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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

S.B. 175  
135<sup>th</sup> General Assembly

## Bill Analysis

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**Version:** As Passed by the Senate

**Primary Sponsor:** Sen. Lang

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## SUMMARY

### Regulatory restrictions

- Exempts certain administrative rules from the base inventory used for purposes of continuing law prohibitions concerning reductions in regulatory restrictions.

### Insurance

- Exempts certain commercial policy documents from insurers that are unique in character and designed for a particular risk from the continuing law filing requirement with the Superintendent of Insurance.
- Removes the requirement that the Superintendent approve a higher rate when an insurer uses a rate that is greater than the rate filed with the Superintendent on a specific risk and when the person insured applies to the Superintendent in writing stating the reasons for the rate.
- Requires that the insurer retain any insurance policy form, endorsement, or rate that is exempt from filing requirements for three years after the effective date of the exemption and requires that the insurer make this information and supporting documentation available for inspection by the Superintendent.
- Modifies the taxation of insurance premiums written for bail bonds.
- Permits a health benefit plan sponsor to agree to receive all communication related to the plan via electronic means.
- Adds funding agreements to the list of eligible claims on the assets of a liquidated insurer's estate.
- Removes certain requirements of the Ohio Fair Plan Underwriting Association.

- Prohibits making false and deceptive statements to the Ohio Assigned Risk Insurance Plan.
- Requires the Ohio Assigned Risk Insurance Plan to only accept applications for insurance from licensed insurance agents that are registered under the Plan.
- Eliminates the requirement that a health insuring corporation include notice that the corporation is not a member of the Ohio Life and Health Insurance Guaranty Association in insurance contracts that are covered by the Association.
- Requires the Superintendent of Insurance to maintain the confidentiality of information in connection with the merger or other acquisition of control of a domestic insurer.
- Creates a legal framework within which pet insurance may be sold, issued, and delivered.
- Eliminates current law requirements for the service of certain documents and notices and instead requires that those items be served in accordance with Ohio's Administrative Procedure Act.

### **Professional employer organizations**

- Specifies that a professional employer organization (PEO) is the employer of shared employees co-employed by the PEO and a client employer for purposes of determining whether a PEO who sponsors a group health benefit plan is covered under Ohio's Small Employer Health Benefit Law.
- Specifies that Ohio's Small Employer Health Benefit Law does not apply to a fully insured health benefit plan sponsored by a PEO if the PEO is not a small employer for purposes of the law.

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## **DETAILED ANALYSIS**

### **Regulatory restrictions**

The bill exempts any rule that is adopted as a requirement for a state agency to obtain or maintain accreditation or certification from a multistate organization consisting of at least 45 participating states from the base inventory of regulatory restrictions that a state agency must reduce by 30% under continuing law by June 30, 2025. A "regulatory restriction" is any part of an administrative rule that requires or prohibits an action.<sup>1</sup> Beginning July 1, 2025, if a state agency failed to reduce the agency's base inventory of regulatory restrictions by 30%, the agency is generally prohibited from adopting a new regulatory restriction unless it

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<sup>1</sup> R.C. 121.95 to 121.953, not in the bill.

simultaneously removes two or more existing restrictions until the 30% reduction has been met.<sup>2</sup>

The bill also requires that, as soon as practicable after the bill's effective date, the Superintendent of Insurance amend the Ohio Department of Insurance's base inventory of regulatory restrictions to remove regulatory restrictions adopted by the Superintendent that are necessary to meet the requirements for accreditation by the National Association of Insurance Commissioners' (NAIC) Financial Regulation Standards and Accreditation Committee. The Superintendent must then post the amended list on its website and transmit a copy to the Joint Committee on Agency Rule Review.<sup>3</sup>

The NAIC is a national standard-setting organization governed by the chief insurance regulators from the 50 states, the District of Columbia, and U.S. territories to coordinate regulation of multi-state insurers. The Department is currently accredited by the NAIC. According to the NAIC, this accreditation demonstrates that a state insurance department meets standards of solvency regulation and provides effective regulation of multi-state insurers.<sup>4</sup>

## **Insurance**

### **Filing requirements**

Under continuing law, insurers are generally required to file with the Superintendent of Insurance certain documents that they propose to use: every form of a policy, endorsement, rider, manual, minimum class rate, rating schedule, rating plan, and rating rule, along with modifications of those items. Continuing law exempts documents for inland marine risk insurance from this requirement. The bill exempts commercial insurance policy forms or endorsements that are "unique in character and designed for a particular risk" from the filing requirements, subject to restrictions prescribed by the Superintendent of Insurance.<sup>5</sup> Continuing law generally prohibits insurers from making or issuing contracts or policies that are different from those filed with the Superintendent. However, under existing law, an insurer may use a rate that is greater than the rate filed with the Superintendent on a specific risk if the person insured applies to the Superintendent in writing stating the reasons for the rate and the Superintendent approves the application. The bill eliminates the requirement of the Superintendent's approval.<sup>6</sup>

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<sup>2</sup> R.C. 121.95; and R.C. 121.951 and 121.952, not in the bill.

<sup>3</sup> Section 3.

<sup>4</sup> [Alaska, Iowa, Minnesota, and Ohio Receive NAIC Accreditation](#), August 10, 2022, which can be found on the National Association of Insurance Commissioners website: [naic.org](http://naic.org), search term "Ohio."

<sup>5</sup> R.C. 3935.04(H) and 3937.03(H).

<sup>6</sup> R.C. 3935.04(G) and 3937.03(G).

The bill requires that for policies that are exempt from any filing requirements, the insurer must retain the exempt policy and all supporting documents for at least three years after the effective date of the policy. The insurer must make the policy and all supporting documentation available for inspection by the Superintendent upon request.<sup>7</sup>

### **Premiums tax**

The bill modifies the taxation of insurance premiums written for bail bonds. Under continuing law, Ohio taxes the gross premiums collected by foreign and domestic insurance companies from policies issued in the state. This includes premiums charged to underwrite bail bonds.

Under current law, the tax on bail bond premiums is based on the gross premiums paid, without deduction. The bill modifies this calculation by allowing insurance companies to deduct amounts retained by bail bond agents. However, the deduction cannot cause the company's taxable bail bond premiums to be less than 6.5% of the company's gross bail bond premiums.<sup>8</sup>

The bill applies to premiums reported on annual statements filed in 2021 and thereafter. If an insurance company has already filed an annual statement for any such year, and the bill's changes would reduce the company's tax liability for that year, the company can request a refund.<sup>9</sup>

### **Electronic delivery of insurance documents**

The bill enables the sponsor of a fully insured health benefit plan, on behalf of all individuals covered under the plan, to agree to receive all communications related to the plan via electronic means, including the delivery of any health benefit or prescription drug benefit identity card. Under continuing law, electronic means includes email, instant messaging, cell phones, and fax machines.<sup>10</sup>

The bill requires that a health benefit plan sponsor, prior to making such an authorization, confirm that all of the primary covered individuals in question routinely use electronic communications during the normal course of business. The bill also requires that the issuer of a health plan, prior to issuing documents electronically, provide the covered individuals with an opportunity to opt out of delivery by electronic means. The issuer must also document that the requirements for conducting the business of insurance electronically have been met.<sup>11</sup>

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<sup>7</sup> R.C. 3935.04(I) and 3937.03(I).

<sup>8</sup> R.C. 5725.18 and 5729.02; R.C. 3905.901, not in the bill.

<sup>9</sup> Section 4.

<sup>10</sup> R.C. 3901.411(B); R.C. 3901.41, not in the bill.

<sup>11</sup> R.C. 3901.411(C) and (D).

## **Claims on a liquidated insurer's estate**

Under continuing law, the assets of a liquidated insurer's estate are distributed in ten classes. The second class comprises all claims under policies for losses incurred. The bill expands the second class of eligible claims to include funding agreements.<sup>12</sup>

## **Ohio Fair Plan**

The Ohio Fair Plan is an underwriting association comprised of all insurers authorized to write property insurance in the state. Under current law, changed in part by the bill, its purpose is to assist applicants in urban areas to secure basic property or homeowners insurance where policies cannot be obtained in the normal market. The bill broadens the purpose of the Association by removing references to the Association only assisting urban areas.<sup>13</sup>

Under current law, the Association's board of governors must submit a proposed plan of operation to the Superintendent of Insurance. If the Superintendent rejects the plan, the Association has 15 days to submit a revised plan to the Superintendent. If the Association fails to do so, or if the revised plan is rejected, the Superintendent is required to make a plan of operation. The bill eliminates this submission and review procedure since the plan has already been approved and implemented.<sup>14</sup>

Current law mandates that, upon application to the Ohio Fair Plan, an applicant receive a property inspection. The bill makes this process optional, permitting the Association to engage an inspection bureau or other organization to assist in collecting information necessary to underwrite risk for basic property or homeowners insurance.<sup>15</sup>

The bill also removes the requirement that the Association pay the Superintendent of Insurance one cent for each outstanding insurance policy.<sup>16</sup>

## **Ohio Assigned Risk Insurance Plan**

Under continuing law, the Ohio Assigned Risk Insurance Plan (OARP) is a plan through which drivers who are unable to obtain automobile insurance through ordinary methods may obtain coverage, and the associated risk is apportioned by the Superintendent of Insurance among Ohio automobile insurers.

The bill applies the existing criminal prohibition against insurance fraud to false and deceptive statements made to the OARP.<sup>17</sup>

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<sup>12</sup> R.C. 3903.42(B).

<sup>13</sup> R.C. 3929.41, 3929.42, 3929.43, and 3929.44.

<sup>14</sup> R.C. 3929.43(C).

<sup>15</sup> R.C. 3929.44.

<sup>16</sup> R.C. 3929.481.

<sup>17</sup> R.C. 2913.47.

The bill allows the OARP to establish procedures to register insurance agents under the Plan. If an insurance agent has their registration rejected or revoked, the Plan may inform the Superintendent of Insurance. The Plan and its manager are immune from civil liability for decisions to deny or revoke registration or to inform the Superintendent. Under the bill, OARP is prohibited from accepting an application for insurance unless it is submitted through a registered agent. Registered agents have an affirmative duty to ensure that the information on the application is true and accurate.<sup>18</sup>

### **Ohio Life and Health Insurance Guaranty Association**

Under current law, a health insuring corporation must include a notice in insurance contracts that are covered by the Ohio Life and Health Insurance Guaranty Association stating that the corporation is not a member of the Association. The bill removes this provision, as S.B. 273 of the 134<sup>th</sup> General Assembly required health insuring companies to join the Association.<sup>19</sup>

### **Confidentiality of information**

Under continuing law, the Superintendent of Insurance is required to maintain confidentiality of certain documents, materials, and other information. The bill adds to the list of confidential information any information in connection with the merger or other acquisition of control of a domestic insurer.<sup>20</sup>

### **Pet insurance**

The bill establishes a legal framework for property insurance policies that provide coverage for accidents and illnesses of pets – referred to in the bill and this analysis as “pet insurance.” It applies to pet insurance policies that are: (1) issued to a resident of Ohio, (2) sold, solicited, or negotiated in Ohio, or (3) delivered or issued for delivery in Ohio. The bill specifies that it does not exempt pet insurance policies from other applicable laws, except to the extent those laws conflict with the bill.<sup>21</sup>

### **Defined terms**

The bill defines certain terms related to pet insurance policies and requires policies that use identical terminology to ascribe the same meaning set by the bill. If a pet insurance policy uses such a defined term, the statutory definition must be restated in the policy and made available through a clear and conspicuous link on the main page of the pet insurer’s or program administrator’s website. The terms are as follows:

- **Chronic condition** – a condition that can be treated or managed, but not cured.

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<sup>18</sup> R.C. 4509.70(H).

<sup>19</sup> R.C. 1751.11; R.C. 3956.04, not in the bill; S.B. 273 of the 134<sup>th</sup> General Assembly.

<sup>20</sup> R.C. 3901.36(A); R.C. 3901.321, not in the bill.

<sup>21</sup> R.C. 3970.01(E) and 3970.02.

- **Congenital anomaly of disorder** – a condition that is present from birth, whether inherited or caused by the environment, which may cause or contribute to illness or disease.
- **Hereditary disorder** – an abnormality that is genetically transmitted from parent to offspring and may cause illness or disease.
- **Orthopedic condition** – a condition affecting bones, skeletal muscle, cartilage, tendons, ligaments, and joints. Expressly includes elbow dysplasia, hip dysplasia, intervertebral disc degeneration, patellar luxation, and ruptured cranial cruciate ligaments. Does not include cancer or metabolic, hemopoietic, or autoimmune diseases.
- **Preexisting condition** – a condition for which any of the following are true prior to the effective date of a pet insurance policy or during any waiting period:
  - A veterinarian provided medical advice;
  - The pet received previous treatment;
  - Based on information from verifiable sources, the pet had signs or symptoms directly related to the condition for which a claim is being made.
- **Renewal** – to issue and deliver, at the end of a pet insurance policy period, a policy that supersedes a policy previously issued and delivered by the same pet insurer or an affiliated pet insurer, and which provides types and limits of coverage substantially similar to those contained in the policy being superseded.
- **Veterinarian** – an individual who holds a valid license to practice veterinary medicine under Ohio law or from the appropriate licensing entity in the jurisdiction in which the veterinarian practices.
- **Veterinary expenses** – the costs associated with medical advice, diagnosis, care, or treatment provided by a veterinarian, including the cost of drugs prescribed by a veterinarian.
- **Waiting period** – a period of time specified in a pet insurance policy that is required to elapse before some or all of the coverage in the policy begins.
- **Wellness program** – a subscription- or reimbursement-based program that is separate from a pet insurance policy and provides goods or services to promote the general health, safety, or well-being of the pet.

The bill specifies that it does not prohibit or limit the types of exclusions a pet insurer may use, or require a pet insurer to use any of the limitations or exclusions that are defined by law.<sup>22</sup>

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<sup>22</sup> R.C. 3970.02 and 3970.03.

## Policy information and disclosures

The bill requires pet insurance policies to include certain disclosures. The policy must disclose:

- Whether the policy excludes coverage due to a preexisting condition, a hereditary disorder, a congenital anomaly or disorder, or a chronic condition;
- Whether the pet insurance policy excludes coverage for any reason other than those listed above;
- Whether the pet insurance policy or rider limits coverage through a waiting period, affiliation period, deductible, co-insurance, or an annual or lifetime policy limit;
- Whether the insurer reduces coverage or increases premiums based on the insured's claim history, the age of the covered pet, or a change in the geographic location of the insured;
- Whether the underwriting company differs from the brand name used to market and sell the pet insurance policy or rider.<sup>23</sup>

The pet insurer must also provide the following information to the purchaser:

- That the purchaser may cancel the policy within 30 days of receipt of the policy for a full refund;
- A summary of the basis or formula the pet insurer uses to determine claim payments;
- Any requirements relating to waiting periods;
- Prior to the purchase of a pet insurance policy, whether a veterinary examination is required;
- If the pet insurer uses benefits schedules or usual and customary fees, additional disclosures are required;
- Any other disclosures required by law.<sup>24</sup>

## Coverage

The bill permits pet insurance policies to exclude coverage on the basis of preexisting conditions, provided that the exclusion is disclosed and that a condition for which coverage is afforded under the policy is not considered a preexisting condition under any renewal of that policy.<sup>25</sup>

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<sup>23</sup> R.C. 3970.04(A).

<sup>24</sup> R.C. 3970.04(B) through (J).

<sup>25</sup> R.C. 3970.05(A) and (B).



Pet insurers may issue a policy subject to a waiting period, provided that the waiting period is no more than 30 days for illness or orthopedic conditions, does not apply to accidents, may be waived upon completion of a medical examination, is disclosed to the purchaser prior to the purchase of the policy, and is not applied to a renewal of existing coverage.<sup>26</sup>

The bill prohibits pet insurers from conditioning insurance eligibility on participation of a wellness program, and from marketing wellness programs as pet insurance.<sup>27</sup>

### **Licensing**

The bill prohibits pet insurers from selling, soliciting, or negotiating pet insurance products until the insurance agent is appropriately licensed and has completed the required training. The training must cover: preexisting conditions and waiting periods; the differences between pet insurance and wellness programs; hereditary disorders, congenital anomalies or disorders, and chronic conditions, and how pet insurance policies and riders interact with those conditions or disorders; and rating, under writing, renewal, and other related administrative topics.<sup>28</sup>

### **Rules**

The Superintendent of Insurance may adopt rules to administer and enforce pet insurance regulations, including penalties for violations.<sup>29</sup>

### **Service of certain notices and documents**

The bill eliminates current law requirements for the service of the items listed below and instead requires that those items be served in accordance with Ohio's Administrative Procedure Act<sup>30</sup> (APA):

- A subpoena, notice, or order related to a violation of state law regulating insurance.<sup>31</sup>
- Notice of a cease and desist order for an unfair or deceptive act or practice in the business of insurance.<sup>32</sup>
- Notice of reasonable belief that an insurer is engaging in unlawful advertising.<sup>33</sup>

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<sup>26</sup> R.C. 3970.05(C).

<sup>27</sup> R.C. 3970.06.

<sup>28</sup> R.C. 3970.07.

<sup>29</sup> R.C. 3970.02 and 3970.08.

<sup>30</sup> R.C. Chapter 119.

<sup>31</sup> R.C. 3901.04.

<sup>32</sup> R.C. 3901.221.

<sup>33</sup> R.C. 3901.24.

- Notice of hearings and hearing officer written reports and recommendations regarding mergers or acquisitions of domestic insurance companies.<sup>34</sup>
- Notice of hearings regarding disciplinary actions against insurance agent licensees.<sup>35</sup>
- Notice of hearings regarding disciplinary actions against viatical settlement provider and broker licensees.<sup>36</sup>
- Notice of hearings regarding discount medical plan enforcement actions.<sup>37</sup>

Under continuing law, the APA allows service by email, facsimile transmission, traceable delivery service, personal service, or, under limited circumstances, publication.<sup>38</sup>

## **Professional employer organizations**

The bill specifies that a professional employer organization (PEO) is the employer of shared employees co-employed by the PEO and a client employer for purposes of determining whether a PEO who sponsors a group health benefit plan is covered under Ohio's Small Employer Health Benefit Law.<sup>39</sup> Additionally, under the bill, Ohio's Small Employer Health Benefit Law does not apply to a fully insured health benefit plan sponsored by a PEO if the PEO is not a small employer for purposes of the law.<sup>40</sup>

Under continuing law, a PEO is a business entity that enters into an agreement with one or more client employers to share the responsibilities and liabilities of being an employer. A "client employer" is the business entity that enters into the agreement with a PEO to share employer responsibility and liability with the PEO over their shared employees.<sup>41</sup> Under continuing law, Ohio's Small Employer Health Benefit Law generally applies to employers with 50 employees or less.<sup>42</sup>

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<sup>34</sup> R.C. 3901.321.

<sup>35</sup> R.C. 3905.14.

<sup>36</sup> R.C. 3916.15.

<sup>37</sup> R.C. 3961.08.

<sup>38</sup> R.C. 119.05, not in the bill.

<sup>39</sup> R.C. 3924.01 to 3924.14, not in the bill.

<sup>40</sup> R.C. 4125.041.

<sup>41</sup> R.C. 4125.01, not in the bill.

<sup>42</sup> R.C. 3924.01 and 3924.02, not in the bill.

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## HISTORY

Action	Date
Introduced	10-17-23
Reported, S. Insurance	04-30-24
Passed Senate (31-0)	05-09-24

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