



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Yosef Schiff

Sub. S.B. 273

132nd General Assembly
(As Passed by the Senate)

Sens. Hackett, Hottinger, Brown, Burke

BILL SUMMARY

- Defines "insurance rating agency" for the purposes of the Revised Code as any rating agency certified or approved by a national entity that has an approval process that meets specified criteria.
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CONTENT AND OPERATION

Definition of "insurance rating agency"

The bill defines "insurance rating agency" for the purposes of the Revised Code as A.M. Best Rating Services, Inc., Demotech, Inc., or another rating agency certified or approved by a national entity that engages in an approval process that includes all of the following:

- A requirement for the rating agency to register and provide an annual updated filing;
- Record retention requirements;
- Financial reporting requirements;
- Policies for the prevention of misuse of material, nonpublic information;
- Management of conflicts of interest, including prohibited conflicts;
- Prohibited acts and practices;
- Disclosure requirements;

- Required policies, practices, and internal controls;
- Standards of training, experience, and competence for credit analysts.¹

The bill specifies that any reference in the Revised Code to an insurance rating agency named in the bill is to be construed as a reference to any insurance rating agency as defined by the bill. Any reference in the Revised Code to a specific entity that is *not* named above, but that otherwise meets the definition of "insurance rating agency," is to be construed as a reference to an insurance rating agency as defined by the bill.²

The term "insurance rating agency" does not currently appear in the Revised Code. But, the term "rating agency" currently appears in the following provisions of the Revised Code:

- R.C. 126.11(E)(2) provides that, with the exception of certain specified information required to be communicated in offering or disclosure documents, direct communication is permitted between an issuer of public obligations and a rating agency concerning an issuance of public obligations or matters associated with that issuance.³
- R.C. 133.22(D)(9) provides exceptions to the requirement that any maximum interest rates set by a political subdivision's taxing authority on anticipatory securities must not exceed the estimated average annual interest rate on the bonds anticipated by those securities. One such exception is the existence of an interest rate swap agreement to the contrary between the subdivision and another person, the obligations of which person are rated in one of the two highest rating categories of a national rating agency. An "anticipatory security" is a security issued in anticipation of the issuance of another security. An "interest rate swap agreement" is an agreement in which one stream of future interest payments is exchanged for another based on a specified principal amount.⁴
- R.C. 183.51 allows the Treasurer of State to invest certain moneys associated with the Tobacco Master Settlement Agreement in guaranteed

¹ R.C. 1.65(A).

² R.C. 1.65(B).

³ R.C. 126.11(E)(2), not in the bill.

⁴ R.C. 133.01(B) and 133.22(D)(9), not in the bill; Investopedia, *Interest rate swap*, <https://www.investopedia.com/terms/i/interestrateswap.asp>, (accessed April 2, 2018).

investment contracts with providers in the three highest rating categories by two nationally recognized rating agencies. A "guaranteed investment contract" is an insurance contract that guarantees the owner principal repayment and a fixed or floating interest rate for a predetermined period of time.⁵

- R.C. 3901.62 allows a ceding insurer to take credit for any reinsurance ceded as either an asset or a reduction of liability only if at least one listed condition applies. One such condition is that the reinsurance is ceded to an assuming insurer that has been certified by the Superintendent of Insurance as a reinsurer in Ohio and that maintains financial strength ratings from two or more rating agencies that meet the Superintendent's criteria.⁶
- R.C. 3916.13 prohibits certain entities including rating agencies or companies from disclosing a viator or insured's identity or financial or medical condition absent certain circumstances. A "viator" is the owner of a group life insurance policy who sells that policy to another person at a price greater than the cash surrender value but less than the net death benefit. In addition to paying the viator a lump sum, the buyer assumes responsibility for paying the premiums on the plan and receives the death benefits when the viator dies.⁷
- R.C. 3942.02 requires a transportation network company driver to be covered by a primary automobile insurance policy that meets certain requirements. If the policy is purchased from an insurer not holding an Ohio license, the insurer must meet certain criteria. One of those criteria is the insurer must have a credit rating of not less than "A-" from A.M. Best or "A" from Demotech or a similar rating from another rating agency recognized by the Department of Insurance. A transportation network company is a business entity operating in Ohio that uses a digital network to connect transportation network company riders to transportation network company drivers who provide transportation network company services. Uber is an example of a transportation network company.⁸

⁵ R.C. 183.51(D), not in the bill; Investopedia, *Guaranteed investment contract*, <https://www.investopedia.com/term/g/guaranteedinvestmentcontract.asp>, (accessed April 2, 2018).

⁶ R.C. 3901.62(D)(1)(c), not in the bill.

⁷ R.C. 3916.13 and R.C. Chapter 3916., not in the bill.

⁸ R.C. 3942.01(F) and 3942.02(C)(2)(b), not in the bill.



- R.C. 4123.35 requires certain public employers applying for the status of self-insuring employer for workers' compensation purposes to hold a debt rating of Aa3 or higher according to Moody's Investors Service, Inc., or a comparable rating by an independent rating agency similar to Moody's.⁹
- R.C. 4928.23 allows an electric distribution utility to apply to the Public Utilities Commission for a financing order authorizing recovery of certain phase-in and financing costs, including rating agency fees.¹⁰

Adoption of rules

The bill requires the Superintendent of Insurance, when adopting or amending a rule related to an insurance rating agency, to give consideration to the inclusion of the definition of the term "insurance rating agency" provided above. This includes rules adopted in relation to Health Insuring Corporations.¹¹

HISTORY

ACTION	DATE
Introduced	03-15-18
Reported, S. Insurance and Financial Institutions	06-05-18
Passed Senate (32-0)	06-27-18

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⁹ R.C. 4123.35(B)(2)(g), not in the bill.

¹⁰ R.C. 4928.23 and 4928.231(A)(2)(b), not in the bill.

¹¹ R.C. 3901.91.

