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Am. Sub. S. B. No. 138

SENATORS Nein, Espy, Harris, Jacobson, White, Spada

REPRESENTATIVES G. Smith, Wolpert, Stapleton, Flowers, Schmidt, Coates,

Schaffer, Seitz, Sferra, Niehaus, Olman

A B I L L

To amend sections 111.15, 119.01, 1121.01, 1121.11, 1
1121.18, 1155.01, 1155.091, 1155.16, 1163.01, 2
1163.121, 1163.20, 1321.09, 1321.55, 1321.76, 3
1322.06, 1322.061, 1707.092, 1707.11, 1707.12, 4
1707.141, 1707.15, 1707.151, 1707.161, 1707.17, 5
1707.20, 1707.40, 1707.44, 1733.01, 1733.32, 6
1733.327, 1751.19, 3901.36, 3901.44, 3901.48, 7
3901.70, 3901.83, 3903.11, 3903.72, 3903.83, 8
3903.88, 3905.492, 3905.50, 3999.36, and 4727.18, 9
to enact sections 1181.25, 1707.201, and 3901.045 10
of the Revised Code, and to repeal section 1322.06 11
of the Revised Code, as amended by this act, on May 12
2, 2002, relative to the circumstances under which 13
the Department of Insurance and the Divisions of 14
Financial Institutions and Securities may share 15
confidential documents and information with, and 16
receive such documents and information from, other 17
specified regulators and officials, or otherwise 18
disclose these documents and information, and to 19
modifications of the Securities Law with respect to 20
investment advisers, application for a securities 21
dealer's license, license renewals and fees, parity 22
rules, notice filings, and consent to service of 23

process.

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

Section 1. That sections 111.15, 119.01, 1121.01, 1121.11, 25
1121.18, 1155.01, 1155.091, 1155.16, 1163.01, 1163.121, 1163.20, 26
1321.09, 1321.55, 1321.76, 1322.06, 1322.061, 1707.092, 1707.11, 27
1707.12, 1707.141, 1707.15, 1707.151, 1707.161, 1707.17, 1707.20, 28
1707.40, 1707.44, 1733.01, 1733.32, 1733.327, 1751.19, 3901.36, 29
3901.44, 3901.48, 3901.70, 3901.83, 3903.11, 3903.72, 3903.83, 30
3903.88, 3905.492, 3905.50, 3999.36, and 4727.18 be amended and 31
sections 1181.25, 1707.201, and 3901.045 of the Revised Code be 32
enacted to read as follows: 33

Sec. 111.15. (A) As used in this section: 34

(1) "Rule" includes any rule, regulation, bylaw, or standard 35
having a general and uniform operation adopted by an agency under 36
the authority of the laws governing the agency; any appendix to a 37
rule; and any internal management rule. "Rule" does not include 38
any guideline adopted pursuant to section 3301.0714 of the Revised 39
Code, any order respecting the duties of employees, any finding, 40
any determination of a question of law or fact in a matter 41
presented to an agency, or any rule promulgated pursuant to 42
Chapter 119., section 4141.14, division (C)(1) or (2) of section 43
5117.02, or section 5703.14 of the Revised Code. "Rule" includes 44
any amendment or rescission of a rule. 45

(2) "Agency" means any governmental entity of the state and 46
includes, but is not limited to, any board, department, division, 47
commission, bureau, society, council, institution, state college 48
or university, community college district, technical college 49
district, or state community college. "Agency" does not include 50
the general assembly, the controlling board, the adjutant 51

general's department, or any court.

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(3) "Internal management rule" means any rule, regulation, bylaw, or standard governing the day-to-day staff procedures and operations within an agency.

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(4) "Substantive revision" has the same meaning as in division (J) of section 119.01 of the Revised Code.

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(B)(1) Any rule, other than a rule of an emergency nature, adopted by any agency pursuant to this section shall be effective on the tenth day after the day on which the rule in final form and in compliance with division (B)(3) of this section is filed as follows:

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(a) The rule shall be filed in electronic form with both the secretary of state and the director of the legislative service commission;

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(b) The rule shall be filed in electronic form with the joint committee on agency rule review. Division (B)(1)(b) of this section does not apply to any rule to which division (D) of this section does not apply.

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An agency that adopts or amends a rule that is subject to division (D) of this section shall assign a review date to the rule that is not later than five years after its effective date. If no review date is assigned to a rule, or if a review date assigned to a rule exceeds the five-year maximum, the review date for the rule is five years after its effective date. A rule with a review date is subject to review under section 119.032 of the Revised Code. This paragraph does not apply to a rule of a state college or university, community college district, technical college district, or state community college.

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If all filings are not completed on the same day, the rule shall be effective on the tenth day after the day on which the latest filing is completed. If an agency in adopting a rule

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designates an effective date that is later than the effective date
provided for by division (B)(1) of this section, the rule if filed
as required by such division shall become effective on the later
date designated by the agency.

Any rule that is required to be filed under division (B)(1)
of this section is also subject to division (D) of this section if
not exempted by division (D)(1), (2), (3), (4), (5), (6), (7), or
(8) of this section.

(2) A rule of an emergency nature necessary for the immediate
preservation of the public peace, health, or safety shall state
the reasons for the necessity. The emergency rule, in final form
and in compliance with division (B)(3) of this section, shall be
filed in electronic form with the secretary of state, the director
of the legislative service commission, and the joint committee on
agency rule review. The emergency rule is effective immediately
upon completion of the latest filing, except that if the agency in
adopting the emergency rule designates an effective date, or date
and time of day, that is later than the effective date and time
provided for by division (B)(2) of this section, the emergency
rule if filed as required by such division shall become effective
at the later date, or later date and time of day, designated by
the agency.

An emergency rule becomes invalid at the end of the ninetieth
day it is in effect. Prior to that date, the agency may file the
emergency rule as a nonemergency rule in compliance with division
(B)(1) of this section. The agency may not refile the emergency
rule in compliance with division (B)(2) of this section so that,
upon the emergency rule becoming invalid under such division, the
emergency rule will continue in effect without interruption for
another ninety-day period.

(3) An agency shall file a rule under division (B)(1) or (2)
of this section in compliance with the following standards and

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| procedures: | 115 |
| (a) The rule shall be numbered in accordance with the numbering system devised by the director for the Ohio administrative code. | 116 117 118 |
| (b) The rule shall be prepared and submitted in compliance with the rules of the legislative service commission. | 119 120 |
| (c) The rule shall clearly state the date on which it is to be effective and the date on which it will expire, if known. | 121 122 |
| (d) Each rule that amends or rescinds another rule shall clearly refer to the rule that is amended or rescinded. Each amendment shall fully restate the rule as amended. | 123 124 125 |
| If the director of the legislative service commission or the director's designee gives an agency notice pursuant to section 103.05 of the Revised Code that a rule filed by the agency is not in compliance with the rules of the legislative service commission, the agency shall within thirty days after receipt of the notice conform the rule to the rules of the commission as directed in the notice. | 126 127 128 129 130 131 132 |
| (C) All rules filed pursuant to divisions (B)(1)(a) and (2) of this section shall be recorded by the secretary of state and the director under the title of the agency adopting the rule and shall be numbered according to the numbering system devised by the director. The secretary of state and the director shall preserve the rules in an accessible manner. Each such rule shall be a public record open to public inspection and may be transmitted to any law publishing company that wishes to reproduce it. | 133 134 135 136 137 138 139 140 |
| (D) At least sixty-five days before a board, commission, department, division, or bureau of the government of the state files a rule under division (B)(1) of this section, it shall file the full text of the proposed rule in electronic form with the joint committee on agency rule review, and the proposed rule is | 141 142 143 144 145 |

subject to legislative review and invalidation under division (I) 146
of section 119.03 of the Revised Code. If a state board, 147
commission, department, division, or bureau makes a substantive 148
revision in a proposed rule after it is filed with the joint 149
committee, the state board, commission, department, division, or 150
bureau shall promptly file the full text of the proposed rule in 151
its revised form in electronic form with the joint committee. The 152
latest version of a proposed rule as filed with the joint 153
committee supersedes each earlier version of the text of the same 154
proposed rule. Except as provided in division (F) of this section, 155
a state board, commission, department, division, or bureau shall 156
also file the rule summary and fiscal analysis prepared under 157
section 121.24 or 127.18 of the Revised Code, or both, in 158
electronic form along with a proposed rule, and along with a 159
proposed rule in revised form, that is filed under this division. 160
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As used in this division, "commission" includes the public 162
utilities commission when adopting rules under a federal or state 163
statute. 164

This division does not apply to any of the following: 165

(1) A proposed rule of an emergency nature; 166

(2) A rule proposed under section 1121.05, 1121.06, 1155.18, 167
1707.201, 1733.412, 4123.29, 4123.34, 4123.341, 4123.342, 4123.40, 168
4123.411, 4123.44, or 4123.442 of the Revised Code; 169

(3) A rule proposed by an agency other than a board, 170
commission, department, division, or bureau of the government of 171
the state; 172

(4) A proposed internal management rule of a board, 173
commission, department, division, or bureau of the government of 174
the state; 175

(5) Any proposed rule that must be adopted verbatim by an 176

agency pursuant to federal law or rule, to become effective within 177
sixty days of adoption, in order to continue the operation of a 178
federally reimbursed program in this state, so long as the 179
proposed rule contains both of the following: 180

(a) A statement that it is proposed for the purpose of 181
complying with a federal law or rule; 182

(b) A citation to the federal law or rule that requires 183
verbatim compliance. 184

(6) An initial rule proposed by the director of health to 185
impose safety standards, quality-of-care standards, and 186
quality-of-care data reporting requirements with respect to a 187
health service specified in section 3702.11 of the Revised Code, 188
or an initial rule proposed by the director to impose quality 189
standards on a facility listed in division (A)(4) of section 190
3702.30 of the Revised Code, if section 3702.12 of the Revised 191
Code requires that the rule be adopted under this section; 192

(7) A rule of the state lottery commission pertaining to 193
instant game rules. 194

If a rule is exempt from legislative review under division 195
(D)(5) of this section, and if the federal law or rule pursuant to 196
which the rule was adopted expires, is repealed or rescinded, or 197
otherwise terminates, the rule is thereafter subject to 198
legislative review under division (D) of this section. 199

(E) Whenever a state board, commission, department, division, 200
or bureau files a proposed rule or a proposed rule in revised form 201
under division (D) of this section, it shall also file the full 202
text of the same proposed rule or proposed rule in revised form in 203
electronic form with the secretary of state and the director of 204
the legislative service commission. Except as provided in division 205
(F) of this section, a state board, commission, department, 206
division, or bureau shall file the rule summary and fiscal 207

analysis prepared under section 121.24 or 127.18 of the Revised
Code, or both, in electronic form along with a proposed rule or
proposed rule in revised form that is filed with the secretary of
state or the director of the legislative service commission.

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(F) Except as otherwise provided in this division, the
auditor of state or the auditor of state's designee is not
required to file a rule summary and fiscal analysis along with a
proposed rule, or proposed rule in revised form, that the auditor
of state proposes under section 117.12, 117.19, 117.38, or 117.43
of the Revised Code and files under division (D) or (E) of this
section. If, however, the auditor of state or the designee
prepares a rule summary and fiscal analysis of the original
version of such a proposed rule for purposes of complying with
section 121.24 of the Revised Code, the auditor of state or
designee shall file the rule summary and fiscal analysis in
electronic form along with the original version of the proposed
rule filed under division (D) or (E) of this section.

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Sec. 119.01. As used in sections 119.01 to 119.13 of the
Revised Code:

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(A)(1) "Agency" means, except as limited by this division,
any official, board, or commission having authority to promulgate
rules or make adjudications in the civil service commission, the
division of liquor control, the department of taxation, the
industrial commission, the bureau of workers' compensation, the
functions of any administrative or executive officer, department,
division, bureau, board, or commission of the government of the
state specifically made subject to sections 119.01 to 119.13 of
the Revised Code, and the licensing functions of any
administrative or executive officer, department, division, bureau,
board, or commission of the government of the state having the
authority or responsibility of issuing, suspending, revoking, or

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canceling licenses. 240

Except as otherwise provided in division (I) of this section, 241
sections 119.01 to 119.13 of the Revised Code do not apply to the 242
public utilities commission. Sections 119.01 to 119.13 of the 243
Revised Code do not apply to the utility radiological safety 244
board; to the controlling board; to actions of the superintendent 245
of financial institutions and the superintendent of insurance in 246
the taking possession of, and rehabilitation or liquidation of, 247
the business and property of banks, savings and loan associations, 248
savings banks, credit unions, insurance companies, associations, 249
reciprocal fraternal benefit societies, and bond investment 250
companies; to any taken by the division of securities under 251
section 1707.201 of the Revised Code; or to any action that may be 252
taken by the superintendent of financial institutions under 253
section 1113.03, 1121.05, 1121.06, 1121.10, 1125.09, 1125.12, 254
1125.18, 1155.18, 1157.01, 1157.02, 1157.10, 1163.22, 1165.01, 255
1165.02, 1165.10, 1733.35, 1733.361, 1733.37, 1733.412, or 1761.03 256
of the Revised Code. 257

Sections 119.01 to 119.13 of the Revised Code do not apply to 258
actions of the industrial commission or the bureau of workers' 259
compensation under sections 4123.01 to 4123.94 of the Revised Code 260
with respect to all matters of adjudication, and to the actions of 261
the industrial commission and bureau of workers' compensation 262
under division (D) of section 4121.32 and sections 4123.29, 263
4123.34, 4123.341, 4123.342, 4123.40, 4123.411, 4123.44, 4123.442, 264
and divisions (B), (C), and (E) of section 4131.14 of the Revised 265
Code. 266

(2) "Agency" also means any official or work unit having 267
authority to promulgate rules or make adjudications in the 268
department of job and family services, but only with respect to 269
both of the following: 270

(a) The adoption, amendment, or rescission of rules that 271

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| section 5101.09 of the Revised Code requires be adopted in | 272 |
| accordance with this chapter; | 273 |
| (b) The issuance, suspension, revocation, or cancellation of | 274 |
| licenses. | 275 |
| (B) "License" means any license, permit, certificate, | 276 |
| commission, or charter issued by any agency. "License" does not | 277 |
| include any arrangement whereby a person, institution, or entity | 278 |
| furnishes medicaid services under a provider agreement with the | 279 |
| department of job and family services pursuant to Title XIX of the | 280 |
| "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as | 281 |
| amended. | 282 |
| (C) "Rule" means any rule, regulation, or standard, having a | 283 |
| general and uniform operation, adopted, promulgated, and enforced | 284 |
| by any agency under the authority of the laws governing such | 285 |
| agency, and includes any appendix to a rule. "Rule" does not | 286 |
| include any internal management rule of an agency unless the | 287 |
| internal management rule affects private rights and does not | 288 |
| include any guideline adopted pursuant to section 3301.0714 of the | 289 |
| Revised Code. | 290 |
| (D) "Adjudication" means the determination by the highest or | 291 |
| ultimate authority of an agency of the rights, duties, privileges, | 292 |
| benefits, or legal relationships of a specified person, but does | 293 |
| not include the issuance of a license in response to an | 294 |
| application with respect to which no question is raised, nor other | 295 |
| acts of a ministerial nature. | 296 |
| (E) "Hearing" means a public hearing by any agency in | 297 |
| compliance with procedural safeguards afforded by sections 119.01 | 298 |
| to 119.13 of the Revised Code. | 299 |
| (F) "Person" means a person, firm, corporation, association, | 300 |
| or partnership. | 301 |
| (G) "Party" means the person whose interests are the subject | 302 |

of an adjudication by an agency.

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(H) "Appeal" means the procedure by which a person, aggrieved by a finding, decision, order, or adjudication of any agency, invokes the jurisdiction of a court.

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(I) "Rule-making agency" means any board, commission, department, division, or bureau of the government of the state that is required to file proposed rules, amendments, or rescissions under division (D) of section 111.15 of the Revised Code and any agency that is required to file proposed rules, amendments, or rescissions under divisions (B) and (H) of section 119.03 of the Revised Code. "Rule-making agency" includes the public utilities commission. "Rule-making agency" does not include any state-supported college or university.

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(J) "Substantive revision" means any addition to, elimination from, or other change in a rule, an amendment of a rule, or a rescission of a rule, whether of a substantive or procedural nature, that changes any of the following:

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(1) That which the rule, amendment, or rescission permits, authorizes, regulates, requires, prohibits, penalizes, rewards, or otherwise affects;

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(2) The scope or application of the rule, amendment, or rescission.

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(K) "Internal management rule" means any rule, regulation, or standard governing the day-to-day staff procedures and operations within an agency.

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Sec. 1121.01. As used in this chapter:

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(A) "Financial institution regulatory authority" includes a regulator of a business activity in which a bank or trust company is engaged, or has applied to engage in, to the extent that the regulator has jurisdiction over a bank or trust company engaged in

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that business activity. A bank or trust company is engaged in a 333
business activity, and a regulator of that business activity has 334
jurisdiction over the bank or trust company, whether the bank or 335
trust company conducts the activity directly or a subsidiary or 336
affiliate of the bank or trust company conducts the activity. 337

(B) "Regulated person" means any of the following: 338

(1) A director, officer, or employee of or agent for a bank 339
or trust company or a controlling shareholder of a state bank, 340
foreign bank, or trust company; 341

(2) A person who is required to obtain, but has not yet 342
obtained, the consent of the superintendent of financial 343
institutions to acquire control of a bank pursuant to section 344
1115.06 of the Revised Code; 345

(3) A person participating in the conduct of the affairs of a 346
bank or trust company. 347

~~(B)~~(C) "Participating in the conduct of the affairs of a bank 348
or trust company" means either making decisions or, directly or 349
indirectly, taking actions that are management or policymaking in 350
nature and generally within the scope of authority of the bank's 351
or trust company's board of directors or executive officers. 352
Whether a person is or was participating in the conduct of the 353
affairs of a bank or trust company is an issue of fact, and not to 354
be determined solely on the basis of the person's title, contract, 355
or indicia of employment or independent contractor status. 356
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Sec. 1121.11. (A) In administering Chapters 1101. to 1127. of 358
the Revised Code and fulfilling the duties imposed by those 359
chapters, including the duty imposed by section 1121.10 of the 360
Revised Code, the superintendent of financial institutions may do 361
any of the following: 362

(1) Participate with financial institution regulatory 363
authorities of this and other states, the United States, and other 364
countries in any of the following: 365

(a) Programs for alternate examinations of the records and 366
affairs of banks and trust companies over which they have 367
concurrent jurisdiction; 368

(b) Joint or concurrent examinations of the records and 369
affairs of banks and trust companies over which they have 370
concurrent jurisdiction; 371

(c) Coordinated examinations of the records and affairs of 372
banks and trust companies over which they have collective 373
jurisdiction. 374

(2) Conduct, participate in, or coordinate independent, 375
concurrent, joint, or coordinated examinations of the records and 376
affairs of banks and trust companies and otherwise act on behalf 377
of financial institution regulatory authorities of this and other 378
states, the United States, and other countries having jurisdiction 379
over the banks and trust companies; 380

(3) Rely on information leading to, arising from, or obtained 381
in the course of examinations conducted by financial institution 382
regulatory authorities of this and other states, the United 383
States, and other countries when both of the following apply: 384
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(a) Pursuant to agreement and applicable law, the 386
superintendent may receive and use the information leading to, 387
arising from, or obtained in the course of the other regulatory 388
authorities' examinations in administering Chapters 1101. to 1127. 389
of the Revised Code and acting under the authority of those 390
chapters; 391

(b) In the superintendent's judgment the other regulatory 392
authorities' personnel, practices, and authority warrant the 393

superintendent's reliance.

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(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:

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(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
principally regulatory in nature, for disclosure of information
leading to, arising from, or obtained in the course of
examinations conducted by the division;

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

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(5) Rely on the actions of financial institution regulatory
authorities of this and other states, the United States, or other
countries, or participate with them jointly, in responding to
violations of law, unsafe or unsound practices, breaches of
fiduciary duty, or other regulatory concerns affecting banks and
trust companies over which they have concurrent jurisdiction when

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the other regulatory authorities have adequate personnel, 426
practices, and authority to warrant the reliance; 427

(6) Implement other cooperative arrangements with financial 428
institution regulatory authorities of this and other states, the 429
United States, and other countries consistent with safety and 430
soundness. 431

(B) No person shall use any reliance by the superintendent, 432
in whole or in part, on financial institution regulatory 433
authorities of this or other states, the United States, or other 434
countries in accordance with division (A) of this section to 435
support any assertion of either of the following: 436

(1) Failure of the superintendent or division to properly 437
administer Chapters 1101. to 1127. of the Revised Code or fulfill 438
the duties imposed by those chapters; 439

(2) Disagreement by the superintendent or division with any 440
action taken by financial institution regulatory authorities of 441
this or other states, the United States, or other countries. 442

(C) In conducting, participating in, or coordinating 443
independent, concurrent, joint, or coordinated examinations of the 444
records and affairs of banks and trust companies, the 445
superintendent may purchase services from financial institution 446
regulatory authorities of this and other states, the United 447
States, and other countries, including services provided by 448
employees of other financial institution regulatory authorities in 449
their capacities as employees of other financial institution 450
regulatory authorities. The purchase of services from one or more 451
financial institution regulatory authorities of this and other 452
states, the United States, or other countries is the purchase of 453
services from a sole source provider and is not the employment of 454
any financial institution regulatory authority or any of its 455
employees. 456

The authority to purchase services pursuant to this division 457
does not impair the superintendent's authority to purchase 458
services from any other source. 459

Sec. 1121.18. (A) Information leading to, arising from, or 460
obtained in the course of the examination of a bank or any 461
examination conducted pursuant to the authority of section 1121.10 462
or 1121.11 of the Revised Code is privileged and confidential. No 463
person, including any person to whom the information is disclosed 464
under the authority of this section, shall disclose information 465
leading to, arising from, or obtained in the course of an 466
examination, except as specifically provided in this section. 467

(B) The superintendent of financial institutions and the 468
superintendent's agents and employees may disclose information 469
leading to, arising from, or obtained in the course of an 470
examination conducted pursuant to section 1121.10 or 1121.11 of 471
the Revised Code as follows: 472

(1) To the governor, director of commerce, or deputy director 473
of commerce to enable them to act in the interests of the public; 474
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(2) To the banking commission to enable the commission to 476
effectively advise the superintendent and take action on any 477
matter the superintendent presents to the commission; 478

(3) To financial institution regulatory authorities of this 479
and other states, the United States, and other countries to assist 480
them in their regulatory duties; 481

(4) To the directors, officers, agents, and parent company of 482
the bank or other person examined to assist them in conducting the 483
business of the bank or other person examined in a safe and sound 484
manner and in compliance with law; 485

(5) To law enforcement authorities conducting criminal 486

investigations. 487

(C)(1) Information leading to, arising from, or obtained in 488
the course of an examination of a bank or other person pursuant to 489
section 1121.10 or 1121.11 of the Revised Code shall not be 490
discoverable from any source, and shall not be introduced into 491
evidence, except in the following circumstances: 492

(a) In connection with criminal proceedings; 493

(b) When, in the opinion of the superintendent, it is 494
appropriate with regard to enforcement actions taken and decisions 495
made by the superintendent under the authority of Chapters 1101. 496
to 1127. of the Revised Code regarding a bank, trust company, or 497
other person; 498

(c) When litigation has been initiated by the superintendent 499
in furtherance of the powers, duties, and obligations imposed upon 500
the superintendent by Chapters 1101. to 1127. of the Revised Code; 501

(d) When authorized by agreements between the superintendent 502
and financial institution regulatory authorities of this and other 503
states, the United States, and other countries authorized by 504
section 1121.11 of the Revised Code; 505

(e) When and in the manner authorized in section 1181.25 of 506
the Revised Code. 507

(2) The discovery of information leading to, arising from, or 508
obtained in the course of an examination pursuant to division 509
(C)(1)(b), (c), or (d) of this section shall be limited to 510
information that directly relates to the bank, trust company, 511
regulated person, or other person who is the subject of the 512
enforcement action, decision, or litigation. 513

(D) A report of an examination conducted pursuant to section 514
1121.10 or 1121.11 of the Revised Code is the property of the 515
division of financial institutions. Under no circumstances may the 516

bank or other person examined, its directors, officers, employees, 517
agents, regulated persons, or contractors, or any person having 518
knowledge or possession of a report of examination, or any of its 519
contents, disclose or make public in any manner the report of 520
examination or its contents. The authority provided in division 521
(B)(4) of this section for use of examination information to 522
assist in conducting the business of the bank or other person 523
examined in a safe and sound manner and in compliance with law 524
shall not be construed to authorize disclosure of a report of 525
examination or any of its contents in conducting business with the 526
examined bank's or person's customers, creditors, or shareholders, 527
or with other persons. 528

(E) Whoever violates this section shall be removed from 529
office, shall be liable, with the violator's bond in damages to 530
the person injured by the disclosure of information, and is guilty 531
of a felony of the fourth degree. 532

Sec. 1155.01. As used in sections 1155.01 to 1155.20 of the 533
Revised Code: 534

(A) "Controlling person" means any person or entity which, 535
either directly or indirectly, or acting in concert with one or 536
more other persons or entities, owns, controls, or holds with 537
power to vote, or holds proxies representing, fifteen per cent or 538
more of the voting shares or rights of a savings and loan 539
association, or controls in any manner the election or appointment 540
of a majority of the directors of an association. However, a 541
director of an association will not be deemed to be a controlling 542
person of such association based upon ~~his~~ the director's voting, 543
or acting in concert with other directors in voting, proxies 544
obtained in connection with an annual solicitation of proxies or 545
obtained from savings account holders and borrowers if such 546
proxies are voted as directed by a majority of the entire board of 547

directors of the association, or of a committee of such directors 548
if such committee's composition and authority are controlled by a 549
majority vote of the entire board and if its authority is 550
revocable by such a majority. 551

(B) "Independent auditor" means an accountant who is licensed 552
to practice as a certified public accountant or public accountant 553
by this state, and who is employed or otherwise retained by a 554
savings and loan association to audit its accounts. An independent 555
auditor may not be an employee of the association, its 556
subsidiaries, or holding company affiliates. 557

(C) "Outside director" means a director of a savings and loan 558
association who is not an officer or employee of the association, 559
an independent auditor of the association, an attorney of the 560
association, or any other person having a fiduciary relationship, 561
other than that of being a director, with the association. 562

(D) "Holding company affiliate" means a savings and loan 563
holding company of which the savings and loan association is a 564
subsidiary and any other subsidiary of such holding company other 565
than a subsidiary of such association. 566

(E) "Financial institution regulatory authority" includes a 567
regulator of a business activity in which a savings and loan 568
association is engaged, or has applied to engage in, to the extent 569
that the regulator has jurisdiction over a savings and loan 570
association engaged in that business activity. A savings and loan 571
association is engaged in a business activity, and a regulator of 572
that business activity has jurisdiction over the savings and loan 573
association, whether the savings and loan association conducts the 574
activity directly or a subsidiary or affiliate of the savings and 575
loan association conducts the activity. 576

Sec. 1155.091. (A) In administering Chapters 1151. to 1157. 577
of the Revised Code and fulfilling the duties imposed by those 578

chapters, including the duty imposed by section 1151.09 of the 579
Revised Code, the superintendent of financial institutions may do 580
any of the following: 581

(1) Participate with financial institution regulatory 582
authorities of this and other states, the United States, and other 583
countries in any of the following: 584

(a) Programs for alternate examinations of the records and 585
affairs of savings and loan associations over which they have 586
concurrent jurisdiction; 587

(b) Joint or concurrent examinations of the records and 588
affairs of savings and loan associations over which they have 589
concurrent jurisdiction; 590

(c) Coordinated examinations of the records and affairs of 591
savings and loan associations over which they have collective 592
jurisdiction. 593

(2) Conduct, participate in, or coordinate independent, 594
concurrent, joint, or coordinated examinations of the records and 595
affairs of savings and loan associations and otherwise act on 596
behalf of financial institution regulatory authorities of this and 597
other states, the United States, and other countries having 598
jurisdiction over the savings and loan associations; 599

(3) Rely on information leading to, arising from, or obtained 600
in the course of examinations conducted by financial institution 601
regulatory authorities of this and other states, the United 602
States, and other countries when both of the following apply: 603

(a) Pursuant to agreement and applicable law, the 604
superintendent may receive and use the information leading to, 605
arising from, or obtained in the course of the other regulatory 606
authorities' examinations in administering Chapters 1151. to 1157. 607
of the Revised Code and acting under the authority of those 608
609

chapters; 610

(b) In the superintendent's judgment the other regulatory 611
authorities' personnel, practices, and authority warrant the 612
superintendent's reliance. 613

(4) Authorize financial institution regulatory authorities of 614
this and other states, the United States, and other countries to 615
receive and use information leading to, arising from, or obtained 616
in the course of examinations conducted by the division of 617
financial institutions in the same manner and for the purposes 618
they could use information leading to, arising from, or obtained 619
in the course of their own examinations when both of the following 620
apply: 621

(a) Pursuant to applicable law, information leading to, 622
arising from, or obtained in the course of examinations the other 623
regulatory authorities conduct is protected from general 624
disclosure and may only be disclosed for purposes similar to those 625
provided in section 1155.16 of the Revised Code, which are 626
principally regulatory in nature, for disclosure of information 627
leading to, arising from, or obtained in the course of 628
examinations conducted by the division; 629

(b) Pursuant to agreement and applicable law, information 630
leading to, arising from, or obtained in the course of 631
examinations conducted by the division will, in the other 632
regulatory authorities' possession or the possession of any 633
persons to whom the other regulatory authorities disclosed the 634
information as a part of examinations of those persons, be 635
protected from disclosure to the same extent as information 636
leading to, arising from, or obtained in the course of those 637
regulatory authorities' examinations. 638

(5) Rely on the actions of financial institution regulatory 639
authorities of this and other states, the United States, or other 640

countries, or participate with them jointly, in responding to 641
violations of law, unsafe or unsound practices, breaches of 642
fiduciary duty, or other regulatory concerns affecting savings and 643
loan associations over which they have concurrent jurisdiction 644
when the other regulatory authorities have adequate personnel, 645
practices, and authority to warrant the reliance; 646

(6) Implement other cooperative arrangements with financial 647
institution regulatory authorities of this and other states, the 648
United States, and other countries consistent with safety and 649
soundness. 650

(B) No person shall use any reliance by the superintendent, 651
in whole or in part, on financial institution regulatory 652
authorities of this or other states, the United States, or other 653
countries in accordance with division (A) of this section to 654
support any assertion of either of the following: 655

(1) Failure of the superintendent or division to properly 656
administer Chapters 1151. to 1157. of the Revised Code or fulfill 657
the duties imposed by those chapters; 658

(2) Disagreement by the superintendent or division with any 659
action taken by financial institution regulatory authorities of 660
this or other states, the United States, or other countries. 661

(C) In conducting, participating in, or coordinating 662
independent, concurrent, joint, or coordinated examinations of the 663
records and affairs of savings and loan associations, the 664
superintendent may purchase services from financial institution 665
regulatory authorities of this and other states, the United 666
States, and other countries, including services provided by 667
employees of other financial institution regulatory authorities. 668
The purchase of services from one or more financial institution 669
regulatory authorities of this and other states, the United 670
States, and other countries is the purchase of services from a 671
sole source provider and is not the employment of any financial 672

institution regulatory authority or any of its employees. 673

The authority to purchase services pursuant to this division 674
does not impair the superintendent's authority to purchase 675
services from any other source. 676

Sec. 1155.16. (A)(1) Except as provided in division (B) of 677
this section, the superintendent of ~~savings and loan associations~~ 678
financial institutions, the superintendent's agents, and employees 679
shall keep privileged and confidential the examination reports, 680
information obtained in an examination, or any other information 681
obtained by reason of their official position. This section does 682
not prevent the superintendent from properly releasing to or 683
exchanging information relating to a savings and loan association, 684
or its affairs, with the governor, the director of commerce, the 685
deputy director of commerce, or representatives of state or 686
federal financial institution regulatory ~~agencies or governmental~~ 687
authorities, or prevent such release by the association or its 688
officers or directors, in the conduct of the business of the 689
association. 690

(2) Any person who receives privileged and confidential 691
examination reports or other information under the authority of 692
this section is also subject to the requirements of this section 693
and such person, knowing that such examination reports or 694
information are privileged and confidential, shall not purposely 695
divulge such reports or information in any manner. 696

(3) If the superintendent, an agent of the superintendent, or 697
an employee of the superintendent purposely makes, or causes to be 698
made, any false statements or reports regarding the affairs or 699
condition of a savings and loan association, the act constitutes 700
falsification under section 2921.13 of the Revised Code. 701

(B) Examination reports, information obtained in an 702
examination, and any other information obtained by reason of the 703

official position of the division of ~~savings and loan associations~~ 704
financial institutions shall not be discoverable from any source, 705
and shall not be introduced into evidence, except in the following 706
situations: 707

(1) In connection with criminal proceedings; 708

(2) When, in the opinion of the superintendent, it is 709
necessary for the superintendent or for the agents or employees of 710
the superintendent to take enforcement action under Chapter 1151., 711
1153., 1155., or 1157. of the Revised Code regarding the affairs 712
of the savings and loan association examined; 713

(3) When litigation has been initiated by the superintendent 714
in furtherance of the powers, duties, and obligations imposed upon 715
the superintendent by Chapter 1151., 1153., 1155., or 1157. of the 716
Revised Code; 717

(4) When authorized by agreements between the superintendent 718
and financial institution regulatory authorities of this and other 719
states, the United States, and other countries authorized by 720
section 1155.091 of the Revised Code; 721

(5) When and in the manner authorized in section 1181.25 of 722
the Revised Code. 723

(C) The discovery of examination reports and other related 724
material pursuant to divisions (B)(2) and (3) of this section 725
shall be limited to information that directly relates to the 726
association that is the subject of the enforcement action or the 727
litigation. 728

(D)(1) No person shall fail to comply with division (A)(1), 729
(2), or (3) of this section. 730

(2) Whoever violates division (D)(1) of this section is 731
guilty of a felony of the fourth degree. 732

Sec. 1163.01. As used in this chapter: 733

(A) "Controlling person" means any person or entity which, 734
either directly or indirectly, or acting in concert with one or 735
more other persons or entities, owns, controls, or holds with 736
power to vote, or holds proxies representing, fifteen per cent or 737
more of the voting shares or rights of a savings bank, or controls 738
in any manner the election or appointment of a majority of the 739
directors of a savings bank. However, a director of a savings bank 740
is not deemed to be a controlling person of the savings bank based 741
upon ~~his~~ the director's voting, or acting in concert with other 742
directors in voting, proxies obtained in connection with an annual 743
solicitation of proxies or obtained from savings account holders 744
and borrowers if the proxies are voted as directed by a majority 745
of the entire board of directors of the savings bank, or of a 746
committee of the directors if the committee's composition and 747
authority are controlled by a majority vote of the entire board 748
and if its authority is revocable by such a majority. 749

(B) "Independent auditor" means an accountant who is licensed 750
to practice as a certified public accountant or public accountant 751
by this state, and who is employed or otherwise retained by a 752
savings bank to audit its accounts. An independent auditor may not 753
be an employee of the savings bank, its subsidiaries, or holding 754
company affiliates. 755

(C) "Outside director" means a director of a savings bank who 756
is not an officer or employee of the savings bank, an independent 757
auditor of the savings bank, an attorney of the savings bank, or 758
any other person having a fiduciary relationship, other than that 759
of being a director, with the savings bank. 760

(D) "Holding company affiliate" means a bank holding company 761
or a savings and loan holding company of which the savings bank is 762
a subsidiary and any other subsidiary of the holding company other 763
than a subsidiary of the savings bank. 764

(E) "Financial institution regulatory authority" includes a 765
regulator of a business activity in which a savings bank is 766
engaged, or has applied to engage in, to the extent that the 767
regulator has jurisdiction over a savings bank engaged in that 768
business activity. A savings bank is engaged in a business 769
activity, and a regulator of that business activity has 770
jurisdiction over the savings bank, whether the savings bank 771
conducts the activity directly or a subsidiary or affiliate of the 772
savings bank conducts the activity. 773

Sec. 1163.121. (A) In administering Chapters 1161. to 1165. 774
of the Revised Code and fulfilling the duties imposed by those 775
chapters, including the duty imposed by section 1163.12 of the 776
Revised Code, the superintendent of financial institutions may do 777
any of the following: 778

(1) Participate with financial institution regulatory 779
authorities of this and other states, the United States, and other 780
countries in any of the following: 781

(a) Programs for alternate examinations of the records and 782
affairs of savings banks over which they have concurrent 783
jurisdiction; 784

(b) Joint or concurrent examinations of the records and 785
affairs of savings banks over which they have concurrent 786
jurisdiction; 787

(c) Coordinated examinations of the records and affairs of 788
savings banks over which they have collective jurisdiction. 789

(2) Conduct, participate in, or coordinate independent, 790
concurrent, joint, or coordinated examinations of the records and 791
affairs of savings banks and otherwise act on behalf of financial 792
institution regulatory authorities of this and other states, the 793
United States, and other countries having jurisdiction over the 794

savings banks; 795

(3) Rely on information leading to, arising from, or obtained 796
in the course of examinations conducted by financial institution 797
regulatory authorities of this and other states, the United 798
States, and other countries when both of the following apply: 799
800

(a) Pursuant to agreement and applicable law, the 801
superintendent may receive and use the information leading to, 802
arising from, or obtained in the course of the other regulatory 803
authorities' examinations in administering Chapters 1161. to 1165. 804
of the Revised Code and acting under the authority of those 805
chapters; 806

(b) In the superintendent's judgment the other regulatory 807
authorities' personnel, practices, and authority warrant the 808
superintendent's reliance. 809

(4) Authorize financial institution regulatory authorities of 810
this and other states, the United States, and other countries to 811
receive and use information leading to, arising from, or obtained 812
in the course of examinations conducted by the division of 813
financial institutions in the same manner and for the purposes 814
they could use information leading to, arising from, or obtained 815
in the course of their own examinations when both of the following 816
apply: 817

(a) Pursuant to applicable law, information leading to, 818
arising from, or obtained in the course of examinations the other 819
regulatory authorities conduct is protected from general 820
disclosure and may only be disclosed for purposes similar to those 821
provided in section 1163.20 of the Revised Code, which are 822
principally regulatory in nature, for disclosure of information 823
leading to, arising from, or obtained in the course of 824
examinations conducted by the division; 825

(b) Pursuant to agreement and applicable law, information 826
leading to, arising from, or obtained in the course of 827
examinations conducted by the division will, in the other 828
regulatory authorities' possession or the possession of any 829
persons to whom the other regulatory authorities disclosed the 830
information as a part of examinations of those persons, be 831
protected from disclosure to the same extent as information 832
leading to, arising from, or obtained in the course of those 833
regulatory authorities' examinations. 834

(5) Rely on the actions of financial institution regulatory 835
authorities of this and other states, the United States, or other 836
countries, or participate with them jointly, in responding to 837
violations of law, unsafe or unsound practices, breaches of 838
fiduciary duty, or other regulatory concerns affecting savings 839
banks over which they have concurrent jurisdiction when the other 840
regulatory authorities have adequate personnel, practices, and 841
authority to warrant the reliance; 842

(6) Implement other cooperative arrangements with financial 843
institution regulatory authorities of this and other states, the 844
United States, and other countries consistent with safety and 845
soundness. 846

(B) No person shall use any reliance by the superintendent, 847
in whole or in part, on financial institution regulatory 848
authorities of this or other states, the United States, or other 849
countries in accordance with division (A) of this section to 850
support any assertion of either of the following: 851

(1) Failure of the superintendent or division to properly 852
administer Chapters 1161. to 1165. of the Revised Code or fulfill 853
the duties imposed by those chapters; 854

(2) Disagreement by the superintendent or division with any 855
action taken by financial institution regulatory authorities of 856

this or other states, the United States, or other countries. 857

(C) In conducting, participating in, or coordinating 858
independent, concurrent, joint, or coordinated examinations of the 859
records and affairs of savings banks, the superintendent may 860
purchase services from financial institution regulatory 861
authorities of this and other states, the United States, and other 862
countries, including services provided by employees of other 863
financial institution regulatory authorities. The purchase of 864
services from one or more financial institution regulatory 865
authorities of this and other states, the United States, and other 866
countries is the purchase of services from a sole source provider 867
and is not the employment of any financial institution regulatory 868
authority or any of its employees. 869

The authority to purchase services pursuant to this division 870
does not impair the superintendent's authority to purchase 871
services from any other source. 872

Sec. 1163.20. (A)(1) Except as provided in division (B) of 873
this section, the superintendent of ~~savings banks~~ financial 874
institutions, his agents, and employees shall keep privileged and 875
confidential the examination reports, information obtained in an 876
examination, or any other information obtained by reason of their 877
official position. This section does not prevent the 878
superintendent from properly releasing to or exchanging 879
information relating to a savings bank, or its affairs, with the 880
governor, the director of commerce, the deputy director of 881
commerce, or representatives of state or federal financial 882
institution regulatory ~~agencies or governmental~~ authorities, or 883
prevent such release by the savings bank or its officers or 884
directors, in the conduct of the business of the savings bank. 885

(2) Any person who receives privileged and confidential 886
examination reports or other information under the authority of 887

this section also is subject to the requirements of this section. 888
No person, knowing that the examination reports or information are 889
privileged and confidential, shall purposely divulge the reports 890
or information in any manner. 891

(3) Neither the superintendent, nor any agent or employee of 892
the superintendent, shall purposely make, or cause to be made, any 893
false statements or reports regarding the affairs or condition of 894
a savings bank. 895

(B) Examination reports, information obtained in an 896
examination, and any other information obtained by reason of the 897
official position of the division of ~~savings banks~~ financial 898
institutions shall not be discoverable from any source, and shall 899
not be introduced into evidence, except in the following 900
situations: 901

(1) In connection with criminal proceedings; 902

(2) When, in the opinion of the superintendent, it is 903
necessary for the superintendent, his agents, or employees to take 904
enforcement action under this chapter or Chapter 1161. or 1165. of 905
the Revised Code regarding the affairs of the savings bank 906
examined; 907

(3) When litigation has been initiated by the superintendent 908
in furtherance of the powers, duties, and obligations imposed upon 909
the superintendent by this chapter or Chapter 1161. or 1165. of 910
the Revised Code; 911

(4) When authorized by agreements between the superintendent 912
and financial institution regulatory authorities of this and other 913
states, the United States, and other countries authorized by 914
section 1163.121 of the Revised Code; 915

(5) When and in the manner authorized in section 1181.25 of 916
the Revised Code. 917

(C) The discovery of examination reports and other related 918
material pursuant to divisions (B)(2) and (3) of this section 919
shall be limited to information that directly relates to the 920
savings bank which is the subject of the enforcement action or the 921
litigation. 922

(D)(1) No person shall fail to comply with division (A)(1), 923
(2), or (3) of this section. 924

(2) Whoever violates division (D)(1) of this section is 925
guilty of a felony of the fourth degree. 926

Sec. 1181.25. The superintendent of financial institutions 927
may introduce into evidence or disclose, or authorize to be 928
introduced into evidence or disclosed, information that, under 929
sections 1121.18, 1155.16, 1163.20, 1321.09, 1321.55, 1321.76, 930
1322.06, 1322.061, 1733.32, 1733.327, and 4727.18 of the Revised 931
Code, is privileged, confidential, or otherwise not public 932
information or a public record, provided that the superintendent 933
acts only as provided in those sections or in the following 934
circumstances: 935

(A) When in the opinion of the superintendent, it is 936
appropriate with regard to any enforcement actions taken and 937
decisions made by the superintendent under Chapters 1315., 1321., 938
1322., 1733., 4712., 4727., and 4728. of the Revised Code or Title 939
XI of the Revised Code; 940

(B) When litigation has been initiated by the superintendent 941
in furtherance of the powers, duties, and obligations imposed upon 942
the superintendent by Chapters 1315., 1321., 1322., 1733., 4712., 943
4727., and 4728. of the Revised Code or Title XI of the Revised 944
Code; 945

(C) When in the opinion of the superintendent, it is 946
appropriate with regard to enforcement actions taken or decisions 947

made by other financial institution regulatory authorities to whom 948
the superintendent has provided the information pursuant to 949
authority in Chapters 1315., 1321., 1322., 1733., 4712., 4727., 950
and 4728. of the Revised Code or Title XI of the Revised Code. 951

Sec. 1321.09. (A) Every licensee shall keep and use in the 952
licensee's business such books, accounts, and records as will 953
enable the division of financial institutions to determine whether 954
the licensee is complying with sections 1321.01 to 1321.19 of the 955
Revised Code and with the orders and rules made by the division 956
under those sections. Every licensee shall preserve such books, 957
accounts, and records for at least two years after making the 958
final entry on any loan recorded therein. Accounting systems 959
maintained in whole or in part by mechanical or electronic data 960
processing methods that provide information equivalent to that 961
otherwise required are acceptable for this purpose. 962

As required by the superintendent of financial institutions, 963
every licensee each year shall file a report with the division 964
giving such relevant information concerning the business and 965
operations, during the preceding calendar year, of each licensed 966
place of business conducted by the licensee within the state. If a 967
licensee has more than one place of business within this state it 968
is optional with the licensee to furnish the report for each 969
location, or a composite report for all locations. Such report 970
shall be made under oath in the form prescribed by the division, 971
which shall make and publish annually an analysis and 972
recapitulation of such reports. Such licensee reports are not 973
public records and shall only be used by the division for the 974
purpose of enforcing sections 1321.01 to 1321.19 of the Revised 975
Code or any rules or orders made in compliance with those 976
sections. Such licensee reports may be introduced into evidence or 977
disclosed when and in the manner authorized in section 1181.25 of 978
the Revised Code, or in connection with criminal proceedings. 979

This section does not prevent the division from releasing to 980
or exchanging with other financial institution regulatory 981
authorities information relating to licensees. 982

(B) For purposes of this section, "financial institution 983
regulatory authority" includes a regulator of a business activity 984
in which a licensee is engaged, or has applied to engage in, to 985
the extent that the regulator has jurisdiction over a licensee 986
engaged in that business activity. A licensee is engaged in a 987
business activity, and a regulator of that business activity has 988
jurisdiction over the licensee, whether the licensee conducts the 989
activity directly or a subsidiary or affiliate of the licensee 990
conducts the activity. 991

Sec. 1321.55. (A) Every registrant shall keep records 992
pertaining to loans made under sections 1321.51 to 1321.60 of the 993
Revised Code. Such records shall be segregated from records 994
pertaining to transactions that are not subject to these sections 995
of the Revised Code. Every registrant shall preserve records 996
pertaining to loans made under sections 1321.51 to 1321.60 of the 997
Revised Code for at least two years after making the final entry 998
on such records. Accounting systems maintained in whole or in part 999
by mechanical or electronic data processing methods that provide 1000
information equivalent to that otherwise required are acceptable 1001
for this purpose. At least once each eighteen-month cycle, the 1002
division of financial institutions shall make or cause to be made 1003
an examination of records pertaining to loans made under sections 1004
1321.51 to 1321.60 of the Revised Code, for the purpose of 1005
determining whether the registrant is complying with these 1006
sections and of verifying the registrant's annual report. 1007

(B)(1) As required by the superintendent of financial 1008
institutions, each registrant shall file with the division each 1009
year a report under oath or affirmation, on forms supplied by the 1010

division, concerning the business and operations for the preceding 1011
calendar year. Whenever a registrant operates two or more 1012
registered offices or whenever two or more affiliated registrants 1013
operate registered offices, then a composite report of the group 1014
of registered offices may be filed in lieu of individual reports. 1015

(2) The division shall publish annually an analysis of the 1016
information required under division (B)(1) of this section, but 1017
the individual reports shall not be public records and shall not 1018
be open to public inspection. 1019

(C) All information obtained by the superintendent or the 1020
superintendent's deputies, examiners, assistants, agents, or 1021
clerks by reason of their official position, including information 1022
obtained by such persons from the annual report of a registrant or 1023
in the course of examining a registrant or investigating an 1024
applicant for a certificate, is privileged and confidential. All 1025
such information shall remain privileged and confidential for all 1026
purposes except when it is necessary for the superintendent and 1027
the superintendent's deputies, examiners, assistants, agents, or 1028
clerks to take official action regarding the affairs of the 1029
registrant or in connection with criminal proceedings. Such 1030
information may also be introduced into evidence or disclosed when 1031
and in the manner authorized in section 1181.25 of the Revised 1032
Code. 1033

(D) No person is in violation of sections 1321.51 to 1321.60 1034
of the Revised Code for any act taken or omission made in reliance 1035
on a written notice, interpretation, or examination report from 1036
the superintendent. 1037

(E) This section does not prevent the division from releasing 1038
to or exchanging with other financial institution regulatory 1039
authorities information relating to registrants. 1040

(F) For purposes of this section, "financial institution 1041

regulatory authority" includes a regulator of a business activity 1042
in which a registrant is engaged, or has applied to engage in, to 1043
the extent that the regulator has jurisdiction over a registrant 1044
engaged in that business activity. A registrant is engaged in a 1045
business activity, and a regulator of that business activity has 1046
jurisdiction over the registrant, whether the registrant conducts 1047
the activity directly or a subsidiary or affiliate of the 1048
registrant conducts the activity. 1049

Sec. 1321.76. (A) Each licensee shall keep records of its 1050
insurance premium finance transactions conducted under sections 1051
1321.71 to 1321.83 of the Revised Code. Such records shall be 1052
maintained separately from any records pertaining to transactions 1053
that are not subject to those sections. Each licensee shall 1054
preserve its records pertaining to insurance premium finance 1055
transactions conducted under sections 1321.71 to 1321.83 of the 1056
Revised Code for at least two years after the final entry on such 1057
records. Preservation of records by means of accounting systems 1058
maintained in whole or in part by mechanical or electronic data 1059
processing methods constitutes compliance with this division. 1060

The division of financial institutions for purposes of 1061
determining whether a licensee is complying with sections 1321.71 1062
to 1321.83 of the Revised Code, may make or cause to be made an 1063
examination of records pertaining to insurance premium finance 1064
transactions conducted under those sections. 1065

(B) If a licensee's books, records, data, and other documents 1066
are located outside this state, the licensee shall, upon the 1067
request of the superintendent of financial institutions, deposit 1068
with the division an amount equal to the estimated costs, as 1069
determined by the superintendent, of an examination of the 1070
licensee conducted outside this state. After the actual costs of 1071
the examination have been determined and itemized by the division, 1072

the division shall return to the licensee any amount it had 1073
deposited in excess of the actual costs. 1074

(C) All information obtained by the superintendent or the 1075
superintendent's deputies, examiners, assistants, agents, or 1076
clerks by reason of their official position, including information 1077
obtained by such persons in the course of examining a licensee or 1078
investigating an applicant for a license, is privileged and 1079
confidential. All such information shall remain privileged and 1080
confidential for all purposes except when, in the opinion of the 1081
superintendent, it is necessary for the superintendent and the 1082
superintendent's deputies, examiners, assistants, agents, or 1083
clerks to take official action in administering and enforcing 1084
sections 1321.71 to 1321.83 of the Revised Code or in connection 1085
with criminal proceedings. Such information may also be introduced 1086
into evidence or disclosed when and in the manner authorized in 1087
section 1181.25 of the Revised Code. 1088

(D) This section does not prevent the division from releasing 1089
to or exchanging with other financial institution regulatory 1090
authorities information relating to licensees. 1091

(E) For purposes of this section, "financial institution 1092
regulatory authority" includes a regulator of a business activity 1093
in which a licensee is engaged, or has applied to engage in, to 1094
the extent that the regulator has jurisdiction over a licensee 1095
engaged in that business activity. A licensee is engaged in a 1096
business activity, and a regulator of that business activity has 1097
jurisdiction over the licensee, whether the licensee conducts the 1098
activity directly or a subsidiary or affiliate of the licensee 1099
conducts the activity. 1100

Sec. 1322.06. (A) As often as the superintendent of financial 1101
institutions considers it necessary, the superintendent may 1102
examine the registrant's records pertaining to business transacted 1103

pursuant to sections 1322.01 to 1322.12 of the Revised Code. 1104

(B) A registrant shall maintain records pertaining to 1106
business transacted pursuant to sections 1322.01 to 1322.12 of the 1107
Revised Code for two years or more after the final entry on such 1108
records. No registrant shall fail to comply with this division. 1109

(C)(1) All information obtained by the superintendent or the 1110
superintendent's deputies, examiners, assistants, agents, or 1111
clerks by reason of their official position, including information 1112
obtained by such persons in the course of examining a registrant 1113
or investigating an applicant for a certificate of registration, 1114
is privileged and confidential. All such information shall remain 1115
privileged and confidential for all purposes except when it is 1116
necessary for the superintendent ~~and the superintendent's~~ 1117
~~deputies, examiners, assistants, agents, or clerks~~ to take 1118
official action regarding the affairs of the registrant or in 1119
connection with criminal proceedings. This information may also be 1120
introduced into evidence or disclosed when and in the manner 1121
authorized by section 1181.25 of the Revised Code. 1122

(2) All application information, except social security 1123
numbers, employer identification numbers, financial account 1124
numbers, the identity of the institution where financial accounts 1125
are maintained, personal financial information, fingerprint cards 1126
and the information contained on such cards, and criminal 1127
background information, is a public record as defined in section 1128
149.43 of the Revised Code. 1129

(3) This section does not prevent the division of financial 1130
institutions from releasing to or exchanging with other financial 1131
institution regulatory authorities information relating to 1132
registrants. For this purpose, a "financial institution regulatory 1133
authority" includes a regulator of a business activity in which a 1134
registrant is engaged, or has applied to engage in, to the extent 1135

that the regulator has jurisdiction over a registrant engaged in 1136
that business activity. A registrant is engaged in a business 1137
activity, and a regulator of that business activity has 1138
jurisdiction over the registrant, whether the registrant conducts 1139
the activity directly or a subsidiary or affiliate of the 1140
registrant conducts the activity. 1141

(4) This section does not prevent the division from releasing 1142
information relating to registrants to the attorney general for 1143
purposes relating to the attorney general's administration of 1144
Chapter 1345. of the Revised Code. Information the division 1145
releases to the attorney general pursuant to this section remains 1146
privileged and confidential, and the attorney general may not 1147
disclose the information or introduce the information into 1148
evidence unless the superintendent authorizes the disclosure or 1149
introduction into evidence in connection with the attorney 1150
general's administration of Chapter 1345. of the Revised Code. 1151

Sec. 1322.061. (A)(1) The following information is privileged 1153
and confidential: 1154

(a) Examination information, and any information leading to 1155
or arising from an examination; 1156

(b) Investigation information, and any information arising 1157
from or leading to an investigation. 1158

(2) The information described in division (A)(1) of this 1159
section shall remain privileged and confidential for all purposes 1160
except when it is necessary for the superintendent of financial 1161
institutions to take official action regarding the affairs of a 1162
registrant or licensee, or in connection with ~~civil or~~ criminal 1163
~~investigations or proceedings conducted by the attorney general or~~ 1164
~~a county prosecutor. The superintendent may share examination and~~ 1165
~~investigation information with any law enforcement agency or any~~ 1166

~~other state or federal regulatory agency. Any information shared 1167
with the attorney general, a county prosecutor, or a law 1168
enforcement agency or other state or federal regulatory agency 1169
shall remain privileged and confidential and shall only be used in 1170
connection with an official investigation, proceeding, or action. 1171
This information may also be introduced into evidence or disclosed 1172
when and in the manner authorized by section 1181.25 of the 1173
Revised Code. 1174~~

(B) All application information, except social security 1175
numbers, employer identification numbers, financial account 1176
numbers, the identity of the institution where financial accounts 1177
are maintained, personal financial information, fingerprint cards 1178
and the information contained on such cards, and criminal 1179
background information, is a public record as defined in section 1180
149.43 of the Revised Code. 1181

(C) This section does not prevent the division of financial 1182
institutions from releasing to or exchanging with other financial 1183
institution regulatory authorities information relating to 1184
registrants and licensees. For this purpose, a "financial 1185
institution regulatory authority" includes a regulator of a 1186
business activity in which a registrant or licensee is engaged, or 1187
has applied to engage in, to the extent that the regulator has 1188
jurisdiction over a registrant or licensee engaged in that 1189
business activity. A registrant or licensee is engaged in a 1190
business activity, and a regulator of that business activity has 1191
jurisdiction over the registrant or licensee, whether the 1192
registrant or licensee conducts the activity directly or a 1193
subsidiary or affiliate of the registrant or licensee conducts the 1194
activity. 1195

(D) This section does not prevent the division from releasing 1196
information relating to registrants and licensees to the attorney 1197
general for purposes relating to the attorney general's 1198

administration of Chapter 1345. of the Revised Code. Information 1199
the division releases to the attorney general pursuant to this 1200
section remains privileged and confidential, and the attorney 1201
general may not disclose the information or introduce the 1202
information into evidence unless the superintendent authorizes the 1203
disclosure or introduction into evidence in connection with the 1204
attorney general's administration of Chapter 1345. of the Revised 1205
Code. 1206

Sec. 1707.092. (A) For the purposes of selling securities in 1207
this state, except securities that are the subject matter of 1208
transactions enumerated in section 1707.03 of the Revised Code, an 1209
investment company, as defined by the Investment Company Act of 1210
1940, that is registered or has filed a registration statement 1211
with the securities and exchange commission under the Investment 1212
Company Act of 1940, shall file the following with the division of 1213
securities: 1214

~~(1) For the purposes of the sale of securities by a managed~~ 1215
~~investment company, as defined in the Investment Company Act of~~ 1216
~~1940:~~ 1217

~~(a)~~ A notice filing consisting of either of the following: 1218

~~(i)(a)~~ A copy of the investment company's federal 1219
registration statement as filed with the securities and exchange 1220
commission; 1221

~~(ii)(b)~~ A form U-1 or form NF of the North American 1222
securities administrators association ~~and a copy of the investment~~ 1223
~~company's prospectus and statement of additional information.~~ 1224

~~(b)(2)~~ Appropriate filing fees consisting of both of the 1225
following: 1226

~~(i)(a)~~ A flat fee of one hundred dollars; 1227

~~(ii)(b)~~ A fee calculated at one-tenth of one per cent of the 1228

aggregate price at which the securities are to be sold to the public in this state, which calculated fee, however, shall in no case be less than one hundred or more than one thousand dollars.

~~(c) Upon the registration of the securities with the securities and exchange commission, a managed investment company with an initial notice filing on file with the division shall submit to the division a copy of its final prospectus.~~

~~(2) For the purposes of the sale of securities by a non-managed investment company, as defined in the Investment Company Act of 1940:~~

~~(a) A notice filing consisting of either a copy of the investment company's federal registration statement as filed with the securities and exchange commission or a form U-1 or form NF of the North American securities administrators association;~~

~~(b) Appropriate filing fees, as provided in division (A)(1)(b) of this section;~~

~~(c) Upon the effectiveness of the registration of the securities with the securities and exchange commission, a non-managed investment company shall submit to the division a copy of its final prospectus.~~

(B)(1) Upon payment of the maximum filing fees as provided in division ~~(A)(1)(b) or (2)(b)~~ (A)(2) of this section, a ~~managed or non-managed~~ an investment company may sell an indefinite amount of securities in this state.

(2) ~~A managed or non-managed~~ An investment company making a notice filing as provided in this section shall comply with section 1707.11 of the Revised Code. An investment company that previously filed with the division a valid consent to service of process pursuant to section 1707.11 of the Revised Code may incorporate that consent by reference.

(C)(1) For offerings involving covered securities, as defined

in section 18 of the "Securities ~~act~~ Act of 1933," 15 U.S.C. 77r, 1260
that are not subject to section 1707.02, 1707.03, 1707.04, 1261
1707.06, 1707.08, 1707.09, or 1707.091 of the Revised Code, or 1262
division (A) of this section, a notice filing shall be submitted 1263
to the division together with a consent to service of process 1264
pursuant to section 1707.11 of the Revised Code and a filing fee 1265
as provided in division ~~(A)(1)(b)~~ (A)(2) of this section. 1266
1267

(2) The notice filing described in division (C)(1) of this 1268
section shall consist of any document filed with the securities 1269
and exchange commission pursuant to the Securities Act of 1933, 1270
together with annual or periodic reports of the value of the 1271
securities sold or offered to be sold to persons located in this 1272
state. 1273

(D) A notice filing submitted under this section shall be 1274
effective for thirteen months. 1275

Sec. 1707.11. (A) Each person that is not organized under the 1276
laws of this state, that is not licensed under section 1703.03 of 1277
the Revised Code, or that does not have its principal place of 1278
business in this state, shall submit to the division of securities 1279
an irrevocable consent to service of process, as described in 1280
division (B) of this section, in connection with any of the 1281
following: 1282

(1) Filings to claim any of the exemptions enumerated in 1283
division (Q), (W), (X), or (Y) of section 1707.03 of the Revised 1284
Code; 1285

(2) Applications for registration by description, 1286
qualification, or coordination; 1287

(3) Notice filings pursuant to section 1707.092 ~~or 1707.141~~ 1288
of the Revised Code; 1289

| | |
|--|------|
| (4) Applications for licensure as a securities dealer under | 1290 |
| section 1707.15 of the Revised Code; | 1291 |
| (5) Applications for licensure as an investment adviser under | 1292 |
| section 1707.151 of the Revised Code. | 1293 |
| (B) The irrevocable written consent shall be executed and | 1294 |
| acknowledged by an individual duly authorized to give the consent | 1295 |
| and shall do all of the following: | 1296 |
| (1) Designate the secretary of state as agent for service of | 1297 |
| process or pleadings; | 1298 |
| (2) State that actions growing out of the sale of such | 1299 |
| securities, the giving of investment advice, or fraud committed by | 1300 |
| a person on whose behalf the consent is submitted may be commenced | 1301 |
| against the person, in the proper court of any county in this | 1302 |
| state in which a cause of action may arise or in which the | 1303 |
| plaintiff in the action may reside, by serving on the secretary of | 1304 |
| state any proper process or pleading authorized by the laws of | 1305 |
| this state; | 1306 |
| (3) Stipulate that service of process or pleading on the | 1307 |
| secretary of state shall be taken in all courts to be as valid and | 1308 |
| binding as if service had been made upon the person on whose | 1309 |
| behalf the consent is submitted. | 1310 |
| (C) Service of any process or pleadings may be made on the | 1311 |
| secretary of state by duplicate copies, of which one shall be | 1312 |
| filed in the office of the secretary of state, and the other | 1313 |
| immediately forwarded by the secretary of state by certified mail | 1314 |
| to the principal place of business of the person on whose behalf | 1315 |
| the consent is submitted or to the last known address as shown on | 1316 |
| the filing made with the division. However, failure to mail such | 1317 |
| copy does not invalidate the service. | 1318 |
| (D) Notwithstanding any provision of this chapter, or of any | 1319 |
| rule adopted by the division of securities under this chapter, | 1320 |

that requires the submission of a consent to service of process, 1321
the division may provide by rule for the electronic filing or 1322
submission of a consent to service of process. 1323

Sec. 1707.12. (A) All Except for offering materials filed 1324
with the division of securities in connection with exempt 1325
transactions under divisions (Q) and (W) of section 1707.03 of the 1326
Revised Code, all applications and other papers filed with the 1327
division of ~~securities~~ shall be open to inspection at all 1328
reasonable times, except for unreasonable or improper purposes. 1329

(B) Information obtained by the division through any offering 1330
materials filed with the division in connection with exempt 1331
transactions under divisions (Q) and (W) of section 1707.03 of the 1332
Revised Code or through any investigation shall be retained by the 1333
division and shall not be available to inspection by persons other 1334
than those having a direct economic interest in the information or 1335
the transaction under investigation, or by ~~a law enforcement~~ 1336
~~officer pursuant to the duties of his office~~ law enforcement 1337
agencies, state agencies, federal agencies, and other entities as 1338
set forth by rules adopted by the division. 1339

(C) Confidential law enforcement investigatory records and 1340
trial preparation records of the division of securities or any 1341
other law enforcement or administrative agency which are in the 1342
possession of the division of securities shall in no event be 1343
available to inspection by other than law enforcement agencies, 1344
state agencies, federal agencies, and other entities as set forth 1345
by rules adopted by the division. 1346

(D) All public records shall be prepared and made available 1347
promptly to any member of the general public at all reasonable 1348
times for inspection. Upon request, the custodian of public 1349
records shall make copies of the records available at cost, within 1350
a reasonable period of time. To facilitate public access, the 1351

division shall maintain public records in such a manner that they 1352
can be made available pursuant to this section. 1353

(E) No employee or representative of the division or the 1354
department of commerce shall be required to testify concerning any 1355
document or record subject to division (B) or (C) of this section, 1356
except as set forth by rules adopted by the division. 1357

(F) As used in this section: 1358

(1) "Confidential law enforcement investigatory record" means 1359
any record that pertains to a law enforcement matter of a 1360
criminal, quasi-criminal, civil, or administrative nature, 1361
provided that release of the record would create a high 1362
probability of disclosure of any of the following: 1363

(a) The identity of a suspect who has not been charged with 1364
the offense to which the record pertains, or of an information 1365
source or witness to whom confidentiality reasonably has been 1366
promised; 1367

(b) Information provided by an information source or witness 1368
to whom confidentiality reasonably has been promised, which 1369
information reasonably would tend to disclose ~~his~~ the identity of 1370
the information source or witness; 1371

(c) Specific confidential investigatory techniques or 1372
procedures or specific investigatory work product. 1373

(2) "Trial preparation record" means any record that contains 1374
information that is specifically compiled in reasonable 1375
anticipation of, or in defense of, a criminal, quasi-criminal, 1376
civil, or administrative action or proceeding, including, but not 1377
limited to, the independent thought processes and personal trial 1378
preparation of an attorney and division personnel, their notes, 1379
diaries, and memoranda. 1380

Sec. 1707.141. (A) No person shall act as an investment 1381

adviser, unless one of the following applies: 1382

(1) The person is licensed as an investment adviser by the 1383
division of securities; however, nothing in this section shall be 1384
construed to prohibit a person from being licensed by the division 1385
as both an investment adviser and a dealer or salesperson. 1386

(2) The person is registered under section 203 of the 1387
"Investment Advisers Act of 1940," 15 U.S.C. 80b-3, as an 1388
investment adviser and is in compliance with the notice filing 1389
requirements of division (B) of this section. 1390

(3) The person has no place of business in this state, and 1391
the person's only clients in this state are any of the following: 1392

(a) Investment companies as defined in the Investment Company 1393
Act of 1940; 1394

(b) Other investment advisers; 1395

(c) Licensed dealers; 1396

(d) Banks; 1397

(e) Insurance companies subject to regulation under Title 1398
XXXIX of the Revised Code and health insuring corporations 1399
regulated under Chapter 1751. of the Revised Code; 1400

(f) Employee benefit plans with assets of not less than one 1401
million dollars; 1402

(g) Government agencies or instrumentalities, whether acting 1403
for themselves or trustees with investment control; 1404

(h) Other institutional investors as the division may 1405
designate by rule. 1406

(4) The person has no place of business in this state, and 1407
during the preceding twelve-month period, the person has had not 1408
more than five clients, other than those described in division 1409
(A)(3) of this section, that are residents of this state. 1410

(5) The person is a charitable organization, as defined in section 3(c)(10) of the "Investment Company Act of 1940," 54 Stat. 797, 15 U.S.C. 80a-3(c)(10), as amended, or is a trustee, director, officer, employee, or volunteer of such a charitable organization acting within the scope of the person's employment or duties with such an organization, whose advice, analysis, or reports are provided only to one or more of the following:

(a) Any such charitable organization;

(b) A fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the "Investment Company Act of 1940," 54 Stat. 797, 15 U.S.C. 80a-3(c)(10)(B), as amended;

(c) A trust or other donative instrument described in section 3(c)(10)(B) of the "Investment Company Act of 1940," 54 Stat. 797, 15 U.S.C. 80a-3(c)(10)(B), as amended, or the trustees, administrators, settlors and potential settlors, or beneficiaries of any such trust or other instrument.

(6) The person is a plan described in subsection 414(e) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 414, as amended, any person or entity eligible to establish and maintain such a plan under Title 26 of the United States Code, or any trustee, director, officer, or employee of or volunteer for any such plan or person, if such person or entity, acting in such capacity, provides investment advice exclusively to, or with respect to, any plan, person, or entity, or any company, account, or fund that is excluded from the definition of an investment company under section 3(c)(14) of the "Investment Company Act of 1940," 54 Stat. 797, 15 U.S.C. 80a-3(c)(14), as amended.

(B)(1) No person who is registered under section 203 of the "Investment Advisers Act of 1940," 15 U.S.C. 80b-3, as an investment adviser shall act as an investment adviser, unless the

person has done both of the following:

(a) Filed with the division ~~a consent to service of process pursuant to section 1707.11 of the Revised Code, together with either a notice filing form as specified in rules adopted by the division or~~ a copy of those documents that have been filed by the investment adviser with the securities and exchange commission as specified in rules adopted by the division;

(b) Paid the notice filing fee specified in division (B) of section 1707.17 of the Revised Code.

(2) Upon compliance with division (B)(1) of this section, the division shall issue to the person an acknowledgment of notice filing.

(3) The notice filing and fee requirements of division (B)(1) of this section do not apply to a person described in division (A)(3) ~~or, (4), (5), or (6)~~ of this section.

Sec. 1707.15. (A) Application for a dealer's license shall be made in accordance with this section and by filing with the division of securities the information, materials, and forms specified in rules adopted by the division, along with all of the following information:

(1) The name and address of the applicant;

(2) ~~A description of the applicant, including, if the applicant is a partnership, unincorporated association, or any similar form of business organization, the names and the residence and business addresses of all partners, officers, directors, trustees, or managers of the organization, and the limitation of the liability of any partner or member; if the applicant is a corporation, a list of its executive officers and directors, and the residence and business addresses of each; and if it is a foreign corporation, a copy of its articles of incorporation in~~

~~addition thereto;~~ 1472

~~(3)~~ The location and addresses of the principal office and 1473
all other offices of the applicant; 1474

~~(4)~~(3) A general description of the business of the applicant 1475
done prior to the application, including a list of states in which 1476
the applicant is a licensed dealer. 1477

~~(B) Each applicant shall file an irrevocable consent to~~ 1478
~~service of process as provided in section 1707.11 of the Revised~~ 1479
~~Code.~~ 1480

~~(C)~~(1) The division may investigate any applicant for a 1481
license, and may require such additional information as it deems 1482
necessary to determine the applicant's business repute and 1483
qualifications to act as a dealer in securities. 1484

(2) If the application for any license involves investigation 1485
outside of this state, the applicant may be required by the 1486
division to advance sufficient funds to pay any of the actual 1487
expenses of such examination. An itemized statement of any such 1488
expenses which the applicant is required to pay shall be furnished 1489
the applicant by the division. 1490

~~(D)~~(C) The division shall by rule require one natural person 1491
who is a principal, officer, director, general partner, manager, 1492
or employee of a dealer to pass an examination designated by the 1493
division. Each dealer that is not a natural person shall notify 1494
the division of the name and relationship to the dealer of the 1495
natural person who has passed the examination on behalf of the 1496
dealer and who will serve as the designated principal on behalf of 1497
the dealer. 1498

~~(E)~~(D) Dealers shall employ as salespersons only those 1499
salespersons who are licensed under this chapter. If at any time a 1500
salesperson resigns or is discharged or a new salesperson is 1501
added, the dealer shall promptly notify the division. 1502

~~(F)~~(E) If the division finds that the applicant is of good 1503
business repute, appears qualified to act as a dealer in 1504
securities, and has fully complied with this chapter and rules 1505
adopted under this chapter by the division, the division, upon 1506
payment of the fees prescribed by division (B) of section 1707.17 1507
of the Revised Code, shall issue to the applicant a license 1508
authorizing the applicant to act as a dealer. 1509

Sec. 1707.151. (A) Application for an investment adviser's 1510
license shall be made in accordance with this section and by 1511
filing with the division of securities the information, materials, 1512
and forms specified in rules adopted by the division. 1513

~~(B) Each applicant shall file an irrevocable consent to 1514
service of process as provided in section 1707.11 of the Revised 1515
Code. 1516~~

~~(C)~~(1) The division may investigate any applicant for a 1517
license and may require any additional information as it considers 1518
necessary to determine the applicant's business repute and 1519
qualifications to act as an investment adviser. 1520

(2) If the application for any license involves investigation 1521
outside of this state, the applicant may be required by the 1522
division to advance sufficient funds to pay any of the actual 1523
expenses of the examination. The division shall furnish the 1524
applicant with an itemized statement of such expenses that the 1525
applicant is required to pay. 1526

~~(D)~~(C) The division shall by rule require ~~one~~ a natural 1527
person who is ~~a principal, officer, director, general partner,~~ 1528
~~manager, or employee of an applicant for an investment adviser~~ 1529
adviser's license to pass an examination designated by the 1530
division or achieve a specified professional designation. ~~Each~~ 1531
~~investment adviser that is not a natural person shall notify the~~ 1532
~~division of the name and relationship to the investment adviser of~~ 1533

~~the natural person who has passed the examination or achieved the
specified professional designation on behalf of the investment
adviser and who will serve as the designated principal on behalf
of the investment adviser.~~

~~(E)~~(D) An investment adviser licensed under section 1707.141
of the Revised Code shall employ only investment adviser
representatives licensed, or exempted from licensure, under
section 1707.161 of the Revised Code.

~~(F)~~(E) If the division finds that the applicant is of good
business repute, appears to be qualified to act as an investment
adviser, and has complied with this chapter and rules adopted
under this chapter by the division, the division, upon payment of
the fees prescribed by division (B) of section 1707.17 of the
Revised Code, shall issue to the applicant a license authorizing
the applicant to act as an investment adviser.

Sec. 1707.161. (A) No person shall act as an investment
adviser representative, unless one of the following applies:

(1) The person is licensed as an investment adviser
representative by the division of securities.

(2) The person is a natural person who is licensed as an
investment adviser by the division, and does not act as an
investment adviser representative for another investment adviser;
however, a natural person who is licensed as an investment adviser
by the division may act as an investment adviser representative
for another investment adviser if the natural person also is
licensed by the division, or is properly excepted from licensure,
as an investment adviser representative of the other investment
adviser.

(3) The person is employed by or associated with an
investment adviser registered under section 203 of the "Investment
Advisers Act of 1940," 15 U.S.C. 80b-3, and does not have a place

of business in this state.

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(4) The person is employed by or associated with an investment adviser that is excepted from licensure pursuant to division (A)(3) ~~or~~, (4), (5), or (6) of section 1707.141 of the Revised Code or excepted from notice filing pursuant to division (B)(3) of section 1707.141 of the Revised Code.

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(B)(1) No investment adviser representative required to be licensed under this section shall act as an investment adviser representative for more than two investment advisers. An investment adviser representative that acts as an investment adviser representative for two investment advisers shall do so only after the occurrence of both of the following:

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(a) Being properly licensed, or properly excepted from licensure under this section, as an investment adviser representative for both investment advisers;

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(b) Complying with the requirements set forth in rules adopted by the division regarding consent of both investment advisers and notice.

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(2) Nothing in this section shall be construed to prohibit a natural person from being licensed by the division as both an investment adviser and an investment adviser representative.

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(3) Nothing in this section shall be construed to prohibit a natural person from being licensed by the division as both a salesperson and an investment adviser representative.

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(4) Nothing in this section shall be construed to prohibit a natural person from being licensed by the division as both a dealer and an investment adviser representative.

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(C) An investment adviser representative's license issued under this section shall not be effective during any period when the investment adviser representative is not employed by or

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associated with an investment adviser that is licensed by the 1595
division or that is in compliance with the notice filing 1596
requirements of division (B) of section 1707.141 of the Revised 1597
Code. Notice of the commencement and termination of the employment 1598
or association of an investment adviser representative licensed 1599
under this section shall be given to the division within thirty 1600
days after the commencement or termination by either of the 1601
following: 1602

(1) The investment adviser, in the case of an investment 1603
adviser representative licensed under this section and employed by 1604
or associated with, or formerly employed by or associated with, an 1605
investment adviser licensed under section 1707.141 of the Revised 1606
Code; 1607

(2) The investment adviser representative, in the case of an 1608
investment adviser representative licensed under this section and 1609
employed by or associated with, or formerly employed by or 1610
associated with, an investment adviser that is subject to the 1611
notice filings requirements of division (B) of section 1707.141 of 1612
the Revised Code. 1613

(D)(1) Application for an investment adviser representative 1614
license shall be made in accordance with this section and by 1615
filing with the division the information, materials, and forms 1616
specified in rules adopted by the division. 1617

(2) The division shall by rule require an applicant to pass 1618
an examination designated by the division or achieve a specified 1619
professional designation. 1620

(3) Prior to issuing the investment adviser representative 1621
license, the division may require the applicant to reimburse the 1622
division for the actual expenses incurred in investigating the 1623
applicant. An itemized statement of any such expenses that the 1624
applicant is required to pay shall be furnished to the applicant 1625

by the division.

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(E) If the division finds that the applicant is of good business repute, appears to be qualified to act as an investment adviser representative, and has complied with sections 1707.01 to 1707.45 of the Revised Code and the rules adopted under those sections by the division, the division, upon payment of the fees prescribed by division (B) of section 1707.17 of the Revised Code, shall issue to the applicant a license authorizing the applicant to act as an investment adviser representative for the investment adviser, or investment advisers that are under common ownership or control, named in the application.

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Sec. 1707.17. (A)(1) The license of every dealer in and salesperson of securities shall expire on the thirty-first day of December of each year, and may be renewed upon the filing with the division of securities of an application for renewal, and the payment of the fee prescribed in this section, ~~between the first day of November and the fifteenth day of December of each year. The division may accept an application for renewal filed between the fifteenth and the thirty-first day of December of each year. The division also may accept an application for renewal received by the division not later than the tenth day of January of the subsequent calendar year, provided that the application for renewal is accompanied by the license renewal fee and the additional fee prescribed in division (B) of this section.~~ The division shall give notice, without unreasonable delay, of its action on any application for renewal of a dealer's or salesperson's license.

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(2) The license of every investment adviser and investment adviser representative licensed under section 1707.141 or 1707.161 of the Revised Code shall expire on the thirty-first day of December of each year. The licenses may be renewed upon the filing

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with the division of an application for renewal, and the payment 1657
of the fee prescribed in division (B) of this section, ~~between the~~ 1658
~~fifteenth day of October and the thirtieth day of November of each~~ 1659
~~year. The division may accept an application for renewal filed~~ 1660
~~between the first and thirty-first day of December of each year.~~ 1661
The division also may accept an application for renewal received 1662
by the division not later than the tenth day of January of the 1663
subsequent calendar year, provided that the application for 1664
renewal is accompanied by the license renewal fee and the 1665
additional fee prescribed in division (B) of this section. The 1666
division shall give notice, without unreasonable delay, of its 1667
action on any application for renewal. 1668

(3) An investment adviser required to make a notice filing 1669
under division (B) of section 1707.141 of the Revised Code 1670
annually shall file with the division the notice filing and the 1671
fee prescribed in division (B) of this section, no later than the 1672
thirty-first day of December of each year. ~~The division may accept~~ 1673
~~a notice filing received by the division not later than the tenth~~ 1674
~~day of January of the subsequent calendar year, provided that the~~ 1675
~~notice filing is accompanied by the notice filing fee and the~~ 1676
~~additional fee prescribed in division (B) of this section.~~ 1677

(B)(1) The fee for each dealer's license, and for each annual 1678
renewal thereof ~~that is received by the division not later than~~ 1679
~~the thirty-first day of December of each year, shall be one~~ 1680
hundred dollars. ~~Upon payment of an additional fee of one-half of~~ 1681
~~the license renewal fee, the division may accept an application~~ 1682
~~for renewal received by the division between the first and tenth~~ 1683
~~day of January of the subsequent calendar year. The fee for the~~ 1684
examination of applicant dealers, when administered by the 1685
division, shall be seventy-five dollars. 1686

(2) The fee for each salesperson's license, and for each 1687
annual renewal thereof, shall be fifty dollars. The fee for the 1688

examination of an applicant salesperson, when administered by the
division, shall be fifty dollars.

(3) The fee for each investment adviser's license, and for
each annual renewal thereof ~~that is received by the division not~~
~~later than the thirty-first day of December of each year,~~ shall be
fifty dollars. ~~Upon the payment of an additional fee of one-half~~
~~of the license fee, the division may accept a license renewal~~
~~application received by the division between the first and tenth~~
~~day of January of the subsequent calendar year.~~

(4) The fee for each investment adviser notice filing
required by division (B) of section 1707.141 of the Revised Code
and ~~received by the division not later than the thirty-first day~~
~~of December of each year~~ shall be fifty dollars. ~~Upon the payment~~
~~of an additional fee of one-half of the notice filing fee, the~~
~~division may accept a notice filing received by the division~~
~~between the first and tenth day of January of the subsequent~~
~~calendar year. A notice filing may be made at any time during the~~
~~calendar year. In that event, the notice filing fee shall not be~~
~~reduced.~~

(5) The fee for each investment adviser representative's
license, and for each annual renewal thereof ~~that is received by~~
~~the division not later than the thirty-first day of December of~~
each year, shall be thirty-five dollars; ~~however, the fee shall be~~
~~waived for the investment adviser representative designated the~~
~~principal of the investment adviser pursuant to division (D) of~~
section 1707.151 of the Revised Code. ~~Upon the payment of an~~
additional fee of one-half of the license fee, ~~the division may~~
accept a license renewal application received by the division
~~between the first and tenth day of January of the subsequent~~
calendar year.

(C) A dealer's, salesperson's, investment adviser's, or
investment adviser representative's license may be issued at any

time for the remainder of the calendar year. In that event, the 1721
annual fee shall not be reduced. 1722

Sec. 1707.20. (A) The division of securities may adopt, 1723
amend, and rescind such rules, forms, and orders as are necessary 1724
to carry out sections 1707.01 to 1707.45 of the Revised Code, 1725
including rules and forms governing registration statements, 1726
applications, and reports, and defining any terms, whether or not 1727
used in sections 1707.01 to 1707.45 of the Revised Code, insofar 1728
as the definitions are not inconsistent with these sections. For 1729
the purpose of rules and forms, the division may classify 1730
securities, persons, and matters within its jurisdiction, and 1731
prescribe different requirements for different classes. 1732

(B) No rule, form, or order may be made, amended, or 1733
rescinded unless the division finds that the action is necessary 1734
or appropriate in the public interest or for the protection of 1735
investors, clients, or prospective clients and consistent with the 1736
purposes fairly intended by the policy and provisions of sections 1737
1707.01 to 1707.45 of the Revised Code. In prescribing rules and 1738
forms and in otherwise administering sections 1707.01 to 1707.45 1739
of the Revised Code, the division may cooperate with the 1740
securities administrators of the other states and the securities 1741
and exchange commission with a view of effectuating the policy of 1742
this section to achieve maximum uniformity in the form and content 1743
of registration statements, applications, reports, and overall 1744
securities regulation wherever practicable. 1745

(C) The division may by rule or order prescribe: 1746

(1) The form and content of financial statements required 1747
under sections 1707.01 to 1707.45 of the Revised Code; 1748

(2) The circumstances under which consolidated financial 1749
statements shall be filed; 1750

(3) Whether any required financial statements shall be 1751
certified by independent or certified public accountants. All 1752
financial statements shall be prepared in accordance with 1753
generally accepted accounting practices. 1754

(D) All rules and forms of the division shall be published; 1755
and in addition to fulfilling the requirements of Chapter 119. of 1756
the Revised Code, the division shall prescribe, and shall publish 1757
and make available its rules regarding the sale of securities, the 1758
administration of sections 1707.01 to 1707.45 of the Revised Code, 1759
and the procedure and practice before the division. 1760

(E) No provision of sections 1707.01 to 1707.45 of the 1761
Revised Code imposing any liability applies to any act done or 1762
omitted in good faith in conformity with any rule, form, or order 1763
of the division of securities, notwithstanding that the rule, 1764
form, or order may later be amended or rescinded or be determined 1765
by judicial or other authority to be invalid for any reason, 1766
except that the issuance of an order granting effectiveness to a 1767
registration under section 1707.09 or 1707.091 of the Revised Code 1768
for the purposes of this division shall not be deemed an order 1769
other than as the establishment of the fact of registration. 1770

~~(F) Notwithstanding any provision of Revised Code, if the 1771
"securities act of 1933," the "Securities Exchange Act of 1934," 1772
the "Investment Company Act of 1940," the "Investment Advisers Act 1773
of 1940," and any amendments to any of those federal acts, if any 1774
rule, regulation, release, statement, or position promulgated or 1775
adopted under the authority of any of those federal acts, and any 1776
amendments to those federal acts, or if any rule, regulation, or 1777
guideline of a self-regulatory organization registered under the 1778
"Securities and Exchange Act of 1934," and any amendments to that 1779
act, contains a provision that is not contained in this chapter or 1780
the rules adopted under this chapter and that affects any matter 1781
within the scope of this chapter, the division by rule may 1782~~

~~promulgate a similar provision.~~

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~~A rule adopted under the authority granted in this division
may delete, modify, or replace an existing rule of the division. A
rule adopted under the authority granted in this division becomes
effective on the later of the date on which the division issues
the rule or the date on which the federal statute or the rule,
regulation, release, statement, or position on which the
division's rule is based becomes effective. The division, upon
thirty days written notice, may revoke any rule adopted under the
authority granted in this division. A rule adopted under the
authority granted in this division, and not revoked by the
commissioner, lapses and has no further force and effect thirty
months after the rule's effective date.~~

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Sec. 1707.201. Notwithstanding any provision of the Revised
Code, if the "Securities Act of 1933," the "Securities Exchange
Act of 1934," the "Investment Company Act of 1940," the
"Investment Advisers Act of 1940," and any amendments to any of
those federal acts, if any rule, regulation, release, statement,
or position promulgated or adopted under the authority of any of
those federal acts, and any amendments to those federal acts, or
if any rule, regulation, or guideline of a self-regulatory
organization registered under the "Securities Exchange Act of
1934," and any amendments to that act, contains a provision that
is not contained in this chapter or the rules adopted under this
chapter and that affects any matter within the scope of this
chapter, the division of securities by rule may promulgate a
similar provision.

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A rule adopted under the authority granted in this section
becomes effective on the later of the date on which the division
issues the rule or the date on which the federal statute or the
rule, regulation, release, statement, or position on which the

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division's rule is based becomes effective. The division, upon 1814
thirty days' written notice, may revoke any rule adopted under the 1815
authority granted in this section. A rule adopted under the 1816
authority granted in this section, and not revoked by the 1817
commissioner of securities, lapses and has no further force and 1818
effect eighteen months after the rule's effective date. 1819

Sec. 1707.40. Sections 1707.01 to 1707.45 of the Revised Code 1820
create no new civil liabilities, and do not limit or restrict 1821
common law liabilities for deception or fraud other than as 1822
specified in sections 1707.042, 1707.043, 1707.41, 1707.42, and 1823
1707.43 of the Revised Code, and there is no civil liability for 1824
noncompliance with orders, requirements, rules, or regulations 1825
made by the division of securities under sections 1707.19, 1826
1707.20, 1707.201, and 1707.23 of the Revised Code. 1827

Sec. 1707.44. (A)(1) No person shall engage in any act or 1828
practice that violates division (A), (B), or (C) of section 1829
1707.14 of the Revised Code, and no salesperson shall sell 1830
securities in this state without being licensed pursuant to 1831
section 1707.16 of the Revised Code. 1832

(2) No person shall engage in any act or practice that 1833
violates division (A) of section 1707.141 or section 1707.161 of 1834
the Revised Code. 1835

(B) No person shall knowingly make or cause to be made any 1836
false representation concerning a material and relevant fact, in 1837
any oral statement or in any prospectus, circular, description, 1838
application, or written statement, for any of the following 1839
purposes: 1840

(1) Registering securities or transactions, or exempting 1841
securities or transactions from registration, under this chapter; 1842

(2) Securing the qualification of any securities under this 1843

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| chapter; | 1844 |
| (3) Procuring the licensing of any dealer, salesperson, investment adviser, or investment adviser representative under this chapter; | 1845 1846 1847 |
| (4) Selling any securities in this state; | 1848 |
| (5) Advising for compensation, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities; | 1849 1850 1851 |
| (6) Submitting a notice filing to the division under section 1707.092 or 1707.141 of the Revised Code. | 1852 1853 |
| (C) No person shall knowingly and intentionally sell, cause to be sold, offer for sale, or cause to be offered for sale, any security which comes under any of the following descriptions: | 1854 1855 1856 |
| (1) Is not exempt under section 1707.02 of the Revised Code, nor the subject matter of one of the transactions exempted in section 1707.03, 1707.04, or 1707.34 of the Revised Code, has not been registered by coordination or qualification, and is not the subject matter of a transaction that has been registered by description; | 1857 1858 1859 1860 1861 1862 |
| (2) The prescribed fees for registering by description, by coordination, or by qualification have not been paid in respect to such security; | 1863 1864 1865 |
| (3) Such person has been notified by the division, or has knowledge of the notice, that the right to buy, sell, or deal in such security has been suspended or revoked, or that the registration by description, by coordination, or by qualification under which it may be sold has been suspended or revoked; | 1866 1867 1868 1869 1870 |
| (4) The offer or sale is accompanied by a statement that the security offered or sold has been or is to be in any manner indorsed by the division. | 1871 1872 1873 |

(D) No person who is an officer, director, or trustee of, or
a dealer for, any issuer, and who knows such issuer to be
insolvent in that the liabilities of the issuer exceed its assets,
shall sell any securities of or for any such issuer, without
disclosing the fact of the insolvency to the purchaser.

(E) No person with intent to aid in the sale of any
securities on behalf of the issuer, shall knowingly make any
representation not authorized by such issuer or at material
variance with statements and documents filed with the division by
such issuer.

(F) No person, with intent to deceive, shall sell, cause to
be sold, offer for sale, or cause to be offered for sale, any
securities of an insolvent issuer, with knowledge that such issuer
is insolvent in that the liabilities of the issuer exceed its
assets, taken at their fair market value.

(G) No person in purchasing or selling securities shall
knowingly engage in any act or practice that is, in this chapter,
declared illegal, defined as fraudulent, or prohibited.

(H) No licensed dealer shall refuse to buy from, sell to, or
trade with any person because the person appears on a blacklist
issued by, or is being boycotted by, any foreign corporate or
governmental entity, nor sell any securities of or for any issuer
who is known in relation to the issuance or sale of such
securities to have engaged in such practices.

(I) No dealer in securities, knowing that the dealer's
liabilities exceed the reasonable value of the dealer's assets,
shall accept money or securities, except in payment of or as
security for an existing debt, from a customer who is ignorant of
the dealer's insolvency, and thereby cause the customer to lose
any part of the customer's securities or the value of those
securities, by doing either of the following without the

customer's consent: 1905

(1) Pledging, selling, or otherwise disposing of such 1906
securities, when the dealer has no lien on or any special property 1907
in such securities; 1908

(2) Pledging such securities for more than the amount due, or 1909
otherwise disposing of such securities for the dealer's own 1910
benefit, when the dealer has a lien or indebtedness on such 1911
securities. 1912

It is an affirmative defense to a charge under this division 1913
that, at the time the securities involved were pledged, sold, or 1914
disposed of, the dealer had in the dealer's possession or control, 1915
and available for delivery, securities of the same kinds and in 1916
amounts sufficient to satisfy all customers entitled to the 1917
securities, upon demand and tender of any amount due on the 1918
securities. 1919

(J) No person, with purpose to deceive, shall make, issue, 1920
publish, or cause to be made, issued, or published any statement 1921
or advertisement as to the value of securities, or as to alleged 1922
facts affecting the value of securities, or as to the financial 1923
condition of any issuer of securities, when the person knows that 1924
such statement or advertisement is false in any material respect. 1925

(K) No person, with purpose to deceive, shall make, record, 1926
or publish or cause to be made, recorded, or published, a report 1927
of any transaction in securities which is false in any material 1928
respect. 1929

(L) No dealer shall engage in any act that violates the 1930
provisions of section 15(c) or 15(g) of the "Securities Exchange 1931
Act of 1934," 48 Stat. 881, 15 U.S.C.A. 78o(c) or (g), or any rule 1932
or regulation promulgated by the securities and exchange 1933
commission thereunder. If, subsequent to October 11, 1994, 1934
additional amendments to section 15(c) or 15(g) are adopted, or 1935

additional rules or regulations are promulgated pursuant to such 1936
sections, the division of securities shall, by rule, adopt the 1937
amendments, rules, or regulations, unless the division finds that 1938
the amendments, rules, or regulations are not necessary for the 1939
protection of investors or in the public interest. 1940

(M)(1) No investment adviser or investment adviser 1941
representative shall do any of the following: 1942

(a) Employ any device, scheme, or artifice to defraud any 1943
person; 1944

(b) Engage in any act, practice, or course of business that 1945
operates or would operate as a fraud or deceit upon any person; 1946

(c) In acting as principal for the investment adviser's or 1947
investment adviser representative's own account, knowingly sell 1948
any security to or purchase any security from a client, or in 1949
acting as salesperson for a person other than such client, 1950
knowingly effect any sale or purchase of any security for the 1951
account of such client, without disclosing to the client in 1952
writing before the completion of the transaction the capacity in 1953
which the investment adviser or investment adviser representative 1954
is acting and obtaining the consent of the client to the 1955
transaction. Division (M)(1)(c) of this section does not apply to 1956
any investment adviser registered with the securities and exchange 1957
commission under section 203 of the "Investment Advisers Act of 1958
1940," 15 U.S.C. 80b-3, or to any transaction with a customer of a 1959
licensed dealer or salesperson if the licensed dealer or 1960
salesperson is not acting as an investment adviser or investment 1961
adviser representative in relation to the transaction. 1962

(d) Engage in any act, practice, or course of business that 1963
is fraudulent, deceptive, or manipulative. The division of 1964
securities may adopt rules reasonably designed to prevent such 1965
acts, practices, or courses of business as are fraudulent, 1966

deceptive, or manipulative. 1967

(2) No investment adviser or investment adviser 1968
representative licensed or required to be licensed under this 1969
chapter shall take or have custody of any securities or funds of 1970
any person, except as provided in rules adopted by the division. 1971

(3) In the solicitation of clients or prospective clients, no 1972
person shall make any untrue statement of a material fact or omit 1973
to state a material fact necessary in order to make the statements 1974
made not misleading in light of the circumstances under which the 1975
statements were made. 1976

Sec. 1733.01. As used in this chapter, unless the context 1977
otherwise requires: 1978

(A) "Credit union" means a corporation organized and 1979
qualified as such under this chapter. In addition to the powers 1980
enumerated in this chapter and unless restricted in this chapter, 1981
every credit union has the general powers conferred upon 1982
corporations by Chapter 1701. of the Revised Code. A credit union 1983
is a nonprofit cooperative financial institution and as such is 1984
organized and operates for the mutual benefit and general welfare 1985
of its members with the earnings, savings, benefits, or services 1986
of the credit union being distributed to its members as patron 1987
savers and borrowers and not to its members as individuals. 1988

(B) "Corporate credit union" means a credit union, 1989
eligibility for membership in which is being a credit union 1990
qualified to do business in this state. Such credit union shall 1991
use the term "corporate" in its official name. 1992

(C) "Foreign credit union" means a credit union formed under 1993
the laws of another state which are substantially similar to this 1994
chapter. 1995

(D) "Member" means a person who is a member of a credit 1996

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| union. | 1997 |
| (E) "Association member" means any member of a credit union other than a credit union or an individual member. | 1998 1999 |
| (F) "Voting member" means an association member or an individual member who is qualified to vote as provided by law, the articles, or the regulations. | 2000 2001 2002 |
| (G) "Person" includes, without limitation, an individual, a corporation, an unincorporated society or association, or any other organization of individuals. | 2003 2004 2005 |
| (H) "Articles" includes original articles of incorporation, agreements of merger, amended articles, and amendments to any of these. | 2006 2007 2008 |
| (I) "Regulations" includes the code of regulations of a credit union and any amendments thereto or an amended code of regulations and any amendments thereto. | 2009 2010 2011 |
| (J) Persons having a "common bond of association" include those persons and their families. | 2012 2013 |
| (K) "Membership share" means a share of the credit union, the subscription to which shall be a prerequisite for membership in the credit union. | 2014 2015 2016 |
| (L) "Share account" means an account established for a member for which no share certificates are issued but which are included in the registry of shares, which includes all transactions of the credit union pertaining to such shares. | 2017 2018 2019 2020 |
| (M) "Undivided earnings" consist of all accumulated net earnings and reserves required under division (B) of section 1733.31 of the Revised Code. | 2021 2022 2023 |
| (N) "State" means the United States, any state, territory, insular possession, or other political subdivision of the United States, including the District of Columbia. | 2024 2025 2026 |

(O) An "emergency" exists when an emergency exists for other 2027
corporations as the same is defined and described in section 2028
1701.01 of the Revised Code. 2029

(P) "Superintendent of credit unions" means the "division of 2030
financial institutions" or the "superintendent of the division of 2031
financial institutions of this state"; and whenever the context 2032
requires it, may be read as "director of commerce" or as "chief of 2033
the division of financial institutions." Whenever the division or 2034
superintendent of credit unions is referred to or designated in 2035
any statute, rule, contract, or other document, the reference or 2036
designation shall be deemed to refer to the division or 2037
superintendent of financial institutions, as the case may be. 2038

(Q) "Outside auditor" means an accountant who is licensed to 2039
practice as a certified public accountant or public accountant by 2040
this state, and who is retained by a credit union to audit its 2041
accounts, but who is not otherwise employed by the credit union. 2042

(R) "Regulated individual" means a director, committee 2043
member, officer, or employee of a credit union. 2044

(S) "Financial institution regulatory authority" includes a 2045
regulator of business activity in which a credit union is engaged, 2046
or has applied to engage in, to the extent that the regulator has 2047
jurisdiction over a credit union engaged in that business 2048
activity. A credit union is engaged in a business activity, and a 2049
regulator of that business activity has jurisdiction over the 2050
credit union, whether the credit union conducts the activity 2051
directly or a subsidiary or affiliate of the credit union conducts 2052
the activity. 2053

Sec. 1733.32. (A)(1) The superintendent of financial 2054
institutions shall see that the laws relating to credit unions are 2055
executed and enforced. 2056

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

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

(B) Every credit union shall prepare and submit, on forms provided by the superintendent, a financial report to the superintendent showing its assets and liabilities whenever requested to do so by the superintendent. Every financial report shall be verified by the oaths of the two principal officers in

charge of the affairs of the credit union at the time of such 2089
verification and shall be submitted to the superintendent within 2090
thirty days after the superintendent requests the financial 2091
report. 2092

(C) An annual financial report of the affairs and business of 2093
the credit union, showing its condition as of the thirty-first day 2094
of December unless otherwise authorized by the superintendent, 2095
shall be filed with the superintendent not later than the date 2096
authorized in the rules adopted by the superintendent. 2097

(D) If a financial report or an annual financial report is 2098
not filed with the superintendent in accordance with division (B) 2099
or (C) of this section, the superintendent may do both of the 2100
following: 2101

(1) Assess a fine, determined by rule adopted by the 2102
superintendent, for each day the report is in arrears; 2103

(2) If the superintendent gives written notice to the 2104
president of the credit union of the superintendent's intention to 2105
do so, issue an order revoking the credit union's articles of 2106
incorporation and appointing a liquidating agent to liquidate the 2107
credit union in accordance with section 1733.37 of the Revised 2108
Code. 2109

(E)(1) Except as provided in division (E)(2) of this section, 2110
each credit union doing business in this state shall remit, 2111
semiannually and within fifteen days after billing, to the 2112
treasurer of state, a supervisory fee in an amount determined by 2113
the superintendent and confirmed by the credit union council. The 2114
supervisory fee described in division (E)(1) of this section shall 2115
be based on a percentage of the gross assets of the credit union 2116
as shown by its last annual financial report filed with the 2117
superintendent in accordance with division (C) of this section. 2118
The minimum supervisory fee shall be determined by the 2119

superintendent and confirmed by the credit union council. 2120

(2) Each corporate credit union doing business in this state 2121
shall remit, semiannually and within fifteen days after billing, 2122
to the treasurer of state, a supervisory fee determined by rule 2123
adopted by the superintendent and confirmed by the credit union 2124
council. The aggregate annual amount of the fee shall not exceed 2125
the annual operating fee that the national credit union 2126
administration charges a federally chartered credit union pursuant 2127
to the "Federal Credit Union Act," 84 Stat. 994 (1970), 12 2128
U.S.C.A. 1751. 2129

(3) The superintendent annually shall present to the credit 2130
union council for confirmation the supervisory fees to be billed 2131
credit unions and corporate credit unions pursuant to division (E) 2132
of this section. 2133

(4) If any supervisory fee is not remitted in accordance with 2134
division (E)(1) or (2) of this section, the superintendent may 2135
assess a fine, determined by rule adopted by the superintendent, 2136
for each day that each fee is in arrears. 2137

(5)(a) Subject to division (E)(5)(b) of this section, the 2138
total amount of each semiannual billing to all credit unions and 2139
corporate credit unions combined shall equal one-half of the 2140
appropriation made by the main operating appropriation act, 2141
including any modifications made by the controlling board, to the 2142
division of financial institutions for the regulation of credit 2143
unions for the fiscal year in which the billings occur, except 2144
that the superintendent, in determining the supervisory fees, may 2145
take into consideration any funds lapsed from the appropriation 2146
made in the previous fiscal year. 2147

(b) If during the period between the credit union council's 2148
confirmation of supervisory fees and when supervisory fees 2149
described in this section are collected, the credit union council 2150

determines additional money is required to adequately fund the 2151
operations of the division of financial institutions for that 2152
fiscal year, the credit union council may, by the affirmative vote 2153
of five of its members, increase the supervisory fees billed. The 2154
superintendent promptly shall notify each credit union and 2155
corporate credit union of the increased supervisory fees, and each 2156
credit union or corporate credit union shall pay the increased 2157
supervisory fees billed by the superintendent. 2158

(6) The fees or fines collected pursuant to this section 2159
shall be credited to the credit unions fund created in section 2160
1733.321 of the Revised Code. 2161

(F) A report of such examination shall be forwarded to the 2162
president of each credit union after the completion of the 2163
examination. Such report may contain comments relative to the 2164
management of the affairs of the credit union and also as to the 2165
general condition of its assets. Within thirty days of the receipt 2166
of such report, a meeting of the directors shall be called to 2167
consider matters contained in the report, and the president shall 2168
notify the superintendent of any action taken at such meeting. 2169

(G)(1) The superintendent shall furnish reports of 2171
examinations or other appropriate information to any organization 2172
referred to in section 1733.041 of the Revised Code when requested 2173
by such organization and authorized by the credit union. The 2174
superintendent may charge a fee for such reports and other 2175
information as may be established by rules adopted by the 2176
superintendent. 2177

(2) A report of examination furnished pursuant to division 2178
(G)(1) of this section is the property of the division of credit 2179
unions and may be used by the examined credit union only in the 2180
conduct of its business. Under no circumstances may the credit 2181
union, its current or former directors, officers, employees, 2182

agents, shareholders, participants in the conduct of its affairs, 2183
or their agents disclose or make public, in any manner, a report 2184
of examination or its contents. 2185

(H) Except as provided in this division, information obtained 2186
by the superintendent of ~~credit unions~~ financial institutions and 2187
the superintendent's employees as a result of or arising out of 2188
the examination or independent audit of a credit union, from 2189
required reports, or because of their official position, shall be 2190
confidential. Such information may be disclosed only in connection 2191
with criminal proceedings or, subject to section 1733.327 of the 2192
Revised Code, when it is necessary for the superintendent to take 2193
official action pursuant to Chapter 1733. of the Revised Code and 2194
the rules adopted thereunder regarding the affairs of the credit 2195
union examined. Such information may also be introduced into 2196
evidence or disclosed when and in the manner authorized in section 2197
1181.25 of the Revised Code. This division does not prevent the 2198
superintendent from properly exchanging information relating to an 2199
examined credit union pursuant to division (F) or (G) of this 2200
section or with officials of properly authorized state or federal 2201
supervisory financial institution regulatory authorities or with 2202
any insurer recognized under section 1733.041 or any surety 2203
recognized under section 1733.23 of the Revised Code. This 2204
division also does not prevent the superintendent from disclosing 2205
information contained in the financial reports or annual financial 2206
reports described in division (B) or (C) of this section to 2207
recognized credit union trade associations. 2208

Sec. 1733.327. (A) All conferences and administrative 2210
proceedings under sections 1733.324 and 1733.325 of the Revised 2211
Code, the fact of their actual or anticipated occurrence, and all 2212
notices, agreements, hearings, orders, records, evidence, 2213
transcripts, and other writings, happenings, or things pertaining 2214

to those conferences or proceedings, shall be kept confidential as 2215
among the superintendent of ~~credit unions~~ financial institutions, 2216
the director of commerce, the deputy director of financial 2217
institutions, the governor, the credit union or regulated 2218
individual who is party to the conference or proceedings, 2219
witnesses in the conference or proceedings, and other persons 2220
specifically designated by the superintendent or director. In 2221
designating specific persons who may be present or acquire 2222
knowledge of matters made confidential by this division, the 2223
superintendent and director shall not exclude attorneys or other 2224
suitable representatives of the credit union, or of any regulated 2225
individual, who is party to the conference or proceedings. If the 2226
conference or proceedings apply to a regulated individual, the 2227
superintendent and director shall not exclude suitable 2228
representatives of the credit union of which such regulated 2229
individual is an officer, director, or employee. 2230

(B) Division (A) of this section ceases to apply upon the 2231
occurrence of any of the following: 2232

(1) An action is brought to recover a forfeiture for the 2233
violation of an agreement concluded, or a final or summary 2234
cease-and-desist order issued, under section 1733.324 or 1733.325 2235
of the Revised Code. A forfeiture, in the absence of such an 2236
action for recovery, does not waive division (A) of this section 2237
except insofar as the forfeiture must be reflected or reported in 2238
the financial records or reports of the credit union or regulated 2239
individual. 2240

(2) Information made confidential by division (A) of this 2241
section is needed as evidence in a criminal proceeding; in 2242
proceedings under section 1733.37 of the Revised Code; or in the 2243
work of a committee of the general assembly. 2244

(3) The superintendent furnishes information made 2245
confidential by division (A) of this section to the applicable 2246

insurer recognized under section 1733.041 of the Revised Code. 2247

(4) The superintendent furnishes information made 2248
confidential by division (A) of this section to financial 2249
institution regulatory authorities as authorized in section 2250
1733.32 of the Revised Code. 2251

(5) Information made confidential by division (A) of this 2252
section is disclosed when and in the manner authorized in section 2253
1181.25 of the Revised Code. 2254

(C) No officer or employee of the division of credit unions, 2255
of the department of commerce or any of its other divisions, or of 2256
the governor's office shall violate division (A) of this section. 2257

Sec. 1751.19. (A) A health insuring corporation shall 2258
establish and maintain a complaint system that has been approved 2259
by the superintendent of insurance to provide adequate and 2260
reasonable procedures for the expeditious resolution of written 2261
complaints initiated by subscribers or enrollees concerning any 2262
matter relating to services provided, directly or indirectly, by 2263
the health insuring corporation, including, but not limited to, 2264
complaints regarding cancellations or nonrenewals of coverage. 2265
Complaints regarding a health insuring corporation's decision to 2266
deny, reduce, or terminate coverage for health care services are 2267
subject to section 1751.83 of the Revised Code. 2268

(B) A health insuring corporation shall provide a timely 2269
written response to each written complaint it receives. 2270

(C)(1) Copies of complaints and responses, including medical 2271
records related to those complaints, shall be available to the 2272
superintendent and the director of health for inspection for three 2273
years. Any document or information provided to the superintendent 2274
pursuant to this division that contains a medical record is 2275
confidential, and is not a public record subject to section 149.43 2276

of the Revised Code. 2277

(2) Notwithstanding division (C)(1) of this section, the 2278
superintendent may share documents and information that contain a 2279
medical record in connection with the investigation or prosecution 2280
of any illegal or criminal activity with the chief deputy 2281
rehabilitator, the chief deputy liquidator, other deputy 2282
rehabilitators and liquidators, and any other person employed by, 2283
or acting on behalf of, the superintendent pursuant to Chapter 2284
3901. or 3903. of the Revised Code, with other local, state, 2285
federal, and international regulatory and law enforcement 2286
agencies, with local, state, and federal prosecutors, and with the 2287
national association of insurance commissioners and its affiliates 2288
and subsidiaries, provided that the recipient agrees to maintain 2289
the confidential or privileged status of the confidential or 2290
privileged document or information and has authority to do so. 2291

(3) Nothing in this section shall prohibit the superintendent 2292
from receiving documents and information in accordance with 2293
section 3901.045 of the Revised Code. 2294

(4) The superintendent may enter into agreements governing 2295
the sharing and use of documents and information consistent with 2296
the requirements of this section. 2297

(5) No waiver of any applicable privilege or claim of 2298
confidentiality in the documents and information described in 2299
division (C)(1) of this section occurs as a result of sharing or 2300
receiving documents and information as authorized in divisions 2301
(C)(2) and (3) of this section. 2302

(D) A health insuring corporation shall establish and 2303
maintain a procedure to accept complaints over the telephone or in 2304
person. These complaints are not subject to the reporting 2305
requirement under division (C) of section 1751.32 of the Revised 2306
Code. 2307

(E) A health insuring corporation may comply with this 2308
section and section 1751.83 of the Revised Code by establishing 2309
one system for receiving and reviewing complaints and requests for 2310
internal review from enrollees and subscribers if the system meets 2311
the requirements of both sections. 2312

Sec. 3901.045. (A) The superintendent of insurance may 2313
receive documents and information, including otherwise 2314
confidential or privileged documents and information, from local, 2315
state, federal, and international regulatory and law enforcement 2316
agencies, from local, state, and federal prosecutors, and from the 2317
national association of insurance commissioners and its affiliates 2318
and subsidiaries, provided that the superintendent maintains as 2319
confidential or privileged any document or information received 2320
with notice or the understanding that the document or information 2321
is confidential or privileged under the laws of the jurisdiction 2322
that is the source of the document or information. 2323

(B) The superintendent may also receive documents and 2324
information, including otherwise confidential or privileged 2325
documents and information, from the chief deputy rehabilitator, 2326
the chief deputy liquidator, other deputy rehabilitators and 2327
liquidators, and from any other person employed by, or acting on 2328
behalf of, the superintendent pursuant to Chapter 3901. or 3903. 2329
of the Revised Code, provided that the superintendent maintains as 2330
confidential or privileged any document or information received 2331
with the notice or understanding that the document or information 2332
is confidential or privileged, except that the superintendent may 2333
share and disclose such a document or information when authorized 2334
by other sections of the Revised Code. 2335

(C) The superintendent has the authority to maintain as 2336
confidential or privileged the documents and information received 2337
pursuant to this section. 2338

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

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

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

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

(2) Disclose documents and information that are the subject of this section in such a manner as the superintendent considers appropriate, after giving the insurer and those affiliates that are the subject of the documents and information notice and an

opportunity to be heard in accordance with Chapter 119. of the 2370
Revised Code, if the superintendent determines that the interests 2371
of policyholders, shareholders, or the public will be served by 2372
the disclosure; 2373

(3) Share documents and information that are the subject of 2374
this section with the chief deputy rehabilitator, the chief deputy 2375
liquidator, other deputy rehabilitators and liquidators, and any 2376
other person employed by, or acting on behalf of, the 2377
superintendent pursuant to Chapter 3901. or 3903. of the Revised 2378
Code, with other local, state, federal, and international 2379
regulatory and law enforcement agencies, with local, state, and 2380
federal prosecutors, and with the national association of 2381
insurance commissioners and its affiliates and subsidiaries, 2382
provided that the recipient agrees to maintain the confidential or 2383
privileged status of the confidential or privileged document or 2384
information and has authority to do so; 2385

(4) Disclose documents and information that are the subject 2386
of this section in the furtherance of any regulatory or legal 2387
action brought by or on behalf of the superintendent or the state, 2388
resulting from the exercise of the superintendent's official 2389
duties. 2390

(C) Notwithstanding divisions (A) and (B) of this section, 2391
the superintendent may authorize the national association of 2392
insurance commissioners and its affiliates and subsidiaries by 2393
agreement to share confidential or privileged documents or 2394
information received pursuant to division (B)(3) of this section 2395
with local, state, federal, and international regulatory and law 2396
enforcement agencies and with local, state, and federal 2397
prosecutors, provided that the recipient agrees to maintain the 2398
confidential or privileged status of the confidential or 2399
privileged document or information and has authority to do so. 2400

(D) Notwithstanding divisions (A) and (B) of this section, 2401

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 brought by or on
behalf of the superintendent, the rehabilitator, the liquidator,
or the state resulting from the exercise of the superintendent's
official duties in any capacity.

(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
privilege arising under any other section of the Revised Code or
the common law.

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

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

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

(D) All ~~papers~~, documents, reports, and evidence in the possession of the superintendent or the superintendent's designee that pertain to such an insurance fraud investigation are not subject to subpoena in civil actions by any court of this state until opened for public inspection by the superintendent in accordance with division (B) of this section or with section 149.43 of the Revised Code, unless the superintendent or the superintendent's designee consents, or until after reasonable notice to the superintendent and opportunity for hearing, the court determines the superintendent would not be hindered unnecessarily by such subpoena.

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

(1) Share documents, reports, and evidence that are 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 2465
Revised Code, with other local, state, federal, and international 2466
regulatory and law enforcement agencies, with local, state, and 2467
federal prosecutors, with the national association of insurance 2468
commissioners and its affiliates and subsidiaries, with insurers, 2469
and with investigators hired by insurers, provided that the 2470
recipient agrees to maintain the confidential or privileged status 2471
of the confidential or privileged document, report, or evidence 2472
and has authority to do so; 2473

(2) Disclose documents, reports, and evidence that are the 2474
subject of this section in the furtherance of any regulatory or 2475
legal action brought by or on behalf of the superintendent or the 2476
state, resulting from the exercise of the superintendent's 2477
official duties. 2478

(F) Notwithstanding divisions (B), (C), (D), and (E) of this 2479
section, the superintendent may authorize the national association 2480
of insurance commissioners and its affiliates and subsidiaries by 2481
agreement to share confidential or privileged documents, reports, 2482
and evidence received pursuant to division (E)(1) of this section 2483
with local, state, federal, and international regulatory and law 2484
enforcement agencies and with local, state, and federal 2485
prosecutors, provided that the recipient agrees to maintain the 2486
confidential or privileged status of the confidential or 2487
privileged document, report, or evidence and has authority to do 2488
so. 2489

(G) Notwithstanding divisions (B), (C), (D), and (E) of this 2490
section, the chief deputy rehabilitator, the chief deputy 2491
liquidator, and other deputy rehabilitators and liquidators may 2492
disclose documents, reports, and evidence that are the subject of 2493
this section in the furtherance of any regulatory or legal action 2494
brought by or on behalf of the superintendent, the rehabilitator, 2495
the liquidator, or the state resulting from the exercise of the 2496

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| <u>superintendent's official duties in any capacity.</u> | 2497 |
| <u>(H) Nothing in this section shall prohibit the superintendent from receiving documents, reports, and evidence in accordance with section 3901.045 of the Revised Code.</u> | 2498 2499 2500 |
| <u>(I) The superintendent may enter into agreements governing the sharing and use of documents, reports, and evidence consistent with the requirements of this section.</u> | 2501 2502 2503 |
| <u>(J)(1) No waiver of any applicable privilege or claim of confidentiality in the documents, reports, and evidence described in this section shall occur as a result of sharing or receiving documents, reports, and evidence as authorized in divisions (E)(1), (F), and (H) of this section.</u> | 2504 2505 2506 2507 2508 |
| <u>(2) The disclosure of a document, report, or evidence in connection with a regulatory or legal action pursuant to divisions (E)(2) and (G) of this section does not prohibit an insurer or any other person from taking steps to limit the dissemination of the document, report, or evidence 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.</u> | 2509 2510 2511 2512 2513 2514 2515 2516 |
| <u>(K) The superintendent and the superintendent's designee are not subject to subpoena in civil actions by any court of this state to testify concerning any matter of which they have knowledge pursuant to a pending insurance fraud investigation by the superintendent.</u> | 2517 2518 2519 2520 2521 |
| Sec. 3901.48. (A) The original work papers of a certified public accountant performing an audit of an insurance company or health insuring corporation doing business in this state that is required by rule or by any section of the Revised Code to file an audited financial report with the superintendent of insurance | 2522 2523 2524 2525 2526 |

shall remain the property of the certified public accountant. Any 2527
copies of these work papers voluntarily given to the 2528
superintendent shall be the property of the superintendent. The 2529
original work papers or any copies of them, whether in possession 2530
of the certified public accountant or the department of insurance, 2531
are confidential and privileged and are not a public record as 2532
defined in section 149.43 of the Revised Code. The original work 2533
papers and any copies of them are not subject to subpoena and 2534
shall not be made public by the superintendent or any other 2535
person. ~~However, the original work papers and any copies of them~~ 2536
~~may be released by the superintendent to the insurance regulatory~~ 2537
~~authority of any other state if that authority agrees to maintain~~ 2538
~~the confidentiality of the work papers or copies and if the work~~ 2539
~~papers and copies are not public records under the laws of that~~ 2540
~~state.~~ 2541

(B) The work papers of the superintendent or of the person 2542
appointed by the superintendent, resulting from the conduct of an 2543
examination made pursuant to section 3901.07 of the Revised Code 2544
or from the conduct of a financial analysis of any entity subject 2545
to examination by the superintendent, including but not limited to 2546
any insurance company, health insuring corporation, fraternal 2547
benefit society, or multiple employer welfare arrangement, are 2548
confidential and privileged and are not a public record as defined 2549
in section 149.43 of the Revised Code. The original work papers 2550
and any copies of them are not subject to subpoena and shall not 2551
be made public by the superintendent or any other person. ~~However,~~ 2552
~~the original work papers and any copies of them may be released by~~ 2553
~~the superintendent to the insurance regulatory authority of any~~ 2554
~~other state if that authority agrees to maintain the~~ 2555
~~confidentiality of the work papers or copies and if the work~~ 2556
~~papers and copies are not public records under the laws of that~~ 2557
~~state.~~ 2558

(C) The work papers of the superintendent or of any person 2559
appointed by the superintendent, resulting from the conduct of a 2560
performance regulation examination made pursuant to authority 2561
granted under section 3901.011 of the Revised Code, are 2562
confidential and privileged and are not a public record as defined 2563
in section 149.43 of the Revised Code. The original work papers 2564
and any copies of them are not subject to subpoena and shall not 2565
be made public by the superintendent or any other person. ~~However,~~ 2566
~~the original work papers and any copies of them may be released by~~ 2567
~~the superintendent to the insurance regulatory authority of any~~ 2568
~~other state if that authority agrees to maintain the~~ 2569
~~confidentiality of the work papers or copies and if the work~~ 2570
~~papers and copies are not public records under the laws of that~~ 2571
~~state.~~ 2572

(D) Notwithstanding divisions (A), (B), and (C) of this 2573
section, the superintendent may do either of the following: 2574

(1) Share work papers that are the subject of this section 2575
with the chief deputy rehabilitator, the chief deputy liquidator, 2576
other deputy rehabilitators and liquidators, and any other person 2577
employed by, or acting on behalf of, the superintendent pursuant 2578
to Chapter 3901. or 3903. of the Revised Code, with other local, 2579
state, federal, and international regulatory and law enforcement 2580
agencies, with local, state, and federal prosecutors, and with the 2581
national association of insurance commissioners and its affiliates 2582
and subsidiaries, provided that the recipient agrees to maintain 2583
the confidential or privileged status of the confidential or 2584
privileged work paper and has authority to do so; 2585

(2) Disclose work papers that are the subject of this section 2586
in the furtherance of any regulatory or legal action brought by or 2587
on behalf of the superintendent or the state, resulting from the 2588
exercise of the superintendent's official duties. 2589

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(E) Notwithstanding divisions (A), (B), (C), and (D) 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 work papers received pursuant to division (D)(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 or privileged status of the confidential or privileged work paper and has authority to do so. 2591
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(F) Notwithstanding divisions (A), (B), (C), and (D) of this section, the chief deputy rehabilitator, the chief deputy liquidator, and other deputy rehabilitators and liquidators may disclose work papers that are the subject of this section in the furtherance of any regulatory or legal action brought by or on behalf of the superintendent, the rehabilitator, the liquidator, or the state resulting from the exercise of the superintendent's official duties in any capacity. 2601
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(G) Nothing in this section shall prohibit the superintendent from receiving work papers in accordance with section 3901.045 of the Revised Code. 2609
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(H) The superintendent may enter into agreements governing the sharing and use of work papers consistent with the requirements of this section. 2612
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(I)(1) No waiver of any applicable privilege or claim of confidentiality in the work papers, or copies thereof, that are 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. 2615
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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 2620
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this section does not prohibit an insurer or any other person from 2622
taking steps to limit the dissemination of the work papers to 2623
persons not involved in or the subject of the regulatory or legal 2624
action on the basis of any recognized privilege arising under any 2625
other section of the Revised Code or the common law. 2626

Sec. 3901.70. (A) Each report obtained by or disclosed to the 2627
superintendent of insurance pursuant to sections 3901.67 to 2628
3901.70 of the Revised Code is confidential and privileged and is 2629
not subject to subpoena. Except as provided in divisions division 2630
(B) ~~and (C)~~ of this section, the report shall not be made public 2631
by the superintendent, ~~the national association of insurance~~ 2632
~~commissioners,~~ or any other persons. 2633

(B) ~~A report may be provided by the superintendent to the~~ 2634
~~insurance regulatory authority of another state or to the national~~ 2635
~~association of insurance commissioners without first obtaining the~~ 2636
~~written consent of the insurer to which it pertains.~~ 2637

(C) ~~The superintendent, after conducting a hearing in~~ 2638
~~accordance with Chapter 119. of the Revised Code, may determine~~ 2639
~~that the interest of policyholders, shareholders, or the public~~ 2640
~~will be served by the publication of the report and may publish~~ 2641
~~all or any part of the report in such manner as the superintendent~~ 2642
~~may consider appropriate. Notwithstanding division (A) of this~~ 2643
section, the superintendent may do any of the following: 2644

(1) Disclose a report that is the subject of this section 2645
upon obtaining a prior written consent from the insurer to which 2646
the report pertains; 2647

(2) Share a report that is the subject of this section with 2648
the chief deputy rehabilitator, the chief deputy liquidator, other 2649
deputy rehabilitators and liquidators, and any other person 2650
employed by, or acting on behalf of, the superintendent pursuant 2651
to Chapter 3901. or 3903. of the Revised Code, with other local, 2652

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; 2653
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(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; 2659
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(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. 2663
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(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. 2669
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(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 brought by or on behalf of the superintendent, the rehabilitator, the liquidator, or the state 2679
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resulting from the exercise of the superintendent's official 2685
duties in any capacity. 2686

(E) Nothing in this section shall prohibit the superintendent 2687
from receiving reports in accordance with section 3901.045 of the 2688
Revised Code. 2689

(F) The superintendent may enter into agreements governing 2690
the sharing, use, and disclosure of reports consistent with the 2691
requirements of this section. 2692

(G)(1) No waiver of any applicable privilege or claim of 2693
confidentiality in the reports that are the subject of this 2694
section shall occur as a result of sharing or receiving reports as 2695
authorized in divisions (B)(2), (C), and (E) of this section. 2696

(2) The disclosure of a report in connection with a 2697
regulatory or legal action pursuant to divisions (B)(3) and (D) of 2698
this section does not prohibit an insurer or any other person from 2699
taking steps to limit the dissemination of the report to persons 2700
not involved in or the subject of the regulatory or legal action 2701
on the basis of any recognized privilege arising under any other 2702
section of the Revised Code or the common law. 2703

Sec. 3901.83. (A) When a record containing information 2704
pertaining to the medical history, diagnosis, prognosis, or 2705
medical condition of an enrollee of a health insuring corporation, 2706
insured of an insurer, or plan member of a public employee benefit 2707
plan is provided to the superintendent of insurance for any reason 2708
under sections 1751.77 to 1751.88, 3923.66 to 3923.70, or 3923.75 2709
to 3923.79 of the Revised Code, regardless of the source, the 2710
superintendent shall maintain the confidentiality of the record. 2711
The record in the superintendent's possession is not a public 2712
record under section 149.43 of the Revised Code, except to the 2713
extent that information from the record is used in preparing 2714
reports under section 3901.82 of the Revised Code. 2715

(B) Notwithstanding division (A) of this section, the 2716
superintendent may share a record that is the subject of this 2717
section in connection with the investigation or prosecution of any 2718
illegal or criminal activity with the chief deputy rehabilitator, 2719
the chief deputy liquidator, other deputy rehabilitators and 2720
liquidators, and any other person employed by, or acting on behalf 2721
of, the superintendent pursuant to Chapter 3901. or 3903. of the 2722
Revised Code, with other local, state, federal, and international 2723
regulatory and law enforcement agencies, with local, state, and 2724
federal prosecutors, and with the national association of 2725
insurance commissioners and its affiliates and subsidiaries, 2726
provided that the recipient agrees to maintain the confidential or 2727
privileged status of the confidential or privileged record and has 2728
authority to do so. 2729

(C) Nothing in this section shall prohibit the superintendent 2730
from receiving records in accordance with section 3901.045 of the 2731
Revised Code. 2732

(D) The superintendent may enter into agreements governing 2733
the sharing and use of records consistent with the requirements of 2734
this section. 2735

(E) No waiver of any applicable privilege or claim of 2736
confidentiality in the records that are the subject of this 2737
section shall occur as a result of sharing or receiving records as 2738
authorized in divisions (B) and (C) of this section. 2739

Sec. 3903.11. (A) In all proceedings and judicial reviews 2740
thereof under sections 3903.09 and 3903.10 of the Revised Code, 2741
all records of the insurer, other documents, and all department of 2742
insurance files and court records and papers, so far as they 2743
pertain to or are a part of the record of the proceedings, shall 2744
be and remain confidential and privileged except as is necessary 2745
to enforce compliance with those sections, unless and until the 2746

court of common pleas, after hearing arguments from the parties in 2747
chambers, shall order otherwise, or unless the insurer requests in 2748
writing that the matter be made public. Until such court order or 2749
such request from the insurer, all papers filed with the clerk of 2750
the court shall be held by the clerk in a confidential file. 2751

(B) Notwithstanding division (A) of this section, the 2752
superintendent may do either of the following: 2753

(1) Share the documents and information that are the subject 2754
of this section with the chief deputy rehabilitator, the chief 2755
deputy liquidator, other deputy rehabilitators and liquidators, 2756
and any other person employed by, or acting on behalf of, the 2757
superintendent pursuant to Chapter 3901. or 3903. of the Revised 2758
Code, with other local, state, federal, and international 2759
regulatory and law enforcement agencies, with local, state, and 2760
federal prosecutors, and with the national association of 2761
insurance commissioners and its affiliates and subsidiaries, 2762
provided that the recipient agrees to maintain the confidential or 2763
privileged status of the confidential or privileged document or 2764
information and has authority to do so; 2765

(2) Disclose documents and information that are the subject 2766
of this section in the furtherance of any regulatory or legal 2767
action brought by or on behalf of the superintendent or the state, 2768
resulting from the exercise of the superintendent's official 2769
duties. 2770

(C) Notwithstanding divisions (A) and (B) of this section, 2771
the superintendent may authorize the national association of 2772
insurance commissioners and its affiliates and subsidiaries by 2773
agreement to share confidential or privileged documents or 2774
information received pursuant to division (B)(1) of this section 2775
with local, state, federal, and international regulatory and law 2776
enforcement agencies and with local, state, and federal 2777
prosecutors, provided that the recipient agrees to maintain the 2778

confidential or privileged status of the confidential or 2779
privileged document or information and has authority to do so. 2780

(D) Notwithstanding divisions (A) and (B) of this section, 2781
the chief deputy rehabilitator, the chief deputy liquidator, and 2782
other deputy rehabilitators and liquidators may disclose documents 2783
and information that are the subject of this section in the 2784
furtherance of any regulatory or legal action brought by or on 2785
behalf of the superintendent, the rehabilitator, the liquidator, 2786
or the state resulting from the exercise of the superintendent's 2787
official duties in any capacity. 2788

(E) Nothing in this section shall prohibit the superintendent 2789
from receiving documents or information in accordance with section 2790
3901.045 of the Revised Code. 2791

(F) The superintendent may enter into agreements governing 2792
the sharing and use of documents and information consistent with 2793
the requirements of this section. 2794

(G)(1) No waiver of any applicable privilege or claim of 2795
confidentiality in the documents and information described in this 2796
section shall occur as a result of sharing or receiving documents 2797
and information as authorized in divisions (B)(1), (C), and (E) of 2798
this section. 2799

(2) The disclosure of documents or information in connection 2800
with a regulatory or legal action pursuant to divisions (B)(2) and 2801
(D) of this section does not prohibit an insurer or any other 2802
person from taking steps to limit the dissemination of the 2803
document or information to persons not involved in or the subject 2804
of the regulatory or legal action on the basis of any recognized 2805
privilege arising under any other section of the Revised Code or 2806
the common law. 2807

Sec. 3903.72. (A) The superintendent of insurance shall 2808

annually value, or cause to be valued, the reserve liabilities, 2809
referred to in this section as reserves, for all outstanding life 2810
insurance policies and annuity and pure endowment contracts of 2811
every life insurance company doing business in this state. The 2812
superintendent may certify the amount of such reserves, specifying 2813
the mortality tables, rates of interest, and net level premium 2814
method and other methods used to calculate reserves. In 2815
calculating reserves, the superintendent may use group methods and 2816
approximate averages for fractions of a year or otherwise. The 2817
valuation of the reserves of a company organized under the laws of 2818
a foreign government shall be limited to its United States 2819
business. 2820

In lieu of a valuation of the reserves of a foreign company, 2821
the superintendent may accept the valuation made, or caused to be 2822
made, by the insurance supervisory official of any state or other 2823
jurisdiction when such valuation complies with the minimum 2824
standards required by this section, provided such official accepts 2825
the certificate of valuation of the superintendent when such 2826
certificate states that the valuation was made in a specified 2827
manner and when such valuation complies with the minimum standards 2828
required by the law of that state or jurisdiction. 2829

A company, which adopts a standard of valuation producing 2830
aggregate reserves greater than those required by this section, 2831
may adopt a lower standard of valuation with the approval of the 2832
superintendent, but not lower than the minimum provided by this 2833
section. However, the holding of additional reserves previously 2834
determined by a qualified actuary to be necessary for the actuary 2835
to render the opinions required by divisions (B)(1) and (2) of 2836
this section shall not be deemed to be the adoption of a higher 2837
standard of valuation. 2838

(B)(1) Every life insurance company doing business in this 2839
state shall annually submit to the superintendent the opinion of a 2840

qualified actuary as to whether the reserves and related actuarial 2841
items held in support of the policies and contracts specified by 2842
rule by the superintendent are computed appropriately, are based 2843
on assumptions that satisfy contractual provisions, and are 2844
consistent with prior reported amounts. The opinion shall be 2845
submitted no later than March 1, 1996, and no later than the first 2846
day of March of each year thereafter. The superintendent shall 2847
adopt rules establishing the form and content of this opinion, and 2848
may require the life insurance company to supply information in 2849
addition to that contained in the actuarial opinion. 2850

As used in this section, a "qualified actuary" means a person 2851
who is a member in good standing of the American academy of 2852
actuaries and who meets the requirements set by rule by the 2853
superintendent. 2854

(2)(a) Every life insurance company, except as exempted by 2855
rule adopted by the superintendent, shall also include in the 2856
annual opinion required by division (B)(1) of this section an 2857
opinion of the same qualified actuary as to whether the reserves 2858
and related actuarial items held in support of the policies and 2859
contracts specified by rule by the superintendent, when considered 2860
in light of the assets held by the company with respect to the 2861
reserves and related actuarial items, including, but not limited 2862
to, the investment earnings on the assets and the considerations 2863
anticipated to be received and retained under the policies and 2864
contracts, make adequate provision for the company's obligations 2865
under the policies and contracts, including, but not limited to, 2866
the benefits under and the expenses associated with the policies 2867
and contracts. 2868

(b) The superintendent may provide by rule for a transition 2869
period for establishing any higher reserves that the qualified 2870
actuary may consider necessary to render the opinion required by 2871
division (B) of this section. 2872

(c) Each opinion required by division (B) of this section 2873
shall be supported by a memorandum prepared in form and content as 2874
specified by rule by the superintendent. 2875

(d) If a life insurance company fails to provide a supporting 2876
memorandum within the period of time specified by rule by the 2877
superintendent, or if the superintendent determines that a 2878
supporting memorandum fails to meet the standards set out in the 2879
rule, or is otherwise unacceptable to the superintendent, the 2880
superintendent may employ, at the expense of the insurance 2881
company, a qualified actuary to review the opinion and the basis 2882
for the opinion and prepare such supporting memorandum as is 2883
required by the superintendent. 2884

(3) Every opinion required by division (B) of this section is 2885
governed by the following: 2886

(a) The opinion shall be submitted with the annual statement 2887
reflecting the valuation of the reserve liabilities. 2888

(b) The opinion shall apply to all business in force 2889
including individual and group health insurance plans. 2890

(c) The opinion shall be based on standards adopted from time 2891
to time by the actuarial standards board of the American academy 2892
of actuaries and on such additional standards as the 2893
superintendent may prescribe by rule. 2894

(d) In the case of an opinion required to be submitted by a 2895
foreign or alien life insurance company, the superintendent may 2896
accept the opinion filed by that company with the insurance 2897
regulatory authority of another state if the superintendent 2898
determines that the opinion reasonably meets the requirements 2899
applicable to a company domiciled in this state. 2900

(e) Except in cases of fraud or willful misconduct, the 2901
qualified actuary is not liable for damages in any civil action to 2902
any person, other than the insurance company and the 2903

superintendent, for any act, error, omission, decision, or conduct
with respect to the actuary's opinion.

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

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(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.

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(h) Notwithstanding division (B)(3)(g) of this section, the
superintendent may do any of the following:

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(i) Disclose memoranda and other materials described in this

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section upon obtaining prior written consent from the insurer to 2936
which the memorandum or other materials pertain; 2937

(ii) Disclose memoranda and other materials described in this 2938
section to the American academy of actuaries upon receipt of a 2939
written request from the academy stating that a memorandum or 2940
other material is required for the purpose of professional 2941
disciplinary proceedings. A request from the American academy of 2942
actuaries shall set forth the procedures to be used by the academy 2943
for preserving the confidential and privileged status of the 2944
memorandum or other material. If the procedures set forth are not 2945
satisfactory to the superintendent, the superintendent shall not 2946
release the memorandum or other material to the academy. 2947

(iii) Share memoranda and other materials described in this 2948
section with the chief deputy rehabilitator, the chief deputy 2949
liquidator, other deputy rehabilitators and liquidators, and any 2950
other person employed by, or acting on behalf of, the 2951
superintendent pursuant to Chapter 3901. or 3903. of the Revised 2952
Code, with other local, state, federal, and international 2953
regulatory and law enforcement agencies, with local, state, and 2954
federal prosecutors, and with the national association of 2955
insurance commissioners and its affiliates and subsidiaries, 2956
provided that the recipient agrees to maintain the confidential or 2957
privileged status of any confidential or privileged memorandum or 2958
other material and has authority to do so; 2959

(iv) Disclose memoranda and other materials described in this 2960
section in the furtherance of any regulatory or legal action 2961
brought by or on behalf of the superintendent or the state, 2962
resulting from the exercise of the superintendent's official 2963
duties. 2964

(i) Notwithstanding divisions (B)(3)(g) and (h) of this 2965
section, the superintendent may authorize the national association 2966
of insurance commissioners and its affiliates and subsidiaries by 2967

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. 2968
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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 brought by or on behalf of the superintendent, the rehabilitator, the liquidator, or the state resulting from the exercise of the superintendent's official duties in any capacity. 2976
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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. 2984
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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. 2987
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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. 2990
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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 insurer or any other person from taking steps to limit the 2995
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dissemination of the memorandum or material to persons not 2999
involved in or the subject of the regulatory or legal action on 3000
the basis of any recognized privilege arising under any other 3001
section of the Revised Code or the common law. 3002

(C) Except in the case of policies and contracts to which 3003
division (D) of this section applies, the minimum standard for the 3004
valuation of reserves shall be the method set forth in section 3005
3915.04 of the Revised Code, using four per cent interest and the 3006
American experience table of mortality; provided that in no event 3007
shall a company's aggregate reserves for policies and contracts 3008
which guarantee nonforfeiture benefits be less than the aggregate 3009
reserves calculated in accordance with the standard used in 3010
calculating nonforfeiture benefits for such policies and 3011
contracts. 3012

Reserves for such policies and contracts may be calculated 3013
according to standards which produce aggregate reserves greater 3014
than the minimum reserves required by this division. 3015

(D) This division applies to all life insurance policies and 3016
annuity and pure endowment contracts issued on and after November 3017
5, 1959, or each earlier date not before July 17, 1947, elected by 3018
the company for one or more of such policies or contracts as the 3019
date on which it would comply with the provisions of the 3020
nonforfeiture law for life insurance provided in section 3915.07 3021
of the Revised Code or with the provisions of this division. The 3022
minimum standard for the valuation of all such policies and 3023
contracts shall be the commissioners reserve valuation method 3024
defined in division (E), (F), (H), or (K) of this section and the 3025
following tables and interest rates: 3026

(1) For ordinary life insurance policies, excluding 3027
disability and accidental death benefits, issued on the standard 3028
basis: 3029

(a) On and after November 5, 1959, or an earlier date, not 3030
before July 17, 1947, specified in a written notice by the company 3031
to the superintendent of its election to use this table and before 3032
division (D)(1)(b) of this section became operative for subsequent 3033
policy issues, the commissioners 1941 standard ordinary mortality 3034
table and three and one-half per cent interest; 3035

(b) On and after January 1, 1966, or an earlier date, not 3036
before November 5, 1959, specified in a written notice by the 3037
company to the superintendent of its election to use this table 3038
and before division (D)(1)(c) of this section becomes operative 3039
for subsequent policy issues, the commissioners 1958 standard 3040
ordinary mortality table and three and one-half per cent interest 3041
before January 1, 1975; four per cent interest on and after 3042
January 1, 1975 and before January 1, 1979; and four and one-half 3043
per cent interest on and after January 1, 1979; provided that 3044
modified premiums and present values for female risks may be 3045
calculated at an age three years younger than the actual age of 3046
the insured for policies issued before January 1, 1979, and at an 3047
age six years younger for policies issued on and after January 1, 3048
1979. 3049

(c) On and after January 1, 1989, or an earlier date, not 3050
before January 1, 1983, specified in a written notice by the 3051
company to the superintendent of its election to use this table, 3052
the commissioners 1980 standard ordinary mortality table and the 3053
applicable valuation interest rate as defined in section 3903.721 3054
of the Revised Code. The company may elect to use the 3055
commissioners 1980 standard ordinary mortality table with ten-year 3056
select mortality factors for any specified plan of life insurance. 3057
The superintendent may approve the use of any ordinary mortality 3058
table adopted after 1980 by the national association of insurance 3059
commissioners for determining the minimum standard for the 3060
valuation of such policies. 3061

(2) For industrial life insurance policies, excluding 3062
disability and accidental death benefits, issued on the standard 3063
basis: 3064

(a) On and after November 5, 1959, or an earlier date, not 3065
before July 17, 1947, specified in a written notice by the company 3066
to the superintendent of its election to use this table and before 3067
division (D)(2)(b) of this section became operative for subsequent 3068
policy issues, the 1941 standard industrial mortality table and 3069
three and one-half per cent interest; 3070

(b) On and after January 1, 1968, or an earlier date, not 3071
before September 2, 1963, specified in a written notice by the 3072
company to the superintendent of its election to use this table, 3073
the commissioners 1961 standard industrial mortality table and 3074
three and one-half per cent interest before January 1, 1975; four 3075
per cent interest on and after January 1, 1975 and before January 3076
1, 1979; four and one-half per cent interest on and after January 3077
1, 1979 and before January 1, 1989, or before an earlier date, not 3078
before January 1, 1983, specified in a written notice by the 3079
company to the superintendent of its election to issue such 3080
policies pursuant to the provisions of the nonforfeiture law for 3081
life insurance provided in section 3915.071 of the Revised Code. 3082
On and after January 1, 1989, or such earlier date, the interest 3083
rate to be used in calculating the minimum reserve for such 3084
policies is the applicable valuation interest rate as defined in 3085
section 3903.721 of the Revised Code. The superintendent may 3086
approve the use of any industrial mortality table adopted after 3087
1980 by the national association of insurance commissioners for 3088
determining the minimum standard for the valuation of such 3089
policies. 3090

(3) For all individual annuity and pure endowment contracts, 3091
excluding disability and accidental death benefits, issued: 3092

(a) On and after November 5, 1959, or an earlier date, not 3093

before July 17, 1947, as of which the company elected to comply 3094
with this division (D)(3)(a) and before division (D)(3)(b) of this 3095
section became operative for subsequent contract issues, the 1937 3096
standard annuity mortality table, or, at the option of the 3097
company, the annuity mortality table for 1949, ultimate, or any 3098
modification of either table approved by the superintendent and 3099
three and one-half per cent interest; 3100

(b) On and after January 1, 1979, or an earlier date, not 3101
before January 1, 1975, specified by the company in a written 3102
notice to the superintendent of its election to use this table, 3103
the 1971 individual annuity mortality table or any modification of 3104
that table approved by the superintendent and four per cent 3105
interest on and after January 1, 1975 and before January 1, 1979; 3106
four and one-half per cent interest on and after January 1, 1979, 3107
and before January 1, 1983; and the valuation interest rate as 3108
defined in section 3903.721 of the Revised Code on and after 3109
January 1, 1983, except that on and after January 1, 1975, and 3110
before January 1, 1979, the interest rate is six per cent for 3111
single premium immediate contracts and on and after January 1, 3112
1979, and before January 1, 1983, the interest rate is five and 3113
one-half per cent for single premium deferred contracts and seven 3114
and one-half per cent for single premium immediate contracts. The 3115
superintendent may approve the use of any individual annuity 3116
mortality table adopted after 1980 by the national association of 3117
insurance commissioners, either as adopted or as modified by the 3118
superintendent, for determining the minimum standard for the 3119
valuation of such contracts. 3120

(4) For all annuity and pure endowment contracts, excluding 3121
disability and accidental death benefits, purchased under group 3122
annuity and pure endowment contracts: 3123

(a) On and after November 5, 1959, or an earlier date, not 3124
before July 17, 1947, as of which the company elected to comply 3125

with this division (D)(4)(a) and before division (D)(4)(b) of this 3126
section became operative for subsequent contract purchases, the 3127
group annuity mortality table for 1951, any modification of this 3128
table approved by the superintendent, or either of the tables, or 3129
modification of either of them, specified in division (D)(3)(a) of 3130
this section for individual annuity and pure endowment contracts 3131
and three and one-half per cent interest; 3132

(b) On and after January 1, 1979, or an earlier date, not 3133
before January 1, 1975, specified by the company in a written 3134
notice to the superintendent of its election to use this table, 3135
the 1971 group annuity mortality table, or any modification of 3136
that table approved by the superintendent, and six per cent 3137
interest on and after January 1, 1975, and before January 1, 1979; 3138
seven and one-half per cent interest on and after January 1, 1979, 3139
and before January 1, 1983, and the valuation interest rate as 3140
defined in section 3903.721 of the Revised Code on and after 3141
January 1, 1983. The superintendent may approve the use of any 3142
group annuity mortality table adopted after 1980 by the national 3143
association of insurance commissioners, either as adopted or as 3144
modified by the superintendent, for determining the minimum 3145
standard for the valuation of such contracts. 3146

(5) For total and permanent disability benefits in or 3147
supplementary to ordinary policies and contracts issued: 3148

(a) On and after July 17, 1947, and before January 1, 1961, 3149
the class (3) disability table (1926) and three and one-half per 3150
cent interest. This table, for active lives, shall be combined 3151
with a mortality table permitted for calculating the reserves for 3152
life insurance policies. 3153

(b) On and after January 1, 1961, the tables of period 2 3154
disablement rates and the 1930 to 1950 termination rates of the 3155
1952 disability study of the society of actuaries, with due regard 3156
for the type of benefit; except that a company may, at its option, 3157

use the class (3) disability table (1926) for policies and 3158
contracts issued on and after January 1, 1961, and before January 3159
1, 1966. Any such table, for active lives, shall be combined with 3160
a mortality table permitted for calculating the reserves for life 3161
insurance policies. The interest rate to be used in calculating 3162
minimum reserves for such benefits may not exceed the applicable 3163
rate specified in division (D)(1) of this section for ordinary 3164
life insurance policies. The superintendent may approve the use of 3165
any table of disablement rates and termination rates adopted after 3166
1980 by the national association of insurance commissioners for 3167
determining the minimum standard for the valuation of such total 3168
and permanent benefits. 3169

(6) For accidental death benefits in or supplementary to 3170
policies issued: 3171

(a) On and after July 17, 1947, and before January 1, 1961, 3172
the inter-company double indemnity mortality table and three and 3173
one-half per cent interest. This table shall be combined with a 3174
mortality table permitted for calculating the reserves for life 3175
insurance policies. 3176

(b) On and after January 1, 1961, the 1959 accidental death 3177
benefits table; except that a company may, at its option, use the 3178
inter-company double indemnity mortality table for policies issued 3179
on and after January 1, 1961, and before January 1, 1966. Either 3180
table shall be combined with a mortality table permitted for 3181
calculating the reserves for life insurance policies. The interest 3182
rate to be used in calculating the minimum reserves for such 3183
benefits may not exceed the applicable rate specified in division 3184
(D)(1) of this section for ordinary life insurance policies. The 3185
superintendent may approve the use of any accidental death 3186
benefits table adopted after 1980 by the national association of 3187
insurance commissioners for determining the minimum standard for 3188
the valuation of such accidental death benefits. 3189

(7) For group life insurance, life insurance issued on the 3190
substandard basis and all other special benefits, such tables as 3191
may be approved by the superintendent and interest not to exceed 3192
the applicable rate used in division (D)(1) of this section for 3193
ordinary life insurance policies. 3194

(E) This division defines the commissioners reserve valuation 3195
method for all policies, riders, and supplemental policy 3196
provisions, with life insurance or endowment benefits, or both, 3197
providing for uniform amounts of life insurance and requiring 3198
uniform premiums. Reserves for such policies, riders, and 3199
provisions, except as otherwise provided in divisions (F) and (K) 3200
of this section, shall be the excess, if any, of the present value 3201
on the valuation date of the future guaranteed benefits over the 3202
present value on that date of the future modified net premiums. 3203
The modified net premium is a uniform percentage of each contract 3204
premium specified for the guaranteed benefits such that the 3205
present value, at the date of issue, of all modified net premiums 3206
shall be equal to the present value, on the date of issue, of the 3207
future guaranteed benefits plus the excess of division (E)(1) over 3208
division (E)(2) of this section, as follows: 3209

(1) A net level annual premium equal to the present value, at 3210
the date of issue, of such benefits provided for after the first 3211
policy year, divided by the present value, at the date of issue, 3212
of an annuity of one per annum payable on the first and each 3213
subsequent anniversary of the policy on which a premium falls due; 3214
provided that such net level annual premium shall not exceed the 3215
net level annual premium on the nineteen-year premium whole life 3216
plan for insurance of the same amount at an age one year higher 3217
than the age at issue of the policy. 3218

(2) A net one-year term premium for such benefits provided 3219
for in the first policy year. 3220

(F) This division defines the commissioners reserve valuation 3221

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, 3253
established or maintained by an employer, including a partnership 3254
or sole proprietorship, or by an employee organization, or by 3255
both, other than a plan providing individual retirement accounts 3256
or individual retirement annuities under section 408 of the 3257
Internal Revenue Code of 1954, as amended; 3258

(3) Disability and accidental death benefits in all policies 3259
and contracts; and 3260

(4) All other benefits, except life insurance and endowment 3261
benefits in life insurance policies and benefits provided by all 3262
other annuity and pure endowment contracts, shall be calculated by 3263
a method consistent with the principles of division (E) of this 3264
section. 3265

Extra premiums charged because of impairments or special 3266
hazards shall be disregarded in determining modified net premiums. 3267

(H) This division defines the commissioners annuity reserve 3268
valuation method for all annuity and pure endowment contracts 3269
other than group annuity and pure endowment contracts purchased 3270
under a retirement plan or plan of deferred compensation, 3271
established or maintained by an employer, including a partnership 3272
or sole proprietorship, or by an employee organization, or by 3273
both, other than a plan providing individual retirement accounts 3274
or individual retirement annuities under section 408 of the 3275
Internal Revenue Code of 1954, as amended. 3276

Reserves for benefits under such contracts, excluding 3277
disability and accidental death benefits, shall be the greatest of 3278
the respective excesses of the present values, at the date of 3279
valuation, of the future guaranteed benefits, including guaranteed 3280
nonforfeiture benefits, provided for by such contract at the end 3281
of each respective contract year, over the present value, at the 3282
date of valuation, of any future valuation considerations derived 3283

from future gross considerations required by the terms of the 3284
contract that become payable prior to the end of each such 3285
respective contract year. The future guaranteed benefits shall be 3286
determined by using the mortality table, if any, and the interest 3287
rate, or rates, specified in such contracts for determining 3288
guaranteed benefits. The valuation considerations are the portions 3289
of the respective gross considerations applied under the terms of 3290
such contracts to determine nonforfeiture values. 3291

(I) In no event shall a company's aggregate reserves for all 3292
life insurance policies, to which division (D) of this section 3293
applies, excluding disability and accidental death benefits, be 3294
less than the aggregate reserves calculated in accordance with the 3295
method set forth in divisions (E), (F), (G), (K), and (L) of this 3296
section and the mortality table or tables and rate or rates of 3297
interest used in calculating nonforfeiture benefits for such 3298
policies. 3299

In no event shall the aggregate reserves for all policies, 3300
contracts, and benefits be less than the aggregate reserves 3301
determined by the qualified actuary to be necessary to render the 3302
opinion required by division (B) of this section. 3303

(J) Reserves for any category of policies, contracts, or 3304
benefits as established by the superintendent may be calculated, 3305
at the option of the company, according to any standards which 3306
produce aggregate reserves for such category greater than those 3307
calculated according to the minimum standards provided in this 3308
section, but the rate or rates of interest used for policies and 3309
contracts, other than annuity and pure endowment contracts, shall 3310
not be higher than the corresponding rate or rates of interest 3311
used in calculating any nonforfeiture benefits provided for in 3312
such standards. 3313

(K) If in any contract year the valuation net premium 3314
calculated by the method used in calculating the reserve for a 3315

policy or contract but using the minimum valuation standards of 3316
mortality and rate of interest is more than the gross premium for 3317
such policy or contract, the minimum reserve required for such 3318
policy or contract shall be the greater of either the reserve 3319
calculated according to the mortality table, rate of interest, and 3320
method actually used for such policy or contract, or the reserve 3321
calculated by such method but using the minimum valuation 3322
standards of mortality and rate of interest and replacing the 3323
valuation net premium by the actual gross premium in each contract 3324
year for which the valuation net premium exceeds the actual gross 3325
premium. The minimum valuation standards of mortality and rate of 3326
interest referred to in this division are those required by 3327
division (D) of this section. 3328

For the purposes of this division, the minimum reserve for 3329
any policy to which the provisions of division (F) of this section 3330
apply shall be calculated as if the method used in calculating the 3331
reserve for such policy were the method defined in division (E) of 3332
this section. The minimum reserve for such policy shall be the 3333
greater of the reserve calculated in accordance with division (F) 3334
of this section and in accordance with this division. 3335

(L) Methods for determining the reserves for plans of life 3336
insurance or annuity which are of such a nature that minimum 3337
reserves cannot be determined by the methods described in this 3338
section shall be promulgated by rule adopted by the 3339
superintendent. The reserves to be held under such plans must be 3340
appropriate in relation to the benefits and the pattern of 3341
premiums for each plan and must be computed by methods which are 3342
consistent with the principles of this section. This division 3343
applies to any plan of life insurance which provides for future 3344
premium determination, the amounts of which are to be determined 3345
by the company on the basis of an estimate of future experience 3346
made at the time of any such determination. 3347

(M) The superintendent shall adopt rules specifying minimum 3348
reserve standards for the valuation of individual and group health 3349
plans. 3350

Sec. 3903.83. (A) For purposes of sections 3903.81 to 3903.93 3351
of the Revised Code, a "company action level event" is any of the 3352
following events: 3353

(1) A domestic or foreign insurer's filing of an RBC report 3354
that indicates that the insurer's total adjusted capital is 3355
greater than or equal to its regulatory action level RBC but less 3356
than its company action level RBC; 3357

(2) A life or health insurer's filing of an RBC report that 3358
indicates that the insurer's total adjusted capital is greater 3359
than or equal to its company action level RBC but less than the 3360
product of 2.5 and its authorized control level RBC, and that 3361
indicates a negative trend; 3362

(3) The notification by the superintendent of insurance to an 3363
insurer of an adjustment to the insurer's RBC report, which 3364
adjusted RBC report shows the insurer's total adjusted capital 3365
within the range described in either division (A)(1) or (2) of 3366
this section, provided that the insurer does not challenge the 3367
adjusted RBC report under section 3903.87 of the Revised Code; 3368

(4) The superintendent's notification to an insurer, 3369
following the hearing required under section 3903.87 of the 3370
Revised Code, that the superintendent has rejected the insurer's 3371
challenge to an adjusted RBC report showing the insurer's total 3372
adjusted capital within the range described in either division 3373
(A)(1) or (2) of this section. 3374

(B) In the case of a company action level event, the insurer 3375
shall prepare and submit to the superintendent an RBC plan that 3376
shall: 3377

| | |
|--|------|
| (1) Identify the conditions that contributed to the company | 3378 |
| action level event; | 3379 |
| (2) Contain proposals of corrective actions that the insurer | 3380 |
| intends to take to eliminate the conditions leading to the company | 3381 |
| action level event; | 3382 |
| (3) Provide projections of the insurer's financial results in | 3383 |
| the current year and at least the four succeeding years, both in | 3384 |
| the absence of the proposed corrective actions and giving effect | 3385 |
| to the proposed corrective actions. The projections shall include | 3386 |
| projections of statutory operating income, net income, capital, | 3387 |
| and surplus. Projections for both new and renewal business may | 3388 |
| include separate projections for each major line of business, and | 3389 |
| may separately identify each significant income, expense, and | 3390 |
| benefit component of the projection. | 3391 |
| (4) Identify the key assumptions impacting the insurer's | 3392 |
| projections made pursuant to division (B)(3) of this section, and | 3393 |
| describe the sensitivity of the projections to the assumptions; | 3394 |
| (5) Identify the quality of, and problems associated with, | 3395 |
| the insurer's business, including, but not limited to, its assets, | 3396 |
| anticipated business growth and associated surplus strain, | 3397 |
| extraordinary exposure to risk, mix of business, and use of | 3398 |
| reinsurance. | 3399 |
| (C) The RBC plan shall be submitted within forty-five days | 3400 |
| after a company action level event. However, if an insurer has | 3401 |
| challenged an adjusted RBC report pursuant to section 3903.87 of | 3402 |
| the Revised Code, the RBC plan need not be submitted until after | 3403 |
| the hearing required under section 3903.87 of the Revised Code. If | 3404 |
| the superintendent rejects the insurer's challenge, the RBC plan | 3405 |
| shall be submitted within forty-five days after the | 3406 |
| superintendent's notification to the insurer of the rejection of | 3407 |
| the challenge. | 3408 |

(D)(1) Within sixty days after an insurer submits an RBC plan 3409
to the superintendent, the superintendent shall either require the 3410
insurer to implement the RBC plan or shall notify the insurer that 3411
the RBC plan is unsatisfactory in the judgment of the 3412
superintendent. If the superintendent has determined that the RBC 3413
plan is unsatisfactory, the notification to the insurer shall set 3414
forth the reasons for the determination, and may set forth 3415
proposed revisions that will render the RBC plan satisfactory in 3416
the judgment of the superintendent. Upon such notification from 3417
the superintendent, the insurer shall prepare and submit a revised 3418
RBC plan, which may incorporate by reference any revisions 3419
proposed by the superintendent. 3420

(2) If an insurer challenges, under section 3903.87 of the 3421
Revised Code, a notification from the Superintendent that the 3422
insurer's RBC plan or a revised RBC plan is unsatisfactory, 3423
submission of a revised RBC plan need not be made unless the 3424
superintendent rejects the insurer's challenge following the 3425
hearing required by section 3903.87 of the Revised Code and then 3426
notifies the insurer of this rejection. 3427

(3) An insurer shall submit a revised RBC plan to the 3428
superintendent within forty-five days after receiving notification 3429
from the superintendent that its RBC plan is unsatisfactory, or, 3430
that its challenge to a notification made under division (D)(1) of 3431
this section has been rejected, as applicable. 3432

(E) Notwithstanding division (D) of this section, if the 3433
superintendent notifies an insurer that its RBC plan or revised 3434
RBC plan is unsatisfactory, the superintendent may, at the 3435
superintendent's discretion, but subject to the insurer's right to 3436
a hearing under section 3903.87 of the Revised Code, specify in 3437
the notification that the notification constitutes a regulatory 3438
action level event. 3439

(F) Every domestic insurer that submits an RBC plan or 3440

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 be~~ 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 3471
the subject of this section in accordance with the insurance laws 3472
of this state; 3473

(2) Share the plans, reports, information, and orders that 3474
are the subject of this section with the chief deputy 3475
rehabilitator, the chief deputy liquidator, other deputy 3476
rehabilitators and liquidators, and any other person employed by, 3477
or acting on behalf of, the superintendent pursuant to Chapter 3478
3901. or 3903. of the Revised Code, with other local, state, 3479
federal, and international regulatory and law enforcement 3480
agencies, with local, state, and federal prosecutors, and with the 3481
national association of insurance commissioners and its affiliates 3482
and subsidiaries, provided that the recipient agrees to maintain 3483
the confidential or privileged status of the confidential or 3484
privileged plan, report, information, or order and has authority 3485
to do so; 3486

(3) Disclose plans, reports, information, and orders that are 3487
the subject of this section in the furtherance of any regulatory 3488
or legal action brought by or on behalf of the superintendent or 3489
the state, resulting from the exercise of the superintendent's 3490
official duties. 3491

(D) Notwithstanding divisions (A), (B), and (C) of this 3492
section, the superintendent may authorize the national association 3493
of insurance commissioners and its affiliates and subsidiaries by 3494
agreement to share confidential or privileged plans, reports, 3495
information, and orders received pursuant to division (C)(2) of 3496
this section with local, state, federal, and international 3497
regulatory and law enforcement agencies and with local, state, and 3498
federal prosecutors, provided that the recipient agrees to 3499
maintain the confidential or privileged status of the confidential 3500
or privileged plan, report, information, or order and has 3501
authority to do so. 3502

(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 brought by or on behalf of the superintendent, the rehabilitator, the liquidator, or the state resulting from the exercise of the superintendent's official duties in any capacity.

(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.

(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.

(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.

(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.

(I) The comparison of an insurer's total adjusted capital to any of its RBC levels shall not be used to rank insurers.

~~(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 3534
evidence in any rate proceeding, or used by the superintendent to 3535
calculate or derive any elements of an appropriate premium level 3536
or rate of return for any line of insurance that an insurer or any 3537
affiliate is authorized to write. 3538

~~(E)~~(K) Except as otherwise required under Title XXXIX of the 3539
Revised Code, it is an unfair and deceptive act or practice in the 3540
business of insurance for any person, as defined in division (A) 3541
of section 3901.19 of the Revised Code, to make, publish, 3542
disseminate, circulate, or place before the public, or to cause, 3543
directly or indirectly, to be made, published, disseminated, 3544
circulated, or placed before the public, in a newspaper, magazine, 3545
or other publication, in the form of a notice, circular, pamphlet, 3546
letter, or poster, or over any radio or television station, or in 3547
any other manner, an advertisement, announcement, or statement, 3548
written or oral, that contains an assertion, representation, or 3549
statement, regarding the RBC levels of any insurer or any 3550
component derived in the calculation of the RBC levels. 3551

~~(F)~~(L) If any materially false statement is published 3552
comparing an insurer's total adjusted capital to its RBC levels, 3553
or any inappropriate comparison of any other amount to any of the 3554
insurers' RBC levels is published, and the insurer is able to 3555
demonstrate to the superintendent with substantial proof the 3556
falsity of the statement or the inappropriateness of the 3557
comparison, then the insurer may publish with the superintendent's 3558
approval an announcement in a written publication to rebut the 3559
materially false statement or inappropriate comparison. 3560

Sec. 3905.492. (A)(1) All records and other information 3561
obtained by the superintendent of insurance or the 3562
superintendent's deputies, examiners, assistants, or other 3563
employees, or agents relating to an investigation of an applicant 3564
for licensure under this chapter, or of an agent, solicitor, 3565

broker, or other person licensed under this chapter or Chapter 3566
3951., 3957., or 3959. of the Revised Code, are confidential and 3567
are not public records as defined in section 149.43 of the Revised 3568
Code until the applicant or licensee is provided notice and 3569
opportunity for hearing pursuant to Chapter 119. of the Revised 3570
Code with respect to such records or information. If no 3571
administrative action is initiated with respect to a particular 3572
matter about which the superintendent obtained records or other 3573
information as part of an investigation, all such records and 3574
information relating to that matter shall remain confidential for 3575
three years after the file on the matter is closed. 3576

(2) Division (A)(1) of this section applies only to 3577
investigations that could result in administrative action under 3578
Title XVII or XXXIX or Chapter 119. of the Revised Code. 3579

(B) The records and other information described in division 3580
(A) of this section shall remain confidential for all purposes 3581
except when it is appropriate for the superintendent and the 3582
superintendent's deputies, examiners, assistants, or other 3583
employees, or agents to take official action regarding the affairs 3584
of the applicant or licensee or in connection with actual or 3585
potential criminal proceedings. 3586

~~(C) Employees or agents of the department of insurance shall 3587
not be required by any court in this state to testify in a civil 3588
action, if such testimony concerns any matter related to records 3589
or any other information considered confidential under this 3590
section of which they have knowledge. 3591~~

~~(D) This section does not apply to any complaint or action 3592
under section 3905.04 of the Revised Code. Notwithstanding 3593
divisions (A) and (B) of this section, the superintendent may do 3594
either of the following: 3595~~

~~(1) Share records and other information that are the subject 3596
of this section with the chief deputy rehabilitator, the chief 3597~~

deputy liquidator, other deputy rehabilitators and liquidators, 3598
and any other person employed by, or acting on behalf of, the 3599
superintendent pursuant to Chapter 3901. or 3903. of the Revised 3600
Code, with other local, state, federal, and international 3601
regulatory and law enforcement agencies, with local, state, and 3602
federal prosecutors, and with the national association of 3603
insurance commissioners and its affiliates and subsidiaries, 3604
provided that the recipient agrees to maintain the confidential 3605
status of the confidential record or other information and has 3606
authority to do so; 3607

(2) Disclose records and other information that are the 3608
subject of this section in the furtherance of any regulatory or 3609
legal action brought by or on behalf of the superintendent or the 3610
state, resulting from the exercise of the superintendent's 3611
official duties. 3612

(D) Notwithstanding divisions (A), (B), and (C) of this 3613
section, the superintendent may authorize the national association 3614
of insurance commissioners and its affiliates and subsidiaries by 3615
agreement to share confidential records and other information 3616
received pursuant to division (C)(1) of this section with local, 3617
state, federal, and international regulatory and law enforcement 3618
agencies and with local, state, and federal prosecutors, provided 3619
that the recipient agrees to maintain the confidential status of 3620
the confidential record or other information and has authority to 3621
do so. 3622

(E) Notwithstanding divisions (A), (B), and (C) of this 3623
section, the chief deputy rehabilitator, the chief deputy 3624
liquidator, and other deputy rehabilitators and liquidators may 3625
disclose records and other information that are the subject of 3626
this section in the furtherance of any regulatory or legal action 3627
brought by or on behalf of the superintendent, the rehabilitator, 3628
the liquidator, or the state resulting from the exercise of the 3629

superintendent's official duties in any capacity. 3630

(F) Nothing in this section shall prohibit the superintendent
from receiving records and other information in accordance with
section 3901.045 of the Revised Code. 3631
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(G)(1) No waiver of any applicable privilege or claim of
confidentiality in the records and other information that are the
subject of this section shall occur as a result of sharing or
receiving records or other information as authorized in divisions
(C)(1), (D), and (F) of this section. 3634
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(2) The disclosure of records or other information in
connection with a regulatory or legal action pursuant to divisions
(C)(2) and (E) of this section does not prohibit an insurer or any
other person from taking steps to limit the dissemination of the
record or other information 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. 3639
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(H) Employees or agents of the department of insurance shall
not be required by any court in this state to testify in a civil
action, if the testimony concerns any matter related to records or
other information considered confidential under this section of
which they have knowledge. 3647
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Sec. 3905.50. (A)(1) Except as provided in division (A)(2) or 3652
(3) of this section, this section applies to every contract of 3653
agency between a property and casualty insurance company and an 3654
independent insurance agent, as defined in division (A) of section 3655
3905.47 of the Revised Code, which has been in effect for not less 3656
than two years. 3657

(2) This section does not apply to a contract of exclusive 3658
employment by, or an exclusive agency contract with, a single 3659

insurer or group of insurers under common ownership or control. 3660

(3) This section does not apply to an agent whose license has 3661
been suspended or revoked by the superintendent of insurance, an 3662
agent who has demonstrated gross incompetence, or an agent whose 3663
contract has been terminated for insolvency, abandonment, gross or 3664
willful misconduct, or failure to pay to the insurer, in 3665
accordance with the agency contract, moneys due to the insurer 3666
upon written demand of the insurer. 3667

(B) No insurer shall terminate an independent insurance agent 3668
contract of agency except by mutual agreement of the parties or 3669
upon one hundred eighty days' written notice to the independent 3670
insurance agent. 3671

(1) Such notice shall include specific reasons for the 3672
termination of the agent. 3673

(2) Such notice shall be sent by certified mail, return 3674
receipt requested, to the last known address of the agency. 3675

(C) During the one hundred eighty day notice period, an 3676
independent insurance agent shall not write or bind any new 3677
policies on behalf of an insurer without written approval from the 3678
insurer. However, during such period, an independent insurance 3679
agent, subject to the current underwriting rules, guidelines, 3680
commission rates, and practices of the insurer, may renew or 3681
effect any necessary changes or endorsements of outstanding 3682
policies of insurance that are in force prior to the date of 3683
receipt of the notice of termination. 3684

(D) None of the following constitutes an acceptable reason 3685
for the termination of a contract of agency: 3686

(1) Claims experience of the agent in a single year; 3687

(2) Claims experience due to ~~catastrophies~~ catastrophes of 3688
nature covered by a policy; 3689

(3) Claims experience under uninsured and underinsured 3690
motorist coverages. 3691

(E) An agent aggrieved by the conduct of an insurer in its 3692
breach or termination of a contract of agency may file with the 3693
superintendent a request that the superintendent review the action 3694
to determine whether it is in accord with this section and the 3695
lawful provisions of the contract of agency and send a copy of the 3696
request to the insurer at the address of the office issuing the 3697
notice of termination. Upon receipt of such a request, an insurer 3698
shall promptly provide the independent insurance agent and 3699
superintendent with documentation in support of the insurer's 3700
stated reason for termination. 3701

(F) The superintendent shall promptly investigate the 3702
allegation. If the superintendent has reasonable cause to believe 3703
that this section or the lawful provisions of the contract of 3704
agency have been violated, ~~he~~ the superintendent shall, within 3705
thirty days of receipt of a request for review, conduct an 3706
adjudication hearing subject to Chapter 119. of the Revised Code, 3707
held upon not less than ten days' written notice to the agent and 3708
the insurer. Pending a final order in the adjudication hearing, 3709
the superintendent may take such interim action as necessary to 3710
protect the parties or the public. During the pendency of the 3711
proceeding before the superintendent, the contract of agency 3712
subject to the proceeding continues in force and division (C) of 3713
this section applies. The superintendent shall, within thirty days 3714
following such hearing, issue an order approving or disapproving 3715
the action of the insurer. All final orders and decisions of the 3716
superintendent are subject to judicial review as provided in 3717
Chapter 119. of the Revised Code. 3718

(G) An insurer shall not cancel or nonrenew any policy of 3719
insurance written through an agent upon the sole ground of the 3720
termination of the agency until the expiration of the policy term 3721

or the twelve-month period following the effective date of the 3722
termination of the contract of agency, whichever is earlier. 3723
However, during such period, an independent insurance agent may, 3724
subject to the current underwriting rules, guidelines, commission 3725
rates, and practices of the insurer, effect any necessary changes 3726
or endorsements to outstanding policies of insurance that are in 3727
force prior to the date of termination. 3728

This section does not abridge, restrict, or supersede the 3729
rights of an agent to the ownership of expirations provided for in 3730
any contract with an insurer. 3731

(H) Any information or documentation provided to an agent or 3732
the superintendent by an insurer under this section is 3733
confidential and shall be used by the superintendent only in the 3734
exercise of the proper functions authorized by this section. No 3735
insurer is liable for furnishing information or documentation in 3736
compliance with this section if the insurer acts without malice 3737
and in the reasonable belief that such information or 3738
documentation is warranted by this section. 3739

(I) Notwithstanding division (H) of this section, the 3740
superintendent may do either of the following: 3741

(1) Share the information or documentation that is the 3742
subject of this section with the chief deputy rehabilitator, the 3743
chief deputy liquidator, other deputy rehabilitators and 3744
liquidators, and any other person employed by, or acting on behalf 3745
of, the superintendent pursuant to Chapter 3901. or 3903. of the 3746
Revised Code, with other local, state, federal, and international 3747
regulatory and law enforcement agencies, with local, state, and 3748
federal prosecutors, and with the national association of 3749
insurance commissioners and its affiliates and subsidiaries, 3750
provided that the recipient agrees to maintain the confidential 3751
status of the confidential information or documentation and has 3752
authority to do so; 3753

(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. 3754
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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. 3759
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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 brought by or on behalf of the superintendent, the rehabilitator, the liquidator, or the state resulting from the exercise of the superintendent's official duties in any capacity. 3769
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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. 3777
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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. 3780
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(N)(1) No waiver of any applicable privilege or claim of confidentiality in the information and documentation that is the 3783
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subject of this section shall occur as a result of sharing or 3785
receiving information and documentation as authorized in divisions 3786
(I)(1), (J), and (L) of this section. 3787

(2) The disclosure of information or documentation in 3788
connection with a regulatory or legal action pursuant to divisions 3789
(I)(2) and (K) of this section does not prohibit an insurer or any 3790
other person from taking steps to limit the dissemination of the 3791
information or documentation to persons not involved in or the 3792
subject of the regulatory or legal action on the basis of any 3793
recognized privilege arising under any other section of the 3794
Revised Code or the common law. 3795

Sec. 3999.36. (A) As used in this section and sections 3796
3999.37 and 3999.38 of the Revised Code: 3797

(1) "Insurer" means any person that is authorized to engage 3798
in the business of insurance in this state under Title XXXIX of 3799
the Revised Code, any health insuring corporation, or any other 3800
person engaging either directly or indirectly in this state in the 3801
business of insurance or entering into contracts substantially 3802
amounting to insurance under section 3905.42 of the Revised Code. 3803

(2) "Impaired" or "impairment" means a financial situation in 3804
which the insurer's assets are less than the sum of the insurer's 3805
minimum required capital, minimum required surplus, and all 3806
liabilities, as determined in accordance with the requirements for 3807
the preparation and filing of the insurer's annual financial 3808
statement. 3809

(3) "Chief executive officer" means the person, irrespective 3810
of the person's title, designated by the board of directors or 3811
trustees of an insurer as the person charged with the 3812
responsibility of administering and implementing the insurer's 3813
policies and procedures. 3814

(B) Whenever a chief executive officer of an insurer knows or has reason to know that the insurer is impaired, the chief executive officer shall provide written notice of the impairment to the superintendent of insurance and to each member of the board of directors or trustees of the insurer. The chief executive officer shall provide the notice as soon as reasonably possible, but no later than thirty days after the chief executive officer knows or has reason to know of the impairment. No chief executive officer shall fail to provide notice in compliance with this division.

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

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

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

(2) Share the notice 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 notice and has authority to do so;

(3) Disclose the notice 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.

(E) Notwithstanding divisions (C) and (D) of this section, 3846
the superintendent may authorize the national association of 3847
insurance commissioners and its affiliates and subsidiaries by 3848
agreement to share confidential notices received pursuant to 3849
division (D)(2) of this section with local, state, federal, and 3850
international regulatory and law enforcement agencies and with 3851
local, state, and federal prosecutors, provided that the recipient 3852
agrees to maintain the confidential status of the notice and has 3853
authority to do so. 3854

(F) Notwithstanding divisions (C) and (D) of this section, 3855
the chief deputy rehabilitator, the chief deputy liquidator and 3856
other deputy rehabilitators and liquidators may disclose notices 3857
in the furtherance of any regulatory or legal action brought by or 3858
on behalf of the superintendent, the rehabilitator, the 3859
liquidator, or the state resulting from the exercise of the 3860
superintendent's official duties in any capacity. 3861

(G) Nothing in this section shall prohibit the superintendent 3862
from receiving notices in accordance with section 3901.045 of the 3863
Revised Code. 3864

(H) The superintendent may enter into agreements governing 3865
the sharing and use of notices consistent with the requirements of 3866
this section. 3867

(I)(1) No waiver of any applicable privilege or claim of 3868
confidentiality in the notices that are the subject of this 3869
section shall occur as a result of sharing or receiving notices as 3870
authorized in divisions (D)(2), (E), and (G) of this section. 3871

(2) The disclosure of a notice in connection with a 3872
regulatory or legal action pursuant to divisions (D)(3) and (F) of 3873
this section does not prohibit an insurer or any other person from 3874
taking steps to limit the dissemination of the notice to persons 3875
not involved in or the subject of the regulatory or legal action 3876

on the basis of any recognized privilege arising under any other 3877
section of the Revised Code or the common law. 3878

Sec. 4727.18. (A) Except as ~~otherwise~~ provided in ~~this~~ 3879
division (C) of this section, any information arising from, 3880
obtained by, or contained in an investigation of a person licensed 3881
as a pawnbroker under this chapter performed by the superintendent 3882
of financial institutions is confidential information and is not a 3883
public record under section 149.43 of the Revised Code. ~~The~~ 3884
~~superintendent, however, may share investigation information with~~ 3885
~~a law enforcement agency.~~ 3886

(B) Except as ~~otherwise~~ provided in ~~this~~ division (C) of this 3887
section, any information arising from, obtained by, or contained 3888
in an investigation by the superintendent of any person the 3889
superintendent reasonably suspects has violated or is violating 3890
this chapter is confidential information and not a public record 3891
under section 149.43 of the Revised Code. ~~The superintendent,~~ 3892
~~however, may share investigation information with a law~~ 3893
~~enforcement agency.~~ 3894

(C) Information made confidential by division (A) or (B) of 3895
this section may only be disclosed, discovered, or introduced into 3896
evidence as follows: 3897

(1) To a law enforcement agency; 3898

(2) In connection with criminal proceedings; 3899

(3) In any action taken or litigation by or against the 3900
superintendent in connection with the powers, duties, and 3901
obligations imposed upon the superintendent by this chapter; 3902

(4) When and in the manner authorized in section 1181.25 of 3903
the Revised Code. 3904

Section 2. That existing sections 111.15, 119.01, 1121.01, 3905

1121.11, 1121.18, 1155.01, 1155.091, 1155.16, 1163.01, 1163.121, 3906
1163.20, 1321.09, 1321.55, 1321.76, 1322.06, 1322.061, 1707.092, 3907
1707.11, 1707.12, 1707.141, 1707.15, 1707.151, 1707.161, 1707.17, 3908
1707.20, 1707.40, 1707.44, 1733.01, 1733.32, 1733.327, 1751.19, 3909
3901.36, 3901.44, 3901.48, 3901.70, 3901.83, 3903.11, 3903.72, 3910
3903.83, 3903.88, 3905.492, 3905.50, 3999.36, and 4727.18 of the 3911
Revised Code are hereby repealed. 3912

Section 3. Section 1322.061 of the Revised Code, as enacted 3913
by Am. Sub. S.B. 76 of the 124th General Assembly (effective May 3914
2, 2002), and as amended by this act, shall take effect May 2, 3915
2002. 3916

Section 4. Section 1322.06 of the Revised Code, as amended by 3917
this act, is repealed, effective May 2, 2002. The section is 3918
superseded by section 1322.06 of the Revised Code as it results 3919
from Am. Sub. S.B. 76 of the 124th General Assembly, which is 3920
scheduled to take effect May 2, 2002. 3921