

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

**125th General Assembly
Regular Session
2003-2004**

Sub. H. B. No. 281

**Representatives Martin, McGregor, Kearns, Seitz, Husted, Schaffer, Webster,
Gibbs, Walcher, Carano, G. Smith, Olman, Wolpert, Faber, Hughes, Daniels,
Allen, Barrett, Buehrer, Calvert, Carmichael, Chandler, Collier, DeBose,
DeGeeter, Distel, Domenick, C. Evans, Flowers, Gilb, Grendell, Hagan,
Hartnett, Harwood, Hoops, Jolivette, Kilbane, Latta, Niehaus, Otterman,
S. Patton, Perry, Price, Reidelbach, Schlichter, Schmidt, Setzer, Sferra,
D. Stewart, J. Stewart, Strahorn, Taylor, Ujvagi, Wagner, Widener, Yates**

A B I L L

To amend sections 1739.02, 1739.99, 1751.02, 1751.28,	1
3901.78, 3905.14, and 3999.99 and to enact	2
sections 1739.27 and 3999.18 of the Revised Code	3
to change the assets that are considered to be	4
admitted assets for purposes of meeting the	5
statutory minimum for health insuring	6
corporations, to provide for criminal and	7
financial penalties for persons establishing or	8
operating unlicensed health care insurers and	9
criminal and administrative penalties for agents	10
selling policies of unlicensed insurers, and to	11
amend provisions governing the issuance of	12
certificates of compliance to insurers.	13

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

Section 1. That sections 1739.02, 1739.99, 1751.02, 1751.28,	14
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3901.78, 3905.14, and 3999.99 be amended and sections 1739.27 and 15
3999.18 of the Revised Code be enacted to read as follows: 16

Sec. 1739.02. (A) A trade association, industry association, 17
or professional association that has been organized and maintained 18
in good faith for a continuous period of one year or more for 19
purposes other than obtaining insurance may establish, maintain, 20
or operate a group self-insurance program under a multiple 21
employer welfare arrangement that is chartered and created in this 22
state under sections 1739.01 to 1739.22 of the Revised Code. 23

(B) Except as provided in section 9.833 and sections 1739.01 24
to 1739.22 of the Revised Code, no multiple employer welfare 25
arrangement or other entity by which two or more employers jointly 26
participate in a common employee welfare benefit plan shall 27
operate a group self-insurance program in this state after four 28
months after the effective date of this section. 29

(C) Sections 1739.01 to 1739.22 of the Revised Code do not 30
apply to any entity that establishes, maintains, or operates a 31
fully-insured program. 32

(D) No person shall establish, operate, or maintain a 33
multiple employer welfare arrangement providing benefits through a 34
group self-insurance program in this state unless the multiple 35
employer welfare arrangement has a valid certificate of authority 36
from the superintendent of insurance. 37

Sec. 1739.27. No insurance agent, broker, or other person 38
shall advertise, solicit, negotiate, collect a premium on, or sell 39
any enrollment in, a group self-insurance program in this state, 40
unless the multiple employer welfare arrangement has a valid 41
certificate of authority from the superintendent of insurance. 42

Sec. 1739.99. (A) Whoever violates division (B) of section 43

1739.02 of the Revised Code is guilty of a felony of the fourth degree. 44
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(B) Whoever violates division (D) of section 1739.02 of the Revised Code is guilty of a felony of the fourth degree. 46
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(C) Whoever violates section 1739.27 of the Revised Code is guilty of a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense. 48
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(D) If a person is found guilty under this section, the court may award restitution in accordance with section 2929.18 of the Revised Code. 51
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Sec. 1751.02. (A) Notwithstanding any law in this state to the contrary, any corporation, as defined in section 1751.01 of the Revised Code, may apply to the superintendent of insurance for a certificate of authority to establish and operate a health insuring corporation. If the corporation applying for a certificate of authority is a foreign corporation domiciled in a state without laws similar to those of this chapter, the corporation must form a domestic corporation to apply for, obtain, and maintain a certificate of authority under this chapter. 54
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(B) No person shall establish, operate, or perform the services of a health insuring corporation in this state without obtaining a certificate of authority under this chapter. 63
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(C) Except as provided by division (D) of this section, no political subdivision or department, office, or institution of this state, or corporation formed by or on behalf of any political subdivision or department, office, or institution of this state, shall establish, operate, or perform the services of a health insuring corporation. Nothing in this section shall be construed to preclude a board of county commissioners, a county board of mental retardation and developmental disabilities, an alcohol and 66
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drug addiction services board, a board of alcohol, drug addiction, 74
and mental health services, or a community mental health board, or 75
a public entity formed by or on behalf of any of these boards, 76
from using managed care techniques in carrying out the board's or 77
public entity's duties pursuant to the requirements of Chapters 78
307., 329., 340., and 5126. of the Revised Code. However, no such 79
board or public entity may operate so as to compete in the private 80
sector with health insuring corporations holding certificates of 81
authority under this chapter. 82

(D) A corporation formed by or on behalf of a publicly owned, 83
operated, or funded hospital or health care facility may apply to 84
the superintendent for a certificate of authority under division 85
(A) of this section to establish and operate a health insuring 86
corporation. 87

(E) A health insuring corporation shall operate in this state 88
in compliance with this chapter and Chapter 1753. of the Revised 89
Code, and with sections 3702.51 to 3702.62 of the Revised Code, 90
and shall operate in conformity with its filings with the 91
superintendent under this chapter, including filings made pursuant 92
to sections 1751.03, 1751.11, 1751.12, and 1751.31 of the Revised 93
Code. 94

(F) An insurer licensed under Title XXXIX of the Revised Code 95
need not obtain a certificate of authority as a health insuring 96
corporation to offer an open panel plan as long as the providers 97
and health care facilities participating in the open panel plan 98
receive their compensation directly from the insurer. If the 99
providers and health care facilities participating in the open 100
panel plan receive their compensation from any person other than 101
the insurer, or if the insurer offers a closed panel plan, the 102
insurer must obtain a certificate of authority as a health 103
insuring corporation. 104

(G) An intermediary organization need not obtain a 105

certificate of authority as a health insuring corporation, 106
regardless of the method of reimbursement to the intermediary 107
organization, as long as a health insuring corporation or a 108
self-insured employer maintains the ultimate responsibility to 109
assure delivery of all health care services required by the 110
contract between the health insuring corporation and the 111
subscriber and the laws of this state or between the self-insured 112
employer and its employees. 113

Nothing in this section shall be construed to require any 114
health care facility, provider, health delivery network, or 115
intermediary organization that contracts with a health insuring 116
corporation or self-insured employer, regardless of the method of 117
reimbursement to the health care facility, provider, health 118
delivery network, or intermediary organization, to obtain a 119
certificate of authority as a health insuring corporation under 120
this chapter, unless otherwise provided, in the case of contracts 121
with a self-insured employer, by operation of the "Employee 122
Retirement Income Security Act of 1974," 88 Stat. 829, 29 U.S.C.A. 123
1001, as amended. 124

(H) Any health delivery network doing business in this state, 125
including any health delivery network that is functioning as an 126
intermediary organization doing business in this state, that is 127
not required to obtain a certificate of authority under this 128
chapter shall certify to the superintendent annually, not later 129
than the first day of July, and shall provide a statement signed 130
by the highest ranking official which includes the following 131
information: 132

(1) The health delivery network's full name and the address 133
of its principal place of business; 134

(2) A statement that the health delivery network is not 135
required to obtain a certificate of authority under this chapter 136
to conduct its business. 137

(I) The superintendent shall not issue a certificate of authority to a health insuring corporation that is a provider sponsored organization unless all health care plans to be offered by the health insuring corporation provide basic health care services. Substantially all of the physicians and hospitals with ownership or control of the provider sponsored organization, as defined in division (X) of section 1751.01 of the Revised Code, shall also be participating providers for the provision of basic health care services for health care plans offered by the provider sponsored organization. If a health insuring corporation that is a provider sponsored organization offers health care plans that do not provide basic health care services, the health insuring corporation shall be deemed, for purposes of section 1751.35 of the Revised Code, to have failed to substantially comply with this chapter.

Except as specifically provided in this division and in division ~~(C)~~(A) of section 1751.28 of the Revised Code, the provisions of this chapter shall apply to all health insuring corporations that are provider sponsored organizations in the same manner that these provisions apply to all health insuring corporations that are not provider sponsored organizations.

(J) Nothing in this section shall be construed to apply to any multiple employer welfare arrangement operating pursuant to Chapter 1739. of the Revised Code.

(K) Any person who violates division (B) of this section, and any health delivery network that fails to comply with division (H) of this section, is subject to the penalties set forth in section 1751.45 of the Revised Code.

Sec. 1751.28. (A) ~~As used in this section:~~

~~(1) "Admitted assets" includes the investments authorized by~~

section 1751.25 of the Revised Code, and, in addition to these	168
investments, only the following:	169
(a) Petty cash and other cash funds that are in the health	170
insuring corporation's principal office or any official branch	171
office and that are under the control of the corporation;	172
(b) Immediately withdrawable funds on deposit in demand	173
accounts in a bank or trust company, or similar funds that are	174
actually in the health insuring corporation's principal office or	175
any official branch office at statement date and that are in	176
transit to the bank or trust company with authentic deposit credit	177
given prior to the close of business on the fifth bank business	178
day following the statement date;	179
(c) The amount fairly estimated as recoverable on cash	180
deposited in a bank or trust company the operations of which have	181
been suspended or for which a receiver has been appointed, if	182
qualifying under this section prior to the suspension of	183
operations of or the appointment of a receiver for the bank or	184
trust company;	185
(d) Bills and accounts receivable collateralized by	186
securities of the kind in which the health insuring corporation	187
may invest;	188
(e) Premiums receivable from groups or individuals that are	189
not more than ninety days past due;	190
(f) Accounts receivable that are not more than ninety days	191
past due;	192
(g) Amounts due under reinsurance arrangements from insurance	193
companies authorized to do business in this state;	194
(h) Tax refunds due from the United States or any state;	195
(i) The interest accrued on mortgage loans that conform to	196
section 3925.08 of the Revised Code, not exceeding on an	197

individual loan an aggregate amount of one year's total due and	198
accrued interest;	199
(j) The rents accrued and owing to the health insuring	200
corporation on real and personal property, directly or	201
beneficially owned, not exceeding on each individual property the	202
amount of one year's total due and accrued rent;	203
(k) Interest or rents accrued on conditional sales	204
agreements, security interests, chattel mortgages, and real or	205
personal property under lease to other corporations, that conform	206
to section 3925.08 of the Revised Code, not exceeding on any	207
individual investment the amount of one year's total due and	208
accrued interest or rent;	209
(l) The fixed and required interest due and accrued on bonds	210
and other similar evidences of indebtedness, that conform to	211
section 3925.08 of the Revised Code, and not in default;	212
(m) Dividends receivable on shares of stock that conform to	213
section 3925.08 of the Revised Code, provided that the market	214
price taken for valuation purposes does not include the value of	215
the dividend;	216
(n) The interest or dividends due and payable, but not	217
credited, on deposits in banks and trust companies or on accounts	218
with savings and loan associations;	219
(o) Interest accrued on secured loans that conform to section	220
3925.08 of the Revised Code, not exceeding the amount of one	221
year's interest on any loan;	222
(p) Interest accrued on tax anticipation warrants;	223
(q) The amortized value of electronic computer or data	224
processing machines or systems purchased for use in connection	225
with the business of the health insuring corporation, including	226
software purchased and developed specifically for the use and	227

~~purposes of the corporation;~~ 228

~~(r) The cost of furniture, equipment, and medical equipment, less accumulated depreciation on the furniture and equipment to be applied pro rata over a period not to exceed five years, and of medical and pharmaceutical supplies, that are under the control of the health insuring corporation, provided these assets do not exceed fifteen per cent of admitted assets;~~ 229
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~~(s) Amounts due from affiliates to the extent that the affiliate has liquid assets with which to pay the balance and maintain its accounts on a current basis. Any amount outstanding more than three months shall be considered not current.~~ 235
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~~(2) "Liabilities" means the liabilities of the health insuring corporation as determined by the superintendent of insurance.~~ 239
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~~(B) All admitted assets of a health insuring corporation must be held in the health insuring corporation's name and must be free and clear of any encumbrances, pledges, or hypothecation.~~ 242
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~~(C)(1) Every health insuring corporation authorized to provide basic health care services, which health insuring corporation is not a provider sponsored organization, shall maintain total admitted assets equal to at least one hundred ten per cent of the liabilities of the corporation. However, at no time shall the corporation's net worth be less than one million two hundred thousand dollars.~~ 245
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(2) Every health insuring corporation authorized to provide only supplemental health care services shall maintain total admitted assets equal to at least one hundred ten per cent of the liabilities of the corporation. However, at no time shall the corporation's net worth be less than five hundred thousand dollars. 252
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(3) Every health insuring corporation authorized to provide 258
only specialty health care services shall maintain total admitted 259
assets equal to at least one hundred ten per cent of the 260
liabilities of the corporation. However, at no time shall the 261
corporation's net worth be less than two hundred fifty thousand 262
dollars. 263

(4) Every health insuring corporation authorized to provide 264
both basic health care services and supplemental health care 265
services, which health insuring corporation is not a provider 266
sponsored organization, shall maintain total admitted assets equal 267
to at least one hundred ten per cent of the liabilities of the 268
corporation. However, at no time shall the corporation's net worth 269
be less than one million seven hundred thousand dollars. 270

(5) Every health insuring corporation authorized to provide 271
both basic health care services and specialty health care 272
services, which health insuring corporation is not a provider 273
sponsored organization, shall maintain total admitted assets equal 274
to at least one hundred ten per cent of the liabilities of the 275
corporation. However, at no time shall the corporation's net worth 276
be less than one million four hundred fifty thousand dollars. 277

(6) Every health insuring corporation authorized to provide 278
basic health care services, which health insuring corporation is a 279
provider sponsored organization, shall maintain total admitted 280
assets equal to at least one hundred ten per cent of the 281
liabilities of the corporation. However, at no time shall the 282
corporation's net worth be less than one million dollars. 283

(7) Every health insuring corporation authorized to provide 284
both basic health care services and supplemental health care 285
services, which health insuring corporation is a provider 286
sponsored organization, shall maintain total admitted assets equal 287
to at least one hundred ten per cent of the liabilities of the 288

corporation. However, at no time shall the corporation's net worth 289
be less than one million five hundred thousand dollars. 290

(8) Every health insuring corporation authorized to provide 291
both basic health care services and specialty health care 292
services, which health insuring corporation is a provider 293
sponsored organization, shall maintain total admitted assets equal 294
to at least one hundred ten per cent of the liabilities of the 295
corporation. However, at no time shall the corporation's net worth 296
be less than one million two hundred fifty thousand dollars. 297

~~(D) The admitted value of any real estate owned by a health 298
insuring corporation, whether used for the accommodation of the 299
health insuring corporation's business operations or otherwise, 300
shall be the original cost plus the cost of improvements, less 301
encumbrances and accumulated depreciation. 302~~

~~(E)~~(B) The net worth otherwise required by this section shall 303
be reduced by an amount representing credit given to reserve 304
liabilities when a health insuring corporation carries reinsurance 305
with an admitted reinsurer. However, such an amount shall not 306
affect the minimum amounts set forth in this section and section 307
1751.27 of the Revised Code. 308

(C) A health insuring corporation may only consider those 309
admitted assets in connection with this section that are 310
consistent with the forms, instructions, and manuals for the 311
preparation and reporting of statutory financial statements and 312
other financial information set forth in section 1751.47 of the 313
Revised Code and any rules adopted under that section. 314

(D) All health insuring corporations must comply with this 315
section, as amended, for calendar year 2004 and each calendar year 316
thereafter. 317

Sec. 3901.78. Upon the filing of each of its annual 318

statements, or as soon thereafter as practicable, the 319
superintendent of insurance shall issue to each insurance company 320
or association authorized to do business in this state but not 321
incorporated under the laws of this state a certificate ~~that it~~ 322
~~has complied with the laws of this state.~~ Such certificate of 323
~~compliance shall also contain a statement of the amounts of the~~ 324
~~paid up capital stock, assets, liabilities, income, and~~ 325
~~expenditures of the company or association for the preceding year,~~ 326
~~as shown by its annual statement for that year. The superintendent~~ 327
~~shall issue to each newly applying company or association that the~~ 328
~~superintendent finds should be authorized to do business in this~~ 329
~~state, a certificate that it has complied with the laws of this~~ 330
~~state, which certificate shall contain a statement of the amounts~~ 331
~~of its paid up capital stock, assets, liabilities, income, and~~ 332
~~expenditures as shown by a financial statement submitted by it,~~ 333
~~under the oath of its officers. of compliance, an original of~~ 334
which must be published in accordance with section 3901.781 of the 335
Revised Code in every county where the insurance company or 336
association has an agency. Upon request or in any other 337
circumstance that the superintendent determines to be appropriate, 338
the superintendent may issue other certificates of compliance, 339
which certificates are not subject to section 3901.781 of the 340
Revised Code, to insurance companies and associations authorized 341
to do business in this state. Certificates of compliance either 342
must be on forms established by the national association of 343
insurance commissioners or on such other forms as the 344
superintendent may prescribe. 345

Sec. 3905.14. (A) As used in sections 3905.14 to 3905.16 of 346
the Revised Code: 347

(1) "Insurance agent" includes a limited lines insurance 348
agent, surety bail bond agent, and surplus line broker. 349

(2) "Refusal to issue or renew" means the decision of the superintendent of insurance not to process either the initial application for a license as an agent or the renewal of such a license.

(3) "Revocation" means the permanent termination of all authority to hold any license as an agent in this state.

(4) "Surrender for cause" means the voluntary termination of all authority to hold any license as an agent in this state, in lieu of a revocation or suspension order.

(5) "Suspension" means the termination of all authority to hold any license as an agent in this state, for either a specified period of time or an indefinite period of time and under any terms or conditions determined by the superintendent.

(B) The superintendent may suspend, revoke, or refuse to issue or renew any license of an insurance agent, assess a civil penalty, or impose any other sanction or sanctions authorized under this chapter, for one or more of the following reasons:

(1) Providing incorrect, misleading, incomplete, or materially untrue information in a license or appointment application;

(2) Violating or failing to comply with any insurance law, rule, subpoena, consent agreement, or order of the superintendent or of the insurance authority of another state;

(3) Obtaining or attempting to obtain a license through misrepresentation or fraud;

(4) Improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business;

(5) Intentionally misrepresenting the terms, benefits, value, cost, or effective dates of any actual or proposed insurance

contract or application for insurance;	380
(6) Having been convicted of a felony;	381
(7) Having been convicted of a misdemeanor that involves the misuse or theft of money or property belonging to another, fraud, forgery, dishonest acts, or breach of a fiduciary duty, that is based on any act or omission relating to the business of insurance, securities, or financial services, or that involves moral turpitude;	382 383 384 385 386 387
(8) Having admitted to committing, or having been found to have committed, any insurance unfair trade act or practice or insurance fraud;	388 389 390
(9) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility, in the conduct of business in this state or elsewhere;	391 392 393 394
(10) Having an insurance agent license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;	395 396 397
(11) Forging or causing the forgery of an application for insurance or any document related to or used in an insurance transaction;	398 399 400
(12) Improperly using notes or any other reference material to complete an examination for an insurance agent license;	401 402
(13) Knowingly accepting insurance business from an individual who is not licensed;	403 404
(14) Failing to comply with any administrative or court order directing payment of state income tax;	405 406
(15) Failing to timely submit an application for insurance. For purposes of division (B)(15) of this section, a submission is considered timely if it occurs within the time period expressly	407 408 409

provided for by the insurer, or within seven days after the 410
insurance agent accepts a premium or an order to bind coverage 411
from a policyholder or applicant for insurance, whichever is 412
later. 413

(16) Failing to disclose to an applicant for insurance or 414
policyholder upon accepting a premium or an order to bind coverage 415
from the applicant or policyholder, that the person has not been 416
appointed by the insurer; 417

(17) Having any professional license suspended or revoked as 418
a result of a mishandling of funds or breach of fiduciary 419
responsibilities or having been subject to a cease and desist 420
order or permanent injunction for unlicensed activities; 421

(18) Causing or permitting a policyholder or applicant for 422
insurance to designate the insurance agent or the insurance 423
agent's spouse, parent, child, or sibling as the beneficiary of a 424
policy or annuity sold by the insurance agent, unless the 425
insurance agent or a relative of the insurance agent is the 426
insured or applicant; 427

(19) Failing to provide a written response to the department 428
of insurance within twenty-one calendar days after receipt of any 429
written inquiry from the department, unless a reasonable extension 430
of time has been requested of, and granted by, the superintendent; 431

(20) Transferring or placing insurance with an insurer other 432
than the insurer expressly chosen by the applicant for insurance 433
or policyholder without the consent of the applicant or 434
policyholder or absent extenuating circumstances; 435

(21) Failing to inform a policyholder or applicant for 436
insurance of the identity of the insurer or insurers, or the 437
identity of any other insurance agent or licensee known to be 438
involved in procuring, placing, or continuing the insurance for 439
the policyholder or applicant, upon the binding of the coverage; 440

(22) In the case of an agent that is a business entity, 441
failing to report an individual licensee's violation to the 442
department when the violation was known or should have been known 443
by one or more of the partners, officers, managers, or members of 444
the business entity; 445

(23) Submitting or using a document in the conduct of the 446
business of insurance when the person knew or should have known 447
that the document contained the forged signature of another 448
person; 449

(24) Misrepresenting the person's qualifications or using in 450
any way a professional designation that has not been conferred 451
upon the person by the appropriate accrediting organization; 452

(25) Obtaining a premium loan or causing a premium loan to be 453
made to or in the name of an insured without that person's 454
knowledge and written authorization; 455

(26) Using paper, software, or any other materials of or 456
provided by an insurer after the insurer has terminated the 457
authority of the licensee, if the use of such materials would 458
cause a reasonable person to believe that the licensee was acting 459
on behalf of or otherwise representing the insurer; 460

(27) Soliciting, procuring an application for, or placing, 461
either directly or indirectly, any insurance policy when the 462
person is not authorized under this chapter to engage in such 463
activity; 464

(28) Soliciting, marketing, or selling any product or service 465
that offers benefits similar to insurance but is not regulated by 466
the superintendent, without fully disclosing to the prospective 467
purchaser that the product or service is not insurance and is not 468
regulated by the superintendent; 469

(29) Failing to fulfill a refund obligation to a policyholder 470

or applicant in a timely manner. For purposes of division (B)(29) 471
of this section, a rebuttable presumption exists that a refund 472
obligation is not fulfilled in a timely manner unless it is 473
fulfilled within one of the following time periods: 474

(a) Thirty days after the date the policyholder, applicant, 475
or insurer takes or requests action resulting in a refund; 476

(b) Thirty days after the date of the insurer's refund check, 477
if the agent is expected to issue a portion of the total refund; 478

(c) Forty-five days after the date of the agent's statement 479
of account on which the refund first appears. 480

The presumption may be rebutted by proof that the 481
policyholder or applicant consented to the delay or agreed to 482
permit the agent to apply the refund to amounts due for other 483
coverages. 484

(30) With respect to a surety bail bond agent license, 485
rebating or offering to rebate, or unlawfully dividing or offering 486
to divide, any commission; 487

(31) Using a license for the principal purpose of procuring, 488
receiving, or forwarding applications for insurance of any kind, 489
other than life, or soliciting, placing, or effecting such 490
insurance directly or indirectly upon or in connection with the 491
property of the licensee or that of relatives, employers, 492
employees, or that for which they or the licensee is an agent, 493
custodian, vendor, bailee, trustee, or payee; 494

(32) In the case of an insurance agent that is a business 495
entity, using a life license for the principal purpose of 496
soliciting or placing insurance on the lives of the business 497
entity's officers, employees, or shareholders, or on the lives of 498
relatives of such officers, employees, or shareholders, or on the 499
lives of persons for whom they, their relatives, or the business 500
entity is agent, custodian, vendor, bailee, trustee, or payee; 501

(33) Offering ~~within this state, in person or by~~ 502
~~advertisement, poster, letter, circular, or otherwise, to sell,~~ 503
~~procure, or obtain, selling, soliciting, or negotiating~~ policies, 504
contracts, agreements, or applications for life insurance, or 505
annuities providing fixed, variable, or fixed and variable 506
benefits, or contractual payments, ~~or any form of sickness and~~ 507
~~accident insurance~~, for or on behalf of any life insurance 508
~~corporation, association, or organization, or mutual protective or~~ 509
~~mutual benefit association or organization,~~ insurer or multiple 510
employer welfare arrangement not authorized to transact business 511
in this state, or for or on behalf of any spurious, fictitious, 512
nonexistent, dissolved, inactive, liquidated or liquidating, or 513
bankrupt ~~life insurance corporation, association, or organization,~~ 514
~~or mutual protective or mutual benefit association or organization~~ 515
insurer or multiple employer welfare arrangement. 516

(C) Before denying, revoking, suspending, or refusing to 517
issue any license or imposing any penalty under this section, the 518
superintendent shall provide the licensee or applicant with notice 519
and an opportunity for hearing as provided in Chapter 119. of the 520
Revised Code, except as follows: 521

(1)(a) Any notice of opportunity for hearing, the hearing 522
officer's findings and recommendations, or the superintendent's 523
order shall be served by certified mail at the last known address 524
of the licensee or applicant. Service shall be evidenced by return 525
receipt signed by any person. 526

For purposes of this section, the "last known address" is the 527
residential address of a licensee or applicant, or the 528
principal-place-of-business address of a business entity, that is 529
contained in the licensing records of the department. 530

(b) If the certified mail envelope is returned with an 531
endorsement showing that service was refused, or that the envelope 532

was unclaimed, the notice and all subsequent notices required by 533
Chapter 119. of the Revised Code may be served by ordinary mail to 534
the last known address of the licensee or applicant. The mailing 535
shall be evidenced by a certificate of mailing. Service is deemed 536
complete as of the date of such certificate provided that the 537
ordinary mail envelope is not returned by the postal authorities 538
with an endorsement showing failure of delivery. The time period 539
in which to request a hearing, as provided in Chapter 119. of the 540
Revised Code, begins to run on the date of mailing. 541

(c) If service by ordinary mail fails, the superintendent may 542
cause a summary of the substantive provisions of the notice to be 543
published once a week for three consecutive weeks in a newspaper 544
of general circulation in the county where the last known place of 545
residence or business of the party is located. The notice is 546
considered served on the date of the third publication. 547

(d) Any notice required to be served under Chapter 119. of 548
the Revised Code shall also be served upon the party's attorney by 549
ordinary mail if the attorney has entered an appearance in the 550
matter. 551

(e) The superintendent may, at any time, perfect service on a 552
party by personal delivery of the notice by an employee of the 553
department. 554

(f) Notices regarding the scheduling of hearings and all 555
other matters not described in division (C)(1)(a) of this section 556
shall be sent by ordinary mail to the party and to the party's 557
attorney. 558

(2) Any subpoena for the appearance of a witness or the 559
production of documents or other evidence at a hearing, or for the 560
purpose of taking testimony for use at a hearing, shall be served 561
by certified mail, return receipt requested, by an attorney or by 562
an employee of the department designated by the superintendent. 563

Such subpoenas shall be enforced in the manner provided in section 564
119.09 of the Revised Code. Nothing in this section shall be 565
construed as limiting the superintendent's other statutory powers 566
to issue subpoenas. 567

(D) If the superintendent determines that a violation 568
described in this section has occurred, the superintendent may 569
take one or more of the following actions: 570

(1) Assess a civil penalty in an amount not exceeding 571
twenty-five thousand dollars per violation; 572

(2) Assess administrative costs to cover the expenses 573
incurred by the department in the administrative action, including 574
costs incurred in the investigation and hearing processes. Any 575
costs collected shall be paid into the state treasury to the 576
credit of the department of insurance operating fund created in 577
section 3901.021 of the Revised Code. 578

(3) Suspend all of the person's licenses for all lines of 579
insurance for either a specified period of time or an indefinite 580
period of time and under such terms and conditions as the 581
superintendent may determine; 582

(4) Permanently revoke all of the person's licenses for all 583
lines of insurance; 584

(5) Refuse to issue a license; 585

(6) Refuse to renew a license; 586

(7) Prohibit the person from being employed in any capacity 587
in the business of insurance and from having any financial 588
interest in any insurance agency, company, surety bail bond 589
business, or third-party administrator in this state. The 590
superintendent may, in the superintendent's discretion, determine 591
the nature, conditions, and duration of such restrictions. 592

(8) Order corrective actions in lieu of or in addition to the 593

other penalties listed in division (D) of this section. Such an 594
order may provide for the suspension of civil penalties, license 595
revocation, license suspension, or refusal to issue or renew a 596
license if the licensee complies with the terms and conditions of 597
the corrective action order. 598

(9) Accept a surrender for cause offered by the licensee, 599
which shall be for at least five years and shall prohibit the 600
licensee from seeking any license authorized under this chapter 601
during that time period. A surrender for cause shall be in lieu of 602
revocation or suspension and may include a corrective action order 603
as provided in division (D)(8) of this section. 604

(E) The superintendent may consider the following factors in 605
denying a license, imposing suspensions, revocations, fines, or 606
other penalties, and issuing orders under this section: 607

(1) Whether the person acted in good faith; 608

(2) Whether the person made restitution for any pecuniary 609
losses suffered by other persons as a result of the person's 610
actions; 611

(3) The actual harm or potential for harm to others; 612

(4) The degree of trust placed in the person by, and the 613
vulnerability of, persons who were or could have been adversely 614
affected by the person's actions; 615

(5) Whether the person was the subject of any previous 616
administrative actions by the superintendent; 617

(6) The number of individuals adversely affected by the 618
person's acts or omissions; 619

(7) Whether the person voluntarily reported the violation, 620
and the extent of the person's cooperation and acceptance of 621
responsibility; 622

(8) Whether the person obstructed or impeded, or attempted to 623

obstruct or impede, the superintendent's investigation; 624

(9) The person's efforts to conceal the misconduct; 625

(10) Remedial efforts to prevent future violations; 626

(11) If the person was convicted of a criminal offense, the 627
nature of the offense, whether the conviction was based on acts or 628
omissions taken under any professional license, whether the 629
offense involved the breach of a fiduciary duty, the amount of 630
time that has passed, and the person's activities subsequent to 631
the conviction; 632

(12) Such other factors as the superintendent determines to 633
be appropriate under the circumstances. 634

(F)(1) A violation described in division (B)(1), (2), (3), 635
(4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (16), 636
(17), (18), (20), (21), (22), (23), (24), (25), (26), (27), (28), 637
(29), (30), (31), (32), or (33) of this section is a class A 638
offense for which the superintendent may impose any penalty set 639
forth in division (D) of this section. 640

(2) A violation described in division (B)(15) or (19) of this 641
section, or a failure to comply with section 3905.061, 3905.071, 642
or 3905.22 of the Revised Code, is a class B offense for which the 643
superintendent may impose any penalty set forth in division 644
(D)(1), (2), (8), or (9) of this section. 645

(3) If the superintendent determines that a violation 646
described in division (B)(33) of this section has occurred, the 647
superintendent shall impose a minimum of a two-year suspension on 648
all of the person's licenses for all lines of insurance. 649

(G) If a violation described in this section has caused, is 650
causing, or is about to cause substantial and material harm, the 651
superintendent may issue an order requiring that person to cease 652
and desist from engaging in the violation. Notice of the order 653

shall be mailed by certified mail, return receipt requested, or 654
served in any other manner provided for in this section, 655
immediately after its issuance to the person subject to the order 656
and to all persons known to be involved in the violation. The 657
superintendent may thereafter publicize or otherwise make known to 658
all interested parties that the order has been issued. 659

The notice shall specify the particular act, omission, 660
practice, or transaction that is subject to the cease-and-desist 661
order and shall set a date, not more than fifteen days after the 662
date of the order, for a hearing on the continuation or revocation 663
of the order. The person shall comply with the order immediately 664
upon receipt of notice of the order. 665

The superintendent may, upon the application of a party and 666
for good cause shown, continue the hearing. Chapter 119. of the 667
Revised Code applies to such hearings to the extent that that 668
chapter does not conflict with the procedures set forth in this 669
section. The superintendent shall, within fifteen days after 670
objections are submitted to the hearing officer's report and 671
recommendation, issue a final order either confirming or revoking 672
the cease-and-desist order. The final order may be appealed as 673
provided under section 119.12 of the Revised Code. 674

The remedy under this division is cumulative and concurrent 675
with the other remedies available under this section. 676

(H) If the superintendent has reasonable cause to believe 677
that an order issued under this section has been violated in whole 678
or in part, the superintendent may request the attorney general to 679
commence and prosecute any appropriate action or proceeding in the 680
name of the state against such person. 681

The court may, in an action brought pursuant to this 682
division, impose any of the following: 683

(1) For each violation, a civil penalty of not more than 684

twenty-five thousand dollars;	685
(2) Injunctive relief;	686
(3) Restitution;	687
(4) Any other appropriate relief.	688
(I) With respect to a surety bail bond agent license:	689
(1) Upon the suspension or revocation of a license, or the eligibility of a surety bail bond agent to hold a license, the superintendent likewise may suspend or revoke the license or eligibility of any surety bail bond agent who is employed by or associated with that agent and who knowingly was a party to the act that resulted in the suspension or revocation.	690 691 692 693 694 695
(2) The superintendent may revoke a license as a surety bail bond agent if the licensee is adjudged bankrupt.	696 697
(J) Nothing in this section shall be construed to create or imply a private cause of action against an agent or insurer.	698 699
<u>Sec. 3999.18.</u> (A) <u>No person shall establish, operate, or maintain any entity that delivers, issues for delivery, or renews any policy of sickness and accident insurance or contract for health care services in this state if the entity is required to, but does not, have a valid certificate of authority under Chapter 1751. or Title XXXIX of the Revised Code.</u>	700 701 702 703 704 705
<u>(B) No insurance agent, broker, or other person shall advertise, solicit, negotiate, collect a premium on, or sell any policy of sickness and accident insurance or contract for health care services in this state unless the entity that delivers, issues for delivery, or renews the policy or contract is subject to and has complied with division (A) of this section.</u>	706 707 708 709 710 711
Sec. 3999.99. (A) Whoever violates section 3999.02 of the Revised Code is guilty of a misdemeanor of the second degree.	712 713

(B) Whoever violates section 3999.03, 3999.07, 3999.13, 714
3999.14, or 3999.15 of the Revised Code is guilty of a misdemeanor 715
of the first degree. 716

(C) Whoever violates section 3999.04, 3999.05, 3999.08, or 717
3999.09 of the Revised Code is guilty of a misdemeanor of the 718
fourth degree. 719

(D) Whoever violates section 3999.10 or 3999.11 of the 720
Revised Code shall be fined five hundred dollars for a first 721
offense and shall be fined one thousand dollars for each 722
subsequent offense. 723

(E) Whoever violates section 3999.12 of the Revised Code 724
shall be fined not less than ten nor more than one thousand 725
dollars. 726

(F) Whoever violates division (F) of section 3999.32, 727
division (B) of section 3999.36, or section 3999.37 or 3999.38 of 728
the Revised Code is guilty of a felony of the fourth degree. 729

(G) Whoever violates division (A) of section 3999.18 of the 730
Revised Code is guilty of a felony of the fourth degree. 731

(H) Whoever violates division (B) of section 3999.18 of the 732
Revised Code is guilty of a misdemeanor of the first degree on a 733
first offense and a felony of the fifth degree on each subsequent 734
offense. 735

(I) If a person is found guilty under this section, the court 736
may award restitution in accordance with section 2929.18 of the 737
Revised Code. 738

Section 2. That existing sections 1739.02, 1739.99, 1751.02, 739
1751.28, 3901.78, 3905.14, and 3999.99 of the Revised Code are 740
hereby repealed. 741