

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

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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

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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 135~~

~~by use of the services of a full time employee acting as an 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 insured maintains the insured's headquarters and where the insured's high-level officers direct, control, and coordinate the business activities of the insured.

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

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

Sec. 3905.31. (A) No person not licensed under section 3905.30 of the Revised Code shall take or receive any application for such insurance upon property or persons in this state, or receive or collect a premium or any part thereof for any unauthorized insurance company, or attempt or assist in any such act, or perform any act in this state concerning any policy or contract of insurance of any unauthorized insurance company provided that any duly licensed property and casualty agent may

place business with an agent licensed under section 3905.30 of the Revised Code and may accept compensation therefor, if such insurance is written in conformity with the insurance laws of this state. ~~This~~

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

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

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

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

(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

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

(C) A qualified risk manager employed or retained to 352
negotiate insurance by an exempt commercial purchaser under this 353
section shall satisfy all of the following requirements: 354

(1) The person is an employee of, or third-party consultant 355
retained by, the commercial policyholder. 356

(2) The person provides skilled services in loss prevention, 357
loss reduction, or risk and insurance coverage analysis and the 358
purchase of insurance. 359

(3) The person satisfies one of the following: 360

(a) The person has obtained a bachelor's degree or a higher 361
degree from an accredited college or university in risk 362
management, business administration, finance, economics, or any 363
other field determined by a state insurance commissioner or other 364
state regulatory official or entity to demonstrate minimum 365
competence in risk management, and either has three years of 366
experience in risk financing, claims administration, loss 367
prevention and insurance analysis, or purchasing commercial lines 368
of insurance or has one of the following designations: 369

(i) A designation as a chartered property and casualty 370
underwriter issued by the American institute for CPCU and the 371
insurance institute of America; 372

(ii) A designation as an associate in risk management issued 373
by the American institute for CPCU and the insurance institute of 374
America; 375

(iii) A designation as certified risk manager issued by the 376
national alliance for insurance education and research; 377

(iv) A designation as a RIMS fellow issued by the global risk 378
management institute; 379

(v) Any other designation, certification, or license 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
~~eanceled 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