

**As Passed by the House**

**129th General Assembly  
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**Sub. H. B. No. 122**

**Representative Hottinger**

**Cosponsors: Representatives Antonio, Baker, Beck, Brenner, Bubp, Carey,  
Carney, Coley, Combs, Derickson, Fende, Garland, Goyal, Hackett,  
Hagan, C., Hall, Heard, Letson, Luckie, Mallory, McClain, Mecklenborg,  
Milkovich, Newbold, Rosenberger, Sears, Stinziano, Young  
Speaker Batchelder**

—

**A B I L L**

To amend sections 3901.17, 3905.30, 3905.31, 3905.33, 1  
3905.34, 3905.36, 3905.37, and 3905.38 and to 2  
enact section 3905.331 of the Revised Code to 3  
exempt state surplus lines insurance from 4  
regulation in Ohio when Ohio is not the home state 5  
of the insured and to make other changes to the 6  
law regulating surplus lines insurance. 7

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

**Section 1.** That sections 3901.17, 3905.30, 3905.31, 3905.33, 8  
3905.34, 3905.36, 3905.37, and 3905.38 be amended and section 9  
3905.331 of the Revised Code be enacted to read as follows: 10

**Sec. 3901.17.** (A) As used in this section: 11

(1) "Captive insurer" has the meaning defined in section 12  
3905.36 of the Revised Code. 13

(2) "Insurer" includes, but is not limited to, any person 14

that is an affiliate of or affiliated with the insurer, as defined 15  
in division (A) of section 3901.32 of the Revised Code, and any 16  
person that is a subsidiary of the insurer as defined in division 17  
(F) of section 3901.32 of the Revised Code. 18

(3) "Laws of this state relating to insurance" has the 19  
meaning defined in division (A)(1) of section 3901.04 of the 20  
Revised Code. 21

(4) "Person" has the meaning defined in division (A) of 22  
section 3901.19 of the Revised Code. 23

(5) "Home state" has the same meaning as in section 3905.30 24  
of the Revised Code. 25

(B) Any of the following acts in this state, effected by mail 26  
or otherwise, by any foreign or alien insurer not authorized to 27  
transact business within this state, any nonresident person acting 28  
on behalf of an insurer, or any nonresident insurance agent 29  
subjects the insurer, person, or agent to the exercise of personal 30  
jurisdiction over the insurer, person, or agent to the extent 31  
permitted by the constitutions of this state and of the United 32  
States: 33

(1) Issuing or delivering contracts of insurance to residents 34  
of this state or to corporations authorized to do business 35  
therein; 36

(2) Making or proposing to make any insurance contracts; 37

(3) Soliciting, taking, or receiving any application for 38  
insurance; 39

(4) Receiving or collecting any premium, commission, 40  
membership fee, assessment, dues, or other consideration for any 41  
insurance contract or any part thereof; 42

(5) Disseminating information as to coverage or rates, 43  
forwarding applications, inspecting risks, fixing rates, 44

investigating or adjusting claims or losses, or transacting any 45  
matters subsequent to effecting a contract of insurance and 46  
arising out of it; 47

(6) Doing any kind of business recognized as constituting the 48  
doing of an insurance business under Title XXXIX of the Revised 49  
Code or subject to regulation by the superintendent of insurance 50  
under the laws of this state relating to insurance. 51

Any such act shall be considered to be the doing of an 52  
insurance business in this state by such insurer, person, or agent 53  
and shall be its agreement that service of any lawful subpoena, 54  
notice, order, or process is of the same legal force and validity 55  
as personal service of the subpoena, notice, order, or process in 56  
this state upon the insurer, person, or agent. 57

(C) Service of process in judicial proceedings shall be as 58  
provided by the Rules of Civil Procedure. Service in or out of 59  
this state of notice, orders, or subpoenas in administrative 60  
proceedings before the superintendent shall be as provided in 61  
section 3901.04 of the Revised Code. 62

(D) Service of any notice, order, subpoena, or process in any 63  
such action, suit, or proceeding shall, in addition to the manner 64  
provided in division (C) of this section, be valid if served upon 65  
any person within this state who, in this state on behalf of such 66  
insurer, person, or agent is or has been: 67

(1) Soliciting, procuring, effecting, or negotiating for 68  
insurance; 69

(2) Making, issuing, or delivering any contract of insurance; 70

(3) Collecting or receiving any premium, membership fees, 71  
assessment, dues, or other consideration for insurance; 72

(4) Disseminating information as to coverage or rates, 73  
forwarding applications, inspecting risks, fixing rates, 74

investigating or adjusting claims or losses, or transacting any 75  
matters subsequent to effecting a contract of insurance and 76  
arising out of it. 77

(E) Nothing in this section shall limit or abridge the right 78  
to serve any subpoena, order, process, notice, or demand upon any 79  
insurer, person, or agent in any other manner permitted by law. 80

(F) Every person investigating or adjusting any loss or claim 81  
under a policy of insurance not excepted under division (I) of 82  
this section and issued by any such insurer and covering a subject 83  
of insurance that was resident, located, or to be performed in 84  
this state at the time of issuance shall immediately report the 85  
policy to the superintendent. 86

(G) ~~Each~~ If this state is the home state of the insured, each 87  
such insurer that does any of the acts set forth in division (B) 88  
of this section ~~in this state by mail or otherwise~~ shall be 89  
subject to a tax of five per cent on the gross premiums, 90  
~~membership fees, assessments, dues, and other considerations~~ 91  
~~received on all contracts of insurance covering subjects of~~ 92  
~~insurance resident, located, or to be performed within this state.~~ 93  
~~Such insurer shall annually, on or before the first day of July,~~ 94  
~~pay such tax to the treasurer of state, as calculated on a form~~ 95  
~~prescribed by the treasurer of state. If the tax is not paid when~~ 96  
~~due, the tax shall be increased by a penalty of twenty five per~~ 97  
~~cent. An interest charge computed as set forth in section 5725.221~~ 98  
~~of the Revised Code shall be made on the entire sum of the tax~~ 99  
~~plus penalty, which interest shall be computed from the date the~~ 100  
~~tax is due until it is paid. The treasurer of state shall~~ 101  
~~determine and report all claims for penalties and interest~~ 102  
~~accruing under this section to the attorney general for collection~~ 103  
the requirements of section 3905.36 of the Revised Code. 104

~~For purposes of this division, payment is considered made~~ 105  
~~when it is received by the treasurer of state, irrespective of any~~ 106

<del>United States postal service marking or other stamp or mark</del>	107
<del>indicating the date on which the payment may have been mailed.</del>	108
(H) No contract of insurance effected in this state by mail	109
or otherwise by any such insurer is enforceable by the insurer.	110
(I) This section does not apply to:	111
(1) Insurance obtained pursuant to sections 3905.30 to	112
3905.36 of the Revised Code;	113
(2) The transaction of reinsurance by insurers;	114
(3) <del>Transactions in this state involving a policy solicited,</del>	115
<del>written, and delivered outside this state covering only subjects</del>	116
<del>of insurance not resident, located, or to be performed in this</del>	117
<del>state at the time of issuance, provided such transactions are</del>	118
<del>subsequent to the issuance of the policy;</del>	119
<del>(4)</del> Transactions in this state involving a policy of group	120
life or group accident and sickness insurance solicited, written,	121
and delivered outside this state;	122
<del>(5)</del> (4) Transactions involving contracts of insurance	123
independently procured through negotiations occurring entirely	124
outside this state which are reported <del>to the superintendent</del> and	125
<del>with respect to which the tax provided by</del> <u>is paid in accordance</u>	126
<u>with</u> section 3905.36 of the Revised Code <del>is paid;</del>	127
<del>(6)</del> (5) An attorney at law acting on behalf of the attorney's	128
clients in the adjustment of claims or losses;	129
<del>(7) Except as provided in division (C) of this section, any</del>	130
<del>insurance company underwriter issuing contracts of insurance to</del>	131
<del>employer insureds or contracts of insurance issued to an employer</del>	132
<del>insured. For purposes of this section, an "employer insured" is an</del>	133
<del>insured to whom all of the following apply:</del>	134
<del>(a) The insured procures the insurance of any risk or risks</del>	135
<del>by use of the services of a full-time employee acting as an</del>	136

~~insurance manager or buyer or the services of a regularly and 137  
continuously qualified insurance consultant. As used in division 138  
(I)(7)(a) of this section, a "regularly and continuously qualified 139  
insurance consultant" does not include any person licensed under 140  
Chapter 3905. of the Revised Code. 141~~

~~(b) The insured's aggregate annual premiums for insurance on 142  
all risks total at least twenty five thousand dollars; and 143~~

~~(c) The insured has at least twenty five full time employees. 144~~

~~(8)(6) Ocean marine insurance; 145~~

~~(9)(7) Transactions involving policies issued by a captive 146  
insurer. 147~~

Sec. 3905.30. (A) As used in sections 3905.30 to 3905.38 of 148  
the Revised Code: 149

(1) Notwithstanding section 3905.01 of the Revised Code, 150  
"home state" means the state in which an insured maintains its 151  
principal place of business or, in the case of an individual, the 152  
individual's principal residence except in the case of either of 153  
the following: 154

(a) If one hundred per cent of the insured risk is located 155  
out of the state in which an insured maintains its principal place 156  
of business or principal residence as described in division 157  
(A)(1)(a) of this section, "home state" means the state to which 158  
the greatest percentage of the insured's taxable premium for that 159  
insurance contract is allocated. 160

(b) If more than one insured from an affiliated group are 161  
named insureds on a single unauthorized insurance contract, "home 162  
state" means the state in which the member of the affiliated group 163  
that has the largest percentage of premium attributed to it under 164  
such insurance contract. 165

(2) "Principal place of business" means the state where the 166

insured maintains the insured's headquarters and where the 167  
insured's high-level officers direct, control, and coordinate the 168  
business activities of the insured. 169

(B) The superintendent of insurance may issue a surplus ~~line~~ 170  
~~lines~~ broker's license to any natural person who is a resident of 171  
this or any other state or to a business entity that is organized 172  
under the laws of this or any other state. To be eligible for a 173  
resident surplus ~~line~~ ~~lines~~ broker's license, a person must have 174  
both a property license and a casualty license. To be eligible for 175  
a nonresident surplus ~~line~~ ~~lines~~ broker's license, a person must 176  
hold an active surplus ~~line~~ ~~lines~~ broker license in the person's 177  
home state. A nonresident surplus ~~line~~ ~~lines~~ broker shall obtain a 178  
nonresident license with a property and casualty line of authority 179  
in this state if the broker is or will be personally performing 180  
the due diligence requirements under section 3905.33 of the 181  
Revised Code. 182

(C) A surplus ~~line~~ ~~lines~~ broker's license permits the person 183  
named in the license to negotiate for and obtain insurance, other 184  
than life insurance, on property or persons in this state from 185  
insurers not authorized to transact business in this state. Each 186  
such license expires on the thirty-first day of January next after 187  
the year in which it is issued, and may be then renewed. 188

**Sec. 3905.31.** (A) No person not licensed under section 189  
3905.30 of the Revised Code shall take or receive any application 190  
for such insurance upon property or persons in this state, or 191  
receive or collect a premium or any part thereof for any 192  
unauthorized insurance company, or attempt or assist in any such 193  
act, or perform any act in this state concerning any policy or 194  
contract of insurance of any unauthorized insurance company 195  
provided that any duly licensed property and casualty agent may 196  
place business with an agent licensed under section 3905.30 of the 197

Revised Code and may accept compensation therefor, if such 198  
insurance is written in conformity with the insurance laws of this 199  
state. ~~This~~ 200

(B) This section does not apply to any selling, soliciting, 201  
or negotiating of unauthorized insurance by a surplus lines broker 202  
that takes place in an insured's home state if the home state of 203  
the insured is a state other than this state. 204

(C) This section does not apply to those engaged in the act 205  
of adjusting claims or losses in connection with any policy of 206  
insurance written under the provisions of sections 3905.30 to 207  
3905.35 of the Revised Code. 208

**Sec. 3905.33.** (A) No person licensed under section 3905.30 of 209  
the Revised Code shall solicit, procure an application for, bind, 210  
issue, renew, or deliver a policy with any insurer that is not 211  
eligible to write insurance on ~~a surplus line~~ an unauthorized 212  
basis in this state. 213

~~To establish the eligibility of an unauthorized insurer, the~~ 214  
~~superintendent of insurance may request copies of the insurer's~~ 215  
~~most recent financial statements; instruments such as domestic~~ 216  
~~trust agreements, powers of attorney, and investment management~~ 217  
~~contracts; biographies of the owners and managers of the insurer;~~ 218  
~~and any other information the superintendent believes may be~~ 219  
~~helpful in determining an insurer's suitability. The suitability~~ 220  
~~of each unauthorized insurer is subject to the continuous scrutiny~~ 221  
~~and discretion of the superintendent Pursuant to the "Nonadmitted~~ 222  
~~and Reinsurance Reform Act of 2010," 15 U.S.C. 8201 et seq., 124~~ 223  
~~Stat. 1589, or any successor or replacement law, where this state~~ 224  
is the home state of the insured, an insurer shall be considered 225  
eligible to write insurance on an unauthorized basis in this state 226  
if either of the following are true: 227

(1) The insurer meets the requirements and criteria in 228

sections 5A(2) and 5C(2)(a) of the non-admitted insurance model 229  
act adopted by the national association of insurance 230  
commissioners, or alternative nationwide uniform eligibility 231  
requirements adopted by this state through participation in a 232  
compact or other nationwide system pursuant to 15 U.S.C. 8201 et 233  
seq., 124 Stat. 1589. 234

(2) For unauthorized insurance placed with, or procured from 235  
an unauthorized insurer domiciled outside the United States, the 236  
insurer is listed on the quarterly listing of alien insurers 237  
maintained by the international insurers department of the 238  
national association of insurance commissioners. 239

(B)(1) No ~~insurance agent or surplus line lines~~ broker shall 240  
solicit, procure, place, or renew any insurance with an 241  
unauthorized insurer unless ~~the~~ an agent or ~~the~~ surplus line lines 242  
broker has complied with the due diligence requirements of this 243  
section and is unable to procure the requested insurance from an 244  
authorized insurer. 245

Due diligence requires ~~the an agent or surplus line broker~~ to 246  
contact at least five of the authorized insurers the agent ~~or~~ 247  
~~surplus line broker~~ represents, or as many insurers as the agent 248  
~~or surplus line broker~~ represents, that customarily write the kind 249  
of insurance required by the insured. Due diligence is presumed if 250  
declinations are received from each authorized insurer contacted. 251  
If any authorized insurer fails to respond within ten days after 252  
the initial contact, the agent ~~or surplus line broker~~ may assume 253  
the insurer has declined to accept the risk. 254

(2) Due diligence shall only be performed by an agent 255  
licensed in this state that holds an active property and casualty 256  
insurance agent license. 257

(3) An insurance agent or surplus line lines broker is exempt 258  
from the due diligence requirements of this section if the agent 259

or surplus ~~line~~ lines broker is procuring insurance from a risk 260  
purchasing group or risk retention group as provided in Chapter 261  
3960. of the Revised Code. 262

(4) An insurance agent or surplus lines broker is exempt from 263  
the due diligence requirements of this section if the agent or 264  
surplus lines broker is seeking to procure or place unauthorized 265  
insurance for a person that qualifies as an exempt commercial 266  
purchaser under section 3905.331 of the Revised Code and both of 267  
the following are true: 268

(a) The surplus lines broker procuring or placing the surplus 269  
lines insurance has disclosed to the exempt commercial purchaser 270  
that the insurance may or may not be available from the authorized 271  
market that may provide greater protection with more regulatory 272  
oversight. 273

(b) After receipt of the disclosure required under division 274  
(B)(4)(a) of this section, the exempt commercial purchaser has 275  
requested in writing that the insurance agent or broker procure or 276  
place the insurance from an unauthorized insurer. 277

(C) ~~An~~ Except when exempt from due diligence requirements 278  
under division (B) of this section, an insurance agent who 279  
procures or places insurance through a surplus ~~line~~ lines broker 280  
shall obtain an affidavit from the insured acknowledging that the 281  
insurance policy is to be placed with a company or insurer not 282  
authorized to do business in this state and acknowledging that, in 283  
the event of the insolvency of the insurer, the insured is not 284  
entitled to any benefits or proceeds from the Ohio insurance 285  
guaranty association. The affidavit must be on a form prescribed 286  
by the superintendent. The agent shall submit the ~~original~~ 287  
originally executed affidavit to the surplus ~~line~~ lines broker 288  
within thirty days after the effective date of the policy. If no 289  
other agent is involved, the surplus ~~line~~ lines broker shall 290  
obtain the affidavit from the insured. 291

The surplus ~~line~~ lines broker shall ~~keep~~ maintain the 292  
original originally executed affidavit or a copy of the affidavit, 293  
and the originating agent shall keep a copy of the affidavit, for 294  
at least five years after the effective date of the policy to 295  
which the affidavit pertains. A copy of the affidavit shall be 296  
given to the insured at the time the insurance is bound or a 297  
policy is delivered. 298

(D) For the purpose of carrying out the "Nonadmitted and 299  
Reinsurance Reform Act of 2010," 124 Stat. 1589, 15 U.S.C. 8201 et 300  
seq., or any successor or replacement law, the superintendent may 301  
enter into a multi-state agreement or compact for determining 302  
eligibility for placement of unauthorized insurance and for 303  
payment, reporting, collection, and allocation of the tax on 304  
unauthorized insurance. The multi-state agreement or compact also 305  
may include eligibility for placement of unauthorized insurance 306  
and payment, reporting, collection, and allocation of the tax on 307  
unauthorized insurance for risks that are not multi-state, and for 308  
independently procured insurance in the unauthorized market. 309

(E) The superintendent may adopt rules in accordance with 310  
Chapter 119. of the Revised Code to carry out the purposes of 311  
sections 3905.30 to 3905.38 of the Revised Code. 312

**Sec. 3905.331.** (A) A person purchasing commercial insurance 313  
qualifies as an exempt commercial purchaser if, at the time of 314  
placement, the exempt commercial purchaser satisfies all of the 315  
following requirements: 316

(1) The person employs or retains a qualified risk manager to 317  
negotiate insurance coverage. 318

(2) The person has paid aggregate nationwide commercial 319  
property and casualty insurance premiums in excess of one hundred 320  
thousand dollars in the immediately preceding twelve months. 321

<u>(3) The person satisfies at least one of the following</u>	322
<u>criteria:</u>	323
<u>(a) The person possesses a net worth in excess of twenty</u>	324
<u>million dollars, as adjusted pursuant to division (B) of this</u>	325
<u>section.</u>	326
<u>(b) The person generates annual revenues in excess of fifty</u>	327
<u>million dollars, as adjusted pursuant to division (B) of this</u>	328
<u>section.</u>	329
<u>(c) The person employs more than five hundred full-time or</u>	330
<u>full-time equivalent employees per individual insured or is a</u>	331
<u>member of an affiliated group employing more than one thousand</u>	332
<u>employees in the aggregate.</u>	333
<u>(d) The person is a not-for-profit organization or public</u>	334
<u>entity generating annual budgeted expenditures of at least thirty</u>	335
<u>million dollars, as adjusted pursuant to division (B) of this</u>	336
<u>section.</u>	337
<u>(e) The person is a municipal corporation with a population</u>	338
<u>in excess of fifty thousand persons.</u>	339
<u>(B) Effective on January 1, 2015, and every five years</u>	340
<u>thereafter, the superintendent of insurance shall adjust the</u>	341
<u>dollar amounts in division (A) of this section to reflect the</u>	342
<u>percentage change for that five-year period in the consumer price</u>	343
<u>index for all urban consumers published by the bureau of labor</u>	344
<u>statistics of the United States department of labor.</u>	345
<u>(C) A qualified risk manager employed or retained to</u>	346
<u>negotiate insurance by an exempt commercial purchaser under this</u>	347
<u>section shall satisfy all of the following requirements:</u>	348
<u>(1) The person is an employee of, or third-party consultant</u>	349
<u>retained by, the commercial policyholder.</u>	350
<u>(2) The person provides skilled services in loss prevention,</u>	351

loss reduction, or risk and insurance coverage analysis and the 352  
purchase of insurance. 353

(3) The person satisfies one of the following: 354

(a) The person has obtained a bachelor's degree or a higher 355  
degree from an accredited college or university in risk 356  
management, business administration, finance, economics, or any 357  
other field determined by a state insurance commissioner or other 358  
state regulatory official or entity to demonstrate minimum 359  
competence in risk management, and either has three years of 360  
experience in risk financing, claims administration, loss 361  
prevention and insurance analysis, or purchasing commercial lines 362  
of insurance or has one of the following designations: 363

(i) A designation as a chartered property and casualty 364  
underwriter issued by the American institute for CPCU and the 365  
insurance institute of America; 366

(ii) A designation as an associate in risk management issued 367  
by the American institute for CPCU and the insurance institute of 368  
America; 369

(iii) A designation as certified risk manager issued by the 370  
national alliance for insurance education and research; 371

(iv) A designation as a RIMS fellow issued by the global risk 372  
management institute; 373

(v) Any other designation, certification, or license 374  
determined by the superintendent to demonstrate minimum competency 375  
in risk management. 376

(b) The person has at least seven years of experience in risk 377  
financing, claims administration, loss prevention, risk and 378  
insurance coverage analysis, or purchasing commercial lines of 379  
insurance; and has any one of the designations specified in 380  
division (B)(3)(a) of this section. 381

(c) The person has at least ten years of experience in risk financing, claims administration, loss prevention, risk and insurance coverage analysis, or purchasing commercial lines of insurance. 382  
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(d) The person has a graduate degree from an accredited college or university in risk management, business administration, finance, economics, or any other field determined by the superintendent to demonstrate minimum competence in risk management. 386  
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**Sec. 3905.34.** Each person licensed under section 3905.30 of the Revised Code shall keep a separate account of the business done under the person's license. On or before the thirty-first day of ~~January~~ March or when required under a multi-state agreement or compact entered into by the superintendent of insurance as authorized by division (D) of section 3905.33 of the Revised Code, each surplus ~~line~~ lines broker shall file with the superintendent of insurance the portion of that account that details of the business done during the preceding calendar year in the format prescribed by the superintendent. The account must show the amount of such insurance, the name of the insured, a brief description of the type of insurance, the location of the property, the gross premium charged, the name of the insurer, the date of the policy and term thereof, and a report in the same detail of all such policies canceled and the gross return premiums thereon. 391  
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**Sec. 3905.36.** (A) ~~Except as provided in divisions (B) and (C) of this section, every~~ Every insured association, company, corporation, or other person that enters, directly or indirectly, into any ~~agreements~~ independent procurement or direct placement agreement with any insurance company, association, individual, firm, underwriter, or Lloyd's, not authorized to do business in this state, whereby the insured shall procure, continue, or renew 406  
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contracts of insurance ~~covering subjects of insurance resident,~~ 413  
~~located, or to be performed within this state,~~ with such 414  
unauthorized insurance company, association, individual, firm, 415  
underwriter, or Lloyd's, for which insurance there is a gross 416  
premium, ~~membership fee, assessment, dues, or other consideration~~ 417  
~~charged or collected,~~ shall file the details of the transaction 418  
annually, on or before the thirty-first day of March, ~~return to~~ 419  
~~the superintendent of insurance a statement under oath showing the~~ 420  
~~name and address of the insured, name and address of the insurer,~~ 421  
~~subject of the insurance, general description of the coverage, and~~ 422  
~~amount of gross premium, fee, assessment, dues, or other~~ 423  
~~consideration for such insurance for the preceding calendar year~~ 424  
and shall at the same time pay to the treasurer of state a tax of 425  
five per cent of such gross premium, ~~fee, assessment, dues, or~~ 426  
~~other consideration,~~ after a deduction for return premium, if any, 427  
as calculated ~~on a form in the~~ prescribed by the treasurer of 428  
state. All format or in compliance with any requirements of a 429  
multi-state agreement or compact entered into by the 430  
superintendent pursuant to division (D) of section 3905.33 of the 431  
Revised Code. An insurer may submit the required details of the 432  
transaction and remit the tax payment on behalf of an insured. 433

All taxes collected under this section ~~by the treasurer of~~ 434  
~~state~~ shall be paid into the general revenue fund. If the tax is 435  
not paid when due, the tax shall be increased by a penalty of 436  
twenty-five per cent. An interest charge computed as set forth in 437  
section 5725.221 of the Revised Code shall be made on the entire 438  
sum of the tax plus penalty, which interest shall be computed from 439  
the date the tax is due until it is paid. For purposes of this 440  
section, payment is considered made when it is received ~~by the~~ 441  
~~treasurer of state,~~ irrespective of any United States postal 442  
service marking or other stamp or mark indicating the date on 443  
which the payment may have been mailed. 444

The superintendent of insurance, in the superintendent's sole discretion, may waive the twenty-five per cent penalty and interest charge thereon for a first-time, inadvertent nonpayment of the tax when due if the nonpayment is reported immediately upon discovery and the outstanding tax is thereafter immediately paid to the superintendent. 445  
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(B) Each person licensed under section 3905.30 of the Revised Code shall pay to the treasurer of state, on or before the thirty-first day of March of each year, five per cent of the balance of the gross premiums charged for insurance placed or procured under the license after a deduction for return premiums in the prescribed format or in compliance with any requirements of a multi-state agreement or compact entered into by the superintendent pursuant to division (D) of section 3905.33 of the Revised Code. The tax shall be collected from the insured by the surplus lines broker who placed or procured the policy of insurance at the time the policy is delivered to the insured. No license issued under section 3905.30 of the Revised Code shall be renewed until payment is made. If the tax is not paid when due, the tax shall be increased by a penalty of twenty-five per cent. An interest charge computed as set forth in section 5725.221 of the Revised Code shall be made on the entire sum of the tax plus penalty, which interest shall be computed from the date the tax is due until it is paid. For purposes of this section, payment is considered made when it is received, irrespective of any United States postal service marking or other stamp or mark indicating the date on which the payment may have been mailed. 451  
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The superintendent, in the superintendent's sole discretion, may waive the twenty-five per cent penalty and interest charge thereon for a first-time, inadvertent nonpayment of the tax when due if the nonpayment is reported immediately upon discovery and the outstanding tax is thereafter immediately paid to the 472  
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<u>superintendent.</u>	477
(C) This section does not apply to:	478
(1) <del>Transactions in this state involving a policy solicited,</del>	479
<del>written, and delivered outside this state covering only subjects</del>	480
<del>of insurance not resident, located, or to be performed in this</del>	481
<del>state at the time of issuance, provided such transactions are</del>	482
<del>subsequent to the issuance of the policy <u>An insured otherwise</u></del>	483
<del><u>exempt from the payment of premium or franchise taxes under state</u></del>	484
<del><u>or federal law;</u></del>	485
(2) Attorneys-at-law acting on behalf of their clients in the	486
adjustment of claims or losses;	487
(3) Transactions involving policies issued by a captive	488
insurer. For this purpose, a "captive insurer" means any of the	489
following:	490
(a) An insurer owned by one or more individuals or	491
organizations, whose exclusive purpose is to insure risks of one	492
or more of the parent organizations or individual owners and risks	493
of one or more affiliates of the parent organizations or	494
individual owners;	495
(b) In the case of groups and associations, insurers owned by	496
the group or association whose exclusive purpose is to insure	497
risks of members of the group or association and affiliates of the	498
members;	499
(c) Other types of insurers, licensed and operated in	500
accordance with the captive insurance laws of their jurisdictions	501
of domicile and operated in a manner so as to self-insure risks of	502
their owners and insureds.	503
(4) Professional or medical liability insurance procured by a	504
hospital organized under Chapter 3701. of the Revised Code;	505
(5) Insurance with an initial policy period of more than	506

three years and that is procured to cover known events related to 507  
environmental remediation that occurred prior to the effective 508  
date of that insurance; 509

(6) Insurance procured on behalf of an entity that 510  
manufactures, packages, and sells, as more than fifty per cent of 511  
the entity's business, pharmaceutical products for human use where 512  
the production, packaging, and sale of such products are subject 513  
to regulation by an agency of the United States; 514

(7) A political subdivision or any combination or consortium 515  
of two or more political subdivisions. 516

~~(C) In transactions that are subject to sections 3905.30 to 517  
3905.35 of the Revised Code, each person licensed under section 518  
3905.30 of the Revised Code shall pay to the treasurer of state, 519  
on or before the thirty first day of March of each year, five per 520  
cent of the balance of the gross premiums charged for insurance 521  
placed or procured under the license after a deduction for return 522  
premiums, as reported on a form prescribed by the treasurer of 523  
state. The tax shall be collected from the insured by the surplus 524  
line broker who placed or procured the policy of insurance at the 525  
time the policy is delivered to the insured. No license issued 526  
under section 3905.30 of the Revised Code shall be renewed until 527  
payment is made. If the tax is not paid when due, the tax shall be 528  
increased by a penalty of twenty five per cent. An interest charge 529  
computed as set forth in section 5725.221 of the Revised Code 530  
shall be made on the entire sum of the tax plus penalty, which 531  
interest shall be computed from the date the tax is due until it 532  
is paid. For purposes of this section, payment is considered made 533  
when it is received by the treasurer of state, irrespective of any 534  
United States postal service marking or other stamp or mark 535  
indicating the date on which the payment may have been mailed. 536~~

(D) As used in this section: 537

(1) "Political subdivision" means any county; municipal corporation; township; township police district; township fire district; joint fire district; joint ambulance district; joint emergency medical services district; fire and ambulance district; joint recreation district; township waste disposal district; township road district; community college district; technical college district; detention facility district; a district organized under section 2151.65 of the Revised Code; a combined district organized under sections 2151.65 and 2152.41 of the Revised Code; a joint-county alcohol, drug addiction, and mental health service district; a drainage improvement district created under section 6131.52 of the Revised Code; a union cemetery district; a county school financing district; a city, local, exempted village, cooperative education, or joint vocational school district; or a regional student education district created under section 3313.83 of the Revised Code, any public division, district, commission, authority, department, board, officer, or institution of any one or more of those political subdivisions, that is entirely or substantially supported by public tax moneys.

(2) "Municipal corporation" means all municipal corporations, including those that have adopted a charter under Article XVIII, Ohio Constitution.

**Sec. 3905.37.** No person, company, association, or corporation shall fail to make the report required in section 3905.36 of the Revised Code and to furnish all the information that is required ~~by the treasurer of state~~ to determine the amount due under that section.

**Sec. 3905.38.** (A) Sections 3905.30 to 3905.37 of the Revised Code do not apply where this state is not the home state of the insured.

(B) Sections 3905.36 to 3905.38, ~~inclusive~~, of the Revised Code do not extend to private citizens, firms, or corporations, residents of this state, who seek to provide indemnity among themselves, from fire loss or other casualty, by exchange of private contracts for protection only and not for profit, nor apply to life or accident and sickness insurance. Sections 3905.30 through 3905.37, ~~inclusive~~, of the Revised Code do not apply to ocean marine insurance when placed by licensed agents of this state.

**Section 2.** That existing sections 3901.17, 3905.30, 3905.31, 3905.33, 3905.34, 3905.36, 3905.37, and 3905.38 of the Revised Code are hereby repealed.