



## Ohio Revised Code

### Section 3905.56 Compensation by public entity for placement of insurance.

Effective: March 23, 2007

Legislation: Senate Bill 5 - 126th General Assembly

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(A)(1) Where an insurance agent or an affiliate of an insurance agent receives any compensation from a public entity related to the placement of insurance, or is entitled to receive such compensation from a public entity even if the agent or affiliate waives receipt or collection of that compensation, neither that agent nor the affiliate shall accept or receive any compensation from an insurer or other third party related to that placement of insurance with the public entity unless the agent or affiliate has, prior to the placement of insurance, obtained the public entity's documented acknowledgement that such third-party compensation will be received by the agent or affiliate.

(2) This division shall not apply to any of the following:

(a) A person licensed as an insurance agent who acts only as an intermediary between an insurer and the public entity's agent, such as a managing general agent, a sales manager, or wholesale broker;

(b) A reinsurance intermediary;

(c) An insurance agent or affiliate of an insurance agent whose sole compensation related to the placement of insurance with the public entity is compensation from an insurer or other third party.

(3) Execution and receipt of a public entity's documented acknowledgment in accordance with this section shall not supersede an otherwise valid and enforceable contract between the public entity and the agent or affiliate nor shall it supersede the superintendent's authority to enforce the laws relating to insurance in the state of Ohio.

(B) When an insurance agent or affiliate is acting as a public servant, the agent's or affiliate's acceptance of compensation from an insurer or the other third party exclusively related to the placement of insurance with the public entity shall not constitute a violation of division (A) of section 2921.43 of the Revised Code if the insurance agent or affiliate complies with this section.



(C) For purposes of this section:

(1) "Affiliate" means a person who controls, is controlled by, or is under common control with the agent.

(2) "Compensation from an insurer or other third party" means payments, commissions, fees, awards, overrides, bonuses, contingent commissions, loans, stock options, gifts, prizes, or any other form of valuable consideration, whether or not payable pursuant to a written agreement.

(3) "Compensation from a public entity" shall not include either of the following:

(a) Any fee charged to, and paid by, a public entity pursuant to section 3905.55 of the Revised Code if such fee does not exceed fifty dollars; or

(b) Any portion of an insurance premium paid by a public entity to an insurance agent or any affiliate of such agent that an insurer or other third party has authorized the agent or affiliate to retain as commission after the balance of the public entity's premium payment has been remitted to the insurer or other third party.

(4) "Documented acknowledgment" means the public entity's written acknowledgment obtained prior to the placement of insurance. In the case of a purchase over the telephone or by electronic means for which written acknowledgment cannot reasonably be obtained, acknowledgment documented by the agent shall be acceptable.

(5) "Insurance product" includes a fully insured product or partially or fully self-insured product.

(6) "Placement of insurance" means the initial purchase of an insurance product or the renewal of an existing product unless the insurer independently generates and processes the renewal without the agent's participation or involvement. "Placement of insurance" does not mean the servicing or modification of an existing contract that does not involve the public entity evaluating options for the purchase or renewal of an insurance product.

(7) "Public entity" means the state and any political subdivision as defined in section 2744.01 of the



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Revised Code; any state institution of higher education as defined in section 3345.12 of the Revised Code; and any instrumentality or retirement system of the state, any political subdivision, or any state institution of higher education.

(8) "Public servant" shall have the same definition as in section 2921.01 of the Revised Code.