



Ohio Revised Code

Section 3929.43 Ohio fair plan underwriting association.

Effective: April 7, 2023

Legislation: House Bill 45

(A) The Ohio fair plan underwriting association is hereby created consisting of all insurers authorized to write within this state, on a direct basis, basic property insurance or any component thereof in multi-peril policies, to assist applicants in urban areas to secure basic property insurance or homeowners insurance, and to formulate and administer a program for the equitable apportionment of basic property insurance or homeowners insurance which cannot be obtained in the normal market. Every such insurer shall be a member of the association and shall remain a member as a condition of its authority to write any of such insurance in this state.

(B) The association, pursuant to sections 3929.41 to 3929.49 of the Revised Code, and the plan of operation, with respect to basic property insurance or homeowners insurance, may assume and cede reinsurance on insurable risks written by its members.

(C) The board of governors of the association shall submit to the superintendent of insurance, for approval, a proposed plan of operation which shall provide for economical, fair, and nondiscriminatory administration of a program for the equitable apportionment among members of basic property insurance or homeowners insurance which may be afforded in urban areas to applicants whose property is insurable in accordance with reasonable underwriting standards, but who are unable to procure such insurance through normal channels. The association is under no obligation to issue basic property insurance or homeowners insurance to any person, unless that person and that person's property would be insurable in the normal insurance market, and such property, except for its location, would constitute an insurable risk in accordance with reasonable underwriting standards. The plan of operation shall provide that the association, in determining whether the property is insurable, shall give no consideration to the condition of surrounding property or properties, where such condition is not within the control of the applicant. Rates for basic property insurance and homeowners insurance shall be subject to the approval of the superintendent. The plan of operation may also provide for assessment of all members in amounts sufficient to operate the association, maximum limits of liability per location to be placed through the program, reasonable underwriting standards for determining insurability of a risk, and the commission to be



paid to the licensed producer designated by the applicant. The superintendent shall adopt such plan and all amendments thereto pursuant to Chapter 119. of the Revised Code.

If the superintendent disapproves the proposed plan of operation, the board of governors shall, within fifteen days, submit for approval an appropriately revised plan of operation and if the board of governors fails to do so, or if the revised plan submitted is unacceptable, the superintendent shall promulgate a plan of operation.

If amendment of the plan of operation is requested by the superintendent or the board of governors, the board of governors shall submit to the superintendent, for approval, such amendments. If such amendments are not approved by the superintendent, the board of governors shall, within fifteen days, submit for approval an appropriately revised amendment. If the board of governors fails to do so, or if the amendment is not approved by the superintendent, the superintendent shall promulgate such amendment as the superintendent finds necessary.

(D)(1) The plan of operation may provide for periodic advance assessments against member insurers in amounts considered necessary to cover any deficit or projected deficit arising out of the operation of the association. Any provision in the plan for implementation of such advance assessments shall be approved by the superintendent. Any such provision in the plan shall also provide for quarterly or other periodic installment payment of such assessments.

(2) Such plan shall provide a method whereby member insurers may recoup assessments levied by the association. In order to recoup such assessments the plan may also provide for the calculation and use of rates or rating factors to be applied to direct premiums for basic property insurance and homeowners insurance located in this state. Such a provision is subject to the approval of the superintendent. Member insurers of the association implementing a change in rates pursuant to this section shall file such changes with the superintendent. Such changes shall not increase rates more than the amount authorized by the association and approved by the superintendent pursuant to the plan. The association may consult with member insurers or licensed rating bureaus in connection with the establishment and operation of any such provision.

(E) Any insurer which is a member of the association shall participate in the writings, expenses, profits, and losses of the association in the proportion that its premiums written bear to the aggregate



premiums written by all members of the association, except that this division shall not be construed to preclude the board of governors from taking action to adjust assessments in accordance with a program adopted pursuant to division (I) of this section.

(F) Such plan shall require the issuance of a binder providing coverage for which the applicant tenders an amount equal to the annual premium as estimated by the association, or an appropriate percentage of that annual premium as determined by the association. The binder shall take effect the day after the association receives the application, provided that the application meets the underwriting standards of the association, for such term, and under such conditions as are determined by the superintendent. The superintendent may alter such time requirement on a specific risk under such conditions as the superintendent finds appropriate.

(G) The association shall be governed by a board of governors consisting of twelve members, four of whom shall be appointed by the governor with the advice and consent of the senate. One of such members shall be a licensed agent writing basic property insurance for more than one insurer. None of the other three such members shall be a director, officer, salaried employee, agent, or substantial shareholder of any insurance company and not more than two of these three members shall be members of the same political party. Terms of office of members appointed by the governor shall be for two years, commencing on the nineteenth day of September and ending on the eighteenth day of September. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any appointed member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. The remaining eight members shall be representatives from member companies, at least five of whom shall be Ohio domiciled members, elected annually by accumulated voting by members of the association whose votes shall be weighed in accordance with each member's premiums written during the second preceding calendar year. Not more than one insurer in a group under the same management or ownership shall serve on the board of governors at the same time. The eight representatives of member companies shall be elected at a meeting of the members or their authorized representatives, which shall be held at a time and place designated by the superintendent.



(H) The plan shall be administered under the supervision of the superintendent.

(I) The board of governors shall adopt a written program for decreasing the overall utilization of the association as a source of insurance. The program shall set forth actions that the board shall take to decrease such utilization, including actions intended to reduce the number of policies issued, the number of persons whose properties are insured, and the total amount and kinds of insurance written by the association, provided this division does not authorize the board to take action intended to decrease utilization of the association as a source of insurance if such action would substantially conflict with the purposes set forth in divisions (A), (B), and (D) of section 3929.41 of the Revised Code or the plan of operation of the association.

(J)(1) Except as provided in division (J)(2) of this section, records created, held by, or pertaining to the association are not public records under section 149.43 of the Revised Code, are confidential, and are not subject to inspection or disclosure.

(2) Division (J)(1) of this section does not apply to the plan of operation and other information required to be filed with the superintendent under this chapter unless otherwise prohibited from release by law.