

AN ACT

To amend sections 3901.211, 3905.40, 3905.401, 3929.302, 3929.50, 3929.51, 3929.52, 3929.56, 3929.58, 3929.59, 3951.01, 3951.05, 3951.06, and 5733.39, to enact new section 3951.09 and section 3905.901, and to repeal section 3951.09 of the Revised Code to remove current limits on mine subsidence coverage, to increase the cap on the amount of reinsurance coverage that the mine subsidence underwriting association may offer, to end the annual distribution of excess moneys in the mine subsidence insurance fund to policyholders, to permit a representative to be elected to the mine insurance governing board without a meeting of the members, to specify the Ohio counties in which mine subsidence insurance must be offered in connection with property and homeowners insurance, to extend the tax credit for using Ohio coal to generate electricity and reduce the per-ton credit amount, to clarify the Department of Insurance's authority to impose annual valuation fees, to permit the Superintendent of Insurance to waive the examination requirement for public insurance adjusters licensed in another state and to license nonresident lending institutions and their employees as public insurance adjusters, to provide for a summary of information on medical claims reported by attorneys, to calculate direct written premiums of bail bond insurers, and to restrict the amount of homeowners insurance coverage that can be required by lenders.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 3901.211, 3905.40, 3905.401, 3929.302, 3929.50, 3929.51, 3929.52, 3929.56, 3929.58, 3929.59, 3951.01, 3951.05, 3951.06, and 5733.39 be amended and new section 3951.09 and section 3905.901 of the Revised Code be enacted to read as follows:

Sec. 3901.211. (A)(1) No person may require as a condition precedent to the lending of money or the extension of credit, or any renewal thereof, that the person to whom such money or credit is extended or whose obligation a creditor is to acquire or finance, negotiate any policy or renewal thereof through a particular insurer or group of insurers or agent or group of agents.

(2) No person may reject an insurance policy solely because the policy has been issued or underwritten by a person that is not associated with the person, or an affiliate of the person, rejecting the policy.

(B) No person that lends money or extends credit may do any of the following:

(1) As a condition for extending credit or offering any product or service that is equivalent to an extension of credit, require that a customer obtain insurance from a depository institution or an affiliate of a depository institution, or from a particular insurer, agent, or other person. However, this provision does not prohibit a person from informing a customer or prospective customer that insurance is required in order to obtain a loan or credit, that loan or credit approval is contingent upon the procurement by the customer of acceptable insurance, or that insurance is available from the person or an affiliate of that person.

(2) Unreasonably reject a policy furnished by the customer or borrower for the protection of the property securing the credit or lien. A rejection shall not be deemed unreasonable if it is based on reasonable standards, uniformly applied. Such standards may include, but are not limited to, standards relating to the extent of coverage required and the financial soundness and services of an insurer. Such standards shall not discriminate against any particular type of insurer, nor shall such standards call for the rejection of a policy because it contains coverage in addition to that required in the credit transaction.

(3) Require that any customer, borrower, mortgagor, purchaser, insurer, broker, or agent pay a separate charge in connection with the handling of any policy required as security for a loan on real estate or pay a separate charge to substitute the policy of one insurer for that of another. Division (B)(3) of this section does not apply to the interest that may be charged on

premium loans or premium advancements in accordance with the terms of the loan or credit document. Division (B)(3) of this section does not apply to required charges when the person or an affiliate of that person is the licensed agent providing the insurance.

(4) Require any procedures or conditions of duly licensed agents or insurers not customarily required of the agents or insurers affiliated, or in any way connected, with the person that lends money or extends credit;

(5) Use an advertisement or other insurance promotional material that would cause a reasonable person to mistakenly believe that the federal government or the state is responsible for the insurance sales activity of, or stands behind the credit of, the person, depository institution, or an affiliate of the person or depository institution;

(6) Use an advertisement or other insurance promotional material that would cause a reasonable person to mistakenly believe that the federal government or the state guarantees any return on insurance products or is a source of payment on any insurance obligation of or sold by the person or an affiliate of the person;

(7) Pay or receive any commission, brokerage fee, or other compensation as an agent, unless the person holds a valid agent's license for the applicable class of insurance. However, an unlicensed person may make a referral to a licensed agent, provided that the person does not discuss specific insurance policy terms and conditions. The unlicensed person may be compensated for the referral; however, in the case of a referral of a customer, the unlicensed person may be compensated only if the compensation is a fixed dollar amount for each referral that does not depend on whether the customer purchases the insurance product from the licensed agent. Further, any person that accepts deposits from the public in an area where such transactions are routinely conducted in the depository institution may receive for each customer referral no more than a one-time, nominal fee of a fixed dollar amount that does not depend on whether the referral results in a transaction.

(8) Solicit or sell insurance, other than credit insurance or flood insurance, unless the solicitation or sale is completed through documents separate from any credit transactions;

(9) Include the expense of insurance premiums, other than credit insurance premiums or flood insurance premiums, in the primary credit transaction without the express written consent of the customer;

(10) As a condition of financing a residential mortgage or providing other financing arrangements for residential property, including a mobile or manufactured home, require a mortgagor or borrower to purchase

homeowners insurance coverage or other residential property insurance coverage in an amount that exceeds the replacement value of the dwelling and its contents, regardless of the amount of mortgage or other financing arrangement entered into by the mortgagor or borrower. The fair market value of the land on which the dwelling is located shall not be included in the replacement value of the dwelling and its contents.

(C)(1) If an application for a loan or extension of credit is pending before a person that lends money or extends credit and that also solicits insurance primarily for personal, family, or household purposes in connection with that loan or extension of credit, that person shall disclose to the customer, in writing, that the insurance related to the credit extension may be purchased from an insurer or agent of the customer's choice, subject only to the lender's right to reject a given insurer or agent as provided in division (B)(2) of this section. Further, the disclosure shall inform the customer that the customer's choice of an insurer or agent will not affect the credit decision or credit terms in any way, except that the person lending money or extending credit may impose reasonable requirements as provided in division (B)(2) of this section.

(2) If an application for a loan or extension of credit is pending before a person that lends money or extends credit and that also solicits insurance primarily for personal, family, or household purposes in connection with that loan or extension of credit, that person shall obtain a written acknowledgement of the receipt of the disclosure at the time the customer receives the disclosure or at the time of the initial purchase of the insurance policy. If the solicitation is conducted by telephone, the person shall obtain an oral acknowledgement of receipt of the disclosure, maintain sufficient documentation to show that the acknowledgement was given by the customer, and make reasonable efforts to obtain a written acknowledgement from the customer. If a customer affirmatively consents to receiving the disclosures electronically and the disclosures are provided in a format that the customer may retain or obtain later, the person may provide the disclosure and obtain acknowledgement of the receipt of the disclosure from the customer using electronic media.

(3) This division does not apply to the offering or sale of limited line credit insurance as defined in section 3905.01 of the Revised Code.

(D)(1) A depository institution that solicits, sells, advertises, or offers insurance, and any person that solicits, sells, advertises, or offers insurance on behalf of a depository institution or on the premises of a depository institution, shall disclose to the customer in writing, where practicable and in a clear and conspicuous manner, prior to a sale, that the insurance:

- (a) Is not a deposit;
- (b) Is not insured by the federal deposit insurance corporation or any other federal government agency;
- (c) Is not guaranteed by the depository institution, and, when applicable, that the insurance is not guaranteed by an affiliate of the depository institution or by any person that is soliciting, selling, advertising, or offering insurance;
- (d) Involves investment risk including the possible loss of value, where this disclosure is appropriate.

(2) A depository institution that solicits, sells, advertises, or offers insurance, and any person that solicits, sells, advertises, or offers insurance on behalf of a depository institution or on the premises of a depository institution, shall obtain written acknowledgement of the receipt of the disclosure from the customer at the time the customer receives the disclosure or at the time of the initial purchase of the insurance policy. If the solicitation is conducted by telephone, the person or depository institution shall obtain an oral acknowledgement of receipt of the disclosure, maintain sufficient documentation to show that the acknowledgement was given by the customer, and make reasonable efforts to obtain a written acknowledgement from the customer. If a customer affirmatively consents to receiving the disclosures electronically and the disclosures are provided in a format that the customer may retain or obtain later, the person or depository institution may provide the disclosure and obtain acknowledgement of the receipt of the disclosure from the customer using electronic media.

(3) For purposes of divisions (D)(1) and (2) of this section, an affiliate of a depository institution is subject to these requirements only to the extent that it sells, solicits, advertises, or offers insurance products or annuities at an office of a depository institution or on behalf of a depository institution. These requirements apply only when an individual purchases, applies to purchase, or is solicited to purchase insurance products or annuities primarily for personal, family, or household purposes and only to the extent that a disclosure would be accurate.

(4) For purposes of division (D)(1) of this section, a person is selling, soliciting, advertising, or offering insurance on behalf of a depository institution, whether at an office of the depository institution or another location, if at least one of the following applies:

- (a) The person represents to the customer that the sale, solicitation, advertisement, or offer of insurance is by or on behalf of the depository institution;

(b) The depository institution refers a customer to the person that sells insurance and the depository institution has a contractual arrangement to receive commissions or fees derived from the sale of insurance resulting from the referral;

(c) Documents evidencing the sale, solicitation, advertisement, or offer of insurance identify or refer to the depository institution.

(E) Nothing in this section shall prevent a person that lends money or extends credit from placing insurance on real or personal property in the event the mortgagor, borrower, or purchaser has failed to provide required insurance in accordance with the terms of the loan or credit document.

(F)(1) A violation of this section is an unfair and deceptive act or practice in the business of insurance under sections 3901.19 to 3901.26 of the Revised Code.

(2) Any person subject to this section shall, upon reasonable notice, make available to the superintendent of insurance all books and records relating to insurance transactions.

Sec. 3905.40. There shall be paid to the superintendent of insurance the following fees:

(A) Each insurance company doing business in this state shall pay:

(1) For filing a copy of its charter or deed of settlement, two hundred fifty dollars;

(2) For filing each statement, twenty-five dollars;

(3) For each certificate of authority or license, and certified copy thereof, five dollars;

(4) For each copy of a paper filed in the superintendent's office, twenty cents per page;

(5) For issuing certificates of deposits or certified copies thereof, five dollars for the first certificate or copy and one dollar for each additional certificate or copy;

(6) For issuing certificates of compliance or certified copies thereof, twenty dollars;

(7) For affixing the seal of office and certifying documents, other than those enumerated herein, two dollars.

(B) Each domestic life insurance company doing business in this state shall pay for annual valuation of its policies, one cent on every one thousand dollars of insurance.

(C) Each foreign insurance company doing business in this state shall pay for making and forwarding annually, semiannually, and quarterly the interest checks and coupons accruing upon bonds and securities deposited, fifty dollars each year on each one hundred thousand dollars deposited.

(D) Each applicant for licensure as an insurance agent shall pay ten dollars before admission to any examination required by the superintendent. Such fee shall not be paid by the appointing insurance company.

(E) Each domestic mutual life insurance company shall pay for verifying that any amendment to its articles of incorporation was regularly adopted, two hundred fifty dollars with each application for verification. Any such amendment shall be considered to have been regularly adopted when approved by the affirmative vote of two-thirds of the policyholders present in person or by proxy at any annual meeting of policyholders or at a special meeting of policyholders called for that purpose.

Sec. 3905.401. The valuation fee specified in division (B) of section 3905.40 of the Revised Code does not apply to reinsurance ceded to affiliated domestic companies.

Sec. 3905.901. (A) As used in the annual statement of condition filed by a bail bond insurer with the department of insurance pursuant to section 3929.30 of the Revised Code, the direct written premiums for bail bonds written by an insurer shall be determined as the gross bail bond premiums less any amounts retained by surety bail bond agents. Notwithstanding the foregoing, the direct written premiums reported for bail bonds shall not be less than six and one-half per cent of the gross bail bond premiums received by the insurer's agents.

(B) Every bail bond insurer shall include the following information with the insurer's annual statement of condition filed with the department of insurance pursuant to section 3929.30 of the Revised Code:

(1) Bail bond premiums written prior to deducting the amounts retained by surety bail bond agents;

(2) Amounts withheld by surety bail bond agents as an expense, not reported as an expense by the insurer.

Sec. 3929.302. (A) The superintendent of insurance, by rule adopted in accordance with Chapter 119. of the Revised Code, shall require each authorized insurer, surplus lines insurer, risk retention group, self-insurer, captive insurer, the medical liability underwriting association if created under section 3929.63 of the Revised Code, and any other entity that provides medical malpractice insurance to risks located in this state, to report information to the department of insurance at least annually regarding any medical, dental, optometric, or chiropractic claim asserted against a risk located in this state, if the claim resulted in any of the following results:

(1) A final judgment in any amount;

(2) A settlement in any amount;

(3) A final disposition of the claim resulting in no indemnity payment

on behalf of the insured.

(B) The report required by division (A) of this section shall contain such information as the superintendent prescribes by rule adopted in accordance with Chapter 119. of the Revised Code, including, but not limited to, the following information:

- (1) The name, address, and specialty coverage of the insured;
- (2) The insured's policy number;
- (3) The date of the occurrence that created the claim;
- (4) The name and address of the injured person;
- (5) The date and amount of the judgment, if any, including a description of the portion of the judgment that represents economic loss, noneconomic loss and, if applicable, punitive damages;
- (6) In the case of a settlement, the date and amount of the settlement;
- (7) Any allocated loss adjustment expenses;
- (8) Any other information required by the superintendent pursuant to rules adopted in accordance with Chapter 119. of the Revised Code.

(C) The superintendent may prescribe the format and the manner in which the information described in division (B) of this section is reported. The superintendent may, by rule adopted in accordance with Chapter 119. of the Revised Code, prescribe the frequency that the information described in division (B) of this section is reported.

(D) The superintendent may designate one or more rating organizations licensed pursuant to section 3937.05 of the Revised Code or other agencies to assist the superintendent in gathering the information, and making compilations thereof, required by this section.

(E) There shall be no liability on the part of, and no cause of action of any nature shall arise against, any person or entity reporting under this section or its agents or employees, or the department of insurance or its employees, for any action taken that is authorized under this section.

(F) The superintendent may impose a fine not to exceed five hundred dollars against any person designated in division (A) of this section that fails to timely submit the report required under this section. Fines imposed under this section shall be paid into the state treasury to the credit of the department of insurance operating fund created under section 3901.021 of the Revised Code.

(G) Except as specifically provided in division (H) of this section, the information required by this section shall be confidential and privileged and is not a public record as defined in section 149.43 of the Revised Code. The information provided under this section is not subject to discovery or subpoena and shall not be made public by the superintendent or any other

person.

(H) The department of insurance shall prepare an annual report that summarizes the closed claims reported under this section. The annual report shall summarize the closed claim reports on a statewide basis, and also by specialty and geographic region. Individual claims data shall not be released in the annual report. Copies of the report shall be provided to the members of the general assembly.

(I)(1) Except as specifically provided in division (I)(2) of this section, any information submitted to the department of insurance by an attorney, law firm, or legal professional association pursuant to rules promulgated by the Ohio supreme court shall be confidential and privileged and is not a public record as defined in section 149.43 of the Revised Code. The information submitted is not subject to discovery or subpoena and shall not be made public by the department of insurance or any other person.

(2) The department of insurance shall summarize the information submitted by attorneys, law firms, and legal professional associations and include the information in the annual report required by division (H) of this section. Individual claims data shall not be released in the annual report.

(J) As used in this section, medical, dental, optometric, and chiropractic claims include those claims asserted against a risk located in this state that either:

(1) Meet the definition of a "medical claim," "dental claim," "optometric claim," or "chiropractic claim" under section 2305.113 of the Revised Code;

(2) Have not been asserted in any civil action, but that otherwise meet the definition of a "medical claim," "dental claim," "optometric claim," or "chiropractic claim" under section 2305.113 of the Revised Code.

Sec. 3929.50. As used in sections 3929.50 to 3929.61 of the Revised Code:

(A) "Mine subsidence" means loss caused by the collapse or lateral or vertical movement of structures resulting from the caving in of underground mines, including coal mines, clay mines, limestone mines, and salt mines. "Mine subsidence" does not include loss caused by earthquake, landslide, volcanic eruption, or collapse of strip mines, storm and sewer drains, or rapid transit tunnels.

(B) "Structure" means any one- to four-family dwellings as defined and limited in ~~standard~~ dwelling fire, homeowners, and farm policies and other structures as described, defined, or limited in the mine subsidence insurance form.

(C) "Basic property insurance" means insurance against direct loss to property as defined and limited in ~~standard~~ dwelling fire, homeowners, and

farm policies and extended coverage endorsements thereon, as approved by the superintendent of insurance, and insurance for such types, classes, and locations of property against the perils of vandalism, malicious mischief, burglary, or theft, as the superintendent shall designate.

(D) "Homeowners insurance" means insurance on owner-occupied dwellings providing personal multi-peril property and liability coverages commonly known as homeowners insurance, ~~and is subject to such reasonable underwriting standards, exclusions, deductibles, rates, and conditions as are customarily used by member insurers for similar coverages.~~

(E) "Mine subsidence coverage" means the limits and type of coverage as defined by the mine subsidence insurance governing board in the coverage form and approved by the superintendent.

(F) "Farm insurance" means insurance providing property coverage on farm dwelling buildings.

(G) "Dwelling fire insurance" means a policy providing property coverage on residential buildings for the perils of fire and lightning and additional coverages.

Sec. 3929.51. (A) The Ohio mine subsidence insurance underwriting association is hereby created, consisting of all insurers authorized to write and engaged in writing within the state, on a direct basis, basic property insurance or any component thereof in multi-peril policies, to operate in accordance with the plan of operation adopted pursuant to section 3929.53 of the Revised Code. Every such insurer shall be a member of the association and shall remain a member as a condition of its authority to write such insurance in this state.

(B) The association, pursuant to sections 3929.50 to 3929.61 of the Revised Code, and any plan of operation thereunder with respect to mine subsidence insurance, may assume and cede reinsurance on insurable risks written by its members.

(C) For the purpose of governing the mine subsidence insurance underwriting association, there is hereby created a mine subsidence insurance governing board consisting of the director of natural resources or ~~his~~ the director's designee, as ~~chairman~~ chairperson, the treasurer of state or ~~his~~ the treasurer of state's designee, the superintendent of insurance or ~~his~~ the superintendent's designee, and one representative from member companies. The representative from member companies shall be an Ohio domiciled member, elected every three years by members of the association. ~~The representative shall be elected at a meeting of the members or their authorized representatives, which shall be held at a time and place~~

~~designated by the superintendent.~~ All actions of the mine subsidence insurance underwriting association shall be approved by the governing board. The board may employ, compensate, and prescribe the duties and powers of such employees and consultants as are necessary to carry out sections 3929.50 to 3929.61 of the Revised Code, and is authorized to enter into a contract with the Ohio fair plan underwriting association for administrative and claims adjusting services.

Sec. 3929.52. There is hereby created the mine subsidence insurance fund, which shall be administered by the mine subsidence insurance governing board for the purpose of making available insurance coverage against mine subsidence as to any structure within this state. All of the following apply to the fund:

(A) The moneys in the fund shall be derived from ~~appropriations by the state and~~ premiums for reinsurance assumed by the mine subsidence insurance underwriting association on policies written by members of the association.

(B) Premiums on mine subsidence coverage in policies written by members of the association shall be established by the plan of operation at a rate or within a schedule of rates sufficient to satisfy all foreseeable claims upon the fund during the period of coverage, giving due consideration to relevant loss or claim experience or trends, to cover normal costs of operation of the fund, and to provide a reasonable reserve for unexpected contingencies. No deviation shall be allowed from the premium established by the plan, but the mine subsidence insurance governing board shall periodically review the premium level and the experience data applicable to operation of the fund and, with the approval of the superintendent of insurance, make changes as required. However, the premium level for mine subsidence coverage in any policy delivered, issued for delivery, or renewed in a county designated for optional coverage by the board in accordance with division ~~(B)(1)(A)(2)~~ of section 3929.56 of the Revised Code shall not exceed an annual rate that is greater than twenty dollars, and the premium level for mine subsidence coverage in any policy delivered, issued for delivery, or renewed in a county listed in division (A)(1) of section 3929.56 of the Revised Code shall not exceed an annual rate that is greater than five dollars.

(C) Sections 3929.50 to 3929.61 of the Revised Code do not create any liability on the part of the state beyond the amounts paid into the fund and earned by the fund, nor is any liability created on the part of the mine subsidence insurance underwriting association or its members, the Ohio fair plan underwriting association, or the Ohio insurance guaranty association or

its members.

(D) The treasurer of state shall be the custodian of the fund, which shall not be a part of the state treasury. All disbursements from the fund shall be paid by the treasurer of state upon requisitions signed by the ~~chairman~~ chairperson of the mine subsidence insurance governing board or ~~his~~ the chairperson's designee. The ~~chairman~~ chairperson of the mine subsidence insurance governing board may designate an authorized representative of the Ohio fair plan underwriting association to sign requisitions on the fund if the mine subsidence insurance underwriting association has entered into a contract with the Ohio fair plan underwriting association for administrative and claims adjusting services. The representative, before signing any requisition, shall file with the secretary of state a good and sufficient bond payable to the state to insure the faithful performance of ~~his~~ the representative's duty, in such sum as the board requires.

~~(E) At the expiration of each fiscal year any amount in the fund which the governing board determines to be safely distributable, after reimbursing the federal special revenue fund for amounts appropriated to the mine subsidence insurance board, shall be distributed among current policyholders in proportion to the premiums paid by them.~~

Sec. 3929.56. (A)(1) Every insurer that offers basic property and homeowners insurance insuring on a direct basis a structure located in the counties of Athens, Belmont, Carroll, Columbiana, Coshocton, Gallia, Guernsey, Harrison, Hocking, Holmes, Jackson, Jefferson, Lawrence, Mahoning, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Scioto, Stark, Trumbull, Tuscarawas, Vinton, and Washington shall include mine subsidence coverage provided by the Ohio mine subsidence insurance underwriting association in each policy of basic property and homeowners insurance that is delivered, issued for delivery, or renewed in any of such counties ~~on or after January 1, 1993.~~

~~(B)(1) The mine subsidence insurance governing board may designate any county, other than a county listed in division (A) of this section, in which mine subsidence coverage must be offered, on an optional basis, by an insurer in accordance with division (B)(2) of this section. Any designation made by the board under division (B)(1) of this section shall be made by the board in the plan of operation of the association and shall be based on a county's risk of loss due to mine subsidence and other criteria established by the board.~~

(2) Every insurer that offers basic property and homeowners insurance insuring on a direct basis a structure located in ~~any county designated by the board in accordance with division (B)(1) of this section~~ the counties of

Delaware, Erie, Geauga, Lake, Licking, Medina, Ottawa, Portage, Preble, Summit, and Wayne shall offer to include, on an optional basis, mine subsidence coverage provided by the association in each policy of basic property and ~~homeowners~~ homeowners insurance that is delivered, issued for delivery, or renewed in any such designated county ~~on or after January 1, 1993.~~

~~(C)~~(B) The premium charged for mine subsidence coverage shall be the same as the premium level set by the plan of operation formulated pursuant to section 3929.53 of the Revised Code. ~~The loss covered shall be the loss in excess of two per cent of the policy's total insured value~~ Any deductible shall be expressed in the mine subsidence coverage form as approved by the mine subsidence insurance governing board and approved by the superintendent of insurance, but at no time shall the deductible be less than two hundred fifty dollars or more than five hundred dollars, and the total insured value reinsured by the association shall not exceed ~~fifty~~ three hundred thousand dollars. This section does not preclude any insurance company from selling insurance coverage under this section in excess of ~~fifty three hundred~~ thousand dollars.

Sec. 3929.58. All companies authorized to write basic property insurance in this state shall enter into a reinsurance agreement with the Ohio mine subsidence insurance underwriting association in which each company agrees to cede one hundred per cent, up to ~~fifty~~ three hundred thousand dollars, of any subsidence insurance underwritten to the association and, in consideration of the ceding commission retained by the company, agrees to undertake payment of taxes and all other expenses of the company necessary for sale of policies. The association shall agree to provide a claims adjusting staff and to pay from the mine subsidence insurance fund all valid policyholder claims resulting from subsidence.

Sec. 3929.59. Thirty per cent of all mine subsidence insurance premiums collected by each insurer for policies delivered, issued for delivery, or renewed in a county designated for optional coverage in accordance with division ~~(B)(1)~~(A)(2) of section 3929.56 of the Revised Code, excluding premiums collected under such policies for mine subsidence insurance coverage which is not reinsured by the mine subsidence insurance underwriting association, shall be retained by the insurer as a ceding commission. The remainder of such premiums shall be remitted by the insurer to the mine subsidence insurance underwriting association.

Sec. 3951.01. As used in sections 3951.01 to 3951.09, inclusive, of the Revised Code:

(A) "Lending institution" means a lending institution, as defined in division (E) of section 175.01 of the Revised Code, that is not organized for the purpose of qualifying to do business as a public insurance adjuster in this state, as determined by the superintendent, and that has been engaged in business as a bona fide lending institution for at least five years, and any member of an affiliated group, as defined by division (B)(3)(e) of section 5739.01 of the Revised Code, associated with a lending institution, which member has been a member of the affiliated group for at least five years and which member is not organized or affiliated with the lending institution for the purpose of qualifying to do business as a public insurance adjuster in this state, as determined by the superintendent.

(B) "Public insurance adjuster" means any person, firm, association, partnership, or corporation who, for compensation, acts on behalf of or aids in any manner, an insurer or insured or another in negotiating for, or effecting the settlement of a claim or claims for loss or damage under any policy of insurance covering real or personal property, and any person, firm, association, partnership, or corporation who advertises, solicits business, or holds itself out to the public as an adjuster of such insurance claims, and any person who for compensation investigates, settles, adjusts, advises, or assists an insurer or insured with reference to claims for such losses, on behalf of any such public insurance adjuster.

~~(B)~~(C) "Public insurance adjuster agent" means any person who is a bona fide employee of a public insurance adjuster and who aids in the adjustment, investigation, and in securing of any contract for the adjustment of a loss.

~~(C)~~(D) "Superintendent" means the superintendent of insurance acting as director of the department of insurance.

~~(D)~~(E) Nothing contained in Chapter 3951. of the Revised Code shall apply to the following:

(1) An attorney at law admitted to practice in this state who adjusts insurance losses in the course of the practice of ~~his~~ the attorney's profession and who does not hold ~~himself~~ the attorney out by sign, advertisement, or otherwise as offering such services to the general public;

(2) An officer, agent, or regular salaried employee of an insurer, or underwriter, or any attorney in fact of any reciprocal insurer of Lloyds underwriter licensed to do business in this state who adjusts losses arising under ~~his~~ the employer's or principal's own policies; or an underwriter by whom a policy of insurance against loss or damage or other causes has been written upon property within this state, in adjusting loss or damage under such policy, nor to an agent or broker acting as adjuster for ~~his~~ the agent's or

broker's own company;

(3) An adjustment bureau or association owned and maintained by insurers to adjust or investigate losses of such insurers, or any regularly salaried employee thereof who devotes substantially all of ~~his~~ the employee's time to the business of such bureau or association;

(4) Any licensed agent or employee or officer of such agent or agency of an authorized insurer who adjusts losses for such insurer solely under policies issued through such agency;

(5) Any independent adjuster representing an insurer.

Sec. 3951.05. The superintendent ~~of insurance~~ shall, in order to determine the trustworthiness and competency of any applicant for a certificate of authority to act as a public insurance adjuster, require such applicant or in the case of a firm, association, partnership, or corporation, such of its employees, members, officers, or directors, who are to be individually authorized to act under its certificate of authority, to submit to a written examination, except applicants who ~~are entitled to certificate without the examination as provided in~~ are granted a waiver of examination in accordance with section 3951.09 of the Revised Code. Examinations shall be held in such place in this state and at such time as the superintendent may designate.

Sec. 3951.06. (A) A fee of one hundred dollars shall be paid to the superintendent ~~of insurance~~ by the applicant for ~~such a~~ public insurance adjuster's certificate of authority before the initial application is granted. If the applicant is a firm, association, partnership, or corporation, ~~such~~ the fee shall be paid for each person specified in the application.

(B) A firm, association, partnership, or corporation to which a certificate of authority has been issued by the superintendent may at any time make an application to the superintendent for the issuance of a supplemental certificate of authority authorizing additional officers or directors of the corporation or members of the firm, association, or partnership to act as a public insurance adjuster, and the superintendent may thereupon issue to such firm, association, partnership, or corporation a supplemental certificate accordingly upon the payment of a fee of fifty dollars for each member or officer or director thereby authorized to act as a public insurance adjuster.

(C) Every public insurance adjuster's certificate of authority shall expire on the thirty-first day of December of the calendar year in which it was issued, and shall be renewed according to the standard renewal procedure of sections 4745.01 to 4745.03, inclusive, of the Revised Code. Every public insurance adjuster's certificate of authority with a payment of a fifty dollar fee can be renewed for the ensuing year without examination, but if an

application for the renewal of such certificate has been filed with the superintendent before January first of any year the certificate of authority sought to be renewed shall continue in full force and effect until the issuance by the superintendent of the new certificate applied for or until five days after the superintendent has refused to issue a new certificate and has served notice of such refusal on the applicant therefor. Service of such notice shall be made by registered or certified mail directed to the applicant at the place of business specified in the application.

(D) No certificate of authority shall be issued or renewed unless, the applicant is a resident of the state, a lending institution, or a bona fide employee of a lending institution who is authorized to act as a public insurance adjuster in another state on behalf of the lending institution, and there is on file with the superintendent a bond, executed by such applicant and by approved sureties, in the penal sum of one thousand dollars for each person designated in the application, conditioned for the faithful performance by such applicant and by all persons designated in such application, of their duties as public insurance adjusters. Such bond shall be approved as to form by the attorney general and as to sufficiency by the superintendent. Such bond shall be made payable to the state and shall specifically authorize recovery for and on behalf of an injured party of the sum provided therein in case the adjuster has been guilty of fraudulent or dishonest practices in connection with the transaction of ~~his~~ business as an adjuster.

Sec. 3951.09. The superintendent may waive the requirement that an applicant submit to an examination to obtain a certificate of authority under this chapter, provided that the applicant is licensed as a public insurance adjuster in another state that required the applicant to submit to an examination as a condition of licensure. Prior to waiving the examination requirement with respect to a public insurance adjuster licensed in another state, the superintendent shall issue a notice at least sixty days prior to the effective date of the waiver identifying the applicant's other state of licensure. The notice shall be issued in a manner deemed appropriate by the superintendent. Once the superintendent has issued a notice under this section identifying an applicant's other state of licensure, the superintendent need not issue subsequent notices as to applicants licensed in the same state in order to waive the examination requirement for those applicants.

Sec. 5733.39. (A) As used in this section:

(1) "Compliance facility" means property that is designed, constructed, or installed, and used, at a coal-fired electric generating facility for the primary purpose of complying with acid rain control requirements under

Title IV of the "Clean Air Act Amendments of 1990," 104 Stat. 2584, 42 U.S.C.A. 7651, and that controls or limits emissions of sulfur or nitrogen compounds resulting from the combustion of coal through the removal or reduction of those compounds before, during, or after the combustion of the coal, but before the combustion products are emitted into the atmosphere. "Compliance facility" also includes any of the following:

(a) A facility that removes sulfur compounds from coal before the combustion of the coal and that is located off the premises of the electric generating facility where the coal processed by the compliance facility is burned;

(b) Modifications to the electric generating facility where the compliance facility is constructed or installed that are necessary to accommodate the construction or installation, and operation, of the compliance facility;

(c) A byproduct disposal facility, as defined in section 3734.051 of the Revised Code, that exclusively disposes of wastes produced by the compliance facility and other coal combustion byproducts produced by the generating unit in or to which the compliance facility is incorporated or connected regardless of whether the byproduct disposal facility is located on the same premises as the compliance facility or generating unit that produces the wastes disposed of at the facility;

(d) Facilities or equipment that is acquired, constructed, or installed, and used, at a coal-fired electric generating facility exclusively for the purpose of handling the byproducts produced by the compliance facility or other coal combustion byproducts produced by the generating unit in or to which the compliance facility is incorporated or connected;

(e) A flue gas desulfurization system that is connected to a coal-fired electric generating unit;

(f) Facilities or equipment acquired, constructed, or installed, and used, at a coal-fired electric generating unit primarily for the purpose of handling the byproducts produced by a compliance facility or other coal combustion byproducts produced by the generating unit in or to which the compliance facility is incorporated or connected.

(2) "Ohio coal" ~~has the same meaning as in section 4913.01 of the Revised Code~~ means coal mined from coal deposits in the ground that are located within this state, regardless of the location of the mine's tipple.

(3) "Sale and leaseback transaction" has the same meaning as in section 5727.01 of the Revised Code.

(B) An electric company shall be allowed a nonrefundable credit against the tax imposed by section 5733.06 of the Revised Code for Ohio coal used

in any of its coal-fired electric generating units after April 30, 2001, but before January 1, ~~2005~~ 2008. Section 5733.057 of the Revised Code shall apply when calculating the credit allowed by this section. The credit shall be claimed at the ~~rate of three dollars~~ following rates per ton of Ohio coal burned in a coal-fired electric generating unit during the taxable year ending immediately preceding the tax year: for tax years before tax year 2006, three dollars per ton; and for tax years 2006, 2007, and 2008, one dollar per ton. The credit is allowed only if both of the following conditions are met during such taxable year:

(1) The coal-fired electric generating unit is owned and used by the company claiming the credit or leased and used by that company under a sale and leaseback transaction.

(2) A compliance facility is attached to, incorporated in, or used in conjunction with the coal-fired generating unit.

(C) The credit shall be claimed in the order required under section 5733.98 of the Revised Code. The taxpayer may carry forward any credit amount in excess of its tax due after allowing for any other credits that precede the credit allowed under this section in the order required under section 5733.98 of the Revised Code. The excess credit may be carried forward for three years following the tax year for which it is claimed under this section.

(D) The director of environmental protection, upon the request of the tax commissioner, shall certify whether a facility is a compliance facility. In the case of a compliance facility owned by an electric company, the public utilities commission shall certify to the tax commissioner the cost of the facility as of the date it was placed in service. In the case of a compliance facility owned by a person other than an electric company, the tax commissioner shall determine the cost of the facility as of the date it was placed in service. If the owner of such a facility fails to furnish the information necessary to make that determination, no credit shall be allowed.

SECTION 2. That existing sections 3901.211, 3905.40, 3905.401, 3929.302, 3929.50, 3929.51, 3929.52, 3929.56, 3929.58, 3929.59, 3951.01, 3951.05, 3951.06, and 5733.39 and section 3951.09 of the Revised Code are hereby repealed.

SECTION 3. The General Assembly hereby requests the Ohio Supreme Court adopt rules of professional conduct that require any attorney who provides representation to a person bringing a medical, dental, optometric, or chiropractic claim to file with the Department of Insurance or its designee under division (D) of section 3929.302 of the Revised Code a report describing the attorney fees and expenses received for such representation, as well as any other data necessary for the Department of Insurance to reconcile the attorney fee and expense data with other medical malpractice closed claim data received by the Department of Insurance pursuant to rules promulgated under section 3929.302 of the Revised Code. The General Assembly hereby requests that any rules adopted by the Ohio Supreme Court define medical, dental, optometric, and chiropractic claims in the same manner as section 3929.302 of the Revised Code and require the filing of a report with the Department of Insurance if the medical, dental, optometric, or chiropractic claim results in a final judgment or settlement in any amount or a final disposition of the claim resulting in no indemnity payment to the claimant.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Sub. H. B. No. 425

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Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____