



Ohio Revised Code

Section 3905.50 Terminating independent insurance agent contract.

Effective: September 1, 2002

Legislation: Senate Bill 129, Senate Bill 138 - 124th General Assembly

(A)(1) Except as provided in division (A)(2) or (3) of this section, this section applies to every contract of agency between a property and casualty insurance company and an independent insurance agent which has been in effect for not less than two years.

(2) This section does not apply to a contract of exclusive employment by, or an exclusive agency contract with, a single insurer or group of insurers under common ownership or control.

(3) This section does not apply to an agent whose license has been suspended or revoked by the superintendent of insurance, an agent who has demonstrated gross incompetence, or an agent whose contract has been terminated for insolvency, abandonment, gross or willful misconduct, or failure to pay to the insurer, in accordance with the agency contract, moneys due to the insurer upon written demand of the insurer.

(B) No insurer shall terminate an independent insurance agent contract of agency except by mutual agreement of the parties or upon one hundred eighty days' written notice to the independent insurance agent.

(1) Such notice shall include specific reasons for the termination of the agent.

(2) Such notice shall be sent by certified mail, return receipt requested, to the last known address of the agency.

(C) During the one hundred eighty day notice period, an independent insurance agent shall not write or bind any new policies on behalf of an insurer without written approval from the insurer. However, during such period, an independent insurance agent, subject to the current underwriting rules, guidelines, commission rates, and practices of the insurer, may renew or effect any necessary changes or endorsements of outstanding policies of insurance that are in force prior to the date of receipt of the notice of termination.



(D) None of the following constitutes an acceptable reason for the termination of a contract of agency:

- (1) Claims experience of the agent in a single year;
- (2) Claims experience due to catastrophes of nature covered by a policy;
- (3) Claims experience under uninsured and underinsured motorist coverages.

(E) An agent aggrieved by the conduct of an insurer in its breach or termination of a contract of agency may file with the superintendent a request that the superintendent review the action to determine whether it is in accord with this section and the lawful provisions of the contract of agency and send a copy of the request to the insurer at the address of the office issuing the notice of termination. Upon receipt of such a request, an insurer shall promptly provide the independent insurance agent and superintendent with documentation in support of the insurer's stated reason for termination.

(F) The superintendent shall promptly investigate the allegation. If the superintendent has reasonable cause to believe that this section or the lawful provisions of the contract of agency have been violated, the superintendent shall, within thirty days of receipt of a request for review, conduct an adjudication hearing subject to Chapter 119. of the Revised Code, held upon not less than ten days' written notice to the agent and the insurer. Pending a final order in the adjudication hearing, the superintendent may take such interim action as necessary to protect the parties or the public. During the pendency of the proceeding before the superintendent, the contract of agency subject to the proceeding continues in force and division (C) of this section applies. The superintendent shall, within thirty days following such hearing, issue an order approving or disapproving the action of the insurer. All final orders and decisions of the superintendent are subject to judicial review as provided in Chapter 119. of the Revised Code.

(G) An insurer shall not cancel or nonrenew any policy of insurance written through an agent upon the sole ground of the termination of the agency until the expiration of the policy term or the twelve-month period following the effective date of the termination of the contract of agency, whichever is



earlier. However, during such period, an independent insurance agent may, subject to the current underwriting rules, guidelines, commission rates, and practices of the insurer, effect any necessary changes or endorsements to outstanding policies of insurance that are in force prior to the date of termination.

This section does not abridge, restrict, or supersede the rights of an agent to the ownership of expirations provided for in any contract with an insurer.

(H) Any information or documentation provided to an agent or the superintendent by an insurer under this section is confidential and shall be used by the superintendent only in the exercise of the proper functions authorized by this section. No insurer is liable for furnishing information or documentation in compliance with this section if the insurer acts without malice and in the reasonable belief that such information or documentation is warranted by this section.

(I) Notwithstanding division (H) of this section, the superintendent may do either of the following:

(1) Share the information or documentation that is the subject of this section with the chief deputy rehabilitator, the chief deputy liquidator, other deputy rehabilitators and liquidators, and any other person employed by, or acting on behalf of, the superintendent pursuant to Chapter 3901. or 3903. of the Revised Code, with other local, state, federal, and international regulatory and law enforcement agencies, with local, state, and federal prosecutors, and with the national association of insurance commissioners and its affiliates and subsidiaries, provided that the recipient agrees to maintain the confidential status of the confidential information or documentation and has authority to do so;

(2) Disclose any information or documentation that is the subject of this section in the furtherance of any regulatory or legal action brought by or on behalf of the superintendent or the state, resulting from the exercise of the superintendent's official duties.

(J) Notwithstanding divisions (H) and (I) of this section, the superintendent may authorize the national association of insurance commissioners and its affiliates and subsidiaries by agreement to share confidential information and documentation received pursuant to division (I)(1) of this section with local, state, federal, and international regulatory and law enforcement agencies and with local, state, and federal prosecutors, provided that the recipient agrees to maintain the confidential status of



the confidential information or documentation and has authority to do so.

(K) Notwithstanding divisions (H) and (I) of this section, the chief deputy rehabilitator, the chief deputy liquidator, and other deputy rehabilitators and liquidators may disclose information and documentation that is the subject of this section in the furtherance of any regulatory or legal action brought by or on behalf of the superintendent, the rehabilitator, the liquidator, or the state resulting from the exercise of the superintendent's official duties in any capacity.

(L) Nothing in this section shall prohibit the superintendent from receiving information and documentation in accordance with section 3901.045 of the Revised Code.

(M) The superintendent may enter into agreements governing the sharing and use of information and documentation consistent with the requirements of this section.

(N)(1) No waiver of any applicable privilege or claim of confidentiality in the information and documentation that is the subject of this section shall occur as a result of sharing or receiving information and documentation as authorized in divisions (I)(1), (J), and (L) of this section.

(2) The disclosure of information or documentation in connection with a regulatory or legal action pursuant to divisions (I)(2) and (K) of this section does not prohibit an insurer or any other person from taking steps to limit the dissemination of the information or documentation to persons not involved in or the subject of the regulatory or legal action on the basis of any recognized privilege arising under any other section of the Revised Code or the common law.

The Legislative Service Commission presents the text of this section as a composite of the section as amended by multiple acts of the General Assembly. This presentation recognizes the principle stated in R.C. 1.52(B) that amendments are to be harmonized if reasonably capable of simultaneous operation.