



## *Synopsis of House Committee Amendments*<sup>\*</sup>

Greg Schwab

Legislative Service Commission

### **Sub. S.B. 129**

124th General Assembly  
(H. Insurance)

#### **Agent licensing**

##### **Criminal record checks**

Permits the Superintendent of Insurance to use governmental agencies and sources other than the Bureau of Criminal Identification and Investigation to conduct criminal record checks of applicants.

##### **Nonresident surplus lines broker license**

Requires the Superintendent, notwithstanding any other provision of the Insurance Agents Law, Chapter 3905. of the Revised Code, to issue a nonresident surplus lines broker license to a person licensed as a surplus lines producer in the applicant's home state.

##### **Accident and health solicitors**

Specifically permits a licensed accident and health insurance agent to appoint solicitors to solicit accident and health insurance products that are issued and underwritten by an insurer that is authorized to write accident and health insurance in Ohio. Current law does not distinguish solicitors for accident and health insurance from other types of solicitors.

##### **Compensation of unlicensed persons for referrals**

Permits insurers and agents to pay referral fees, commissions, and other compensation to unlicensed persons for referrals, if the compensation is a fixed dollar amount for each referral and does not depend on whether the person referred purchases an insurance product.

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<sup>\*</sup> This synopsis does not address amendments that may have been adopted on the House floor.

### **Appointment as a variable life and variable annuity agent**

Requires a separate appointment and fee for a variable life and variable annuity products line of authority.

### **Notice of criminal action against agent**

Amends the provision requiring an agent to notify the Superintendent of any criminal prosecution. Requires an agent to provide the Superintendent with a certified copy of the charging document, and, within 30 days after the disposition of the criminal prosecution, to provide the Superintendent with a certified copy of the court's entry or order that reflects the final disposition of the prosecution and any other relevant legal documents.

### **Insurance agent education advisory council**

Adds a member to the Insurance Agent Education Advisory Council, currently composed of the Superintendent of Insurance and 11 appointed members. The new member would represent the Ohio Land Title Association.

### **Unfair and Deceptive Trade Practices Act**

#### **Definitions**

Defines "**Insurance agent**," "**insurer**," and "**policy**" or "**certificate**" for purposes of the bill.

#### **Prohibited activities**

Amends the prohibitions related to persons that lend money or extend credit. The following items reflect changes made to these prohibitions:

(1) Prohibits persons from unreasonably rejecting a policy furnished by a customer or borrower for the protection of the property securing the credit or lien;

(2) Prohibits requiring any customer, borrower, mortgagor, purchaser, insurer, broker, or agent, to pay a separate charge, in connection with the handling of any policy required as security for a loan on real estate, or to pay a separate charge to substitute the policy of one insurer for that of another;

(3) Prohibits requiring any procedures or conditions of licensed agents or insurers that are not customarily required of those agents and insurers affiliated, or in any way connected, with the person that lends money or extends credit;

(4) Removes the prohibition against soliciting or selling title insurance unless the solicitation or sale is completed through documents separate from any credit transactions,

while retaining the same prohibition in connection with the solicitation and sale of credit insurance and flood insurance;

(5) Removes the prohibition against including the expense of title insurance premiums in the primary credit transaction without the express written consent of the customer, while retaining the same prohibition in connection with credit insurance premiums and flood insurance premiums;

(6) Amends the language regulating the payment of commissions and other compensation to persons not licensed as agents, by providing that persons accepting deposits from the public in an area of a depository institution where such transactions are routinely conducted may receive for each customer referral a one-time, nominal fee of a fixed dollar amount, if the fee does not depend on whether the referral results in a transaction.

### **Disclosure**

Amends the format and substance of disclosure provisions.

**Loans and extensions of credit.** Requires a person that lends money or extends credit and that also solicits insurance primarily for personal, family, or household purposes in connection with that loan or extension of credit, to provide a written disclosure stating that a customer may purchase insurance from an insurer or agent of the customer's choice, subject to the lender's right to reject a given insurer or agent if the rejection is not unreasonable, and stating that such a choice will not affect the credit decision or credit terms in any way.

Requires the above lenders and creditors to obtain the customer's written acknowledgement of their receipt of the disclosure; if a solicitation is conducted by telephone, requires the depository institution or person to (1) obtain an oral acknowledgement of receipt of the disclosure, (2) maintain sufficient documentation to show that the acknowledgement was given, and (3) make reasonable efforts to obtain a written acknowledgement from the customer.

Exempts the offering or sale of limited line credit insurance from the disclosure and acknowledgment requirements.

**Insurance sales.** Requires, where practicable, a depository institution that solicits, sells, advertises, or offers insurance, and any person that solicits, sells, advertises, or offers insurance on behalf of a depository institution or on the premises of a depository institution, to provide a written disclosure to a customer prior to a sale clearly stating that the insurance is not a deposit, is not insured by the FDIC or any other federal agency, is not guaranteed by the depository institution or an affiliate, and involves investment risk. Applies only to insurance products or annuities primarily for personal, family, or household purposes.

Requires persons to obtain the customer's written acknowledgement of their receipt of the disclosure; if a solicitation is conducted by telephone, requires the depository institution or person to (1) obtain an oral acknowledgement of receipt of the disclosure, (2) maintain sufficient documentation to show that the acknowledgement was given, and (3) make reasonable efforts to obtain a written acknowledgement from the customer.

**Effective date**

Sets a new effective date of September 1, 2002, with the exception of sections 3095.34 (agent's annual filing on surplus lines business), 3905.36 (tax on surplus lines insurance; tax on insurance obtained from unauthorized insurer), and 3960.03 (requirements for risk retention groups) of the Revised Code, which take effect at the earliest time permitted by law. Sections 3095.34, 3905.36, and 3960.03 of the Revised Code, as amended, would first be *applied* to the filing or reporting period that begins January 1, 2003, and concludes December 31, 2003.

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