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135th General Assembly

Final Analysis

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Primary Sponsor: Sen. Lang

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SUMMARY

Regulatory restrictions

- Exempts from the law concerning reductions in regulatory restrictions any rule 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.

Insurance

Filing requirements

- Exempts commercial insurance policy forms and endorsements that are unique in character and designed for a particular risk from being filed with the Superintendent of Insurance.
- Modifies the process by which an insurer may use a rate greater than the rate on file with the Superintendent by eliminating the requirement that the Superintendent approve the higher 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 policy and requires that the insurer make this information and supporting documentation available for inspection upon request of the Superintendent.

Premiums tax

- Modifies the taxation of insurance premiums written for bail bonds.

Electronic delivery of documents

- Permits a health benefit plan sponsor to agree to receive all communication related to the plan via electronic means.

Claims on a liquidated insurer’s estate

- Adds funding agreements to the list of eligible claims on the assets of a liquidated insurer’s estate.

Ohio Fair Plan

- Removes certain requirements of the Ohio Fair Plan Underwriting Association.

Ohio Assigned Risk Insurance Plan

- Prohibits making false and deceptive statements to the Ohio Assigned Risk Insurance Plan.

Ohio Life and Health Insurance Guaranty Association

- 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.

Confidentiality

- Requires the Superintendent to maintain the confidentiality of information in connection with the merger or other acquisition of control of a domestic insurer.

Pet insurance

- Creates a legal framework within which pet insurance may be sold, issued, and delivered.

Service of certain notices and documents

- Eliminates 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 act 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.¹ Beginning July 1, 2025, if a state agency failed to reduce its base inventory of regulatory restrictions by 30%, the agency is generally prohibited from adopting a new regulatory restriction unless it simultaneously removes two or more existing restrictions until the 30% reduction has been met.²

As soon as practicable after the act’s effective date, the Superintendent of Insurance must amend the Department of Insurance’s base inventory to remove regulatory restrictions adopted by the Superintendent that are necessary 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, transmit a copy to the Joint Committee on Agency Rule Review, and use the amended list for purposes of complying with the regulatory restriction reduction requirements.³

¹ R.C. 121.95 to 121.953, not in the act.

² R.C. 121.95; R.C. 121.951 and 121.952, not in the act.

³ Section 3.

Insurance

Filing requirements

Insurers are generally required to file certain documents that they propose to use with the Superintendent. These include every form of a policy, endorsement, rider, manual, minimum class rate, rating schedule, rating plan, and rating rule, along with any modifications to those items. Continuing law exempts documents for inland marine risk insurance from this filing requirement. Similarly, the act exempts commercial insurance policy forms or endorsements that are “unique in character and designed for a particular risk,” subject to restrictions prescribed by the Superintendent.⁴

Continuing law generally prohibits insurers from making or issuing contracts or policies that are different from those filed with the Superintendent. However, 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 higher rate and the Superintendent approves the application. The act retains the ability of an insured person to submit such an application but eliminates the requirement that the Superintendent approve it before the higher rate may be applied.⁵

The act requires the insurer to retain any policy that is exempt from filing requirements 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.⁶

Premiums tax

The act 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 prior law, the tax on bail bond premiums was based on the gross premiums paid, without deduction. The act 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.⁷

The act 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 act’s

⁴ R.C. 3935.04(H) and 3937.03(H).

⁵ R.C. 3935.04(G) and 3937.03(G).

⁶ R.C. 3935.04(I) and 3937.03(I).

⁷ R.C. 5725.18 and 5729.02; R.C. 3905.901, not in the act.

changes would reduce the company's tax liability for that year, the company can request a refund.⁸

Electronic delivery of insurance documents

The act 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 communications include email, instant messaging, cell phone communication, and fax machines.⁹

The act requires that a health benefit plan sponsor, prior to making such an authorization, confirm that all of the primary covered individuals routinely use electronic communications during the normal course of business. The act 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.¹⁰

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 act expands the second class of eligible claims to include funding agreements.¹¹

Ohio Fair Plan

The Ohio Fair Plan is an underwriting association comprised of all insurers authorized to write property insurance in the state. Its purpose has been to assist applicants in urban areas to secure basic property or homeowners insurance where policies cannot be obtained in the normal market. The act broadens the purpose of the Association to include assisting applicants that are not in urban areas.¹²

Under prior law, the Association's board of governors was required to submit a proposed plan of operation to the Superintendent of Insurance. If the Superintendent rejected the plan, the Association had 15 days to submit a revised plan to the Superintendent. If the Association failed to do so, or if the revised plan was rejected, the Superintendent was required to make a plan of operation. The act removes this submission and review procedure from the statute since the plan has already been approved and implemented.¹³

⁸ Section 4.

⁹ R.C. 3901.411(B); R.C. 3901.41, not in the act.

¹⁰ R.C. 3901.411(C) and (D).

¹¹ R.C. 3903.42(B).

¹² R.C. 3929.41, 3929.42, 3929.43, and 3929.44.

¹³ R.C. 3929.43(C).

Prior law mandated a property inspection by representatives of the inspection bureau following an application to the Ohio Fair Plan. The act makes the inspection 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.¹⁴

The act also removes the requirement that the Association pay the Superintendent of Insurance 1¢ for each outstanding insurance policy.¹⁵

Ohio Assigned Risk Insurance Plan

The act applies the criminal prohibition against insurance fraud to false and deceptive statements made to the Ohio Assigned Risk Insurance Plan (OARP).¹⁶ OARP provides coverage to drivers who are unable to obtain automobile insurance through ordinary methods, and apportions the associated risk among Ohio automobile insurers.

The act also allows OARP to establish procedures to register insurance agents. If an insurance agent has their registration rejected or revoked, OARP may inform the Superintendent of Insurance. OARP and its manager are immune from civil liability for decisions to deny or revoke registration or to inform the Superintendent. Under the act, 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.¹⁷

Ohio Life and Health Insurance Guaranty Association

Under prior law, a health insuring corporation was required to 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 act removes this provision, as S.B. 273 of the 134th General Assembly, effective in September 2022, required health insuring companies to join the Association.¹⁸

Confidentiality of information

Under continuing law, the Superintendent of Insurance is required to maintain confidentiality of certain documents, materials, and other information. The act adds to the list of confidential information any information in connection with the merger or other acquisition of control of a domestic insurer.¹⁹

¹⁴ R.C. 3929.44.

¹⁵ R.C. 3929.481.

¹⁶ R.C. 2913.47.

¹⁷ R.C. 4509.70(H).

¹⁸ R.C. 1751.11; R.C. 3956.04, not in the act; S.B. 273 of the 134th General Assembly.

¹⁹ R.C. 3901.36(A); R.C. 3901.321, not in the act.

Pet insurance

The act establishes a legal framework for property insurance policies that provide coverage for accidents and illnesses of pets – referred to in the act 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 act specifies that it does not exempt pet insurance policies from other applicable laws, except to the extent those laws conflict with the act.²⁰

Defined terms

The act defines certain terms related to pet insurance policies and requires policies that use identical terminology to ascribe the same meaning set by the act. 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.
- **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.

²⁰ R.C. 3970.01(E) and 3970.02.

- **Veterinarian** – an individual who holds a valid license to practice veterinary medicine under Ohio law or from the appropriate licensing entity in the jurisdiction where 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 act 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 the act.²¹

Policy information and disclosures

The act 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, a chronic condition, or any other reason;
- Whether the 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.²²

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

- That the purchaser may cancel the policy within 30 days of receiving 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;
- Whether a veterinary examination is required prior to the purchase of the policy;

²¹ R.C. 3970.02 and 3970.03.

²² R.C. 3970.04(A).

- If the insurer uses a benefit schedule to determine claim payment, the applicable benefit schedule and any other benefit schedule the insurer uses under its other policies;
- If the insurer determines claim payments based on usual and customary fees or any other reimbursement limitation based on prevailing veterinary service provider charges, a clear description of the insurer's basis for determining usual and customary fees and how that basis is applied in calculating claim payments;
- Any other disclosures required by law.²³

Coverage

The act 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.²⁴

Pet insurers may also 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.²⁵

The act prohibits pet insurers from conditioning insurance eligibility on participation of a wellness program, and from marketing wellness programs as pet insurance.²⁶

Licensing

The act prohibits insurance agents from selling, soliciting, or negotiating pet insurance products until the 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;
- Rating, under writing, renewal, and other related administrative topics.²⁷

²³ R.C. 3970.04(B) through (J).

²⁴ R.C. 3970.05(A) and (B).

²⁵ R.C. 3970.05(C).

²⁶ R.C. 3970.06.

²⁷ R.C. 3970.07.

Rules

The Superintendent of Insurance may adopt rules to administer and enforce pet insurance regulations, including penalties for violations.²⁸

Service of certain notices and documents

The act eliminates requirements for the service of the items listed below, and instead requires that those items be served in accordance with Ohio's Administrative Procedure Act²⁹ (APA):

- A subpoena, notice, or order related to a violation of state law regulating insurance.³⁰
- Notice of a cease and desist order for an unfair or deceptive act or practice in the business of insurance.³¹
- Notice of reasonable belief that an insurer is engaging in unlawful advertising.³²
- Notice of hearings and hearing officer written reports and recommendations regarding mergers or acquisitions of domestic insurance companies.³³
- Notice of hearings regarding disciplinary actions against insurance agent licensees.³⁴
- Notice of hearings regarding disciplinary actions against viatical settlement provider and broker licensees.³⁵
- Notice of hearings regarding discount medical plan enforcement actions.³⁶

Under continuing law, the APA allows service by email, facsimile transmission, traceable delivery service, personal service, or, under limited circumstances, publication.³⁷

Professional employer organizations

The act 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

²⁸ R.C. 3970.02 and 3970.08.

²⁹ R.C. Chapter 119.

³⁰ R.C. 3901.04.

³¹ R.C. 3901.221.

³² R.C. 3901.24.

³³ R.C. 3901.321.

³⁴ R.C. 3905.14.

³⁵ R.C. 3916.15.

³⁶ R.C. 3961.08.

³⁷ R.C. 119.05, not in the act.

Health Benefit Law.³⁸ Additionally, under the act, 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.³⁹ Under continuing law, Ohio’s Small Employer Health Benefit Law generally applies to employers with 50 employees or less.⁴⁰

HISTORY

Action	Date
Introduced	10-17-23
Reported, S. Insurance	04-30-24
Passed Senate (31-0)	05-09-24
Reported, H. Insurance	06-20-24
Passed House (96-1)	06-26-24

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³⁸ R.C. 3924.01 to 3924.14, not in the act.

³⁹ R.C. 4125.041.

⁴⁰ R.C. 3924.01 and 3924.02, not in the act.