

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

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

Sub. H. B. No. 425

**Representatives J. Stewart, Aslanides, Hollister, Schaffer, Seitz, Skindell,
Cirelli, Domenick, Niehaus, Blasdel, Carano, Collier, Daniels, DeBose,
C. Evans, D. Evans, Gibbs, Otterman, Slaby, D. Stewart, Wilson, Wolpert
Senator Mumper**

—

A B I L L

To amend sections 3901.211, 3905.40, 3905.401, 1
3929.302, 3929.50, 3929.51, 3929.52, 3929.56, 2
3929.58, 3929.59, 3951.01, 3951.05, 3951.06, and 3
5733.39, to enact new section 3951.09 and section 4
3905.901, and to repeal section 3951.09 of the 5
Revised Code to remove current limits on mine 6
subsidence coverage, to increase the cap on the 7
amount of reinsurance coverage that the mine 8
subsidence underwriting association may offer, to 9
end the annual distribution of excess moneys in 10
the mine subsidence insurance fund to 11
policyholders, to permit a representative to be 12
elected to the mine insurance governing board 13
without a meeting of the members, to specify the 14
Ohio counties in which mine subsidence insurance 15
must be offered in connection with property and 16
homeowners insurance, to extend the tax credit for 17
using Ohio coal to generate electricity and reduce 18
the per-ton credit amount, to clarify the 19
Department of Insurance's authority to impose 20

annual valuation fees, to permit the 21
Superintendent of Insurance to waive the 22
examination requirement for public insurance 23
adjusters licensed in another state and to license 24
nonresident lending institutions and their 25
employees as public insurance adjusters, to 26
provide for a summary of information on medical 27
claims reported by attorneys, to calculate direct 28
written premiums of bail bond insurers, and to 29
restrict the amount of homeowners insurance 30
coverage that can be required by lenders. 31

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

Section 1. That sections 3901.211, 3905.40, 3905.401, 32
3929.302, 3929.50, 3929.51, 3929.52, 3929.56, 3929.58, 3929.59, 33
3951.01, 3951.05, 3951.06, and 5733.39 be amended and new section 34
3951.09 and section 3905.901 of the Revised Code be enacted to 35
read as follows: 36

Sec. 3901.211. (A)(1) No person may require as a condition 37
precedent to the lending of money or the extension of credit, or 38
any renewal thereof, that the person to whom such money or credit 39
is extended or whose obligation a creditor is to acquire or 40
finance, negotiate any policy or renewal thereof through a 41
particular insurer or group of insurers or agent or group of 42
agents. 43

(2) No person may reject an insurance policy solely because 44
the policy has been issued or underwritten by a person that is not 45
associated with the person, or an affiliate of the person, 46
rejecting the policy. 47

(B) No person that lends money or extends credit may do any 48

of the following:

49

(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.

50
51
52
53
54
55
56
57
58
59
60

(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.

61
62
63
64
65
66
67
68
69
70

(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.

71
72
73
74
75
76
77
78
79
80

(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 113
flood insurance, unless the solicitation or sale is completed 114
through documents separate from any credit transactions; 115

(9) Include the expense of insurance premiums, other than 116
credit insurance premiums or flood insurance premiums, in the 117
primary credit transaction without the express written consent of 118
the customer; 119

(10) As a condition of financing a residential mortgage or 120
providing other financing arrangements for residential property, 121
including a mobile or manufactured home, require a mortgagor or 122
borrower to purchase homeowners insurance coverage or other 123
residential property insurance coverage in an amount that exceeds 124
the replacement value of the dwelling and its contents, regardless 125
of the amount of mortgage or other financing arrangement entered 126
into by the mortgagor or borrower. The fair market value of the 127
land on which the dwelling is located shall not be included in the 128
replacement value of the dwelling and its contents. 129

(C)(1) If an application for a loan or extension of credit is 130
pending before a person that lends money or extends credit and 131
that also solicits insurance primarily for personal, family, or 132
household purposes in connection with that loan or extension of 133
credit, that person shall disclose to the customer, in writing, 134
that the insurance related to the credit extension may be 135
purchased from an insurer or agent of the customer's choice, 136
subject only to the lender's right to reject a given insurer or 137
agent as provided in division (B)(2) of this section. Further, the 138
disclosure shall inform the customer that the customer's choice of 139
an insurer or agent will not affect the credit decision or credit 140
terms in any way, except that the person lending money or 141
extending credit may impose reasonable requirements as provided in 142
division (B)(2) of this section. 143

(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 175
soliciting, selling, advertising, or offering insurance; 176

(d) Involves investment risk including the possible loss of 177
value, where this disclosure is appropriate. 178

(2) A depository institution that solicits, sells, 179
advertises, or offers insurance, and any person that solicits, 180
sells, advertises, or offers insurance on behalf of a depository 181
institution or on the premises of a depository institution, shall 182
obtain written acknowledgement of the receipt of the disclosure 183
from the customer at the time the customer receives the disclosure 184
or at the time of the initial purchase of the insurance policy. If 185
the solicitation is conducted by telephone, the person or 186
depository institution shall obtain an oral acknowledgement of 187
receipt of the disclosure, maintain sufficient documentation to 188
show that the acknowledgement was given by the customer, and make 189
reasonable efforts to obtain a written acknowledgement from the 190
customer. If a customer affirmatively consents to receiving the 191
disclosures electronically and the disclosures are provided in a 192
format that the customer may retain or obtain later, the person or 193
depository institution may provide the disclosure and obtain 194
acknowledgement of the receipt of the disclosure from the customer 195
using electronic media. 196

(3) For purposes of divisions (D)(1) and (2) of this section, 197
an affiliate of a depository institution is subject to these 198
requirements only to the extent that it sells, solicits, 199
advertises, or offers insurance products or annuities at an office 200
of a depository institution or on behalf of a depository 201
institution. These requirements apply only when an individual 202
purchases, applies to purchase, or is solicited to purchase 203
insurance products or annuities primarily for personal, family, or 204
household purposes and only to the extent that a disclosure would 205
be accurate. 206

(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,	237
two hundred fifty dollars;	238
(2) For filing each statement, twenty-five dollars;	239
(3) For each certificate of authority or license, and	240
certified copy thereof, five dollars;	241
(4) For each copy of a paper filed in the superintendent's	242
office, twenty cents per page;	243
(5) For issuing certificates of deposits or certified copies	244
thereof, five dollars for the first certificate or copy and one	245
dollar for each additional certificate or copy;	246
(6) For issuing certificates of compliance or certified	247
copies thereof, twenty dollars;	248
(7) For affixing the seal of office and certifying documents,	249
other than those enumerated herein, two dollars.	250
(B) Each <u>domestic</u> life insurance company doing business in	251
this state shall pay for annual valuation of its policies, one	252
cent on every one thousand dollars of insurance.	253
(C) Each foreign insurance company doing business in this	254
state shall pay for making and forwarding annually, semiannually,	255
and quarterly the interest checks and coupons accruing upon bonds	256
and securities deposited, fifty dollars each year on each one	257
hundred thousand dollars deposited.	258
(D) Each applicant for licensure as an insurance agent shall	259
pay ten dollars before admission to any examination required by	260
the superintendent. Such fee shall not be paid by the appointing	261
insurance company.	262
(E) Each domestic mutual life insurance company shall pay for	263
verifying that any amendment to its articles of incorporation was	264
regularly adopted, two hundred fifty dollars with each application	265
for verification. Any such amendment shall be considered to have	266

been regularly adopted when approved by the affirmative vote of 267
two-thirds of the policyholders present in person or by proxy at 268
any annual meeting of policyholders or at a special meeting of 269
policyholders called for that purpose. 270

Sec. 3905.401. The valuation fee specified in division (B) of 271
section 3905.40 of the Revised Code does not apply to reinsurance 272
ceded to affiliated domestic companies. 273

Sec. 3905.901. (A) As used in the annual statement of 274
condition filed by a bail bond insurer with the department of 275
insurance pursuant to section 3929.30 of the Revised Code, the 276
direct written premiums for bail bonds written by an insurer shall 277
be determined as the gross bail bond premiums less any amounts 278
retained by surety bail bond agents. Notwithstanding the 279
foregoing, the direct written premiums reported for bail bonds 280
shall not be less than six and one-half per cent of the gross bail 281
bond premiums received by the insurer's agents. 282

(B) Every bail bond insurer shall include the following 283
information with the insurer's annual statement of condition filed 284
with the department of insurance pursuant to section 3929.30 of 285
the Revised Code: 286

(1) Bail bond premiums written prior to deducting the amounts 287
retained by surety bail bond agents; 288

(2) Amounts withheld by surety bail bond agents as an 289
expense, not reported as an expense by the insurer. 290

Sec. 3929.302. (A) The superintendent of insurance, by rule 291
adopted in accordance with Chapter 119. of the Revised Code, shall 292
require each authorized insurer, surplus lines insurer, risk 293
retention group, self-insurer, captive insurer, the medical 294
liability underwriting association if created under section 295

3929.63 of the Revised Code, and any other entity that provides 296
medical malpractice insurance to risks located in this state, to 297
report information to the department of insurance at least 298
annually regarding any medical, dental, optometric, or 299
chiropractic claim asserted against a risk located in this state, 300
if the claim resulted in any of the following results: 301

- (1) A final judgment in any amount; 302
- (2) A settlement in any amount; 303
- (3) A final disposition of the claim resulting in no 304
indemnity payment on behalf of the insured. 305

(B) The report required by division (A) of this section shall 306
contain such information as the superintendent prescribes by rule 307
adopted in accordance with Chapter 119. of the Revised Code, 308
including, but not limited to, the following information: 309

- (1) The name, address, and specialty coverage of the insured; 310
- (2) The insured's policy number; 311
- (3) The date of the occurrence that created the claim; 312
- (4) The name and address of the injured person; 313
- (5) The date and amount of the judgment, if any, including a 314
description of the portion of the judgment that represents 315
economic loss, noneconomic loss and, if applicable, punitive 316
damages; 317
- (6) In the case of a settlement, the date and amount of the 318
settlement; 319
- (7) Any allocated loss adjustment expenses; 320
- (8) Any other information required by the superintendent 321
pursuant to rules adopted in accordance with Chapter 119. of the 322
Revised Code. 323

(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.

355
356
357
358
359

(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.

360
361
362
363
364
365
366
367
368

(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.

369
370
371
372
373

(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:

374
375
376

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

377
378
379

(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.

380
381
382
383

Sec. 3929.50. As used in sections 3929.50 to 3929.61 of the

384

Revised Code:	385
(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.	386 387 388 389 390 391 392
(B) "Structure" means any one- to four-family dwellings as defined and limited in <u>standard dwelling fire, homeowners, and farm policies and other structures as described, defined, or limited in the mine subsidence insurance form.</u>	393 394 395 396
(C) "Basic property insurance" means insurance against direct loss to property as defined and limited in <u>standard dwelling fire, homeowners, and farm policies</u> 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.	397 398 399 400 401 402 403
(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.	404 405 406 407 408 409
<u>(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.</u>	410 411 412
<u>(F) "Farm insurance" means insurance providing property coverage on farm dwelling buildings.</u>	413 414
<u>(G) "Dwelling fire insurance" means a policy providing</u>	415

property coverage on residential buildings for the perils of fire 416
and lightning and additional coverages. 417

Sec. 3929.51. (A) The Ohio mine subsidence insurance 418
underwriting association is hereby created, consisting of all 419
insurers authorized to write and engaged in writing within the 420
state, on a direct basis, basic property insurance or any 421
component thereof in multi-peril policies, to operate in 422
accordance with the plan of operation adopted pursuant to section 423
3929.53 of the Revised Code. Every such insurer shall be a member 424
of the association and shall remain a member as a condition of its 425
authority to write such insurance in this state. 426

(B) The association, pursuant to sections 3929.50 to 3929.61 427
of the Revised Code, and any plan of operation thereunder with 428
respect to mine subsidence insurance, may assume and cede 429
reinsurance on insurable risks written by its members. 430

(C) For the purpose of governing the mine subsidence 431
insurance underwriting association, there is hereby created a mine 432
subsidence insurance governing board consisting of the director of 433
natural resources or his the director's designee, as ~~chairman~~ 434
chairperson, the treasurer of state or his the treasurer of 435
state's designee, the superintendent of insurance or his the 436
superintendent's designee, and one representative from member 437
companies. The representative from member companies shall be an 438
Ohio domiciled member, elected every three years by members of the 439
association. ~~The representative shall be elected at a meeting of~~ 440
~~the members or their authorized representatives, which shall be~~ 441
~~held at a time and place designated by the superintendent.~~ All 442
actions of the mine subsidence insurance underwriting association 443
shall be approved by the governing board. The board may employ, 444
compensate, and prescribe the duties and powers of such employees 445
and consultants as are necessary to carry out sections 3929.50 to 446

3929.61 of the Revised Code, and is authorized to enter into a 447
contract with the Ohio fair plan underwriting association for 448
administrative and claims adjusting services. 449

Sec. 3929.52. There is hereby created the mine subsidence 450
insurance fund, which shall be administered by the mine subsidence 451
insurance governing board for the purpose of making available 452
insurance coverage against mine subsidence as to any structure 453
within this state. All of the following apply to the fund: 454

(A) The moneys in the fund shall be derived from 455
~~appropriations by the state and~~ premiums for reinsurance assumed 456
by the mine subsidence insurance underwriting association on 457
policies written by members of the association. 458

(B) Premiums on mine subsidence coverage in policies written 459
by members of the association shall be established by the plan of 460
operation at a rate or within a schedule of rates sufficient to 461
satisfy all foreseeable claims upon the fund during the period of 462
coverage, giving due consideration to relevant loss or claim 463
experience or trends, to cover normal costs of operation of the 464
fund, and to provide a reasonable reserve for unexpected 465
contingencies. No deviation shall be allowed from the premium 466
established by the plan, but the mine subsidence insurance 467
governing board shall periodically review the premium level and 468
the experience data applicable to operation of the fund and, with 469
the approval of the superintendent of insurance, make changes as 470
required. However, the premium level for mine subsidence coverage 471
in any policy delivered, issued for delivery, or renewed in a 472
county designated for optional coverage by the board in accordance 473
with division ~~(B)(1)~~(A)(2) of section 3929.56 of the Revised Code 474
shall not exceed an annual rate that is greater than twenty 475
dollars, and the premium level for mine subsidence coverage in any 476
policy delivered, issued for delivery, or renewed in a county 477

listed in division (A)(1) of section 3929.56 of the Revised Code 478
shall not exceed an annual rate that is greater than five dollars. 479

(C) Sections 3929.50 to 3929.61 of the Revised Code do not 480
create any liability on the part of the state beyond the amounts 481
paid into the fund and earned by the fund, nor is any liability 482
created on the part of the mine subsidence insurance underwriting 483
association or its members, the Ohio fair plan underwriting 484
association, or the Ohio insurance guaranty association or its 485
members. 486

(D) The treasurer of state shall be the custodian of the 487
fund, which shall not be a part of the state treasury. All 488
disbursements from the fund shall be paid by the treasurer of 489
state upon requisitions signed by the ~~chairman~~ chairperson of the 490
mine subsidence insurance governing board or ~~his~~ the chairperson's 491
designee. The ~~chairman~~ chairperson of the mine subsidence 492
insurance governing board may designate an authorized 493
representative of the Ohio fair plan underwriting association to 494
sign requisitions on the fund if the mine subsidence insurance 495
underwriting association has entered into a contract with the Ohio 496
fair plan underwriting association for administrative and claims 497
adjusting services. The representative, before signing any 498
requisition, shall file with the secretary of state a good and 499
sufficient bond payable to the state to insure the faithful 500
performance of ~~his~~ the representative's duty, in such sum as the 501
board requires. 502

~~(E) At the expiration of each fiscal year any amount in the 503
fund which the governing board determines to be safely 504
distributable, after reimbursing the federal special revenue fund 505
for amounts appropriated to the mine subsidence insurance board, 506
shall be distributed among current policyholders in proportion to 507
the premiums paid by them. 508~~

Sec. 3929.56. (A)~~(1)~~ Every insurer that offers basic property 509
and homeowners insurance insuring on a direct basis a structure 510
located in the counties of Athens, Belmont, Carroll, Columbiana, 511
Coshocton, Gallia, Guernsey, Harrison, Hocking, Holmes, Jackson, 512
Jefferson, Lawrence, Mahoning, Meigs, Monroe, Morgan, Muskingum, 513
Noble, Perry, Scioto, Stark, Trumbull, Tuscarawas, Vinton, and 514
Washington shall include mine subsidence coverage provided by the 515
Ohio mine subsidence insurance underwriting association in each 516
policy of basic property and homeowners insurance that is 517
delivered, issued for delivery, or renewed in any of such counties 518
~~on or after January 1, 1993.~~ 519

~~(B)(1) The mine subsidence insurance governing board may 520
designate any county, other than a county listed in division (A)
of this section, in which mine subsidence coverage must be 521
offered, on an optional basis, by an insurer in accordance with 522
division (B)(2) of this section. Any designation made by the board 523
under division (B)(1) of this section shall be made by the board 524
in the plan of operation of the association and shall be based on 525
a county's risk of loss due to mine subsidence and other criteria 526
established by the board.~~ 527
528

(2) Every insurer that offers basic property and homeowners 529
insurance insuring on a direct basis a structure located in ~~any~~ 530
~~county designated by the board in accordance with division (B)(1)~~ 531
~~of this section~~ the counties of Delaware, Erie, Geauga, Lake, 532
Licking, Medina, Ottawa, Portage, Preble, Summit, and Wayne shall 533
offer to include, on an optional basis, mine subsidence coverage 534
provided by the association in each policy of basic property and 535
~~homeowners~~ homeowners insurance that is delivered, issued for 536
delivery, or renewed in any such designated county ~~on or after~~ 537
~~January 1, 1993.~~ 538

~~(C)(B)~~ The premium charged for mine subsidence coverage shall 539

be the same as the premium level set by the plan of operation 540
formulated pursuant to section 3929.53 of the Revised Code. The 541
~~loss covered shall be the loss in excess of two per cent of the~~ 542
~~policy's total insured value~~ Any deductible shall be expressed in 543
the mine subsidence coverage form as approved by the mine 544
subsidence insurance governing board and approved by the 545
superintendent of insurance, but at no time shall the deductible 546
be less than two hundred fifty dollars or more than five hundred 547
dollars, and the total insured value reinsured by the association 548
shall not exceed ~~fifty~~ three hundred thousand dollars. This 549
section does not preclude any insurance company from selling 550
insurance coverage under this section in excess of ~~fifty~~ three 551
hundred thousand dollars. 552

Sec. 3929.58. All companies authorized to write basic 553
property insurance in this state shall enter into a reinsurance 554
agreement with the Ohio mine subsidence insurance underwriting 555
association in which each company agrees to cede one hundred per 556
cent, up to ~~fifty~~ three hundred thousand dollars, of any 557
subsidence insurance underwritten to the association and, in 558
consideration of the ceding commission retained by the company, 559
agrees to undertake payment of taxes and all other expenses of the 560
company necessary for sale of policies. The association shall 561
agree to provide a claims adjusting staff and to pay from the mine 562
subsidence insurance fund all valid policyholder claims resulting 563
from subsidence. 564

Sec. 3929.59. Thirty per cent of all mine subsidence 565
insurance premiums collected by each insurer for policies 566
delivered, issued for delivery, or renewed in a county designated 567
for optional coverage in accordance with division ~~(B)(1)~~ (A)(2) of 568
section 3929.56 of the Revised Code, excluding premiums collected 569
under such policies for mine subsidence insurance coverage which 570

is not reinsured by the mine subsidence insurance underwriting 571
association, shall be retained by the insurer as a ceding 572
commission. The remainder of such premiums shall be remitted by 573
the insurer to the mine subsidence insurance underwriting 574
association. 575

Sec. 3951.01. As used in sections 3951.01 to 3951.09, 576
inclusive, of the Revised Code: 577

(A) "Lending institution" means a lending institution, as 578
defined in division (E) of section 175.01 of the Revised Code, 579
that is not organized for the purpose of qualifying to do business 580
as a public insurance adjuster in this state, as determined by the 581
superintendent, and that has been engaged in business as a bona 582
fide lending institution for at least five years, and any member 583
of an affiliated group, as defined by division (B)(3)(e) of 584
section 5739.01 of the Revised Code, associated with a lending 585
institution, which member has been a member of the affiliated 586
group for at least five years and which member is not organized or 587
affiliated with the lending institution for the purpose of 588
qualifying to do business as a public insurance adjuster in this 589
state, as determined by the superintendent. 590

(B) "Public insurance adjuster" means any person, firm, 591
association, partnership, or corporation who, for compensation, 592
acts on behalf of or aids in any manner, an insurer or insured or 593
another in negotiating for, or effecting the settlement of a claim 594
or claims for loss or damage under any policy of insurance 595
covering real or personal property, and any person, firm, 596
association, partnership, or corporation who advertises, solicits 597
business, or holds itself out to the public as an adjuster of such 598
insurance claims, and any person who for compensation 599
investigates, settles, adjusts, advises, or assists an insurer or 600
insured with reference to claims for such losses, on behalf of any 601

such public insurance adjuster. 602

~~(B)~~(C) "Public insurance adjuster agent" means any person who 603
is a bona fide employee of a public insurance adjuster and who 604
aids in the adjustment, investigation, and in securing of any 605
contract for the adjustment of a loss. 606

~~(C)~~(D) "Superintendent" means the superintendent of insurance 607
acting as director of the department of insurance. 608

~~(D)~~(E) Nothing contained in Chapter 3951. of the Revised Code 609
shall apply to the following: 610

(1) An attorney at law admitted to practice in this state who 611
adjusts insurance losses in the course of the practice of ~~his~~ the 612
attorney's profession and who does not hold ~~himself~~ the attorney 613
out by sign, advertisement, or otherwise as offering such services 614
to the general public; 615

(2) An officer, agent, or regular salaried employee of an 616
insurer, or underwriter, or any attorney in fact of any reciprocal 617
insurer of Lloyds underwriter licensed to do business in this 618
state who adjusts losses arising under ~~his~~ the employer's or 619
principal's own policies; or an underwriter by whom a policy of 620
insurance against loss or damage or other causes has been written 621
upon property within this state, in adjusting loss or damage under 622
such policy, nor to an agent or broker acting as adjuster for ~~his~~ 623
the agent's or broker's own company; 624

(3) An adjustment bureau or association owned and maintained 625
by insurers to adjust or investigate losses of such insurers, or 626
any regularly salaried employee thereof who devotes substantially 627
all of ~~his~~ the employee's time to the business of such bureau or 628
association; 629

(4) Any licensed agent or employee or officer of such agent 630
or agency of an authorized insurer who adjusts losses for such 631
insurer solely under policies issued through such agency; 632

(5) Any independent adjuster representing an insurer. 633

Sec. 3951.05. The superintendent ~~of insurance~~ shall, in order 634
to determine the trustworthiness and competency of any applicant 635
for a certificate of authority to act as a public insurance 636
adjuster, require such applicant or in the case of a firm, 637
association, partnership, or corporation, such of its employees, 638
members, officers, or directors, who are to be individually 639
authorized to act under its certificate of authority, to submit to 640
a written examination, except applicants who ~~are entitled to~~ 641
~~certificate without the examination as provided in~~ are granted a 642
waiver of examination in accordance with section 3951.09 of the 643
Revised Code. Examinations shall be held in such place in this 644
state and at such time as the superintendent may designate. 645

Sec. 3951.06. (A) A fee of one hundred dollars shall be paid 646
to the superintendent ~~of insurance~~ by the applicant for ~~such a~~ 647
public insurance adjuster's certificate of authority before the 648
initial application is granted. If the applicant is a firm, 649
association, partnership, or corporation, ~~such the~~ the fee shall be 650
paid for each person specified in the application. 651

(B) A firm, association, partnership, or corporation to which 652
a certificate of authority has been issued by the superintendent 653
may at any time make an application to the superintendent for the 654
issuance of a supplemental certificate of authority authorizing 655
additional officers or directors of the corporation or members of 656
the firm, association, or partnership to act as a public insurance 657
adjuster, and the superintendent may thereupon issue to such firm, 658
association, partnership, or corporation a supplemental 659
certificate accordingly upon the payment of a fee of fifty dollars 660
for each member or officer or director thereby authorized to act 661
as a public insurance adjuster. 662

(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 695
transaction of his business as an adjuster. 696

Sec. 3951.09. The superintendent may waive the requirement 697
that an applicant submit to an examination to obtain a certificate 698
of authority under this chapter, provided that the applicant is 699
licensed as a public insurance adjuster in another state that 700
required the applicant to submit to an examination as a condition 701
of licensure. Prior to waiving the examination requirement with 702
respect to a public insurance adjuster licensed in another state, 703
the superintendent shall issue a notice at least sixty days prior 704
to the effective date of the waiver identifying the applicant's 705
other state of licensure. The notice shall be issued in a manner 706
deemed appropriate by the superintendent. Once the superintendent 707
has issued a notice under this section identifying an applicant's 708
other state of licensure, the superintendent need not issue 709
subsequent notices as to applicants licensed in the same state in 710
order to waive the examination requirement for those applicants. 711

Sec. 5733.39. (A) As used in this section: 712

(1) "Compliance facility" means property that is designed, 713
constructed, or installed, and used, at a coal-fired electric 714
generating facility for the primary purpose of complying with acid 715
rain control requirements under Title IV of the "Clean Air Act 716
Amendments of 1990," 104 Stat. 2584, 42 U.S.C.A. 7651, and that 717
controls or limits emissions of sulfur or nitrogen compounds 718
resulting from the combustion of coal through the removal or 719
reduction of those compounds before, during, or after the 720
combustion of the coal, but before the combustion products are 721
emitted into the atmosphere. "Compliance facility" also includes 722
any of the following: 723

(a) A facility that removes sulfur compounds from coal before 724

the combustion of the coal and that is located off the premises of 725
the electric generating facility where the coal processed by the 726
compliance facility is burned; 727

(b) Modifications to the electric generating facility where 728
the compliance facility is constructed or installed that are 729
necessary to accommodate the construction or installation, and 730
operation, of the compliance facility; 731

(c) A byproduct disposal facility, as defined in section 732
3734.051 of the Revised Code, that exclusively disposes of wastes 733
produced by the compliance facility and other coal combustion 734
byproducts produced by the generating unit in or to which the 735
compliance facility is incorporated or connected regardless of 736
whether the byproduct disposal facility is located on the same 737
premises as the compliance facility or generating unit that 738
produces the wastes disposed of at the facility; 739

(d) Facilities or equipment that is acquired, constructed, or 740
installed, and used, at a coal-fired electric generating facility 741
exclusively for the purpose of handling the byproducts produced by 742
the compliance facility or other coal combustion byproducts 743
produced by the generating unit in or to which the compliance 744
facility is incorporated or connected; 745

(e) A flue gas desulfurization system that is connected to a 746
coal-fired electric generating unit; 747

(f) Facilities or equipment acquired, constructed, or 748
installed, and used, at a coal-fired electric generating unit 749
primarily for the purpose of handling the byproducts produced by a 750
compliance facility or other coal combustion byproducts produced 751
by the generating unit in or to which the compliance facility is 752
incorporated or connected. 753

(2) "Ohio coal" ~~has the same meaning as in section 4913.01 of~~ 754
the Revised Code means coal mined from coal deposits in the ground 755

that are located within this state, regardless of the location of 756
the mine's tipple. 757

(3) "Sale and leaseback transaction" has the same meaning as 758
in section 5727.01 of the Revised Code. 759

(B) An electric company shall be allowed a nonrefundable 760
credit against the tax imposed by section 5733.06 of the Revised 761
Code for Ohio coal used in any of its coal-fired electric 762
generating units after April 30, 2001, but before January 1, ~~2005~~ 763
2008. Section 5733.057 of the Revised Code shall apply when 764
calculating the credit allowed by this section. The credit shall 765
be claimed at the ~~rate of three dollars~~ following rates per ton of 766
Ohio coal burned in a coal-fired electric generating unit during 767
the taxable year ending immediately preceding the tax year: for 768
tax years before tax year 2006, three dollars per ton; and for tax 769
years 2006, 2007, and 2008, one dollar per ton. The credit is 770
allowed only if both of the following conditions are met during 771
such taxable year: 772

(1) The coal-fired electric generating unit is owned and used 773
by the company claiming the credit or leased and used by that 774
company under a sale and leaseback transaction. 775

(2) A compliance facility is attached to, incorporated in, or 776
used in conjunction with the coal-fired generating unit. 777

(C) The credit shall be claimed in the order required under 778
section 5733.98 of the Revised Code. The taxpayer may carry 779
forward any credit amount in excess of its tax due after allowing 780
for any other credits that precede the credit allowed under this 781
section in the order required under section 5733.98 of the Revised 782
Code. The excess credit may be carried forward for three years 783
following the tax year for which it is claimed under this section. 784

(D) The director of environmental protection, upon the 785
request of the tax commissioner, shall certify whether a facility 786

is a compliance facility. In the case of a compliance facility 787
owned by an electric company, the public utilities commission 788
shall certify to the tax commissioner the cost of the facility as 789
of the date it was placed in service. In the case of a compliance 790
facility owned by a person other than an electric company, the tax 791
commissioner shall determine the cost of the facility as of the 792
date it was placed in service. If the owner of such a facility 793
fails to furnish the information necessary to make that 794
determination, no credit shall be allowed. 795

Section 2. That existing sections 3901.211, 3905.40, 796
3905.401, 3929.302, 3929.50, 3929.51, 3929.52, 3929.56, 3929.58, 797
3929.59, 3951.01, 3951.05, 3951.06, and 5733.39 and section 798
3951.09 of the Revised Code are hereby repealed. 799

Section 3. The General Assembly hereby requests the Ohio 800
Supreme Court adopt rules of professional conduct that require any 801
attorney who provides representation to a person bringing a 802
medical, dental, optometric, or chiropractic claim to file with 803
the Department of Insurance or its designee under division (D) of 804
section 3929.302 of the Revised Code a report describing the 805
attorney fees and expenses received for such representation, as 806
well as any other data necessary for the Department of Insurance 807
to reconcile the attorney fee and expense data with other medical 808
malpractice closed claim data received by the Department of 809
Insurance pursuant to rules promulgated under section 3929.302 of 810
the Revised Code. The General Assembly hereby requests that any 811
rules adopted by the Ohio Supreme Court define medical, dental, 812
optometric, and chiropractic claims in the same manner as section 813
3929.302 of the Revised Code and require the filing of a report 814
with the Department of Insurance if the medical, dental, 815
optometric, or chiropractic claim results in a final judgment or 816
settlement in any amount or a final disposition of the claim 817

resulting in no indemnity payment to the claimant.

818