



**S.B. 266**

125th General Assembly  
(As Introduced)

Sens. Miller, Fedor, Zurz, Dann

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**BILL SUMMARY**

- Creates insurer liability for an appointed insurance agent's theft, fraud, or other misfeasance or malfeasance when committed in connection with the agent's apparent authority.
- Creates insurer liability for acts of an insurance agent appointed by an affiliate or subsidiary insurer if the agent acts within the scope or in connection with the agent's actual or apparent authority for the affiliate or subsidiary.
- Precludes liability of an insurer for the acts of an independent insurance agent if the agent is acting within the scope of actual or apparent authority for another insurer.
- Prohibits the insurer from withholding an insured's benefits because of an agent's theft of the insured's premiums or investments.
- Makes refusing to allow an insured person access to the insurer's financial records that pertain to the insurer's use and distribution of the insurer's assets an unfair or deceptive act.

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**CONTENT AND OPERATION**

***Insurer liability for an agent's acts within the scope or in connection with the agent's actual or apparent authority***

Under current law, an insurer is liable for an appointed agent's acts that are committed within the agent's actual and apparent authority. The bill specifies that an insurer is liable for an appointed agent's theft, fraud, or other misfeasance or malfeasance if the agent commits such acts in connection within the agent's apparent authority. For this particular provision, the bill defines "apparent

authority" as causing a third party to reasonably believe that the agent is acting for the insurer. (Sec. 3905.20(B)(3).)

The bill also creates insurer liability if an insurance agent appointed by an affiliate or subsidiary insurer acts within the scope or in connection with the agent's actual or apparent authority for the affiliate or subsidiary. (Sec. 3905.20(B)(3).)

The bill however, precludes an insurer from liability for the acts of an independent insurance agent if the agent is acting within the scope of the agent's actual or apparent authority for another insurer. The bill precludes liability even if the agent is appointed by the insurer. The bill defines "independent insurance agent" according to an existing definition found in Revised Code Section 3905.49 as an agent who is neither controlled nor employed solely by an insurer and whose agency contract permits the agent to represent other insurers concurrently. (Secs. 3905.20(B)(3) and 3905.49, not in the bill.)

The bill also prohibits the insurer from withholding an insured's benefits because of an appointed agent's theft of the insured's premiums or investments.

**Refusing insured's access to the insurer's financial records**

Under current law, no person is permitted to engage in any trade practice that is determined to be an unfair or deceptive act in the business of insurance. Existing law specifically sets out a number of acts or practices that constitute an unfair or deceptive act in the business of insurance. The bill makes refusing to allow an insured's access to the insurer financial records pertaining to the use and distribution of the insurer's assets an unfair or deceptive act in the business of insurance. The bill prohibits the insurer from refusing access to separate accountings of the insurer's use and distribution of the money received from premium payments and any theft of the insurer's assets. (Secs. 3901.20, not in the bill, and 3901.21.)

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	09-09-04	p. 2192

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