

**As Reported by the Senate Insurance, Commerce and Labor  
Committee**

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

**Sub. S. B. No. 138**

**SENATOR Nein**

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**A B I L L**

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

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

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

Sec. 1121.01. As used in this chapter: 31

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

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

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

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

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

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

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

60

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

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

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

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

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

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

over the banks and trust companies; 83

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

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

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

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



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

than a subsidiary of such association. 269

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

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

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

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

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

the duties imposed by those chapters; 361

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

(1) In connection with criminal proceedings; 411

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

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

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

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

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

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

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

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

**Sec. 1163.01.** As used in this chapter: 436

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

(B) "Independent auditor" means an accountant who is licensed 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 regulator has jurisdiction over a savings bank engaged in that business activity. A savings bank is engaged in a business activity, and a regulator of that business activity has jurisdiction over the savings bank, whether the savings bank conducts the activity directly or a subsidiary or affiliate of the savings bank conducts the activity.

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

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



## As Reported by the Senate Insurance, Commerce and Labor Committee

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

(6) Implement other cooperative arrangements with financial 546

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

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

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

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

(1) In connection with criminal proceedings; 605

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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.

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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



## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

(B) A registrant shall maintain records pertaining to 809  
business transacted pursuant to sections 1322.01 to 1322.12 of the 810  
Revised Code for two years or more after the final entry on such 811  
records. No registrant shall fail to comply with this division. 812

(C)(1) All information obtained by the superintendent or the 813  
superintendent's deputies, examiners, assistants, agents, or 814  
clerks by reason of their official position, including information 815  
obtained by such persons in the course of examining a registrant 816  
or investigating an applicant for a certificate of registration, 817  
is privileged and confidential. All such information shall remain 818  
privileged and confidential for all purposes except when it is 819  
necessary for the superintendent ~~and the superintendent's~~ 820  
~~deputies, examiners, assistants, agents, or clerks~~ to take 821  
official action regarding the affairs of the registrant or in 822  
connection with criminal proceedings. This information may also be 823  
introduced into evidence or disclosed when and in the manner 824  
authorized by section 1181.25 of the Revised Code. 825

(2) All application information, except social security 826

numbers, employer identification numbers, financial account 827  
numbers, the identity of the institution where financial accounts 828  
are maintained, personal financial information, fingerprint cards 829  
and the information contained on such cards, and criminal 830  
background information, is a public record as defined in section 831  
149.43 of the Revised Code. 832

(3) This section does not prevent the division of financial 833  
institutions from releasing to or exchanging with other financial 834  
institution regulatory authorities information relating to 835  
licensees. For this purpose, a "financial institution regulatory 836  
authority" includes a regulator of a business activity in which a 837  
licensee is engaged, or has applied to engage in, to the extent 838  
that the regulator has jurisdiction over a licensee engaged in 839  
that business activity. A licensee is engaged in a business 840  
activity, and a regulator of that business activity has 841  
jurisdiction over the licensee, whether the licensee conducts the 842  
activity directly or a subsidiary or affiliate of the licensee 843  
conducts the activity. 844

(4) This section does not prevent the division from releasing 845  
information relating to licensees to the attorney general for 846  
purposes relating to the attorney general's administration of 847  
Chapter 1345. of the Revised Code. Information the division 848  
releases to the attorney general pursuant to this section remains 849  
privileged and confidential, and the attorney general may not 850  
disclose the information or introduce the information into 851  
evidence unless the superintendent authorizes the disclosure or 852  
introduction into evidence in connection with the attorney 853  
general's administration of Chapter 1345. of the Revised Code. 854

**Sec. 1322.061.** (A)(1) The following information is privileged 856  
and confidential: 857

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

licensee is engaged, or has applied to engage in, to the extent 890  
that the regulator has jurisdiction over a licensee engaged in 891  
that business activity. A licensee is engaged in a business 892  
activity, and a regulator of that business activity has 893  
jurisdiction over the licensee, whether the licensee conducts the 894  
activity directly or a subsidiary or affiliate of the licensee 895  
conducts the activity. 896

(D) This section does not prevent the division from releasing 897  
information relating to licensees to the attorney general for 898  
purposes relating to the attorney general's administration of 899  
Chapter 1345. of the Revised Code. Information the division 900  
releases to the attorney general pursuant to this section remains 901  
privileged and confidential, and the attorney general may not 902  
disclose the information or introduce the information into 903  
evidence unless the superintendent authorizes the disclosure or 904  
introduction into evidence in connection with the attorney 905  
general's administration of Chapter 1345. of the Revised Code. 906

**Sec. 1707.11.** (A) Each person that is not organized under the 908  
laws of this state, that is not licensed under section 1703.03 of 909  
the Revised Code, or that does not have its principal place of 910  
business in this state, shall submit to the division of securities 911  
an irrevocable consent to service of process, as described in 912  
division (B) of this section, in connection with any of the 913  
following: 914

(1) Filings to claim any of the exemptions enumerated in 915  
division (Q), (W), (X), or (Y) of section 1707.03 of the Revised 916  
Code; 917

(2) Applications for registration by description, 918  
qualification, or coordination; 919

(3) Notice filings pursuant to section 1707.092 ~~or 1707.141~~ 920

## As Reported by the Senate Insurance, Commerce and Labor Committee

of the Revised Code;	921
<del>(4) Applications for licensure as a securities dealer under</del>	922
<del>section 1707.15 of the Revised Code;</del>	923
<del>(5) Applications for licensure as an investment adviser under</del>	924
<del>section 1707.151 of the Revised Code.</del>	925
(B) The irrevocable written consent shall be executed and	926
acknowledged by an individual duly authorized to give the consent	927
and shall do all of the following:	928
(1) Designate the secretary of state as agent for service of	929
process or pleadings;	930
(2) State that actions growing out of the sale of such	931
securities, the giving of investment advice, or fraud committed by	932
a person on whose behalf the consent is submitted may be commenced	933
against the person, in the proper court of any county in this	934
state in which a cause of action may arise or in which the	935
plaintiff in the action may reside, by serving on the secretary of	936
state any proper process or pleading authorized by the laws of	937
this state;	938
(3) Stipulate that service of process or pleading on the	939
secretary of state shall be taken in all courts to be as valid and	940
binding as if service had been made upon the person on whose	941
behalf the consent is submitted.	942
(C) Service of any process or pleadings may be made on the	943
secretary of state by duplicate copies, of which one shall be	944
filed in the office of the secretary of state, and the other	945
immediately forwarded by the secretary of state by certified mail	946
to the principal place of business of the person on whose behalf	947
the consent is submitted or to the last known address as shown on	948
the filing made with the division. However, failure to mail such	949
copy does not invalidate the service.	950
(D) Notwithstanding any provision of this chapter, or of any	951

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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



## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

(F) As used in this section:

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

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

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

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

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

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

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

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

(a) Any such charitable organization; 1050

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

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

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

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

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

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

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

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

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

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

(1) The name and address of the applicant;

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

salesperson resigns or is discharged or a new salesperson is added, the dealer shall promptly notify the division. 1133  
1134

~~(F)~~(E) If the division finds that the applicant is of good business repute, appears qualified to act as a dealer in securities, and has fully complied with this chapter and rules adopted under this chapter by the division, the division, upon payment of the fees prescribed by division (B) of section 1707.17 of the Revised Code, shall issue to the applicant a license authorizing the applicant to act as a dealer. 1135  
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**Sec. 1707.151.** (A) Application for an investment adviser's license shall be made in accordance with this section and by filing with the division of securities the information, materials, and forms specified in rules adopted by the division. 1142  
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(B) ~~Each applicant shall file an irrevocable consent to service of process as provided in section 1707.11 of the Revised Code.~~ 1146  
1147  
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~~(E)~~(1) The division may investigate any applicant for a license and may require any additional information as it considers necessary to determine the applicant's business repute and qualifications to act as an investment adviser. 1149  
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(2) If the application for any license involves investigation outside of this state, the applicant may be required by the division to advance sufficient funds to pay any of the actual expenses of the examination. The division shall furnish the applicant with an itemized statement of such expenses that the applicant is required to pay. 1153  
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~~(D)~~(C) The division shall by rule require ~~one~~ a natural person who is a ~~principal, officer, director, general partner, manager, or employee of an applicant for an investment adviser~~ adviser's license to pass an examination designated by the division or achieve a specified professional designation. ~~Each~~ 1159  
1160  
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## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

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

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

investment adviser registered under section 203 of the "Investment  
Advisers Act of 1940," 15 U.S.C. 80b-3, and does not have a place  
of business in this state. 1195  
1196  
1197

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

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

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

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

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

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

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

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



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

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

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

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

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

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

applicant. An itemized statement of any such expenses that the 1256  
applicant is required to pay shall be furnished to the applicant 1257  
by the division. 1258

(E) If the division finds that the applicant is of good 1259  
business repute, appears to be qualified to act as an investment 1260  
adviser representative, and has complied with sections 1707.01 to 1261  
1707.45 of the Revised Code and the rules adopted under those 1262  
sections by the division, the division, upon payment of the fees 1263  
prescribed by division (B) of section 1707.17 of the Revised Code, 1264  
shall issue to the applicant a license authorizing the applicant 1265  
to act as an investment adviser representative for the investment 1266  
adviser, or investment advisers that are under common ownership or 1267  
control, named in the application. 1268

**Sec. 1707.17.** (A)(1) The license of every dealer in and 1269  
salesperson of securities shall expire on the thirty-first day of 1270  
December of each year, and may be renewed upon the filing with the 1271  
division of securities of an application for renewal, and the 1272  
payment of the fee prescribed in this section, ~~between the first~~ 1273  
~~day of November and the fifteenth day of December of each year.~~ 1274  
~~The division may accept an application for renewal filed between~~ 1275  
~~the fifteenth and the thirty-first day of December of each year.~~ 1276  
~~The division also may accept an application for renewal received~~ 1277  
~~by the division not later than the tenth day of January of the~~ 1278  
~~subsequent calendar year, provided that the application for~~ 1279  
~~renewal is accompanied by the license renewal fee and the~~ 1280  
~~additional fee prescribed in division (B) of this section.~~ The 1281  
division shall give notice, without unreasonable delay, of its 1282  
action on any application for renewal of a dealer's or 1283  
salesperson's license. 1284

(2) The license of every investment adviser and investment 1285  
adviser representative licensed under section 1707.141 or 1707.161 1286

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

(B)(1) The fee for each dealer'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 one  
hundred dollars. ~~Upon payment of an additional fee of one half of  
the license renewal fee, the division may accept an application  
for renewal received by the division between the first and tenth  
day of January of the subsequent calendar year. The fee for the  
examination of applicant dealers, when administered by the  
division, shall be seventy-five dollars.~~

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

(C) A dealer's, salesperson's, investment adviser's, or 1351  
investment adviser representative's license may be issued at any 1352  
time for the remainder of the calendar year. In that event, the 1353  
annual fee shall not be reduced. 1354

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

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

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

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

(G) "Person" includes, without limitation, an individual, a corporation, an unincorporated society or association, or any other organization of individuals.	1381 1382 1383
(H) "Articles" includes original articles of incorporation, agreements of merger, amended articles, and amendments to any of these.	1384 1385 1386
(I) "Regulations" includes the code of regulations of a credit union and any amendments thereto or an amended code of regulations and any amendments thereto.	1387 1388 1389
(J) Persons having a "common bond of association" include those persons and their families.	1390 1391
(K) "Membership share" means a share of the credit union, the subscription to which shall be a prerequisite for membership in the credit union.	1392 1393 1394
(L) "Share account" means an account established for a member for which no share certificates are issued but which are included in the registry of shares, which includes all transactions of the credit union pertaining to such shares.	1395 1396 1397 1398
(M) "Undivided earnings" consist of all accumulated net earnings and reserves required under division (B) of section 1733.31 of the Revised Code.	1399 1400 1401
(N) "State" means the United States, any state, territory, insular possession, or other political subdivision of the United States, including the District of Columbia.	1402 1403 1404
(O) An "emergency" exists when an emergency exists for other corporations as the same is defined and described in section 1701.01 of the Revised Code.	1405 1406 1407
(P) "Superintendent of credit unions" means the "division of financial institutions" or the "superintendent of the division of financial institutions of this state"; and whenever the context	1408 1409 1410

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

(2) The deputy superintendent for credit unions shall be the  
principal supervisor of credit unions. In that position the deputy  
superintendent for credit unions shall, notwithstanding division  
(A)(3) of this section, be responsible for conducting examinations  
and preparing examination reports under that division. In  
addition, the deputy superintendent for credit unions shall,  
notwithstanding sections 1733.191, 1733.41, 1733.411, and 1733.412

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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



## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

(F) A report of such examination shall be forwarded to the 1540  
president of each credit union after the completion of the 1541  
examination. Such report may contain comments relative to the 1542  
management of the affairs of the credit union and also as to the 1543  
general condition of its assets. Within thirty days of the receipt 1544  
of such report, a meeting of the directors shall be called to 1545  
consider matters contained in the report, and the president shall 1546  
notify the superintendent of any action taken at such meeting. 1547  
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(G)(1) The superintendent shall furnish reports of 1549  
examinations or other appropriate information to any organization 1550  
referred to in section 1733.041 of the Revised Code when requested 1551  
by such organization and authorized by the credit union. The 1552  
superintendent may charge a fee for such reports and other 1553  
information as may be established by rules adopted by the 1554  
superintendent. 1555

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

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

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

1181.25 of the Revised Code.

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

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

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

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

(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. 1663  
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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. 1670  
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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. 1673  
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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. 1676  
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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. 1681  
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(E) A health insuring corporation may comply with this section and section 1751.83 of the Revised Code by establishing one system for receiving and reviewing complaints and requests for internal review from enrollees and subscribers if the system meets the requirements of both sections. 1686  
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**Sec. 3901.045.** (A) The superintendent of insurance may receive documents and information, including otherwise 1691  
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## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

**Sec. 3901.36. (A)** All information, documents, and copies



## As Reported by the Senate Insurance, Commerce and Labor Committee

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 Revised Code, if the superintendent determines that the interests of policyholders, shareholders, or the public will be served by the disclosure;

(3) Share documents and information 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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

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

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

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

and has authority to do so;

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(2) Disclose documents, reports, and evidence 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.

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(F) Notwithstanding divisions (B), (C), (D), and (E) 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 documents, reports, and evidence received pursuant to division (E)(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 document, report, or evidence and has authority to do so.

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(G) Notwithstanding divisions (B), (C), (D), and (E) of this section, the chief deputy rehabilitator, the chief deputy liquidator, and other deputy rehabilitators and liquidators may disclose documents, reports, and evidence 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.

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(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.

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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.

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## As Reported by the Senate Insurance, Commerce and Labor Committee

(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.

(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.

(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.

**Sec. 3901.48.** (A) The original work papers of a certified public accountant performing an audit of an insurance company or health insuring corporation doing business in this state that is required by rule or by any section of the Revised Code to file an audited financial report with the superintendent of insurance shall remain the property of the certified public accountant. Any copies of these work papers voluntarily given to the superintendent shall be the property of the superintendent. The original work papers or any copies of them, whether in possession of the certified public accountant or the department of insurance, are confidential and privileged and are not a public record as defined in section 149.43 of the Revised Code. The original work papers and any copies of them are not subject to subpoena and

## As Reported by the Senate Insurance, Commerce and Labor Committee

shall not be made public by the superintendent or any other 1913  
 person. ~~However, the original work papers and any copies of them~~ 1914  
~~may be released by the superintendent to the insurance regulatory~~ 1915  
~~authority of any other state if that authority agrees to maintain~~ 1916  
~~the confidentiality of the work papers or copies and if the work~~ 1917  
~~papers and copies are not public records under the laws of that~~ 1918  
~~state.~~ 1919

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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



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

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

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

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

requirements of this section.

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

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

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

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(B) Notwithstanding division (A) of this section, the superintendent may share a record that is the subject of this section in connection with the investigation or prosecution of any illegal or criminal activity with the chief deputy rehabilitator, the chief deputy liquidator, other deputy rehabilitators and liquidators, and any other person employed by, or acting on behalf of, the superintendent pursuant to Chapter 3901. or 3903. of the

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## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

(1) Share the documents and information that are the subject 2132  
of this section with the chief deputy rehabilitator, the chief 2133  
deputy liquidator, other deputy rehabilitators and liquidators, 2134  
and any other person employed by, or acting on behalf of, the 2135  
superintendent pursuant to Chapter 3901. or 3903. of the Revised 2136  
Code, with other local, state, federal, and international 2137  
regulatory and law enforcement agencies, with local, state, and 2138  
federal prosecutors, and with the national association of 2139  
insurance commissioners and its affiliates and subsidiaries, 2140  
provided that the recipient agrees to maintain the confidential or 2141  
privileged status of the confidential or privileged document or 2142  
information and has authority to do so; 2143

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

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

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

As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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



## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

rule, or is otherwise unacceptable to the superintendent, the	2258
superintendent may employ, at the expense of the insurance	2259
company, a qualified actuary to review the opinion and the basis	2260
for the opinion and prepare such supporting memorandum as is	2261
required by the superintendent.	2262
(3) Every opinion required by division (B) of this section is	2263
governed by the following:	2264
(a) The opinion shall be submitted with the annual statement	2265
reflecting the valuation of the reserve liabilities.	2266
(b) The opinion shall apply to all business in force	2267
including individual and group health insurance plans.	2268
(c) The opinion shall be based on standards adopted from time	2269
to time by the actuarial standards board of the American academy	2270
of actuaries and on such additional standards as the	2271
superintendent may prescribe by rule.	2272
(d) In the case of an opinion required to be submitted by a	2273
foreign or alien life insurance company, the superintendent may	2274
accept the opinion filed by that company with the insurance	2275
regulatory authority of another state if the superintendent	2276
determines that the opinion reasonably meets the requirements	2277
applicable to a company domiciled in this state.	2278
(e) Except in cases of fraud or willful misconduct, the	2279
qualified actuary is not liable for damages in any civil action to	2280
any person, other than the insurance company and the	2281
superintendent, for any act, error, omission, decision, or conduct	2282
with respect to the actuary's opinion.	2283
(f) The superintendent shall establish by rule penalties for	2284
an insurance company's or qualified actuary's failure to comply	2285
with this section.	2286
(g) The superintendent shall keep <u>as confidential and</u>	2287

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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



## As Reported by the Senate Insurance, Commerce and Labor Committee

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

and three and one-half per cent interest;	2510
(b) On and after January 1, 1979, or an earlier date, not	2511
before January 1, 1975, specified by the company in a written	2512
notice to the superintendent of its election to use this table,	2513
the 1971 group annuity mortality table, or any modification of	2514
that table approved by the superintendent, and six per cent	2515
interest on and after January 1, 1975, and before January 1, 1979;	2516
seven and one-half per cent interest on and after January 1, 1979,	2517
and before January 1, 1983, and the valuation interest rate as	2518
defined in section 3903.721 of the Revised Code on and after	2519
January 1, 1983. The superintendent may approve the use of any	2520
group annuity mortality table adopted after 1980 by the national	2521
association of insurance commissioners, either as adopted or as	2522
modified by the superintendent, for determining the minimum	2523
standard for the valuation of such contracts.	2524
(5) For total and permanent disability benefits in or	2525
supplementary to ordinary policies and contracts issued:	2526
(a) On and after July 17, 1947, and before January 1, 1961,	2527
the class (3) disability table (1926) and three and one-half per	2528
cent interest. This table, for active lives, shall be combined	2529
with a mortality table permitted for calculating the reserves for	2530
life insurance policies.	2531
(b) On and after January 1, 1961, the tables of period 2	2532
disablement rates and the 1930 to 1950 termination rates of the	2533
1952 disability study of the society of actuaries, with due regard	2534
for the type of benefit; except that a company may, at its option,	2535
use the class (3) disability table (1926) for policies and	2536
contracts issued on and after January 1, 1961, and before January	2537
1, 1966. Any such table, for active lives, shall be combined with	2538
a mortality table permitted for calculating the reserves for life	2539
insurance policies. The interest rate to be used in calculating	2540
minimum reserves for such benefits may not exceed the applicable	2541

## As Reported by the Senate Insurance, Commerce and Labor Committee

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.

## As Reported by the Senate Insurance, Commerce and Labor Committee

(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

## As Reported by the Senate Insurance, Commerce and Labor Committee

greater than the excess. Reserves for such policies before the  
assumed ending date shall be the greater of the amount calculated  
in accordance with division (E) of this section and the reserve  
calculated in accordance with that division but with the following  
changes:

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

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

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

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

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

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

(2) Group annuity and pure endowment contracts purchased  
under a retirement plan or plan of deferred compensation,  
established or maintained by an employer, including a partnership  
or sole proprietorship, or by an employee organization, or by  
both, other than a plan providing individual retirement accounts  
or individual retirement annuities under section 408 of the

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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



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

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

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

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

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

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

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

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

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

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

(2) An RBC plan; 2837

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

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

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

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

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

As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

<u>legal action brought by or on behalf of the superintendent, the</u>	2886
<u>rehabilitator, the liquidator, or the state resulting from the</u>	2887
<u>exercise of the superintendent's official duties in any capacity.</u>	2888
<u>(F) Nothing in this section shall prohibit the superintendent</u>	2889
<u>from receiving plans, reports, information, and orders in</u>	2890
<u>accordance with section 3901.045 of the Revised Code.</u>	2891
<u>(G) The superintendent may enter into agreements governing</u>	2892
<u>the sharing and use of plans, reports, information, and orders</u>	2893
<u>consistent with the requirements of this section.</u>	2894
<u>(H)(1) No waiver of any applicable privilege or claim of</u>	2895
<u>confidentiality in the plans, reports, information, and orders</u>	2896
<u>that are the subject of this section shall occur as a result of</u>	2897
<u>sharing or receiving plans, reports, information, and orders as</u>	2898
<u>authorized in divisions (C)(2), (D), and (F) of this section.</u>	2899
<u>(2) The disclosure of a plan, report, information, or order</u>	2900
<u>in connection with a regulatory or legal action pursuant to</u>	2901
<u>divisions (C)(3) and (E) of this section does not prohibit an</u>	2902
<u>insurer or any other person from taking steps to limit the</u>	2903
<u>dissemination of the plan, report, information, or order to</u>	2904
<u>persons not involved in or the subject of the regulatory or legal</u>	2905
<u>action on the basis of any recognized privilege arising under any</u>	2906
<u>other section of the Revised Code or the common law.</u>	2907
<u>(I) The comparison of an insurer's total adjusted capital to</u>	2908
<u>any of its RBC levels shall not be used to rank insurers.</u>	2909
<u><del>(D)</del>(J) RBC instructions, RBC reports, adjusted RBC reports,</u>	2910
<u>RBC plans, and revised RBC plans, shall not be used by the</u>	2911
<u>superintendent for ratemaking, considered or introduced as</u>	2912
<u>evidence in any rate proceeding, or used by the superintendent to</u>	2913
<u>calculate or derive any elements of an appropriate premium level</u>	2914
<u>or rate of return for any line of insurance that an insurer or any</u>	2915
<u>affiliate is authorized to write.</u>	2916

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

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



## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

(G)(1) No waiver of any applicable privilege or claim of confidentiality in the records and other information that are the subject of this section shall occur as a result of sharing or receiving records or other information as authorized in divisions (C)(1), (D), and (F) of this section. 3012  
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(2) The disclosure of records or other information in connection with a regulatory or legal action pursuant to divisions (C)(2) and (E) of this section does not prohibit an insurer or any other person from taking steps to limit the dissemination of the record or other information to persons not involved in or the subject of the regulatory or legal action on the basis of any recognized privilege arising under any other section of the Revised Code or the common law. 3017  
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(H) Employees or agents of the department of insurance shall not be required by any court in this state to testify in a civil action, if the testimony concerns any matter related to records or other information considered confidential under this section of which they have knowledge. 3025  
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(I) This section does not apply to any complaint or action under section 3905.04 of the Revised Code. 3030  
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**Sec. 3905.50.** (A)(1) Except as provided in division (A)(2) or (3) of this section, this section applies to every contract of agency between a property and casualty insurance company and an independent insurance agent, as defined in division (A) of section 3905.47 of the Revised Code, which has been in effect for not less than two years. 3032  
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(2) This section does not apply to a contract of exclusive employment by, or an exclusive agency contract with, a single insurer or group of insurers under common ownership or control. 3038  
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(3) This section does not apply to an agent whose license has 3041

## As Reported by the Senate Insurance, Commerce and Labor Committee

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 nature covered by a policy;

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

However, during such period, an independent insurance agent may, 3104  
subject to the current underwriting rules, guidelines, commission 3105  
rates, and practices of the insurer, effect any necessary changes 3106  
or endorsements to outstanding policies of insurance that are in 3107  
force prior to the date of termination. 3108

This section does not abridge, restrict, or supersede the 3109  
rights of an agent to the ownership of expirations provided for in 3110  
any contract with an insurer. 3111

(H) Any information or documentation provided to an agent or 3112  
the superintendent by an insurer under this section is 3113  
confidential and shall be used by the superintendent only in the 3114  
exercise of the proper functions authorized by this section. No 3115  
insurer is liable for furnishing information or documentation in 3116  
compliance with this section if the insurer acts without malice 3117  
and in the reasonable belief that such information or 3118  
documentation is warranted by this section. 3119

(I) Notwithstanding division (H) of this section, the 3120  
superintendent may do either of the following: 3121

(1) Share the information or documentation that is the 3122  
subject of this section with the chief deputy rehabilitator, the 3123  
chief deputy liquidator, other deputy rehabilitators and 3124  
liquidators, and any other person employed by, or acting on behalf 3125  
of, the superintendent pursuant to Chapter 3901. or 3903. of the 3126  
Revised Code, with other local, state, federal, and international 3127  
regulatory and law enforcement agencies, with local, state, and 3128  
federal prosecutors, and with the national association of 3129  
insurance commissioners and its affiliates and subsidiaries, 3130  
provided that the recipient agrees to maintain the confidential 3131  
status of the confidential information or documentation and has 3132  
authority to do so; 3133

(2) Disclose any information or documentation that is the 3134

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

<u>receiving information and documentation as authorized in divisions</u>	3166
<u>(I)(1), (J), and (L) of this section.</u>	3167
<u>(2) The disclosure of information or documentation in</u>	3168
<u>connection with a regulatory or legal action pursuant to divisions</u>	3169
<u>(I)(2) and (K) of this section does not prohibit an insurer or any</u>	3170
<u>other person from taking steps to limit the dissemination of the</u>	3171
<u>information or documentation to persons not involved in or the</u>	3172
<u>subject of the regulatory or legal action on the basis of any</u>	3173
<u>recognized privilege arising under any other section of the</u>	3174
<u>Revised Code or the common law.</u>	3175
<b>Sec. 3999.36.</b> (A) As used in this section and sections	3176
3999.37 and 3999.38 of the Revised Code:	3177
(1) "Insurer" means any person that is authorized to engage	3178
in the business of insurance in this state under Title XXXIX of	3179
the Revised Code, any health insuring corporation, or any other	3180
person engaging either directly or indirectly in this state in the	3181
business of insurance or entering into contracts substantially	3182
amounting to insurance under section 3905.42 of the Revised Code.	3183
(2) "Impaired" or "impairment" means a financial situation in	3184
which the insurer's assets are less than the sum of the insurer's	3185
minimum required capital, minimum required surplus, and all	3186
liabilities, as determined in accordance with the requirements for	3187
the preparation and filing of the insurer's annual financial	3188
statement.	3189
(3) "Chief executive officer" means the person, irrespective	3190
of the person's title, designated by the board of directors or	3191
trustees of an insurer as the person charged with the	3192
responsibility of administering and implementing the insurer's	3193
policies and procedures.	3194
(B) Whenever a chief executive officer of an insurer knows or	3195

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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

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

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

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

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



## As Reported by the Senate Insurance, Commerce and Labor Committee

the superintendent may authorize the national association of insurance commissioners and its affiliates and subsidiaries by agreement to share confidential notices received pursuant to division (D)(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 status of the notice and has authority to do so.

(F) Notwithstanding divisions (C) and (D) of this section, the chief deputy rehabilitator, the chief deputy liquidator and other deputy rehabilitators and liquidators may disclose notices 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.

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

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

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

(2) The disclosure of a notice in connection with a regulatory or legal action pursuant to divisions (D)(3) and (F) of this section does not prohibit an insurer or any other person from taking steps to limit the dissemination of the notice 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. 3258

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

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

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

(1) To a law enforcement agency; 3278

(2) In connection with criminal proceedings; 3279

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

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

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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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

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

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