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Sub. S. B. No. 138

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

A B I L L

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

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

Section 1. That sections 1121.01, 1121.11, 1121.18, 1155.01, 23
1155.091, 1155.16, 1163.01, 1163.121, 1163.20, 1321.09, 1321.55, 24
1321.76, 1322.06, 1322.061, 1707.11, 1707.12, 1707.141, 1707.15, 25
1707.151, 1707.161, 1707.17, 1733.01, 1733.32, 1733.327, 1751.19, 26
3901.36, 3901.44, 3901.48, 3901.70, 3901.83, 3903.11, 3903.72, 27
3903.83, 3903.88, 3905.492, 3905.50, 3999.36, and 4727.18 be 28
amended and sections 1181.25 and 3901.045 of the Revised Code be 29
enacted to read as follows: 30

Sec. 1121.01. As used in this chapter: 31

(A) "Financial institution regulatory authority" includes a 32
regulator of a business activity in which a bank or trust company 33
is engaged, or has applied to engage in, to the extent that the 34
regulator has jurisdiction over a bank or trust company engaged in 35
that business activity. A bank or trust company is engaged in a 36
business activity, and a regulator of that business activity has 37
jurisdiction over the bank or trust company, whether the bank or 38
trust company conducts the activity directly or a subsidiary or 39
affiliate of the bank or trust company conducts the activity. 40

(B) "Regulated person" means any of the following: 41

(1) A director, officer, or employee of or agent for a bank 42
or trust company or a controlling shareholder of a state bank, 43
foreign bank, or trust company; 44

(2) A person who is required to obtain, but has not yet 45
obtained, the consent of the superintendent of financial 46
institutions to acquire control of a bank pursuant to section 47
1115.06 of the Revised Code; 48

(3) A person participating in the conduct of the affairs of a 49
bank or trust company. 50

~~(B)~~(C) "Participating in the conduct of the affairs of a bank 51

or trust company" means either making decisions or, directly or 52
indirectly, taking actions that are management or policymaking in 53
nature and generally within the scope of authority of the bank's 54
or trust company's board of directors or executive officers. 55
Whether a person is or was participating in the conduct of the 56
affairs of a bank or trust company is an issue of fact, and not to 57
be determined solely on the basis of the person's title, contract, 58
or indicia of employment or independent contractor status. 59

60

Sec. 1121.11. (A) In administering Chapters 1101. to 1127. of 61
the Revised Code and fulfilling the duties imposed by those 62
chapters, including the duty imposed by section 1121.10 of the 63
Revised Code, the superintendent of financial institutions may do 64
any of the following: 65

(1) Participate with financial institution regulatory 66
authorities of this and other states, the United States, and other 67
countries in any of the following: 68

(a) Programs for alternate examinations of the records and 69
affairs of banks and trust companies over which they have 70
concurrent jurisdiction; 71

(b) Joint or concurrent examinations of the records and 72
affairs of banks and trust companies over which they have 73
concurrent jurisdiction; 74

(c) Coordinated examinations of the records and affairs of 75
banks and trust companies over which they have collective 76
jurisdiction. 77

(2) Conduct, participate in, or coordinate independent, 78
concurrent, joint, or coordinated examinations of the records and 79
affairs of banks and trust companies and otherwise act on behalf 80
of financial institution regulatory authorities of this and other 81
states, the United States, and other countries having jurisdiction 82

over the banks and trust companies; 83

(3) Rely on information leading to, arising from, or obtained 84
in the course of examinations conducted by financial institution 85
regulatory authorities of this and other states, the United 86
States, and other countries when both of the following apply: 87
88

(a) Pursuant to agreement and applicable law, the 89
superintendent may receive and use the information leading to, 90
arising from, or obtained in the course of the other regulatory 91
authorities' examinations in administering Chapters 1101. to 1127. 92
of the Revised Code and acting under the authority of those 93
chapters; 94

(b) In the superintendent's judgment the other regulatory 95
authorities' personnel, practices, and authority warrant the 96
superintendent's reliance. 97

(4) Authorize financial institution regulatory authorities of 98
this and other states, the United States, and other countries to 99
receive and use information leading to, arising from, or obtained 100
in the course of examinations conducted by the division of 101
financial institutions in the same manner and for the purposes 102
they could use information leading to, arising from, or obtained 103
in the course of their own examinations when both of the following 104
apply: 105

(a) Pursuant to applicable law, information leading to, 106
arising from, or obtained in the course of examinations the other 107
regulatory authorities conduct is protected from general 108
disclosure and may only be disclosed for purposes similar to those 109
provided in section 1121.18 of the Revised Code, which are 110
principally regulatory in nature, for disclosure of information 111
leading to, arising from, or obtained in the course of 112
examinations conducted by the division; 113

(b) Pursuant to agreement and applicable law, information 114
leading to, arising from, or obtained in the course of 115
examinations conducted by the division will, in the other 116
regulatory authorities' possession or the possession of any 117
persons to whom the other regulatory authorities disclosed the 118
information as a part of examinations of those persons, be 119
protected from disclosure to the same extent as information 120
leading to, arising from, or obtained in the course of those 121
regulatory authorities' examinations. 122

(5) Rely on the actions of financial institution regulatory 123
authorities of this and other states, the United States, or other 124
countries, or participate with them jointly, in responding to 125
violations of law, unsafe or unsound practices, breaches of 126
fiduciary duty, or other regulatory concerns affecting banks and 127
trust companies over which they have concurrent jurisdiction when 128
the other regulatory authorities have adequate personnel, 129
practices, and authority to warrant the reliance; 130

(6) Implement other cooperative arrangements with financial 131
institution regulatory authorities of this and other states, the 132
United States, and other countries consistent with safety and 133
soundness. 134

(B) No person shall use any reliance by the superintendent, 135
in whole or in part, on financial institution regulatory 136
authorities of this or other states, the United States, or other 137
countries in accordance with division (A) of this section to 138
support any assertion of either of the following: 139

(1) Failure of the superintendent or division to properly 140
administer Chapters 1101. to 1127. of the Revised Code or fulfill 141
the duties imposed by those chapters; 142

(2) Disagreement by the superintendent or division with any 143
action taken by financial institution regulatory authorities of 144

this or other states, the United States, or other countries. 145

(C) In conducting, participating in, or coordinating 146
independent, concurrent, joint, or coordinated examinations of the 147
records and affairs of banks and trust companies, the 148
superintendent may purchase services from financial institution 149
regulatory authorities of this and other states, the United 150
States, and other countries, including services provided by 151
employees of other financial institution regulatory authorities in 152
their capacities as employees of other financial institution 153
regulatory authorities. The purchase of services from one or more 154
financial institution regulatory authorities of this and other 155
states, the United States, or other countries is the purchase of 156
services from a sole source provider and is not the employment of 157
any financial institution regulatory authority or any of its 158
employees. 159

The authority to purchase services pursuant to this division 160
does not impair the superintendent's authority to purchase 161
services from any other source. 162

Sec. 1121.18. (A) Information leading to, arising from, or 163
obtained in the course of the examination of a bank or any 164
examination conducted pursuant to the authority of section 1121.10 165
or 1121.11 of the Revised Code is privileged and confidential. No 166
person, including any person to whom the information is disclosed 167
under the authority of this section, shall disclose information 168
leading to, arising from, or obtained in the course of an 169
examination, except as specifically provided in this section. 170

(B) The superintendent of financial institutions and the 171
superintendent's agents and employees may disclose information 172
leading to, arising from, or obtained in the course of an 173
examination conducted pursuant to section 1121.10 or 1121.11 of 174
the Revised Code as follows: 175

(1) To the governor, director of commerce, or deputy director of commerce to enable them to act in the interests of the public;	176 177 178
(2) To the banking commission to enable the commission to effectively advise the superintendent and take action on any matter the superintendent presents to the commission;	179 180 181
(3) To financial institution regulatory authorities of <u>this and</u> other states, the United States, and other countries to assist them in their regulatory duties;	182 183 184
(4) To the directors, officers, agents, and parent company of the bank or other person examined to assist them in conducting the business of the bank or other person examined in a safe and sound manner and in compliance with law;	185 186 187 188
(5) To law enforcement authorities conducting criminal investigations.	189 190
(C)(1) Information leading to, arising from, or obtained in the course of an examination of a bank or other person pursuant to section 1121.10 or 1121.11 of the Revised Code shall not be discoverable from any source, and shall not be introduced into evidence, except in the following circumstances:	191 192 193 194 195
(a) In connection with criminal proceedings;	196
(b) When, in the opinion of the superintendent, it is appropriate with regard to enforcement actions taken and decisions made by the superintendent under the authority of Chapters 1101. to 1127. of the Revised Code regarding a bank, trust company, or other person;	197 198 199 200 201
(c) When litigation has been initiated by the superintendent in furtherance of the powers, duties, and obligations imposed upon the superintendent by Chapters 1101. to 1127. of the Revised Code;	202 203 204
(d) When authorized by agreements between the superintendent	205

and financial institution regulatory authorities of this and other 206
states, the United States, and other countries authorized by 207
section 1121.11 of the Revised Code; 208

(e) When and in the manner authorized in section 1181.25 of 209
the Revised Code. 210

(2) The discovery of information leading to, arising from, or 211
obtained in the course of an examination pursuant to division 212
(C)(1)(b), (c), or (d) of this section shall be limited to 213
information that directly relates to the bank, trust company, 214
regulated person, or other person who is the subject of the 215
enforcement action, decision, or litigation. 216

(D) A report of an examination conducted pursuant to section 217
1121.10 or 1121.11 of the Revised Code is the property of the 218
division of financial institutions. Under no circumstances may the 219
bank or other person examined, its directors, officers, employees, 220
agents, regulated persons, or contractors, or any person having 221
knowledge or possession of a report of examination, or any of its 222
contents, disclose or make public in any manner the report of 223
examination or its contents. The authority provided in division 224
(B)(4) of this section for use of examination information to 225
assist in conducting the business of the bank or other person 226
examined in a safe and sound manner and in compliance with law 227
shall not be construed to authorize disclosure of a report of 228
examination or any of its contents in conducting business with the 229
examined bank's or person's customers, creditors, or shareholders, 230
or with other persons. 231

(E) Whoever violates this section shall be removed from 232
office, shall be liable, with the violator's bond in damages to 233
the person injured by the disclosure of information, and is guilty 234
of a felony of the fourth degree. 235

Sec. 1155.01. As used in sections 1155.01 to 1155.20 of the 236

Revised Code:	237
(A) "Controlling person" means any person or entity which,	238
either directly or indirectly, or acting in concert with one or	239
more other persons or entities, owns, controls, or holds with	240
power to vote, or holds proxies representing, fifteen per cent or	241
more of the voting shares or rights of a savings and loan	242
association, or controls in any manner the election or appointment	243
of a majority of the directors of an association. However, a	244
director of an association will not be deemed to be a controlling	245
person of such association based upon his <u>the director's</u> voting,	246
or acting in concert with other directors in voting, proxies	247
obtained in connection with an annual solicitation of proxies or	248
obtained from savings account holders and borrowers if such	249
proxies are voted as directed by a majority of the entire board of	250
directors of the association, or of a committee of such directors	251
if such committee's composition and authority are controlled by a	252
majority vote of the entire board and if its authority is	253
revocable by such a majority.	254
(B) "Independent auditor" means an accountant who is licensed	255
to practice as a certified public accountant or public accountant	256
by this state, and who is employed or otherwise retained by a	257
savings and loan association to audit its accounts. An independent	258
auditor may not be an employee of the association, its	259
subsidiaries, or holding company affiliates.	260
(C) "Outside director" means a director of a savings and loan	261
association who is not an officer or employee of the association,	262
an independent auditor of the association, an attorney of the	263
association, or any other person having a fiduciary relationship,	264
other than that of being a director, with the association.	265
(D) "Holding company affiliate" means a savings and loan	266
holding company of which the savings and loan association is a	267
subsidiary and any other subsidiary of such holding company other	268

than a subsidiary of such association. 269

(E) "Financial institution regulatory authority" includes a 270
regulator of a business activity in which a savings and loan 271
association is engaged, or has applied to engage in, to the extent 272
that the regulator has jurisdiction over a savings and loan 273
association engaged in that business activity. A savings and loan 274
association is engaged in a business activity, and a regulator of 275
that business activity has jurisdiction over the savings and loan 276
association, whether the savings and loan association conducts the 277
activity directly or a subsidiary or affiliate of the savings and 278
loan association conducts the activity. 279

Sec. 1155.091. (A) In administering Chapters 1151. to 1157. 280
of the Revised Code and fulfilling the duties imposed by those 281
chapters, including the duty imposed by section 1151.09 of the 282
Revised Code, the superintendent of financial institutions may do 283
any of the following: 284

(1) Participate with financial institution regulatory 285
authorities of this and other states, the United States, and other 286
countries in any of the following: 287

(a) Programs for alternate examinations of the records and 288
affairs of savings and loan associations over which they have 289
concurrent jurisdiction; 290

(b) Joint or concurrent examinations of the records and 291
affairs of savings and loan associations over which they have 292
concurrent jurisdiction; 293

(c) Coordinated examinations of the records and affairs of 294
savings and loan associations over which they have collective 295
jurisdiction. 296

(2) Conduct, participate in, or coordinate independent, 297
concurrent, joint, or coordinated examinations of the records and 298

affairs of savings and loan associations and otherwise act on 299
behalf of financial institution regulatory authorities of this and 300
other states, the United States, and other countries having 301
jurisdiction over the savings and loan associations; 302

(3) Rely on information leading to, arising from, or obtained 303
in the course of examinations conducted by financial institution 304
regulatory authorities of this and other states, the United 305
States, and other countries when both of the following apply: 306
307

(a) Pursuant to agreement and applicable law, the 308
superintendent may receive and use the information leading to, 309
arising from, or obtained in the course of the other regulatory 310
authorities' examinations in administering Chapters 1151. to 1157. 311
of the Revised Code and acting under the authority of those 312
chapters; 313

(b) In the superintendent's judgment the other regulatory 314
authorities' personnel, practices, and authority warrant the 315
superintendent's reliance. 316

(4) Authorize financial institution regulatory authorities of 317
this and other states, the United States, and other countries to 318
receive and use information leading to, arising from, or obtained 319
in the course of examinations conducted by the division of 320
financial institutions in the same manner and for the purposes 321
they could use information leading to, arising from, or obtained 322
in the course of their own examinations when both of the following 323
apply: 324

(a) Pursuant to applicable law, information leading to, 325
arising from, or obtained in the course of examinations the other 326
regulatory authorities conduct is protected from general 327
disclosure and may only be disclosed for purposes similar to those 328
provided in section 1155.16 of the Revised Code, which are 329

principally regulatory in nature, for disclosure of information 330
leading to, arising from, or obtained in the course of 331
examinations conducted by the division; 332

(b) Pursuant to agreement and applicable law, information 333
leading to, arising from, or obtained in the course of 334
examinations conducted by the division will, in the other 335
regulatory authorities' possession or the possession of any 336
persons to whom the other regulatory authorities disclosed the 337
information as a part of examinations of those persons, be 338
protected from disclosure to the same extent as information 339
leading to, arising from, or obtained in the course of those 340
regulatory authorities' examinations. 341

(5) Rely on the actions of financial institution regulatory 342
authorities of this and other states, the United States, or other 343
countries, or participate with them jointly, in responding to 344
violations of law, unsafe or unsound practices, breaches of 345
fiduciary duty, or other regulatory concerns affecting savings and 346
loan associations over which they have concurrent jurisdiction 347
when the other regulatory authorities have adequate personnel, 348
practices, and authority to warrant the reliance; 349

(6) Implement other cooperative arrangements with financial 350
institution regulatory authorities of this and other states, the 351
United States, and other countries consistent with safety and 352
soundness. 353

(B) No person shall use any reliance by the superintendent, 354
in whole or in part, on financial institution regulatory 355
authorities of this or other states, the United States, or other 356
countries in accordance with division (A) of this section to 357
support any assertion of either of the following: 358

(1) Failure of the superintendent or division to properly 359
administer Chapters 1151. to 1157. of the Revised Code or fulfill 360

the duties imposed by those chapters; 361

(2) Disagreement by the superintendent or division with any 362
action taken by financial institution regulatory authorities of 363
this or other states, the United States, or other countries. 364

(C) In conducting, participating in, or coordinating 365
independent, concurrent, joint, or coordinated examinations of the 366
records and affairs of savings and loan associations, the 367
superintendent may purchase services from financial institution 368
regulatory authorities of this and other states, the United 369
States, and other countries, including services provided by 370
employees of other financial institution regulatory authorities. 371
The purchase of services from one or more financial institution 372
regulatory authorities of this and other states, the United 373
States, and other countries is the purchase of services from a 374
sole source provider and is not the employment of any financial 375
institution regulatory authority or any of its employees. 376

The authority to purchase services pursuant to this division 377
does not impair the superintendent's authority to purchase 378
services from any other source. 379

Sec. 1155.16. (A)(1) Except as provided in division (B) of 380
this section, the superintendent of ~~savings and loan associations~~ 381
financial institutions, the superintendent's agents, and employees 382
shall keep privileged and confidential the examination reports, 383
information obtained in an examination, or any other information 384
obtained by reason of their official position. This section does 385
not prevent the superintendent from properly releasing to or 386
exchanging information relating to a savings and loan association, 387
or its affairs, with the governor, the director of commerce, the 388
deputy director of commerce, or representatives of state or 389
federal financial institution regulatory ~~agencies or governmental~~ 390
authorities, or prevent such release by the association or its 391

officers or directors, in the conduct of the business of the 392
association. 393

(2) Any person who receives privileged and confidential 394
examination reports or other information under the authority of 395
this section is also subject to the requirements of this section 396
and such person, knowing that such examination reports or 397
information are privileged and confidential, shall not purposely 398
divulge such reports or information in any manner. 399

(3) If the superintendent, an agent of the superintendent, or 400
an employee of the superintendent purposely makes, or causes to be 401
made, any false statements or reports regarding the affairs or 402
condition of a savings and loan association, the act constitutes 403
falsification under section 2921.13 of the Revised Code. 404

(B) Examination reports, information obtained in an 405
examination, and any other information obtained by reason of the 406
official position of the division of ~~savings and loan associations~~ 407
financial institutions shall not be discoverable from any source, 408
and shall not be introduced into evidence, except in the following 409
situations: 410

(1) In connection with criminal proceedings; 411

(2) When, in the opinion of the superintendent, it is 412
necessary for the superintendent or for the agents or employees of 413
the superintendent to take enforcement action under Chapter 1151., 414
1153., 1155., or 1157. of the Revised Code regarding the affairs 415
of the savings and loan association examined; 416

(3) When litigation has been initiated by the superintendent 417
in furtherance of the powers, duties, and obligations imposed upon 418
the superintendent by Chapter 1151., 1153., 1155., or 1157. of the 419
Revised Code; 420

(4) When authorized by agreements between the superintendent 421
and financial institution regulatory authorities of this and other 422

states, the United States, and other countries authorized by 423
section 1155.091 of the Revised Code; 424

(5) When and in the manner authorized in section 1181.25 of 425
the Revised Code. 426

(C) The discovery of examination reports and other related 427
material pursuant to divisions (B)(2) and (3) of this section 428
shall be limited to information that directly relates to the 429
association that is the subject of the enforcement action or the 430
litigation. 431

(D)(1) No person shall fail to comply with division (A)(1), 432
(2), or (3) of this section. 433

(2) Whoever violates division (D)(1) of this section is 434
guilty of a felony of the fourth degree. 435

Sec. 1163.01. As used in this chapter: 436

(A) "Controlling person" means any person or entity which, 437
either directly or indirectly, or acting in concert with one or 438
more other persons or entities, owns, controls, or holds with 439
power to vote, or holds proxies representing, fifteen per cent or 440
more of the voting shares or rights of a savings bank, or controls 441
in any manner the election or appointment of a majority of the 442
directors of a savings bank. However, a director of a savings bank 443
is not deemed to be a controlling person of the savings bank based 444
upon ~~his~~ the director's voting, or acting in concert with other 445
directors in voting, proxies obtained in connection with an annual 446
solicitation of proxies or obtained from savings account holders 447
and borrowers if the proxies are voted as directed by a majority 448
of the entire board of directors of the savings bank, or of a 449
committee of the directors if the committee's composition and 450
authority are controlled by a majority vote of the entire board 451
and if its authority is revocable by such a majority. 452

(B) "Independent auditor" means an accountant who is licensed 453
to practice as a certified public accountant or public accountant 454
by this state, and who is employed or otherwise retained by a 455
savings bank to audit its accounts. An independent auditor may not 456
be an employee of the savings bank, its subsidiaries, or holding 457
company affiliates. 458

(C) "Outside director" means a director of a savings bank who 459
is not an officer or employee of the savings bank, an independent 460
auditor of the savings bank, an attorney of the savings bank, or 461
any other person having a fiduciary relationship, other than that 462
of being a director, with the savings bank. 463

(D) "Holding company affiliate" means a bank holding company 464
or a savings and loan holding company of which the savings bank is 465
a subsidiary and any other subsidiary of the holding company other 466
than a subsidiary of the savings bank. 467

(E) "Financial institution regulatory authority" includes a 468
regulator of a business activity in which a savings bank is 469
engaged, or has applied to engage in, to the extent that the 470
regulator has jurisdiction over a savings bank engaged in that 471
business activity. A savings bank is engaged in a business 472
activity, and a regulator of that business activity has 473
jurisdiction over the savings bank, whether the savings bank 474
conducts the activity directly or a subsidiary or affiliate of the 475
savings bank conducts the activity. 476

Sec. 1163.121. (A) In administering Chapters 1161. to 1165. 477
of the Revised Code and fulfilling the duties imposed by those 478
chapters, including the duty imposed by section 1163.12 of the 479
Revised Code, the superintendent of financial institutions may do 480
any of the following: 481

(1) Participate with financial institution regulatory 482
authorities of this and other states, the United States, and other 483

countries in any of the following:	484
(a) Programs for alternate examinations of the records and affairs of savings banks over which they have concurrent jurisdiction;	485 486 487
(b) Joint or concurrent examinations of the records and affairs of savings banks over which they have concurrent jurisdiction;	488 489 490
(c) Coordinated examinations of the records and affairs of savings banks over which they have collective jurisdiction.	491 492
(2) Conduct, participate in, or coordinate independent, concurrent, joint, or coordinated examinations of the records and affairs of savings banks and otherwise act on behalf of financial institution regulatory authorities of <u>this and</u> other states, the United States, and other countries having jurisdiction over the savings banks;	493 494 495 496 497 498
(3) Rely on information leading to, arising from, or obtained in the course of examinations conducted by financial institution regulatory authorities of <u>this and</u> other states, the United States, and other countries when both of the following apply:	499 500 501 502 503
(a) Pursuant to agreement and applicable law, the superintendent may receive and use the information leading to, arising from, or obtained in the course of the other regulatory authorities' examinations in administering Chapters 1161. to 1165. of the Revised Code and acting under the authority of those chapters;	504 505 506 507 508 509
(b) In the superintendent's judgment the other regulatory authorities' personnel, practices, and authority warrant the superintendent's reliance.	510 511 512
(4) Authorize financial institution regulatory authorities of <u>this and</u> other states, the United States, and other countries to	513 514

receive and use information leading to, arising from, or obtained 515
in the course of examinations conducted by the division of 516
financial institutions in the same manner and for the purposes 517
they could use information leading to, arising from, or obtained 518
in the course of their own examinations when both of the following 519
apply: 520

(a) Pursuant to applicable law, information leading to, 521
arising from, or obtained in the course of examinations the other 522
regulatory authorities conduct is protected from general 523
disclosure and may only be disclosed for purposes similar to those 524
provided in section 1163.20 of the Revised Code, which are 525
principally regulatory in nature, for disclosure of information 526
leading to, arising from, or obtained in the course of 527
examinations conducted by the division; 528

(b) Pursuant to agreement and applicable law, information 529
leading to, arising from, or obtained in the course of 530
examinations conducted by the division will, in the other 531
regulatory authorities' possession or the possession of any 532
persons to whom the other regulatory authorities disclosed the 533
information as a part of examinations of those persons, be 534
protected from disclosure to the same extent as information 535
leading to, arising from, or obtained in the course of those 536
regulatory authorities' examinations. 537

(5) Rely on the actions of financial institution regulatory 538
authorities of this and other states, the United States, or other 539
countries, or participate with them jointly, in responding to 540
violations of law, unsafe or unsound practices, breaches of 541
fiduciary duty, or other regulatory concerns affecting savings 542
banks over which they have concurrent jurisdiction when the other 543
regulatory authorities have adequate personnel, practices, and 544
authority to warrant the reliance; 545

(6) Implement other cooperative arrangements with financial 546

institution regulatory authorities of this and other states, the 547
United States, and other countries consistent with safety and 548
soundness. 549

(B) No person shall use any reliance by the superintendent, 550
in whole or in part, on financial institution regulatory 551
authorities of this or other states, the United States, or other 552
countries in accordance with division (A) of this section to 553
support any assertion of either of the following: 554

(1) Failure of the superintendent or division to properly 555
administer Chapters 1161. to 1165. of the Revised Code or fulfill 556
the duties imposed by those chapters; 557

(2) Disagreement by the superintendent or division with any 558
action taken by financial institution regulatory authorities of 559
this or other states, the United States, or other countries. 560

(C) In conducting, participating in, or coordinating 561
independent, concurrent, joint, or coordinated examinations of the 562
records and affairs of savings banks, the superintendent may 563
purchase services from financial institution regulatory 564
authorities of this and other states, the United States, and other 565
countries, including services provided by employees of other 566
financial institution regulatory authorities. The purchase of 567
services from one or more financial institution regulatory 568
authorities of this and other states, the United States, and other 569
countries is the purchase of services from a sole source provider 570
and is not the employment of any financial institution regulatory 571
authority or any of its employees. 572

The authority to purchase services pursuant to this division 573
does not impair the superintendent's authority to purchase 574
services from any other source. 575

Sec. 1163.20. (A)(1) Except as provided in division (B) of 576

this section, the superintendent of ~~savings banks~~ financial 577
institutions, his agents, and employees shall keep privileged and 578
confidential the examination reports, information obtained in an 579
examination, or any other information obtained by reason of their 580
official position. This section does not prevent the 581
superintendent from properly releasing to or exchanging 582
information relating to a savings bank, or its affairs, with the 583
governor, the director of commerce, the deputy director of 584
commerce, or representatives of state or federal financial 585
institution regulatory ~~agencies or governmental~~ authorities, or 586
prevent such release by the savings bank or its officers or 587
directors, in the conduct of the business of the savings bank. 588

(2) Any person who receives privileged and confidential 589
examination reports or other information under the authority of 590
this section also is subject to the requirements of this section. 591
No person, knowing that the examination reports or information are 592
privileged and confidential, shall purposely divulge the reports 593
or information in any manner. 594

(3) Neither the superintendent, nor any agent or employee of 595
the superintendent, shall purposely make, or cause to be made, any 596
false statements or reports regarding the affairs or condition of 597
a savings bank. 598

(B) Examination reports, information obtained in an 599
examination, and any other information obtained by reason of the 600
official position of the division of ~~savings banks~~ financial 601
institutions shall not be discoverable from any source, and shall 602
not be introduced into evidence, except in the following 603
situations: 604

(1) In connection with criminal proceedings; 605

(2) When, in the opinion of the superintendent, it is 606
necessary for the superintendent, his agents, or employees to take 607
enforcement action under this chapter or Chapter 1161. or 1165. of 608

the Revised Code regarding the affairs of the savings bank 609
examined; 610

(3) When litigation has been initiated by the superintendent 611
in furtherance of the powers, duties, and obligations imposed upon 612
the superintendent by this chapter or Chapter 1161. or 1165. of 613
the Revised Code; 614

(4) When authorized by agreements between the superintendent 615
and financial institution regulatory authorities of this and other 616
states, the United States, and other countries authorized by 617
section 1163.121 of the Revised Code; 618

(5) When and in the manner authorized in section 1181.25 of 619
the Revised Code. 620

(C) The discovery of examination reports and other related 621
material pursuant to divisions (B)(2) and (3) of this section 622
shall be limited to information that directly relates to the 623
savings bank which is the subject of the enforcement action or the 624
litigation. 625

(D)(1) No person shall fail to comply with division (A)(1), 626
(2), or (3) of this section. 627

(2) Whoever violates division (D)(1) of this section is 628
guilty of a felony of the fourth degree. 629

Sec. 1181.25. The superintendent of financial institutions 630
may introduce into evidence or disclose, or authorize to be 631
introduced into evidence or disclosed, information that, under 632
sections 1121.18, 1155.16, 1163.20, 1321.09, 1321.55, 1321.76, 633
1322.06, 1322.061, 1733.32, 1733.327, and 4727.18 of the Revised 634
Code, is privileged, confidential, or otherwise not public 635
information or a public record, provided that the superintendent 636
acts only as provided in those sections or in the following 637
circumstances: 638

(A) When in the opinion of the superintendent, it is 639
appropriate with regard to any enforcement actions taken and 640
decisions made by the superintendent under Chapters 1315., 1321., 641
1322., 1733., 4712., 4727., and 4728. of the Revised Code or Title 642
XI of the Revised Code; 643

(B) When litigation has been initiated by the superintendent 644
in furtherance of the powers, duties, and obligations imposed upon 645
the superintendent by Chapters 1315., 1321., 1322., 1733., 4712., 646
4727., and 4728. of the Revised Code or Title XI of the Revised 647
Code; 648

(C) When in the opinion of the superintendent, it is 649
appropriate with regard to enforcement actions taken or decisions 650
made by other financial institution regulatory authorities to whom 651
the superintendent has provided the information pursuant to 652
authority in Chapters 1315., 1321., 1322., 1733., 4712., 4727., 653
and 4728. of the Revised Code or Title XI of the Revised Code. 654

Sec. 1321.09. (A) Every licensee shall keep and use in the 655
licensee's business such books, accounts, and records as will 656
enable the division of financial institutions to determine whether 657
the licensee is complying with sections 1321.01 to 1321.19 of the 658
Revised Code and with the orders and rules made by the division 659
under those sections. Every licensee shall preserve such books, 660
accounts, and records for at least two years after making the 661
final entry on any loan recorded therein. Accounting systems 662
maintained in whole or in part by mechanical or electronic data 663
processing methods that provide information equivalent to that 664
otherwise required are acceptable for this purpose. 665

As required by the superintendent of financial institutions, 666
every licensee each year shall file a report with the division 667
giving such relevant information concerning the business and 668
operations, during the preceding calendar year, of each licensed 669

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

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

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

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Sec. 1321.55. (A) Every registrant shall keep records
pertaining to loans made under sections 1321.51 to 1321.60 of the
Revised Code. Such records shall be segregated from records
pertaining to transactions that are not subject to these sections
of the Revised Code. Every registrant shall preserve records
pertaining to loans made under sections 1321.51 to 1321.60 of the

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Revised Code for at least two years after making the final entry 701
on such records. Accounting systems maintained in whole or in part 702
by mechanical or electronic data processing methods that provide 703
information equivalent to that otherwise required are acceptable 704
for this purpose. At least once each eighteen-month cycle, the 705
division of financial institutions shall make or cause to be made 706
an examination of records pertaining to loans made under sections 707
1321.51 to 1321.60 of the Revised Code, for the purpose of 708
determining whether the registrant is complying with these 709
sections and of verifying the registrant's annual report. 710

(B)(1) As required by the superintendent of financial 711
institutions, each registrant shall file with the division each 712
year a report under oath or affirmation, on forms supplied by the 713
division, concerning the business and operations for the preceding 714
calendar year. Whenever a registrant operates two or more 715
registered offices or whenever two or more affiliated registrants 716
operate registered offices, then a composite report of the group 717
of registered offices may be filed in lieu of individual reports. 718

(2) The division shall publish annually an analysis of the 719
information required under division (B)(1) of this section, but 720
the individual reports shall not be public records and shall not 721
be open to public inspection. 722

(C) All information obtained by the superintendent or the 723
superintendent's deputies, examiners, assistants, agents, or 724
clerks by reason of their official position, including information 725
obtained by such persons from the annual report of a registrant or 726
in the course of examining a registrant or investigating an 727
applicant for a certificate, is privileged and confidential. All 728
such information shall remain privileged and confidential for all 729
purposes except when it is necessary for the superintendent and 730
the superintendent's deputies, examiners, assistants, agents, or 731
clerks to take official action regarding the affairs of the 732

registrant or in connection with criminal proceedings. Such 733
information may also be introduced into evidence or disclosed when 734
and in the manner authorized in section 1181.25 of the Revised 735
Code. 736

(D) No person is in violation of sections 1321.51 to 1321.60 737
of the Revised Code for any act taken or omission made in reliance 738
on a written notice, interpretation, or examination report from 739
the superintendent. 740

(E) This section does not prevent the division from releasing 741
to or exchanging with other financial institution regulatory 742
authorities information relating to registrants. 743

(F) For purposes of this section, "financial institution 744
regulatory authority" includes a regulator of a business activity 745
in which a registrant is engaged, or has applied to engage in, to 746
the extent that the regulator has jurisdiction over a registrant 747
engaged in that business activity. A registrant is engaged in a 748
business activity, and a regulator of that business activity has 749
jurisdiction over the registrant, whether the registrant conducts 750
the activity directly or a subsidiary or affiliate of the 751
registrant conducts the activity. 752

Sec. 1321.76. (A) Each licensee shall keep records of its 753
insurance premium finance transactions conducted under sections 754
1321.71 to 1321.83 of the Revised Code. Such records shall be 755
maintained separately from any records pertaining to transactions 756
that are not subject to those sections. Each licensee shall 757
preserve its records pertaining to insurance premium finance 758
transactions conducted under sections 1321.71 to 1321.83 of the 759
Revised Code for at least two years after the final entry on such 760
records. Preservation of records by means of accounting systems 761
maintained in whole or in part by mechanical or electronic data 762
processing methods constitutes compliance with this division. 763

The division of financial institutions for purposes of 764
determining whether a licensee is complying with sections 1321.71 765
to 1321.83 of the Revised Code, may make or cause to be made an 766
examination of records pertaining to insurance premium finance 767
transactions conducted under those sections. 768

(B) If a licensee's books, records, data, and other documents 769
are located outside this state, the licensee shall, upon the 770
request of the superintendent of financial institutions, deposit 771
with the division an amount equal to the estimated costs, as 772
determined by the superintendent, of an examination of the 773
licensee conducted outside this state. After the actual costs of 774
the examination have been determined and itemized by the division, 775
the division shall return to the licensee any amount it had 776
deposited in excess of the actual costs. 777

(C) All information obtained by the superintendent or the 778
superintendent's deputies, examiners, assistants, agents, or 779
clerks by reason of their official position, including information 780
obtained by such persons in the course of examining a licensee or 781
investigating an applicant for a license, is privileged and 782
confidential. All such information shall remain privileged and 783
confidential for all purposes except when, in the opinion of the 784
superintendent, it is necessary for the superintendent and the 785
superintendent's deputies, examiners, assistants, agents, or 786
clerks to take official action in administering and enforcing 787
sections 1321.71 to 1321.83 of the Revised Code or in connection 788
with criminal proceedings. Such information may also be introduced 789
into evidence or disclosed when and in the manner authorized in 790
section 1181.25 of the Revised Code. 791

(D) This section does not prevent the division from releasing 792
to or exchanging with other financial institution regulatory 793
authorities information relating to licensees. 794

(E) For purposes of this section, "financial institution 795

regulatory authority" includes a regulator of a business activity 796
in which a licensee is engaged, or has applied to engage in, to 797
the extent that the regulator has jurisdiction over a licensee 798
engaged in that business activity. A licensee is engaged in a 799
business activity, and a regulator of that business activity has 800
jurisdiction over the licensee, whether the licensee conducts the 801
activity directly or a subsidiary or affiliate of the licensee 802
conducts the activity. 803

Sec. 1322.06. (A) As often as the superintendent of financial 804
institutions considers it necessary, the superintendent may 805
examine the registrant's records pertaining to business transacted 806
pursuant to sections 1322.01 to 1322.12 of the Revised Code. 807

(B) A registrant shall maintain records pertaining to 808
business transacted pursuant to sections 1322.01 to 1322.12 of the 809
Revised Code for two years or more after the final entry on such 810
records. No registrant shall fail to comply with this division. 811
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(C)(1) All information obtained by the superintendent or the 813
superintendent's deputies, examiners, assistants, agents, or 814
clerks by reason of their official position, including information 815
obtained by such persons in the course of examining a registrant 816
or investigating an applicant for a certificate of registration, 817
is privileged and confidential. All such information shall remain 818
privileged and confidential for all purposes except when it is 819
necessary for the superintendent ~~and the superintendent's~~ 820
~~deputies, examiners, assistants, agents, or clerks~~ to take 821
official action regarding the affairs of the registrant or in 822
connection with criminal proceedings. This information may also be 823
introduced into evidence or disclosed when and in the manner 824
authorized by section 1181.25 of the Revised Code. 825

(2) All application information, except social security 826

numbers, employer identification numbers, financial account
numbers, the identity of the institution where financial accounts
are maintained, personal financial information, fingerprint cards
and the information contained on such cards, and criminal
background information, is a public record as defined in section
149.43 of the Revised Code.

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(3) This section does not prevent the division of financial
institutions from releasing to or exchanging with other financial
institution regulatory authorities information relating to
licensees. For this purpose, a "financial institution regulatory
authority" includes a regulator of a business activity in which a
licensee is engaged, or has applied to engage in, to the extent
that the regulator has jurisdiction over a licensee engaged in
that business activity. A licensee is engaged in a business
activity, and a regulator of that business activity has
jurisdiction over the licensee, whether the licensee conducts the
activity directly or a subsidiary or affiliate of the licensee
conducts the activity.

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

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

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(a) Examination information, and any information leading to 858
or arising from an examination; 859

(b) Investigation information, and any information arising 860
from or leading to an investigation. 861

(2) The information described in division (A)(1) of this 862
section shall remain privileged and confidential for all purposes 863
except when it is necessary for the superintendent of financial 864
institutions to take official action regarding the affairs of a 865
registrant, or in connection with ~~civil or criminal investigations~~ 866
~~or proceedings conducted by the attorney general or a county~~ 867
~~prosecutor. The superintendent may share examination and~~ 868
~~investigation information with any law enforcement agency or any~~ 869
~~other state or federal regulatory agency. Any information shared~~ 870
~~with the attorney general, a county prosecutor, or a law~~ 871
~~enforcement agency or other state or federal regulatory agency~~ 872
~~shall remain privileged and confidential and shall only be used in~~ 873
~~connection with an official investigation, proceeding, or action.~~ 874
This information may also be introduced into evidence or disclosed 875
when and in the manner authorized by section 1181.25 of the 876
Revised Code. 877

(B) All application information, except social security 878
numbers, employer identification numbers, financial account 879
numbers, the identity of the institution where financial accounts 880
are maintained, personal financial information, fingerprint cards 881
and the information contained on such cards, and criminal 882
background information, is a public record as defined in section 883
149.43 of the Revised Code. 884

(C) This section does not prevent the division of financial 885
institutions from releasing to or exchanging with other financial 886
institution regulatory authorities information relating to 887
licensees. For this purpose, a "financial institution regulatory 888
authority" includes a regulator of a business activity in which a 889

licensee is engaged, or has applied to engage in, to the extent that the regulator has jurisdiction over a licensee engaged in that business activity. A licensee is engaged in a business activity, and a regulator of that business activity has jurisdiction over the licensee, whether the licensee conducts the activity directly or a subsidiary or affiliate of the licensee conducts the activity.

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(D) This section does not prevent the division from releasing information relating to licensees to the attorney general for purposes relating to the attorney general's administration of Chapter 1345. of the Revised Code. Information the division releases to the attorney general pursuant to this section remains privileged and confidential, and the attorney general may not disclose the information or introduce the information into evidence unless the superintendent authorizes the disclosure or introduction into evidence in connection with the attorney general's administration of Chapter 1345. of the Revised Code.

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

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

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

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(3) Notice filings pursuant to section 1707.092 ~~or 1707.141~~

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of the Revised Code;	921
(4) Applications for licensure as a securities dealer under section 1707.15 of the Revised Code;	922
(5) Applications for licensure as an investment adviser under section 1707.151 of the Revised Code.	923
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(B) The irrevocable written consent shall be executed and acknowledged by an individual duly authorized to give the consent and shall do all of the following:	926
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(1) Designate the secretary of state as agent for service of process or pleadings;	929
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(2) State that actions growing out of the sale of such securities, the giving of investment advice, or fraud committed by a person on whose behalf the consent is submitted may be commenced against the person, in the proper court of any county in this state in which a cause of action may arise or in which the plaintiff in the action may reside, by serving on the secretary of state any proper process or pleading authorized by the laws of this state;	931
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(3) Stipulate that service of process or pleading on the secretary of state shall be taken in all courts to be as valid and binding as if service had been made upon the person on whose behalf the consent is submitted.	939
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(C) Service of any process or pleadings may be made on the secretary of state by duplicate copies, of which one shall be filed in the office of the secretary of state, and the other immediately forwarded by the secretary of state by certified mail to the principal place of business of the person on whose behalf the consent is submitted or to the last known address as shown on the filing made with the division. However, failure to mail such copy does not invalidate the service.	943
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(D) Notwithstanding any provision of this chapter, or of any	951

rule adopted by the division of securities under this chapter, 952
that requires the submission of a consent to service of process, 953
the division may provide by rule for the electronic filing or 954
submission of a consent to service of process. 955

Sec. 1707.12. (A) ~~All~~ Except for offering materials filed 956
with the division of securities in connection with exempt 957
transactions under divisions (Q) and (W) of section 1707.03 of the 958
Revised Code, all applications and other papers filed with the 959
division of ~~securities~~ shall be open to inspection at all 960
reasonable times, except for unreasonable or improper purposes. 961

(B) Information obtained by the division through any offering 962
materials filed with the division in connection with exempt 963
transactions under divisions (Q) and (W) of section 1707.03 of the 964
Revised Code or through any investigation shall be retained by the 965
division and shall not be available to inspection by persons other 966
than those having a direct economic interest in the information or 967
the transaction under investigation, or by ~~a law enforcement~~ 968
~~officer pursuant to the duties of his office~~ law enforcement 969
agencies, state agencies, federal agencies, and other entities as 970
set forth by rules adopted by the division. 971

(C) Confidential law enforcement investigatory records and 972
trial preparation records of the division of securities or any 973
other law enforcement or administrative agency which are in the 974
possession of the division of securities shall in no event be 975
available to inspection by other than law enforcement agencies, 976
state agencies, federal agencies, and other entities as set forth 977
by rules adopted by the division. 978

(D) All public records shall be prepared and made available 979
promptly to any member of the general public at all reasonable 980
times for inspection. Upon request, the custodian of public 981
records shall make copies of the records available at cost, within 982

a reasonable period of time. To facilitate public access, the
division shall maintain public records in such a manner that they
can be made available pursuant to this section.

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

(F) As used in this section:

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

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

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

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

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

Sec. 1707.141. (A) No person shall act as an investment	1013
adviser, unless one of the following applies:	1014
(1) The person is licensed as an investment adviser by the	1015
division of securities; however, nothing in this section shall be	1016
construed to prohibit a person from being licensed by the division	1017
as both an investment adviser and a dealer or salesperson.	1018
(2) The person is registered under section 203 of the	1019
"Investment Advisers Act of 1940," 15 U.S.C. 80b-3, as an	1020
investment adviser and is in compliance with the notice filing	1021
requirements of division (B) of this section.	1022
(3) The person has no place of business in this state, and	1023
the person's only clients in this state are any of the following:	1024
(a) Investment companies as defined in the Investment Company	1025
Act of 1940;	1026
(b) Other investment advisers;	1027
(c) Licensed dealers;	1028
(d) Banks;	1029
(e) Insurance companies subject to regulation under Title	1030
XXXIX of the Revised Code and health insuring corporations	1031
regulated under Chapter 1751. of the Revised Code;	1032
(f) Employee benefit plans with assets of not less than one	1033
million dollars;	1034
(g) Government agencies or instrumentalities, whether acting	1035
for themselves or trustees with investment control;	1036
(h) Other institutional investors as the division may	1037
designate by rule.	1038
(4) The person has no place of business in this state, and	1039
during the preceding twelve-month period, the person has had not	1040

more than five clients, other than those described in division 1041
(A)(3) of this section, that are residents of this state. 1042

(5) The person is a charitable organization, as defined in 1043
section 3(c)(10) of the "Investment Company Act of 1940," 54 Stat. 1044
797, 15 U.S.C. 80a-3(c)(10), as amended, or is a trustee, 1045
director, officer, employee, or volunteer of such a charitable 1046
organization acting within the scope of the person's employment or 1047
duties with such an organization, whose advice, analysis, or 1048
reports are provided only to one or more of the following: 1049

(a) Any such charitable organization; 1050

(b) A fund that is excluded from the definition of an 1051
investment company under section 3(c)(10)(B) of the "Investment 1052
Company Act of 1940," 54 Stat. 797, 15 U.S.C. 80a-3(c)(10)(B), as 1053
amended; 1054

(c) A trust or other donative instrument described in section 1055
3(c)(10)(B) of the "Investment Company Act of 1940," 54 Stat. 797, 1056
15 U.S.C. 80a-3(c)(10)(B), as amended, or the trustees, 1057
administrators, settlors and potential settlors, or beneficiaries 1058
of any such trust or other instrument. 1059

(6) The person is a plan described in subsection 414(e) of 1060
the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1061
414, as amended, any person or entity eligible to establish and 1062
maintain such a plan under Title 26 of the United States Code, or 1063
any trustee, director, officer, or employee of or volunteer for 1064
any such plan or person, if such person or entity, acting in such 1065
capacity, provides investment advice exclusively to, or with 1066
respect to, any plan, person, or entity, or any company, account, 1067
or fund that is excluded from the definition of an investment 1068
company under section 3(c)(14) of the "Investment Company Act of 1069
1940," 54 Stat. 797, 15 U.S.C. 80a-3(c)(14), as amended. 1070

(B)(1) No person who is registered under section 203 of the 1071

"Investment Advisers Act of 1940," 15 U.S.C. 80b-3, as an 1072
investment adviser shall act as an investment adviser, unless the 1073
person has done both of the following: 1074

(a) Filed with the division a ~~consent to service of process~~ 1075
~~pursuant to section 1707.11 of the Revised Code, together with~~ 1076
~~either a notice filing form as specified in rules adopted by the~~ 1077
~~division or~~ a copy of those documents that have been filed by the 1078
investment adviser with the securities and exchange commission as 1079
specified in rules adopted by the division; 1080

(b) Paid the notice filing fee specified in division (B) of 1081
section 1707.17 of the Revised Code. 1082

(2) Upon compliance with division (B)(1) of this section, the 1083
division shall issue to the person an acknowledgment of notice 1084
filing. 1085

(3) The notice filing and fee requirements of division (B)(1) 1086
of this section do not apply to a person described in division 1087
(A)(3) ~~or~~, (4), (5), or (6) of this section. 1088

Sec. 1707.15. (A) Application for a dealer's license shall be 1089
made in accordance with this section and by filing with the 1090
division of securities the information, materials, and forms 1091
specified in rules adopted by the division, along with all of the 1092
following information: 1093

(1) The name and address of the applicant; 1094

(2) ~~A description of the applicant, including, if the~~ 1095
~~applicant is a partnership, unincorporated association, or any~~ 1096
~~similar form of business organization, the names and the residence~~ 1097
~~and business addresses of all partners, officers, directors,~~ 1098
~~trustees, or managers of the organization, and the limitation of~~ 1099
~~the liability of any partner or member; if the applicant is a~~ 1100
~~corporation, a list of its executive officers and directors, and~~ 1101

~~the residence and business addresses of each; and if it is a~~ 1102
~~foreign corporation, a copy of its articles of incorporation in~~ 1103
~~addition thereto;~~ 1104

~~(3)~~ The location and addresses of the principal office and 1105
all other offices of the applicant; 1106

~~(4)~~(3) A general description of the business of the applicant 1107
done prior to the application, including a list of states in which 1108
the applicant is a licensed dealer. 1109

~~(B) Each applicant shall file an irrevocable consent to~~ 1110
~~service of process as provided in section 1707.11 of the Revised~~ 1111
~~Code.~~ 1112

~~(C)~~(1) The division may investigate any applicant for a 1113
license, and may require such additional information as it deems 1114
necessary to determine the applicant's business repute and 1115
qualifications to act as a dealer in securities. 1116

(2) If the application for any license involves investigation 1117
outside of this state, the applicant may be required by the 1118
division to advance sufficient funds to pay any of the actual 1119
expenses of such examination. An itemized statement of any such 1120
expenses which the applicant is required to pay shall be furnished 1121
the applicant by the division. 1122

~~(D)~~(C) The division shall by rule require one natural person 1123
who is a principal, officer, director, general partner, manager, 1124
or employee of a dealer to pass an examination designated by the 1125
division. Each dealer that is not a natural person shall notify 1126
the division of the name and relationship to the dealer of the 1127
natural person who has passed the examination on behalf of the 1128
dealer and who will serve as the designated principal on behalf of 1129
the dealer. 1130

~~(E)~~(D) Dealers shall employ as salespersons only those 1131
salespersons who are licensed under this chapter. If at any time a 1132

salesperson resigns or is discharged or a new salesperson is added, the dealer shall promptly notify the division.

~~(F)~~(E) If the division finds that the applicant is of good business repute, appears qualified to act as a dealer in securities, and has fully 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 a dealer.

Sec. 1707.151. (A) Application for an investment adviser'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.

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

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

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

~~(D)~~(C) The division shall by rule require ~~one~~ a natural person who is ~~a principal, officer, director, general partner, manager, or employee of an applicant for an investment adviser~~ adviser's license to pass an examination designated by the division or achieve a specified professional designation. ~~Each~~

~~investment adviser that is not a natural person shall notify the~~ 1164
~~division of the name and relationship to the investment adviser of~~ 1165
~~the natural person who has passed the examination or achieved the~~ 1166
~~specified professional designation on behalf of the investment~~ 1167
~~adviser and who will serve as the designated principal on behalf~~ 1168
~~of the investment adviser.~~ 1169

~~(E)~~(D) An investment adviser licensed under section 1707.141 1170
of the Revised Code shall employ only investment adviser 1171
representatives licensed, or exempted from licensure, under 1172
section 1707.161 of the Revised Code. 1173

~~(F)~~(E) If the division finds that the applicant is of good 1174
business repute, appears to be qualified to act as an investment 1175
adviser, and has complied with this chapter and rules adopted 1176
under this chapter by the division, the division, upon payment of 1177
the fees prescribed by division (B) of section 1707.17 of the 1178
Revised Code, shall issue to the applicant a license authorizing 1179
the applicant to act as an investment adviser. 1180

Sec. 1707.161. (A) No person shall act as an investment 1181
adviser representative, unless one of the following applies: 1182

(1) The person is licensed as an investment adviser 1183
representative by the division of securities. 1184

(2) The person is a natural person who is licensed as an 1185
investment adviser by the division, and does not act as an 1186
investment adviser representative for another investment adviser; 1187
however, a natural person who is licensed as an investment adviser 1188
by the division may act as an investment adviser representative 1189
for another investment adviser if the natural person also is 1190
licensed by the division, or is properly excepted from licensure, 1191
as an investment adviser representative of the other investment 1192
adviser. 1193

(3) The person is employed by or associated with an 1194

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. 1195
1196
1197

(4) The person is employed by or associated with an 1198
investment adviser that is excepted from licensure pursuant to 1199
division (A)(3) ~~or~~, (4), (5), or (6) of section 1707.141 of the 1200
Revised Code or excepted from notice filing pursuant to division 1201
(B)(3) of section 1707.141 of the Revised Code. 1202

(B)(1) No investment adviser representative required to be 1203
licensed under this section shall act as an investment adviser 1204
representative for more than two investment advisers. An 1205
investment adviser representative that acts as an investment 1206
adviser representative for two investment advisers shall do so 1207
only after the occurrence of both of the following: 1208

(a) Being properly licensed, or properly excepted from 1209
licensure under this section, as an investment adviser 1210
representative for both investment advisers; 1211

(b) Complying with the requirements set forth in rules 1212
adopted by the division regarding consent of both investment 1213
advisers and notice. 1214

(2) Nothing in this section shall be construed to prohibit a 1215
natural person from being licensed by the division as both an 1216
investment adviser and an investment adviser representative. 1217

(3) Nothing in this section shall be construed to prohibit a 1218
natural person from being licensed by the division as both a 1219
salesperson and an investment adviser representative. 1220

(4) Nothing in this section shall be construed to prohibit a 1221
natural person from being licensed by the division as both a 1222
dealer and an investment adviser representative. 1223

(C) An investment adviser representative's license issued 1224

under this section shall not be effective during any period when 1225
the investment adviser representative is not employed by or 1226
associated with an investment adviser that is licensed by the 1227
division or that is in compliance with the notice filing 1228
requirements of division (B) of section 1707.141 of the Revised 1229
Code. Notice of the commencement and termination of the employment 1230
or association of an investment adviser representative licensed 1231
under this section shall be given to the division within thirty 1232
days after the commencement or termination by either of the 1233
following: 1234

(1) The investment adviser, in the case of an investment 1235
adviser representative licensed under this section and employed by 1236
or associated with, or formerly employed by or associated with, an 1237
investment adviser licensed under section 1707.141 of the Revised 1238
Code; 1239

(2) The investment adviser representative, in the case of an 1240
investment adviser representative licensed under this section and 1241
employed by or associated with, or formerly employed by or 1242
associated with, an investment adviser that is subject to the 1243
notice filings requirements of division (B) of section 1707.141 of 1244
the Revised Code. 1245

(D)(1) Application for an investment adviser representative 1246
license shall be made in accordance with this section and by 1247
filing with the division the information, materials, and forms 1248
specified in rules adopted by the division. 1249

(2) The division shall by rule require an applicant to pass 1250
an examination designated by the division or achieve a specified 1251
professional designation. 1252

(3) Prior to issuing the investment adviser representative 1253
license, the division may require the applicant to reimburse the 1254
division for the actual expenses incurred in investigating the 1255

applicant. An itemized statement of any such expenses that the
applicant is required to pay shall be furnished to the applicant
by the division.

(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.

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.

(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 1287
December of each year. The licenses may be renewed upon the filing 1288
with the division of an application for renewal, and the payment 1289
of the fee prescribed in division (B) of this section, ~~between the~~ 1290
~~fifteenth day of October and the thirtieth day of November of each~~ 1291
~~year. The division may accept an application for renewal filed~~ 1292
~~between the first and thirty-first day of December of each year.~~ 1293
The division also may accept an application for renewal received 1294
by the division not later than the tenth day of January of the 1295
subsequent calendar year, provided that the application for 1296
renewal is accompanied by the license renewal fee and the 1297
additional fee prescribed in division (B) of this section. The 1298
division shall give notice, without unreasonable delay, of its 1299
action on any application for renewal. 1300

(3) An investment adviser required to make a notice filing 1301
under division (B) of section 1707.141 of the Revised Code 1302
annually shall file with the division the notice filing and the 1303
fee prescribed in division (B) of this section, no later than the 1304
thirty-first day of December of each year. ~~The division may accept~~ 1305
~~a notice filing received by the division not later than the tenth~~ 1306
~~day of January of the subsequent calendar year, provided that the~~ 1307
~~notice filing is accompanied by the notice filing fee and the~~ 1308
~~additional fee prescribed in division (B) of this section.~~ 1309

(B)(1) The fee for each dealer's license, and for each annual 1310
renewal thereof ~~that is received by the division not later than~~ 1311
~~the thirty-first day of December of each year,~~ shall be one 1312
hundred dollars. ~~Upon payment of an additional fee of one half of~~ 1313
~~the license renewal fee, the division may accept an application~~ 1314
~~for renewal received by the division between the first and tenth~~ 1315
~~day of January of the subsequent calendar year.~~ The fee for the 1316
examination of applicant dealers, when administered by the 1317
division, shall be seventy-five dollars. 1318

(2) The fee for each salesperson's license, and for each annual renewal thereof, shall be fifty dollars. The fee for the 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 1351
investment adviser representative's license may be issued at any 1352
time for the remainder of the calendar year. In that event, the 1353
annual fee shall not be reduced. 1354

Sec. 1733.01. As used in this chapter, unless the context 1355
otherwise requires: 1356

(A) "Credit union" means a corporation organized and 1357
qualified as such under this chapter. In addition to the powers 1358
enumerated in this chapter and unless restricted in this chapter, 1359
every credit union has the general powers conferred upon 1360
corporations by Chapter 1701. of the Revised Code. A credit union 1361
is a nonprofit cooperative financial institution and as such is 1362
organized and operates for the mutual benefit and general welfare 1363
of its members with the earnings, savings, benefits, or services 1364
of the credit union being distributed to its members as patron 1365
savers and borrowers and not to its members as individuals. 1366

(B) "Corporate credit union" means a credit union, 1367
eligibility for membership in which is being a credit union 1368
qualified to do business in this state. Such credit union shall 1369
use the term "corporate" in its official name. 1370

(C) "Foreign credit union" means a credit union formed under 1371
the laws of another state which are substantially similar to this 1372
chapter. 1373

(D) "Member" means a person who is a member of a credit 1374
union. 1375

(E) "Association member" means any member of a credit union 1376
other than a credit union or an individual member. 1377

(F) "Voting member" means an association member or an 1378
individual member who is qualified to vote as provided by law, the 1379
articles, or the regulations. 1380

(G) "Person" includes, without limitation, an individual, a corporation, an unincorporated society or association, or any other organization of individuals.	1381 1382 1383
(H) "Articles" includes original articles of incorporation, agreements of merger, amended articles, and amendments to any of these.	1384 1385 1386
(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.	1387 1388 1389
(J) Persons having a "common bond of association" include those persons and their families.	1390 1391
(K) "Membership share" means a share of the credit union, the subscription to which shall be a prerequisite for membership in the credit union.	1392 1393 1394
(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.	1395 1396 1397 1398
(M) "Undivided earnings" consist of all accumulated net earnings and reserves required under division (B) of section 1733.31 of the Revised Code.	1399 1400 1401
(N) "State" means the United States, any state, territory, insular possession, or other political subdivision of the United States, including the District of Columbia.	1402 1403 1404
(O) An "emergency" exists when an emergency exists for other corporations as the same is defined and described in section 1701.01 of the Revised Code.	1405 1406 1407
(P) "Superintendent of credit unions" means the "division of financial institutions" or the "superintendent of the division of financial institutions of this state"; and whenever the context	1408 1409 1410

requires it, may be read as "director of commerce" or as "chief of
the division of financial institutions." Whenever the division or
superintendent of credit unions is referred to or designated in
any statute, rule, contract, or other document, the reference or
designation shall be deemed to refer to the division or
superintendent of financial institutions, as the case may be.

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

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

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

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

(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 1442
accordance with those sections, and, notwithstanding section 1443
1733.05 of the Revised Code, shall have the authority to approve 1444
issues and matters pertaining to fields of membership. In 1445
performing or exercising any of the examination, rule-making, or 1446
other regulatory functions, powers, or duties vested by division 1447
(A)(2) of this section in the deputy superintendent for credit 1448
unions, the deputy superintendent for credit unions shall be 1449
subject to the control of the superintendent of financial 1450
institutions. 1451

(3) The superintendent shall develop and implement a system 1452
for evaluating the safety and soundness of credit unions and for 1453
determining when examinations and supervisory actions are 1454
necessary. Credit unions shall be subject to periodic 1455
examinations, as specified in rules adopted by the superintendent, 1456
and their books, records, and accounts shall be open to the 1457
inspection of the superintendent at all times. For the purpose of 1458
such examination or inspection, the superintendent may subpoena 1459
witnesses, administer oaths, receive testimony, and order the 1460
submission of documents. 1461

(B) Every credit union shall prepare and submit, on forms 1462
provided by the superintendent, a financial report to the 1463
superintendent showing its assets and liabilities whenever 1464
requested to do so by the superintendent. Every financial report 1465
shall be verified by the oaths of the two principal officers in 1466
charge of the affairs of the credit union at the time of such 1467
verification and shall be submitted to the superintendent within 1468
thirty days after the superintendent requests the financial 1469
report. 1470

(C) An annual financial report of the affairs and business of 1471
the credit union, showing its condition as of the thirty-first day 1472
of December unless otherwise authorized by the superintendent, 1473

shall be filed with the superintendent not later than the date 1474
authorized in the rules adopted by the superintendent. 1475

(D) If a financial report or an annual financial report is 1476
not filed with the superintendent in accordance with division (B) 1477
or (C) of this section, the superintendent may do both of the 1478
following: 1479

(1) Assess a fine, determined by rule adopted by the 1480
superintendent, for each day the report is in arrears; 1481

(2) If the superintendent gives written notice to the 1482
president of the credit union of the superintendent's intention to 1483
do so, issue an order revoking the credit union's articles of 1484
incorporation and appointing a liquidating agent to liquidate the 1485
credit union in accordance with section 1733.37 of the Revised 1486
Code. 1487

(E)(1) Except as provided in division (E)(2) of this section, 1488
each credit union doing business in this state shall remit, 1489
semiannually and within fifteen days after billing, to the 1490
treasurer of state, a supervisory fee in an amount determined by 1491
the superintendent and confirmed by the credit union council. The 1492
supervisory fee described in division (E)(1) of this section shall 1493
be based on a percentage of the gross assets of the credit union 1494
as shown by its last annual financial report filed with the 1495
superintendent in accordance with division (C) of this section. 1496
The minimum supervisory fee shall be determined by the 1497
superintendent and confirmed by the credit union council. 1498

(2) Each corporate credit union doing business in this state 1499
shall remit, semiannually and within fifteen days after billing, 1500
to the treasurer of state, a supervisory fee determined by rule 1501
adopted by the superintendent and confirmed by the credit union 1502
council. The aggregate annual amount of the fee shall not exceed 1503
the annual operating fee that the national credit union 1504

administration charges a federally chartered credit union pursuant 1505
to the "Federal Credit Union Act," 84 Stat. 994 (1970), 12 1506
U.S.C.A. 1751. 1507

(3) The superintendent annually shall present to the credit 1508
union council for confirmation the supervisory fees to be billed 1509
credit unions and corporate credit unions pursuant to division (E) 1510
of this section. 1511

(4) If any supervisory fee is not remitted in accordance with 1512
division (E)(1) or (2) of this section, the superintendent may 1513
assess a fine, determined by rule adopted by the superintendent, 1514
for each day that each fee is in arrears. 1515

(5)(a) Subject to division (E)(5)(b) of this section, the 1516
total amount of each semiannual billing to all credit unions and 1517
corporate credit unions combined shall equal one-half of the 1518
appropriation made by the main operating appropriation act, 1519
including any modifications made by the controlling board, to the 1520
division of financial institutions for the regulation of credit 1521
unions for the fiscal year in which the billings occur, except 1522
that the superintendent, in determining the supervisory fees, may 1523
take into consideration any funds lapsed from the appropriation 1524
made in the previous fiscal year. 1525

(b) If during the period between the credit union council's 1526
confirmation of supervisory fees and when supervisory fees 1527
described in this section are collected, the credit union council 1528
determines additional money is required to adequately fund the 1529
operations of the division of financial institutions for that 1530
fiscal year, the credit union council may, by the affirmative vote 1531
of five of its members, increase the supervisory fees billed. The 1532
superintendent promptly shall notify each credit union and 1533
corporate credit union of the increased supervisory fees, and each 1534
credit union or corporate credit union shall pay the increased 1535
supervisory fees billed by the superintendent. 1536

(6) The fees or fines collected pursuant to this section 1537
shall be credited to the credit unions fund created in section 1538
1733.321 of the Revised Code. 1539

(F) A report of such examination shall be forwarded to the 1540
president of each credit union after the completion of the 1541
examination. Such report may contain comments relative to the 1542
management of the affairs of the credit union and also as to the 1543
general condition of its assets. Within thirty days of the receipt 1544
of such report, a meeting of the directors shall be called to 1545
consider matters contained in the report, and the president shall 1546
notify the superintendent of any action taken at such meeting. 1547
1548

(G)(1) The superintendent shall furnish reports of 1549
examinations or other appropriate information to any organization 1550
referred to in section 1733.041 of the Revised Code when requested 1551
by such organization and authorized by the credit union. The 1552
superintendent may charge a fee for such reports and other 1553
information as may be established by rules adopted by the 1554
superintendent. 1555

(2) A report of examination furnished pursuant to division 1556
(G)(1) of this section is the property of the division of credit 1557
unions and may be used by the examined credit union only in the 1558
conduct of its business. Under no circumstances may the credit 1559
union, its current or former directors, officers, employees, 1560
agents, shareholders, participants in the conduct of its affairs, 1561
or their agents disclose or make public, in any manner, a report 1562
of examination or its contents. 1563

(H) Except as provided in this division, information obtained 1564
by the superintendent of ~~credit unions~~ financial institutions and 1565
the superintendent's employees as a result of or arising out of 1566
the examination or independent audit of a credit union, from 1567
required reports, or because of their official position, shall be 1568

confidential. Such information may be disclosed only in connection 1569
with criminal proceedings or, subject to section 1733.327 of the 1570
Revised Code, when it is necessary for the superintendent to take 1571
official action pursuant to Chapter 1733. of the Revised Code and 1572
the rules adopted thereunder regarding the affairs of the credit 1573
union examined. Such information may also be introduced into 1574
evidence or disclosed when and in the manner authorized in section 1575
1181.25 of the Revised Code. This division does not prevent the 1576
superintendent from properly exchanging information relating to an 1577
examined credit union pursuant to division (F) or (G) of this 1578
section or with officials of properly authorized state or federal 1579
supervisory financial institution regulatory authorities or with 1580
any insurer recognized under section 1733.041 or any surety 1581
recognized under section 1733.23 of the Revised Code. This 1582
division also does not prevent the superintendent from disclosing 1583
information contained in the financial reports or annual financial 1584
reports described in division (B) or (C) of this section to 1585
recognized credit union trade associations. 1586

Sec. 1733.327. (A) All conferences and administrative 1588
proceedings under sections 1733.324 and 1733.325 of the Revised 1589
Code, the fact of their actual or anticipated occurrence, and all 1590
notices, agreements, hearings, orders, records, evidence, 1591
transcripts, and other writings, happenings, or things pertaining 1592
to those conferences or proceedings, shall be kept confidential as 1593
among the superintendent of ~~credit unions~~ financial institutions, 1594
the director of commerce, the deputy director of financial 1595
institutions, the governor, the credit union or regulated 1596
individual who is party to the conference or proceedings, 1597
witnesses in the conference or proceedings, and other persons 1598
specifically designated by the superintendent or director. In 1599
designating specific persons who may be present or acquire 1600

knowledge of matters made confidential by this division, the 1601
superintendent and director shall not exclude attorneys or other 1602
suitable representatives of the credit union, or of any regulated 1603
individual, who is party to the conference or proceedings. If the 1604
conference or proceedings apply to a regulated individual, the 1605
superintendent and director shall not exclude suitable 1606
representatives of the credit union of which such regulated 1607
individual is an officer, director, or employee. 1608

(B) Division (A) of this section ceases to apply upon the 1609
occurrence of any of the following: 1610

(1) An action is brought to recover a forfeiture for the 1611
violation of an agreement concluded, or a final or summary 1612
cease-and-desist order issued, under section 1733.324 or 1733.325 1613
of the Revised Code. A forfeiture, in the absence of such an 1614
action for recovery, does not waive division (A) of this section 1615
except insofar as the forfeiture must be reflected or reported in 1616
the financial records or reports of the credit union or regulated 1617
individual. 1618

(2) Information made confidential by division (A) of this 1619
section is needed as evidence in a criminal proceeding; in 1620
proceedings under section 1733.37 of the Revised Code; or in the 1621
work of a committee of the general assembly. 1622

(3) The superintendent furnishes information made 1623
confidential by division (A) of this section to the applicable 1624
insurer recognized under section 1733.041 of the Revised Code. 1625

(4) The superintendent furnishes information made 1626
confidential by division (A) of this section to financial 1627
institution regulatory authorities as authorized in section 1628
1733.32 of the Revised Code. 1629

(5) Information made confidential by division (A) of this 1630
section is disclosed when and in the manner authorized in section 1631

1181.25 of the Revised Code.

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

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

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

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

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(2) Notwithstanding division (C)(1) of this section, the
superintendent may share documents and information that contain a
medical record in connection with the investigation or prosecution
of any illegal or criminal activity 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

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3901. or 3903. of the Revised Code, with other local, state, 1663
federal, and international regulatory and law enforcement 1664
agencies, with local, state, and federal prosecutors, and with the 1665
national association of insurance commissioners and its affiliates 1666
and subsidiaries, provided that the recipient agrees to maintain 1667
the confidential or privileged status of the confidential or 1668
privileged document or information and has authority to do so. 1669

(3) Nothing in this section shall prohibit the superintendent 1670
from receiving documents and information in accordance with 1671
section 3901.045 of the Revised Code. 1672

(4) The superintendent may enter into agreements governing 1673
the sharing and use of documents and information consistent with 1674
the requirements of this section. 1675

(5) No waiver of any applicable privilege or claim of 1676
confidentiality in the documents and information described in 1677
division (C)(1) of this section occurs as a result of sharing or 1678
receiving documents and information as authorized in divisions 1679
(C)(2) and (3) of this section. 1680

(D) A health insuring corporation shall establish and 1681
maintain a procedure to accept complaints over the telephone or in 1682
person. These complaints are not subject to the reporting 1683
requirement under division (C) of section 1751.32 of the Revised 1684
Code. 1685

(E) A health insuring corporation may comply with this 1686
section and section 1751.83 of the Revised Code by establishing 1687
one system for receiving and reviewing complaints and requests for 1688
internal review from enrollees and subscribers if the system meets 1689
the requirements of both sections. 1690

Sec. 3901.045. (A) The superintendent of insurance may 1691
receive documents and information, including otherwise 1692

confidential or privileged documents and information, from local, state, federal, and international regulatory and law enforcement agencies, from local, state, and federal prosecutors, and from the national association of insurance commissioners and its affiliates and subsidiaries, provided that the superintendent maintains as confidential or privileged any document or information received with notice or the understanding that the document or information is confidential or privileged under the laws of the jurisdiction that is the source of the document or information.

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

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

(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 1724
insurance or any other person in the course of an examination or 1725
investigation made pursuant to section 3901.35 of the Revised Code 1726
and all information reported pursuant to section 3901.33 of the 1727
Revised Code shall be given confidential and privileged treatment 1728
and shall not be subject to subpoena or be made public by the 1729
superintendent or any other person, ~~except to insurance regulatory~~ 1730
~~authorities of other states, without the prior written consent of~~ 1731
~~the insurer to which it pertains, unless the superintendent, after~~ 1732
~~giving the insurer and its affiliates who would be affected~~ 1733
~~thereby notice and opportunity to be heard, determines that the~~ 1734
~~interests of policyholders, shareholders, or the public will be~~ 1735
~~served by the publication thereof, in which event he may publish~~ 1736
~~all or any part thereof in such manner as he considers~~ 1737
appropriate. 1738

(B) Notwithstanding division (A) of this section, the 1739
superintendent may do any of the following: 1740

(1) Disclose documents and information that are the subject 1741
of this section upon obtaining prior written consent from the 1742
insurer to which the documents and information pertain; 1743

(2) Disclose documents and information that are the subject 1744
of this section in such a manner as the superintendent considers 1745
appropriate, after giving the insurer and those affiliates that 1746
are the subject of the documents and information notice and an 1747
opportunity to be heard in accordance with Chapter 119. of the 1748
Revised Code, if the superintendent determines that the interests 1749
of policyholders, shareholders, or the public will be served by 1750
the disclosure; 1751

(3) Share documents and information that are the subject of 1752
this section with the chief deputy rehabilitator, the chief deputy 1753
liquidator, other deputy rehabilitators and liquidators, and any 1754
other person employed by, or acting on behalf of, the 1755

superintendent pursuant to Chapter 3901. or 3903. of the Revised 1756
Code, with other local, state, federal, and international 1757
regulatory and law enforcement agencies, with local, state, and 1758
federal prosecutors, and with the national association of 1759
insurance commissioners and its affiliates and subsidiaries, 1760
provided that the recipient agrees to maintain the confidential or 1761
privileged status of the confidential or privileged document or 1762
information and has authority to do so; 1763

(4) Disclose documents and information that are the subject 1764
of this section in the furtherance of any regulatory or legal 1765
action brought by or on behalf of the superintendent or the state, 1766
resulting from the exercise of the superintendent's official 1767
duties. 1768

(C) Notwithstanding divisions (A) and (B) of this section, 1769
the superintendent may authorize the national association of 1770
insurance commissioners and its affiliates and subsidiaries by 1771
agreement to share confidential or privileged documents or 1772
information received pursuant to division (B)(3) of this section 1773
with local, state, federal, and international regulatory and law 1774
enforcement agencies and with local, state, and federal 1775
prosecutors, provided that the recipient agrees to maintain the 1776
confidential or privileged status of the confidential or 1777
privileged document or information and has authority to do so. 1778

(D) Notwithstanding divisions (A) and (B) of this section, 1779
the chief deputy rehabilitator, the chief deputy liquidator, and 1780
other deputy rehabilitators and liquidators may disclose documents 1781
and information that are the subject of this section in the 1782
furtherance of any regulatory or legal action brought by or on 1783
behalf of the superintendent, the rehabilitator, the liquidator, 1784
or the state resulting from the exercise of the superintendent's 1785
official duties in any capacity. 1786

(E) Nothing in this section shall prohibit the superintendent 1787

from receiving documents and information in accordance with 1788
section 3901.045 of the Revised Code. 1789

(F) The superintendent may enter into agreements governing 1790
the sharing and use of documents and information consistent with 1791
the requirements of this section. 1792

(G)(1) No waiver of any applicable privilege or claim of 1793
confidentiality in the documents and information described in this 1794
section shall occur as a result of sharing or receiving documents 1795
and information as authorized in divisions (B)(3), (C), and (E) of 1796
this section. 1797

(2) The disclosure of a document or information in connection 1798
with a regulatory or legal action pursuant to divisions (B)(4) and 1799
(D) of this section does not prohibit an insurer or any other 1800
person from taking steps to limit the dissemination of the 1801
document or information to persons not involved in or the subject 1802
of the regulatory or legal action on the basis of any recognized 1803
privilege arising under any other section of the Revised Code or 1804
the common law. 1805

Sec. 3901.44. (A) As used in this section, "insurance fraud 1806
investigation" means any investigation conducted by the 1807
superintendent of insurance or a designee of the superintendent 1808
that relates to a fraudulent insurance act as defined in section 1809
3999.31 of the Revised Code. 1810

(B) All ~~papers~~, documents, reports, and evidence in the 1811
possession of the superintendent or the superintendent's designee 1812
that pertain to an insurance fraud investigation are confidential 1813
law enforcement investigatory records under section 149.43 of the 1814
Revised Code. Notwithstanding such section, the superintendent 1815
shall not prohibit public inspection of such records that pertain 1816
to an insurance fraud investigation after the expiration of all 1817
federal and state statutes of limitations applicable to the 1818

particular offense to which the papers, documents, reports, and 1819
evidence relate. 1820

(C) All ~~papers~~, documents, reports, and evidence in the 1821
possession of the superintendent that do not pertain to such an 1822
insurance fraud investigation are public records under section 1823
149.43 of the Revised Code, and are not by such possession alone 1824
confidential law enforcement investigatory records. 1825

(D) All ~~papers~~, documents, reports, and evidence in the 1826
possession of the superintendent or the superintendent's designee 1827
that pertain to such an insurance fraud investigation are not 1828
subject to subpoena in civil actions by any court of this state 1829
until opened for public inspection by the superintendent in 1830
accordance with division (B) of this section or with section 1831
149.43 of the Revised Code, unless the superintendent or the 1832
superintendent's designee consents, or until after reasonable 1833
notice to the superintendent and opportunity for hearing, the 1834
court determines the superintendent would not be hindered 1835
unnecessarily by such subpoena. 1836

(E) Notwithstanding divisions (B), (C), and (D) of this 1837
section, the superintendent may do either of the following: 1838

(1) Share documents, reports, and evidence that are the 1839
subject of this section with the chief deputy rehabilitator, the 1840
chief deputy liquidator, other deputy rehabilitators and 1841
liquidators, and any other person employed by, or acting on behalf 1842
of, the superintendent pursuant to Chapter 3901. or 3903. of the 1843
Revised Code, with other local, state, federal, and international 1844
regulatory and law enforcement agencies, with local, state, and 1845
federal prosecutors, with the national association of insurance 1846
commissioners and its affiliates and subsidiaries, with insurers, 1847
and with investigators hired by insurers, provided that the 1848
recipient agrees to maintain the confidential or privileged status 1849
of the confidential or privileged document, report, or evidence 1850

and has authority to do so; 1851

(2) Disclose documents, reports, and evidence that are the 1852
subject of this section in the furtherance of any regulatory or 1853
legal action brought by or on behalf of the superintendent or the 1854
state, resulting from the exercise of the superintendent's 1855
official duties. 1856

(F) Notwithstanding divisions (B), (C), (D), and (E) of this 1857
section, the superintendent may authorize the national association 1858
of insurance commissioners and its affiliates and subsidiaries by 1859
agreement to share confidential or privileged documents, reports, 1860
and evidence received pursuant to division (E)(1) of this section 1861
with local, state, federal, and international regulatory and law 1862
enforcement agencies and with local, state, and federal 1863
prosecutors, provided that the recipient agrees to maintain the 1864
confidential or privileged status of the confidential or 1865
privileged document, report, or evidence and has authority to do 1866
so. 1867

(G) Notwithstanding divisions (B), (C), (D), and (E) of this 1868
section, the chief deputy rehabilitator, the chief deputy 1869
liquidator, and other deputy rehabilitators and liquidators may 1870
disclose documents, reports, and evidence that are the subject of 1871
this section in the furtherance of any regulatory or legal action 1872
brought by or on behalf of the superintendent, the rehabilitator, 1873
the liquidator, or the state resulting from the exercise of the 1874
superintendent's official duties in any capacity. 1875

(H) Nothing in this section shall prohibit the superintendent 1876
from receiving documents, reports, and evidence in accordance with 1877
section 3901.045 of the Revised Code. 1878

(I) The superintendent may enter into agreements governing 1879
the sharing and use of documents, reports, and evidence consistent 1880
with the requirements of this section. 1881

(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. 1882
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(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. 1887
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(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. 1895
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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 shall remain the property of the certified public accountant. Any copies of these work papers voluntarily given to the superintendent shall be the property of the superintendent. The original work papers or any copies of them, whether in possession of the certified public accountant or the department of insurance, are confidential and privileged and are not a public record as defined in section 149.43 of the Revised Code. The original work papers and any copies of them are not subject to subpoena and 1900
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shall not be made public by the superintendent or any other 1913
person. ~~However, the original work papers and any copies of them~~ 1914
~~may be released by the superintendent to the insurance regulatory~~ 1915
~~authority of any other state if that authority agrees to maintain~~ 1916
~~the confidentiality of the work papers or copies and if the work~~ 1917
~~papers and copies are not public records under the laws of that~~ 1918
~~state.~~ 1919

(B) The work papers of the superintendent or of the person 1920
appointed by the superintendent, resulting from the conduct of an 1921
examination made pursuant to section 3901.07 of the Revised Code 1922
or from the conduct of a financial analysis of any entity subject 1923
to examination by the superintendent, including but not limited to 1924
any insurance company, health insuring corporation, fraternal 1925
benefit society, or multiple employer welfare arrangement, are 1926
confidential and privileged and are not a public record as defined 1927
in section 149.43 of the Revised Code. The original work papers 1928
and any copies of them are not subject to subpoena and shall not 1929
be made public by the superintendent or any other person. ~~However,~~ 1930
~~the original work papers and any copies of them may be released by~~ 1931
~~the superintendent to the insurance regulatory authority of any~~ 1932
~~other state if that authority agrees to maintain the~~ 1933
~~confidentiality of the work papers or copies and if the work~~ 1934
~~papers and copies are not public records under the laws of that~~ 1935
~~state.~~ 1936

(C) The work papers of the superintendent or of any person 1937
appointed by the superintendent, resulting from the conduct of a 1938
performance regulation examination made pursuant to authority 1939
granted under section 3901.011 of the Revised Code, are 1940
confidential and privileged and are not a public record as defined 1941
in section 149.43 of the Revised Code. The original work papers 1942
and any copies of them are not subject to subpoena and shall not 1943
be made public by the superintendent or any other person. ~~However,~~ 1944

~~the original work papers and any copies of them may be released by 1945
the superintendent to the insurance regulatory authority of any 1946
other state if that authority agrees to maintain the 1947
confidentiality of the work papers or copies and if the work 1948
papers and copies are not public records under the laws of that 1949
state. 1950~~

(D) Notwithstanding divisions (A), (B), and (C) of this 1951
section, the superintendent may do either of the following: 1952

(1) Share work papers that are the subject of this section 1953
with the chief deputy rehabilitator, the chief deputy liquidator, 1954
other deputy rehabilitators and liquidators, and any other person 1955
employed by, or acting on behalf of, the superintendent pursuant 1956
to Chapter 3901. or 3903. of the Revised Code, with other local, 1957
state, federal, and international regulatory and law enforcement 1958
agencies, with local, state, and federal prosecutors, and with the 1959
national association of insurance commissioners and its affiliates 1960
and subsidiaries, provided that the recipient agrees to maintain 1961
the confidential or privileged status of the confidential or 1962
privileged work paper and has authority to do so; 1963

(2) Disclose work papers that are the subject of this section 1964
in the furtherance of any regulatory or legal action brought by or 1965
on behalf of the superintendent or the state, resulting from the 1966
exercise of the superintendent's official duties. 1967

(E) Notwithstanding divisions (A), (B), (C), and (D) of this 1969
section, the superintendent may authorize the national association 1970
of insurance commissioners and its affiliates and subsidiaries by 1971
agreement to share confidential or privileged work papers received 1972
pursuant to division (D)(1) of this section with local, state, 1973
federal, and international regulatory and law enforcement agencies 1974
and with local, state, and federal prosecutors, provided that the 1975
recipient agrees to maintain the confidential or privileged status 1976

of the confidential or privileged work paper and has authority to 1977
do so. 1978

(F) Notwithstanding divisions (A), (B), (C), and (D) of this 1979
section, the chief deputy rehabilitator, the chief deputy 1980
liquidator, and other deputy rehabilitators and liquidators may 1981
disclose work papers that are the subject of this section in the 1982
furtherance of any regulatory or legal action brought by or on 1983
behalf of the superintendent, the rehabilitator, the liquidator, 1984
or the state resulting from the exercise of the superintendent's 1985
official duties in any capacity. 1986

(G) Nothing in this section shall prohibit the superintendent 1987
from receiving work papers in accordance with section 3901.045 of 1988
the Revised Code. 1989

(H) The superintendent may enter into agreements governing 1990
the sharing and use of work papers consistent with the 1991
requirements of this section. 1992

(I)(1) No waiver of any applicable privilege or claim of 1993
confidentiality in the work papers, or copies thereof, that are 1994
the subject of this section shall occur as a result of sharing or 1995
receiving work papers as authorized in divisions (D)(1), (E), and 1996
(G) of this section. 1997

(2) The disclosure of work papers in connection with a 1998
regulatory or legal action pursuant to divisions (D)(2) and (F) of 1999
this section does not prohibit an insurer or any other person from 2000
taking steps to limit the dissemination of the work papers to 2001
persons not involved in or the subject of the regulatory or legal 2002
action on the basis of any recognized privilege arising under any 2003
other section of the Revised Code or the common law. 2004

Sec. 3901.70. (A) Each report obtained by or disclosed to the 2005
superintendent of insurance pursuant to sections 3901.67 to 2006

3901.70 of the Revised Code is confidential and privileged and is 2007
not subject to subpoena. Except as provided in ~~divisions~~ division 2008
(B) ~~and (C)~~ of this section, the report shall not be made public 2009
by the superintendent, ~~the national association of insurance~~ 2010
~~commissioners,~~ or any other persons. 2011

~~(B) A report may be provided by the superintendent to the 2012
insurance regulatory authority of another state or to the national 2013
association of insurance commissioners without first obtaining the 2014
written consent of the insurer to which it pertains. 2015~~

~~(C) The superintendent, after conducting a hearing in 2016
accordance with Chapter 119. of the Revised Code, may determine 2017
that the interest of policyholders, shareholders, or the public 2018
will be served by the publication of the report and may publish 2019
all or any part of the report in such manner as the superintendent 2020
may consider appropriate. Notwithstanding division (A) of this 2021
section, the superintendent may do any of the following: 2022~~

(1) Disclose a report that is the subject of this section 2023
upon obtaining a prior written consent from the insurer to which 2024
the report pertains; 2025

(2) Share a report that is the subject of this section with 2026
the chief deputy rehabilitator, the chief deputy liquidator, other 2027
deputy rehabilitators and liquidators, and any other person 2028
employed by, or acting on behalf of, the superintendent pursuant 2029
to Chapter 3901. or 3903. of the Revised Code, with other local, 2030
state, federal, and international regulatory and law enforcement 2031
agencies, with local, state, and federal prosecutors, and with the 2032
national association of insurance commissioners and its affiliates 2033
and subsidiaries, provided that the recipient agrees to maintain 2034
the confidential or privileged status of the confidential or 2035
privileged report and has authority to do so; 2036

(3) Disclose a report that is the subject of this section in 2037
the furtherance of any regulatory or legal action brought by or on 2038

behalf of the superintendent or the state, resulting from the 2039
exercise of the superintendent's official duties; 2040

(4) Disclose or publish all or any part of a report that is 2041
the subject of this section in such a manner as the superintendent 2042
considers appropriate after conducting a hearing in accordance 2043
with Chapter 119. of the Revised Code and determining that the 2044
interests of policyholders, shareholders, or the public will be 2045
served by the disclosure or publication of the report. 2046

(C) Notwithstanding divisions (A) and (B) of this section, 2047
the superintendent may authorize the national association of 2048
insurance commissioners and its affiliates and subsidiaries by 2049
agreement to share confidential or privileged reports received 2050
pursuant to division (B)(2) of this section with local, state, 2051
federal, and international regulatory and law enforcement agencies 2052
and with local, state, and federal prosecutors, provided that the 2053
recipient agrees to maintain the confidential or privileged status 2054
of the confidential or privileged report and has authority to do 2055
so. 2056

(D) Notwithstanding divisions (A) and (B) of this section, 2057
the chief deputy rehabilitator, the chief deputy liquidator, and 2058
other deputy rehabilitators and liquidators may disclose a report 2059
that is the subject of this section in the furtherance of any 2060
regulatory or legal action brought by or on behalf of the 2061
superintendent, the rehabilitator, the liquidator, or the state 2062
resulting from the exercise of the superintendent's official 2063
duties in any capacity. 2064

(E) Nothing in this section shall prohibit the superintendent 2065
from receiving reports in accordance with section 3901.045 of the 2066
Revised Code. 2067

(F) The superintendent may enter into agreements governing 2068
the sharing, use, and disclosure of reports consistent with the 2069

requirements of this section. 2070

(G)(1) No waiver of any applicable privilege or claim of confidentiality in the reports that are the subject of this section shall occur as a result of sharing or receiving reports as authorized in divisions (B)(2), (C), and (E) of this section. 2071
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(2) The disclosure of a report in connection with a regulatory or legal action pursuant to divisions (B)(3) and (D) of this section does not prohibit an insurer or any other person from taking steps to limit the dissemination of the report to persons not involved in or the subject of the regulatory or legal action on the basis of any recognized privilege arising under any other section of the Revised Code or the common law. 2075
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Sec. 3901.83. (A) When a record containing information pertaining to the medical history, diagnosis, prognosis, or medical condition of an enrollee of a health insuring corporation, insured of an insurer, or plan member of a public employee benefit plan is provided to the superintendent of insurance for any reason under sections 1751.77 to 1751.88, 3923.66 to 3923.70, or 3923.75 to 3923.79 of the Revised Code, regardless of the source, the superintendent shall maintain the confidentiality of the record. The record in the superintendent's possession is not a public record under section 149.43 of the Revised Code, except to the extent that information from the record is used in preparing reports under section 3901.82 of the Revised Code. 2082
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(B) Notwithstanding division (A) of this section, the superintendent may share a record that is the subject of this section in connection with the investigation or prosecution of any illegal or criminal activity 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 2094
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Revised Code, with other local, state, federal, and international regulatory and law enforcement agencies, with local, state, and federal prosecutors, and with the national association of insurance commissioners and its affiliates and subsidiaries, provided that the recipient agrees to maintain the confidential or privileged status of the confidential or privileged record and has authority to do so. 2101
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(C) Nothing in this section shall prohibit the superintendent from receiving records in accordance with section 3901.045 of the Revised Code. 2108
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(D) The superintendent may enter into agreements governing the sharing and use of records consistent with the requirements of this section. 2111
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(E) No waiver of any applicable privilege or claim of confidentiality in the records that are the subject of this section shall occur as a result of sharing or receiving records as authorized in divisions (B) and (C) of this section. 2114
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Sec. 3903.11. (A) In all proceedings and judicial reviews thereof under sections 3903.09 and 3903.10 of the Revised Code, all records of the insurer, other documents, and all department of insurance files and court records and papers, so far as they pertain to or are a part of the record of the proceedings, shall be and remain confidential and privileged except as is necessary to enforce compliance with those sections, unless and until the court of common pleas, after hearing arguments from the parties in chambers, shall order otherwise, or unless the insurer requests in writing that the matter be made public. Until such court order or such request from the insurer, all papers filed with the clerk of the court shall be held by the clerk in a confidential file. 2118
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(B) Notwithstanding division (A) of this section, the superintendent may do either of the following: 2130
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(1) Share the documents and information that are the subject 2132
of this section with the chief deputy rehabilitator, the chief 2133
deputy liquidator, other deputy rehabilitators and liquidators, 2134
and any other person employed by, or acting on behalf of, the 2135
superintendent pursuant to Chapter 3901. or 3903. of the Revised 2136
Code, with other local, state, federal, and international 2137
regulatory and law enforcement agencies, with local, state, and 2138
federal prosecutors, and with the national association of 2139
insurance commissioners and its affiliates and subsidiaries, 2140
provided that the recipient agrees to maintain the confidential or 2141
privileged status of the confidential or privileged document or 2142
information and has authority to do so; 2143

(2) Disclose documents and information that are the subject 2144
of this section in the furtherance of any regulatory or legal 2145
action brought by or on behalf of the superintendent or the state, 2146
resulting from the exercise of the superintendent's official 2147
duties. 2148

(C) Notwithstanding divisions (A) and (B) of this section, 2149
the superintendent may authorize the national association of 2150
insurance commissioners and its affiliates and subsidiaries by 2151
agreement to share confidential or privileged documents or 2152
information received pursuant to division (B)(1) of this section 2153
with local, state, federal, and international regulatory and law 2154
enforcement agencies and with local, state, and federal 2155
prosecutors, provided that the recipient agrees to maintain the 2156
confidential or privileged status of the confidential or 2157
privileged document or information and has authority to do so. 2158

(D) Notwithstanding divisions (A) and (B) of this section, 2159
the chief deputy rehabilitator, the chief deputy liquidator, and 2160
other deputy rehabilitators and liquidators may disclose documents 2161
and information that are the subject of this section in the 2162
furtherance of any regulatory or legal action brought by or on 2163

behalf of the superintendent, the rehabilitator, the liquidator, 2164
or the state resulting from the exercise of the superintendent's 2165
official duties in any capacity. 2166

(E) Nothing in this section shall prohibit the superintendent 2167
from receiving documents or information in accordance with section 2168
3901.045 of the Revised Code. 2169

(F) The superintendent may enter into agreements governing 2170
the sharing and use of documents and information consistent with 2171
the requirements of this section. 2172

(G)(1) No waiver of any applicable privilege or claim of 2173
confidentiality in the documents and information described in this 2174
section shall occur as a result of sharing or receiving documents 2175
and information as authorized in divisions (B)(1), (C), and (E) of 2176
this section. 2177

(2) The disclosure of documents or information in connection 2178
with a regulatory or legal action pursuant to divisions (B)(2) and 2179
(D) of this section does not prohibit an insurer or any other 2180
person from taking steps to limit the dissemination of the 2181
document or information to persons not involved in or the subject 2182
of the regulatory or legal action on the basis of any recognized 2183
privilege arising under any other section of the Revised Code or 2184
the common law. 2185

Sec. 3903.72. (A) The superintendent of insurance shall 2186
annually value, or cause to be valued, the reserve liabilities, 2187
referred to in this section as reserves, for all outstanding life 2188
insurance policies and annuity and pure endowment contracts of 2189
every life insurance company doing business in this state. The 2190
superintendent may certify the amount of such reserves, specifying 2191
the mortality tables, rates of interest, and net level premium 2192
method and other methods used to calculate reserves. In 2193
calculating reserves, the superintendent may use group methods and 2194

approximate averages for fractions of a year or otherwise. The 2195
valuation of the reserves of a company organized under the laws of 2196
a foreign government shall be limited to its United States 2197
business. 2198

In lieu of a valuation of the reserves of a foreign company, 2199
the superintendent may accept the valuation made, or caused to be 2200
made, by the insurance supervisory official of any state or other 2201
jurisdiction when such valuation complies with the minimum 2202
standards required by this section, provided such official accepts 2203
the certificate of valuation of the superintendent when such 2204
certificate states that the valuation was made in a specified 2205
manner and when such valuation complies with the minimum standards 2206
required by the law of that state or jurisdiction. 2207

A company, which adopts a standard of valuation producing 2208
aggregate reserves greater than those required by this section, 2209
may adopt a lower standard of valuation with the approval of the 2210
superintendent, but not lower than the minimum provided by this 2211
section. However, the holding of additional reserves previously 2212
determined by a qualified actuary to be necessary for the actuary 2213
to render the opinions required by divisions (B)(1) and (2) of 2214
this section shall not be deemed to be the adoption of a higher 2215
standard of valuation. 2216

(B)(1) Every life insurance company doing business in this 2217
state shall annually submit to the superintendent the opinion of a 2218
qualified actuary as to whether the reserves and related actuarial 2219
items held in support of the policies and contracts specified by 2220
rule by the superintendent are computed appropriately, are based 2221
on assumptions that satisfy contractual provisions, and are 2222
consistent with prior reported amounts. The opinion shall be 2223
submitted no later than March 1, 1996, and no later than the first 2224
day of March of each year thereafter. The superintendent shall 2225
adopt rules establishing the form and content of this opinion, and 2226

may require the life insurance company to supply information in 2227
addition to that contained in the actuarial opinion. 2228

As used in this section, a "qualified actuary" means a person 2229
who is a member in good standing of the American academy of 2230
actuaries and who meets the requirements set by rule by the 2231
superintendent. 2232

(2)(a) Every life insurance company, except as exempted by 2233
rule adopted by the superintendent, shall also include in the 2234
annual opinion required by division (B)(1) of this section an 2235
opinion of the same qualified actuary as to whether the reserves 2236
and related actuarial items held in support of the policies and 2237
contracts specified by rule by the superintendent, when considered 2238
in light of the assets held by the company with respect to the 2239
reserves and related actuarial items, including, but not limited 2240
to, the investment earnings on the assets and the considerations 2241
anticipated to be received and retained under the policies and 2242
contracts, make adequate provision for the company's obligations 2243
under the policies and contracts, including, but not limited to, 2244
the benefits under and the expenses associated with the policies 2245
and contracts. 2246

(b) The superintendent may provide by rule for a transition 2247
period for establishing any higher reserves that the qualified 2248
actuary may consider necessary to render the opinion required by 2249
division (B) of this section. 2250

(c) Each opinion required by division (B) of this section 2251
shall be supported by a memorandum prepared in form and content as 2252
specified by rule by the superintendent. 2253

(d) If a life insurance company fails to provide a supporting 2254
memorandum within the period of time specified by rule by the 2255
superintendent, or if the superintendent determines that a 2256
supporting memorandum fails to meet the standards set out in the 2257

rule, or is otherwise unacceptable to the superintendent, the 2258
superintendent may employ, at the expense of the insurance 2259
company, a qualified actuary to review the opinion and the basis 2260
for the opinion and prepare such supporting memorandum as is 2261
required by the superintendent. 2262

(3) Every opinion required by division (B) of this section is 2263
governed by the following: 2264

(a) The opinion shall be submitted with the annual statement 2265
reflecting the valuation of the reserve liabilities. 2266

(b) The opinion shall apply to all business in force 2267
including individual and group health insurance plans. 2268

(c) The opinion shall be based on standards adopted from time 2269
to time by the actuarial standards board of the American academy 2270
of actuaries and on such additional standards as the 2271
superintendent may prescribe by rule. 2272

(d) In the case of an opinion required to be submitted by a 2273
foreign or alien life insurance company, the superintendent may 2274
accept the opinion filed by that company with the insurance 2275
regulatory authority of another state if the superintendent 2276
determines that the opinion reasonably meets the requirements 2277
applicable to a company domiciled in this state. 2278

(e) Except in cases of fraud or willful misconduct, the 2279
qualified actuary is not liable for damages in any civil action to 2280
any person, other than the insurance company and the 2281
superintendent, for any act, error, omission, decision, or conduct 2282
with respect to the actuary's opinion. 2283

(f) The superintendent shall establish by rule penalties for 2284
an insurance company's or qualified actuary's failure to comply 2285
with this section. 2286

(g) The superintendent shall keep as confidential and 2287

privileged any memorandum received in support of a qualified 2288
actuary's opinion and also any other material provided by the 2289
insurance company to the superintendent in connection with the 2290
opinion. The memorandum and other materials shall not be made 2291
public, and shall not be subject to subpoena other than for the 2292
purpose of defending an action required by this section or rules 2293
adopted under this section. However, ~~the memorandum and other~~ 2294
~~materials may be released by the superintendent with the written~~ 2295
~~consent of the company, and may be released to the American~~ 2296
~~academy of actuaries upon the superintendent's receipt of a~~ 2297
~~request from the academy stating that the memorandum and other~~ 2298
~~materials are required for the purpose of professional~~ 2299
~~disciplinary proceedings. A request from the American academy of~~ 2300
~~actuaries shall set forth the procedures to be used by the academy~~ 2301
~~for preserving the confidentiality of the memorandum and other~~ 2302
~~materials, which procedures shall be satisfactory to the~~ 2303
~~superintendent prior to the superintendent's release of the~~ 2304
~~memorandum and other materials. If if any portion of a~~ 2305
confidential and privileged memorandum is cited by the company in 2306
its marketing, is cited before any governmental agency other than 2307
a state insurance regulatory authority, or is released by the 2308
company to the news media, the entire memorandum shall no longer 2309
be confidential and privileged. 2310

(h) Notwithstanding division (B)(3)(g) of this section, the 2311
superintendent may do any of the following: 2312

(i) Disclose memoranda and other materials described in this 2313
section upon obtaining prior written consent from the insurer to 2314
which the memorandum or other materials pertain; 2315

(ii) Disclose memoranda and other materials described in this 2316
section to the American academy of actuaries upon receipt of a 2317
written request from the academy stating that a memorandum or 2318
other material is required for the purpose of professional 2319

disciplinary proceedings. A request from the American academy of 2320
actuaries shall set forth the procedures to be used by the academy 2321
for preserving the confidential and privileged status of the 2322
memorandum or other material. If the procedures set forth are not 2323
satisfactory to the superintendent, the superintendent shall not 2324
release the memorandum or other material to the academy. 2325

(iii) Share memoranda and other materials described in this 2326
section with the chief deputy rehabilitator, the chief deputy 2327
liquidator, other deputy rehabilitators and liquidators, and any 2328
other person employed by, or acting on behalf of, the 2329
superintendent pursuant to Chapter 3901. or 3903. of the Revised 2330
Code, with other local, state, federal, and international 2331
regulatory and law enforcement agencies, with local, state, and 2332
federal prosecutors, and with the national association of 2333
insurance commissioners and its affiliates and subsidiaries, 2334
provided that the recipient agrees to maintain the confidential or 2335
privileged status of any confidential or privileged memorandum or 2336
other material and has authority to do so; 2337

(iv) Disclose memoranda and other materials described in this 2338
section in the furtherance of any regulatory or legal action 2339
brought by or on behalf of the superintendent or the state, 2340
resulting from the exercise of the superintendent's official 2341
duties. 2342

(i) Notwithstanding divisions (B)(3)(g) and (h) of this 2343
section, the superintendent may authorize the national association 2344
of insurance commissioners and its affiliates and subsidiaries by 2345
agreement to share confidential or privileged memoranda and other 2346
material received pursuant to division (B)(3)(h)(iii) of this 2347
section with local, state, federal, and international regulatory 2348
and law enforcement agencies and with local, state, and federal 2349
prosecutors, provided that the recipient agrees to maintain the 2350
confidential or privileged status of the confidential or 2351

privileged memorandum or other material and has authority to do 2352
so. 2353

(j) Notwithstanding divisions (B)(3)(g) and (h) of this 2354
section, the chief deputy rehabilitator, the chief deputy 2355
liquidator, and other deputy rehabilitators and liquidators may 2356
disclose memoranda and other material described in this section in 2357
the furtherance of any regulatory or legal action brought by or on 2358
behalf of the superintendent, the rehabilitator, the liquidator, 2359
or the state resulting from the exercise of the superintendent's 2360
official duties in any capacity. 2361

(k) Nothing in this section shall prohibit the superintendent 2362
from receiving memoranda and other material in accordance with 2363
section 3901.045 of the Revised Code. 2364

(l) The superintendent may enter into agreements governing 2365
the sharing and use of memoranda and materials consistent with the 2366
requirements of this section. 2367

(m)(i) No waiver of any applicable privilege or claim of 2368
confidentiality in the memoranda and materials described in this 2369
section shall occur as a result of sharing or receiving memoranda 2370
and material as authorized in divisions (B)(3)(h)(ii) and (iii), 2371
(B)(3)(i), and (B)(3)(k) of this section. 2372

(ii) The disclosure of any memorandum or material in 2373
connection with a regulatory or legal action pursuant to divisions 2374
(B)(3)(h)(iv) and (B)(3)(j) of this section does not prohibit an 2375
insurer or any other person from taking steps to limit the 2376
dissemination of the memorandum or material to persons not 2377
involved in or the subject of the regulatory or legal action on 2378
the basis of any recognized privilege arising under any other 2379
section of the Revised Code or the common law. 2380

(C) Except in the case of policies and contracts to which 2381
division (D) of this section applies, the minimum standard for the 2382

valuation of reserves shall be the method set forth in section 2383
3915.04 of the Revised Code, using four per cent interest and the 2384
American experience table of mortality; provided that in no event 2385
shall a company's aggregate reserves for policies and contracts 2386
which guarantee nonforfeiture benefits be less than the aggregate 2387
reserves calculated in accordance with the standard used in 2388
calculating nonforfeiture benefits for such policies and 2389
contracts. 2390

Reserves for such policies and contracts may be calculated 2391
according to standards which produce aggregate reserves greater 2392
than the minimum reserves required by this division. 2393

(D) This division applies to all life insurance policies and 2394
annuity and pure endowment contracts issued on and after November 2395
5, 1959, or each earlier date not before July 17, 1947, elected by 2396
the company for one or more of such policies or contracts as the 2397
date on which it would comply with the provisions of the 2398
nonforfeiture law for life insurance provided in section 3915.07 2399
of the Revised Code or with the provisions of this division. The 2400
minimum standard for the valuation of all such policies and 2401
contracts shall be the commissioners reserve valuation method 2402
defined in division (E), (F), (H), or (K) of this section and the 2403
following tables and interest rates: 2404

(1) For ordinary life insurance policies, excluding 2405
disability and accidental death benefits, issued on the standard 2406
basis: 2407

(a) On and after November 5, 1959, or an earlier date, not 2408
before July 17, 1947, specified in a written notice by the company 2409
to the superintendent of its election to use this table and before 2410
division (D)(1)(b) of this section became operative for subsequent 2411
policy issues, the commissioners 1941 standard ordinary mortality 2412
table and three and one-half per cent interest; 2413

(b) On and after January 1, 1966, or an earlier date, not 2414
before November 5, 1959, specified in a written notice by the 2415
company to the superintendent of its election to use this table 2416
and before division (D)(1)(c) of this section becomes operative 2417
for subsequent policy issues, the commissioners 1958 standard 2418
ordinary mortality table and three and one-half per cent interest 2419
before January 1, 1975; four per cent interest on and after 2420
January 1, 1975 and before January 1, 1979; and four and one-half 2421
per cent interest on and after January 1, 1979; provided that 2422
modified premiums and present values for female risks may be 2423
calculated at an age three years younger than the actual age of 2424
the insured for policies issued before January 1, 1979, and at an 2425
age six years younger for policies issued on and after January 1, 2426
1979. 2427

(c) On and after January 1, 1989, or an earlier date, not 2428
before January 1, 1983, specified in a written notice by the 2429
company to the superintendent of its election to use this table, 2430
the commissioners 1980 standard ordinary mortality table and the 2431
applicable valuation interest rate as defined in section 3903.721 2432
of the Revised Code. The company may elect to use the 2433
commissioners 1980 standard ordinary mortality table with ten-year 2434
select mortality factors for any specified plan of life insurance. 2435
The superintendent may approve the use of any ordinary mortality 2436
table adopted after 1980 by the national association of insurance 2437
commissioners for determining the minimum standard for the 2438
valuation of such policies. 2439

(2) For industrial life insurance policies, excluding 2440
disability and accidental death benefits, issued on the standard 2441
basis: 2442

(a) On and after November 5, 1959, or an earlier date, not 2443
before July 17, 1947, specified in a written notice by the company 2444
to the superintendent of its election to use this table and before 2445

division (D)(2)(b) of this section became operative for subsequent 2446
policy issues, the 1941 standard industrial mortality table and 2447
three and one-half per cent interest; 2448

(b) On and after January 1, 1968, or an earlier date, not 2449
before September 2, 1963, specified in a written notice by the 2450
company to the superintendent of its election to use this table, 2451
the commissioners 1961 standard industrial mortality table and 2452
three and one-half per cent interest before January 1, 1975; four 2453
per cent interest on and after January 1, 1975 and before January 2454
1, 1979; four and one-half per cent interest on and after January 2455
1, 1979 and before January 1, 1989, or before an earlier date, not 2456
before January 1, 1983, specified in a written notice by the 2457
company to the superintendent of its election to issue such 2458
policies pursuant to the provisions of the nonforfeiture law for 2459
life insurance provided in section 3915.071 of the Revised Code. 2460
On and after January 1, 1989, or such earlier date, the interest 2461
rate to be used in calculating the minimum reserve for such 2462
policies is the applicable valuation interest rate as defined in 2463
section 3903.721 of the Revised Code. The superintendent may 2464
approve the use of any industrial mortality table adopted after 2465
1980 by the national association of insurance commissioners for 2466
determining the minimum standard for the valuation of such 2467
policies. 2468

(3) For all individual annuity and pure endowment contracts, 2469
excluding disability and accidental death benefits, issued: 2470

(a) On and after November 5, 1959, or an earlier date, not 2471
before July 17, 1947, as of which the company elected to comply 2472
with this division (D)(3)(a) and before division (D)(3)(b) of this 2473
section became operative for subsequent contract issues, the 1937 2474
standard annuity mortality table, or, at the option of the 2475
company, the annuity mortality table for 1949, ultimate, or any 2476
modification of either table approved by the superintendent and 2477

three and one-half per cent interest;	2478
(b) On and after January 1, 1979, or an earlier date, not	2479
before January 1, 1975, specified by the company in a written	2480
notice to the superintendent of its election to use this table,	2481
the 1971 individual annuity mortality table or any modification of	2482
that table approved by the superintendent and four per cent	2483
interest on and after January 1, 1975 and before January 1, 1979;	2484
four and one-half per cent interest on and after January 1, 1979,	2485
and before January 1, 1983; and the valuation interest rate as	2486
defined in section 3903.721 of the Revised Code on and after	2487
January 1, 1983, except that on and after January 1, 1975, and	2488
before January 1, 1979, the interest rate is six per cent for	2489
single premium immediate contracts and on and after January 1,	2490
1979, and before January 1, 1983, the interest rate is five and	2491
one-half per cent for single premium deferred contracts and seven	2492
and one-half per cent for single premium immediate contracts. The	2493
superintendent may approve the use of any individual annuity	2494
mortality table adopted after 1980 by the national association of	2495
insurance commissioners, either as adopted or as modified by the	2496
superintendent, for determining the minimum standard for the	2497
valuation of such contracts.	2498
(4) For all annuity and pure endowment contracts, excluding	2499
disability and accidental death benefits, purchased under group	2500
annuity and pure endowment contracts:	2501
(a) On and after November 5, 1959, or an earlier date, not	2502
before July 17, 1947, as of which the company elected to comply	2503
with this division (D)(4)(a) and before division (D)(4)(b) of this	2504
section became operative for subsequent contract purchases, the	2505
group annuity mortality table for 1951, any modification of this	2506
table approved by the superintendent, or either of the tables, or	2507
modification of either of them, specified in division (D)(3)(a) of	2508
this section for individual annuity and pure endowment contracts	2509

and three and one-half per cent interest; 2510

(b) On and after January 1, 1979, or an earlier date, not 2511
before January 1, 1975, specified by the company in a written 2512
notice to the superintendent of its election to use this table, 2513
the 1971 group annuity mortality table, or any modification of 2514
that table approved by the superintendent, and six per cent 2515
interest on and after January 1, 1975, and before January 1, 1979; 2516
seven and one-half per cent interest on and after January 1, 1979, 2517
and before January 1, 1983, and the valuation interest rate as 2518
defined in section 3903.721 of the Revised Code on and after 2519
January 1, 1983. The superintendent may approve the use of any 2520
group annuity mortality table adopted after 1980 by the national 2521
association of insurance commissioners, either as adopted or as 2522
modified by the superintendent, for determining the minimum 2523
standard for the valuation of such contracts. 2524

(5) For total and permanent disability benefits in or 2525
supplementary to ordinary policies and contracts issued: 2526

(a) On and after July 17, 1947, and before January 1, 1961, 2527
the class (3) disability table (1926) and three and one-half per 2528
cent interest. This table, for active lives, shall be combined 2529
with a mortality table permitted for calculating the reserves for 2530
life insurance policies. 2531

(b) On and after January 1, 1961, the tables of period 2 2532
disablement rates and the 1930 to 1950 termination rates of the 2533
1952 disability study of the society of actuaries, with due regard 2534
for the type of benefit; except that a company may, at its option, 2535
use the class (3) disability table (1926) for policies and 2536
contracts issued on and after January 1, 1961, and before January 2537
1, 1966. Any such table, for active lives, shall be combined with 2538
a mortality table permitted for calculating the reserves for life 2539
insurance policies. The interest rate to be used in calculating 2540
minimum reserves for such benefits may not exceed the applicable 2541

rate specified in division (D)(1) of this section for ordinary 2542
life insurance policies. The superintendent may approve the use of 2543
any table of disablement rates and termination rates adopted after 2544
1980 by the national association of insurance commissioners for 2545
determining the minimum standard for the valuation of such total 2546
and permanent benefits. 2547

(6) For accidental death benefits in or supplementary to 2548
policies issued: 2549

(a) On and after July 17, 1947, and before January 1, 1961, 2550
the inter-company double indemnity mortality table and three and 2551
one-half per cent interest. This table shall be combined with a 2552
mortality table permitted for calculating the reserves for life 2553
insurance policies. 2554

(b) On and after January 1, 1961, the 1959 accidental death 2555
benefits table; except that a company may, at its option, use the 2556
inter-company double indemnity mortality table for policies issued 2557
on and after January 1, 1961, and before January 1, 1966. Either 2558
table shall be combined with a mortality table permitted for 2559
calculating the reserves for life insurance policies. The interest 2560
rate to be used in calculating the minimum reserves for such 2561
benefits may not exceed the applicable rate specified in division 2562
(D)(1) of this section for ordinary life insurance policies. The 2563
superintendent may approve the use of any accidental death 2564
benefits table adopted after 1980 by the national association of 2565
insurance commissioners for determining the minimum standard for 2566
the valuation of such accidental death benefits. 2567

(7) For group life insurance, life insurance issued on the 2568
substandard basis and all other special benefits, such tables as 2569
may be approved by the superintendent and interest not to exceed 2570
the applicable rate used in division (D)(1) of this section for 2571
ordinary life insurance policies. 2572

(E) This division defines the commissioners reserve valuation 2573
method for all policies, riders, and supplemental policy 2574
provisions, with life insurance or endowment benefits, or both, 2575
providing for uniform amounts of life insurance and requiring 2576
uniform premiums. Reserves for such policies, riders, and 2577
provisions, except as otherwise provided in divisions (F) and (K) 2578
of this section, shall be the excess, if any, of the present value 2579
on the valuation date of the future guaranteed benefits over the 2580
present value on that date of the future modified net premiums. 2581
The modified net premium is a uniform percentage of each contract 2582
premium specified for the guaranteed benefits such that the 2583
present value, at the date of issue, of all modified net premiums 2584
shall be equal to the present value, on the date of issue, of the 2585
future guaranteed benefits plus the excess of division (E)(1) over 2586
division (E)(2) of this section, as follows: 2587

(1) A net level annual premium equal to the present value, at 2588
the date of issue, of such benefits provided for after the first 2589
policy year, divided by the present value, at the date of issue, 2590
of an annuity of one per annum payable on the first and each 2591
subsequent anniversary of the policy on which a premium falls due; 2592
provided that such net level annual premium shall not exceed the 2593
net level annual premium on the nineteen-year premium whole life 2594
plan for insurance of the same amount at an age one year higher 2595
than the age at issue of the policy. 2596

(2) A net one-year term premium for such benefits provided 2597
for in the first policy year. 2598

(F) This division defines the commissioners reserve valuation 2599
method for all life insurance policies issued on or after January 2600
1, 1989, that have a first year premium in excess of the premium 2601
for the second policy year and for which excess no comparable 2602
benefit is provided in the first year and that provide either an 2603
endowment benefit or cash surrender value, or both, in an amount 2604

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,
established or maintained by an employer, including a partnership
or sole proprietorship, or by an employee organization, or by
both, other than a plan providing individual retirement accounts
or individual retirement annuities under section 408 of the

Internal Revenue Code of 1954, as amended;	2636
(3) Disability and accidental death benefits in all policies and contracts; and	2637 2638
(4) All other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of division (E) of this section.	2639 2640 2641 2642 2643
Extra premiums charged because of impairments or special hazards shall be disregarded in determining modified net premiums.	2644 2645
(H) This division defines the commissioners annuity reserve valuation method for all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code of 1954, as amended.	2646 2647 2648 2649 2650 2651 2652 2653 2654
Reserves for benefits under such contracts, excluding disability and accidental death benefits, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contract at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations required by the terms of the contract that become payable prior to the end of each such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in such contracts for determining	2655 2656 2657 2658 2659 2660 2661 2662 2663 2664 2665 2666

guaranteed benefits. The valuation considerations are the portions 2667
of the respective gross considerations applied under the terms of 2668
such contracts to determine nonforfeiture values. 2669

(I) In no event shall a company's aggregate reserves for all 2670
life insurance policies, to which division (D) of this section 2671
applies, excluding disability and accidental death benefits, be 2672
less than the aggregate reserves calculated in accordance with the 2673
method set forth in divisions (E), (F), (G), (K), and (L) of this 2674
section and the mortality table or tables and rate or rates of 2675
interest used in calculating nonforfeiture benefits for such 2676
policies. 2677

In no event shall the aggregate reserves for all policies, 2678
contracts, and benefits be less than the aggregate reserves 2679
determined by the qualified actuary to be necessary to render the 2680
opinion required by division (B) of this section. 2681

(J) Reserves for any category of policies, contracts, or 2682
benefits as established by the superintendent may be calculated, 2683
at the option of the company, according to any standards which 2684
produce aggregate reserves for such category greater than those 2685
calculated according to the minimum standards provided in this 2686
section, but the rate or rates of interest used for policies and 2687
contracts, other than annuity and pure endowment contracts, shall 2688
not be higher than the corresponding rate or rates of interest 2689
used in calculating any nonforfeiture benefits provided for in 2690
such standards. 2691

(K) If in any contract year the valuation net premium 2692
calculated by the method used in calculating the reserve for a 2693
policy or contract but using the minimum valuation standards of 2694
mortality and rate of interest is more than the gross premium for 2695
such policy or contract, the minimum reserve required for such 2696
policy or contract shall be the greater of either the reserve 2697
calculated according to the mortality table, rate of interest, and 2698

method actually used for such policy or contract, or the reserve 2699
calculated by such method but using the minimum valuation 2700
standards of mortality and rate of interest and replacing the 2701
valuation net premium by the actual gross premium in each contract 2702
year for which the valuation net premium exceeds the actual gross 2703
premium. The minimum valuation standards of mortality and rate of 2704
interest referred to in this division are those required by 2705
division (D) of this section. 2706

For the purposes of this division, the minimum reserve for 2707
any policy to which the provisions of division (F) of this section 2708
apply shall be calculated as if the method used in calculating the 2709
reserve for such policy were the method defined in division (E) of 2710
this section. The minimum reserve for such policy shall be the 2711
greater of the reserve calculated in accordance with division (F) 2712
of this section and in accordance with this division. 2713

(L) Methods for determining the reserves for plans of life 2714
insurance or annuity which are of such a nature that minimum 2715
reserves cannot be determined by the methods described in this 2716
section shall be promulgated by rule adopted by the 2717
superintendent. The reserves to be held under such plans must be 2718
appropriate in relation to the benefits and the pattern of 2719
premiums for each plan and must be computed by methods which are 2720
consistent with the principles of this section. This division 2721
applies to any plan of life insurance which provides for future 2722
premium determination, the amounts of which are to be determined 2723
by the company on the basis of an estimate of future experience 2724
made at the time of any such determination. 2725

(M) The superintendent shall adopt rules specifying minimum 2726
reserve standards for the valuation of individual and group health 2727
plans. 2728

Sec. 3903.83. (A) For purposes of sections 3903.81 to 3903.93 2729

of the Revised Code, a "company action level event" is any of the 2730
following events: 2731

(1) A domestic or foreign insurer's filing of an RBC report 2732
that indicates that the insurer's total adjusted capital is 2733
greater than or equal to its regulatory action level RBC but less 2734
than its company action level RBC; 2735

(2) A life or health insurer's filing of an RBC report that 2736
indicates that the insurer's total adjusted capital is greater 2737
than or equal to its company action level RBC but less than the 2738
product of 2.5 and its authorized control level RBC, and that 2739
indicates a negative trend; 2740

(3) The notification by the superintendent of insurance to an 2741
insurer of an adjustment to the insurer's RBC report, which 2742
adjusted RBC report shows the insurer's total adjusted capital 2743
within the range described in either division (A)(1) or (2) of 2744
this section, provided that the insurer does not challenge the 2745
adjusted RBC report under section 3903.87 of the Revised Code; 2746

(4) The superintendent's notification to an insurer, 2747
following the hearing required under section 3903.87 of the 2748
Revised Code, that the superintendent has rejected the insurer's 2749
challenge to an adjusted RBC report showing the insurer's total 2750
adjusted capital within the range described in either division 2751
(A)(1) or (2) of this section. 2752

(B) In the case of a company action level event, the insurer 2753
shall prepare and submit to the superintendent an RBC plan that 2754
shall: 2755

(1) Identify the conditions that contributed to the company 2756
action level event; 2757

(2) Contain proposals of corrective actions that the insurer 2758
intends to take to eliminate the conditions leading to the company 2759
action level event; 2760

(3) Provide projections of the insurer's financial results in 2761
the current year and at least the four succeeding years, both in 2762
the absence of the proposed corrective actions and giving effect 2763
to the proposed corrective actions. The projections shall include 2764
projections of statutory operating income, net income, capital, 2765
and surplus. Projections for both new and renewal business may 2766
include separate projections for each major line of business, and 2767
may separately identify each significant income, expense, and 2768
benefit component of the projection. 2769

(4) Identify the key assumptions impacting the insurer's 2770
projections made pursuant to division (B)(3) of this section, and 2771
describe the sensitivity of the projections to the assumptions; 2772

(5) Identify the quality of, and problems associated with, 2773
the insurer's business, including, but not limited to, its assets, 2774
anticipated business growth and associated surplus strain, 2775
extraordinary exposure to risk, mix of business, and use of 2776
reinsurance. 2777

(C) The RBC plan shall be submitted within forty-five days 2778
after a company action level event. However, if an insurer has 2779
challenged an adjusted RBC report pursuant to section 3903.87 of 2780
the Revised Code, the RBC plan need not be submitted until after 2781
the hearing required under section 3903.87 of the Revised Code. If 2782
the superintendent rejects the insurer's challenge, the RBC plan 2783
shall be submitted within forty-five days after the 2784
superintendent's notification to the insurer of the rejection of 2785
the challenge. 2786

(D)(1) Within sixty days after an insurer submits an RBC plan 2787
to the superintendent, the superintendent shall either require the 2788
insurer to implement the RBC plan or shall notify the insurer that 2789
the RBC plan is unsatisfactory in the judgment of the 2790
superintendent. If the superintendent has determined that the RBC 2791
plan is unsatisfactory, the notification to the insurer shall set 2792

forth the reasons for the determination, and may set forth 2793
proposed revisions that will render the RBC plan satisfactory in 2794
the judgment of the superintendent. Upon such notification from 2795
the superintendent, the insurer shall prepare and submit a revised 2796
RBC plan, which may incorporate by reference any revisions 2797
proposed by the superintendent. 2798

(2) If an insurer challenges, under section 3903.87 of the 2799
Revised Code, a notification from the Superintendent that the 2800
insurer's RBC plan or a revised RBC plan is unsatisfactory, 2801
submission of a revised RBC plan need not be made unless the 2802
superintendent rejects the insurer's challenge following the 2803
hearing required by section 3903.87 of the Revised Code and then 2804
notifies the insurer of this rejection. 2805

(3) An insurer shall submit a revised RBC plan to the 2806
superintendent within forty-five days after receiving notification 2807
from the superintendent that its RBC plan is unsatisfactory, or, 2808
that its challenge to a notification made under division (D)(1) of 2809
this section has been rejected, as applicable. 2810

(E) Notwithstanding division (D) of this section, if the 2811
superintendent notifies an insurer that its RBC plan or revised 2812
RBC plan is unsatisfactory, the superintendent may, at the 2813
superintendent's discretion, but subject to the insurer's right to 2814
a hearing under section 3903.87 of the Revised Code, specify in 2815
the notification that the notification constitutes a regulatory 2816
action level event. 2817

(F) Every domestic insurer that submits an RBC plan or 2818
revised RBC plan to the superintendent shall file a copy of the 2819
RBC plan or revised RBC plan with the insurance regulatory 2820
authority of every state in which the insurer is authorized to do 2821
business upon receiving the insurance regulatory authority's 2822
written request for a copy of the plan, if the state has a 2823
confidentiality law with provisions substantially similar to those 2824

set forth in divisions (A) and (B) of section 3903.88 of the 2825
Revised Code. The insurer shall file the copy in that state no 2826
later than the later of: 2827

(1) Fifteen days after receiving the request for a copy of 2828
the plan; 2829

(2) The date on which the RBC plan or revised RBC plan is 2830
filed pursuant to division (C) or (D) of this section. 2831

Sec. 3903.88. (A) The superintendent of insurance shall keep 2832
all of the following confidential: 2833

(1) An RBC report, to the extent that information contained 2834
in the report is not required to be included in an annual 2835
statement available to the public; 2836

(2) An RBC plan; 2837

(3) The results of, or a report on, an examination or 2838
analysis conducted pursuant to division (B)(2) of section 3903.84 2839
of the Revised Code, and a corrective order issued pursuant to 2840
division (B)(3) of section 3903.84 of the Revised Code. 2841

(B) The plans, reports, information, and orders described in 2842
division (A) of this section ~~shall be confidential and privileged~~ 2843
~~and not be subject to subpoena, except for use by the~~ 2844
~~superintendent in accordance with the insurance laws of this~~ 2845
~~state.~~ 2846

(C) Notwithstanding divisions (A) and (B) of this section, 2847
the superintendent may do any of the following: 2848

(1) Use the plans, reports, information, and orders that are 2849
the subject of this section in accordance with the insurance laws 2850
of this state; 2851

(2) Share the plans, reports, information, and orders that 2852
are the subject of this section with the chief deputy 2853

rehabilitator, the chief deputy liquidator, other deputy 2854
rehabilitators and liquidators, and any other person employed by, 2855
or acting on behalf of, the superintendent pursuant to Chapter 2856
3901. or 3903. of the Revised Code, with other local, state, 2857
federal, and international regulatory and law enforcement 2858
agencies, with local, state, and federal prosecutors, and with the 2859
national association of insurance commissioners and its affiliates 2860
and subsidiaries, provided that the recipient agrees to maintain 2861
the confidential or privileged status of the confidential or 2862
privileged plan, report, information, or order and has authority 2863
to do so; 2864

(3) Disclose plans, reports, information, and orders that are 2865
the subject of this section in the furtherance of any regulatory 2866
or legal action brought by or on behalf of the superintendent or 2867
the state, resulting from the exercise of the superintendent's 2868
official duties. 2869

(D) Notwithstanding divisions (A), (B), and (C) of this 2870
section, the superintendent may authorize the national association 2871
of insurance commissioners and its affiliates and subsidiaries by 2872
agreement to share confidential or privileged plans, reports, 2873
information, and orders received pursuant to division (C)(2) of 2874
this section with local, state, federal, and international 2875
regulatory and law enforcement agencies and with local, state, and 2876
federal prosecutors, provided that the recipient agrees to 2877
maintain the confidential or privileged status of the confidential 2878
or privileged plan, report, information, or order and has 2879
authority to do so. 2880

(E) Notwithstanding divisions (A), (B), and (C) of this 2881
section, the chief deputy rehabilitator, the chief deputy 2882
liquidator, and other deputy rehabilitators and liquidators may 2883
disclose plans, reports, information, and orders that are the 2884
subject of this section in the furtherance of any regulatory or 2885

legal action brought by or on behalf of the superintendent, the 2886
rehabilitator, the liquidator, or the state resulting from the 2887
exercise of the superintendent's official duties in any capacity. 2888

(F) Nothing in this section shall prohibit the superintendent 2889
from receiving plans, reports, information, and orders in 2890
accordance with section 3901.045 of the Revised Code. 2891

(G) The superintendent may enter into agreements governing 2892
the sharing and use of plans, reports, information, and orders 2893
consistent with the requirements of this section. 2894

(H)(1) No waiver of any applicable privilege or claim of 2895
confidentiality in the plans, reports, information, and orders 2896
that are the subject of this section shall occur as a result of 2897
sharing or receiving plans, reports, information, and orders as 2898
authorized in divisions (C)(2), (D), and (F) of this section. 2899

(2) The disclosure of a plan, report, information, or order 2900
in connection with a regulatory or legal action pursuant to 2901
divisions (C)(3) and (E) of this section does not prohibit an 2902
insurer or any other person from taking steps to limit the 2903
dissemination of the plan, report, information, or order to 2904
persons not involved in or the subject of the regulatory or legal 2905
action on the basis of any recognized privilege arising under any 2906
other section of the Revised Code or the common law. 2907

(I) The comparison of an insurer's total adjusted capital to 2908
any of its RBC levels shall not be used to rank insurers. 2909

~~(D)~~(J) RBC instructions, RBC reports, adjusted RBC reports, 2910
RBC plans, and revised RBC plans, shall not be used by the 2911
superintendent for ratemaking, considered or introduced as 2912
evidence in any rate proceeding, or used by the superintendent to 2913
calculate or derive any elements of an appropriate premium level 2914
or rate of return for any line of insurance that an insurer or any 2915
affiliate is authorized to write. 2916

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

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

Sec. 3905.492. (A)(1) All records and other information obtained by the superintendent of insurance or the superintendent's deputies, examiners, assistants, or other employees, or agents relating to an investigation of an applicant for licensure under this chapter, or of an agent, solicitor, broker, or other person licensed under this chapter or Chapter 3951., 3957., or 3959. of the Revised Code, are confidential and are not public records as defined in section 149.43 of the Revised Code until the applicant or licensee is provided notice and opportunity for hearing pursuant to Chapter 119. of the Revised

Code with respect to such records or information. If no 2949
administrative action is initiated with respect to a particular 2950
matter about which the superintendent obtained records or other 2951
information as part of an investigation, all such records and 2952
information relating to that matter shall remain confidential for 2953
three years after the file on the matter is closed. 2954

(2) Division (A)(1) of this section applies only to 2955
investigations that could result in administrative action under 2956
Title XVII or XXXIX or Chapter 119. of the Revised Code. 2957

(B) The records and other information described in division 2958
(A) of this section shall remain confidential for all purposes 2959
except when it is appropriate for the superintendent and the 2960
superintendent's deputies, examiners, assistants, or other 2961
employees, or agents to take official action regarding the affairs 2962
of the applicant or licensee or in connection with actual or 2963
potential criminal proceedings. 2964

~~(C) Employees or agents of the department of insurance shall 2965
not be required by any court in this state to testify in a civil 2966
action, if such testimony concerns any matter related to records 2967
or any other information considered confidential under this 2968
section of which they have knowledge. 2969~~

~~(D) This section does not apply to any complaint or action 2970
under section 3905.04 of the Revised Code. Notwithstanding 2971
divisions (A) and (B) of this section, the superintendent may do 2972
either of the following: 2973~~

(1) Share records and other information that are the subject 2974
of this section with the chief deputy rehabilitator, the chief 2975
deputy liquidator, other deputy rehabilitators and liquidators, 2976
and any other person employed by, or acting on behalf of, the 2977
superintendent pursuant to Chapter 3901. or 3903. of the Revised 2978
Code, with other local, state, federal, and international 2979
regulatory and law enforcement agencies, with local, state, and 2980

federal prosecutors, and with the national association of 2981
insurance commissioners and its affiliates and subsidiaries, 2982
provided that the recipient agrees to maintain the confidential 2983
status of the confidential record or other information and has 2984
authority to do so; 2985

(2) Disclose records and other information that are the 2986
subject of this section in the furtherance of any regulatory or 2987
legal action brought by or on behalf of the superintendent or the 2988
state, resulting from the exercise of the superintendent's 2989
official duties. 2990

(D) Notwithstanding divisions (A), (B), and (C) of this 2991
section, the superintendent may authorize the national association 2992
of insurance commissioners and its affiliates and subsidiaries by 2993
agreement to share confidential records and other information 2994
received pursuant to division (C)(1) of this section with local, 2995
state, federal, and international regulatory and law enforcement 2996
agencies and with local, state, and federal prosecutors, provided 2997
that the recipient agrees to maintain the confidential status of 2998
the confidential record or other information and has authority to 2999
do so. 3000

(E) Notwithstanding divisions (A), (B), and (C) of this 3001
section, the chief deputy rehabilitator, the chief deputy 3002
liquidator, and other deputy rehabilitators and liquidators may 3003
disclose records and other information that are the subject of 3004
this section in the furtherance of any regulatory or legal action 3005
brought by or on behalf of the superintendent, the rehabilitator, 3006
the liquidator, or the state resulting from the exercise of the 3007
superintendent's official duties in any capacity. 3008

(F) Nothing in this section shall prohibit the superintendent 3009
from receiving records and other information in accordance with 3010
section 3901.045 of the Revised Code. 3011

(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. 3012
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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. 3017
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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. 3025
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(I) This section does not apply to any complaint or action under section 3905.04 of the Revised Code. 3030
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Sec. 3905.50. (A)(1) Except as provided in division (A)(2) or (3) of this section, this section applies to every contract of agency between a property and casualty insurance company and an independent insurance agent, as defined in division (A) of section 3905.47 of the Revised Code, which has been in effect for not less than two years. 3032
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(2) This section does not apply to a contract of exclusive employment by, or an exclusive agency contract with, a single insurer or group of insurers under common ownership or control. 3038
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(3) This section does not apply to an agent whose license has 3041

been suspended or revoked by the superintendent of insurance, an 3042
agent who has demonstrated gross incompetence, or an agent whose 3043
contract has been terminated for insolvency, abandonment, gross or 3044
willful misconduct, or failure to pay to the insurer, in 3045
accordance with the agency contract, moneys due to the insurer 3046
upon written demand of the insurer. 3047

(B) No insurer shall terminate an independent insurance agent 3048
contract of agency except by mutual agreement of the parties or 3049
upon one hundred eighty days' written notice to the independent 3050
insurance agent. 3051

(1) Such notice shall include specific reasons for the 3052
termination of the agent. 3053

(2) Such notice shall be sent by certified mail, return 3054
receipt requested, to the last known address of the agency. 3055

(C) During the one hundred eighty day notice period, an 3056
independent insurance agent shall not write or bind any new 3057
policies on behalf of an insurer without written approval from the 3058
insurer. However, during such period, an independent insurance 3059
agent, subject to the current underwriting rules, guidelines, 3060
commission rates, and practices of the insurer, may renew or 3061
effect any necessary changes or endorsements of outstanding 3062
policies of insurance that are in force prior to the date of 3063
receipt of the notice of termination. 3064

(D) None of the following constitutes an acceptable reason 3065
for the termination of a contract of agency: 3066

(1) Claims experience of the agent in a single year; 3067

(2) Claims experience due to ~~catastrophies~~ catastrophes of 3068
nature covered by a policy; 3069

(3) Claims experience under uninsured and underinsured 3070
motorist coverages. 3071

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

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

(G) An insurer shall not cancel or nonrenew any policy of insurance written through an agent upon the sole ground of the termination of the agency until the expiration of the policy term or the twelve-month period following the effective date of the termination of the contract of agency, whichever is earlier.

However, during such period, an independent insurance agent may, subject to the current underwriting rules, guidelines, commission rates, and practices of the insurer, effect any necessary changes or endorsements to outstanding policies of insurance that are in force prior to the date of termination.

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

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

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

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

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(2) Disclose any information or documentation that is the

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subject of this section in the furtherance of any regulatory or 3135
legal action brought by or on behalf of the superintendent or the 3136
state, resulting from the exercise of the superintendent's 3137
official duties. 3138

(J) Notwithstanding divisions (H) and (I) of this section, 3139
the superintendent may authorize the national association of 3140
insurance commissioners and its affiliates and subsidiaries by 3141
agreement to share confidential information and documentation 3142
received pursuant to division (I)(1) of this section with local, 3143
state, federal, and international regulatory and law enforcement 3144
agencies and with local, state, and federal prosecutors, provided 3145
that the recipient agrees to maintain the confidential status of 3146
the confidential information or documentation and has authority to 3147
do so. 3148

(K) Notwithstanding divisions (H) and (I) of this section, 3149
the chief deputy rehabilitator, the chief deputy liquidator, and 3150
other deputy rehabilitators and liquidators may disclose 3151
information and documentation that is the subject of this section 3152
in the furtherance of any regulatory or legal action brought by or 3153
on behalf of the superintendent, the rehabilitator, the 3154
liquidator, or the state resulting from the exercise of the 3155
superintendent's official duties in any capacity. 3156

(L) Nothing in this section shall prohibit the superintendent 3157
from receiving information and documentation in accordance with 3158
section 3901.045 of the Revised Code. 3159

(M) The superintendent may enter into agreements governing 3160
the sharing and use of information and documentation consistent 3161
with the requirements of this section. 3162

(N)(1) No waiver of any applicable privilege or claim of 3163
confidentiality in the information and documentation that is the 3164
subject of this section shall occur as a result of sharing or 3165

receiving information and documentation as authorized in divisions 3166
(I)(1), (J), and (L) of this section. 3167

(2) The disclosure of information or documentation in 3168
connection with a regulatory or legal action pursuant to divisions 3169
(I)(2) and (K) of this section does not prohibit an insurer or any 3170
other person from taking steps to limit the dissemination of the 3171
information or documentation to persons not involved in or the 3172
subject of the regulatory or legal action on the basis of any 3173
recognized privilege arising under any other section of the 3174
Revised Code or the common law. 3175

Sec. 3999.36. (A) As used in this section and sections 3176
3999.37 and 3999.38 of the Revised Code: 3177

(1) "Insurer" means any person that is authorized to engage 3178
in the business of insurance in this state under Title XXXIX of 3179
the Revised Code, any health insuring corporation, or any other 3180
person engaging either directly or indirectly in this state in the 3181
business of insurance or entering into contracts substantially 3182
amounting to insurance under section 3905.42 of the Revised Code. 3183

(2) "Impaired" or "impairment" means a financial situation in 3184
which the insurer's assets are less than the sum of the insurer's 3185
minimum required capital, minimum required surplus, and all 3186
liabilities, as determined in accordance with the requirements for 3187
the preparation and filing of the insurer's annual financial 3188
statement. 3189

(3) "Chief executive officer" means the person, irrespective 3190
of the person's title, designated by the board of directors or 3191
trustees of an insurer as the person charged with the 3192
responsibility of administering and implementing the insurer's 3193
policies and procedures. 3194

(B) Whenever a chief executive officer of an insurer knows or 3195

has reason to know that the insurer is impaired, the chief 3196
executive officer shall provide written notice of the impairment 3197
to the superintendent of insurance and to each member of the board 3198
of directors or trustees of the insurer. The chief executive 3199
officer shall provide the notice as soon as reasonably possible, 3200
but no later than thirty days after the chief executive officer 3201
knows or has reason to know of the impairment. No chief executive 3202
officer shall fail to provide notice in compliance with this 3203
division. 3204

(C) The notice received by the superintendent under division 3205
(B) of this section is confidential and is not a public record 3206
under section 149.43 of the Revised Code. 3207

(D) Notwithstanding division (C) of this section, the 3208
superintendent may do any of the following: 3209

(1) Disclose the notice upon obtaining prior written consent 3210
from the insurer to which the notice pertains; 3211

(2) Share the notice that is the subject of this section with 3212
the chief deputy rehabilitator, the chief deputy liquidator, other 3213
deputy rehabilitators and liquidators, and any other person 3214
employed by, or acting on behalf of, the superintendent pursuant 3215
to Chapter 3901. or 3903. of the Revised Code, with other local, 3216
state, federal, and international regulatory and law enforcement 3217
agencies, with local, state, and federal prosecutors, and with the 3218
national association of insurance commissioners and its affiliates 3219
and subsidiaries, provided that the recipient agrees to maintain 3220
the confidential status of the notice and has authority to do so; 3221

(3) Disclose the notice in the furtherance of any regulatory 3222
or legal action brought by or on behalf of the superintendent or 3223
the state, resulting from the exercise of the superintendent's 3224
official duties. 3225

(E) Notwithstanding divisions (C) and (D) of this section, 3226

the superintendent may authorize the national association of 3227
insurance commissioners and its affiliates and subsidiaries by 3228
agreement to share confidential notices received pursuant to 3229
division (D)(2) of this section with local, state, federal, and 3230
international regulatory and law enforcement agencies and with 3231
local, state, and federal prosecutors, provided that the recipient 3232
agrees to maintain the confidential status of the notice and has 3233
authority to do so. 3234

(F) Notwithstanding divisions (C) and (D) of this section, 3235
the chief deputy rehabilitator, the chief deputy liquidator and 3236
other deputy rehabilitators and liquidators may disclose notices 3237
in the furtherance of any regulatory or legal action brought by or 3238
on behalf of the superintendent, the rehabilitator, the 3239
liquidator, or the state resulting from the exercise of the 3240
superintendent's official duties in any capacity. 3241

(G) Nothing in this section shall prohibit the superintendent 3242
from receiving notices in accordance with section 3901.045 of the 3243
Revised Code. 3244

(H) The superintendent may enter into agreements governing 3245
the sharing and use of notices consistent with the requirements of 3246
this section. 3247

(I)(1) No waiver of any applicable privilege or claim of 3248
confidentiality in the notices that are the subject of this 3249
section shall occur as a result of sharing or receiving notices as 3250
authorized in divisions (D)(2), (E), and (G) of this section. 3251

(2) The disclosure of a notice in connection with a 3252
regulatory or legal action pursuant to divisions (D)(3) and (F) of 3253
this section does not prohibit an insurer or any other person from 3254
taking steps to limit the dissemination of the notice to persons 3255
not involved in or the subject of the regulatory or legal action 3256
on the basis of any recognized privilege arising under any other 3257

section of the Revised Code or the common law. 3258

Sec. 4727.18. (A) Except as ~~otherwise~~ provided in ~~this~~ 3259
division (C) of this section, any information arising from, 3260
obtained by, or contained in an investigation of a person licensed 3261
as a pawnbroker under this chapter performed by the superintendent 3262
of financial institutions is confidential information and is not a 3263
public record under section 149.43 of the Revised Code. ~~The~~ 3264
~~superintendent, however, may share investigation information with~~ 3265
~~a law enforcement agency.~~ 3266

(B) Except as ~~otherwise~~ provided in ~~this~~ division (C) of this 3267
section, any information arising from, obtained by, or contained 3268
in an investigation by the superintendent of any person the 3269
superintendent reasonably suspects has violated or is violating 3270
this chapter is confidential information and not a public record 3271
under section 149.43 of the Revised Code. ~~The superintendent,~~ 3272
~~however, may share investigation information with a law~~ 3273
~~enforcement agency.~~ 3274

(C) Information made confidential by division (A) or (B) of 3275
this section may only be disclosed, discovered, or introduced into 3276
evidence as follows: 3277

(1) To a law enforcement agency; 3278

(2) In connection with criminal proceedings; 3279

(3) In any action taken or litigation by or against the 3280
superintendent in connection with the powers, duties, and 3281
obligations imposed upon the superintendent by this chapter; 3282

(4) When and in the manner authorized in section 1181.25 of 3283
the Revised Code. 3284

Section 2. That existing sections 1121.01, 1121.11, 1121.18, 3285
1155.01, 1155.091, 1155.16, 1163.01, 1163.121, 1163.20, 1321.09, 3286

1321.55, 1321.76, 1322.06, 1322.061, 1707.11, 1707.12, 1707.141, 3287
1707.15, 1707.151, 1707.161, 1707.17, 1733.01, 1733.32, 1733.327, 3288
1751.19, 3901.36, 3901.44, 3901.48, 3901.70, 3901.83, 3903.11, 3289
3903.72, 3903.83, 3903.88, 3905.492, 3905.50, 3999.36, and 4727.18 3290
of the Revised Code are hereby repealed. 3291

Section 3. Section 1322.061 of the Revised Code, as enacted 3292
by Am. Sub. S.B. 76 of the 124th General Assembly (effective May 3293
2, 2002), and as amended by this act, shall take effect May 2, 3294
2002. 3295

Section 4. Section 1322.06 of the Revised Code, as amended by 3296
this act, is repealed, effective May 2, 2002. The section is 3297
superseded by section 1322.06 of the Revised Code as it results 3298
from Am. Sub. S.B. 76 of the 124th General Assembly, which is 3299
scheduled to take effect May 2, 2002. 3300