

**As Passed by the Senate**

**129th General Assembly**

**Regular Session**

**2011-2012**

**Am. 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**

**Senators Bacon, Daniels, Faber, Hite, Hughes, Jones, Lehner, Obhof,  
Sawyer, Schaffer, Tavares, Wagoner, Wilson**

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**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  
United States postal service marking or other stamp or mark 107  
indicating the date on which the payment may have been mailed. 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) Transactions in this state involving a policy solicited, 115  
written, and delivered outside this state covering only subjects 116  
of insurance not resident, located, or to be performed in this 117  
state at the time of issuance, provided such transactions are 118  
subsequent to the issuance of the policy; 119~~

~~(4) 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~~

~~(5)(4) Transactions involving contracts of insurance 123  
independently procured through negotiations occurring entirely 124  
outside this state which are reported to the superintendent and 125  
with respect to which the tax provided by is paid in accordance 126  
with section 3905.36 of the Revised Code is paid; 127~~

~~(6)(5) An attorney at law acting on behalf of the attorney's 128  
clients in the adjustment of claims or losses; 129~~

~~(7) Except as provided in division (C) of this section, any 130  
insurance company underwriter issuing contracts of insurance to 131  
employer insureds or contracts of insurance issued to an employer 132  
insured. For purposes of this section, an "employer insured" is an 133  
insured to whom all of the following apply: 134~~

~~(a) The insured procures the insurance of any risk or risks by use of the services of a full time employee acting as an insurance manager or buyer or the services of a regularly and continuously qualified insurance consultant. As used in division (I)(7)(a) of this section, a "regularly and continuously qualified insurance consultant" does not include any person licensed under Chapter 3905. of the Revised Code.~~

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

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

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

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

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

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

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

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

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 301  
shall conduct a fiscal analysis of the impact of entering into a 302  
multi-state agreement or compact for determining eligibility for 303  
placement of unauthorized insurance and for payment, reporting, 304  
collection, and allocation of the tax on unauthorized insurance. 305  
If the fiscal analysis indicates that entering into a multi-state 306  
agreement or compact is advantageous to this state, the 307  
superintendent may enter into the surplus lines insurance 308  
multi-state compliance compact adopted by the national conference 309  
of insurance legislators and known as "SLIMPACT," as amended on 310  
December 21, 2010, and including any subsequent amendment; or, if 311  
it is in this state's financial best interest, the superintendent 312  
shall request that the general assembly authorize the 313  
superintendent to enter into a different multi-state agreement or 314  
compact. 315

(E) The superintendent may adopt rules in accordance with 316  
Chapter 119. of the Revised Code to carry out the purposes of 317  
sections 3905.30 to 3905.38 of the Revised Code. 318

**Sec. 3905.331.** (A) A person purchasing commercial insurance 319  
qualifies as an exempt commercial purchaser if, at the time of 320

placement, the exempt commercial purchaser satisfies all of the 321  
following requirements: 322

(1) The person employs or retains a qualified risk manager to 323  
negotiate insurance coverage. 324

(2) The person has paid aggregate nationwide commercial 325  
property and casualty insurance premiums in excess of one hundred 326  
thousand dollars in the immediately preceding twelve months. 327

(3) The person satisfies at least one of the following 328  
criteria: 329

(a) The person possesses a net worth in excess of twenty 330  
million dollars, as adjusted pursuant to division (B) of this 331  
section. 332

(b) The person generates annual revenues in excess of fifty 333  
million dollars, as adjusted pursuant to division (B) of this 334  
section. 335

(c) The person employs more than five hundred full-time or 336  
full-time equivalent employees per individual insured or is a 337  
member of an affiliated group employing more than one thousand 338  
employees in the aggregate. 339

(d) The person is a not-for-profit organization or public 340  
entity generating annual budgeted expenditures of at least thirty 341  
million dollars, as adjusted pursuant to division (B) of this 342  
section. 343

(e) The person is a municipal corporation with a population 344  
in excess of fifty thousand persons. 345

(B) Effective on January 1, 2015, and every five years 346  
thereafter, the superintendent of insurance shall adjust the 347  
dollar amounts in division (A) of this section to reflect the 348  
percentage change for that five-year period in the consumer price 349  
index for all urban consumers published by the bureau of labor 350

<u>statistics of the United States department of labor.</u>	351
<u>(C) A qualified risk manager employed or retained to</u>	352
<u>negotiate insurance by an exempt commercial purchaser under this</u>	353
<u>section shall satisfy all of the following requirements:</u>	354
<u>(1) The person is an employee of, or third-party consultant</u>	355
<u>retained by, the commercial policyholder.</u>	356
<u>(2) The person provides skilled services in loss prevention,</u>	357
<u>loss reduction, or risk and insurance coverage analysis and the</u>	358
<u>purchase of insurance.</u>	359
<u>(3) The person satisfies one of the following:</u>	360
<u>(a) The person has obtained a bachelor's degree or a higher</u>	361
<u>degree from an accredited college or university in risk</u>	362
<u>management, business administration, finance, economics, or any</u>	363
<u>other field determined by a state insurance commissioner or other</u>	364
<u>state regulatory official or entity to demonstrate minimum</u>	365
<u>competence in risk management, and either has three years of</u>	366
<u>experience in risk financing, claims administration, loss</u>	367
<u>prevention and insurance analysis, or purchasing commercial lines</u>	368
<u>of insurance or has one of the following designations:</u>	369
<u>(i) A designation as a chartered property and casualty</u>	370
<u>underwriter issued by the American institute for CPCU and the</u>	371
<u>insurance institute of America;</u>	372
<u>(ii) A designation as an associate in risk management issued</u>	373
<u>by the American institute for CPCU and the insurance institute of</u>	374
<u>America;</u>	375
<u>(iii) A designation as certified risk manager issued by the</u>	376
<u>national alliance for insurance education and research;</u>	377
<u>(iv) A designation as a RIMS fellow issued by the global risk</u>	378
<u>management institute;</u>	379
<u>(v) Any other designation, certification, or license</u>	380

determined by the superintendent to demonstrate minimum competency 381  
in risk management. 382

(b) The person has at least seven years of experience in risk 383  
financing, claims administration, loss prevention, risk and 384  
insurance coverage analysis, or purchasing commercial lines of 385  
insurance; and has any one of the designations specified in 386  
division (B)(3)(a) of this section. 387

(c) The person has at least ten years of experience in risk 388  
financing, claims administration, loss prevention, risk and 389  
insurance coverage analysis, or purchasing commercial lines of 390  
insurance. 391

(d) The person has a graduate degree from an accredited 392  
college or university in risk management, business administration, 393  
finance, economics, or any other field determined by the 394  
superintendent to demonstrate minimum competence in risk 395  
management. 396

**Sec. 3905.34.** Each person licensed under section 3905.30 of 397  
the Revised Code shall keep a separate account of the business 398  
done under the person's license. On or before the thirty-first day 399  
of ~~January~~ March or when required under the compact entered into 400  
by the superintendent of insurance as authorized by division (D) 401  
of section 3905.33 of the Revised Code, each surplus ~~line~~ lines 402  
broker shall file ~~with the superintendent of insurance the portion~~ 403  
~~of that account that~~ details of the business done during the 404  
preceding calendar year in the format prescribed by the 405  
superintendent. ~~The account must show the amount of such~~ 406  
~~insurance, the name of the insured, a brief description of the~~ 407  
~~type of insurance, the location of the property, the gross premium~~ 408  
~~charged, the name of the insurer, the date of the policy and term~~ 409  
~~thereof, and a report in the same detail of all such policies~~ 410  
~~canceled and the gross return premiums thereon.~~ 411

~~Sec. 3905.36. (A) Except as provided in divisions (B) and (C)~~ 412  
~~of this section, every~~ Every insured association, company, 413  
corporation, or other person that enters, directly or indirectly, 414  
into any ~~agreements~~ independent procurement or direct placement 415  
agreement with any insurance company, association, individual, 416  
firm, underwriter, or Lloyd's, not authorized to do business in 417  
this state, whereby the insured shall procure, continue, or renew 418  
contracts of insurance ~~covering subjects of insurance resident,~~ 419  
~~located, or to be performed within this state,~~ with such 420  
unauthorized insurance company, association, individual, firm, 421  
underwriter, or Lloyd's, for which insurance there is a gross 422  
premium, ~~membership fee, assessment, dues, or other consideration~~ 423  
~~charged or collected,~~ shall file the details of the transaction 424  
annually, on or before the thirty-first day of March, ~~return to~~ 425  
~~the superintendent of insurance a statement under oath showing the~~ 426  
~~name and address of the insured, name and address of the insurer,~~ 427  
~~subject of the insurance, general description of the coverage, and~~ 428  
~~amount of gross premium, fee, assessment, dues, or other~~ 429  
~~consideration for such insurance for the preceding calendar year~~ 430  
and shall at the same time pay to the treasurer of state a tax of 431  
five per cent of such gross premium, ~~fee, assessment, dues, or~~ 432  
~~other consideration,~~ after a deduction for return premium, if any, 433  
as calculated ~~on a form~~ in the prescribed by the treasurer of 434  
state. All format or in compliance with any requirements of the 435  
compact entered into by the superintendent pursuant to division 436  
(D) of section 3905.33 of the Revised Code. An insurer may submit 437  
the required details of the transaction and remit the tax payment 438  
on behalf of an insured. 439

All taxes collected under this section ~~by the treasurer of~~ 440  
~~state~~ shall be paid into the general revenue fund. If the tax is 441  
not paid when due, the tax shall be increased by a penalty of 442  
twenty-five per cent. An interest charge computed as set forth in 443

section 5725.221 of the Revised Code shall be made on the entire 444  
sum of the tax plus penalty, which interest shall be computed from 445  
the date the tax is due until it is paid. For purposes of this 446  
section, payment is considered made when it is received ~~by the~~ 447  
~~treasurer of state~~, irrespective of any United States postal 448  
service marking or other stamp or mark indicating the date on 449  
which the payment may have been mailed. 450

The superintendent of insurance, in the superintendent's sole 451  
discretion, may waive the twenty-five per cent penalty and 452  
interest charge thereon for a first-time, inadvertent nonpayment 453  
of the tax when due if the nonpayment is reported immediately upon 454  
discovery and the outstanding tax is thereafter immediately paid 455  
to the superintendent. 456

(B) Each person licensed under section 3905.30 of the Revised 457  
Code shall pay to the treasurer of state, on or before the 458  
thirty-first day of March of each year, five per cent of the 459  
balance of the gross premiums charged for insurance placed or 460  
procured under the license after a deduction for return premiums 461  
in the prescribed format or in compliance with any requirements of 462  
the compact entered into by the superintendent pursuant to 463  
division (D) of section 3905.33 of the Revised Code. The tax shall 464  
be collected from the insured by the surplus lines broker who 465  
placed or procured the policy of insurance at the time the policy 466  
is delivered to the insured. No license issued under section 467  
3905.30 of the Revised Code shall be renewed until payment is 468  
made. If the tax is not paid when due, the tax shall be increased 469  
by a penalty of twenty-five per cent. An interest charge computed 470  
as set forth in section 5725.221 of the Revised Code shall be made 471  
on the entire sum of the tax plus penalty, which interest shall be 472  
computed from the date the tax is due until it is paid. For 473  
purposes of this section, payment is considered made when it is 474  
received, irrespective of any United States postal service marking 475

or other stamp or mark indicating the date on which the payment 476  
may have been mailed. 477

The superintendent, in the superintendent's sole discretion, 478  
may waive the twenty-five per cent penalty and interest charge 479  
thereon for a first-time, inadvertent nonpayment of the tax when 480  
due if the nonpayment is reported immediately upon discovery and 481  
the outstanding tax is thereafter immediately paid to the 482  
superintendent. 483

(C) This section does not apply to: 484

~~(1) Transactions in this state involving a policy solicited,~~ 485  
~~written, and delivered outside this state covering only subjects~~ 486  
~~of insurance not resident, located, or to be performed in this~~ 487  
~~state at the time of issuance, provided such transactions are~~ 488  
~~subsequent to the issuance of the policy An insured otherwise~~ 489  
~~exempt from the payment of premium or franchise taxes under state~~ 490  
~~or federal law;~~ 491

(2) Attorneys-at-law acting on behalf of their clients in the 492  
adjustment of claims or losses; 493

(3) Transactions involving policies issued by a captive 494  
insurer. For this purpose, a "captive insurer" means any of the 495  
following: 496

(a) An insurer owned by one or more individuals or 497  
organizations, whose exclusive purpose is to insure risks of one 498  
or more of the parent organizations or individual owners and risks 499  
of one or more affiliates of the parent organizations or 500  
individual owners; 501

(b) In the case of groups and associations, insurers owned by 502  
the group or association whose exclusive purpose is to insure 503  
risks of members of the group or association and affiliates of the 504  
members; 505

(c) Other types of insurers, licensed and operated in accordance with the captive insurance laws of their jurisdictions of domicile and operated in a manner so as to self-insure risks of their owners and insureds.

(4) Professional or medical liability insurance procured by a hospital organized under Chapter 3701. of the Revised Code;

(5) Insurance with an initial policy period of more than three years and that is procured to cover known events related to environmental remediation that occurred prior to the effective date of that insurance;

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

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

~~(C) In transactions that are subject to sections 3905.30 to 3905.35 of the Revised Code, 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, as reported on a form prescribed by the treasurer of state. The tax shall be collected from the insured by the surplus line 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 537  
interest shall be computed from the date the tax is due until it 538  
is paid. For purposes of this section, payment is considered made 539  
when it is received by the treasurer of state, irrespective of any 540  
United States postal service marking or other stamp or mark 541  
indicating the date on which the payment may have been mailed. 542~~

(D) As used in this section: 543

(1) "Political subdivision" means any county; municipal 544  
corporation; township; township police district; township fire 545  
district; joint fire district; joint ambulance district; joint 546  
emergency medical services district; fire and ambulance district; 547  
joint recreation district; township waste disposal district; 548  
township road district; community college district; technical 549  
college district; detention facility district; a district 550  
organized under section 2151.65 of the Revised Code; a combined 551  
district organized under sections 2151.65 and 2152.41 of the 552  
Revised Code; a joint-county alcohol, drug addiction, and mental 553  
health service district; a drainage improvement district created 554  
under section 6131.52 of the Revised Code; a union cemetery 555  
district; a county school financing district; a city, local, 556  
exempted village, cooperative education, or joint vocational 557  
school district; or a regional student education district created 558  
under section 3313.83 of the Revised Code, any public division, 559  
district, commission, authority, department, board, officer, or 560  
institution of any one or more of those political subdivisions, 561  
that is entirely or substantially supported by public tax moneys. 562

(2) "Municipal corporation" means all municipal corporations, 563  
including those that have adopted a charter under Article XVIII, 564  
Ohio Constitution. 565

**Sec. 3905.37.** No person, company, association, or corporation 566  
shall fail to make the report required in section 3905.36 of the 567

Revised Code and to furnish all the information that is required 568  
by the ~~treasurer of state~~ to determine the amount due under that 569  
section. 570

**Sec. 3905.38.** (A) Sections 3905.30 to 3905.37 of the Revised 571  
Code do not apply where this state is not the home state of the 572  
insured. 573

(B) Sections 3905.36 to 3905.38, ~~inclusive~~, of the Revised 574  
Code do not extend to private citizens, firms, or corporations, 575  
residents of this state, who seek to provide indemnity among 576  
themselves, from fire loss or other casualty, by exchange of 577  
private contracts for protection only and not for profit, nor 578  
apply to life or accident and sickness insurance. Sections 3905.30 579  
through 3905.37, ~~inclusive~~, of the Revised Code do not apply to 580  
ocean marine insurance when placed by licensed agents of this 581  
state. 582

**Section 2.** That existing sections 3901.17, 3905.30, 3905.31, 583  
3905.33, 3905.34, 3905.36, 3905.37, and 3905.38 of the Revised 584  
Code are hereby repealed. 585