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Senators Hottinger, Peterson

Cosponsors: Senators Hackett, Brenner, Blessing, Huffman, S., Antonio, Burke, Craig, Dolan, Kunze, Maharath, Manning, O'Brien, Rulli, Schaffer, Thomas, Wilson, Yuko Representatives Boggs, Carfagna, Carruthers, Fraizer, Galonski, Liston, Miller, A., Miller, J., Plummer, Reineke, Rogers, Russo, Seitz, Sweeney

A BILL

To amend sections 149.43, 3901.62, and 3901.64 and
to enact sections 3902.36 and 5167.47 of the
Revised Code to amend the law related to
insurers receiving credit for reinsurance,
mental health and substance use disorder benefit
parity, and the release of the telephone number
of a person involved in a motor vehicle
accident.

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

Section 1. That sections 149.43, 3901.62, and 3901.64 be
amended and sections 3902.36 and 5167.47 of the Revised Code be
enacted to read as follows:

Sec. 149.43. (A) As used in this section:

(1) "Public record" means records kept by any public
office, including, but not limited to, state, county, city,
village, township, and school district units, and records
pertaining to the delivery of educational services by an

alternative school in this state kept by the nonprofit or for-profit entity operating the alternative school pursuant to section 3313.533 of the Revised Code. "Public record" does not mean any of the following:

(a) Medical records;

(b) Records pertaining to probation and parole proceedings, to proceedings related to the imposition of community control sanctions and post-release control sanctions, or to proceedings related to determinations under section 2967.271 of the Revised Code regarding the release or maintained incarceration of an offender to whom that section applies;

(c) Records pertaining to actions under section 2151.85 and division (C) of section 2919.121 of the Revised Code and to appeals of actions arising under those sections;

(d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under sections 3705.12 to 3705.124 of the Revised Code;

(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;

(f) Records specified in division (A) of section 3107.52 of the Revised Code;

(g) Trial preparation records;

(h) Confidential law enforcement investigatory records;

(i) Records containing information that is confidential

under section 2710.03 or 4112.05 of the Revised Code; 45

(j) DNA records stored in the DNA database pursuant to 46
section 109.573 of the Revised Code; 47

(k) Inmate records released by the department of 48
rehabilitation and correction to the department of youth 49
services or a court of record pursuant to division (E) of 50
section 5120.21 of the Revised Code; 51

(l) Records maintained by the department of youth services 52
pertaining to children in its custody released by the department 53
of youth services to the department of rehabilitation and 54
correction pursuant to section 5139.05 of the Revised Code; 55

(m) Intellectual property records; 56

(n) Donor profile records; 57

(o) Records maintained by the department of job and family 58
services pursuant to section 3121.894 of the Revised Code; 59

(p) Designated public service worker residential and 60
familial information; 61

(q) In the case of a county hospital operated pursuant to 62
Chapter 339. of the Revised Code or a municipal hospital 63
operated pursuant to Chapter 749. of the Revised Code, 64
information that constitutes a trade secret, as defined in 65
section 1333.61 of the Revised Code; 66

(r) Information pertaining to the recreational activities 67
of a person under the age of eighteen; 68

(s) In the case of a child fatality review board acting 69
under sections 307.621 to 307.629 of the Revised Code or a 70
review conducted pursuant to guidelines established by the 71

director of health under section 3701.70 of the Revised Code, 72
records provided to the board or director, statements made by 73
board members during meetings of the board or by persons 74
participating in the director's review, and all work products of 75
the board or director, and in the case of a child fatality 76
review board, child fatality review data submitted by the board 77
to the department of health or a national child death review 78
database, other than the report prepared pursuant to division 79
(A) of section 307.626 of the Revised Code; 80

(t) Records provided to and statements made by the 81
executive director of a public children services agency or a 82
prosecuting attorney acting pursuant to section 5153.171 of the 83
Revised Code other than the information released under that 84
section; 85

(u) Test materials, examinations, or evaluation tools used 86
in an examination for licensure as a nursing home administrator 87
that the board of executives of long-term services and supports 88
administers under section 4751.15 of the Revised Code or 89
contracts under that section with a private or government entity 90
to administer; 91

(v) Records the release of which is prohibited by state or 92
federal law; 93

(w) Proprietary information of or relating to any person 94
that is submitted to or compiled by the Ohio venture capital 95
authority created under section 150.01 of the Revised Code; 96

(x) Financial statements and data any person submits for 97
any purpose to the Ohio housing finance agency or the 98
controlling board in connection with applying for, receiving, or 99
accounting for financial assistance from the agency, and 100

information that identifies any individual who benefits directly 101
or indirectly from financial assistance from the agency; 102

(y) Records listed in section 5101.29 of the Revised Code; 103

(z) Discharges recorded with a county recorder under 104
section 317.24 of the Revised Code, as specified in division (B) 105
(2) of that section; 106

(aa) Usage information including names and addresses of 107
specific residential and commercial customers of a municipally 108
owned or operated public utility; 109

(bb) Records described in division (C) of section 187.04 110
of the Revised Code that are not designated to be made available 111
to the public as provided in that division; 112

(cc) Information and records that are made confidential, 113
privileged, and not subject to disclosure under divisions (B) 114
and (C) of section 2949.221 of the Revised Code; 115

(dd) Personal information, as defined in section 149.45 of 116
the Revised Code; 117

(ee) The confidential name, address, and other personally 118
identifiable information of a program participant in the address 119
confidentiality program established under sections 111.41 to 120
111.47 of the Revised Code, including the contents of any 121
application for absent voter's ballots, absent voter's ballot 122
identification envelope statement of voter, or provisional 123
ballot affirmation completed by a program participant who has a 124
confidential voter registration record, and records or portions 125
of records pertaining to that program that identify the number 126
of program participants that reside within a precinct, ward, 127
township, municipal corporation, county, or any other geographic 128
area smaller than the state. As used in this division, 129

"confidential address" and "program participant" have the 130
meaning defined in section 111.41 of the Revised Code. 131

(ff) Orders for active military service of an individual 132
serving or with previous service in the armed forces of the 133
United States, including a reserve component, or the Ohio 134
organized militia, except that, such order becomes a public 135
record on the day that is fifteen years after the published date 136
or effective date of the call to order; 137

(gg) The name, address, contact information, or other 138
personal information of an individual who is less than eighteen 139
years of age that is included in any record related to a traffic 140
accident involving a school vehicle in which the individual was 141
an occupant at the time of the accident; 142

(hh) Protected health information, as defined in 45 C.F.R. 143
160.103, that is in a claim for payment for a health care 144
product, service, or procedure, as well as any other health 145
claims data in another document that reveals the identity of an 146
individual who is the subject of the data or could be used to 147
reveal that individual's identity; 148

(ii) Any depiction by photograph, film, videotape, or 149
printed or digital image under either of the following 150
circumstances: 151

(i) The depiction is that of a victim of an offense the 152
release of which would be, to a reasonable person of ordinary 153
sensibilities, an offensive and objectionable intrusion into the 154
victim's expectation of bodily privacy and integrity. 155

(ii) The depiction captures or depicts the victim of a 156
sexually oriented offense, as defined in section 2950.01 of the 157
Revised Code, at the actual occurrence of that offense. 158

(jj) Restricted portions of a body-worn camera or 159
dashboard camera recording; 160

(kk) In the case of a fetal-infant mortality review board 161
acting under sections 3707.70 to 3707.77 of the Revised Code, 162
records, documents, reports, or other information presented to 163
the board or a person abstracting such materials on the board's 164
behalf, statements made by review board members during board 165
meetings, all work products of the board, and data submitted by 166
the board to the department of health or a national infant death 167
review database, other than the report prepared pursuant to 168
section 3707.77 of the Revised Code. 169

(ll) Records, documents, reports, or other information 170
presented to the pregnancy-associated mortality review board 171
established under section 3738.01 of the Revised Code, 172
statements made by board members during board meetings, all work 173
products of the board, and data submitted by the board to the 174
department of health, other than the biennial reports prepared 175
under section 3738.08 of the Revised Code; 176

(mm) Telephone numbers for a victim, as defined in section 177
2930.01 of the Revised Code, a witness to a crime, or a party to 178
a motor vehicle accident subject to the requirements of section 179
5502.11 of the Revised Code that are listed on any law 180
enforcement record or report, other than when requested by an 181
insurer or insurance agent investigating an insurance claim 182
resulting from a motor vehicle accident. 183

A record that is not a public record under division (A) (1) 184
of this section and that, under law, is permanently retained 185
becomes a public record on the day that is seventy-five years 186
after the day on which the record was created, except for any 187
record protected by the attorney-client privilege, a trial 188

preparation record as defined in this section, a statement 189
prohibiting the release of identifying information signed under 190
section 3107.083 of the Revised Code, a denial of release form 191
filed pursuant to section 3107.46 of the Revised Code, or any 192
record that is exempt from release or disclosure under section 193
149.433 of the Revised Code. If the record is a birth 194
certificate and a biological parent's name redaction request 195
form has been accepted under section 3107.391 of the Revised 196
Code, the name of that parent shall be redacted from the birth 197
certificate before it is released under this paragraph. If any 198
other section of the Revised Code establishes a time period for 199
disclosure of a record that conflicts with the time period 200
specified in this section, the time period in the other section 201
prevails. 202

(2) "Confidential law enforcement investigatory record" 203
means any record that pertains to a law enforcement matter of a 204
criminal, quasi-criminal, civil, or administrative nature, but 205
only to the extent that the release of the record would create a 206
high probability of disclosure of any of the following: 207

(a) The identity of a suspect who has not been charged 208
with the offense to which the record pertains, or of an 209
information source or witness to whom confidentiality has been 210
reasonably promised; 211

(b) Information provided by an information source or 212
witness to whom confidentiality has been reasonably promised, 213
which information would reasonably tend to disclose the source's 214
or witness's identity; 215

(c) Specific confidential investigatory techniques or 216
procedures or specific investigatory work product; 217

(d) Information that would endanger the life or physical 218
safety of law enforcement personnel, a crime victim, a witness, 219
or a confidential information source. 220

(3) "Medical record" means any document or combination of 221
documents, except births, deaths, and the fact of admission to 222
or discharge from a hospital, that pertains to the medical 223
history, diagnosis, prognosis, or medical condition of a patient 224
and that is generated and maintained in the process of medical 225
treatment. 226

(4) "Trial preparation record" means any record that 227
contains information that is specifically compiled in reasonable 228
anticipation of, or in defense of, a civil or criminal action or 229
proceeding, including the independent thought processes and 230
personal trial preparation of an attorney. 231

(5) "Intellectual property record" means a record, other 232
than a financial or administrative record, that is produced or 233
collected by or for faculty or staff of a state institution of 234
higher learning in the conduct of or as a result of study or 235
research on an educational, commercial, scientific, artistic, 236
technical, or scholarly issue, regardless of whether the study 237
or research was sponsored by the institution alone or in 238
conjunction with a governmental body or private concern, and 239
that has not been publicly released, published, or patented. 240

(6) "Donor profile record" means all records about donors 241
or potential donors to a public institution of higher education 242
except the names and reported addresses of the actual donors and 243
the date, amount, and conditions of the actual donation. 244

(7) "Designated public service worker" means a peace 245
officer, parole officer, probation officer, bailiff, prosecuting 246

attorney, assistant prosecuting attorney, correctional employee, 247
county or multicounty corrections officer, community-based 248
correctional facility employee, youth services employee, 249
firefighter, EMT, medical director or member of a cooperating 250
physician advisory board of an emergency medical service 251
organization, state board of pharmacy employee, investigator of 252
the bureau of criminal identification and investigation, judge, 253
magistrate, or federal law enforcement officer. 254

(8) "Designated public service worker residential and 255
familial information" means any information that discloses any 256
of the following about a designated public service worker: 257

(a) The address of the actual personal residence of a 258
designated public service worker, except for the following 259
information: 260

(i) The address of the actual personal residence of a 261
prosecuting attorney or judge; and 262

(ii) The state or political subdivision in which a 263
designated public service worker resides. 264

(b) Information compiled from referral to or participation 265
in an employee assistance program; 266

(c) The social security number, the residential telephone 267
number, any bank account, debit card, charge card, or credit 268
card number, or the emergency telephone number of, or any 269
medical information pertaining to, a designated public service 270
worker; 271

(d) The name of any beneficiary of employment benefits, 272
including, but not limited to, life insurance benefits, provided 273
to a designated public service worker by the designated public 274
service worker's employer; 275

(e) The identity and amount of any charitable or 276
employment benefit deduction made by the designated public 277
service worker's employer from the designated public service 278
worker's compensation, unless the amount of the deduction is 279
required by state or federal law; 280

(f) The name, the residential address, the name of the 281
employer, the address of the employer, the social security 282
number, the residential telephone number, any bank account, 283
debit card, charge card, or credit card number, or the emergency 284
telephone number of the spouse, a former spouse, or any child of 285
a designated public service worker; 286

(g) A photograph of a peace officer who holds a position 287
or has an assignment that may include undercover or plain 288
clothes positions or assignments as determined by the peace 289
officer's appointing authority. 290

(9) As used in divisions (A) (7) and (15) to (17) of this 291
section: 292

"Peace officer" has the meaning defined in section 109.71 293
of the Revised Code and also includes the superintendent and 294
troopers of the state highway patrol; it does not include the 295
sheriff of a county or a supervisory employee who, in the 296
absence of the sheriff, is authorized to stand in for, exercise 297
the authority of, and perform the duties of the sheriff. 298

"Correctional employee" means any employee of the 299
department of rehabilitation and correction who in the course of 300
performing the employee's job duties has or has had contact with 301
inmates and persons under supervision. 302

"County or multicounty corrections officer" means any 303
corrections officer employed by any county or multicounty 304

correctional facility. 305

"Youth services employee" means any employee of the 306
department of youth services who in the course of performing the 307
employee's job duties has or has had contact with children 308
committed to the custody of the department of youth services. 309

"Firefighter" means any regular, paid or volunteer, member 310
of a lawfully constituted fire department of a municipal 311
corporation, township, fire district, or village. 312

"EMT" means EMTs-basic, EMTs-I, and paramedics that 313
provide emergency medical services for a public emergency 314
medical service organization. "Emergency medical service 315
organization," "EMT-basic," "EMT-I," and "paramedic" have the 316
meanings defined in section 4765.01 of the Revised Code. 317

"Investigator of the bureau of criminal identification and 318
investigation" has the meaning defined in section 2903.11 of the 319
Revised Code. 320

"Federal law enforcement officer" has the meaning defined 321
in section 9.88 of the Revised Code. 322

(10) "Information pertaining to the recreational 323
activities of a person under the age of eighteen" means 324
information that is kept in the ordinary course of business by a 325
public office, that pertains to the recreational activities of a 326
person under the age of eighteen years, and that discloses any 327
of the following: 328

(a) The address or telephone number of a person under the 329
age of eighteen or the address or telephone number of that 330
person's parent, guardian, custodian, or emergency contact 331
person; 332

(b) The social security number, birth date, or 333
photographic image of a person under the age of eighteen; 334

(c) Any medical record, history, or information pertaining 335
to a person under the age of eighteen; 336

(d) Any additional information sought or required about a 337
person under the age of eighteen for the purpose of allowing 338
that person to participate in any recreational activity 339
conducted or sponsored by a public office or to use or obtain 340
admission privileges to any recreational facility owned or 341
operated by a public office. 342

(11) "Community control sanction" has the meaning defined 343
in section 2929.01 of the Revised Code. 344

(12) "Post-release control sanction" has the meaning 345
defined in section 2967.01 of the Revised Code. 346

(13) "Redaction" means obscuring or deleting any 347
information that is exempt from the duty to permit public 348
inspection or copying from an item that otherwise meets the 349
definition of a "record" in section 149.011 of the Revised Code. 350

(14) "Designee," "elected official," and "future official" 351
have the meanings defined in section 109.43 of the Revised Code. 352

(15) "Body-worn camera" means a visual and audio recording 353
device worn on the person of a peace officer while the peace 354
officer is engaged in the performance of the peace officer's 355
duties. 356

(16) "Dashboard camera" means a visual and audio recording 357
device mounted on a peace officer's vehicle or vessel that is 358
used while the peace officer is engaged in the performance of 359
the peace officer's duties. 360

(17) "Restricted portions of a body-worn camera or dashboard camera recording" means any visual or audio portion of a body-worn camera or dashboard camera recording that shows, communicates, or discloses any of the following:

(a) The image or identity of a child or information that could lead to the identification of a child who is a primary subject of the recording when the law enforcement agency knows or has reason to know the person is a child based on the law enforcement agency's records or the content of the recording;

(b) The death of a person or a deceased person's body, unless the death was caused by a peace officer or, subject to division (H)(1) of this section, the consent of the decedent's executor or administrator has been obtained;

(c) The death of a peace officer, firefighter, paramedic, or other first responder, occurring while the decedent was engaged in the performance of official duties, unless, subject to division (H)(1) of this section, the consent of the decedent's executor or administrator has been obtained;

(d) Grievous bodily harm, unless the injury was effected by a peace officer or, subject to division (H)(1) of this section, the consent of the injured person or the injured person's guardian has been obtained;

(e) An act of severe violence against a person that results in serious physical harm to the person, unless the act and injury was effected by a peace officer or, subject to division (H)(1) of this section, the consent of the injured person or the injured person's guardian has been obtained;

(f) Grievous bodily harm to a peace officer, firefighter, paramedic, or other first responder, occurring while the injured

person was engaged in the performance of official duties, 390
unless, subject to division (H) (1) of this section, the consent 391
of the injured person or the injured person's guardian has been 392
obtained; 393

(g) An act of severe violence resulting in serious 394
physical harm against a peace officer, firefighter, paramedic, 395
or other first responder, occurring while the injured person was 396
engaged in the performance of official duties, unless, subject 397
to division (H) (1) of this section, the consent of the injured 398
person or the injured person's guardian has been obtained; 399

(h) A person's nude body, unless, subject to division (H) 400
(1) of this section, the person's consent has been obtained; 401

(i) Protected health information, the identity of a person 402
in a health care facility who is not the subject of a law 403
enforcement encounter, or any other information in a health care 404
facility that could identify a person who is not the subject of 405
a law enforcement encounter; 406

(j) Information that could identify the alleged victim of 407
a sex offense, menacing by stalking, or domestic violence; 408

(k) Information, that does not constitute a confidential 409
law enforcement investigatory record, that could identify a 410
person who provides sensitive or confidential information to a 411
law enforcement agency when the disclosure of the person's 412
identity or the information provided could reasonably be 413
expected to threaten or endanger the safety or property of the 414
person or another person; 415

(l) Personal information of a person who is not arrested, 416
cited, charged, or issued a written warning by a peace officer; 417

(m) Proprietary police contingency plans or tactics that 418

are intended to prevent crime and maintain public order and 419
safety; 420

(n) A personal conversation unrelated to work between 421
peace officers or between a peace officer and an employee of a 422
law enforcement agency; 423

(o) A conversation between a peace officer and a member of 424
the public that does not concern law enforcement activities; 425

(p) The interior of a residence, unless the interior of a 426
residence is the location of an adversarial encounter with, or a 427
use of force by, a peace officer; 428

(q) Any portion of the interior of a private business that 429
is not open to the public, unless an adversarial encounter with, 430
or a use of force by, a peace officer occurs in that location. 431

As used in division (A) (17) of this section: 432

"Grievous bodily harm" has the same meaning as in section 433
5924.120 of the Revised Code. 434

"Health care facility" has the same meaning as in section 435
1337.11 of the Revised Code. 436

"Protected health information" has the same meaning as in 437
45 C.F.R. 160.103. 438

"Law enforcement agency" has the same meaning as in 439
section 2925.61 of the Revised Code. 440

"Personal information" means any government-issued 441
identification number, date of birth, address, financial 442
information, or criminal justice information from the law 443
enforcement automated data system or similar databases. 444

"Sex offense" has the same meaning as in section 2907.10 445

of the Revised Code. 446

"Firefighter," "paramedic," and "first responder" have the 447
same meanings as in section 4765.01 of the Revised Code. 448

(18) "Insurer" and "insurance agent" have the same 449
meanings as in section 3905.01 of the Revised Code. 450

(B) (1) Upon request and subject to division (B) (8) of this 451
section, all public records responsive to the request shall be 452
promptly prepared and made available for inspection to any 453
person at all reasonable times during regular business hours. 454
Subject to division (B) (8) of this section, upon request by any 455
person, a public office or person responsible for public records 456
shall make copies of the requested public record available to 457
the requester at cost and within a reasonable period of time. If 458
a public record contains information that is exempt from the 459
duty to permit public inspection or to copy the public record, 460
the public office or the person responsible for the public 461
record shall make available all of the information within the 462
public record that is not exempt. When making that public record 463
available for public inspection or copying that public record, 464
the public office or the person responsible for the public 465
record shall notify the requester of any redaction or make the 466
redaction plainly visible. A redaction shall be deemed a denial 467
of a request to inspect or copy the redacted information, except 468
if federal or state law authorizes or requires a public office 469
to make the redaction. 470

(2) To facilitate broader access to public records, a 471
public office or the person responsible for public records shall 472
organize and maintain public records in a manner that they can 473
be made available for inspection or copying in accordance with 474
division (B) of this section. A public office also shall have 475

available a copy of its current records retention schedule at a 476
location readily available to the public. If a requester makes 477
an ambiguous or overly broad request or has difficulty in making 478
a request for copies or inspection of public records under this 479
section such that the public office or the person responsible 480
for the requested public record cannot reasonably identify what 481
public records are being requested, the public office or the 482
person responsible for the requested public record may deny the 483
request but shall provide the requester with an opportunity to 484
revise the request by informing the requester of the manner in 485
which records are maintained by the public office and accessed 486
in the ordinary course of the public office's or person's 487
duties. 488

(3) If a request is ultimately denied, in part or in 489
whole, the public office or the person responsible for the 490
requested public record shall provide the requester with an 491
explanation, including legal authority, setting forth why the 492
request was denied. If the initial request was provided in 493
writing, the explanation also shall be provided to the requester 494
in writing. The explanation shall not preclude the public office 495
or the person responsible for the requested public record from 496
relying upon additional reasons or legal authority in defending 497
an action commenced under division (C) of this section. 498

(4) Unless specifically required or authorized by state or 499
federal law or in accordance with division (B) of this section, 500
no public office or person responsible for public records may 501
limit or condition the availability of public records by 502
requiring disclosure of the requester's identity or the intended 503
use of the requested public record. Any requirement that the 504
requester disclose the requester's identity or the intended use 505
of the requested public record constitutes a denial of the 506

request. 507

(5) A public office or person responsible for public 508
records may ask a requester to make the request in writing, may 509
ask for the requester's identity, and may inquire about the 510
intended use of the information requested, but may do so only 511
after disclosing to the requester that a written request is not 512
mandatory, that the requester may decline to reveal the 513
requester's identity or the intended use, and when a written 514
request or disclosure of the identity or intended use would 515
benefit the requester by enhancing the ability of the public 516
office or person responsible for public records to identify, 517
locate, or deliver the public records sought by the requester. 518

(6) If any person requests a copy of a public record in 519
accordance with division (B) of this section, the public office 520
or person responsible for the public record may require that 521
person to pay in advance the cost involved in providing the copy 522
of the public record in accordance with the choice made by the 523
person requesting the copy under this division. The public 524
office or the person responsible for the public record shall 525
permit that person to choose to have the public record 526
duplicated upon paper, upon the same medium upon which the 527
public office or person responsible for the public record keeps 528
it, or upon any other medium upon which the public office or 529
person responsible for the public record determines that it 530
reasonably can be duplicated as an integral part of the normal 531
operations of the public office or person responsible for the 532
public record. When the person requesting the copy makes a 533
choice under this division, the public office or person 534
responsible for the public record shall provide a copy of it in 535
accordance with the choice made by that person. Nothing in this 536
section requires a public office or person responsible for the 537

public record to allow the person requesting a copy of the 538
public record to make the copies of the public record. 539

(7) (a) Upon a request made in accordance with division (B) 540
of this section and subject to division (B) (6) of this section, 541
a public office or person responsible for public records shall 542
transmit a copy of a public record to any person by United 543
States mail or by any other means of delivery or transmission 544
within a reasonable period of time after receiving the request 545
for the copy. The public office or person responsible for the 546
public record may require the person making the request to pay 547
in advance the cost of postage if the copy is transmitted by 548
United States mail or the cost of delivery if the copy is 549
transmitted other than by United States mail, and to pay in 550
advance the costs incurred for other supplies used in the 551
mailing, delivery, or transmission. 552

(b) Any public office may adopt a policy and procedures 553
that it will follow in transmitting, within a reasonable period 554
of time after receiving a request, copies of public records by 555
United States mail or by any other means of delivery or 556
transmission pursuant to division (B) (7) of this section. A 557
public office that adopts a policy and procedures under division 558
(B) (7) of this section shall comply with them in performing its 559
duties under that division. 560

(c) In any policy and procedures adopted under division 561
(B) (7) of this section: 562

(i) A public office may limit the number of records 563
requested by a person that the office will physically deliver by 564
United States mail or by another delivery service to ten per 565
month, unless the person certifies to the office in writing that 566
the person does not intend to use or forward the requested 567

records, or the information contained in them, for commercial 568
purposes; 569

(ii) A public office that chooses to provide some or all 570
of its public records on a web site that is fully accessible to 571
and searchable by members of the public at all times, other than 572
during acts of God outside the public office's control or 573
maintenance, and that charges no fee to search, access, 574
download, or otherwise receive records provided on the web site, 575
may limit to ten per month the number of records requested by a 576
person that the office will deliver in a digital format, unless 577
the requested records are not provided on the web site and 578
unless the person certifies to the office in writing that the 579
person does not intend to use or forward the requested records, 580
or the information contained in them, for commercial purposes. 581

(iii) For purposes of division (B)(7) of this section, 582
"commercial" shall be narrowly construed and does not include 583
reporting or gathering news, reporting or gathering information 584
to assist citizen oversight or understanding of the operation or 585
activities of government, or nonprofit educational research. 586

(8) A public office or person responsible for public 587
records is not required to permit a person who is incarcerated 588
pursuant to a criminal conviction or a juvenile adjudication to 589
inspect or to obtain a copy of any public record concerning a 590
criminal investigation or prosecution or concerning what would 591
be a criminal investigation or prosecution if the subject of the 592
investigation or prosecution were an adult, unless the request 593
to inspect or to obtain a copy of the record is for the purpose 594
of acquiring information that is subject to release as a public 595
record under this section and the judge who imposed the sentence 596
or made the adjudication with respect to the person, or the 597

judge's successor in office, finds that the information sought 598
in the public record is necessary to support what appears to be 599
a justiciable claim of the person. 600

(9) (a) Upon written request made and signed by a 601
journalist, a public office, or person responsible for public 602
records, having custody of the records of the agency employing a 603
specified designated public service worker shall disclose to the 604
journalist the address of the actual personal residence of the 605
designated public service worker and, if the designated public 606
service worker's spouse, former spouse, or child is employed by 607
a public office, the name and address of the employer of the 608
designated public service worker's spouse, former spouse, or 609
child. The request shall include the journalist's name and title 610
and the name and address of the journalist's employer and shall 611
state that disclosure of the information sought would be in the 612
public interest. 613

(b) Division (B) (9) (a) of this section also applies to 614
journalist requests for: 615

(i) Customer information maintained by a municipally owned 616
or operated public utility, other than social security numbers 617
and any private financial information such as credit reports, 618
payment methods, credit card numbers, and bank account 619
information; 620

(ii) Information about minors involved in a school vehicle 621
accident as provided in division (A) (1) (gg) of this section, 622
other than personal information as defined in section 149.45 of 623
the Revised Code. 624

(c) As used in division (B) (9) of this section, 625
"journalist" means a person engaged in, connected with, or 626

employed by any news medium, including a newspaper, magazine, 627
press association, news agency, or wire service, a radio or 628
television station, or a similar medium, for the purpose of 629
gathering, processing, transmitting, compiling, editing, or 630
disseminating information for the general public. 631

(10) Upon a request made by a victim, victim's attorney, 632
or victim's representative, as that term is used in section 633
2930.02 of the Revised Code, a public office or person 634
responsible for public records shall transmit a copy of a 635
depiction of the victim as described in division ~~(A) (1) (gg)~~ (A) 636
(1) (ii) of this section to the victim, victim's attorney, or 637
victim's representative. 638

(C) (1) If a person allegedly is aggrieved by the failure 639
of a public office or the person responsible for public records 640
to promptly prepare a public record and to make it available to 641
the person for inspection in accordance with division (B) of 642
this section or by any other failure of a public office or the 643
person responsible for public records to comply with an 644
obligation in accordance with division (B) of this section, the 645
person allegedly aggrieved may do only one of the following, and 646
not both: 647

(a) File a complaint with the clerk of the court of claims 648
or the clerk of the court of common pleas under section 2743.75 649
of the Revised Code; 650

(b) Commence a mandamus action to obtain a judgment that 651
orders the public office or the person responsible for the 652
public record to comply with division (B) of this section, that 653
awards court costs and reasonable attorney's fees to the person 654
that instituted the mandamus action, and, if applicable, that 655
includes an order fixing statutory damages under division (C) (2) 656

of this section. The mandamus action may be commenced in the 657
court of common pleas of the county in which division (B) of 658
this section allegedly was not complied with, in the supreme 659
court pursuant to its original jurisdiction under Section 2 of 660
Article IV, Ohio Constitution, or in the court of appeals for 661
the appellate district in which division (B) of this section 662
allegedly was not complied with pursuant to its original 663
jurisdiction under Section 3 of Article IV, Ohio Constitution. 664

(2) If a requester transmits a written request by hand 665
delivery, electronic submission, or certified mail to inspect or 666
receive copies of any public record in a manner that fairly 667
describes the public record or class of public records to the 668
public office or person responsible for the requested public 669
records, except as otherwise provided in this section, the 670
requester shall be entitled to recover the amount of statutory 671
damages set forth in this division if a court determines that 672
the public office or the person responsible for public records 673
failed to comply with an obligation in accordance with division 674
(B) of this section. 675

The amount of statutory damages shall be fixed at one 676
hundred dollars for each business day during which the public 677
office or person responsible for the requested public records 678
failed to comply with an obligation in accordance with division 679
(B) of this section, beginning with the day on which the 680
requester files a mandamus action to recover statutory damages, 681
up to a maximum of one thousand dollars. The award of statutory 682
damages shall not be construed as a penalty, but as compensation 683
for injury arising from lost use of the requested information. 684
The existence of this injury shall be conclusively presumed. The 685
award of statutory damages shall be in addition to all other 686
remedies authorized by this section. 687

The court may reduce an award of statutory damages or not 688
award statutory damages if the court determines both of the 689
following: 690

(a) That, based on the ordinary application of statutory 691
law and case law as it existed at the time of the conduct or 692
threatened conduct of the public office or person responsible 693
for the requested public records that allegedly constitutes a 694
failure to comply with an obligation in accordance with division 695
(B) of this section and that was the basis of the mandamus 696
action, a well-informed public office or person responsible for 697
the requested public records reasonably would believe that the 698
conduct or threatened conduct of the public office or person 699
responsible for the requested public records did not constitute 700
a failure to comply with an obligation in accordance with 701
division (B) of this section; 702

(b) That a well-informed public office or person 703
responsible for the requested public records reasonably would 704
believe that the conduct or threatened conduct of the public 705
office or person responsible for the requested public records 706
would serve the public policy that underlies the authority that 707
is asserted as permitting that conduct or threatened conduct. 708

(3) In a mandamus action filed under division (C) (1) of 709
this section, the following apply: 710

(a) (i) If the court orders the public office or the person 711
responsible for the public record to comply with division (B) of 712
this section, the court shall determine and award to the relator 713
all court costs, which shall be construed as remedial and not 714
punitive. 715

(ii) If the court makes a determination described in 716

division (C) (3) (b) (iii) of this section, the court shall 717
determine and award to the relator all court costs, which shall 718
be construed as remedial and not punitive. 719

(b) If the court renders a judgment that orders the public 720
office or the person responsible for the public record to comply 721
with division (B) of this section or if the court determines any 722
of the following, the court may award reasonable attorney's fees 723
to the relator, subject to division (C) (4) of this section: 724

(i) The public office or the person responsible for the 725
public records failed to respond affirmatively or negatively to 726
the public records request in accordance with the time allowed 727
under division (B) of this section. 728

(ii) The public office or the person responsible for the 729
public records promised to permit the relator to inspect or 730
receive copies of the public records requested within a 731
specified period of time but failed to fulfill that promise 732
within that specified period of time. 733

(iii) The public office or the person responsible for the 734
public records acted in bad faith when the office or person 735
voluntarily made the public records available to the relator for 736
the first time after the relator commenced the mandamus action, 737
but before the court issued any order concluding whether or not 738
the public office or person was required to comply with division 739
(B) of this section. No discovery may be conducted on the issue 740
of the alleged bad faith of the public office or person 741
responsible for the public records. This division shall not be 742
construed as creating a presumption that the public office or 743
the person responsible for the public records acted in bad faith 744
when the office or person voluntarily made the public records 745
available to the relator for the first time after the relator 746

commenced the mandamus action, but before the court issued any 747
order described in this division. 748

(c) The court shall not award attorney's fees to the 749
relator if the court determines both of the following: 750

(i) That, based on the ordinary application of statutory 751
law and case law as it existed at the time of the conduct or 752
threatened conduct of the public office or person responsible 753
for the requested public records that allegedly constitutes a 754
failure to comply with an obligation in accordance with division 755
(B) of this section and that was the basis of the mandamus 756
action, a well-informed public office or person responsible for 757
the requested public records reasonably would believe that the 758
conduct or threatened conduct of the public office or person 759
responsible for the requested public records did not constitute 760
a failure to comply with an obligation in accordance with 761
division (B) of this section; 762

(ii) That a well-informed public office or person 763
responsible for the requested public records reasonably would 764
believe that the conduct or threatened conduct of the public 765
office or person responsible for the requested public records 766
would serve the public policy that underlies the authority that 767
is asserted as permitting that conduct or threatened conduct. 768

(4) All of the following apply to any award of reasonable 769
attorney's fees awarded under division (C) (3) (b) of this 770
section: 771

(a) The fees shall be construed as remedial and not 772
punitive. 773

(b) The fees awarded shall not exceed the total of the 774
reasonable attorney's fees incurred before the public record was 775

made available to the relator and the fees described in division 776
(C) (4) (c) of this section. 777

(c) Reasonable attorney's fees shall include reasonable 778
fees incurred to produce proof of the reasonableness and amount 779
of the fees and to otherwise litigate entitlement to the fees. 780

(d) The court may reduce the amount of fees awarded if the 781
court determines that, given the factual circumstances involved 782
with the specific public records request, an alternative means 783
should have been pursued to more effectively and efficiently 784
resolve the dispute that was subject to the mandamus action 785
filed under division (C) (1) of this section. 786

(5) If the court does not issue a writ of mandamus under 787
division (C) of this section and the court determines at that 788
time that the bringing of the mandamus action was frivolous 789
conduct as defined in division (A) of section 2323.51 of the 790
Revised Code, the court may award to the public office all court 791
costs, expenses, and reasonable attorney's fees, as determined 792
by the court. 793

(D) Chapter 1347. of the Revised Code does not limit the 794
provisions of this section. 795

(E) (1) To ensure that all employees of public offices are 796
appropriately educated about a public office's obligations under 797
division (B) of this section, all elected officials or their 798
appropriate designees shall attend training approved by the 799
attorney general as provided in section 109.43 of the Revised 800
Code. A future official may satisfy the requirements of this 801
division by attending the training before taking office, 802
provided that the future official may not send a designee in the 803
future official's place. 804

(2) All public offices shall adopt a public records policy 805
in compliance with this section for responding to public records 806
requests. In adopting a public records policy under this 807
division, a public office may obtain guidance from the model 808
public records policy developed and provided to the public 809
office by the attorney general under section 109.43 of the 810
Revised Code. Except as otherwise provided in this section, the 811
policy may not limit the number of public records that the 812
public office will make available to a single person, may not 813
limit the number of public records that it will make available 814
during a fixed period of time, and may not establish a fixed 815
period of time before it will respond to a request for 816
inspection or copying of public records, unless that period is 817
less than eight hours. 818

The public office shall distribute the public records 819
policy adopted by the public office under this division to the 820
employee of the public office who is the records custodian or 821
records manager or otherwise has custody of the records of that 822
office. The public office shall require that employee to 823
acknowledge receipt of the copy of the public records policy. 824
The public office shall create a poster that describes its 825
public records policy and shall post the poster in a conspicuous 826
place in the public office and in all locations where the public 827
office has branch offices. The public office may post its public 828
records policy on the internet web site of the public office if 829
the public office maintains an internet web site. A public 830
office that has established a manual or handbook of its general 831
policies and procedures for all employees of the public office 832
shall include the public records policy of the public office in 833
the manual or handbook. 834

(F) (1) The bureau of motor vehicles may adopt rules 835

pursuant to Chapter 119. of the Revised Code to reasonably limit 836
the number of bulk commercial special extraction requests made 837
by a person for the same records or for updated records during a 838
calendar year. The rules may include provisions for charges to 839
be made for bulk commercial special extraction requests for the 840
actual cost of the bureau, plus special extraction costs, plus 841
ten per cent. The bureau may charge for expenses for redacting 842
information, the release of which is prohibited by law. 843

(2) As used in division (F)(1) of this section: 844

(a) "Actual cost" means the cost of depleted supplies, 845
records storage media costs, actual mailing and alternative 846
delivery costs, or other transmitting costs, and any direct 847
equipment operating and maintenance costs, including actual 848
costs paid to private contractors for copying services. 849

(b) "Bulk commercial special extraction request" means a 850
request for copies of a record for information in a format other 851
than the format already available, or information that cannot be 852
extracted without examination of all items in a records series, 853
class of records, or database by a person who intends to use or 854
forward the copies for surveys, marketing, solicitation, or 855
resale for commercial purposes. "Bulk commercial special 856
extraction request" does not include a request by a person who 857
gives assurance to the bureau that the person making the request 858
does not intend to use or forward the requested copies for 859
surveys, marketing, solicitation, or resale for commercial 860
purposes. 861

(c) "Commercial" means profit-seeking production, buying, 862
or selling of any good, service, or other product. 863

(d) "Special extraction costs" means the cost of the time 864

spent by the lowest paid employee competent to perform the task, 865
the actual amount paid to outside private contractors employed 866
by the bureau, or the actual cost incurred to create computer 867
programs to make the special extraction. "Special extraction 868
costs" include any charges paid to a public agency for computer 869
or records services. 870

(3) For purposes of divisions (F) (1) and (2) of this 871
section, "surveys, marketing, solicitation, or resale for 872
commercial purposes" shall be narrowly construed and does not 873
include reporting or gathering news, reporting or gathering 874
information to assist citizen oversight or understanding of the 875
operation or activities of government, or nonprofit educational 876
research. 877

(G) A request by a defendant, counsel of a defendant, or 878
any agent of a defendant in a criminal action that public 879
records related to that action be made available under this 880
section shall be considered a demand for discovery pursuant to 881
the Criminal Rules, except to the extent that the Criminal Rules 882
plainly indicate a contrary intent. The defendant, counsel of 883
the defendant, or agent of the defendant making a request under 884
this division shall serve a copy of the request on the 885
prosecuting attorney, director of law, or other chief legal 886
officer responsible for prosecuting the action. 887

(H) (1) Any portion of a body-worn camera or dashboard 888
camera recording described in divisions (A) (17) (b) to (h) of 889
this section may be released by consent of the subject of the 890
recording or a representative of that person, as specified in 891
those divisions, only if either of the following applies: 892

(a) The recording will not be used in connection with any 893
probable or pending criminal proceedings; 894

(b) The recording has been used in connection with a 895
criminal proceeding that was dismissed or for which a judgment 896
has been entered pursuant to Rule 32 of the Rules of Criminal 897
Procedure, and will not be used again in connection with any 898
probable or pending criminal proceedings. 899

(2) If a public office denies a request to release a 900
restricted portion of a body-worn camera or dashboard camera 901
recording, as defined in division (A)(17) of this section, any 902
person may file a mandamus action pursuant to this section or a 903
complaint with the clerk of the court of claims pursuant to 904
section 2743.75 of the Revised Code, requesting the court to 905
order the release of all or portions of the recording. If the 906
court considering the request determines that the filing 907
articulates by clear and convincing evidence that the public 908
interest in the recording substantially outweighs privacy 909
interests and other interests asserted to deny release, the 910
court shall order the public office to release the recording. 911

Sec. 3901.62. (A) Except as provided in sections 3901.63 912
and 3901.64 of the Revised Code, a domestic ceding insurer that 913
is authorized to do any insurance business in this state may 914
take credit for any reinsurance ceded as either an asset or a 915
reduction of liability only if one of the following applies: 916

(1) The reinsurance is ceded to an assuming insurer that 917
is authorized to do any insurance or reinsurance business in 918
this state. 919

(2) The reinsurance is ceded to an assuming insurer that 920
is accredited by the superintendent of insurance as a reinsurer 921
in this state in accordance with division (B) of this section. 922

(3) The reinsurance is ceded to an assuming insurer that 923

is not authorized to do any insurance or reinsurance business in 924
this state, provided the reinsurance is ceded to a reinsurance 925
pool or other risk-sharing entity in which participation is 926
required by law, rule, or regulation of the jurisdiction in 927
which the pool or entity is located. 928

(4) The reinsurance is ceded to an assuming insurer that 929
maintains a trust fund in a qualified United States financial 930
institution, as defined in section 3901.63 of the Revised Code, 931
for the payment of the valid claims of its United States 932
policyholders and ceding insurers, and their assigns and 933
successors in interest in accordance with division (C) of this 934
section. 935

(5) The reinsurance is ceded to an assuming insurer that 936
has been certified by the superintendent as a reinsurer in this 937
state and that secures its obligations in accordance with 938
division (D) of this section. 939

(6) The reinsurance is ceded to an assuming insurer that 940
meets all of the conditions set forth in division (E) of this 941
section. 942

(B) (1) In order to be eligible for accreditation under 943
division (A) (2) of this section, the assuming insurer shall do 944
all of the following: 945

(a) File with the superintendent evidence of its 946
submission to this state's jurisdiction; 947

(b) Submit to this state's authority to examine its books 948
and records; 949

(c) Maintain a license to transact insurance or 950
reinsurance in at least one state or, in the case of a United 951
States branch of a foreign or alien assuming insurer, be entered 952

through and licensed to transact insurance or reinsurance in at 953
least one state; 954

(d) File annually with the superintendent a copy of its 955
annual statement filed with the insurance department of its 956
state of domicile, and a copy of its most recent audited 957
financial statement; 958

(e) Demonstrate to the satisfaction of the superintendent 959
that it has adequate financial capacity to meet its reinsurance 960
obligations and is otherwise qualified to assume reinsurance 961
from domestic insurers. 962

(2) An assuming insurer is considered to meet the 963
requirement of division (B) (1) (e) of this section as of the time 964
of its application to the superintendent for accreditation if it 965
maintains a surplus with regard to policyholders in an amount 966
not less than twenty million dollars, and the superintendent has 967
not denied its accreditation within ninety days after submission 968
of its application. 969

(C) (1) A trust maintained by an assuming insurer under 970
division (A) (4) of this section shall meet the following 971
requirements: 972

(a) In the case of a single assuming insurer, the trust 973
shall consist of a trustee account representing the assuming 974
insurer's liabilities attributable to business underwritten in 975
the United States. A trustee surplus of not less than twenty 976
million dollars shall be maintained by the assuming insurer, 977
except that at any time after the assuming insurer has 978
permanently discontinued underwriting new business secured by 979
the trust for at least three full years, the superintendent with 980
principal regulatory oversight of the trust may authorize a 981

reduction in the required trusted surplus, but only after a 982
finding, based on an assessment of the risk, that the new 983
required surplus level is adequate for the protection of ceding 984
insurers within the United States, policyholders, and claimants 985
in light of reasonably foreseeable adverse loss development. 986

The risk assessment may involve an actuarial review, 987
including an independent analysis of reserves and cash flows, 988
and shall consider all material risk factors, including when 989
applicable the lines of business involved, the stability of the 990
incurred loss estimates, and the effect of the surplus 991
requirements on the assuming insurer's liquidity or solvency. 992

The minimum required trusted surplus shall not be reduced 993
to an amount less than thirty per cent of the assuming insurer's 994
liabilities attributable to reinsurance ceded by ceding insurers 995
within the United States covered by the trust. 996

(b) In the case of a group of assuming insurers, including 997
incorporated and individual unincorporated underwriters, the 998
trust shall consist of a trusted account representing the 999
group's liabilities attributable to business written in the 1000
United States. A trusted surplus shall be maintained by the 1001
group, of which surplus one hundred million dollars shall be 1002
held jointly for the benefit of the United States ceding 1003
insurers of any member of the group. The following requirements 1004
apply to the group of assuming insurers: 1005

(i) The incorporated members of the group shall not engage 1006
in any business other than underwriting as a member of the 1007
group, and shall be subject to the same level of solvency 1008
regulation and control by the group's domiciliary regulator as 1009
are the unincorporated members. 1010

(ii) The group shall make available to the superintendent 1011
of insurance an annual certification of the solvency of each 1012
underwriter in the group. The certification shall be provided by 1013
the group's domiciliary regulator and its independent public 1014
accountants. 1015

(c) In the case of a group of incorporated insurers under 1016
common administration with aggregate policyholders' surplus of 1017
ten billion dollars that has continuously transacted an 1018
insurance business outside the United States for at least three 1019
years immediately prior to assuming reinsurance, the trust shall 1020
be in an amount equal to the group's several liabilities 1021
attributable to business ceded by United States ceding insurers 1022
to any member of the group pursuant to reinsurance contracts 1023
issued in the name of the group. A joint trustee surplus shall 1024
be maintained by the group, of which surplus one hundred million 1025
dollars shall be held jointly for the benefit of United States 1026
ceding insurers of any member of the group as additional 1027
security for any such liabilities. The following requirements 1028
apply to the group of incorporated insurers: 1029

(i) The group shall comply with all filing requirements 1030
contained in this section. 1031

(ii) The books and records of the group shall be subject 1032
to examination by the superintendent in the same manner as the 1033
books and records of insurers are subject to examination by the 1034
superintendent in accordance with section 3901.07 of the Revised 1035
Code. The group shall bear the expenses of these examinations in 1036
the manner provided by that section. 1037

(iii) Each member of the group shall make available to the 1038
superintendent an annual certification of the member's solvency 1039
by the member's domiciliary regulator and an independent public 1040

accountant. 1041

(2) A trust maintained by an assuming insurer under 1042
division (A)(4) of this section shall remain in effect for as 1043
long as the assuming insurer has outstanding obligations due 1044
under the reinsurance agreements subject to the trust. The trust 1045
shall be in a form approved by the superintendent and shall 1046
include the following: 1047

(a) The trust instrument shall provide that contested 1048
claims are valid and enforceable upon the final order of any 1049
court of competent jurisdiction in the United States. 1050

(b) The trust shall vest legal title to its assets in the 1051
trustees of the trust for its United States policyholders and 1052
ceding insurers, and their assigns and successors in interest. 1053

(c) The trust, and the assuming insurer maintaining the 1054
trust, shall allow the superintendent to conduct examinations in 1055
the same manner as the superintendent conducts examinations of 1056
insurers under section 3901.07 of the Revised Code. 1057

(3) No later than the last day of February of each year, 1058
the trustees of a trust maintained by an assuming insurer under 1059
division (A)(4) of this section shall provide the superintendent 1060
with a written report setting forth the balance of the trust and 1061
listing the trust's investments as of the preceding thirty-first 1062
day of December. The trustees shall certify the date of the 1063
termination of the trust, if termination of the trust is 1064
planned, or shall certify that the trust does not expire prior 1065
to the following thirty-first day of December. 1066

(4) To enable the superintendent to determine the 1067
sufficiency of a trust maintained by an assuming insurer under 1068
division (A)(4) of this section, the assuming insurer shall 1069

annually report information on the trust to the superintendent 1070
that is substantially the same as that information licensed 1071
insurers are required to report under sections 3907.19, 3909.06, 1072
and 3929.30 of the Revised Code on forms adopted under section 1073
3901.77 of the Revised Code. 1074

(D) (1) In order to be eligible for certification under 1075
division (A) (5) of this section, the assuming insurer shall do 1076
all of the following: 1077

(a) Be domiciled and licensed to transact insurance or 1078
reinsurance in a qualified jurisdiction as determined by the 1079
superintendent pursuant to division (D) (3) of this section; 1080

(b) Maintain minimum capital and surplus, or its 1081
equivalent, in an amount to be determined by the superintendent 1082
in rule or regulation; 1083

(c) Maintain financial strength ratings from two or more 1084
rating agencies that meet criteria the superintendent sets forth 1085
in rule or regulation; 1086

(d) Agree to submit to the jurisdiction of this state, 1087
appoint the superintendent as its agent for service of process 1088
in this state, and agree to provide security for one hundred per 1089
cent of the assuming insurer's liabilities attributable to 1090
reinsurance ceded by ceding insurers in the United States if it 1091
resists enforcement of a final judgment from the United States; 1092

(e) Agree to meet applicable information filing 1093
requirements as determined by the superintendent with respect to 1094
an initial application for certification and on an ongoing 1095
basis; 1096

(f) Satisfy any other requirements for certification 1097
considered relevant by the superintendent. 1098

(2) An association, including incorporated and individual 1099
unincorporated underwriters, may be a certified reinsurer. In 1100
order to be eligible for certification, an association, in 1101
addition to satisfying the requirements of division (D) (1) of 1102
this section, shall also meet the following requirements: 1103

(a) The association shall satisfy its minimum capital and 1104
surplus requirements through the capital and surplus equivalents 1105
(net of liabilities), or the net liabilities, of the association 1106
and its members which shall include a joint central fund that 1107
may be applied to any unsatisfied obligation of the association 1108
or any of its members, in an amount determined by the 1109
superintendent in order to provide adequate protection. 1110

(b) The incorporated members of the association shall not 1111
be engaged in any business other than underwriting as a member 1112
of the association, and shall be subject to the same level of 1113
regulation and solvency control by the association's domiciliary 1114
regulator as the unincorporated members. 1115

(c) The association shall provide the superintendent an 1116
annual certification by the association's domiciliary regulator 1117
of the solvency of each underwriter member within ninety days 1118
after its financial statements are due to be filed with the 1119
association's domiciliary regulator. If a certification is 1120
unavailable, the association shall provide the superintendent 1121
with financial statements prepared by independent public 1122
accountants of each underwriter member of the association. 1123

(3) The superintendent shall create and publish a list of 1124
qualified jurisdictions under which an assuming insurer licensed 1125
and domiciled in such jurisdiction is eligible to be considered 1126
by the superintendent for certification as a certified 1127
reinsurer. 1128

(a) The superintendent shall consider the list of 1129
qualified jurisdictions published through the national 1130
association of insurance commissioner's committee process in 1131
determining qualified jurisdictions. If the superintendent 1132
approves a jurisdiction as qualified that does not appear on the 1133
list, the superintendent shall provide justification in 1134
accordance with criteria to be developed by the superintendent 1135
under rule or regulation. 1136

(b) Jurisdictions within the United States that meet the 1137
requirement for accreditation under the national association of 1138
insurance commissioner's financial standards and accreditation 1139
program shall be recognized as qualified. 1140

(c) To determine if a domiciliary jurisdiction not located 1141
within the United States is eligible to be recognized as a 1142
qualified jurisdiction, the superintendent shall evaluate the 1143
appropriateness and effectiveness of the reinsurance supervisory 1144
system of the jurisdiction, both initially and on an ongoing 1145
basis, and consider the rights, benefits, and the extent of 1146
reciprocal recognition afforded by the jurisdiction to 1147
reinsurers licensed and domiciled in the United States. 1148

(d) A qualified jurisdiction shall agree to share 1149
information and cooperate with the superintendent with respect 1150
to all certified reinsurers domiciled within that jurisdiction. 1151

(e) A jurisdiction shall not be recognized as a qualified 1152
jurisdiction if the superintendent has determined that the 1153
jurisdiction does not adequately and promptly enforce final 1154
judgments and arbitration awards from the United States. 1155

(f) If a certified reinsurer's domiciliary jurisdiction 1156
ceases to be a qualified jurisdiction, the superintendent may 1157

revoke the reinsurer's certification or suspend the reinsurer's 1158
certification indefinitely. 1159

(g) The superintendent may consider additional factors as 1160
the superintendent considers appropriate. 1161

(4) The superintendent shall assign a rating to each 1162
certified reinsurer giving due consideration to the financial 1163
strength ratings assigned by rating agencies pursuant to 1164
division (D)(1)(c) of this section. The superintendent shall 1165
publish a list of all certified reinsurers and their ratings. 1166

(5) A certified reinsurer shall secure obligations assumed 1167
from a ceding insurer within the United States at a level 1168
consistent with its rating as specified by the superintendent in 1169
rule or regulation. 1170

(a) Except as otherwise provided in division (D)(5) of 1171
this section, a certified reinsurer shall maintain security in a 1172
form acceptable to the superintendent and consistent with 1173
section 3901.63 of the Revised Code, or in a multibeneficiary 1174
trust on behalf of the ceding insurer in accordance with 1175
division (A)(4) of this section, in order for a domestic ceding 1176
insurer to qualify for full financial statement credit for 1177
reinsurance ceded to a certified reinsurer. 1178

(b) If a certified reinsurer chooses to secure its 1179
obligations incurred as a certified reinsurer in the form of a 1180
multibeneficiary trust for the benefit of the ceding insurer, 1181
the certified reinsurer shall maintain separate trust accounts 1182
for its obligations incurred under reinsurance agreements issued 1183
or renewed as a certified reinsurer with reduced security as 1184
permitted by this division or comparable laws of other 1185
jurisdictions within the United States, and for its obligations 1186

subject to division (A) (4) of this section. 1187

(c) Upon termination of any such trust account described 1188
in division (A) (4) of this section, a certified reinsurer shall 1189
be bound by the language of the trust and agreement with the 1190
superintendent that has principal regulatory oversight of each 1191
trust account to fund any deficiency of any other trust account 1192
out of the remaining surplus of such trust as a condition to 1193
certification under division (D) (1) of this section. 1194

(d) The minimum trustee surplus requirements provided in 1195
division (C) of this section are not applicable with respect to 1196
a multibeneficiary trust maintained by a certified reinsurer for 1197
the purpose of securing obligations incurred under division (A) 1198
(5) of this section, except that such trust shall maintain a 1199
minimum trustee surplus of ten million dollars. 1200

(e) With respect to obligations incurred by a certified 1201
reinsurer under division (A) (5) of this section, if the security 1202
is insufficient, the superintendent shall reduce the allowable 1203
credit by an amount proportionate to the deficiency, and the 1204
superintendent may impose further reductions in allowable credit 1205
upon finding that there is a material risk that the certified 1206
reinsurer's obligations will not be paid in full when due. 1207

(f) Except as otherwise provided in division (D) (5) of 1208
this section, a reinsurer whose certification has been 1209
terminated for any reason shall be treated under this section as 1210
a certified reinsurer required to secure one hundred per cent of 1211
its obligations. The superintendent may continue to assign a 1212
higher rating to the reinsurer if the reinsurer is in inactive 1213
status or the reinsurer's certification has been suspended. As 1214
used in division (D) (5) (f) of this section, "terminated" means 1215
revocation, suspension, voluntary surrender, or inactive status. 1216

(6) If an applicant for certification has been certified 1217
as a reinsurer in a national association of insurance 1218
commissioners accredited jurisdiction, the superintendent may 1219
defer to that jurisdiction's certification and rating 1220
assignment, and the assuming insurer shall be considered to be a 1221
certified reinsurer in this state. 1222

(7) A certified reinsurer that ceases to assume new 1223
business in this state may request to maintain its certification 1224
in inactive status in order to continue to qualify for a 1225
reduction in security for its in-force business. An inactive 1226
certified reinsurer shall continue to comply with all applicable 1227
requirements of division (A) (5) of this section, and the 1228
superintendent shall assign a rating that takes into account, if 1229
relevant, the reasons why the reinsurer is not assuming new 1230
business. 1231

(E) (1) (a) The assuming insurer shall have its head office, 1232
or be domiciled in, as applicable, and be licensed in a 1233
reciprocal jurisdiction. 1234

(b) (i) The assuming insurer shall have and maintain, on an 1235
ongoing basis, minimum capital and surplus, or its equivalent, 1236
calculated according to the methodology of its domiciliary 1237
jurisdiction, in an amount to be set forth in rule adopted by 1238
the superintendent. 1239

(ii) If the assuming insurer is an association, including 1240
incorporated and individual unincorporated underwriters, it 1241
shall have and maintain, on an ongoing basis, minimum capital 1242
and surplus equivalents, net of liabilities, calculated 1243
according to the methodology applicable in its domiciliary 1244
jurisdiction, and a central fund containing a balance in amounts 1245
determined by the superintendent in rule or regulation. 1246

(c) (i) The assuming insurer shall have and maintain, on an 1247
ongoing basis, a minimum solvency or capital ratio, as 1248
applicable, that will be set forth in rule adopted by the 1249
superintendent. 1250

(ii) If the assuming insurer is an association, including 1251
incorporated and individual unincorporated underwriters, it 1252
shall have and maintain, on an ongoing basis, a minimum solvency 1253
or capital ratio in the reciprocal jurisdiction where the 1254
assuming insurer has its head office or is domiciled, as 1255
applicable, and is also licensed. 1256

(d) The assuming insurer shall agree and provide adequate 1257
assurance to the superintendent, in a form specified in rule 1258
adopted by the superintendent, as follows: 1259

(i) The assuming insurer shall provide prompt written 1260
notice and explanation to the superintendent if it falls below 1261
the minimum requirements set forth in division (E) (1) (b) or (c) 1262
of this section, or if any regulatory action is taken against it 1263
for serious noncompliance with applicable law. 1264

(ii) The assuming insurer shall consent in writing to the 1265
jurisdiction of the courts of this state and to the appointment 1266
of the superintendent as agent for service of process. The 1267
superintendent may require that consent for service of process 1268
be provided to the superintendent and included in each 1269
reinsurance agreement. Nothing in this provision shall be 1270
construed as limiting, or in any way altering, the capacity of 1271
parties to a reinsurance agreement to agree to alternative 1272
dispute resolution mechanisms, except to the extent such 1273
agreements are unenforceable under applicable insolvency or 1274
delinquency laws. 1275

(iii) The assuming insurer shall consent in writing to pay 1276
all final judgments, wherever enforcement is sought, obtained by 1277
a ceding insurer or its legal successor, that have been declared 1278
enforceable in the jurisdiction where the judgment was obtained. 1279

(iv) Each reinsurance agreement shall include a provision 1280
requiring the assuming insurer to provide security in an amount 1281
equal to one hundred per cent of the assuming insurer's 1282
liabilities attributable to reinsurance ceded pursuant to that 1283
agreement if the assuming insurer resists enforcement of a final 1284
judgment that is enforceable under the law of the jurisdiction 1285
in which it was obtained or a properly enforceable arbitration 1286
award, whether obtained by the ceding insurer or by its legal 1287
successor on behalf of its resolution estate. 1288

(v) The assuming insurer shall confirm that it is not 1289
presently participating in any solvent scheme of arrangement 1290
that involves this state's ceding insurers, and agree to notify 1291
the ceding insurer and the superintendent and to provide 1292
security in an amount equal to one hundred per cent of the 1293
assuming insurer's liabilities to the ceding insurer, should the 1294
assuming insurer enter into such a solvent scheme of 1295
arrangement. Such security shall be in a form consistent with 1296
the provisions of division (A) (5) of this section and section 1297
3901.63 of the Revised Code and as specified by the 1298
superintendent in rule or regulation. 1299

(e) The assuming insurer or its legal successor shall 1300
provide, if requested by the superintendent, on behalf of itself 1301
and any legal predecessors, certain documentation to the 1302
superintendent, as specified in rule adopted by the 1303
superintendent. 1304

(f) The assuming insurer shall maintain a practice of 1305

prompt payment of claims under reinsurance agreements, pursuant 1306
to criteria set forth in rule adopted by the superintendent. 1307

(g) The assuming insurer's supervisory authority shall 1308
confirm to the superintendent on an annual basis, as of the 1309
preceding thirty-first day of December, or on the annual date 1310
that the assuming insurer is statutorily required to report to 1311
the reciprocal jurisdiction, that the assuming insurer complies 1312
with the requirements set forth in divisions (E) (1) (b) and (c) 1313
of this section. 1314

(h) Nothing in division (E) of this section precludes an 1315
assuming insurer from providing the superintendent with 1316
information on a voluntary basis. 1317

(2) The superintendent shall timely create and publish a 1318
list of reciprocal jurisdictions. 1319

(a) The superintendent's list shall include any reciprocal 1320
jurisdiction as defined under divisions (E) (8) (b) (i) and (ii) of 1321
this section, and shall consider any other reciprocal 1322
jurisdiction included on the list compiled by the national 1323
association of insurance commissioners. The superintendent may 1324
approve a jurisdiction that does not appear on the national 1325
association of insurance commissioners' list of reciprocal 1326
jurisdictions in accordance with criteria established rules or 1327
regulations issued by the superintendent. 1328

(b) (i) The superintendent may remove a jurisdiction from 1329
the list of reciprocal jurisdictions upon a determination that 1330
the jurisdiction no longer meets the requirements of a 1331
reciprocal jurisdiction, in accordance with a process set forth 1332
in rules or regulations issued by the superintendent, except 1333
that the superintendent shall not remove from the list a 1334

reciprocal jurisdiction as defined under division (E) (8) (b) (i) 1335
or (ii) of this section. 1336

(ii) Upon removal of a reciprocal jurisdiction from this 1337
list credit for reinsurance ceded to an assuming insurer that 1338
has its home office or is domiciled in that jurisdiction shall 1339
be allowed, if otherwise allowed pursuant to sections 3901.61 to 1340
3901.65 of the Revised Code. 1341

(3) (a) The superintendent shall timely create and publish 1342
a list of assuming insurers that have satisfied the conditions 1343
set forth in division (E) (1) of this section and to which 1344
cessions shall be granted credit in accordance with this 1345
section. 1346

(b) The superintendent may add an assuming insurer to such 1347
list if a jurisdiction accredited by the national association of 1348
insurance commissioners has added such assuming insurer to a 1349
list of such assuming insurers or if, upon initial eligibility, 1350
the assuming insurer submits the information to the 1351
superintendent as required under division (E) (1) (d) of this 1352
section and complies with any additional requirements that the 1353
superintendent may impose by rule or regulation, except to the 1354
extent that they conflict with an applicable covered agreement. 1355

(4) (a) If the superintendent determines that an assuming 1356
insurer no longer meets one or more of the requirements 1357
prescribed in division (E) (1) of this section, the 1358
superintendent may revoke or suspend the eligibility of the 1359
assuming insurer for recognition under this section in 1360
accordance with rules adopted by the superintendent. 1361

(b) While an assuming insurer's eligibility is suspended, 1362
no reinsurance agreement issued, amended, or renewed after the 1363

effective date of the suspension qualifies for credit except to 1364
the extent that the assuming insurer's obligations under the 1365
contract are secured in accordance with section 3901.63 of the 1366
Revised Code. 1367

(c) If an assuming insurer's eligibility is revoked, no 1368
credit for reinsurance may be granted after the effective date 1369
of the revocation with respect to any reinsurance agreements 1370
entered into by the assuming insurer, including reinsurance 1371
agreements entered into prior to the date of revocation, except 1372
to the extent that the assuming insurer's obligations under the 1373
contract are secured in a form acceptable to the superintendent 1374
and consistent with the provisions of section 3901.63 of the 1375
Revised Code. 1376

(5) If subject to a legal process of rehabilitation, 1377
liquidation, or conservation, as applicable, the ceding insurer, 1378
or its representative, may seek and, if determined appropriate 1379
by the court in which the proceedings are pending, may obtain an 1380
order requiring that the assuming insurer post security for all 1381
outstanding ceded liabilities. 1382

(6) Nothing in division (E) of this section shall limit, 1383
or in any way alter, the capacity of parties to a reinsurance 1384
agreement to agree on requirements for security or other terms 1385
in that reinsurance agreement, except as expressly prohibited by 1386
sections 3901.61 to 3901.65 of the Revised Code or other 1387
applicable law, rule, or regulation. 1388

(7) (a) Credit may be taken under division (E) of this 1389
section only for reinsurance agreements entered into, amended, 1390
or renewed on or after the effective date of this amendment, and 1391
only with respect to losses incurred and reserves reported on or 1392
after the later of the following: 1393

(i) The date on which the assuming insurer has met all 1394
eligibility requirements pursuant to division (E) (1) of this 1395
section; 1396

(ii) The effective date of the new reinsurance agreement, 1397
amendment, or renewal. 1398

(b) Division (E) (7) (a) of this section does not alter or 1399
impair a ceding insurer's right to take credit for reinsurance, 1400
to the extent that credit is not available under division (E) of 1401
this section, as long as the reinsurance qualifies for credit 1402
under any other applicable provision of sections 3901.61 to 1403
3901.65 of the Revised Code. 1404

(c) Nothing in division (E) (7) of this section shall be 1405
construed as authorizing an assuming insurer to withdraw or 1406
reduce the security provided under any reinsurance agreement, 1407
except as permitted by the terms of the agreement. 1408

(d) Nothing in division (E) (7) of this section shall 1409
limit, or in any way alter, the capacity of parties to any 1410
reinsurance agreement to renegotiate the agreement. 1411

(8) As used in division (E) of this section: 1412

(a) "Covered agreement" means an agreement entered into 1413
pursuant to the Dodd-Frank Wall Street Reform and Consumer 1414
Protection Act, 31 U.S.C. 313 and 314, that is currently in 1415
effect or in a period of provisional application and addresses 1416
the elimination, under specified conditions, of collateral 1417
requirements as a condition for entering into any reinsurance 1418
agreement with a ceding insurer domiciled in this state or for 1419
allowing the ceding insurer to recognize credit for reinsurance. 1420

(b) "Reciprocal jurisdiction" means a jurisdiction that 1421
meets one of the following: 1422

(i) A non-United States jurisdiction that is subject to 1423
an in-force covered agreement with the United States, each 1424
within its legal authority, or, in the case of a covered 1425
agreement between the United States and the European Union, is a 1426
member state of the European Union; 1427

(ii) A United States jurisdiction that meets the 1428
requirements for accreditation under the national association of 1429
insurance commissioners' financial standards and accreditation 1430
program; 1431

(iii) A qualified jurisdiction, as determined by the 1432
superintendent pursuant to division (D)(3) of this section, that 1433
is not otherwise described in division (E)(8)(b)(i) or (ii) of 1434
this section, and that meets certain additional requirements, 1435
consistent with the terms and conditions of in-force covered 1436
agreements, as specified in rule adopted by the superintendent. 1437

(F) An assuming insurer shall file a written instrument 1438
appointing an attorney as its agent in this state upon whom all 1439
service of process may be served. Service of process upon this 1440
agent shall bring the assuming insurer within the jurisdiction 1441
of the courts of this state as if served upon an agent pursuant 1442
to section 3927.03 of the Revised Code. 1443

~~(F)~~ (G) Nothing in this section shall prohibit the parties 1444
to a reinsurance agreement from agreeing to provisions in the 1445
agreement establishing security requirements that exceed the 1446
minimum security requirements established for certified 1447
reinsurers under this section. 1448

~~(G)(1)~~ (H)(1) In order to facilitate the prompt payment of 1449
claims, the superintendent may permit a certified reinsurer to 1450
defer the posting of security for catastrophe recoverables for a 1451

period of up to one year from the date of the first instance of 1452
a liability reserve entry by the ceding insurer as a result of a 1453
loss from a catastrophic occurrence. 1454

(2) Upon notice by the ceding insurer to the 1455
superintendent that the certified reinsurer has failed to pay 1456
claims owed under a reinsurance agreement in a timely manner, 1457
the superintendent shall notify the certified reinsurer that it 1458
is no longer permitted to defer the posting of security for 1459
catastrophe recoverables. 1460

(3) Reinsurance recoverables for only the following lines 1461
of business, as reported on the national association of 1462
insurance commissioners' annual financial statement related 1463
specifically to the catastrophic occurrence, shall be included 1464
in the deferral: 1465

- (a) Fire; 1466
- (b) Allied lines; 1467
- (c) Farmowner's multiple peril; 1468
- (d) Homeowners multiple peril; 1469
- (e) Commercial multiple peril; 1470
- (f) Inland marine; 1471
- (g) Earthquake; 1472
- (h) Auto physical damage. 1473

(4) The superintendent may adopt rules in accordance with 1474
Chapter 119. of the Revised Code to establish the process for a 1475
certified reinsurer to seek a deferral of posting of security 1476
for catastrophe recoverables. 1477

Sec. 3901.64. (A) A domestic ceding insurer may take 1478

credit for any reinsurance ceded as provided in sections 3901.61 1479
to 3901.63 of the Revised Code only if the reinsurance agreement 1480
contained in the reinsurance contract, and any agreement that 1481
provides security for the payment of the obligations under the 1482
reinsurance agreement, including any trust agreement, provide, 1483
in substance, for the following: 1484

(1) In the event of the insolvency of the ceding insurer, 1485
the reinsurance, whether paid directly or from trust assets 1486
securing the reinsurance agreement, shall be payable by the 1487
assuming insurer on the basis of the liability of the ceding 1488
insurer under the policy or contract reinsured, without any 1489
diminution because the ceding insurer is insolvent or because 1490
the liquidator or statutory receiver has failed to pay all or 1491
any portion of any claims; 1492

(2) The reinsurance payments, whether paid directly or 1493
from trust assets securing the reinsurance agreement, shall be 1494
made by the assuming insurer directly to the ceding insurer, or 1495
in the event of its insolvency or liquidation, to its liquidator 1496
or statutory receiver except where the reinsurance contract or 1497
other written agreement specifically provides for direct payment 1498
of the reinsurance to the insured or beneficiary of the 1499
insurance policy in the event of the insolvency of the ceding 1500
insurer. 1501

(B) (1) The reinsurance agreement may provide that the 1502
domiciliary liquidator or statutory receiver shall give written 1503
notice to the assuming insurer that a claim is pending against 1504
the ceding insurer on the policy or contract reinsured. The 1505
notice shall be given within a reasonable amount of time after 1506
the claim is filed with the liquidator or statutory receiver. 1507
During the pendency of the claim, any assuming insurer may 1508

investigate the claim and interpose, at its own expense, in the 1509
proceeding where the claim is to be adjudicated any defenses 1510
which it deems to be available to the ceding insurer or its 1511
liquidator. 1512

(2) The expense may be filed as a claim against the 1513
insolvent ceding insurer to the extent of a proportionate share 1514
of the benefit that may accrue to the ceding insurer solely as a 1515
result of the defense undertaken by the assuming insurer. Where 1516
two or more assuming insurers are involved in the same claim and 1517
a majority in interest elect to interpose a defense to the 1518
claim, the expense shall be apportioned in accordance with the 1519
terms of the reinsurance agreement as though the expense had 1520
been incurred by the ceding insurer. 1521

(C) If the assuming insurer is not licensed, or accredited 1522
or certified to transact insurance or reinsurance in this state, 1523
the credit permitted by division (A) (4) of section 3901.62 of 1524
the Revised Code shall not be allowed unless the assuming 1525
insurer agrees to do both of the following in the reinsurance 1526
agreements: 1527

(1) (a) If the assuming insurer fails to perform its 1528
obligations under the terms of the reinsurance agreement, at the 1529
request of the ceding insurer, the assuming insurer shall submit 1530
to the jurisdiction of any court of competent jurisdiction in 1531
any state within the United States, comply with all requirements 1532
necessary to give the court jurisdiction, and abide by the final 1533
decision of the court or of any appellate court in the event of 1534
an appeal. 1535

(b) The assuming insurer shall designate the 1536
superintendent or a designated attorney as its true and lawful 1537
attorney upon whom may be served any lawful process in any 1538

action, suit, or proceeding instituted by or on behalf of the 1539
ceding insurer. 1540

(2) This division is not intended to conflict with or 1541
override the obligation of the parties to a reinsurance 1542
agreement to arbitrate their disputes, if this obligation is 1543
created in the agreement. 1544

(D) If the assuming insurer does not meet the requirements 1545
of division (A) (1), (2), ~~or (3)~~, or (6) of section 3901.62 of 1546
the Revised Code, the credit permitted by divisions (A) (4) and 1547
(5) of that section shall not be allowed unless the assuming 1548
insurer agrees in the trust agreements to the following 1549
conditions: 1550

(1) Notwithstanding any other provisions in the trust 1551
instrument, if the trust fund is inadequate because it contains 1552
an amount less than the amount required by division (C) (1) of 1553
section 3901.62 of the Revised Code, or if the grantor of the 1554
trust has been declared insolvent or placed into receivership, 1555
rehabilitation, liquidation, or similar proceedings under the 1556
laws of its state or country of domicile, the trustee shall 1557
comply with an order of the superintendent with regulatory 1558
oversight over the trust or with an order of a court of 1559
competent jurisdiction directing the trustee to transfer to the 1560
superintendent with regulatory oversight all of the assets of 1561
the trust fund. 1562

(2) The assets shall be distributed by, and claims shall 1563
be filed with and valued by, the superintendent with regulatory 1564
oversight in accordance with the laws of the state, in which the 1565
trust is domiciled, that are applicable to the liquidation of 1566
domestic insurance companies. 1567

(3) If the superintendent with regulatory oversight
determines that the assets of the trust fund, or any part
thereof, are not necessary to satisfy the claims of the ceding
insurers within the United States or the grantor of the trust,
the superintendent with regulatory oversight shall return the
assets or part thereof to the trustee for distribution in
accordance with the trust agreement.

(4) The grantor shall waive any right otherwise available
to it under the laws of the United States that are inconsistent
with this division.

Sec. 3902.36. (A) As used in this section:

(1) "Health benefit plan" and "health plan issuer" have
the same meanings as in section 3922.01 of the Revised Code.

(2) "Mental Health Parity and Addiction Equity Act" means
the federal "Paul Wellstone and Pete Domenici Mental Health
Parity and Addiction Equity Act of 2008," Pub. L. No. 110-343,
as amended, and any federal regulations implementing that act.

(B) Each health plan issuer and health benefit plan
subject to the Mental Health Parity and Addiction Equity Act
shall comply with all applicable requirements of that act. The
requirements of this section do not apply to a health plan
issuer or a health benefit plan that is exempt from the
requirements of that act by operation of law or other federal
guidance.

(C) The superintendent of insurance shall implement and
enforce all applicable provisions of the Mental Health Parity
and Addiction Equity Act and shall do all of the following:

(1) Proactively ensure compliance by health plan issuers;

(2) Evaluate all consumer and provider complaints 1596
regarding mental health and substance use disorder benefits for 1597
possible parity violations; 1598

(3) Adopt rules in accordance with Chapter 119. of the 1599
Revised Code as necessary to do both of the following: 1600

(a) Effectuate any provisions of the Mental Health Parity 1601
and Addiction Equity Act that relate to the business of 1602
insurance; 1603

(b) Enforce, monitor compliance with, and ensure continued 1604
compliance with this section. 1605

(D) Nothing in this section is subject to the requirements 1606
of section 3901.71 of the Revised Code. 1607

Sec. 5167.47. (A) When contracting with a medicaid managed 1608
care organization, the department of medicaid shall require the 1609
medicaid managed care organization to provide to medicaid 1610
enrollees the same benefits and rights as required under 1611
division (B) of section 3902.36 of the Revised Code. 1612

(B) The medicaid director shall do both of the following: 1613

(1) Implement and enforce division (B) of section 3902.36 1614
of the Revised Code with respect to medicaid managed care 1615
organizations; 1616

(2) Enforce, monitor compliance with, and ensure continued 1617
compliance with this section. 1618

(C) The director may adopt rules under section 5167.02 of 1619
the Revised Code as necessary to carry out the provisions of 1620
this section. 1621

Section 2. That existing sections 149.43, 3901.62, and 1622

3901.64 of the Revised Code are hereby repealed.

1623