To a law enforcement agency; 2957

(2) In connection with criminal proceedings; 2958

(3) In any action taken or litigation by or against the 2959
superintendent in connection with the powers, duties, and 2960
obligations imposed upon the superintendent by this chapter; 2961

(4) When and in the manner authorized in section 1181.25 of 2962
the Revised Code. 2963

Section 2. That existing sections 1101.01, 1121.11, 1121.18, 2964
1151.01, 1155.091, 1155.16, 1161.01, 1163.121, 1163.20, 1321.09, 2965
1321.55, 1321.76, 1322.06, 1707.12, 1733.01, 1733.32, 1733.327, 2966
1751.19, 3901.36, 3901.44, 3901.48, 3901.70, 3901.83, 3903.11, 2967
3903.72, 3903.83, 3903.88, 3905.492, 3905.50, 3999.36, and 4727.18 2968

of the Revised Code are hereby repealed.

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