

As Reported by the House Insurance Committee

124th General Assembly

Regular Session

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Sub. S. B. No. 138

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

REPRESENTATIVES G. Smith, Wolpert

A BILL

To amend sections 111.15, 119.01, 1121.01, 1121.11, 1
1121.18, 1155.01, 1155.091, 1155.16, 1163.01, 2
1163.121, 1163.20, 1321.09, 1321.55, 1321.76, 3
1322.06, 1322.061, 1707.092, 1707.11, 1707.12, 4
1707.141, 1707.15, 1707.151, 1707.161, 1707.17, 5
1707.20, 1707.40, 1733.01, 1733.32, 1733.327, 6
1751.19, 3901.36, 3901.44, 3901.48, 3901.70, 7
3901.83, 3903.11, 3903.72, 3903.83, 3903.88, 8
3905.492, 3905.50, 3999.36, and 4727.18, to enact 9
sections 1181.25, 1707.201, and 3901.045 of the 10
Revised Code, and to repeal section 1322.06 of the 11
Revised Code, as amended by this act, on May 2, 12
2002, relative to the circumstances under which the 13
Department of Insurance and the Divisions of 14
Financial Institutions and Securities may share 15
confidential documents and information with, and 16
receive such documents and information from, other 17
specified regulators and officials, or otherwise 18
disclose these documents and information, and to 19
modifications of the Securities Law with respect to 20
investment advisers, application for a securities 21
dealer's license, license renewals and fees, parity 22
rules, notice filings, and consent to service of 23
process. 24

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

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

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

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

(2) "Agency" means any governmental entity of the state and 46
includes, but is not limited to, any board, department, division, 47
commission, bureau, society, council, institution, state college 48
or university, community college district, technical college 49
district, or state community college. "Agency" does not include 50
the general assembly, the controlling board, the adjutant 51
general's department, or any court. 52

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

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

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

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

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

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

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

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

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

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

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

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

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(a) The rule shall be numbered in accordance with the 116
numbering system devised by the director for the Ohio 117
administrative code. 118

(b) The rule shall be prepared and submitted in compliance 119
with the rules of the legislative service commission. 120

(c) The rule shall clearly state the date on which it is to 121
be effective and the date on which it will expire, if known. 122

(d) Each rule that amends or rescinds another rule shall 123
clearly refer to the rule that is amended or rescinded. Each 124
amendment shall fully restate the rule as amended. 125

If the director of the legislative service commission or the 126
director's designee gives an agency notice pursuant to section 127
103.05 of the Revised Code that a rule filed by the agency is not 128
in compliance with the rules of the legislative service 129
commission, the agency shall within thirty days after receipt of 130
the notice conform the rule to the rules of the commission as 131
directed in the notice. 132

(C) All rules filed pursuant to divisions (B)(1)(a) and (2) 133
of this section shall be recorded by the secretary of state and 134
the director under the title of the agency adopting the rule and 135
shall be numbered according to the numbering system devised by the 136
director. The secretary of state and the director shall preserve 137
the rules in an accessible manner. Each such rule shall be a 138
public record open to public inspection and may be transmitted to 139
any law publishing company that wishes to reproduce it. 140

(D) At least sixty-five days before a board, commission, 141
department, division, or bureau of the government of the state 142
files a rule under division (B)(1) of this section, it shall file 143
the full text of the proposed rule in electronic form with the 144
joint committee on agency rule review, and the proposed rule is 145
subject to legislative review and invalidation under division (I) 146

of section 119.03 of the Revised Code. If a state board,
commission, department, division, or bureau makes a substantive
revision in a proposed rule after it is filed with the joint
committee, the state board, commission, department, division, or
bureau shall promptly file the full text of the proposed rule in
its revised form in electronic form with the joint committee. The
latest version of a proposed rule as filed with the joint
committee supersedes each earlier version of the text of the same
proposed rule. Except as provided in division (F) of this section,
a state board, commission, department, division, or bureau shall
also file the rule summary and fiscal analysis prepared under
section 121.24 or 127.18 of the Revised Code, or both, in
electronic form along with a proposed rule, and along with a
proposed rule in revised form, that is filed under this division.

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As used in this division, "commission" includes the public
utilities commission when adopting rules under a federal or state
statute.

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This division does not apply to any of the following:

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(1) A proposed rule of an emergency nature;

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

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

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

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(5) Any proposed rule that must be adopted verbatim by an
agency pursuant to federal law or rule, to become effective within

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sixty days of adoption, in order to continue the operation of a 178
federally reimbursed program in this state, so long as the 179
proposed rule contains both of the following: 180

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

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

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

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

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

(E) Whenever a state board, commission, department, division, 200
or bureau files a proposed rule or a proposed rule in revised form 201
under division (D) of this section, it shall also file the full 202
text of the same proposed rule or proposed rule in revised form in 203
electronic form with the secretary of state and the director of 204
the legislative service commission. Except as provided in division 205
(F) of this section, a state board, commission, department, 206
division, or bureau shall file the rule summary and fiscal 207
analysis prepared under section 121.24 or 127.18 of the Revised 208

Code, or both, in electronic form along with a proposed rule or
proposed rule in revised form that is filed with the secretary of
state or the director of the legislative service commission.

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

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

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

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

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

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

(a) The adoption, amendment, or rescission of rules that 271
section 5101.09 of the Revised Code requires be adopted in 272

accordance with this chapter;	273
(b) The issuance, suspension, revocation, or cancellation of licenses.	274 275
(B) "License" means any license, permit, certificate, commission, or charter issued by any agency. "License" does not include any arrangement whereby a person, institution, or entity furnishes medicaid services under a provider agreement with the department of job and family services pursuant to Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.	276 277 278 279 280 281 282
(C) "Rule" means any rule, regulation, or standard, having a general and uniform operation, adopted, promulgated, and enforced by any agency under the authority of the laws governing such agency, and includes any appendix to a rule. "Rule" does not include any internal management rule of an agency unless the internal management rule affects private rights and does not include any guideline adopted pursuant to section 3301.0714 of the Revised Code.	283 284 285 286 287 288 289 290
(D) "Adjudication" means the determination by the highest or ultimate authority of an agency of the rights, duties, privileges, benefits, or legal relationships of a specified person, but does not include the issuance of a license in response to an application with respect to which no question is raised, nor other acts of a ministerial nature.	291 292 293 294 295 296
(E) "Hearing" means a public hearing by any agency in compliance with procedural safeguards afforded by sections 119.01 to 119.13 of the Revised Code.	297 298 299
(F) "Person" means a person, firm, corporation, association, or partnership.	300 301
(G) "Party" means the person whose interests are the subject of an adjudication by an agency.	302 303

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

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

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

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

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

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

Sec. 1121.01. As used in this chapter:

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

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

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

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

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

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

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

(1) Participate with financial institution regulatory 363

authorities of this and other states, the United States, and other countries in any of the following:

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

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

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

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

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

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

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

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

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

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

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

practices, and authority to warrant the reliance; 427

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

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

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

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

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

The authority to purchase services pursuant to this division 457

does not impair the superintendent's authority to purchase 458
services from any other source. 459

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

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

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

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

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

(5) To law enforcement authorities conducting criminal 486
investigations. 487

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

(a) In connection with criminal proceedings; 493

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

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

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

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

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

(D) A report of an examination conducted pursuant to section 514
1121.10 or 1121.11 of the Revised Code is the property of the 515
division of financial institutions. Under no circumstances may the 516
bank or other person examined, its directors, officers, employees, 517
agents, regulated persons, or contractors, or any person having 518

knowledge or possession of a report of examination, or any of its
contents, disclose or make public in any manner the report of
examination or its contents. The authority provided in division
(B)(4) of this section for use of examination information to
assist in conducting the business of the bank or other person
examined in a safe and sound manner and in compliance with law
shall not be construed to authorize disclosure of a report of
examination or any of its contents in conducting business with the
examined bank's or person's customers, creditors, or shareholders,
or with other persons.

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

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

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

majority vote of the entire board and if its authority is 550
revocable by such a majority. 551

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

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

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

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

Sec. 1155.091. (A) In administering Chapters 1151. to 1157. 577
of the Revised Code and fulfilling the duties imposed by those 578
chapters, including the duty imposed by section 1151.09 of the 579
Revised Code, the superintendent of financial institutions may do 580

any of the following:	581
(1) Participate with financial institution regulatory	582
authorities of <u>this and</u> other states, the United States, and other	583
countries in any of the following:	584
(a) Programs for alternate examinations of the records and	585
affairs of savings and loan associations over which they have	586
concurrent jurisdiction;	587
(b) Joint or concurrent examinations of the records and	588
affairs of savings and loan associations over which they have	589
concurrent jurisdiction;	590
(c) Coordinated examinations of the records and affairs of	591
savings and loan associations over which they have collective	592
jurisdiction.	593
(2) Conduct, participate in, or coordinate independent,	594
concurrent, joint, or coordinated examinations of the records and	595
affairs of savings and loan associations and otherwise act on	596
behalf of financial institution regulatory authorities of <u>this and</u>	597
other states, the United States, and other countries having	598
jurisdiction over the savings and loan associations;	599
(3) Rely on information leading to, arising from, or obtained	600
in the course of examinations conducted by financial institution	601
regulatory authorities of <u>this and</u> other states, the United	602
States, and other countries when both of the following apply:	603
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(a) Pursuant to agreement and applicable law, the	605
superintendent may receive and use the information leading to,	606
arising from, or obtained in the course of the other regulatory	607
authorities' examinations in administering Chapters 1151. to 1157.	608
of the Revised Code and acting under the authority of those	609
chapters;	610
(b) In the superintendent's judgment the other regulatory	611

authorities' personnel, practices, and authority warrant the 612
superintendent's reliance. 613

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

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

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

(5) Rely on the actions of financial institution regulatory 639
authorities of this and other states, the United States, or other 640
countries, or participate with them jointly, in responding to 641
violations of law, unsafe or unsound practices, breaches of 642
fiduciary duty, or other regulatory concerns affecting savings and 643

loan associations over which they have concurrent jurisdiction 644
when the other regulatory authorities have adequate personnel, 645
practices, and authority to warrant the reliance; 646

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

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

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

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

(C) In conducting, participating in, or coordinating 662
independent, concurrent, joint, or coordinated examinations of the 663
records and affairs of savings and loan associations, the 664
superintendent may purchase services from financial institution 665
regulatory authorities of this and other states, the United 666
States, and other countries, including services provided by 667
employees of other financial institution regulatory authorities. 668
The purchase of services from one or more financial institution 669
regulatory authorities of this and other states, the United 670
States, and other countries is the purchase of services from a 671
sole source provider and is not the employment of any financial 672
institution regulatory authority or any of its employees. 673

The authority to purchase services pursuant to this division 674

does not impair the superintendent's authority to purchase
services from any other source.

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

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

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

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(B) Examination reports, information obtained in an
examination, and any other information obtained by reason of the
official position of the division of ~~savings and loan associations~~
financial institutions shall not be discoverable from any source,

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and shall not be introduced into evidence, except in the following situations: 706
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(1) In connection with criminal proceedings; 708

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

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

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

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

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

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

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

Sec. 1163.01. As used in this chapter: 733

(A) "Controlling person" means any person or entity which, 734

either directly or indirectly, or acting in concert with one or
more other persons or entities, owns, controls, or holds with
power to vote, or holds proxies representing, fifteen per cent or
more of the voting shares or rights of a savings bank, or controls
in any manner the election or appointment of a majority of the
directors of a savings bank. However, a director of a savings bank
is not deemed to be a controlling person of the savings bank based
upon ~~his~~ the director's voting, or acting in concert with other
directors in voting, proxies obtained in connection with an annual
solicitation of proxies or obtained from savings account holders
and borrowers if the proxies are voted as directed by a majority
of the entire board of directors of the savings bank, or of a
committee of the directors if the committee's composition and
authority are controlled by a majority vote of the entire board
and if its authority is revocable by such a majority.

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

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

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

(E) "Financial institution regulatory authority" includes a
regulator of a business activity in which a savings bank is

engaged, or has applied to engage in, to the extent that the 767
regulator has jurisdiction over a savings bank engaged in that 768
business activity. A savings bank is engaged in a business 769
activity, and a regulator of that business activity has 770
jurisdiction over the savings bank, whether the savings bank 771
conducts the activity directly or a subsidiary or affiliate of the 772
savings bank conducts the activity. 773

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

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

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

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

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

(2) Conduct, participate in, or coordinate independent, 790
concurrent, joint, or coordinated examinations of the records and 791
affairs of savings banks and otherwise act on behalf of financial 792
institution regulatory authorities of this and other states, the 793
United States, and other countries having jurisdiction over the 794
savings banks; 795

(3) Rely on information leading to, arising from, or obtained 796

in the course of examinations conducted by financial institution 797
regulatory authorities of this and other states, the United 798
States, and other countries when both of the following apply: 799

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

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

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

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

(b) Pursuant to agreement and applicable law, information 826
leading to, arising from, or obtained in the course of 827
examinations conducted by the division will, in the other 828

regulatory authorities' possession or the possession of any 829
persons to whom the other regulatory authorities disclosed the 830
information as a part of examinations of those persons, be 831
protected from disclosure to the same extent as information 832
leading to, arising from, or obtained in the course of those 833
regulatory authorities' examinations. 834

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

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

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

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

(2) Disagreement by the superintendent or division with any 855
action taken by financial institution regulatory authorities of 856
this or other states, the United States, or other countries. 857

(C) In conducting, participating in, or coordinating 858
independent, concurrent, joint, or coordinated examinations of the 859

records and affairs of savings banks, the superintendent may 860
purchase services from financial institution regulatory 861
authorities of this and other states, the United States, and other 862
countries, including services provided by employees of other 863
financial institution regulatory authorities. The purchase of 864
services from one or more financial institution regulatory 865
authorities of this and other states, the United States, and other 866
countries is the purchase of services from a sole source provider 867
and is not the employment of any financial institution regulatory 868
authority or any of its employees. 869

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

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

(2) Any person who receives privileged and confidential 886
examination reports or other information under the authority of 887
this section also is subject to the requirements of this section. 888
No person, knowing that the examination reports or information are 889
privileged and confidential, shall purposely divulge the reports 890

or information in any manner.

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

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

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(1) In connection with criminal proceedings;

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

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

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

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

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(C) The discovery of examination reports and other related material pursuant to divisions (B)(2) and (3) of this section shall be limited to information that directly relates to the

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savings bank which is the subject of the enforcement action or the litigation.

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

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

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

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

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

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(C) When in the opinion of the superintendent, it is appropriate with regard to enforcement actions taken or decisions made by other financial institution regulatory authorities to whom the superintendent has provided the information pursuant to authority in Chapters 1315., 1321., 1322., 1733., 4712., 4727.,

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and 4728. of the Revised Code or Title XI of the Revised Code.

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

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

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This section does not prevent the division from releasing to or exchanging with other financial institution regulatory

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authorities information relating to licensees. 982

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

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

(B)(1) As required by the superintendent of financial 1008
institutions, each registrant shall file with the division each 1009
year a report under oath or affirmation, on forms supplied by the 1010
division, concerning the business and operations for the preceding 1011
calendar year. Whenever a registrant operates two or more 1012

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

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

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

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

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

(F) For purposes of this section, "financial institution
regulatory authority" includes a regulator of a business activity
in which a registrant is engaged, or has applied to engage in, to

the extent that the regulator has jurisdiction over a registrant 1044
engaged in that business activity. A registrant is engaged in a 1045
business activity, and a regulator of that business activity has 1046
jurisdiction over the registrant, whether the registrant conducts 1047
the activity directly or a subsidiary or affiliate of the 1048
registrant conducts the activity. 1049

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

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

(B) If a licensee's books, records, data, and other documents 1066
are located outside this state, the licensee shall, upon the 1067
request of the superintendent of financial institutions, deposit 1068
with the division an amount equal to the estimated costs, as 1069
determined by the superintendent, of an examination of the 1070
licensee conducted outside this state. After the actual costs of 1071
the examination have been determined and itemized by the division, 1072
the division shall return to the licensee any amount it had 1073
deposited in excess of the actual costs. 1074

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

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

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

Sec. 1322.06. (A) As often as the superintendent of financial 1101
institutions considers it necessary, the superintendent may 1102
examine the registrant's records pertaining to business transacted 1103
pursuant to sections 1322.01 to 1322.12 of the Revised Code. 1104

1105

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

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

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

(3) This section does not prevent the division of financial 1130
institutions from releasing to or exchanging with other financial 1131
institution regulatory authorities information relating to 1132
registrants. For this purpose, a "financial institution regulatory 1133
authority" includes a regulator of a business activity in which a 1134
registrant is engaged, or has applied to engage in, to the extent 1135
that the regulator has jurisdiction over a registrant engaged in 1136
that business activity. A registrant is engaged in a business 1137

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

(4) This section does not prevent the division from releasing 1142
information relating to registrants to the attorney general for 1143
purposes relating to the attorney general's administration of 1144
Chapter 1345. of the Revised Code. Information the division 1145
releases to the attorney general pursuant to this section remains 1146
privileged and confidential, and the attorney general may not 1147
disclose the information or introduce the information into 1148
evidence unless the superintendent authorizes the disclosure or 1149
introduction into evidence in connection with the attorney 1150
general's administration of Chapter 1345. of the Revised Code. 1151
1152

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

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

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

(2) The information described in division (A)(1) of this 1159
section shall remain privileged and confidential for all purposes 1160
except when it is necessary for the superintendent of financial 1161
institutions to take official action regarding the affairs of a 1162
registrant or licensee, or in connection with ~~civil or criminal~~ 1163
~~investigations or proceedings conducted by the attorney general or~~ 1164
~~a county prosecutor. The superintendent may share examination and~~ 1165
~~investigation information with any law enforcement agency or any~~ 1166
~~other state or federal regulatory agency. Any information shared~~ 1167
~~with the attorney general, a county prosecutor, or a law~~ 1168

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

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

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

(D) This section does not prevent the division from releasing 1196
information relating to registrants and licensees to the attorney 1197
general for purposes relating to the attorney general's 1198
administration of Chapter 1345. of the Revised Code. Information 1199
the division releases to the attorney general pursuant to this 1200

section remains privileged and confidential, and the attorney
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.

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

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

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

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

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

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

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

~~(ii)(b)~~ A fee calculated at one-tenth of one per cent of the
aggregate price at which the securities are to be sold to the
public in this state, which calculated fee, however, shall in no

case be less than one hundred or more than one thousand dollars. 1231

~~(c) Upon the registration of the securities with the securities and exchange commission, a managed investment company with an initial notice filing on file with the division shall submit to the division a copy of its final prospectus.~~ 1232
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1234
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~~(2) For the purposes of the sale of securities by a non-managed investment company, as defined in the Investment Company Act of 1940:~~ 1236
1237
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~~(a) A notice filing consisting of either a copy of the investment company's federal registration statement as filed with the securities and exchange commission or a form U-1 or form NF of the North American securities administrators association;~~ 1239
1240
1241
1242

~~(b) Appropriate filing fees, as provided in division (A)(1)(b) of this section;~~ 1243
1244

~~(c) Upon the effectiveness of the registration of the securities with the securities and exchange commission, a non-managed investment company shall submit to the division a copy of its final prospectus.~~ 1245
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(B)(1) Upon payment of the maximum filing fees as provided in division ~~(A)(1)(b) or (2)(b)~~ (A)(2) of this section, ~~a managed or non-managed~~ an investment company may sell an indefinite amount of securities in this state. 1249
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1251
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(2) ~~A managed or non-managed~~ An investment company making a notice filing as provided in this section shall comply with section 1707.11 of the Revised Code. An investment company that previously filed with the division a valid consent to service of process pursuant to section 1707.11 of the Revised Code may incorporate that consent by reference. 1253
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(C)(1) For offerings involving covered securities, as defined in section 18 of the "Securities ~~act~~ Act of 1933," 15 U.S.C. 77r, that are not subject to section 1707.02, 1707.03, 1707.04, 1259
1260
1261

1707.06, 1707.08, 1707.09, or 1707.091 of the Revised Code, or 1262
division (A) of this section, a notice filing shall be submitted 1263
to the division together with a consent to service of process 1264
pursuant to section 1707.11 of the Revised Code and a filing fee 1265
as provided in division ~~(A)(1)(b)~~(A)(2) of this section. 1266

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

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

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

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

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

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

~~(4) Applications for licensure as a securities dealer under 1290
section 1707.15 of the Revised Code;~~ 1291

~~(5) Applications for licensure as an investment adviser under section 1707.151 of the Revised Code.~~ 1292
1293

(B) The irrevocable written consent shall be executed and 1294
acknowledged by an individual duly authorized to give the consent 1295
and shall do all of the following: 1296

(1) Designate the secretary of state as agent for service of 1297
process or pleadings; 1298

(2) State that actions growing out of the sale of such 1299
securities, the giving of investment advice, or fraud committed by 1300
a person on whose behalf the consent is submitted may be commenced 1301
against the person, in the proper court of any county in this 1302
state in which a cause of action may arise or in which the 1303
plaintiff in the action may reside, by serving on the secretary of 1304
state any proper process or pleading authorized by the laws of 1305
this state; 1306

(3) Stipulate that service of process or pleading on the 1307
secretary of state shall be taken in all courts to be as valid and 1308
binding as if service had been made upon the person on whose 1309
behalf the consent is submitted. 1310

(C) Service of any process or pleadings may be made on the 1311
secretary of state by duplicate copies, of which one shall be 1312
filed in the office of the secretary of state, and the other 1313
immediately forwarded by the secretary of state by certified mail 1314
to the principal place of business of the person on whose behalf 1315
the consent is submitted or to the last known address as shown on 1316
the filing made with the division. However, failure to mail such 1317
copy does not invalidate the service. 1318

(D) Notwithstanding any provision of this chapter, or of any 1319
rule adopted by the division of securities under this chapter, 1320
that requires the submission of a consent to service of process, 1321
the division may provide by rule for the electronic filing or 1322

submission of a consent to service of process. 1323

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

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

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

(D) All public records shall be prepared and made available 1347
promptly to any member of the general public at all reasonable 1348
times for inspection. Upon request, the custodian of public 1349
records shall make copies of the records available at cost, within 1350
a reasonable period of time. To facilitate public access, the 1351
division shall maintain public records in such a manner that they 1352
can be made available pursuant to this section. 1353

(E) No employee or representative of the division or the 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. 1354
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(F) As used in this section: 1358

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

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

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

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

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

Sec. 1707.141. (A) No person shall act as an investment 1381
adviser, unless one of the following applies: 1382

(1) The person is licensed as an investment adviser by the 1383

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

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

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

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

(b) Other investment advisers; 1395

(c) Licensed dealers; 1396

(d) Banks; 1397

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

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

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

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

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

(5) The person is a charitable organization, as defined in 1411
section 3(c)(10) of the "Investment Company Act of 1940," 54 Stat. 1412

797, 15 U.S.C. 80a-3(c)(10), as amended, or is a trustee, 1413
director, officer, employee, or volunteer of such a charitable 1414
organization acting within the scope of the person's employment or 1415
duties with such an organization, whose advice, analysis, or 1416
reports are provided only to one or more of the following: 1417

(a) Any such charitable organization; 1418

(b) A fund that is excluded from the definition of an 1419
investment company under section 3(c)(10)(B) of the "Investment 1420
Company Act of 1940," 54 Stat. 797, 15 U.S.C. 80a-3(c)(10)(B), as 1421
amended; 1422

(c) A trust or other donative instrument described in section 1423
3(c)(10)(B) of the "Investment Company Act of 1940," 54 Stat. 797, 1424
15 U.S.C. 80a-3(c)(10)(B), as amended, or the trustees, 1425
administrators, settlors and potential settlors, or beneficiaries 1426
of any such trust or other instrument. 1427

(6) The person is a plan described in subsection 414(e) of 1428
the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1429
414, as amended, any person or entity eligible to establish and 1430
maintain such a plan under Title 26 of the United States Code, or 1431
any trustee, director, officer, or employee of or volunteer for 1432
any such plan or person, if such person or entity, acting in such 1433
capacity, provides investment advice exclusively to, or with 1434
respect to, any plan, person, or entity, or any company, account, 1435
or fund that is excluded from the definition of an investment 1436
company under section 3(c)(14) of the "Investment Company Act of 1437
1940," 54 Stat. 797, 15 U.S.C. 80a-3(c)(14), as amended. 1438

(B)(1) No person who is registered under section 203 of the 1439
"Investment Advisers Act of 1940," 15 U.S.C. 80b-3, as an 1440
investment adviser shall act as an investment adviser, unless the 1441
person has done both of the following: 1442

(a) Filed with the division ~~a consent to service of process~~ 1443

~~pursuant to section 1707.11 of the Revised Code, together with~~ 1444
~~either a notice filing form as specified in rules adopted by the~~ 1445
~~division or a copy of those documents that have been filed by the~~ 1446
~~investment adviser with the securities and exchange commission as~~ 1447
~~specified in rules adopted by the division;~~ 1448

(b) Paid the notice filing fee specified in division (B) of 1449
section 1707.17 of the Revised Code. 1450

(2) Upon compliance with division (B)(1) of this section, the 1451
division shall issue to the person an acknowledgment of notice 1452
filing. 1453

(3) The notice filing and fee requirements of division (B)(1) 1454
of this section do not apply to a person described in division 1455
(A)(3) ~~or, (4), (5), or (6)~~ of this section. 1456

Sec. 1707.15. (A) Application for a dealer's license shall be 1457
made in accordance with this section and by filing with the 1458
division of securities the information, materials, and forms 1459
specified in rules adopted by the division, along with all of the 1460
following information: 1461

(1) The name and address of the applicant; 1462

~~(2) A description of the applicant, including, if the~~ 1463
~~applicant is a partnership, unincorporated association, or any~~ 1464
~~similar form of business organization, the names and the residence~~ 1465
~~and business addresses of all partners, officers, directors,~~ 1466
~~trustees, or managers of the organization, and the limitation of~~ 1467
~~the liability of any partner or member; if the applicant is a~~ 1468
~~corporation, a list of its executive officers and directors, and~~ 1469
~~the residence and business addresses of each; and if it is a~~ 1470
~~foreign corporation, a copy of its articles of incorporation in~~ 1471
~~addition thereto;~~ 1472

~~(3) The location and addresses of the principal office and~~ 1473

all other offices of the applicant; 1474

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

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

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

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

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

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

~~(F)~~(E) If the division finds that the applicant is of good 1503
business repute, appears qualified to act as a dealer in 1504

securities, and has fully complied with this chapter and rules 1505
adopted under this chapter by the division, the division, upon 1506
payment of the fees prescribed by division (B) of section 1707.17 1507
of the Revised Code, shall issue to the applicant a license 1508
authorizing the applicant to act as a dealer. 1509

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

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

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

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

~~(D)~~(C) The division shall by rule require ~~one~~ a natural 1527
person who is a principal, officer, director, general partner, 1528
manager, or employee of an applicant for an investment adviser 1529
adviser's license to pass an examination designated by the 1530
division or achieve a specified professional designation. ~~Each~~ 1531
~~investment adviser that is not a natural person shall notify the~~ 1532
~~division of the name and relationship to the investment adviser of~~ 1533
~~the natural person who has passed the examination or achieved the~~ 1534
~~specified professional designation on behalf of the investment~~ 1535

~~adviser and who will serve as the designated principal on behalf~~ 1536
~~of the investment adviser.~~ 1537

~~(F)~~(D) An investment adviser licensed under section 1707.141 1538
of the Revised Code shall employ only investment adviser 1539
representatives licensed, or exempted from licensure, under 1540
section 1707.161 of the Revised Code. 1541

~~(F)~~(E) If the division finds that the applicant is of good 1542
business repute, appears to be qualified to act as an investment 1543
adviser, and has complied with this chapter and rules adopted 1544
under this chapter by the division, the division, upon payment of 1545
the fees prescribed by division (B) of section 1707.17 of the 1546
Revised Code, shall issue to the applicant a license authorizing 1547
the applicant to act as an investment adviser. 1548

Sec. 1707.161. (A) No person shall act as an investment 1549
adviser representative, unless one of the following applies: 1550

(1) The person is licensed as an investment adviser 1551
representative by the division of securities. 1552

(2) The person is a natural person who is licensed as an 1553
investment adviser by the division, and does not act as an 1554
investment adviser representative for another investment adviser; 1555
however, a natural person who is licensed as an investment adviser 1556
by the division may act as an investment adviser representative 1557
for another investment adviser if the natural person also is 1558
licensed by the division, or is properly excepted from licensure, 1559
as an investment adviser representative of the other investment 1560
adviser. 1561

(3) The person is employed by or associated with an 1562
investment adviser registered under section 203 of the "Investment 1563
Advisers Act of 1940," 15 U.S.C. 80b-3, and does not have a place 1564
of business in this state. 1565

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

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

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

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

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

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

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

(C) An investment adviser representative's license issued under this section shall not be effective during any period when the investment adviser representative is not employed by or associated with an investment adviser that is licensed by the division or that is in compliance with the notice filing

requirements of division (B) of section 1707.141 of the Revised Code. Notice of the commencement and termination of the employment or association of an investment adviser representative licensed under this section shall be given to the division within thirty days after the commencement or termination by either of the following:

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

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

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

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

(3) Prior to issuing the investment adviser representative license, the division may require the applicant to reimburse the division for the actual expenses incurred in investigating the 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 1628
adviser representative, and has complied with sections 1707.01 to 1629
1707.45 of the Revised Code and the rules adopted under those 1630
sections by the division, the division, upon payment of the fees 1631
prescribed by division (B) of section 1707.17 of the Revised Code, 1632
shall issue to the applicant a license authorizing the applicant 1633
to act as an investment adviser representative for the investment 1634
adviser, or investment advisers that are under common ownership or 1635
control, named in the application. 1636

Sec. 1707.17. (A)(1) The license of every dealer in and 1637
salesperson of securities shall expire on the thirty-first day of 1638
December of each year, and may be renewed upon the filing with the 1639
division of securities of an application for renewal, and the 1640
payment of the fee prescribed in this section, ~~between the first~~ 1641
~~day of November and the fifteenth day of December of each year.~~ 1642
~~The division may accept an application for renewal filed between~~ 1643
~~the fifteenth and the thirty-first day of December of each year.~~ 1644
~~The division also may accept an application for renewal received~~ 1645
~~by the division not later than the tenth day of January of the~~ 1646
~~subsequent calendar year, provided that the application for~~ 1647
~~renewal is accompanied by the license renewal fee and the~~ 1648
~~additional fee prescribed in division (B) of this section.~~ The 1649
division shall give notice, without unreasonable delay, of its 1650
action on any application for renewal of a dealer's or 1651
salesperson's license. 1652

(2) The license of every investment adviser and investment 1653
adviser representative licensed under section 1707.141 or 1707.161 1654
of the Revised Code shall expire on the thirty-first day of 1655
December of each year. The licenses may be renewed upon the filing 1656
with the division of an application for renewal, and the payment 1657
of the fee prescribed in division (B) of this section, ~~between the~~ 1658
~~fifteenth day of October and the thirtieth day of November of each~~ 1659

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

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

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

(2) The fee for each salesperson's license, and for each 1687
annual renewal thereof, shall be fifty dollars. The fee for the 1688
examination of an applicant salesperson, when administered by the 1689
division, shall be fifty dollars. 1690

(3) The fee for each investment adviser's license, and for 1691

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

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

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

(C) A dealer's, salesperson's, investment adviser's, or
investment adviser representative's license may be issued at any
time for the remainder of the calendar year. In that event, the
annual fee shall not be reduced.

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

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

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

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

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

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

generally accepted accounting practices. 1754

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

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

~~(F) Notwithstanding any provision of Revised Code, if the 1771
"securities act of 1933," the "Securities Exchange Act of 1934," 1772
the "Investment Company Act of 1940," the "Investment Advisers Act 1773
of 1940," and any amendments to any of those federal acts, if any 1774
rule, regulation, release, statement, or position promulgated or 1775
adopted under the authority of any of those federal acts, and any 1776
amendments to those federal acts, or if any rule, regulation, or 1777
guideline of a self-regulatory organization registered under the 1778
"Securities and Exchange Act of 1934," and any amendments to that 1779
act, contains a provision that is not contained in this chapter or 1780
the rules adopted under this chapter and that affects any matter 1781
within the scope of this chapter, the division by rule may 1782
promulgate a similar provision. 1783~~

~~A rule adopted under the authority granted in this division 1784
may delete, modify, or replace an existing rule of the division. A 1785~~

~~rule adopted under the authority granted in this division becomes 1786
effective on the later of the date on which the division issues 1787
the rule or the date on which the federal statute or the rule, 1788
regulation, release, statement, or position on which the 1789
division's rule is based becomes effective. The division, upon 1790
thirty days written notice, may revoke any rule adopted under the 1791
authority granted in this division. A rule adopted under the 1792
authority granted in this division, and not revoked by the 1793
commissioner, lapses and has no further force and effect thirty 1794
months after the rule's effective date. 1795~~

Sec. 1707.201. Notwithstanding any provision of the Revised 1796
Code, if the "Securities Act of 1933," the "Securities Exchange 1797
Act of 1934," the "Investment Company Act of 1940," the 1798
"Investment Advisers Act of 1940," and any amendments to any of 1799
those federal acts, if any rule, regulation, release, statement, 1800
or position promulgated or adopted under the authority of any of 1801
those federal acts, and any amendments to those federal acts, or 1802
if any rule, regulation, or guideline of a self-regulatory 1803
organization registered under the "Securities Exchange Act of 1804
1934," and any amendments to that act, contains a provision that 1805
is not contained in this chapter or the rules adopted under this 1806
chapter and that affects any matter within the scope of this 1807
chapter, the division of securities by rule may promulgate a 1808
similar provision. 1809

A rule adopted under the authority granted in this section 1810
becomes effective on the later of the date on which the division 1811
issues the rule or the date on which the federal statute or the 1812
rule, regulation, release, statement, or position on which the 1813
division's rule is based becomes effective. The division, upon 1814
thirty days' written notice, may revoke any rule adopted under the 1815
authority granted in this section. A rule adopted under the 1816
authority granted in this section, and not revoked by the 1817

commissioner of securities, lapses and has no further force and 1818
effect eighteen months after the rule's effective date. 1819

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

Sec. 1733.01. As used in this chapter, unless the context 1828
otherwise requires: 1829

(A) "Credit union" means a corporation organized and 1830
qualified as such under this chapter. In addition to the powers 1831
enumerated in this chapter and unless restricted in this chapter, 1832
every credit union has the general powers conferred upon 1833
corporations by Chapter 1701. of the Revised Code. A credit union 1834
is a nonprofit cooperative financial institution and as such is 1835
organized and operates for the mutual benefit and general welfare 1836
of its members with the earnings, savings, benefits, or services 1837
of the credit union being distributed to its members as patron 1838
savers and borrowers and not to its members as individuals. 1839

(B) "Corporate credit union" means a credit union, 1840
eligibility for membership in which is being a credit union 1841
qualified to do business in this state. Such credit union shall 1842
use the term "corporate" in its official name. 1843

(C) "Foreign credit union" means a credit union formed under 1844
the laws of another state which are substantially similar to this 1845
chapter. 1846

(D) "Member" means a person who is a member of a credit 1847

union.	1848
(E) "Association member" means any member of a credit union other than a credit union or an individual member.	1849 1850
(F) "Voting member" means an association member or an individual member who is qualified to vote as provided by law, the articles, or the regulations.	1851 1852 1853
(G) "Person" includes, without limitation, an individual, a corporation, an unincorporated society or association, or any other organization of individuals.	1854 1855 1856
(H) "Articles" includes original articles of incorporation, agreements of merger, amended articles, and amendments to any of these.	1857 1858 1859
(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.	1860 1861 1862
(J) Persons having a "common bond of association" include those persons and their families.	1863 1864
(K) "Membership share" means a share of the credit union, the subscription to which shall be a prerequisite for membership in the credit union.	1865 1866 1867
(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.	1868 1869 1870 1871
(M) "Undivided earnings" consist of all accumulated net earnings and reserves required under division (B) of section 1733.31 of the Revised Code.	1872 1873 1874
(N) "State" means the United States, any state, territory, insular possession, or other political subdivision of the United States, including the District of Columbia.	1875 1876 1877

(O) An "emergency" exists when an emergency exists for other 1878
corporations as the same is defined and described in section 1879
1701.01 of the Revised Code. 1880

(P) "Superintendent of credit unions" means the "division of 1881
financial institutions" or the "superintendent of the division of 1882
financial institutions of this state"; and whenever the context 1883
requires it, may be read as "director of commerce" or as "chief of 1884
the division of financial institutions." Whenever the division or 1885
superintendent of credit unions is referred to or designated in 1886
any statute, rule, contract, or other document, the reference or 1887
designation shall be deemed to refer to the division or 1888
superintendent of financial institutions, as the case may be. 1889

(Q) "Outside auditor" means an accountant who is licensed to 1890
practice as a certified public accountant or public accountant by 1891
this state, and who is retained by a credit union to audit its 1892
accounts, but who is not otherwise employed by the credit union. 1893

(R) "Regulated individual" means a director, committee 1894
member, officer, or employee of a credit union. 1895

(S) "Financial institution regulatory authority" includes a 1896
regulator of business activity in which a credit union is engaged, 1897
or has applied to engage in, to the extent that the regulator has 1898
jurisdiction over a credit union engaged in that business 1899
activity. A credit union is engaged in a business activity, and a 1900
regulator of that business activity has jurisdiction over the 1901
credit union, whether the credit union conducts the activity 1902
directly or a subsidiary or affiliate of the credit union conducts 1903
the activity. 1904

Sec. 1733.32. (A)(1) The superintendent of financial 1905
institutions shall see that the laws relating to credit unions are 1906
executed and enforced. 1907

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

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

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

charge of the affairs of the credit union at the time of such 1940
verification and shall be submitted to the superintendent within 1941
thirty days after the superintendent requests the financial 1942
report. 1943

(C) An annual financial report of the affairs and business of 1944
the credit union, showing its condition as of the thirty-first day 1945
of December unless otherwise authorized by the superintendent, 1946
shall be filed with the superintendent not later than the date 1947
authorized in the rules adopted by the superintendent. 1948

(D) If a financial report or an annual financial report is 1949
not filed with the superintendent in accordance with division (B) 1950
or (C) of this section, the superintendent may do both of the 1951
following: 1952

(1) Assess a fine, determined by rule adopted by the 1953
superintendent, for each day the report is in arrears; 1954

(2) If the superintendent gives written notice to the 1955
president of the credit union of the superintendent's intention to 1956
do so, issue an order revoking the credit union's articles of 1957
incorporation and appointing a liquidating agent to liquidate the 1958
credit union in accordance with section 1733.37 of the Revised 1959
Code. 1960

(E)(1) Except as provided in division (E)(2) of this section, 1961
each credit union doing business in this state shall remit, 1962
semiannually and within fifteen days after billing, to the 1963
treasurer of state, a supervisory fee in an amount determined by 1964
the superintendent and confirmed by the credit union council. The 1965
supervisory fee described in division (E)(1) of this section shall 1966
be based on a percentage of the gross assets of the credit union 1967
as shown by its last annual financial report filed with the 1968
superintendent in accordance with division (C) of this section. 1969
The minimum supervisory fee shall be determined by the 1970

superintendent and confirmed by the credit union council. 1971

(2) Each corporate credit union doing business in this state 1972
shall remit, semiannually and within fifteen days after billing, 1973
to the treasurer of state, a supervisory fee determined by rule 1974
adopted by the superintendent and confirmed by the credit union 1975
council. The aggregate annual amount of the fee shall not exceed 1976
the annual operating fee that the national credit union 1977
administration charges a federally chartered credit union pursuant 1978
to the "Federal Credit Union Act," 84 Stat. 994 (1970), 12 1979
U.S.C.A. 1751. 1980

(3) The superintendent annually shall present to the credit 1981
union council for confirmation the supervisory fees to be billed 1982
credit unions and corporate credit unions pursuant to division (E) 1983
of this section. 1984

(4) If any supervisory fee is not remitted in accordance with 1985
division (E)(1) or (2) of this section, the superintendent may 1986
assess a fine, determined by rule adopted by the superintendent, 1987
for each day that each fee is in arrears. 1988

(5)(a) Subject to division (E)(5)(b) of this section, the 1989
total amount of each semiannual billing to all credit unions and 1990
corporate credit unions combined shall equal one-half of the 1991
appropriation made by the main operating appropriation act, 1992
including any modifications made by the controlling board, to the 1993
division of financial institutions for the regulation of credit 1994
unions for the fiscal year in which the billings occur, except 1995
that the superintendent, in determining the supervisory fees, may 1996
take into consideration any funds lapsed from the appropriation 1997
made in the previous fiscal year. 1998

(b) If during the period between the credit union council's 1999
confirmation of supervisory fees and when supervisory fees 2000
described in this section are collected, the credit union council 2001

determines additional money is required to adequately fund the 2002
operations of the division of financial institutions for that 2003
fiscal year, the credit union council may, by the affirmative vote 2004
of five of its members, increase the supervisory fees billed. The 2005
superintendent promptly shall notify each credit union and 2006
corporate credit union of the increased supervisory fees, and each 2007
credit union or corporate credit union shall pay the increased 2008
supervisory fees billed by the superintendent. 2009

(6) The fees or fines collected pursuant to this section 2010
shall be credited to the credit unions fund created in section 2011
1733.321 of the Revised Code. 2012

(F) A report of such examination shall be forwarded to the 2013
president of each credit union after the completion of the 2014
examination. Such report may contain comments relative to the 2015
management of the affairs of the credit union and also as to the 2016
general condition of its assets. Within thirty days of the receipt 2017
of such report, a meeting of the directors shall be called to 2018
consider matters contained in the report, and the president shall 2019
notify the superintendent of any action taken at such meeting. 2020

(G)(1) The superintendent shall furnish reports of 2022
examinations or other appropriate information to any organization 2023
referred to in section 1733.041 of the Revised Code when requested 2024
by such organization and authorized by the credit union. The 2025
superintendent may charge a fee for such reports and other 2026
information as may be established by rules adopted by the 2027
superintendent. 2028

(2) A report of examination furnished pursuant to division 2029
(G)(1) of this section is the property of the division of credit 2030
unions and may be used by the examined credit union only in the 2031
conduct of its business. Under no circumstances may the credit 2032
union, its current or former directors, officers, employees, 2033

agents, shareholders, participants in the conduct of its affairs, 2034
or their agents disclose or make public, in any manner, a report 2035
of examination or its contents. 2036

(H) Except as provided in this division, information obtained 2037
by the superintendent of ~~credit unions~~ financial institutions and 2038
the superintendent's employees as a result of or arising out of 2039
the examination or independent audit of a credit union, from 2040
required reports, or because of their official position, shall be 2041
confidential. Such information may be disclosed only in connection 2042
with criminal proceedings or, subject to section 1733.327 of the 2043
Revised Code, when it is necessary for the superintendent to take 2044
official action pursuant to Chapter 1733. of the Revised Code and 2045
the rules adopted thereunder regarding the affairs of the credit 2046
union examined. Such information may also be introduced into 2047
evidence or disclosed when and in the manner authorized in section 2048
1181.25 of the Revised Code. This division does not prevent the 2049
superintendent from properly exchanging information relating to an 2050
examined credit union pursuant to division (F) or (G) of this 2051
section or with officials of properly authorized state or federal 2052
supervisory financial institution regulatory authorities or with 2053
any insurer recognized under section 1733.041 or any surety 2054
recognized under section 1733.23 of the Revised Code. This 2055
division also does not prevent the superintendent from disclosing 2056
information contained in the financial reports or annual financial 2057
reports described in division (B) or (C) of this section to 2058
recognized credit union trade associations. 2059

Sec. 1733.327. (A) All conferences and administrative 2061
proceedings under sections 1733.324 and 1733.325 of the Revised 2062
Code, the fact of their actual or anticipated occurrence, and all 2063
notices, agreements, hearings, orders, records, evidence, 2064
transcripts, and other writings, happenings, or things pertaining 2065

to those conferences or proceedings, shall be kept confidential as 2066
among the superintendent of ~~credit unions~~ financial institutions, 2067
the director of commerce, the deputy director of financial 2068
institutions, the governor, the credit union or regulated 2069
individual who is party to the conference or proceedings, 2070
witnesses in the conference or proceedings, and other persons 2071
specifically designated by the superintendent or director. In 2072
designating specific persons who may be present or acquire 2073
knowledge of matters made confidential by this division, the 2074
superintendent and director shall not exclude attorneys or other 2075
suitable representatives of the credit union, or of any regulated 2076
individual, who is party to the conference or proceedings. If the 2077
conference or proceedings apply to a regulated individual, the 2078
superintendent and director shall not exclude suitable 2079
representatives of the credit union of which such regulated 2080
individual is an officer, director, or employee. 2081

(B) Division (A) of this section ceases to apply upon the 2082
occurrence of any of the following: 2083

(1) An action is brought to recover a forfeiture for the 2084
violation of an agreement concluded, or a final or summary 2085
cease-and-desist order issued, under section 1733.324 or 1733.325 2086
of the Revised Code. A forfeiture, in the absence of such an 2087
action for recovery, does not waive division (A) of this section 2088
except insofar as the forfeiture must be reflected or reported in 2089
the financial records or reports of the credit union or regulated 2090
individual. 2091

(2) Information made confidential by division (A) of this 2092
section is needed as evidence in a criminal proceeding; in 2093
proceedings under section 1733.37 of the Revised Code; or in the 2094
work of a committee of the general assembly. 2095

(3) The superintendent furnishes information made 2096
confidential by division (A) of this section to the applicable 2097

insurer recognized under section 1733.041 of the Revised Code.	2098
<u>(4) The superintendent furnishes information made</u>	2099
<u>confidential by division (A) of this section to financial</u>	2100
<u>institution regulatory authorities as authorized in section</u>	2101
<u>1733.32 of the Revised Code.</u>	2102
<u>(5) Information made confidential by division (A) of this</u>	2103
<u>section is disclosed when and in the manner authorized in section</u>	2104
<u>1181.25 of the Revised Code.</u>	2105
(C) No officer or employee of the division of credit unions,	2106
of the department of commerce or any of its other divisions, or of	2107
the governor's office shall violate division (A) of this section.	2108
Sec. 1751.19. (A) A health insuring corporation shall	2109
establish and maintain a complaint system that has been approved	2110
by the superintendent of insurance to provide adequate and	2111
reasonable procedures for the expeditious resolution of written	2112
complaints initiated by subscribers or enrollees concerning any	2113
matter relating to services provided, directly or indirectly, by	2114
the health insuring corporation, including, but not limited to,	2115
complaints regarding cancellations or nonrenewals of coverage.	2116
Complaints regarding a health insuring corporation's decision to	2117
deny, reduce, or terminate coverage for health care services are	2118
subject to section 1751.83 of the Revised Code.	2119
(B) A health insuring corporation shall provide a timely	2120
written response to each written complaint it receives.	2121
(C)(1) Copies of complaints and responses, including medical	2122
records related to those complaints, shall be available to the	2123
superintendent and the director of health for inspection for three	2124
years. Any document or information provided to the superintendent	2125
pursuant to this division that contains a medical record is	2126
confidential, and is not a public record subject to section 149.43	2127

of the Revised Code. 2128

(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 3901. or 3903. of the Revised Code, with other local, state, federal, and international regulatory and law enforcement agencies, with local, state, and federal prosecutors, and with the national association of insurance commissioners and its affiliates and subsidiaries, provided that the recipient agrees to maintain the confidential or privileged status of the confidential or privileged document or information and has authority to do so. 2129
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(3) Nothing in this section shall prohibit the superintendent from receiving documents and information in accordance with section 3901.045 of the Revised Code. 2143
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(4) The superintendent may enter into agreements governing the sharing and use of documents and information consistent with the requirements of this section. 2146
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(5) No waiver of any applicable privilege or claim of confidentiality in the documents and information described in division (C)(1) of this section occurs as a result of sharing or receiving documents and information as authorized in divisions (C)(2) and (3) of this section. 2149
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(D) A health insuring corporation shall establish and maintain a procedure to accept complaints over the telephone or in person. These complaints are not subject to the reporting requirement under division (C) of section 1751.32 of the Revised Code. 2154
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(E) A health insuring corporation may comply with this 2159
section and section 1751.83 of the Revised Code by establishing 2160
one system for receiving and reviewing complaints and requests for 2161
internal review from enrollees and subscribers if the system meets 2162
the requirements of both sections. 2163

Sec. 3901.045. (A) The superintendent of insurance may 2164
receive documents and information, including otherwise 2165
confidential or privileged documents and information, from local, 2166
state, federal, and international regulatory and law enforcement 2167
agencies, from local, state, and federal prosecutors, and from the 2168
national association of insurance commissioners and its affiliates 2169
and subsidiaries, provided that the superintendent maintains as 2170
confidential or privileged any document or information received 2171
with notice or the understanding that the document or information 2172
is confidential or privileged under the laws of the jurisdiction 2173
that is the source of the document or information. 2174

(B) The superintendent may also receive documents and 2175
information, including otherwise confidential or privileged 2176
documents and information, from the chief deputy rehabilitator, 2177
the chief deputy liquidator, other deputy rehabilitators and 2178
liquidators, and from any other person employed by, or acting on 2179
behalf of, the superintendent pursuant to Chapter 3901. or 3903. 2180
of the Revised Code, provided that the superintendent maintains as 2181
confidential or privileged any document or information received 2182
with the notice or understanding that the document or information 2183
is confidential or privileged, except that the superintendent may 2184
share and disclose such a document or information when authorized 2185
by other sections of the Revised Code. 2186

(C) The superintendent has the authority to maintain as 2187
confidential or privileged the documents and information received 2188
pursuant to this section. 2189

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

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

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

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

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

opportunity to be heard in accordance with Chapter 119. of the 2221
Revised Code, if the superintendent determines that the interests 2222
of policyholders, shareholders, or the public will be served by 2223
the disclosure; 2224

(3) Share documents and information that are the subject of 2225
this section with the chief deputy rehabilitator, the chief deputy 2226
liquidator, other deputy rehabilitators and liquidators, and any 2227
other person employed by, or acting on behalf of, the 2228
superintendent pursuant to Chapter 3901. or 3903. of the Revised 2229
Code, with other local, state, federal, and international 2230
regulatory and law enforcement agencies, with local, state, and 2231
federal prosecutors, and with the national association of 2232
insurance commissioners and its affiliates and subsidiaries, 2233
provided that the recipient agrees to maintain the confidential or 2234
privileged status of the confidential or privileged document or 2235
information and has authority to do so; 2236

(4) Disclose documents and information that are the subject 2237
of this section in the furtherance of any regulatory or legal 2238
action brought by or on behalf of the superintendent or the state, 2239
resulting from the exercise of the superintendent's official 2240
duties. 2241

(C) Notwithstanding divisions (A) and (B) of this section, 2242
the superintendent may authorize the national association of 2243
insurance commissioners and its affiliates and subsidiaries by 2244
agreement to share confidential or privileged documents or 2245
information received pursuant to division (B)(3) of this section 2246
with local, state, federal, and international regulatory and law 2247
enforcement agencies and with local, state, and federal 2248
prosecutors, provided that the recipient agrees to maintain the 2249
confidential or privileged status of the confidential or 2250
privileged document or information and has authority to do so. 2251

(D) Notwithstanding divisions (A) and (B) of this section, 2252

the chief deputy rehabilitator, the chief deputy liquidator, and
other deputy rehabilitators and liquidators may disclose documents
and information that are the subject of this section in the
furtherance of any regulatory or legal action brought by or on
behalf of the superintendent, the rehabilitator, the liquidator,
or the state resulting from the exercise of the superintendent's
official duties in any capacity. 2253
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(E) Nothing in this section shall prohibit the superintendent
from receiving documents and information in accordance with
section 3901.045 of the Revised Code. 2260
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(F) The superintendent may enter into agreements governing
the sharing and use of documents and information consistent with
the requirements of this section. 2263
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(G)(1) No waiver of any applicable privilege or claim of
confidentiality in the documents and information described in this
section shall occur as a result of sharing or receiving documents
and information as authorized in divisions (B)(3), (C), and (E) of
this section. 2266
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(2) The disclosure of a document or information in connection
with a regulatory or legal action pursuant to divisions (B)(4) and
(D) of this section does not prohibit an insurer or any other
person from taking steps to limit the dissemination of the
document or information to persons not involved in or the subject
of the regulatory or legal action on the basis of any recognized
privilege arising under any other section of the Revised Code or
the common law. 2271
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Sec. 3901.44. (A) As used in this section, "insurance fraud
investigation" means any investigation conducted by the
superintendent of insurance or a designee of the superintendent
that relates to a fraudulent insurance act as defined in section
3999.31 of the Revised Code. 2279
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(B) All ~~papers~~, documents, reports, and evidence in the 2284
possession of the superintendent or the superintendent's designee 2285
that pertain to an insurance fraud investigation are confidential 2286
law enforcement investigatory records under section 149.43 of the 2287
Revised Code. Notwithstanding such section, the superintendent 2288
shall not prohibit public inspection of such records that pertain 2289
to an insurance fraud investigation after the expiration of all 2290
federal and state statutes of limitations applicable to the 2291
particular offense to which the papers, documents, reports, and 2292
evidence relate. 2293

(C) All ~~papers~~, documents, reports, and evidence in the 2294
possession of the superintendent that do not pertain to such an 2295
insurance fraud investigation are public records under section 2296
149.43 of the Revised Code, and are not by such possession alone 2297
confidential law enforcement investigatory records. 2298

(D) All ~~papers~~, documents, reports, and evidence in the 2299
possession of the superintendent or the superintendent's designee 2300
that pertain to such an insurance fraud investigation are not 2301
subject to subpoena in civil actions by any court of this state 2302
until opened for public inspection by the superintendent in 2303
accordance with division (B) of this section or with section 2304
149.43 of the Revised Code, unless the superintendent or the 2305
superintendent's designee consents, or until after reasonable 2306
notice to the superintendent and opportunity for hearing, the 2307
court determines the superintendent would not be hindered 2308
unnecessarily by such subpoena. 2309

(E) Notwithstanding divisions (B), (C), and (D) of this 2310
section, the superintendent may do either of the following: 2311

(1) Share documents, reports, and evidence that are the 2312
subject of this section with the chief deputy rehabilitator, the 2313
chief deputy liquidator, other deputy rehabilitators and 2314
liquidators, and any other person employed by, or acting on behalf 2315

of, the superintendent pursuant to Chapter 3901. or 3903. of the 2316
Revised Code, with other local, state, federal, and international 2317
regulatory and law enforcement agencies, with local, state, and 2318
federal prosecutors, with the national association of insurance 2319
commissioners and its affiliates and subsidiaries, with insurers, 2320
and with investigators hired by insurers, provided that the 2321
recipient agrees to maintain the confidential or privileged status 2322
of the confidential or privileged document, report, or evidence 2323
and has authority to do so; 2324

(2) Disclose documents, reports, and evidence that are the 2325
subject of this section in the furtherance of any regulatory or 2326
legal action brought by or on behalf of the superintendent or the 2327
state, resulting from the exercise of the superintendent's 2328
official duties. 2329

(F) Notwithstanding divisions (B), (C), (D), and (E) of this 2330
section, the superintendent may authorize the national association 2331
of insurance commissioners and its affiliates and subsidiaries by 2332
agreement to share confidential or privileged documents, reports, 2333
and evidence received pursuant to division (E)(1) of this section 2334
with local, state, federal, and international regulatory and law 2335
enforcement agencies and with local, state, and federal 2336
prosecutors, provided that the recipient agrees to maintain the 2337
confidential or privileged status of the confidential or 2338
privileged document, report, or evidence and has authority to do 2339
so. 2340

(G) Notwithstanding divisions (B), (C), (D), and (E) of this 2341
section, the chief deputy rehabilitator, the chief deputy 2342
liquidator, and other deputy rehabilitators and liquidators may 2343
disclose documents, reports, and evidence that are the subject of 2344
this section in the furtherance of any regulatory or legal action 2345
brought by or on behalf of the superintendent, the rehabilitator, 2346
the liquidator, or the state resulting from the exercise of the 2347

superintendent's official duties in any capacity. 2348

(H) Nothing in this section shall prohibit the superintendent from receiving documents, reports, and evidence in accordance with section 3901.045 of the Revised Code. 2349
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(I) The superintendent may enter into agreements governing the sharing and use of documents, reports, and evidence consistent with the requirements of this section. 2352
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(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. 2355
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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. 2360
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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. 2368
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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 2373
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shall remain the property of the certified public accountant. Any 2378
copies of these work papers voluntarily given to the 2379
superintendent shall be the property of the superintendent. The 2380
original work papers or any copies of them, whether in possession 2381
of the certified public accountant or the department of insurance, 2382
are confidential and privileged and are not a public record as 2383
defined in section 149.43 of the Revised Code. The original work 2384
papers and any copies of them are not subject to subpoena and 2385
shall not be made public by the superintendent or any other 2386
person. ~~However, the original work papers and any copies of them~~ 2387
~~may be released by the superintendent to the insurance regulatory~~ 2388
~~authority of any other state if that authority agrees to maintain~~ 2389
~~the confidentiality of the work papers or copies and if the work~~ 2390
~~papers and copies are not public records under the laws of that~~ 2391
~~state.~~ 2392

(B) The work papers of the superintendent or of the person 2393
appointed by the superintendent, resulting from the conduct of an 2394
examination made pursuant to section 3901.07 of the Revised Code 2395
or from the conduct of a financial analysis of any entity subject 2396
to examination by the superintendent, including but not limited to 2397
any insurance company, health insuring corporation, fraternal 2398
benefit society, or multiple employer welfare arrangement, are 2399
confidential and privileged and are not a public record as defined 2400
in section 149.43 of the Revised Code. The original work papers 2401
and any copies of them are not subject to subpoena and shall not 2402
be made public by the superintendent or any other person. ~~However,~~ 2403
~~the original work papers and any copies of them may be released by~~ 2404
~~the superintendent to the insurance regulatory authority of any~~ 2405
~~other state if that authority agrees to maintain the~~ 2406
~~confidentiality of the work papers or copies and if the work~~ 2407
~~papers and copies are not public records under the laws of that~~ 2408
~~state.~~ 2409

(C) The work papers of the superintendent or of any person appointed by the superintendent, resulting from the conduct of a performance regulation examination made pursuant to authority granted under section 3901.011 of the Revised Code, 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 shall not be made public by the superintendent or any other person. ~~However, the original work papers and any copies of them may be released by the superintendent to the insurance regulatory authority of any other state if that authority agrees to maintain the confidentiality of the work papers or copies and if the work papers and copies are not public records under the laws of that state.~~

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

(1) Share work papers that are the subject of this section with the chief deputy rehabilitator, the chief deputy liquidator, other deputy rehabilitators and liquidators, and any other person employed by, or acting on behalf of, the superintendent pursuant to Chapter 3901. or 3903. of the 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 work paper and has authority to do so;

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

(E) Notwithstanding divisions (A), (B), (C), and (D) of this section, the superintendent may authorize the national association of insurance commissioners and its affiliates and subsidiaries by agreement to share confidential or privileged work papers received pursuant to division (D)(1) of this section with local, state, federal, and international regulatory and law enforcement agencies and with local, state, and federal prosecutors, provided that the recipient agrees to maintain the confidential or privileged status of the confidential or privileged work paper and has authority to do so. 2442
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(F) Notwithstanding divisions (A), (B), (C), and (D) of this section, the chief deputy rehabilitator, the chief deputy liquidator, and other deputy rehabilitators and liquidators may disclose work papers that are the subject of this section in the furtherance of any regulatory or legal action brought by or on behalf of the superintendent, the rehabilitator, the liquidator, or the state resulting from the exercise of the superintendent's official duties in any capacity. 2452
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(G) Nothing in this section shall prohibit the superintendent from receiving work papers in accordance with section 3901.045 of the Revised Code. 2460
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(H) The superintendent may enter into agreements governing the sharing and use of work papers consistent with the requirements of this section. 2463
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(I)(1) No waiver of any applicable privilege or claim of confidentiality in the work papers, or copies thereof, that are the subject of this section shall occur as a result of sharing or receiving work papers as authorized in divisions (D)(1), (E), and (G) of this section. 2466
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(2) The disclosure of work papers in connection with a regulatory or legal action pursuant to divisions (D)(2) and (F) of 2471
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this section does not prohibit an insurer or any other person from 2473
taking steps to limit the dissemination of the work papers to 2474
persons not involved in or the subject of the regulatory or legal 2475
action on the basis of any recognized privilege arising under any 2476
other section of the Revised Code or the common law. 2477

Sec. 3901.70. (A) Each report obtained by or disclosed to the 2478
superintendent of insurance pursuant to sections 3901.67 to 2479
3901.70 of the Revised Code is confidential and privileged and is 2480
not subject to subpoena. Except as provided in divisions division 2481
(B) ~~and (C)~~ of this section, the report shall not be made public 2482
by the superintendent, ~~the national association of insurance~~ 2483
~~commissioners,~~ or any other persons. 2484

(B) ~~A report may be provided by the superintendent to the~~ 2485
~~insurance regulatory authority of another state or to the national~~ 2486
~~association of insurance commissioners without first obtaining the~~ 2487
~~written consent of the insurer to which it pertains.~~ 2488

(C) ~~The superintendent, after conducting a hearing in~~ 2489
~~accordance with Chapter 119. of the Revised Code, may determine~~ 2490
~~that the interest of policyholders, shareholders, or the public~~ 2491
~~will be served by the publication of the report and may publish~~ 2492
~~all or any part of the report in such manner as the superintendent~~ 2493
~~may consider appropriate. Notwithstanding division (A) of this~~ 2494
section, the superintendent may do any of the following: 2495

(1) Disclose a report that is the subject of this section 2496
upon obtaining a prior written consent from the insurer to which 2497
the report pertains; 2498

(2) Share a report that is the subject of this section with 2499
the chief deputy rehabilitator, the chief deputy liquidator, other 2500
deputy rehabilitators and liquidators, and any other person 2501
employed by, or acting on behalf of, the superintendent pursuant 2502
to Chapter 3901. or 3903. of the Revised Code, with other local, 2503

state, federal, and international regulatory and law enforcement agencies, with local, state, and federal prosecutors, and with the national association of insurance commissioners and its affiliates and subsidiaries, provided that the recipient agrees to maintain the confidential or privileged status of the confidential or privileged report and has authority to do so; 2504
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(3) Disclose a report that is the subject of this section in the furtherance of any regulatory or legal action brought by or on behalf of the superintendent or the state, resulting from the exercise of the superintendent's official duties; 2510
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(4) Disclose or publish all or any part of a report that is the subject of this section in such a manner as the superintendent considers appropriate after conducting a hearing in accordance with Chapter 119. of the Revised Code and determining that the interests of policyholders, shareholders, or the public will be served by the disclosure or publication of the report. 2514
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(C) Notwithstanding divisions (A) and (B) of this section, the superintendent may authorize the national association of insurance commissioners and its affiliates and subsidiaries by agreement to share confidential or privileged reports received pursuant to division (B)(2) of this section with local, state, federal, and international regulatory and law enforcement agencies and with local, state, and federal prosecutors, provided that the recipient agrees to maintain the confidential or privileged status of the confidential or privileged report and has authority to do so. 2520
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(D) Notwithstanding divisions (A) and (B) of this section, the chief deputy rehabilitator, the chief deputy liquidator, and other deputy rehabilitators and liquidators may disclose a report that is the subject of this section in the furtherance of any regulatory or legal action brought by or on behalf of the superintendent, the rehabilitator, the liquidator, or the state 2530
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resulting from the exercise of the superintendent's official 2536
duties in any capacity. 2537

(E) Nothing in this section shall prohibit the superintendent 2538
from receiving reports in accordance with section 3901.045 of the 2539
Revised Code. 2540

(F) The superintendent may enter into agreements governing 2541
the sharing, use, and disclosure of reports consistent with the 2542
requirements of this section. 2543

(G)(1) No waiver of any applicable privilege or claim of 2544
confidentiality in the reports that are the subject of this 2545
section shall occur as a result of sharing or receiving reports as 2546
authorized in divisions (B)(2), (C), and (E) of this section. 2547

(2) The disclosure of a report in connection with a 2548
regulatory or legal action pursuant to divisions (B)(3) and (D) of 2549
this section does not prohibit an insurer or any other person from 2550
taking steps to limit the dissemination of the report to persons 2551
not involved in or the subject of the regulatory or legal action 2552
on the basis of any recognized privilege arising under any other 2553
section of the Revised Code or the common law. 2554

Sec. 3901.83. (A) When a record containing information 2555
pertaining to the medical history, diagnosis, prognosis, or 2556
medical condition of an enrollee of a health insuring corporation, 2557
insured of an insurer, or plan member of a public employee benefit 2558
plan is provided to the superintendent of insurance for any reason 2559
under sections 1751.77 to 1751.88, 3923.66 to 3923.70, or 3923.75 2560
to 3923.79 of the Revised Code, regardless of the source, the 2561
superintendent shall maintain the confidentiality of the record. 2562
The record in the superintendent's possession is not a public 2563
record under section 149.43 of the Revised Code, except to the 2564
extent that information from the record is used in preparing 2565
reports under section 3901.82 of the Revised Code. 2566

(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 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.

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

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

(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.

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 2598
chambers, shall order otherwise, or unless the insurer requests in 2599
writing that the matter be made public. Until such court order or 2600
such request from the insurer, all papers filed with the clerk of 2601
the court shall be held by the clerk in a confidential file. 2602

(B) Notwithstanding division (A) of this section, the 2603
superintendent may do either of the following: 2604

(1) Share the documents and information that are the subject 2605
of this section with the chief deputy rehabilitator, the chief 2606
deputy liquidator, other deputy rehabilitators and liquidators, 2607
and any other person employed by, or acting on behalf of, the 2608
superintendent pursuant to Chapter 3901. or 3903. of the Revised 2609
Code, with other local, state, federal, and international 2610
regulatory and law enforcement agencies, with local, state, and 2611
federal prosecutors, and with the national association of 2612
insurance commissioners and its affiliates and subsidiaries, 2613
provided that the recipient agrees to maintain the confidential or 2614
privileged status of the confidential or privileged document or 2615
information and has authority to do so; 2616

(2) Disclose documents and information that are the subject 2617
of this section in the furtherance of any regulatory or legal 2618
action brought by or on behalf of the superintendent or the state, 2619
resulting from the exercise of the superintendent's official 2620
duties. 2621

(C) Notwithstanding divisions (A) and (B) of this section, 2622
the superintendent may authorize the national association of 2623
insurance commissioners and its affiliates and subsidiaries by 2624
agreement to share confidential or privileged documents or 2625
information received pursuant to division (B)(1) of this section 2626
with local, state, federal, and international regulatory and law 2627
enforcement agencies and with local, state, and federal 2628
prosecutors, provided that the recipient agrees to maintain the 2629

confidential or privileged status of the confidential or 2630
privileged document or information and has authority to do so. 2631

(D) Notwithstanding divisions (A) and (B) of this section, 2632
the chief deputy rehabilitator, the chief deputy liquidator, and 2633
other deputy rehabilitators and liquidators may disclose documents 2634
and information that are the subject of this section in the 2635
furtherance of any regulatory or legal action brought by or on 2636
behalf of the superintendent, the rehabilitator, the liquidator, 2637
or the state resulting from the exercise of the superintendent's 2638
official duties in any capacity. 2639

(E) Nothing in this section shall prohibit the superintendent 2640
from receiving documents or information in accordance with section 2641
3901.045 of the Revised Code. 2642

(F) The superintendent may enter into agreements governing 2643
the sharing and use of documents and information consistent with 2644
the requirements of this section. 2645

(G)(1) No waiver of any applicable privilege or claim of 2646
confidentiality in the documents and information described in this 2647
section shall occur as a result of sharing or receiving documents 2648
and information as authorized in divisions (B)(1), (C), and (E) of 2649
this section. 2650

(2) The disclosure of documents or information in connection 2651
with a regulatory or legal action pursuant to divisions (B)(2) and 2652
(D) of this section does not prohibit an insurer or any other 2653
person from taking steps to limit the dissemination of the 2654
document or information to persons not involved in or the subject 2655
of the regulatory or legal action on the basis of any recognized 2656
privilege arising under any other section of the Revised Code or 2657
the common law. 2658

Sec. 3903.72. (A) The superintendent of insurance shall 2659

annually value, or cause to be valued, the reserve liabilities, 2660
referred to in this section as reserves, for all outstanding life 2661
insurance policies and annuity and pure endowment contracts of 2662
every life insurance company doing business in this state. The 2663
superintendent may certify the amount of such reserves, specifying 2664
the mortality tables, rates of interest, and net level premium 2665
method and other methods used to calculate reserves. In 2666
calculating reserves, the superintendent may use group methods and 2667
approximate averages for fractions of a year or otherwise. The 2668
valuation of the reserves of a company organized under the laws of 2669
a foreign government shall be limited to its United States 2670
business. 2671

In lieu of a valuation of the reserves of a foreign company, 2672
the superintendent may accept the valuation made, or caused to be 2673
made, by the insurance supervisory official of any state or other 2674
jurisdiction when such valuation complies with the minimum 2675
standards required by this section, provided such official accepts 2676
the certificate of valuation of the superintendent when such 2677
certificate states that the valuation was made in a specified 2678
manner and when such valuation complies with the minimum standards 2679
required by the law of that state or jurisdiction. 2680

A company, which adopts a standard of valuation producing 2681
aggregate reserves greater than those required by this section, 2682
may adopt a lower standard of valuation with the approval of the 2683
superintendent, but not lower than the minimum provided by this 2684
section. However, the holding of additional reserves previously 2685
determined by a qualified actuary to be necessary for the actuary 2686
to render the opinions required by divisions (B)(1) and (2) of 2687
this section shall not be deemed to be the adoption of a higher 2688
standard of valuation. 2689

(B)(1) Every life insurance company doing business in this 2690
state shall annually submit to the superintendent the opinion of a 2691

qualified actuary as to whether the reserves and related actuarial 2692
items held in support of the policies and contracts specified by 2693
rule by the superintendent are computed appropriately, are based 2694
on assumptions that satisfy contractual provisions, and are 2695
consistent with prior reported amounts. The opinion shall be 2696
submitted no later than March 1, 1996, and no later than the first 2697
day of March of each year thereafter. The superintendent shall 2698
adopt rules establishing the form and content of this opinion, and 2699
may require the life insurance company to supply information in 2700
addition to that contained in the actuarial opinion. 2701

As used in this section, a "qualified actuary" means a person 2702
who is a member in good standing of the American academy of 2703
actuaries and who meets the requirements set by rule by the 2704
superintendent. 2705

(2)(a) Every life insurance company, except as exempted by 2706
rule adopted by the superintendent, shall also include in the 2707
annual opinion required by division (B)(1) of this section an 2708
opinion of the same qualified actuary as to whether the reserves 2709
and related actuarial items held in support of the policies and 2710
contracts specified by rule by the superintendent, when considered 2711
in light of the assets held by the company with respect to the 2712
reserves and related actuarial items, including, but not limited 2713
to, the investment earnings on the assets and the considerations 2714
anticipated to be received and retained under the policies and 2715
contracts, make adequate provision for the company's obligations 2716
under the policies and contracts, including, but not limited to, 2717
the benefits under and the expenses associated with the policies 2718
and contracts. 2719

(b) The superintendent may provide by rule for a transition 2720
period for establishing any higher reserves that the qualified 2721
actuary may consider necessary to render the opinion required by 2722
division (B) of this section. 2723

(c) Each opinion required by division (B) of this section 2724
shall be supported by a memorandum prepared in form and content as 2725
specified by rule by the superintendent. 2726

(d) If a life insurance company fails to provide a supporting 2727
memorandum within the period of time specified by rule by the 2728
superintendent, or if the superintendent determines that a 2729
supporting memorandum fails to meet the standards set out in the 2730
rule, or is otherwise unacceptable to the superintendent, the 2731
superintendent may employ, at the expense of the insurance 2732
company, a qualified actuary to review the opinion and the basis 2733
for the opinion and prepare such supporting memorandum as is 2734
required by the superintendent. 2735

(3) Every opinion required by division (B) of this section is 2736
governed by the following: 2737

(a) The opinion shall be submitted with the annual statement 2738
reflecting the valuation of the reserve liabilities. 2739

(b) The opinion shall apply to all business in force 2740
including individual and group health insurance plans. 2741

(c) The opinion shall be based on standards adopted from time 2742
to time by the actuarial standards board of the American academy 2743
of actuaries and on such additional standards as the 2744
superintendent may prescribe by rule. 2745

(d) In the case of an opinion required to be submitted by a 2746
foreign or alien life insurance company, the superintendent may 2747
accept the opinion filed by that company with the insurance 2748
regulatory authority of another state if the superintendent 2749
determines that the opinion reasonably meets the requirements 2750
applicable to a company domiciled in this state. 2751

(e) Except in cases of fraud or willful misconduct, the 2752
qualified actuary is not liable for damages in any civil action to 2753
any person, other than the insurance company and the 2754

superintendent, for any act, error, omission, decision, or conduct 2755
with respect to the actuary's opinion. 2756

(f) The superintendent shall establish by rule penalties for 2757
an insurance company's or qualified actuary's failure to comply 2758
with this section. 2759

(g) The superintendent shall keep as confidential and 2760
privileged any memorandum received in support of a qualified 2761
actuary's opinion and also any other material provided by the 2762
insurance company to the superintendent in connection with the 2763
opinion. The memorandum and other materials shall not be made 2764
public, and shall not be subject to subpoena other than for the 2765
purpose of defending an action required by this section or rules 2766
adopted under this section. However, ~~the memorandum and other~~ 2767
~~materials may be released by the superintendent with the written~~ 2768
~~consent of the company, and may be released to the American~~ 2769
~~academy of actuaries upon the superintendent's receipt of a~~ 2770
~~request from the academy stating that the memorandum and other~~ 2771
~~materials are required for the purpose of professional~~ 2772
~~disciplinary proceedings. A request from the American academy of~~ 2773
~~actuaries shall set forth the procedures to be used by the academy~~ 2774
~~for preserving the confidentiality of the memorandum and other~~ 2775
~~materials, which procedures shall be satisfactory to the~~ 2776
~~superintendent prior to the superintendent's release of the~~ 2777
~~memorandum and other materials. If if any portion of a~~ 2778
confidential and privileged memorandum is cited by the company in 2779
its marketing, is cited before any governmental agency other than 2780
a state insurance regulatory authority, or is released by the 2781
company to the news media, the entire memorandum shall no longer 2782
be confidential and privileged. 2783

(h) Notwithstanding division (B)(3)(g) of this section, the 2784
superintendent may do any of the following: 2785

(i) Disclose memoranda and other materials described in this 2786

section upon obtaining prior written consent from the insurer to 2787
which the memorandum or other materials pertain; 2788

(ii) Disclose memoranda and other materials described in this 2789
section to the American academy of actuaries upon receipt of a 2790
written request from the academy stating that a memorandum or 2791
other material is required for the purpose of professional 2792
disciplinary proceedings. A request from the American academy of 2793
actuaries shall set forth the procedures to be used by the academy 2794
for preserving the confidential and privileged status of the 2795
memorandum or other material. If the procedures set forth are not 2796
satisfactory to the superintendent, the superintendent shall not 2797
release the memorandum or other material to the academy. 2798

(iii) Share memoranda and other materials described in this 2799
section with the chief deputy rehabilitator, the chief deputy 2800
liquidator, other deputy rehabilitators and liquidators, and any 2801
other person employed by, or acting on behalf of, the 2802
superintendent pursuant to Chapter 3901. or 3903. of the Revised 2803
Code, with other local, state, federal, and international 2804
regulatory and law enforcement agencies, with local, state, and 2805
federal prosecutors, and with the national association of 2806
insurance commissioners and its affiliates and subsidiaries, 2807
provided that the recipient agrees to maintain the confidential or 2808
privileged status of any confidential or privileged memorandum or 2809
other material and has authority to do so; 2810

(iv) Disclose memoranda and other materials described in this 2811
section in the furtherance of any regulatory or legal action 2812
brought by or on behalf of the superintendent or the state, 2813
resulting from the exercise of the superintendent's official 2814
duties. 2815

(i) Notwithstanding divisions (B)(3)(g) and (h) of this 2816
section, the superintendent may authorize the national association 2817
of insurance commissioners and its affiliates and subsidiaries by 2818

agreement to share confidential or privileged memoranda and other material received pursuant to division (B)(3)(h)(iii) of this section with local, state, federal, and international regulatory and law enforcement agencies and with local, state, and federal prosecutors, provided that the recipient agrees to maintain the confidential or privileged status of the confidential or privileged memorandum or other material and has authority to do so. 2819
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(j) Notwithstanding divisions (B)(3)(g) and (h) of this section, the chief deputy rehabilitator, the chief deputy liquidator, and other deputy rehabilitators and liquidators may disclose memoranda and other material described in this section in the furtherance of any regulatory or legal action brought by or on behalf of the superintendent, the rehabilitator, the liquidator, or the state resulting from the exercise of the superintendent's official duties in any capacity. 2827
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(k) Nothing in this section shall prohibit the superintendent from receiving memoranda and other material in accordance with section 3901.045 of the Revised Code. 2835
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(l) The superintendent may enter into agreements governing the sharing and use of memoranda and materials consistent with the requirements of this section. 2838
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(m)(i) No waiver of any applicable privilege or claim of confidentiality in the memoranda and materials described in this section shall occur as a result of sharing or receiving memoranda and material as authorized in divisions (B)(3)(h)(ii) and (iii), (B)(3)(i), and (B)(3)(k) of this section. 2841
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(ii) The disclosure of any memorandum or material in connection with a regulatory or legal action pursuant to divisions (B)(3)(h)(iv) and (B)(3)(j) of this section does not prohibit an insurer or any other person from taking steps to limit the 2846
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dissemination of the memorandum or material to persons not 2850
involved in or the subject of the regulatory or legal action on 2851
the basis of any recognized privilege arising under any other 2852
section of the Revised Code or the common law. 2853

(C) Except in the case of policies and contracts to which 2854
division (D) of this section applies, the minimum standard for the 2855
valuation of reserves shall be the method set forth in section 2856
3915.04 of the Revised Code, using four per cent interest and the 2857
American experience table of mortality; provided that in no event 2858
shall a company's aggregate reserves for policies and contracts 2859
which guarantee nonforfeiture benefits be less than the aggregate 2860
reserves calculated in accordance with the standard used in 2861
calculating nonforfeiture benefits for such policies and 2862
contracts. 2863

Reserves for such policies and contracts may be calculated 2864
according to standards which produce aggregate reserves greater 2865
than the minimum reserves required by this division. 2866

(D) This division applies to all life insurance policies and 2867
annuity and pure endowment contracts issued on and after November 2868
5, 1959, or each earlier date not before July 17, 1947, elected by 2869
the company for one or more of such policies or contracts as the 2870
date on which it would comply with the provisions of the 2871
nonforfeiture law for life insurance provided in section 3915.07 2872
of the Revised Code or with the provisions of this division. The 2873
minimum standard for the valuation of all such policies and 2874
contracts shall be the commissioners reserve valuation method 2875
defined in division (E), (F), (H), or (K) of this section and the 2876
following tables and interest rates: 2877

(1) For ordinary life insurance policies, excluding 2878
disability and accidental death benefits, issued on the standard 2879
basis: 2880

(a) On and after November 5, 1959, or an earlier date, not 2881
before July 17, 1947, specified in a written notice by the company 2882
to the superintendent of its election to use this table and before 2883
division (D)(1)(b) of this section became operative for subsequent 2884
policy issues, the commissioners 1941 standard ordinary mortality 2885
table and three and one-half per cent interest; 2886

(b) On and after January 1, 1966, or an earlier date, not 2887
before November 5, 1959, specified in a written notice by the 2888
company to the superintendent of its election to use this table 2889
and before division (D)(1)(c) of this section becomes operative 2890
for subsequent policy issues, the commissioners 1958 standard 2891
ordinary mortality table and three and one-half per cent interest 2892
before January 1, 1975; four per cent interest on and after 2893
January 1, 1975 and before January 1, 1979; and four and one-half 2894
per cent interest on and after January 1, 1979; provided that 2895
modified premiums and present values for female risks may be 2896
calculated at an age three years younger than the actual age of 2897
the insured for policies issued before January 1, 1979, and at an 2898
age six years younger for policies issued on and after January 1, 2899
1979. 2900

(c) On and after January 1, 1989, or an earlier date, not 2901
before January 1, 1983, specified in a written notice by the 2902
company to the superintendent of its election to use this table, 2903
the commissioners 1980 standard ordinary mortality table and the 2904
applicable valuation interest rate as defined in section 3903.721 2905
of the Revised Code. The company may elect to use the 2906
commissioners 1980 standard ordinary mortality table with ten-year 2907
select mortality factors for any specified plan of life insurance. 2908
The superintendent may approve the use of any ordinary mortality 2909
table adopted after 1980 by the national association of insurance 2910
commissioners for determining the minimum standard for the 2911
valuation of such policies. 2912

(2) For industrial life insurance policies, excluding 2913
disability and accidental death benefits, issued on the standard 2914
basis: 2915

(a) On and after November 5, 1959, or an earlier date, not 2916
before July 17, 1947, specified in a written notice by the company 2917
to the superintendent of its election to use this table and before 2918
division (D)(2)(b) of this section became operative for subsequent 2919
policy issues, the 1941 standard industrial mortality table and 2920
three and one-half per cent interest; 2921

(b) On and after January 1, 1968, or an earlier date, not 2922
before September 2, 1963, specified in a written notice by the 2923
company to the superintendent of its election to use this table, 2924
the commissioners 1961 standard industrial mortality table and 2925
three and one-half per cent interest before January 1, 1975; four 2926
per cent interest on and after January 1, 1975 and before January 2927
1, 1979; four and one-half per cent interest on and after January 2928
1, 1979 and before January 1, 1989, or before an earlier date, not 2929
before January 1, 1983, specified in a written notice by the 2930
company to the superintendent of its election to issue such 2931
policies pursuant to the provisions of the nonforfeiture law for 2932
life insurance provided in section 3915.071 of the Revised Code. 2933
On and after January 1, 1989, or such earlier date, the interest 2934
rate to be used in calculating the minimum reserve for such 2935
policies is the applicable valuation interest rate as defined in 2936
section 3903.721 of the Revised Code. The superintendent may 2937
approve the use of any industrial mortality table adopted after 2938
1980 by the national association of insurance commissioners for 2939
determining the minimum standard for the valuation of such 2940
policies. 2941

(3) For all individual annuity and pure endowment contracts, 2942
excluding disability and accidental death benefits, issued: 2943

(a) On and after November 5, 1959, or an earlier date, not 2944

before July 17, 1947, as of which the company elected to comply 2945
with this division (D)(3)(a) and before division (D)(3)(b) of this 2946
section became operative for subsequent contract issues, the 1937 2947
standard annuity mortality table, or, at the option of the 2948
company, the annuity mortality table for 1949, ultimate, or any 2949
modification of either table approved by the superintendent and 2950
three and one-half per cent interest; 2951

(b) On and after January 1, 1979, or an earlier date, not 2952
before January 1, 1975, specified by the company in a written 2953
notice to the superintendent of its election to use this table, 2954
the 1971 individual annuity mortality table or any modification of 2955
that table approved by the superintendent and four per cent 2956
interest on and after January 1, 1975 and before January 1, 1979; 2957
four and one-half per cent interest on and after January 1, 1979, 2958
and before January 1, 1983; and the valuation interest rate as 2959
defined in section 3903.721 of the Revised Code on and after 2960
January 1, 1983, except that on and after January 1, 1975, and 2961
before January 1, 1979, the interest rate is six per cent for 2962
single premium immediate contracts and on and after January 1, 2963
1979, and before January 1, 1983, the interest rate is five and 2964
one-half per cent for single premium deferred contracts and seven 2965
and one-half per cent for single premium immediate contracts. The 2966
superintendent may approve the use of any individual annuity 2967
mortality table adopted after 1980 by the national association of 2968
insurance commissioners, either as adopted or as modified by the 2969
superintendent, for determining the minimum standard for the 2970
valuation of such contracts. 2971

(4) For all annuity and pure endowment contracts, excluding 2972
disability and accidental death benefits, purchased under group 2973
annuity and pure endowment contracts: 2974

(a) On and after November 5, 1959, or an earlier date, not 2975
before July 17, 1947, as of which the company elected to comply 2976

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

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

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

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

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

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

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

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

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

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

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

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

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

(F) This division defines the commissioners reserve valuation

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

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

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

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

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

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

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

(2) Group annuity and pure endowment contracts purchased

under a retirement plan or plan of deferred compensation, 3104
established or maintained by an employer, including a partnership 3105
or sole proprietorship, or by an employee organization, or by 3106
both, other than a plan providing individual retirement accounts 3107
or individual retirement annuities under section 408 of the 3108
Internal Revenue Code of 1954, as amended; 3109

(3) Disability and accidental death benefits in all policies 3110
and contracts; and 3111

(4) All other benefits, except life insurance and endowment 3112
benefits in life insurance policies and benefits provided by all 3113
other annuity and pure endowment contracts, shall be calculated by 3114
a method consistent with the principles of division (E) of this 3115
section. 3116

Extra premiums charged because of impairments or special 3117
hazards shall be disregarded in determining modified net premiums. 3118

(H) This division defines the commissioners annuity reserve 3119
valuation method for all annuity and pure endowment contracts 3120
other than group annuity and pure endowment contracts purchased 3121
under a retirement plan or plan of deferred compensation, 3122
established or maintained by an employer, including a partnership 3123
or sole proprietorship, or by an employee organization, or by 3124
both, other than a plan providing individual retirement accounts 3125
or individual retirement annuities under section 408 of the 3126
Internal Revenue Code of 1954, as amended. 3127

Reserves for benefits under such contracts, excluding 3128
disability and accidental death benefits, shall be the greatest of 3129
the respective excesses of the present values, at the date of 3130
valuation, of the future guaranteed benefits, including guaranteed 3131
nonforfeiture benefits, provided for by such contract at the end 3132
of each respective contract year, over the present value, at the 3133
date of valuation, of any future valuation considerations derived 3134

from future gross considerations required by the terms of the 3135
contract that become payable prior to the end of each such 3136
respective contract year. The future guaranteed benefits shall be 3137
determined by using the mortality table, if any, and the interest 3138
rate, or rates, specified in such contracts for determining 3139
guaranteed benefits. The valuation considerations are the portions 3140
of the respective gross considerations applied under the terms of 3141
such contracts to determine nonforfeiture values. 3142

(I) In no event shall a company's aggregate reserves for all 3143
life insurance policies, to which division (D) of this section 3144
applies, excluding disability and accidental death benefits, be 3145
less than the aggregate reserves calculated in accordance with the 3146
method set forth in divisions (E), (F), (G), (K), and (L) of this 3147
section and the mortality table or tables and rate or rates of 3148
interest used in calculating nonforfeiture benefits for such 3149
policies. 3150

In no event shall the aggregate reserves for all policies, 3151
contracts, and benefits be less than the aggregate reserves 3152
determined by the qualified actuary to be necessary to render the 3153
opinion required by division (B) of this section. 3154

(J) Reserves for any category of policies, contracts, or 3155
benefits as established by the superintendent may be calculated, 3156
at the option of the company, according to any standards which 3157
produce aggregate reserves for such category greater than those 3158
calculated according to the minimum standards provided in this 3159
section, but the rate or rates of interest used for policies and 3160
contracts, other than annuity and pure endowment contracts, shall 3161
not be higher than the corresponding rate or rates of interest 3162
used in calculating any nonforfeiture benefits provided for in 3163
such standards. 3164

(K) If in any contract year the valuation net premium 3165
calculated by the method used in calculating the reserve for a 3166

policy or contract but using the minimum valuation standards of 3167
mortality and rate of interest is more than the gross premium for 3168
such policy or contract, the minimum reserve required for such 3169
policy or contract shall be the greater of either the reserve 3170
calculated according to the mortality table, rate of interest, and 3171
method actually used for such policy or contract, or the reserve 3172
calculated by such method but using the minimum valuation 3173
standards of mortality and rate of interest and replacing the 3174
valuation net premium by the actual gross premium in each contract 3175
year for which the valuation net premium exceeds the actual gross 3176
premium. The minimum valuation standards of mortality and rate of 3177
interest referred to in this division are those required by 3178
division (D) of this section. 3179

For the purposes of this division, the minimum reserve for 3180
any policy to which the provisions of division (F) of this section 3181
apply shall be calculated as if the method used in calculating the 3182
reserve for such policy were the method defined in division (E) of 3183
this section. The minimum reserve for such policy shall be the 3184
greater of the reserve calculated in accordance with division (F) 3185
of this section and in accordance with this division. 3186

(L) Methods for determining the reserves for plans of life 3187
insurance or annuity which are of such a nature that minimum 3188
reserves cannot be determined by the methods described in this 3189
section shall be promulgated by rule adopted by the 3190
superintendent. The reserves to be held under such plans must be 3191
appropriate in relation to the benefits and the pattern of 3192
premiums for each plan and must be computed by methods which are 3193
consistent with the principles of this section. This division 3194
applies to any plan of life insurance which provides for future 3195
premium determination, the amounts of which are to be determined 3196
by the company on the basis of an estimate of future experience 3197
made at the time of any such determination. 3198

(M) The superintendent shall adopt rules specifying minimum 3199
reserve standards for the valuation of individual and group health 3200
plans. 3201

Sec. 3903.83. (A) For purposes of sections 3903.81 to 3903.93 3202
of the Revised Code, a "company action level event" is any of the 3203
following events: 3204

(1) A domestic or foreign insurer's filing of an RBC report 3205
that indicates that the insurer's total adjusted capital is 3206
greater than or equal to its regulatory action level RBC but less 3207
than its company action level RBC; 3208

(2) A life or health insurer's filing of an RBC report that 3209
indicates that the insurer's total adjusted capital is greater 3210
than or equal to its company action level RBC but less than the 3211
product of 2.5 and its authorized control level RBC, and that 3212
indicates a negative trend; 3213

(3) The notification by the superintendent of insurance to an 3214
insurer of an adjustment to the insurer's RBC report, which 3215
adjusted RBC report shows the insurer's total adjusted capital 3216
within the range described in either division (A)(1) or (2) of 3217
this section, provided that the insurer does not challenge the 3218
adjusted RBC report under section 3903.87 of the Revised Code; 3219

(4) The superintendent's notification to an insurer, 3220
following the hearing required under section 3903.87 of the 3221
Revised Code, that the superintendent has rejected the insurer's 3222
challenge to an adjusted RBC report showing the insurer's total 3223
adjusted capital within the range described in either division 3224
(A)(1) or (2) of this section. 3225

(B) In the case of a company action level event, the insurer 3226
shall prepare and submit to the superintendent an RBC plan that 3227
shall: 3228

(1) Identify the conditions that contributed to the company	3229
action level event;	3230
(2) Contain proposals of corrective actions that the insurer	3231
intends to take to eliminate the conditions leading to the company	3232
action level event;	3233
(3) Provide projections of the insurer's financial results in	3234
the current year and at least the four succeeding years, both in	3235
the absence of the proposed corrective actions and giving effect	3236
to the proposed corrective actions. The projections shall include	3237
projections of statutory operating income, net income, capital,	3238
and surplus. Projections for both new and renewal business may	3239
include separate projections for each major line of business, and	3240
may separately identify each significant income, expense, and	3241
benefit component of the projection.	3242
(4) Identify the key assumptions impacting the insurer's	3243
projections made pursuant to division (B)(3) of this section, and	3244
describe the sensitivity of the projections to the assumptions;	3245
(5) Identify the quality of, and problems associated with,	3246
the insurer's business, including, but not limited to, its assets,	3247
anticipated business growth and associated surplus strain,	3248
extraordinary exposure to risk, mix of business, and use of	3249
reinsurance.	3250
(C) The RBC plan shall be submitted within forty-five days	3251
after a company action level event. However, if an insurer has	3252
challenged an adjusted RBC report pursuant to section 3903.87 of	3253
the Revised Code, the RBC plan need not be submitted until after	3254
the hearing required under section 3903.87 of the Revised Code. If	3255
the superintendent rejects the insurer's challenge, the RBC plan	3256
shall be submitted within forty-five days after the	3257
superintendent's notification to the insurer of the rejection of	3258
the challenge.	3259

(D)(1) Within sixty days after an insurer submits an RBC plan 3260
to the superintendent, the superintendent shall either require the 3261
insurer to implement the RBC plan or shall notify the insurer that 3262
the RBC plan is unsatisfactory in the judgment of the 3263
superintendent. If the superintendent has determined that the RBC 3264
plan is unsatisfactory, the notification to the insurer shall set 3265
forth the reasons for the determination, and may set forth 3266
proposed revisions that will render the RBC plan satisfactory in 3267
the judgment of the superintendent. Upon such notification from 3268
the superintendent, the insurer shall prepare and submit a revised 3269
RBC plan, which may incorporate by reference any revisions 3270
proposed by the superintendent. 3271

(2) If an insurer challenges, under section 3903.87 of the 3272
Revised Code, a notification from the Superintendent that the 3273
insurer's RBC plan or a revised RBC plan is unsatisfactory, 3274
submission of a revised RBC plan need not be made unless the 3275
superintendent rejects the insurer's challenge following the 3276
hearing required by section 3903.87 of the Revised Code and then 3277
notifies the insurer of this rejection. 3278

(3) An insurer shall submit a revised RBC plan to the 3279
superintendent within forty-five days after receiving notification 3280
from the superintendent that its RBC plan is unsatisfactory, or, 3281
that its challenge to a notification made under division (D)(1) of 3282
this section has been rejected, as applicable. 3283

(E) Notwithstanding division (D) of this section, if the 3284
superintendent notifies an insurer that its RBC plan or revised 3285
RBC plan is unsatisfactory, the superintendent may, at the 3286
superintendent's discretion, but subject to the insurer's right to 3287
a hearing under section 3903.87 of the Revised Code, specify in 3288
the notification that the notification constitutes a regulatory 3289
action level event. 3290

(F) Every domestic insurer that submits an RBC plan or 3291

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

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

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

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

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

(2) An RBC plan;

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

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

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

(1) Use the plans, reports, information, and orders that are 3322
the subject of this section in accordance with the insurance laws 3323
of this state; 3324

(2) Share the plans, reports, information, and orders that 3325
are the subject of this section with the chief deputy 3326
rehabilitator, the chief deputy liquidator, other deputy 3327
rehabilitators and liquidators, and any other person employed by, 3328
or acting on behalf of, the superintendent pursuant to Chapter 3329
3901. or 3903. of the Revised Code, with other local, state, 3330
federal, and international regulatory and law enforcement 3331
agencies, with local, state, and federal prosecutors, and with the 3332
national association of insurance commissioners and its affiliates 3333
and subsidiaries, provided that the recipient agrees to maintain 3334
the confidential or privileged status of the confidential or 3335
privileged plan, report, information, or order and has authority 3336
to do so; 3337

(3) Disclose plans, reports, information, and orders that are 3338
the subject of this section in the furtherance of any regulatory 3339
or legal action brought by or on behalf of the superintendent or 3340
the state, resulting from the exercise of the superintendent's 3341
official duties. 3342

(D) Notwithstanding divisions (A), (B), and (C) of this 3343
section, the superintendent may authorize the national association 3344
of insurance commissioners and its affiliates and subsidiaries by 3345
agreement to share confidential or privileged plans, reports, 3346
information, and orders received pursuant to division (C)(2) of 3347
this section with local, state, federal, and international 3348
regulatory and law enforcement agencies and with local, state, and 3349
federal prosecutors, provided that the recipient agrees to 3350
maintain the confidential or privileged status of the confidential 3351
or privileged plan, report, information, or order and has 3352
authority to do so. 3353

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

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

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

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

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

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

~~(D)~~(J) RBC instructions, RBC reports, adjusted RBC reports, RBC plans, and revised RBC plans, shall not be used by the

superintendent for ratemaking, considered or introduced as 3385
evidence in any rate proceeding, or used by the superintendent to 3386
calculate or derive any elements of an appropriate premium level 3387
or rate of return for any line of insurance that an insurer or any 3388
affiliate is authorized to write. 3389

~~(E)~~(K) Except as otherwise required under Title XXXIX of the 3390
Revised Code, it is an unfair and deceptive act or practice in the 3391
business of insurance for any person, as defined in division (A) 3392
of section 3901.19 of the Revised Code, to make, publish, 3393
disseminate, circulate, or place before the public, or to cause, 3394
directly or indirectly, to be made, published, disseminated, 3395
circulated, or placed before the public, in a newspaper, magazine, 3396
or other publication, in the form of a notice, circular, pamphlet, 3397
letter, or poster, or over any radio or television station, or in 3398
any other manner, an advertisement, announcement, or statement, 3399
written or oral, that contains an assertion, representation, or 3400
statement, regarding the RBC levels of any insurer or any 3401
component derived in the calculation of the RBC levels. 3402

~~(F)~~(L) If any materially false statement is published 3403
comparing an insurer's total adjusted capital to its RBC levels, 3404
or any inappropriate comparison of any other amount to any of the 3405
insurers' RBC levels is published, and the insurer is able to 3406
demonstrate to the superintendent with substantial proof the 3407
falsity of the statement or the inappropriateness of the 3408
comparison, then the insurer may publish with the superintendent's 3409
approval an announcement in a written publication to rebut the 3410
materially false statement or inappropriate comparison. 3411

Sec. 3905.492. (A)(1) All records and other information 3412
obtained by the superintendent of insurance or the 3413
superintendent's deputies, examiners, assistants, or other 3414
employees, or agents relating to an investigation of an applicant 3415
for licensure under this chapter, or of an agent, solicitor, 3416

broker, or other person licensed under this chapter or Chapter 3417
3951., 3957., or 3959. of the Revised Code, are confidential and 3418
are not public records as defined in section 149.43 of the Revised 3419
Code until the applicant or licensee is provided notice and 3420
opportunity for hearing pursuant to Chapter 119. of the Revised 3421
Code with respect to such records or information. If no 3422
administrative action is initiated with respect to a particular 3423
matter about which the superintendent obtained records or other 3424
information as part of an investigation, all such records and 3425
information relating to that matter shall remain confidential for 3426
three years after the file on the matter is closed. 3427

(2) Division (A)(1) of this section applies only to 3428
investigations that could result in administrative action under 3429
Title XVII or XXXIX or Chapter 119. of the Revised Code. 3430

(B) The records and other information described in division 3431
(A) of this section shall remain confidential for all purposes 3432
except when it is appropriate for the superintendent and the 3433
superintendent's deputies, examiners, assistants, or other 3434
employees, or agents to take official action regarding the affairs 3435
of the applicant or licensee or in connection with actual or 3436
potential criminal proceedings. 3437

~~(C) Employees or agents of the department of insurance shall 3438
not be required by any court in this state to testify in a civil 3439
action, if such testimony concerns any matter related to records 3440
or any other information considered confidential under this 3441
section of which they have knowledge. 3442~~

~~(D) This section does not apply to any complaint or action 3443
under section 3905.04 of the Revised Code. Notwithstanding 3444
divisions (A) and (B) of this section, the superintendent may do 3445
either of the following: 3446~~

~~(1) Share records and other information that are the subject 3447
of this section with the chief deputy rehabilitator, the chief 3448~~

deputy liquidator, other deputy rehabilitators and liquidators, 3449
and any other person employed by, or acting on behalf of, the 3450
superintendent pursuant to Chapter 3901. or 3903. of the Revised 3451
Code, with other local, state, federal, and international 3452
regulatory and law enforcement agencies, with local, state, and 3453
federal prosecutors, and with the national association of 3454
insurance commissioners and its affiliates and subsidiaries, 3455
provided that the recipient agrees to maintain the confidential 3456
status of the confidential record or other information and has 3457
authority to do so; 3458

(2) Disclose records and other information that are the 3459
subject of this section in the furtherance of any regulatory or 3460
legal action brought by or on behalf of the superintendent or the 3461
state, resulting from the exercise of the superintendent's 3462
official duties. 3463

(D) Notwithstanding divisions (A), (B), and (C) of this 3464
section, the superintendent may authorize the national association 3465
of insurance commissioners and its affiliates and subsidiaries by 3466
agreement to share confidential records and other information 3467
received pursuant to division (C)(1) of this section with local, 3468
state, federal, and international regulatory and law enforcement 3469
agencies and with local, state, and federal prosecutors, provided 3470
that the recipient agrees to maintain the confidential status of 3471
the confidential record or other information and has authority to 3472
do so. 3473

(E) Notwithstanding divisions (A), (B), and (C) of this 3474
section, the chief deputy rehabilitator, the chief deputy 3475
liquidator, and other deputy rehabilitators and liquidators may 3476
disclose records and other information that are the subject of 3477
this section in the furtherance of any regulatory or legal action 3478
brought by or on behalf of the superintendent, the rehabilitator, 3479
the liquidator, or the state resulting from the exercise of the 3480

superintendent's official duties in any capacity. 3481

(F) Nothing in this section shall prohibit the superintendent from receiving records and other information in accordance with section 3901.045 of the Revised Code. 3482
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(G)(1) No waiver of any applicable privilege or claim of confidentiality in the records and other information that are the subject of this section shall occur as a result of sharing or receiving records or other information as authorized in divisions (C)(1), (D), and (F) of this section. 3485
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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. 3490
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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. 3498
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(I) This section does not apply to any complaint or action under section 3905.04 of the Revised Code. 3503
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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. 3505
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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.

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

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

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

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

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

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

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

(2) Claims experience due to ~~catastrophies~~ catastrophes of 3541
nature covered by a policy; 3542

(3) Claims experience under uninsured and underinsured 3543
motorist coverages. 3544

(E) An agent aggrieved by the conduct of an insurer in its 3545
breach or termination of a contract of agency may file with the 3546
superintendent a request that the superintendent review the action 3547
to determine whether it is in accord with this section and the 3548
lawful provisions of the contract of agency and send a copy of the 3549
request to the insurer at the address of the office issuing the 3550
notice of termination. Upon receipt of such a request, an insurer 3551
shall promptly provide the independent insurance agent and 3552
superintendent with documentation in support of the insurer's 3553
stated reason for termination. 3554

(F) The superintendent shall promptly investigate the 3555
allegation. If the superintendent has reasonable cause to believe 3556
that this section or the lawful provisions of the contract of 3557
agency have been violated, ~~he~~ the superintendent shall, within 3558
thirty days of receipt of a request for review, conduct an 3559
adjudication hearing subject to Chapter 119. of the Revised Code, 3560
held upon not less than ten days' written notice to the agent and 3561
the insurer. Pending a final order in the adjudication hearing, 3562
the superintendent may take such interim action as necessary to 3563
protect the parties or the public. During the pendency of the 3564
proceeding before the superintendent, the contract of agency 3565
subject to the proceeding continues in force and divison (C) of 3566
this section applies. The superintendent shall, within thirty days 3567
following such hearing, issue an order approving or disapproving 3568
the action of the insurer. All final orders and decisions of the 3569
superintendent are subject to judicial review as provided in 3570
Chapter 119. of the Revised Code. 3571

(G) An insurer shall not cancel or nonrenew any policy of 3572

insurance written through an agent upon the sole ground of the 3573
termination of the agency until the expiration of the policy term 3574
or the twelve-month period following the effective date of the 3575
termination of the contract of agency, whichever is earlier. 3576
However, during such period, an independent insurance agent may, 3577
subject to the current underwriting rules, guidelines, commission 3578
rates, and practices of the insurer, effect any necessary changes 3579
or endorsements to outstanding policies of insurance that are in 3580
force prior to the date of termination. 3581

This section does not abridge, restrict, or supersede the 3582
rights of an agent to the ownership of expirations provided for in 3583
any contract with an insurer. 3584

(H) Any information or documentation provided to an agent or 3585
the superintendent by an insurer under this section is 3586
confidential and shall be used by the superintendent only in the 3587
exercise of the proper functions authorized by this section. No 3588
insurer is liable for furnishing information or documentation in 3589
compliance with this section if the insurer acts without malice 3590
and in the reasonable belief that such information or 3591
documentation is warranted by this section. 3592

(I) Notwithstanding division (H) of this section, the 3593
superintendent may do either of the following: 3594

(1) Share the information or documentation that is the 3595
subject of this section with the chief deputy rehabilitator, the 3596
chief deputy liquidator, other deputy rehabilitators and 3597
liquidators, and any other person employed by, or acting on behalf 3598
of, the superintendent pursuant to Chapter 3901. or 3903. of the 3599
Revised Code, with other local, state, federal, and international 3600
regulatory and law enforcement agencies, with local, state, and 3601
federal prosecutors, and with the national association of 3602
insurance commissioners and its affiliates and subsidiaries, 3603
provided that the recipient agrees to maintain the confidential 3604

status of the confidential information or documentation and has
authority to do so;

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(2) Disclose any information or documentation that is the
subject of this section in the furtherance of any regulatory or
legal action brought by or on behalf of the superintendent or the
state, resulting from the exercise of the superintendent's
official duties.

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

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

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

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

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(N)(1) No waiver of any applicable privilege or claim of confidentiality in the information and documentation that is the subject of this section shall occur as a result of sharing or receiving information and documentation as authorized in divisions (I)(1), (J), and (L) of this section.

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

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

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

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

(3) "Chief executive officer" means the person, irrespective of the person's title, designated by the board of directors or trustees of an insurer as the person charged with the responsibility of administering and implementing the insurer's

policies and procedures.

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

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

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

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

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

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(3) Disclose the notice in the furtherance of any regulatory or legal action brought by or on behalf of the superintendent or the state, resulting from the exercise of the superintendent's

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official duties. 3698

(E) Notwithstanding divisions (C) and (D) of this section, 3699
the superintendent may authorize the national association of 3700
insurance commissioners and its affiliates and subsidiaries by 3701
agreement to share confidential notices received pursuant to 3702
division (D)(2) of this section with local, state, federal, and 3703
international regulatory and law enforcement agencies and with 3704
local, state, and federal prosecutors, provided that the recipient 3705
agrees to maintain the confidential status of the notice and has 3706
authority to do so. 3707

(F) Notwithstanding divisions (C) and (D) of this section, 3708
the chief deputy rehabilitator, the chief deputy liquidator and 3709
other deputy rehabilitators and liquidators may disclose notices 3710
in the furtherance of any regulatory or legal action brought by or 3711
on behalf of the superintendent, the rehabilitator, the 3712
liquidator, or the state resulting from the exercise of the 3713
superintendent's official duties in any capacity. 3714

(G) Nothing in this section shall prohibit the superintendent 3715
from receiving notices in accordance with section 3901.045 of the 3716
Revised Code. 3717

(H) The superintendent may enter into agreements governing 3718
the sharing and use of notices consistent with the requirements of 3719
this section. 3720

(I)(1) No waiver of any applicable privilege or claim of 3721
confidentiality in the notices that are the subject of this 3722
section shall occur as a result of sharing or receiving notices as 3723
authorized in divisions (D)(2), (E), and (G) of this section. 3724

(2) The disclosure of a notice in connection with a 3725
regulatory or legal action pursuant to divisions (D)(3) and (F) of 3726
this section does not prohibit an insurer or any other person from 3727
taking steps to limit the dissemination of the notice to persons 3728

not involved in or the subject of the regulatory or legal action 3729
on the basis of any recognized privilege arising under any other 3730
section of the Revised Code or the common law. 3731

Sec. 4727.18. (A) Except as ~~otherwise~~ provided in ~~this~~ 3732
~~division (C) of this section~~, any information arising from, 3733
obtained by, or contained in an investigation of a person licensed 3734
as a pawnbroker under this chapter performed by the superintendent 3735
of financial institutions is confidential information and is not a 3736
public record under section 149.43 of the Revised Code. ~~The~~ 3737
~~superintendent, however, may share investigation information with~~ 3738
~~a law enforcement agency.~~ 3739

(B) Except as ~~otherwise~~ provided in ~~this~~ division (C) of this 3740
section, any information arising from, obtained by, or contained 3741
in an investigation by the superintendent of any person the 3742
superintendent reasonably suspects has violated or is violating 3743
this chapter is confidential information and not a public record 3744
under section 149.43 of the Revised Code. ~~The superintendent,~~ 3745
~~however, may share investigation information with a law~~ 3746
~~enforcement agency.~~ 3747

(C) Information made confidential by division (A) or (B) of 3748
this section may only be disclosed, discovered, or introduced into 3749
evidence as follows: 3750

(1) To a law enforcement agency; 3751

(2) In connection with criminal proceedings; 3752

(3) In any action taken or litigation by or against the 3753
superintendent in connection with the powers, duties, and 3754
obligations imposed upon the superintendent by this chapter; 3755

(4) When and in the manner authorized in section 1181.25 of 3756
the Revised Code. 3757

Section 2. That existing sections 111.15, 119.01, 1121.01, 3758
1121.11, 1121.18, 1155.01, 1155.091, 1155.16, 1163.01, 1163.121, 3759
1163.20, 1321.09, 1321.55, 1321.76, 1322.06, 1322.061, 1707.092, 3760
1707.11, 1707.12, 1707.141, 1707.15, 1707.151, 1707.161, 1707.17, 3761
1707.20, 1707.40, 1733.01, 1733.32, 1733.327, 1751.19, 3901.36, 3762
3901.44, 3901.48, 3901.70, 3901.83, 3903.11, 3903.72, 3903.83, 3763
3903.88, 3905.492, 3905.50, 3999.36, and 4727.18 of the Revised 3764
Code are hereby repealed. 3765

Section 3. Section 1322.061 of the Revised Code, as enacted 3766
by Am. Sub. S.B. 76 of the 124th General Assembly (effective May 3767
2, 2002), and as amended by this act, shall take effect May 2, 3768
2002. 3769

Section 4. Section 1322.06 of the Revised Code, as amended by 3770
this act, is repealed, effective May 2, 2002. The section is 3771
superseded by section 1322.06 of the Revised Code as it results 3772
from Am. Sub. S.B. 76 of the 124th General Assembly, which is 3773
scheduled to take effect May 2, 2002. 3774