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133rd General Assembly
Regular Session
2019-2020

Sub. H. B. No. 339

A BILL

To amend sections 167.03, 1751.32, 1751.74, 1
1751.84, 1753.31, 3901.045, 3901.45, 3901.811, 2
3901.87, 3902.08, 3903.01, 3903.52, 3903.56, 3
3903.71, 3903.724, 3903.728, 3903.7211, 3903.74, 4
3904.01, 3904.16, 3905.051, 3905.14, 3905.84, 5
3909.04, 3911.24, 3913.11, 3913.40, 3915.05, 6
3915.053, 3915.073, 3915.13, 3916.171, 3919.14, 7
3922.11, 3922.14, 3923.021, 3923.04, 3923.53, 8
3925.09, 3927.08, 3929.04, 3930.10, 3931.03, 9
3931.99, 3941.46, 3951.04, 3951.10, 3953.14, 10
3956.01, 3959.01, 3960.07, 3964.19, and 3999.16 11
and to enact section 1.301 of the Revised Code 12
to enact the "Insurance Code Correction Act" to 13
make technical and corrective changes to the 14
laws governing insurance. 15

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 167.03, 1751.32, 1751.74, 16
1751.84, 1753.31, 3901.045, 3901.45, 3901.811, 3901.87, 3902.08, 17
3903.01, 3903.52, 3903.56, 3903.71, 3903.724, 3903.728, 18



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3903.7211, 3903.74, 3904.01, 3904.16, 3905.051, 3905.14, 19
3905.84, 3909.04, 3911.24, 3913.11, 3913.40, 3915.05, 3915.053, 20
3915.073, 3915.13, 3916.171, 3919.14, 3922.11, 3922.14, 21
3923.021, 3923.04, 3923.53, 3925.09, 3927.08, 3929.04, 3930.10, 22
3931.03, 3931.99, 3941.46, 3951.04, 3951.10, 3953.14, 3956.01, 23
3959.01, 3960.07, 3964.19, and 3999.16 be amended and section 24
1.301 of the Revised Code be enacted to read as follows: 25

Sec. 1.301. In enacting H.B. 339 of the 133rd general 26
assembly with the stated purpose of correcting nonsubstantive 27
errors in the Revised Code, it is the intent of the general 28
assembly not to make substantive changes in the law in effect on 29
the date of such enactment, except for the changes to sections 30
167.03 and 3915.13 of the Revised Code. Other than sections 31
167.03 and 3915.13 of the Revised Code, a section of the Revised 32
Code affected by H.B. 339 of the 133rd general assembly shall be 33
construed as a restatement and correction of, and substituted in 34
a continuing way for, the corresponding statutory provision 35
existing on its date of enactment. 36

Sec. 167.03. (A) The council shall have the power to: 37

(1) Study such area governmental problems common to two or 38
more members of the council as it deems appropriate, including 39
but not limited to matters affecting health, safety, welfare, 40
education, economic conditions, and regional development; 41

(2) Promote cooperative arrangements and coordinate action 42
among its members, and between its members and other agencies of 43
local or state governments, whether or not within Ohio, and the 44
federal government; 45

(3) Make recommendations for review and action to the 46
members and other public agencies that perform functions within 47

the region;	48
(4) Promote cooperative agreements and contracts among its members or other governmental agencies and private persons, corporations, or agencies;	49 50 51
(5) Operate a public safety answering point in accordance with Chapter 128. of the Revised Code;	52 53
(6) Perform planning directly by personnel of the council, or under contracts between the council and other public or private planning agencies.	54 55 56
(B) The council may:	57
(1) Review, evaluate, comment upon, and make recommendations, relative to the planning and programming, and the location, financing, and scheduling of public facility projects within the region and affecting the development of the area;	58 59 60 61 62
(2) Act as an areawide agency to perform comprehensive planning for the programming, locating, financing, and scheduling of public facility projects within the region and affecting the development of the area and for other proposed land development or uses, which projects or uses have public metropolitan wide or interjurisdictional significance;	63 64 65 66 67 68
(3) Act as an agency for coordinating, based on metropolitan wide comprehensive planning and programming, local public policies, and activities affecting the development of the region or area.	69 70 71 72
(C) The council may, by appropriate action of the governing bodies of the members, perform such other functions and duties as are performed or capable of performance by the	73 74 75

members and necessary or desirable for dealing with problems of 76
mutual concern. 77

(D) The authority granted to the council by this section 78
or in any agreement by the members thereof shall not displace 79
any existing municipal, county, regional, or other planning 80
commission or planning agency in the exercise of its statutory 81
powers. 82

(E) A council, with an educational service center as its 83
fiscal agent, that is established to provide health care 84
benefits to the council members' officers and employees and 85
their dependents may contract to administer and coordinate a 86
self-funded health benefit program of a nonprofit corporation 87
organized under Chapter 1702. of the Revised Code. A council 88
operating a program under this division that does not act as an 89
administrator as defined in section 3959.01 of the Revised Code 90
does not constitute engaging in the business of insurance and is 91
not subject to the insurance laws of this state. 92

Sec. 1751.32. Each health insuring corporation, annually, 93
on or before the first day of March, shall file a report with 94
the superintendent of insurance, covering the preceding calendar 95
year. 96

The report shall be verified by an officer of the health 97
insuring corporation, shall be in the form the superintendent 98
prescribes, and shall include: 99

(A) A financial statement of the health insuring 100
corporation, including its balance sheet and receipts and 101
disbursements for the preceding year, which reflect, at a 102
minimum: 103

(1) All premium rate and other payments received for 104

health care services rendered;	105
(2) Expenditures with respect to all categories of providers, facilities, insurance companies, and other persons engaged to fulfill obligations of the health insuring corporation arising out of its health care policies, contracts, certificates, and agreements;	106 107 108 109 110
(3) Expenditures for capital improvements or additions thereto, including, but not limited to, construction, renovation, or purchase of facilities and equipment.	111 112 113
(B) A description of the enrollee population and composition, group and nongroup;	114 115
(C) A summary of enrollee written complaints and their disposition;	116 117
(D) A statement of the number of subscriber policies, contracts, certificates, and agreements that have been terminated by action of the health insuring corporation, including the number of enrollees affected;	118 119 120 121
(E) A summary of the information compiled pursuant to division (B) <u>(A)</u> (5) of section 1751.04 of the Revised Code;	122 123
(F) A current report of the names and addresses of the persons responsible for the conduct of the affairs of the health insuring corporation as required by section 1751.03 of the Revised Code. Additionally, the report shall include the amount of wages, expense reimbursements, and other payments to these persons for services to the health insuring corporation, and shall include a full disclosure of the financial interests related to the operations of the health insuring corporation acquired by these persons during the preceding year.	124 125 126 127 128 129 130 131 132

(G) An actuarial opinion in the form prescribed by the	133
superintendent by rule;	134
(H) Any other information relating to the performance of	135
the health insuring corporation that is necessary to enable the	136
superintendent to carry out the superintendent's duties under	137
this chapter.	138
Sec. 1751.74. (A) To implement a quality assurance program	139
required by section 1715.73 <u>1751.73</u> of the Revised Code, a	140
health insuring corporation shall do both of the following:	141
(1) Develop and maintain the appropriate infrastructure	142
and disclosure systems necessary to measure and report, on a	143
regular basis, the quality of health care services provided to	144
enrollees, based on a systematic collection, analysis, and	145
reporting of relevant data. The health insuring corporation	146
shall assure that a committee that includes participating	147
physicians have the opportunity to participate in developing,	148
implementing, and evaluating the quality assurance program and	149
all other programs implemented by the health insuring	150
corporation that relate to the utilization of health care	151
services. A committee that includes participating physicians	152
shall also have the opportunity to participate in the derivation	153
of data assessments, statistical analyses, and outcome	154
interpretations from programs monitoring the utilization of	155
health care services.	156
(2) Develop and maintain an organizational program for	157
designing, measuring, assessing, and improving the processes and	158
outcomes of health care.	159
(B) A quality assurance program shall:	160
(1) Establish an internal system capable of identifying	161

opportunities to improve health care, which system is structured 162
to identify practices that result in improved health care 163
outcomes, to identify problematic utilization patterns, and to 164
identify those providers that may be responsible for either 165
exemplary or problematic patterns. The quality assurance program 166
shall use the findings generated by the system to work on a 167
continuing basis with participating providers and other staff to 168
improve the quality of health care services provided to 169
enrollees. 170

(2) Develop a written statement of its objectives, lines 171
of authority and accountability, evaluation tools, and 172
performance improvement activities; 173

(3) Require an annual effectiveness review of the program; 174

(4) Provide a description of how the health insuring 175
corporation intends to do all of the following: 176

(a) Analyze both processes and outcomes of health care, 177
including focused review of individual cases as appropriate, to 178
discern the causes of variation; 179

(b) Identify the targeted diagnoses and treatments to be 180
reviewed by the quality assurance program each year, based on 181
consideration of practices and diagnoses that affect a 182
substantial number of the health insuring corporation's 183
enrollees or that could place enrollees at serious risk; 184

(c) Use a range of appropriate methods to analyze quality 185
of health care, including collection and analysis of information 186
on over-utilization and under-utilization of health care 187
services; evaluation of courses of treatment and outcomes based 188
on current medical research, knowledge, standards, and practice 189
guidelines; and collection and analysis of information specific 190

to enrollees or providers;	191
(d) Compare quality assurance program findings with past performance, internal goals, and external standards;	192 193
(e) Measure the performance of participating providers and conduct peer review activities;	194 195
(f) Utilize treatment protocols and practice parameters developed with appropriate clinical input;	196 197
(g) Implement improvement strategies related to quality assurance program findings;	198 199
(h) Evaluate periodically, but not less than annually, the effectiveness of the improvement strategies.	200 201
Sec. 1751.84. (A) Notwithstanding section 3901.71 of the Revised Code, each individual and group health insuring corporation policy, contract, or agreement providing basic health care services that is delivered, issued for delivery, or renewed in this state shall provide coverage for the screening, diagnosis, and treatment of autism spectrum disorder. A health insuring corporation shall not terminate an individual's coverage, or refuse to deliver, execute, issue, amend, adjust, or renew coverage to an individual solely because the individual is diagnosed with or has received treatment for an autism spectrum disorder. Nothing in this section shall be applied to nongrandfathered plans in the individual and small group markets or to medicare supplement, accident-only, specified disease, hospital indemnity, disability income, long-term care, or other limited benefit hospital insurance policies. Except as otherwise provided in division (B) of this section, coverage under this section shall not be subject to dollar limits, deductibles, or coinsurance provisions that are less favorable to an enrollee	202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219

than the dollar limits, deductibles, or coinsurance provisions 220
that apply to substantially all medical and surgical benefits 221
under the policy, contract, or agreement. 222

(B) Benefits provided under this section shall cover, at 223
minimum, all of the following: 224

(1) For speech and language therapy or occupational 225
therapy for an enrollee under the age of fourteen that is 226
performed by a licensed therapist, twenty visits per year for 227
each service; 228

(2) For clinical therapeutic intervention for an enrollee 229
under the age of fourteen that is provided by or under the 230
supervision of a professional who is licensed, certified, or 231
registered by an appropriate agency of this state to perform 232
such services in accordance with a health treatment plan, twenty 233
hours per week; 234

(3) For mental or behavioral health outpatient services 235
for an enrollee under the age of fourteen that are performed by 236
a licensed psychologist, psychiatrist, or physician providing 237
consultation, assessment, development, or oversight of treatment 238
plans, thirty visits per year. 239

(C) (1) Except as provided in division (C) (2) of this 240
section, this section shall not be construed as limiting 241
benefits that are otherwise available to an individual under a 242
policy, contract, or agreement. 243

(2) A policy, contract, or agreement shall stipulate that 244
coverage provided under this section be contingent upon both of 245
the following: 246

(a) The covered individual receiving prior authorization 247
for the services in question; 248

(b) The services in question being prescribed or ordered 249
by either a developmental pediatrician or a psychologist trained 250
in autism. 251

(D) (1) Except for inpatient services, if an enrollee is 252
receiving treatment for an autism spectrum disorder, a health 253
insuring corporation may review the treatment plan annually, 254
unless the health insuring corporation and the enrollee's 255
treating physician or psychologist agree that a more frequent 256
review is necessary. 257

(2) Any such agreement as described in division (D) (1) of 258
this section shall apply only to a particular enrollee being 259
treated for an autism spectrum disorder and shall not apply to 260
all individuals being treated for autism spectrum disorder by a 261
physician or psychologist. 262

(3) The health insuring corporation shall cover the cost 263
of obtaining any review or treatment plan. 264

(E) This section shall not be construed as affecting any 265
obligation to provide services to an enrollee under an 266
individualized family service plan, an individualized education 267
program, or an individualized service plan. 268

(F) As used in this section: 269

(1) "Applied behavior analysis" means the design, 270
implementation, and evaluation of environmental modifications, 271
using behavioral stimuli and consequences, to produce socially 272
significant improvement in human behavior, including the use of 273
direct observation, measurement, and functional analysis of the 274
relationship between environment and behavior. 275

(2) "Autism spectrum disorder" means any of the pervasive 276
developmental disorders or autism spectrum disorder as defined 277

by the most recent edition of the diagnostic and statistical 278
manual of mental disorders published by the American psychiatric 279
association available at the time an individual is first 280
evaluated for suspected developmental delay. 281

(3) "Clinical therapeutic intervention" means therapies 282
supported by empirical evidence, which include, but are not 283
limited to, applied behavioral analysis, that satisfy both of 284
the following: 285

(a) Are necessary to develop, maintain, or restore, to the 286
maximum extent practicable, the function of an individual; 287

(b) Are provided by or under the supervision of any of the 288
following: 289

(i) A certified Ohio behavior analyst as defined in 290
section 4783.01 of the Revised Code; 291

(ii) An individual licensed under Chapter 4732. of the 292
Revised Code to practice psychology; 293

(iii) An individual licensed under Chapter 4757. of the 294
Revised Code to practice professional counseling, social work, 295
or marriage and family therapy. 296

(4) "Diagnosis of autism spectrum disorder" means 297
medically necessary ~~assessment~~ assessments, evaluations, or 298
tests to diagnose whether an individual has an autism spectrum 299
disorder. 300

(5) "Pharmacy care" means medications prescribed by a 301
licensed physician and any health-related services considered 302
medically necessary to determine the need or effectiveness of 303
the medications. 304

(6) "Psychiatric care" means direct or consultative 305

services provided by a psychiatrist licensed in the state in 306
which the psychiatrist practices. 307

(7) "Psychological care" means direct or consultative 308
services provided by a psychologist licensed in the state in 309
which the psychologist practices. 310

(8) "Therapeutic care" means services provided by a speech 311
therapist, occupational therapist, or physical therapist 312
licensed or certified in the state in which the person 313
practices. 314

(9) "Treatment for autism spectrum disorder" means 315
evidence-based care and related equipment prescribed or ordered 316
for an individual diagnosed with an autism spectrum disorder by 317
a licensed physician who is a developmental pediatrician or a 318
licensed psychologist trained in autism who determines the care 319
to be medically necessary, including any of the following: 320

(a) Clinical therapeutic intervention; 321

(b) Pharmacy care; 322

(c) Psychiatric care; 323

(d) Psychological care; 324

(e) Therapeutic care. 325

(G) If any provision of this section or the application 326
thereof to any person or circumstances is for any reason held to 327
be invalid, the remainder of the section and the application of 328
such remainder to other persons or circumstances shall not be 329
affected thereby. 330

Sec. 1753.31. As used in sections 1753.31 to 1753.43 of 331
the Revised Code: 332

- (A) "Adjusted RBC report" means an RBC report that has
been adjusted by the superintendent of insurance in accordance
with division (C) of section 1753.32 of the Revised Code.
- (B) "Authorized control level RBC" means the number
determined under the risk-based capital formula in accordance
with the RBC instructions.
- ~~(e)~~ (C) "Company action level RBC" means the product of 2.0
and a health insuring corporation's authorized control level
RBC.
- (D) "Corrective order" means an order issued by the
superintendent of insurance specifying corrective actions that
the superintendent determines are required.
- (E) "Domestic health insuring corporation" means a health
insuring corporation domiciled in this state.
- (F) "Foreign health insuring corporation" means a health
insuring corporation holding a certificate of authority under
chapter 1751. of the Revised Code that is domiciled outside of
this state.
- ~~(g)~~ (G) "Mandatory control level RBC" means the product
of .70 and a health insuring corporation's authorized control
level RBC.
- (H) "NAIC" means the national association of ~~insurance~~
insurance commissioners.
- (I) "Net worth" means statutory capital and surplus.
- (J) "RBC" means risk-based capital.
- (K) "RBC ~~instruction~~ instructions" means the RBC report,
including risk-based capital instructions, as adopted by the

NAIC and as amended by the NAIC from time to time in accordance 360
with the procedures adopted by the NAIC. "RBC instructions" also 361
includes any modifications adopted by the superintendent of 362
insurance, as the superintendent considers to be necessary. 363

(L) "RBC level" means a health insuring corporation's 364
action level RBC, regulatory action level RBC, authorized 365
control level RBC, or mandatory control level RBC. 366

(M) "RBC plan" means a comprehensive financial plan 367
containing the elements specified in division (B) of section 368
1753.33 of the Revised Code. 369

(N) "RBC report" means the report required by section 370
1753.32 of the Revised Code. 371

(O) "Regulatory action level RBC" means the product of 1.5 372
and a health insuring corporation's authorized control level 373
RBC. 374

(P) "Revised RBC plan" means an RBC plan rejected by the 375
superintendent of insurance and then revised by a health 376
insuring corporation with or without incorporating the 377
superintendent's recommendations. 378

(Q) "Total adjusted capital" means the sum of both of the 379
following: 380

(1) A health insuring corporation's net worth as 381
determined in accordance with the statutory accounting 382
applicable to the annual financial statements required to be 383
filed under section 1751.32 of the Revised Code; 384

(2) Such other items, if any, as the RBC instructions may 385
provide. 386

Sec. 3901.045. (A) The superintendent of insurance may 387

receive documents and information, including otherwise 388
confidential or privileged documents and information, from 389
local, state, federal, and international regulatory and law 390
enforcement agencies, from local, state, and federal 391
prosecutors, and from the national association of insurance 392
commissioners and its affiliates and subsidiaries, provided that 393
the superintendent maintains as confidential or privileged any 394
document or information received with notice or the 395
understanding that the document or information is confidential 396
or privileged under the laws of the jurisdiction that is the 397
source of the document or information. 398

(B) The superintendent may also receive documents and 399
information, including otherwise confidential or privileged 400
documents and information, from the chief deputy rehabilitator, 401
the chief deputy liquidator, other deputy rehabilitators and 402
liquidators, and from any other person employed by, or acting on 403
behalf of, the superintendent pursuant to Chapter 3901. or 3903. 404
of the Revised Code, provided that the superintendent maintains 405
as confidential or privileged any document or information 406
received with the notice or understanding that the document or 407
information is confidential or privileged, except that the 408
superintendent may share and disclose such a document or 409
information when authorized by other sections of the Revised 410
Code. 411

(C) The superintendent has the authority to maintain as 412
confidential or privileged the documents and information 413
received pursuant to this section. 414

(D) The superintendent's authority to receive documents 415
and information under this section, from the persons and subject 416
to the conditions listed in this section, is not limited in any 417

way by section 1751.19, 3901.36, 3901.44, 3901.48, 3901.70, 418
3903.11, 3903.722, 3903.7211, 3903.88, ~~3905.492~~, 3905.50, 419
3922.21, or 3999.36 of the Revised Code. 420

Sec. 3901.45. (A) As used in sections 3901.45 and 3901.46 421
of the Revised Code: 422

(1) "AIDS," "HIV," "AIDS-related condition," and "HIV 423
test" have the same meanings as in section 3701.24 of the 424
Revised Code. 425

(2) "Insurer" means any person authorized to engage in the 426
business of life or sickness and accident insurance under Title 427
XXXIX of the Revised Code or any person or governmental entity 428
providing health services coverage for individuals on a self- 429
insurance basis. 430

(3) "Group policy" means, with respect to life insurance, 431
a policy covering more than twenty-five individuals and issued 432
pursuant to section 3917.01 of the Revised Code, and with 433
respect to sickness and accident insurance, a policy covering 434
more than twenty-five individuals and issued pursuant to section 435
3923.11, 3923.12, or 3923.13 of the Revised Code. "Group policy" 436
includes a certificate of life or sickness and accident 437
insurance covering more than twenty-five individuals under a 438
group policy issued to a multiple employer trust. 439

(4) "Individual policy" means, with respect to life 440
insurance and sickness and accident insurance, a policy other 441
than a group policy, except that "individual policy" also 442
includes all of the following: 443

(a) The coverage under a group policy of an individual who 444
seeks to become a member of an insured group after having 445
declined a previous offer of coverage under the group policy; 446

(b) An individual who seeks life insurance coverage under 447
a group policy in excess of the maximum coverage available under 448
the policy without evidence of insurability; 449

(c) A certificate of life or sickness and accident 450
insurance covering no more than twenty-five individuals under a 451
group policy issued to a multiple employer trust. 452

(B) In processing an application for an individual policy 453
of life or sickness and accident insurance or in determining 454
insurability of an applicant, no insurer shall: 455

(1) Take into consideration an applicant's sexual 456
orientation; 457

(2) Make any inquiry toward determining an applicant's 458
sexual orientation or direct any person who provides services to 459
the insurer to investigate an applicant's sexual orientation; 460

(3) Make a decision adverse to the applicant based on 461
entries in medical records or other reports that show that the 462
applicant has sought an HIV test, consultation regarding the 463
possibility of developing AIDS or an AIDS-related condition, or 464
counseling for concerns related to AIDS from health care 465
professionals unless there has been a diagnosis, confirmed by a 466
positive HIV test, of AIDS or an AIDS-related condition or the 467
applicant has been treated for either. 468

(C) (1) In developing and asking questions regarding 469
medical histories and lifestyles of applicants for life or 470
sickness and accident insurance and in assessing the answers, an 471
insurer shall not ask questions designed to ascertain the sexual 472
orientation of the applicant nor use factors such as marital 473
status, living arrangements, occupation, gender, medical 474
history, beneficiary designation, or zip code or other 475

geographic designation to aid in ascertaining the applicant's 476
sexual orientation. 477

(2) An insurer may ask the applicant if ~~he~~ the applicant 478
has ever been diagnosed as having AIDS or an AIDS-related 479
condition. 480

(3) An insurer may ask the applicant specifically whether 481
~~he~~ the applicant has ever had a positive result on an HIV test. 482
"Positive result" means a result interpreted as positive in 483
accordance with guidelines developed by the director of health 484
under division (B) (1) ~~(a)~~ of section 3701.241 of the Revised 485
Code, even though the applicant may have been tested in another 486
state. "Positive result" does not mean an initial positive 487
result that further testing showed to be false. 488

(4) The insurer shall not ask the applicant whether ~~he~~ the 489
applicant has ever taken an HIV test. 490

(D) (1) Except as provided in division (D) (2) of this 491
section, no insurer shall cancel a policy of life or sickness 492
and accident insurance, or refuse to renew a policy of life or 493
sickness and accident insurance other than a policy that is 494
renewable at the option of the insurer, based solely on the fact 495
that, after the effective date of the policy, the policyholder 496
is diagnosed as having AIDS, an AIDS-related condition, or an 497
HIV infection. 498

(2) If a policy of life or sickness and accident insurance 499
provides for a contestability period, an insurer may cancel the 500
policy during the contestability period if the applicant made a 501
false statement in the application with regard to the question 502
of whether ~~he~~ the applicant has been diagnosed as having AIDS, 503
an AIDS-related condition, or an HIV infection. 504

(E) No insurer shall deliver, issue for delivery, or renew a policy of life or sickness and accident insurance that limits benefits or coverage in the event that, after the effective date of the policy, the insured develops AIDS or an AIDS-related condition or receives a positive result on an HIV test.

(F) An insurer is not required to offer coverage under a policy of life or sickness and accident insurance to an individual or group member, or a dependent of an individual or group member, who has AIDS or an AIDS-related condition, or who has had a positive result on an HIV test.

(G) An insurer is not required to continue to provide coverage under a policy of life or sickness and accident insurance to an individual or group member, or a dependent of an individual or group member, if the insurer determines the individual or group member or dependent of the individual or group member knew on the effective date of the policy that he the individual or group member or dependent of the individual or group member had AIDS, an AIDS-related condition, or a positive result of an HIV test.

(H) A violation of this section is an unfair insurance practice under sections 3901.19 to 3901.26 of the Revised Code.

Sec. 3901.811. (A) Except as provided in division (B) of this section, an auditing entity is subject to all of the following conditions when performing a pharmacy audit in this state:

(1) If it is necessary that the pharmacy audit be performed on the premises of a pharmacy, the auditing entity shall give the pharmacy that is the subject of the audit written notice of the date or dates on which the audit will be performed

and the range of prescription numbers from which the auditing 534
entity will select pharmacy records to audit. Notice of the date 535
or dates on which the audit will be performed shall be given not 536
less than ten business days before the date the audit is to 537
commence. Notice of the range of prescription numbers from which 538
the auditing entity will select pharmacy records to audit shall 539
be received by the pharmacy not less than seven business days 540
before the date ~~of~~ the audit is to commence. 541

(2) The auditing entity shall not include in the pharmacy 542
audit a review of a claim for payment for the provision of 543
dangerous drugs or pharmacy services if the date of the 544
pharmacy's initial submission of the claim for payment occurred 545
more than twenty-four months before the date the audit 546
commences. 547

(3) Absent an indication that there was an error in the 548
dispensing of a drug, the auditing entity or payer shall not 549
seek to recoup from the pharmacy that is the subject of the 550
audit any amount that the pharmacy audit identifies as being the 551
result of clerical or recordkeeping errors in the absence of 552
financial harm. For purposes of this provision, an error in the 553
dispensing of a drug is any of the following: selecting an 554
incorrect drug, issuing incorrect directions, or dispensing a 555
drug to the incorrect patient. 556

(4) The auditing entity shall not use the accounting 557
practice of extrapolation when calculating a monetary penalty to 558
be imposed or amount to be recouped as the result of the 559
pharmacy audit. 560

(B) (1) The condition in division (A) (1) of this section 561
does not apply if, prior to the audit, the auditing entity has 562
evidence, from its review of claims data, statements, or 563

physical evidence or its use of other investigative methods, 564
indicating that fraud or other intentional or willful 565
misrepresentation exists. 566

(2) The condition in division (A) (3) of this section does 567
not apply if the auditing entity has evidence, from its review 568
of claims data, statements, or physical evidence or its use of 569
other investigative methods, indicating that fraud or other 570
intentional or willful misrepresentation exists. 571

(3) Division (A) (4) of this section does not apply when 572
the accounting practice of extrapolation is required by state or 573
federal law. 574

Sec. 3901.87. (A) No qualified health plan shall provide 575
coverage for a nontherapeutic abortion. 576

(B) As used in this section: 577

(1) "Nontherapeutic abortion" has the same meaning as in 578
section ~~124.85-9.04~~ of the Revised Code. 579

(2) "Qualified health plan" means any qualified health 580
plan as defined in section 1301 of the "Patient Protection and 581
Affordable Care Act," 42 U.S.C. 18021, offered in this state 582
through an exchange created under that act. 583

Sec. 3902.08. (A) Except as provided in section 3902.03 of 584
the Revised Code, sections 3902.01 to 3902.08 of the Revised 585
Code apply to all policy forms filed on or after ~~three years~~ 586
~~after the effective date of sections 3902.01 to 3902.08 of the~~ 587
~~Revised Code January 9, 1983~~. No policy form shall be delivered 588
or issued for delivery in this state on or after ~~five years~~ 589
~~after the effective date of sections 3902.01 to 3902.08 of the~~ 590
~~Revised Code January 9, 1985~~ unless approved by the 591
superintendent of insurance, or permitted to be issued, pursuant 592

to sections 3902.01 to 3902.08 of the Revised Code. Any policy 593
form that has been approved or permitted to be issued prior to 594
~~five years after the effective date of sections 3902.01 to~~ 595
~~3902.08 of the Revised Code January 9, 1985,~~ and that meets the 596
standards set by sections 3902.01 to 3902.08 of the Revised Code 597
need not be refiled for approval, but may continue to be 598
lawfully delivered or issued for delivery in this state upon the 599
filing with the superintendent of a list of such forms 600
identified by form number and accompanied by a certificate as to 601
each such form in the manner provided in division (D) of section 602
~~3902.05-3902.04~~ of the Revised Code. 603

(B) The superintendent may, ~~in his~~ the superintendent's 604
discretion, extend the dates in division (A) of this section. 605

Sec. 3903.01. As used in sections 3903.01 to 3903.59 of 606
the Revised Code: 607

(A) "Admitted assets" means investment in assets which 608
will be admitted by the superintendent of insurance pursuant to 609
the law of this state. 610

(B) "Affiliate" has the same meaning as "affiliate of" or 611
"affiliated with," as defined in section 3901.32 of the Revised 612
Code. 613

(C) "Assets" means all property, real and personal, of 614
every nature and kind whatsoever or any interest therein. 615

(D) "Ancillary state" means any state other than a 616
domiciliary state. 617

(E) "Commodity contract" means any of the following: 618

(1) A contract for the purchase or sale of a commodity for 619
future delivery on, or subject to the rules of, a board of trade 620

designated as a contract market by the commodity futures trading 621
commission under the "Commodity Exchange Act," 7 U.S.C. 1 et 622
seq., as amended, or a board of trade outside the United States; 623

(2) An agreement that is subject to regulation under 624
section 19 of the "Commodity Exchange Act," 7 U.S.C. 23, as 625
amended, and that is commonly known to the commodities trade as 626
a margin account, margin contract, leverage account, or leverage 627
contract; 628

(3) An agreement or transaction that is subject to 629
regulation under section 4c(b) of the "Commodity Exchange Act," 630
7 U.S.C. 6c(b), as amended, and that is commonly known to the 631
commodities trade as a commodity option; 632

(4) Any combination of agreements or transactions 633
described in division (E) of this section; 634

(5) Any option to enter into an agreement or transaction 635
described in division (E) of this section. 636

(F) "Creditor" means a person having any claim, whether 637
matured or unmatured, liquidated or unliquidated, secured or 638
unsecured, absolute, fixed, or contingent. 639

(G) "Delinquency proceeding" means any proceeding 640
commenced against an insurer for the purpose of liquidating, 641
rehabilitating, reorganizing, or conserving the insurer, and any 642
summary proceeding under section 3903.09 or 3903.10 of the 643
Revised Code. "Formal delinquency proceeding" means any 644
liquidation or rehabilitation proceeding. 645

(H) "Doing business" includes any of the following acts, 646
whether effected by mail or otherwise: 647

(1) The issuance or delivery of contracts of insurance to 648

persons resident in this state; 649

(2) The solicitation of applications for such contracts, 650
or other negotiations preliminary to the execution of such 651
contracts; 652

(3) The collection of premiums, membership fees, 653
assessments, or other consideration for such contracts; 654

(4) The transaction of matters subsequent to execution of 655
such contracts and arising out of them; 656

(5) Operating under a license or certificate of authority, 657
as an insurer, issued by the department of insurance. 658

(I) "Domiciliary state" means the state in which an 659
insurer is incorporated or organized, or, in the case of an 660
alien insurer, its state of entry. 661

(J) "Fair consideration" is given for property or 662
obligation when either of the following apply: 663

(1) When in exchange for such property or obligation, as a 664
fair equivalent therefor, and in good faith, property is 665
conveyed, services are rendered, an obligation is incurred, or 666
an antecedent debt is satisfied; 667

(2) When such property or obligation is received in good 668
faith to secure a present advance or antecedent debt in an 669
amount not disproportionately small as compared to the value of 670
the property or obligation obtained. 671

(K) "Federal home loan bank" means an institution 672
chartered under the "Federal Home Loan Bank Act of 1932," 12 673
U.S.C. 1421, et seq. 674

(L) "Foreign country" means any other jurisdiction not in 675

any state. 676

(M) "Forward contract" has the same meaning as in the 677
federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 1821(e) 678
(8) (D), as now and hereafter amended. 679

(N) "Guaranty association" means the Ohio insurance 680
guaranty association created by section 3955.06 of the Revised 681
Code and any other similar entity hereafter created by the 682
general assembly for the payment of claims of insolvent 683
insurers. "Foreign guaranty association" means any similar 684
entities now in existence in or hereafter created by the 685
legislature of any other state. 686

(O) "Insolvency" or "insolvent" means: 687

(1) For an insurer issuing only assessable fire insurance 688
policies either of the following: 689

(a) The inability to pay any obligation within thirty days 690
after it becomes payable; 691

(b) If an assessment is made within thirty days after such 692
date, the inability to pay the obligation thirty days following 693
the date specified in the first assessment notice issued after 694
the date of loss. 695

(2) For any other insurer, that it is unable to pay its 696
obligations when they are due, or when its admitted assets do 697
not exceed its liabilities plus the greater of either of the 698
following: 699

(a) Any capital and surplus required by law for its 700
organization; 701

(b) The total par or stated value of its authorized and 702
issued capital stock. 703

(3) As to any insurer licensed to do business in this state as of the effective date of sections 3903.01 to 3903.59 of the Revised Code that does not meet the standard established under division ~~(N)~~(O)(2) of this section, the term "insolvency" or "insolvent" means, for a period not to exceed three years from the effective date of sections 3903.01 to 3903.59 of the Revised Code, that it is unable to pay its obligations when they are due or that its admitted assets do not exceed its liabilities plus any required capital contribution ordered by the superintendent under provisions of Title XXXIX of the Revised Code.

(4) For purposes of divisions ~~(N)~~(O)(2) to (4) of this section, "liabilities" includes, but is not limited to, reserves required by statute or by rules of the superintendent or specific requirements imposed by the superintendent upon a subject company at the time of admission or subsequent thereto.

(P) "Insurer" means any person who has done, purports to do, is doing, or is licensed to do an insurance business, and is or has been subject to the authority of, or to liquidation, rehabilitation, reorganization, supervision, or conservation by, any insurance commissioner, superintendent, or equivalent official. For purposes of sections 3903.01 to 3903.59 of the Revised Code, any other persons included under section 3903.03 of the Revised Code are deemed to be insurers.

(Q) "Netting agreement" means:

(1) A contract or agreement, including a master agreement, and any terms and conditions incorporated by reference in such a contract or agreement, that provides for the netting, liquidation, setoff, termination, acceleration, or close out under or in connection with a qualified financial contract, or

any present or future payment or delivery obligations or 734
entitlements under a qualified financial contract, including 735
liquidation or close-out values relating to those obligations or 736
entitlements; 737

(2) A master agreement, together with all schedules, 738
confirmations, definitions, and addenda to the agreement and 739
transactions under the agreement, which shall be treated as one 740
netting agreement, and any bridge agreement for one or more 741
master agreements; 742

(3) Any security agreement or arrangement, credit support 743
document, or guarantee or reimbursement obligation related to 744
any contract or agreement described in division ~~(P)~~(Q) of this 745
section. 746

Any contract or agreement described in division ~~(P)~~(Q) of 747
this section relating to agreements or transactions that are not 748
qualified financial contracts shall be deemed to be a netting 749
agreement only with respect to those agreements or transactions 750
that are qualified financial contracts. 751

(R) "Preferred claim" means any claim with respect to 752
which the terms of sections 3903.01 to 3903.59 of the Revised 753
Code accord priority of payment from the assets of the insurer. 754

(S) "Qualified financial contract" means any commodity 755
contract, forward contract, repurchase agreement, securities 756
contract, swap agreement, and any similar agreement that the 757
superintendent may determine by rule or order to be a qualified 758
financial contract for purposes of this chapter. 759

(T) "Reciprocal state" means any state other than this 760
state in which in substance and effect division (A) of section 761
3903.18, and sections 3903.52, 3903.53, and 3903.55 to 3903.57 762

of the Revised Code are in force, in which provisions are in 763
force requiring that the superintendent or equivalent official 764
be the receiver, liquidator, rehabilitator, or conservator of a 765
delinquent insurer, and in which some provision exists for the 766
avoidance of fraudulent conveyances and preferential transfers. 767

(U) "Repurchase agreement" has the same meaning as in the 768
federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 1821(e) 769
(8) (D), as now and hereafter amended. 770

(V) "Secured claim" means any claim secured by mortgage, 771
trust deed, security agreement, pledge, deposit as security, 772
escrow, or otherwise, but not including special deposit claims 773
or claims against assets. The term also includes claims which 774
have become liens upon specific assets by reason of judicial 775
process. 776

(W) "Securities contract" has the same meaning as in the 777
federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 1821(e) 778
(8) (D), as now and hereafter amended. 779

(X) "Special deposit claim" means any claim secured by a 780
deposit made pursuant to statute for the security or benefit of 781
a limited class or classes of persons, but not including any 782
claim secured by assets. 783

(Y) "State" has the meaning set forth in division (G) of 784
section 1.59 of the Revised Code. 785

(Z) "Superintendent" or "superintendent of insurance" 786
means the superintendent of insurance of this state, or, when 787
the context requires, the superintendent or commissioner of 788
insurance, or equivalent official, of another state. 789

(AA) "Swap agreement" has the same meaning as in the 790
federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 1821(e) 791

(8) (D), as now and hereafter amended. 792

(BB) "Transfer" includes the sale and every other and 793
different mode, direct or indirect, of disposing of or of 794
parting with property or with an interest in property, or with 795
the possession of property or of fixing a lien upon property or 796
upon an interest in property, absolutely or conditionally, 797
voluntarily, or by or without judicial proceedings. The 798
retention of a security title to property delivered to a debtor 799
shall be deemed a transfer suffered by the debtor. 800

Sec. 3903.52. (A) ~~The domiciliary~~ domiciliary liquidator of 801
an insurer domiciled in a reciprocal state shall, except as to 802
special deposits and security on secured claims under division 803
(C) of section 3903.53 of the Revised Code, be vested by 804
operation of law with the title to all of the assets, property, 805
contracts, and rights of action, agents' balances, and all of 806
the books, accounts, and other records of the insurer located in 807
this state. The date of vesting shall be the date of the filing 808
of the complaint or petition, if that date is specified by the 809
domiciliary law for the vesting of property in the domiciliary 810
state. Otherwise, the date of vesting shall be the date of entry 811
of the order directing possession to be taken. The domiciliary 812
liquidator shall have the immediate right to recover balances 813
due from agents and to obtain possession of the books, accounts, 814
and other records of the insurer located in this state. ~~He~~ The 815
domiciliary liquidator also shall have the right to recover all 816
other assets of the insurer located in this state, subject to 817
section 3903.53 of the Revised Code. 818

(B) If a domiciliary liquidator is appointed for an 819
insurer not domiciled in a reciprocal state, the superintendent 820
of insurance shall be vested by operation of law with the title 821

to all of the property, contracts, and rights of action, and all 822
of the books, accounts, and other records of the insurer located 823
in this state, at the same time that the domiciliary liquidator 824
is vested with title in the domicile. The superintendent may 825
file a complaint for a conservation or liquidation order under 826
section 3903.50 or 3903.51 of the Revised Code, or for an 827
ancillary receivership under section 3903.53 of the Revised 828
Code, or after approval by the court may transfer title to the 829
domiciliary liquidator, as the interests of justice and the 830
equitable distribution of the assets require. 831

(C) Claimants residing in this state may file claims with 832
the liquidator or ancillary receiver, if any, in this state or 833
with the domiciliary liquidator, if the domiciliary law permits. 834
The claims must be filed on or before the last date fixed for 835
the filing of claims in the domiciliary liquidation proceedings. 836

Sec. 3903.56. (A) In a liquidation proceeding in a 837
reciprocal state against an insurer domiciled in that state, 838
claimants against the insurer who reside within this state may 839
file claims either with the ancillary receiver, if any, in this 840
state, or with the domiciliary liquidator. Claims must be filed 841
on or before the last dates fixed for the filing of claims in 842
the domiciliary liquidation proceeding. 843

(B) Claims belonging to claimants residing in this state 844
may be proved either in the domiciliary state under the law of 845
that state, or in ancillary proceedings, if any, in this state. 846
If a claimant elects to prove his the claimant's claim in this 847
state, he the claimant shall file his the claim with the 848
liquidator in the manner provided in sections 3903.35 and 849
3903.36 of the Revised Code. The ancillary receiver shall make 850
his a recommendation to the court as under section ~~3939.43~~ 851

3903.43 of the Revised Code. ~~He~~ The ancillary receiver shall 852
also arrange a date for hearing if necessary under section 853
3903.39 of the Revised Code and shall give notice to the 854
liquidator in the domiciliary state, either by certified mail or 855
by personal service at least forty days prior to the date set 856
for hearing. If the domiciliary liquidator, within thirty days 857
after the giving of such notice, gives notice in writing to the 858
ancillary receiver and to the claimant, either by certified mail 859
or by personal service, of ~~his~~ the domiciliary liquidator's 860
intention to contest the claim, ~~he~~ the domiciliary liquidator 861
shall be entitled to appear or to be represented in any 862
proceeding in this state involving the adjudication of the 863
claim. 864

(C) The final allowance of the claim by the courts of this 865
state shall be accepted as conclusive as to amount and as to 866
priority against special deposits or other security located in 867
this state. 868

Sec. 3903.71. If it appears to the superintendent of 869
insurance upon satisfactory evidence that the affairs of an 870
insurance company, partnership, association, or reciprocal 871
insurance exchange, not organized under the laws of this state, 872
are such that any of the following conditions exist, ~~he~~ the 873
superintendent shall suspend the authority granted to such 874
company to do business in this state: 875

(A) It cannot meet the current applicable requirements for 876
incorporation and commencement of the business of insurance in 877
this state; 878

(B) It has commenced, or has attempted to commence, any 879
voluntary liquidation or dissolution proceeding, or any 880
proceeding to procure the appointment of a ~~receiver~~ receiver, 881

liquidator, rehabilitator, sequestrator, conservator, or similar 882
officer for itself; 883

(C) It is the subject of liquidation or dissolution 884
proceedings undertaken by another state, or any other proceeding 885
undertaken by another state to procure the appointment of a 886
~~receiver~~ receiver, liquidator, rehabilitator, sequestrator, 887
conservator, or similar officer; 888

(D) Its ratio of premium writings to surplus and capital 889
are unreasonable as determined by the superintendent of 890
insurance; 891

(E) Its further transaction of business would be hazardous 892
to its policyholders, contract holders, or the public as shown 893
by the following conduct, but not necessarily limited to only 894
the following: 895

(1) Its investments are made so as to make unavailable 896
within a reasonable time sufficient moneys to meet promptly any 897
demand which might in the ordinary course of business be 898
properly made against it; 899

(2) Any of its officers or directors have embezzled, 900
sequestered, or wrongfully diverted any of its assets; 901

(3) It has willfully violated its charter or any law of 902
this state. 903

If no demand for a hearing is made by the suspended 904
company within thirty days after suspension, such suspension 905
shall become a revocation of the authority to transact the 906
business of insurance in this state. Any such hearing shall be 907
held in compliance with sections 119.01 to 119.13 of the Revised 908
Code. If during such hearing, satisfactory evidence of any of 909
the enumerated conditions of this section is found to exist, the 910

superintendent shall revoke the authority to transact the 911
business of insurance in this state. 912

Sec. 3903.724. (A) This section shall determine the 913
calendar year statutory valuation interest rates (VIR) used in 914
determining the minimum standard for the valuation of all of the 915
following: 916

(1) Life insurance policies issued on or after January 1, 917
1989; 918

(2) Individual annuity and pure endowment contracts issued 919
on or after January 1, 1989; 920

(3) Annuities and pure endowments purchased on or after 921
January 1, 1989, under group annuity and pure endowment 922
contracts; 923

(4) The net increase, if any, in amounts held under a 924
guaranteed interest ~~contract~~contract in a calendar year after 925
January 1, 1989. 926

(B) The calendar year statutory valuation interest rates 927
shall be calculated as follows and the results rounded to the 928
nearest one-quarter of one per cent: 929

(1) (a) For life insurance, by adding three per cent to the 930
result of multiplying W (the applicable weighting factor) by 931
R(sub-1) minus three per cent (where R(sub-1) is the lesser of 932
the reference interest rate and nine per cent) and also adding 933
the result of multiplying one-half of the weighting factor by 934
R(sub-2) minus nine per cent (where R(sub-2) is the greater of 935
the reference interest rate and nine per cent), expressed as 936
follows: 937

$$\text{VIR} = .03 + W (R(\text{sub-1}) - .03) + W/2(R(\text{sub-2}) - .09). \quad 938$$

(b) Provided that if the calendar year statutory valuation interest rate for a life insurance policy issued in any calendar year determined in accordance with this division does not differ from the calendar year valuation interest rate for similar policies issued in the preceding calendar year by at least one-half of one per cent, the calendar year valuation interest rate for the policy shall be equal to the calendar year valuation interest rate for the preceding calendar year. The calendar year statutory valuation interest rate shall be determined for 1980 and for each subsequent year prior to the operative date of the valuation manual.

(2) For all single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options by adding to three per cent the result of multiplying W (the applicable weighting factor) by R minus three per cent (where R is the reference interest rate), expressed as follows:

$$\text{VIR} = .03 + W (R - .03).$$

(3) Except as provided in division (B) (2) of this section, for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, the life insurance formula stated in division (B) (1) of this section shall apply to all annuity and guaranteed interest contracts with guarantee durations in excess of ten years and the formula for single premium immediate annuities stated in division (B) (2) of this section shall apply to annuities and guaranteed interest contracts with guarantee duration of ten years or less.

(4) For other annuities with no cash settlement options

and for guaranteed interest contracts with no cash settlement 969
options, the formula for single premium immediate annuities 970
stated in division (B) (2) of this section shall apply. 971

(5) For other annuities with cash settlement options and 972
guaranteed interest contracts with cash settlement options, 973
valued on a change in fund basis, the formula for single premium 974
immediate annuities stated in division (B) (2) of this section 975
shall apply. 976

(C) For life insurance, the guarantee duration is the 977
maximum number of years the life insurance can remain in force 978
on a basis guaranteed in the policy or under an option to 979
convert to a plan of life insurance with premium rates or 980
nonforfeiture values, or both, guaranteed in the policy. 981

(D) The weighting factors for the formulas prescribed in 982
division (B) of this section are shown in the following table: 983

984

	1	2
A	Weighting Factors for Life Insurance	
B	Guarantee Duration (Years)	Weighting Factors
C	10 or less	.50
D	More than 10, but not more than 20	.45
E	More than 20	.35

(E) The weighting factor for single premium immediate 985
annuities and for annuity benefits involving life contingencies 986

arising from other annuity and guaranteed interest contracts	987
with cash settlement options is .80.	988
(F) Weighting factors for all other annuity and guaranteed	989
interest contracts vary with the type of plan and guarantee	990
duration. The types of plans are as follows:	991
(1) A plan type A is one in which funds may not be	992
withdrawn or may be withdrawn in only one of three ways:	993
(a) With an adjustment to reflect changes in interest	994
rates or asset values since receipt of the funds by the company;	995
(b) Without such adjustment but in installments over five	996
or more years;	997
(c) As an immediate life annuity.	998
(2) A plan type B is one in which the funds may not be	999
withdrawn before the expiration of the interest rate guarantee	1000
unless an adjustment is made to reflect changes in interest	1001
rates or asset values since receipt of the funds by the company	1002
or unless they are withdrawn in installments over five or more	1003
years. At the end of the interest rate guarantee, funds may be	1004
withdrawn in a single sum or in installments over less than five	1005
years without adjustment.	1006
(3) A plan type C is one in which the funds may be	1007
withdrawn before the end of the interest rate guarantee in a	1008
single sum or in installments over less than five years without	1009
adjustment to reflect changes in interest rates or asset values	1010
since receipt of the funds by the company or subject only to a	1011
fixed surrender charge stipulated in the contract as a	1012
percentage of the fund.	1013
(4) The guarantee duration for an annuity or guaranteed	1014

interest contract with cash settlement options is the number of 1015
years for which the contract guarantees interest rates in excess 1016
of the calendar year valuation interest rate for life insurance 1017
policies with guarantee duration in excess of twenty years. The 1018
guarantee duration for annuity and guaranteed interest contracts 1019
without cash settlement options is the number of years from the 1020
date of issue or date of purchase to the date annuity benefits 1021
are scheduled to commence. 1022

(5) Annuity and guaranteed interest contracts with cash 1023
settlement options may be valued on an issue year basis or on a 1024
change in fund basis. Annuity and guaranteed interest contracts 1025
without cash settlement options must be valued on an issue year 1026
basis. As used in this division, an issue year basis of 1027
valuation refers to a valuation basis under which the interest 1028
rate used to determine the minimum valuation standard for the 1029
entire duration of the annuity or guaranteed interest contract 1030
is the calendar year valuation interest rate for the year of 1031
issue or year of purchase of the annuity or guaranteed interest 1032
contract, and the change in fund basis of valuation refers to a 1033
valuation basis under which the interest rate used to determine 1034
the minimum valuation standard applicable to each change in the 1035
fund held under the annuity or guaranteed interest contract is 1036
the calendar year valuation interest rate for the year of the 1037
change in the fund. 1038

(6) Weighting factors for other annuities and for 1039
guaranteed interest contracts, except as stated in division (E) 1040
of this section, are specified below. 1041

(a) For annuity and guaranteed interest contracts valued 1042
on an issue year basis: 1043

Weighting Factors for Annuities and Guaranteed Interest 1044

Contracts 1045

1046

	1	2	3	4
A	Weighting Factor for Plan Type			
B	Guarantee Duration (Years)	A	B	C
C	5 or less	.80	.60	.50
D	More than 5, but not more than 10	.75	.60	.50
E	More than 10, but not more than 20	.65	.50	.45
F	More than 20	.45	.35	.35

(b) For annuities and guaranteed interest contracts valued 1047

on a change in fund basis, the factors shown in division (F) (6) 1048

(a) of this section increased by the following amounts: 1049

(i) For plan type A, .15; 1050

(ii) For plan type B, .25; 1051

(iii) For plan type C, .05. 1052

(c) For annuities and guaranteed interest contracts valued 1053

on an issue year basis, other than those with no cash settlement 1054

options, that do not guarantee interest on considerations 1055

received more than one year after issue or purchase and for 1056

annuities and guaranteed interest contracts valued on a change 1057

in fund basis that do not guarantee interest rates on 1058

considerations received more than twelve months beyond the 1059

valuation date, the factors shown in item (F) (6) (a) or derived 1060

in item (F) (6) (b) increased by .05 for all plan types. 1061

(G) The reference interest rate is determined by comparing 1062
the monthly average of the composite yield of the monthly 1063
average on seasoned corporate bonds, as published by Moody's 1064
investors service, inc. for the applicable time period, as 1065
prescribed below: 1066

(1) The reference interest rate for all life insurance is 1067
the lesser of such average over the thirty-six month period and 1068
such average over the twelve-month period ending on the 1069
thirtieth day of June of the calendar year preceding the year of 1070
issue. 1071

(2) The reference interest rate for annuity and guaranteed 1072
interest contracts with cash settlement options, except single 1073
premium immediate annuities and annuity benefits involving life 1074
contingencies arising from other annuity and guaranteed interest 1075
contracts with cash settlement options, valued on an issue year 1076
basis with guarantee durations in excess of ten years, is the 1077
lesser of such average over the thirty-six month period and such 1078
average over the twelve-month period ending on the thirtieth day 1079
of June of the calendar year of issue or purchase. 1080

(3) The reference interest rate for other annuities with 1081
cash settlement options and guaranteed interest contracts with 1082
cash settlement options, valued on a year of issue basis, except 1083
as stated in division (G) (6) of this section, with guarantee 1084
duration of ten years or less, such average over the twelve- 1085
month period ending on the thirtieth day of June of the calendar 1086
year of issue or purchase. 1087

(4) The reference interest rate for other annuities with 1088
no cash settlement options and for guaranteed interest contracts 1089

with no cash settlement options, such average over the twelve- 1090
month period ending on the thirtieth day of June of the calendar 1091
year of issue or purchase. 1092

(5) The reference interest rate for all other annuity and 1093
guaranteed interest contracts with cash settlement options 1094
valued on a change in fund basis is such average over the 1095
twelve-month period ending on the thirtieth day of June of the 1096
calendar year in which a change in the fund occurs. 1097

(6) The reference interest rate for all single premium 1098
immediate annuities and annuity benefits involving life 1099
contingencies arising from other annuity and guaranteed interest 1100
contracts with cash settlement options is such average over the 1101
twelve-month period ending on the thirtieth day of June of the 1102
calendar year of issue or purchase. 1103

(7) If such corporate bond rate average is no longer 1104
published or the national association of insurance commissioners 1105
determines that such average is no longer appropriate, the 1106
superintendent may by rule approve the use of any alternative 1107
method for the determination of the reference interest rate 1108
adopted by the commissioners. 1109

Sec. 3903.728. (A) For policies issued on or after the 1110
operative date of the valuation manual, the standard prescribed 1111
in the valuation manual is the minimum standard of valuation 1112
required under division (B) of section 3903.721 of the Revised 1113
Code, except as provided under divisions (E) and (G) of this 1114
section. 1115

(B) The operative date of the valuation manual is January 1116
1 of the first calendar year following the first July 1 as of 1117
which all of the following have occurred: 1118

(1) The valuation manual has been adopted by the national 1119
association of insurance commissioners by an affirmative vote of 1120
at least forty-two members, or three-fourths of the members 1121
voting, whichever is greater. 1122

(2) The standard valuation law, as amended by the national 1123
association of insurance commissioners in 2009, or legislation 1124
including substantially similar terms and provisions, has been 1125
enacted by states representing greater than seventy-five per 1126
cent of the direct premiums written as reported in one or more 1127
of the following annual statements submitted for 2008: life, 1128
accident, and health annual statements; health annual 1129
statements; or fraternal annual statements. 1130

(3) The standard valuation law, as amended by the national 1131
association of insurance commissioners in 2009, or legislation 1132
including substantially similar terms and provisions, has been 1133
enacted by at least forty-two of the following fifty-five 1134
jurisdictions: the fifty states of the United States, American 1135
Samoa, the American Virgin Islands, the District of Columbia, 1136
Guam, and Puerto Rico. 1137

(C) Unless a change in the valuation manual specifies a 1138
later effective date, ~~changes a change~~ to the valuation manual 1139
shall be effective on January 1 following the date ~~when all of~~ 1140
~~the following have occurred:~~ 1141

~~(1) The~~ the change to the valuation manual has been 1142
adopted by the national association of insurance commissioners 1143
by an affirmative vote representing both of the following: 1144

~~(a) (1)~~ At least three-fourths of the members of the 1145
national association of insurance commissioners voting, but not 1146
less than a majority of the total membership; 1147

~~(b)~~ (2) Members of the national association of insurance 1148
commissioners representing jurisdictions totaling greater than 1149
seventy-five per cent of the direct premiums written as reported 1150
in one or more of the following annual statements most recently 1151
available prior to the vote in division (C) (1) ~~(a)~~ of this 1152
section: life, accident, and health annual statements; health 1153
annual statements; or fraternal annual statements. 1154

(D) The valuation manual shall specify all of the 1155
following: 1156

(1) Minimum valuation standards for and definitions of the 1157
policies or contracts subject to division (B) of section 1158
3903.721 of the Revised Code. The minimum valuation standards 1159
shall be: 1160

(a) The commissioners reserve valuation method for life 1161
insurance contracts, other than annuity contracts, subject to 1162
division (B) of section 3903.721 of the Revised Code; 1163

(b) The commissioners annuity reserve valuation method for 1164
annuity contracts subject to division (B) of section 3903.721 of 1165
the Revised Code; 1166

(c) Minimum reserves for all other policies or contracts 1167
subject to division (B) of section 3903.721 of the Revised Code. 1168

(2) Which policies or contracts or types of policies or 1169
contracts are subject to the requirements of a principle-based 1170
valuation in division (A) of section 3903.729 of the Revised 1171
Code and the minimum valuation standards consistent with those 1172
requirements. 1173

(3) For policies and contracts subject to a principle- 1174
based valuation under section 3903.729 of the Revised Code: 1175

(a) Requirements for the format of reports to the 1176
superintendent under division (B) (3) of section 3903.729 of the 1177
Revised Code that shall include information necessary to 1178
determine if the valuation is appropriate and in compliance with 1179
sections 3903.72 to 3903.7211 of the Revised Code. 1180

(b) Assumptions for risks over which the company does not 1181
have significant control or influence. 1182

(c) Procedures for corporate governance and oversight of 1183
the actuarial function, and a process for appropriate waiver or 1184
modification of such procedures. 1185

(4) For policies not subject to a principle-based 1186
valuation under section 3903.729 of the Revised Code, the 1187
minimum valuation standard, which shall be or do either of the 1188
following: 1189

(a) Be consistent with the minimum standard of valuation 1190
prior to the operative date of the valuation manual; 1191

(b) Develop reserves that quantify the benefits and 1192
guarantees, and the funding, associated with the contracts and 1193
their risks at a level of conservatism that reflects conditions 1194
that include unfavorable events that have a reasonable 1195
probability of occurring. 1196

(5) Other requirements, including those relating to 1197
reserve methods, models for measuring risk, generation of 1198
economic scenarios, assumptions, margins, use of company 1199
experience, risk measurement, disclosure, certifications, 1200
reports, actuarial opinions and memorandums, transition rules, 1201
and internal controls; 1202

(6) The data and form of the data required under section 1203
3903.7210 of the Revised Code, with whom the data must be 1204

submitted, and other requirements specified by the 1205
superintendent, which may include data analyses and reporting of 1206
analyses. 1207

(E) In the absence of a specific valuation requirement or 1208
if a specific valuation requirement in the valuation manual is 1209
not, in the opinion of the superintendent, in compliance with 1210
sections 3903.72 to 3903.7211 of the Revised Code, then the 1211
company shall, with respect to such requirements, comply with 1212
minimum valuation standards prescribed in rules adopted by the 1213
superintendent. 1214

(F) The superintendent may engage a qualified actuary, at 1215
the expense of the company, to perform an actuarial examination 1216
of the company and opine on the appropriateness of any reserve 1217
assumption or method used by the company, or to review and opine 1218
on a company's compliance with any requirement set forth in 1219
sections 3903.72 to 3903.7211 of the Revised Code. The 1220
superintendent may rely upon the opinion, regarding provisions 1221
contained within sections 3903.72 to 3903.7211 of the Revised 1222
Code, of a qualified actuary engaged by the insurance 1223
commissioner of another state, district, or territory of the 1224
United States. As used in this division, the term "engage" 1225
includes employment and contracting. 1226

(G) The superintendent may require a company to change any 1227
assumption or method that in the opinion of the superintendent 1228
is necessary in order to comply with the requirements of the 1229
valuation manual or sections 3903.72 to 3903.7211 of the Revised 1230
Code, and the company shall adjust the reserves as required by 1231
the superintendent. The superintendent may take other 1232
disciplinary action as permitted under applicable laws. 1233

Sec. 3903.7211. (A) As used in this section: 1234

(1) "Confidential information" means all of the following: 1235

(a) A memorandum in support of an opinion submitted under 1236
sections 3903.722 and 3903.726 of the Revised Code and any other 1237
documents, materials, and other information, including all 1238
working papers, and copies thereof, created, produced, or 1239
obtained by or disclosed to the superintendent or any other 1240
person in connection with such memorandum. 1241

(b) (i) Except as provided in division (A) (1) (b) (ii) of 1242
this section, all documents, materials, and other information, 1243
including all working papers, and copies thereof, created, 1244
produced, or obtained by or disclosed to the superintendent or 1245
any other person in the course of an examination made under 1246
division (F) of section 3903.728 of the Revised Code. 1247

(ii) If an examination report or other material prepared 1248
in connection with an examination made under section 3901.07 of 1249
the Revised Code is not held as private and confidential 1250
information under that section, an examination report or other 1251
material prepared in connection with an examination made under 1252
division (F) of section 3903.728 of the Revised Code shall not 1253
be considered confidential information to the same extent as if 1254
such examination report or other material had been prepared 1255
under section 3901.07 of the Revised Code. 1256

(c) Any reports, documents, materials, and other 1257
information developed by a company in support of, or in 1258
connection with, an annual certification by the company under 1259
division (B) (2) of section 3903.729 of the Revised Code 1260
evaluating the effectiveness of the company's internal controls 1261
with respect to a principle-based valuation and any other 1262
documents, materials, and other information, including all 1263
working papers, and copies thereof, created, produced, or 1264

obtained by or disclosed to the superintendent or any other 1265
person in connection with such reports, documents, materials, 1266
and other information; 1267

(d) Any principle-based valuation report developed under 1268
division (B) (3) of section 3903.729 of the Revised Code and any 1269
other documents, materials, and other information, including all 1270
working papers, and copies thereof, created, produced, or 1271
obtained by or disclosed to the superintendent or any other 1272
person in connection with such report; 1273

(e) Any documents, materials, data, and other information 1274
submitted by a company under section 3903.7210 of the Revised 1275
Code, referred to collectively as "experience data," and any 1276
other documents, materials, data, and other information, 1277
including all working papers, and copies thereof, created or 1278
produced in connection with such experience data, in each case 1279
that include any potentially company-identifying or personally 1280
identifiable information, that is provided to or obtained by the 1281
superintendent, which when combined with any experience data is 1282
referred to as "experience materials," and any other documents, 1283
materials, data, and other information, including all working 1284
papers, and copies thereof, created, produced, or obtained by or 1285
disclosed to the superintendent or any other person in 1286
connection with such experience materials. 1287

(2) "Regulatory agency," "law enforcement agency," and the 1288
"national association of insurance commissioners" includes their 1289
employees, agents, consultants, and contractors. 1290

(B) (1) Except as provided in division (B) (2) of this 1291
section and as otherwise provided in this section, a company's 1292
confidential information is confidential by law and privileged, 1293
is not a public record under section 149.43 of the Revised Code, 1294

shall not be subject to subpoena, and shall not be subject to 1295
discovery or admissible in evidence in any private civil action. 1296
Except as otherwise provided in this section, neither the 1297
superintendent nor any person who received confidential 1298
information while acting under the superintendent's authority 1299
shall be permitted or required to testify in any private civil 1300
action concerning that confidential information. 1301

(2) The superintendent is authorized to use the 1302
confidential information in the furtherance of any regulatory or 1303
legal action brought against the company as a part of the 1304
superintendent's official duties. 1305

(C) (1) In order to assist in the performance of the 1306
superintendent's duties, the superintendent may share 1307
confidential information with all of the following: 1308

(a) Other state, federal, and international regulatory 1309
agencies; 1310

(b) The national association of insurance commissioners 1311
and its affiliates and subsidiaries; 1312

(c) The actuarial board for counseling and discipline, or 1313
its successor, in the case of confidential information specified 1314
in divisions (A) (1) (a) and (d) of this section only, upon a 1315
request stating that the confidential information is required 1316
for the purpose of professional disciplinary proceedings; 1317

(d) State, federal, and international law enforcement 1318
officials. 1319

(2) The superintendent may share confidential information 1320
as specified in divisions (C) (1) (a) through (d) of this section 1321
only if the recipient agrees, and has the legal authority to 1322
agree, to maintain the confidentiality and privileged status of 1323

such documents, materials, data, and other information in the 1324
same manner and to the same extent as required for the 1325
superintendent. 1326

(D) The superintendent may receive documents, materials, 1327
data, and other information, including otherwise confidential 1328
and privileged documents, materials, data, or information, from 1329
the national association of insurance commissioners and its 1330
affiliates and subsidiaries, from regulatory or law enforcement 1331
officials of other foreign or domestic jurisdictions, and from 1332
the actuarial board for counseling and discipline or its 1333
successor. The superintendent shall maintain as confidential or 1334
privileged any document, material, data, or other information 1335
received with notice or the understanding that it is 1336
confidential or privileged under the laws of the jurisdiction 1337
that is the source of the document, material, data, or other 1338
information. 1339

(E) The superintendent may enter into agreements governing 1340
sharing and use of information consistent with this section. 1341

(F) No waiver of any applicable privilege or claim of 1342
confidentiality in the confidential information shall occur as a 1343
result of disclosure to the superintendent under this section or 1344
as a result of sharing as authorized in division (C) of this 1345
section. 1346

(G) A privilege established under the law of any state or 1347
jurisdiction that is substantially similar to the privilege 1348
established under this section shall be available and enforced 1349
in any proceeding in, and in any court of, this state. 1350

(H) Notwithstanding divisions (B) to (G) of this section, 1351
any confidential information specified in divisions (A) (1) (a) 1352

and (d) of this section are subject to all of the following: 1353

(1) The confidential information may be subject to 1354
subpoena for the purpose of defending an action seeking damages 1355
from the appointed actuary submitting the related memorandum in 1356
support of an opinion submitted under sections 3903.722 and 1357
3903.726 of the Revised Code or principle-based valuation report 1358
developed under division (B) (3) of section 3903.729 of the 1359
Revised Code by reason of an action required by sections 3903.72 1360
to 3903.7211 of the Revised Code or by rules adopted pursuant to 1361
those sections. 1362

(2) The confidential information may otherwise be released 1363
by the superintendent with the written consent of the company. 1364

(3) Once any portion of a memorandum in support of an 1365
opinion submitted under section 3903.722~~and~~ or 3903.726 of the 1366
Revised Code or a principle-based valuation report developed 1367
under division (B) (3) of section 3903.729 of the Revised Code is 1368
cited by the company in its marketing or is publicly volunteered 1369
to or before a governmental agency other than a state insurance 1370
department or is released by the company to the news media, all 1371
portions of that memorandum or report shall no longer be 1372
confidential. 1373

Sec. 3903.74. If any company, corporation, or association 1374
required by law to make a deposit with the superintendent of 1375
insurance, or other state officer, to secure the contracts ~~or~~ ~~of~~ 1376
of such company, corporation, or association, or for any other 1377
purpose, fails to pay any of its liabilities upon such 1378
contracts, or other obligations, according to the terms thereof 1379
after the liability thereon has been determined, or if such 1380
company, corporation, or association, having ceased to do 1381
business~~with~~ within this state, leaves unpaid any such 1382

liability or has become insolvent, the attorney general, on 1383
behalf of the superintendent, or such other officer, and upon 1384
the application of any person entitled to participate in such 1385
deposit, or the proceeds arising therefrom, shall commence a 1386
civil action in the court of common pleas of Franklin county, 1387
making the company, corporation, or association a party 1388
defendant, to determine the rights of all parties claiming any 1389
interest in such deposit, to subject the deposit to the payment 1390
or satisfaction of all liabilities, and to distribute such fund 1391
among the persons entitled thereto. 1392

Sec. 3904.01. As used in sections 3904.01 to 3904.22 of 1393
the Revised Code: 1394

(A) (1) "Adverse underwriting decision" means any of the 1395
following actions with respect to insurance transactions 1396
involving life, health, or disability insurance coverage that is 1397
individually underwritten: 1398

(a) A declination of insurance coverage; 1399

(b) A termination of insurance coverage; 1400

(c) Failure of an agent to apply for insurance coverage 1401
with a specific insurance institution that the agent represents 1402
and that is requested by an applicant; 1403

(d) An offer to insure at higher than standard rates. 1404

(2) Notwithstanding division (A) (1) of this section, none 1405
of the following actions is an adverse underwriting decision, 1406
but the insurance institution or agent responsible for their 1407
occurrence shall nevertheless provide the applicant or 1408
policyholder with the specific reason or reasons for their 1409
occurrence: 1410

(a) The termination of an individual policy form on a	1411
class or statewide basis;	1412
(b) A declination of insurance coverage solely because the	1413
coverage is not available on a class or statewide basis;	1414
(c) The rescission of a policy.	1415
(B) "Affiliate" or "affiliated" means a person that	1416
directly, or indirectly through one or more intermediaries,	1417
controls, is controlled by, or is under common control with	1418
another person.	1419
(C) "Agent" means a person licensed under Chapter 3905. of	1420
the Revised Code to negotiate or solicit applications for a	1421
policy or contract of life, health, or disability insurance.	1422
(D) "Applicant" means any person that seeks to contract	1423
for life, health, or disability insurance coverage other than a	1424
person seeking group insurance that is not individually	1425
underwritten.	1426
(E) "Consumer report" means any written, oral, or other	1427
communication of information bearing on a natural person's	1428
credit worthiness, credit standing, credit capacity, character,	1429
general reputation, personal characteristics, or mode of living	1430
that is used or expected to be used in connection with a life,	1431
health, or disability insurance transaction.	1432
(F) "Consumer reporting agency" means any person that does	1433
all of the following:	1434
(1) Regularly engages, in whole or in part, in the	1435
practice of assembling or preparing consumer reports for a	1436
monetary fee;	1437
(2) Obtains information primarily from sources other than	1438

insurance institutions;	1439
(3) Furnishes consumer reports to other persons.	1440
(G) "Control," including the terms "controlled by" or "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.	1441 1442 1443 1444 1445 1446 1447 1448
(H) "Declination of insurance coverage" means a denial, in whole or in part, by an insurance institution or agent of requested insurance coverage.	1449 1450 1451
(I) "Individual" means any natural person who in connection with life, health, or disability insurance:	1452 1453
(1) Is a past, present, or proposed principal insured or certificate holder;	1454 1455
(2) Is a past, present, or proposed policy owner;	1456
(3) Is a past or present applicant;	1457
(4) Is a past or present claimant;	1458
(5) Derived, derives, or is proposed to derive insurance coverage under an insurance policy or certificate subject to sections 3904.01 to 3904.22 of the Revised Code.	1459 1460 1461
(J) "Institutional source" means any person or governmental entity that provides information about an individual to an agent, insurance institution, or insurance support organization, other than any of the following:	1462 1463 1464 1465

(1) An agent;	1466
(2) The individual who is the subject of the information;	1467
(3) A natural person acting in a personal capacity rather than in a business or professional capacity.	1468 1469
(K) "Insurance institution" means any corporation, association, partnership, fraternal benefit society, or other person engaged in the business of life, health, or disability insurance, including health insuring corporations. "Insurance institution" does not include agents or insurance support organizations.	1470 1471 1472 1473 1474 1475
(L) (1) "Insurance support organization" means any person that regularly engages, in whole or in part, in the practice of assembling or collecting information about natural persons for the primary purpose of providing the information to an insurance institution or agent for insurance transactions, including both of the following:	1476 1477 1478 1479 1480 1481
(a) The furnishing of consumer reports or investigative consumer reports to an insurance institution or agent for use in connection with an insurance transaction;	1482 1483 1484
(b) The collection of personal information from insurance institutions, agents, or other insurance support organizations for the purpose of detecting or preventing fraud, material misrepresentation, or material nondisclosure in connection with insurance underwriting or insurance claim activity.	1485 1486 1487 1488 1489
(2) Notwithstanding division (L) (1) of this section, agents, government institutions, insurance institutions, medical care institutions, and medical professionals are not "insurance support organizations" for purposes of sections 3904.01 to 3904.22 of the Revised Code.	1490 1491 1492 1493 1494

(M) "Insurance transaction" means any transaction 1495
involving life, health, or disability insurance primarily for 1496
personal, family, or household needs rather than business or 1497
professional needs and entailing either the determination of an 1498
individual's eligibility for a life, health, or disability 1499
insurance coverage, benefit, or payment, or the servicing of a 1500
life, health, or disability insurance application, policy, 1501
contract, or certificate. 1502

(N) "Investigative consumer report" means a consumer 1503
report or portion thereof in which information about a natural 1504
person's character, general reputation, personal 1505
characteristics, or mode of living is obtained through personal 1506
interviews with the person's neighbors, friends, associates, 1507
acquaintances, or others who may have knowledge concerning such 1508
items of information. 1509

(O) "Medical care institution" means any facility or 1510
institution that is licensed to provide health care services to 1511
natural persons, including home-health agencies, hospitals, 1512
medical clinics, public health agencies, rehabilitation 1513
agencies, and skilled nursing facilities. 1514

(P) "Medical professional" means any person licensed or 1515
certified to provide health care services to natural persons, 1516
including a chiropractor, clinical-~~dietician~~ dietitian, clinical 1517
psychologist, dentist, nurse, occupational therapist, 1518
optometrist, pharmacist, physical therapist, physician, 1519
podiatrist, psychiatric social worker, and speech therapist. 1520

(Q) "Medical record information" means personal 1521
information that relates to an individual's physical or mental 1522
condition, medical history, or medical treatment and that is 1523
obtained from a medical professional or medical care 1524

institution, from the individual, or from the individual's 1525
spouse, parent, or legal guardian. 1526

(R) "Personal information" means any individually 1527
identifiable information gathered in connection with an 1528
insurance transaction from which judgments can be made about an 1529
individual's character, habits, avocations, finances, 1530
occupation, general reputation, credit, health, or any other 1531
personal characteristics. "Personal information" includes an 1532
individual's name and address and medical record information but 1533
does not include privileged information. 1534

(S) "Policyholder" means any person that is a present 1535
owner of individual life, health, or disability insurance, or a 1536
present certificate holder under group life, health, or 1537
disability insurance that is individually underwritten. 1538

(T) "Pretext interview" means an interview whereby a 1539
person, in an attempt to obtain information about a natural 1540
person, performs one or more of the following acts: 1541

(1) Pretends to be someone the interviewer is not; 1542

(2) Pretends to represent a person the interviewer is not 1543
in fact representing; 1544

(3) Misrepresents the true purpose of the interview; 1545

(4) Refuses to identify self upon request. 1546

(U) "Privileged information" means any individually 1547
identifiable information that relates to a claim for life, 1548
health, or disability insurance benefits or a civil or criminal 1549
proceeding involving an individual, and that is collected in 1550
connection with, or in reasonable anticipation of, a claim for 1551
life, health, or disability insurance benefits or civil or 1552

criminal proceeding involving an individual. However, 1553
information otherwise meeting the requirements of this division 1554
shall nevertheless be considered personal information if it is 1555
disclosed in violation of section 3904.13 of the Revised Code. 1556

(V) "Termination of insurance coverage" or "termination of 1557
an insurance policy" means either a cancellation or nonrenewal 1558
of a life, health, or disability insurance policy, in whole or 1559
in part, for any reason other than the failure to pay a premium 1560
as required by the policy. 1561

(W) "Unauthorized insurer" means an insurance institution 1562
that has not been granted a certificate of authority by the 1563
superintendent of insurance to transact the business of life, 1564
health, or disability insurance in this state. 1565

Sec. 3904.16. (A) Whenever the superintendent of insurance 1566
has reason to believe that an insurance institution, agent, or 1567
insurance support organization has been or is engaged in conduct 1568
in this state that violates sections 3904.01 to 3904.22 of the 1569
Revised Code, or if the superintendent believes that an 1570
insurance support organization has been or is engaged in conduct 1571
outside this state that has an effect on a person residing in 1572
this state and that violates these sections, the superintendent 1573
shall issue and serve upon such insurance institution, agent, or 1574
insurance support organization a statement of charges and notice 1575
of hearing to be held at a time and place fixed in the notice. 1576
The date for such hearing shall be not less than thirty days 1577
after the date of service. 1578

(B) At the time and place fixed for such hearing, the 1579
insurance institution, agent, or insurance support organization 1580
charged shall have an opportunity to answer the charges against 1581
it and present evidence on its ~~behalf~~ behalf. Upon good cause 1582

shown, the superintendent shall permit any adversely affected 1583
person to intervene, appear, and be heard at such hearing by 1584
counsel or in person. 1585

(C) At any hearing conducted pursuant to this section, the 1586
superintendent may administer oaths, examine, and cross-examine 1587
witnesses and receive oral and documentary evidence. The 1588
superintendent may subpoena witnesses, compel their attendance, 1589
and require the production of books, papers, records, 1590
correspondence and other documents that are relevant to the 1591
hearing. A stenographic record of the hearing shall be made upon 1592
the request of any party or at the discretion of the 1593
superintendent. If no stenographic record is made and if 1594
judicial review is sought, the superintendent shall prepare a 1595
statement of the evidence for use on the review. Hearings 1596
conducted under this section are governed by the same rules of 1597
evidence and procedure applicable to administrative proceedings 1598
conducted under Chapter 119. of the Revised Code. 1599

(D) Statements of charges, notices, orders, and other 1600
processes of the superintendent under sections 3904.01 to 1601
3904.22 of the Revised Code may be served by anyone authorized 1602
to act on behalf of the superintendent. Service of process may 1603
be completed in the manner provided by law for service of 1604
process in civil actions or by registered mail. A copy of the 1605
statement of charges, notice, order or other process shall be 1606
provided to the person or persons whose rights under these 1607
sections have been allegedly violated. A verified return setting 1608
forth the manner of service, or return postcard receipt in the 1609
case of registered mail, is sufficient proof of service. 1610

Sec. 3905.051. (A) As used in this section: 1611

~~(A)~~ (1) "Applicant" means a natural person applying for 1612

either of the following: 1613

~~(1)~~ (a) A resident license as an insurance agent or surety 1614
bail bond agent; 1615

~~(2)~~ (b) An additional line of authority under an existing 1616
resident insurance agent license if a criminal ~~record~~ records 1617
check has not been obtained within the last twelve months for 1618
insurance license purposes. 1619

~~(B)~~ (2) "Fingerprint" means an impression of the lines on 1620
the finger taken for the purpose of identification. The 1621
impression may be electronic or converted to an electronic 1622
format. 1623

~~(C)~~ (B) Each applicant shall consent to a criminal record 1624
check in accordance with this section and shall submit a full 1625
set of fingerprints to the superintendent of insurance for that 1626
purpose. 1627

~~(D)~~ (C) The superintendent of insurance shall request the 1628
superintendent of the bureau of criminal identification and 1629
investigation to conduct a criminal records check based on the 1630
applicant's fingerprints. The superintendent of insurance shall 1631
request that criminal record information from the federal bureau 1632
of investigation be obtained as part of the criminal records 1633
check. 1634

~~(E)~~ (D) The superintendent of insurance may contract for 1635
the collection and transmission of fingerprints authorized under 1636
this section. The superintendent may order the fee for 1637
collecting and transmitting fingerprints to be payable directly 1638
to the contractor by the applicant. The superintendent may agree 1639
to a reasonable fingerprinting fee to be charged by the 1640
contractor. Any fee required under this section shall be paid by 1641

the applicant. 1642

~~(F)~~ (E) The superintendent may receive criminal record 1643
information directly in lieu of the bureau of criminal 1644
identification and investigation that submitted the fingerprints 1645
to the federal bureau of investigation. 1646

~~(G)~~ (F) The superintendent shall treat and maintain an 1647
applicant's fingerprints and any criminal record information 1648
obtained under this section as confidential and shall apply 1649
security measures consistent with the criminal justice 1650
information services division of the federal bureau of 1651
investigation standards for the electronic storage of 1652
fingerprints and necessary identifying information and limit the 1653
use of records solely to the purposes authorized by this 1654
section. The fingerprints and any criminal record information 1655
are not subject to subpoena other than one issued pursuant to a 1656
criminal investigation, are confidential by law and privileged, 1657
are not subject to discovery, and are not admissible in any 1658
private civil action. 1659

~~(H)~~ (G) This section does not apply to an agent applying 1660
for renewal of an existing resident or nonresident license in 1661
this state. 1662

Sec. 3905.14. (A) As used in sections 3905.14 to 3905.16 1663
of the Revised Code: 1664

(1) "Insurance agent" includes a limited lines insurance 1665
agent, surety bail bond agent, and surplus line broker. 1666

(2) "Refusal to issue or renew" means the decision of the 1667
superintendent of insurance not to process either the initial 1668
application for a license as an agent or the renewal of such a 1669
license. 1670

(3) "Revocation" means the permanent termination of all authority to hold any license as an agent in this state.

(4) "Surrender for cause" means the voluntary termination of all authority to hold any license as an agent in this state, in lieu of a revocation or suspension order.

(5) "Suspension" means the termination of all authority to hold any license as an agent in this state, for either a specified period of time or an indefinite period of time and under any terms or conditions determined by the superintendent.

(B) The superintendent may suspend, revoke, or refuse to issue or renew any license of an insurance agent, assess a civil penalty, or impose any other sanction or sanctions authorized under this chapter, for one or more of the following reasons:

(1) Providing incorrect, misleading, incomplete, or materially untrue information in a license or appointment application;

(2) Violating or failing to comply with any insurance law, rule, subpoena, consent agreement, or order of the superintendent or of the insurance authority of another state;

(3) Obtaining, maintaining, or attempting to obtain or maintain a license through misrepresentation or fraud;

(4) Improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business;

(5) Intentionally misrepresenting the terms, benefits, value, cost, or effective dates of any actual or proposed insurance contract or application for insurance;

(6) Having been convicted of or pleaded guilty or no

contest to a felony regardless of whether a judgment of 1699
conviction has been entered by the court; 1700

(7) Having been convicted of or pleaded guilty or no 1701
contest to a misdemeanor that involves the misuse or theft of 1702
money or property belonging to another, fraud, forgery, 1703
dishonest acts, or breach of a fiduciary duty, that is based on 1704
any act or omission relating to the business of insurance, 1705
securities, or financial services, or that involves moral 1706
turpitude regardless of whether a judgment has been entered by 1707
the court; 1708

(8) Having admitted to committing, or having been found to 1709
have committed, any insurance unfair trade act or practice or 1710
insurance fraud; 1711

(9) Using fraudulent, coercive, or dishonest practices, or 1712
demonstrating incompetence, untrustworthiness, or financial 1713
irresponsibility, in the conduct of business in this state or 1714
elsewhere; 1715

(10) Having an insurance agent license, or its equivalent, 1716
denied, suspended, or revoked in any other state, province, 1717
district, or territory; 1718

(11) Forging or causing the forgery of an application for 1719
insurance or any document related to or used in an insurance 1720
transaction; 1721

(12) Improperly using notes, any other reference material, 1722
equipment, or devices of any kind to complete an examination for 1723
an insurance agent license; 1724

(13) Knowingly accepting insurance business from an 1725
individual who is not licensed; 1726

- (14) Failing to comply with any official invoice, notice, 1727
assessment, or order directing payment of federal, state, or 1728
local income tax, state or local sales tax, or workers' 1729
compensation premiums; 1730
- (15) Failing to timely submit an application for 1731
insurance. For purposes of division (B)(15) of this section, a 1732
submission is considered timely if it occurs within the time 1733
period expressly provided for by the insurer, or within seven 1734
days after the insurance agent accepts a premium or an order to 1735
bind coverage from a policyholder or applicant for insurance, 1736
whichever is later. 1737
- (16) Failing to disclose to an applicant for insurance or 1738
policyholder upon accepting a premium or an order to bind 1739
coverage from the applicant or policyholder, that the person has 1740
not been appointed by the insurer; 1741
- (17) Having any professional license or financial industry 1742
regulatory authority registration suspended or revoked or having 1743
been barred from participation in any industry; 1744
- (18) Having been subject to a cease and desist order or 1745
permanent injunction related to mishandling of funds or breach 1746
of fiduciary responsibilities or for unlicensed or unregistered 1747
activities; 1748
- (19) Causing or permitting a policyholder or applicant for 1749
insurance to designate the insurance agent or the insurance 1750
agent's spouse, parent, child, or sibling as the beneficiary of 1751
a policy or annuity sold by the insurance agent or of a policy 1752
or annuity for which the agent, at any time, was designated as 1753
the agent of record, unless the insurance agent or a relative of 1754
the insurance agent is the insured or applicant; 1755

(20) Causing or permitting a policyholder or applicant for insurance to designate the insurance agent or the insurance agent's spouse, parent, child, or sibling as the owner or beneficiary of a trust funded, in whole or in part, by a policy or annuity sold by the insurance agent or by a policy or annuity for which the agent, at any time, was designated as the agent of record, unless the insurance agent or a relative of the insurance agent is the insured or applicant;

(21) Failing to provide a written response to the department of insurance within twenty-one calendar days after receipt of any written inquiry from the department, unless a reasonable extension of time has been requested of, and granted by, the superintendent or the superintendent's designee;

(22) Failing to appear to answer questions before the superintendent after being notified in writing by the superintendent of a scheduled interview, unless a reasonable extension of time has been requested of, and granted by, the superintendent or the superintendent's designee;

(23) Transferring or placing insurance with an insurer other than the insurer expressly chosen by the applicant for insurance or policyholder without the consent of the applicant or policyholder or absent extenuating circumstances;

(24) Failing to inform a policyholder or applicant for insurance of the identity of the insurer or insurers, or the identity of any other insurance agent or licensee known to be involved in procuring, placing, or continuing the insurance for the policyholder or applicant, upon the binding of the coverage;

(25) In the case of an agent that is a business entity, failing to report an individual licensee's violation to the

department when the violation was known or should have been 1785
known by one or more of the partners, officers, managers, or 1786
members of the business entity; 1787

(26) Submitting or using a document in the conduct of the 1788
business of insurance when the person knew or should have known 1789
that the document contained a writing that was forged as defined 1790
in section 2913.01 of the Revised Code; 1791

(27) Misrepresenting the person's qualifications, status 1792
or relationship to another person, agency, or entity, or using 1793
in any way a professional designation that has not been 1794
conferred upon the person by the appropriate accrediting 1795
organization; 1796

(28) Obtaining a premium loan or policy surrender or 1797
causing a premium loan or policy surrender to be made to or in 1798
the name of an insured or policyholder without that person's 1799
knowledge and written authorization; 1800

(29) Using paper, software, or any other materials of or 1801
provided by an insurer after the insurer has terminated the 1802
authority of the licensee, if the use of such materials would 1803
cause a reasonable person to believe that the licensee was 1804
acting on behalf of or otherwise representing the insurer; 1805

(30) Soliciting, procuring an application for, or placing, 1806
either directly or indirectly, any insurance policy when the 1807
person is not authorized under this chapter to engage in such 1808
activity; 1809

(31) Soliciting, selling, or negotiating any product or 1810
service that offers benefits similar to insurance but is not 1811
regulated by the superintendent, without fully disclosing, 1812
orally and in writing, to the prospective purchaser that the 1813

product or service is not insurance and is not regulated by the 1814
superintendent; 1815

(32) Failing to fulfill a refund obligation to a 1816
policyholder or applicant in a timely manner. For purposes of 1817
division (B) (32) of this section, a rebuttable presumption 1818
exists that a refund obligation is not fulfilled in a timely 1819
manner unless it is fulfilled within one of the following time 1820
periods: 1821

(a) Thirty days after the date the policyholder, 1822
applicant, or insurer takes or requests action resulting in a 1823
refund; 1824

(b) Thirty days after the date of the insurer's refund 1825
check, if the agent is expected to issue a portion of the total 1826
refund; 1827

(c) Forty-five days after the date of the agent's 1828
statement of account on which the refund first appears. 1829

The presumption may be rebutted by proof that the 1830
policyholder or applicant consented to the delay or agreed to 1831
permit the agent to apply the refund to amounts due for other 1832
coverages. 1833

(33) With respect to a surety bail bond agent license, 1834
rebating or offering to rebate, or unlawfully dividing or 1835
offering to divide, any commission, premium, or fee; 1836

(34) Using a license for the principal purpose of 1837
procuring, receiving, or forwarding applications for insurance 1838
of any kind, other than life, or soliciting, placing, or 1839
effecting such insurance directly or indirectly upon or in 1840
connection with the property of the licensee or that of 1841
relatives, employers, employees, or that for which they or the 1842

licensee is an agent, custodian, vendor, bailee, trustee, or 1843
payee; 1844

(35) In the case of an insurance agent that is a business 1845
entity, using a life license for the principal purpose of 1846
soliciting or placing insurance on the lives of the business 1847
entity's officers, employees, or shareholders, or on the lives 1848
of relatives of such officers, employees, or shareholders, or on 1849
the lives of persons for whom they, their relatives, or the 1850
business entity is agent, custodian, vendor, bailee, trustee, or 1851
payee; 1852

(36) Offering, selling, soliciting, or negotiating 1853
policies, contracts, agreements, or applications for insurance, 1854
or annuities providing fixed, variable, or fixed and variable 1855
benefits, or contractual payments, for or on behalf of any 1856
insurer or multiple employer welfare arrangement not authorized 1857
to transact business in this state, or for or on behalf of any 1858
spurious, fictitious, nonexistent, dissolved, inactive, 1859
liquidated or liquidating, or bankrupt insurer or multiple 1860
employer welfare arrangement; 1861

(37) In the case of a resident business entity, failing to 1862
be qualified to do business in this state under Title XVII of 1863
the Revised Code, failing to be in good standing with the 1864
secretary of state, or failing to maintain a valid appointment 1865
of statutory agent with the secretary of state; 1866

(38) In the case of a nonresident agent, failing to 1867
maintain licensure as an insurance agent in the agent's home 1868
state for the lines of authority held in this state; 1869

(39) Knowingly aiding and abetting another person or 1870
entity in the violation of any insurance law of this state or 1871

the rules adopted under it. 1872

(C) Before denying, revoking, suspending, or refusing to 1873
issue any license or imposing any penalty under this section, 1874
the superintendent shall provide the licensee or applicant with 1875
notice and an opportunity for hearing as provided in Chapter 1876
119. of the Revised Code, except as follows: 1877

(1) (a) Any notice of opportunity for hearing, the hearing 1878
officer's findings and recommendations, or the superintendent's 1879
order shall be served by certified mail at the last known 1880
address of the licensee or applicant. Service shall be evidenced 1881
by return receipt signed by any person. 1882

For purposes of this section, the "last known address" is 1883
the residential address of a licensee or applicant, or the 1884
principal-place-of-business address of a business entity, that 1885
is contained in the licensing records of the department. 1886

(b) If the certified mail envelope is returned with an 1887
endorsement showing that service was refused, or that the 1888
envelope was unclaimed, the notice and all subsequent notices 1889
required by Chapter 119. of the Revised Code may be served by 1890
ordinary mail to the last known address of the licensee or 1891
applicant. The mailing shall be evidenced by a certificate of 1892
mailing. Service is deemed complete as of the date of such 1893
certificate provided that the ordinary mail envelope is not 1894
returned by the postal authorities with an endorsement showing 1895
failure of delivery. The time period in which to request a 1896
hearing, as provided in Chapter 119. of the Revised Code, begins 1897
to run on the date of mailing. 1898

(c) If service by ordinary mail fails, the superintendent 1899
may cause a summary of the substantive provisions of the notice 1900

to be published once a week for three consecutive weeks in a 1901
newspaper of general circulation in the county where the last 1902
known place of residence or business of the party is located. 1903
The notice is considered served on the date of the third 1904
publication. 1905

(d) Any notice required to be served under Chapter 119. of 1906
the Revised Code shall also be served upon the party's attorney 1907
by ordinary mail if the attorney has entered an appearance in 1908
the matter. 1909

(e) The superintendent may, at any time, perfect service 1910
on a party by personal delivery of the notice by an employee of 1911
the department. 1912

(f) Notices regarding the scheduling of hearings and all 1913
other matters not described in division (C)(1)(a) of this 1914
section shall be sent by ordinary mail to the party and to the 1915
party's attorney. 1916

(2) Any subpoena for the appearance of a witness or the 1917
production of documents or other evidence at a hearing, or for 1918
the purpose of taking testimony for use at a hearing, shall be 1919
served by certified mail, return receipt requested, by an 1920
attorney or by an employee of the department designated by the 1921
superintendent. Such subpoenas shall be enforced in the manner 1922
provided in section 119.09 of the Revised Code. Nothing in this 1923
section shall be construed as limiting the superintendent's 1924
other statutory powers to issue subpoenas. 1925

(D) If the superintendent determines that a violation 1926
described in this section has occurred, the superintendent may 1927
take one or more of the following actions: 1928

(1) Assess a civil penalty in an amount not exceeding 1929

twenty-five thousand dollars per violation; 1930

(2) Assess administrative costs to cover the expenses 1931
incurred by the department in the administrative action, 1932
including costs incurred in the investigation and hearing 1933
processes. Any costs collected shall be paid into the state 1934
treasury to the credit of the department of insurance operating 1935
fund created in section 3901.021 of the Revised Code. 1936

(3) Suspend all of the person's licenses for all lines of 1937
insurance for either a specified period of time or an indefinite 1938
period of time and under such terms and conditions as the 1939
superintendent may determine; 1940

(4) Permanently revoke all of the person's licenses for 1941
all lines of insurance; 1942

(5) Refuse to issue a license; 1943

(6) Refuse to renew a license; 1944

(7) Prohibit the person from being employed in any 1945
capacity in the business of insurance and from having any 1946
financial interest in any insurance agency, company, surety bail 1947
bond business, or third-party administrator in this state. The 1948
superintendent may, in the superintendent's discretion, 1949
determine the nature, conditions, and duration of such 1950
restrictions. 1951

(8) Order corrective actions in lieu of or in addition to 1952
the other penalties listed in division (D) of this section. Such 1953
an order may provide for the suspension of civil penalties, 1954
license revocation, license suspension, or refusal to issue or 1955
renew a license if the licensee complies with the terms and 1956
conditions of the corrective action order. 1957

(9) Accept a surrender for cause offered by the licensee, 1958
which shall be for at least five years and shall prohibit the 1959
licensee from seeking any license authorized under this chapter 1960
during that time period. A surrender for cause shall be in lieu 1961
of revocation or suspension and may include a corrective action 1962
order as provided in division (D) (8) of this section. 1963

(E) The superintendent may consider the following factors 1964
in denying a license, imposing suspensions, revocations, fines, 1965
or other penalties, and issuing orders under this section: 1966

(1) Whether the person acted in good faith; 1967

(2) Whether the person made restitution for any pecuniary 1968
losses suffered by other persons as a result of the person's 1969
actions; 1970

(3) The actual harm or potential for harm to others; 1971

(4) The degree of trust placed in the person by, and the 1972
vulnerability of, persons who were or could have been adversely 1973
affected by the person's actions; 1974

(5) Whether the person was the subject of any previous 1975
administrative actions by the superintendent; 1976

(6) The number of individuals adversely affected by the 1977
person's acts or omissions; 1978

(7) Whether the person voluntarily reported the violation, 1979
and the extent of the person's cooperation and acceptance of 1980
responsibility; 1981

(8) Whether the person obstructed or impeded, or attempted 1982
to obstruct or impede, the superintendent's investigation; 1983

(9) The person's efforts to conceal the misconduct; 1984

(10) Remedial efforts to prevent future violations;	1985
(11) If the person was convicted of a criminal offense, the nature of the offense, whether the conviction was based on acts or omissions taken under any professional license, whether the offense involved the breach of a fiduciary duty, the amount of time that has passed, and the person's activities subsequent to the conviction;	1986 1987 1988 1989 1990 1991
(12) Such other factors as the superintendent determines to be appropriate under the circumstances.	1992 1993
(F) (1) A violation described in division (B) (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (16), (17), (18), (19), (20), (22), (23), (24), (25), (26), (27), (28), (29), (30), (31), (32), (33), (34), (35), and or (36) of this section is a class A offense for which the superintendent may impose any penalty set forth in division (D) of this section.	1994 1995 1996 1997 1998 1999 2000
(2) A violation described in division (B) (15) or (21) of this section, or a failure to comply with section 3905.061, 3905.071, or 3905.22 of the Revised Code, is a class B offense for which the superintendent may impose any penalty set forth in division (D) (1), (2), (8), or (9) of this section.	2001 2002 2003 2004 2005
(3) If the superintendent determines that a violation described in division (B) (36) of this section has occurred, the superintendent shall impose a minimum of a two-year suspension on all of the person's licenses for all lines of insurance.	2006 2007 2008 2009
(G) If a violation described in this section has caused, is causing, or is about to cause substantial and material harm, the superintendent may issue an order requiring that person to cease and desist from engaging in the violation. Notice of the	2010 2011 2012 2013

order shall be mailed by certified mail, return receipt 2014
requested, or served in any other manner provided for in this 2015
section, immediately after its issuance to the person subject to 2016
the order and to all persons known to be involved in the 2017
violation. The superintendent may thereafter publicize or 2018
otherwise make known to all interested parties that the order 2019
has been issued. 2020

The notice shall specify the particular act, omission, 2021
practice, or transaction that is subject to the cease-and-desist 2022
order and shall set a date, not more than fifteen days after the 2023
date of the order, for a hearing on the continuation or 2024
revocation of the order. The person shall comply with the order 2025
immediately upon receipt of notice of the order. 2026

The superintendent may, upon the application of a party 2027
and for good cause shown, continue the hearing. Chapter 119. of 2028
the Revised Code applies to such hearings to the extent that 2029
that chapter does not conflict with the procedures set forth in 2030
this section. The superintendent shall, within fifteen days 2031
after objections are submitted to the hearing officer's report 2032
and recommendation, issue a final order either confirming or 2033
revoking the cease-and-desist order. The final order may be 2034
appealed as provided under section 119.12 of the Revised Code. 2035

The remedy under this division is cumulative and 2036
concurrent with the other remedies available under this section. 2037

(H) If the superintendent has reasonable cause to believe 2038
that an order issued under this section has been violated in 2039
whole or in part, the superintendent may request the attorney 2040
general to commence and prosecute any appropriate action or 2041
proceeding in the name of the state against such person. 2042

The court may, in an action brought pursuant to this 2043
division, impose any of the following: 2044

(1) For each violation, a civil penalty of not more than 2045
twenty-five thousand dollars; 2046

(2) Injunctive relief; 2047

(3) Restitution; 2048

(4) Any other appropriate relief. 2049

(I) With respect to a surety bail bond agent license: 2050

(1) Upon the suspension or revocation of a license, or the 2051
eligibility of a surety bail bond agent to hold a license, the 2052
superintendent likewise may suspend or revoke the license or 2053
eligibility of any surety bail bond agent who is employed by or 2054
associated with that agent and who knowingly was a party to the 2055
act that resulted in the suspension or revocation. 2056

(2) The superintendent may revoke a license as a surety 2057
bail bond agent if the licensee is adjudged bankrupt. 2058

(J) Nothing in this section shall be construed to create 2059
or imply a private cause of action against an agent or insurer. 2060

Sec. 3905.84. No person shall act in the capacity of a 2061
surety bail bond agent, or perform any of the functions, duties, 2062
or powers prescribed for surety bail bond agents under sections 2063
3905.83 to 3905.95 of the Revised Code, unless that person ~~is~~ is 2064
qualified, licensed, and appointed as provided in those 2065
sections. 2066

Sec. 3909.04. Every life insurance company organized by 2067
act of congress or under the laws of another state of the United 2068
States shall file with the superintendent of insurance a 2069

certified copy of its charter, or deed of settlement, together 2070
with a statement, under the oath of the president, vice- 2071
president, or other chief officer or manager, and the secretary 2072
of the company, stating the name of the company, the place where 2073
it is located, and the amount of its capital, with a detailed 2074
statement of all the facts required in the annual statement of 2075
companies organized under sections ~~3907.1~~ 3907.01 to 3907.21, ~~—~~ 2076
~~inclusive,~~ of the Revised Code, except as to the statement 2077
required by division (N) of section 3907.19 of the Revised Code, 2078
which statement shall be filed by such company only when 2079
required by the superintendent for purposes of actual valuation, 2080
as provided by the insurance laws of this state. The statement 2081
also shall include a copy of its last annual report, if any was 2082
made. 2083

Sec. 3911.24. Upon the conviction of any person, firm, 2084
association, or life insurance company for violating section 2085
3911.23 of the Revised Code, the superintendent of insurance 2086
shall revoke the license of such person, firm, association, or 2087
life insurance company for not less than one year. 2088

The superintendent, when ~~he the superintendent~~ has good 2089
reason to believe that any company or association writing life 2090
insurance in this state, on any plan, is knowingly permitting 2091
any of its agents or representatives to violate section 3911.23 2092
of the Revised Code, shall give such company or association 2093
notice of a hearing in accordance with ~~sections 119.01 to~~ 2094
~~119.13, inclusive,~~ Chapter 119. of the Revised Code, upon the 2095
charge of knowingly permitting said section to be violated, and, 2096
if ~~he the superintendent~~ finds said company or association 2097
guilty of the offense, ~~he the superintendent~~ shall revoke its 2098
license. 2099

Sec. 3913.11. (A) A domestic mutual life insurance company 2100
may become a stock life insurance company, pursuant to sections 2101
3913.11 to 3913.13 of the Revised Code, provided that the 2102
company have unassigned surplus at least equal to the capital 2103
and surplus required under section 3907.05 of the Revised Code 2104
for a life insurance company to commence business in this state, 2105
that such conversion will benefit the company, that adequate 2106
provision for protection of the policyholders' interests is 2107
made, and that such conversion is not inequitable, unreasonable, 2108
or contrary to law. "Policyholder", as used in sections 3913.11 2109
to 3913.13 of the Revised Code, means a policyholder as defined 2110
in section 3913.10 of the Revised Code and the qualifications 2111
for voting shall be as provided in that section. 2112

(B) The board of directors of a mutual life insurance 2113
company desiring to become a stock life insurance company shall, 2114
by a majority vote, adopt a resolution stating the reason it 2115
believes such conversion would be of benefit to the company and 2116
its policyholders, and setting forth a plan of conversion and 2117
explanation thereof, a schedule of the steps to be followed in 2118
effecting the conversion, and a statement of the organization of 2119
the new company and its capitalization, including the number of 2120
shares of capital stock and the price per share for which the 2121
stock is to be issued. Five certified copies of such resolution 2122
shall be filed with the superintendent of insurance, together 2123
with the following: 2124

(1) A copy of the charter or articles of incorporation of 2125
the company, together with the proposed articles of 2126
incorporation of the new company; 2127

(2) Complete annual financial statements of the company 2128
for the five accounting periods immediately preceding the date 2129

of the resolution, based on generally recognized insurance 2130
accounting principles; 2131

(3) A draft of the prospectus to be sent to the 2132
policyholders, which shall contain a full disclosure of the 2133
details of the proposed conversion; 2134

(4) Such other and further statements, affidavits, books, 2135
records, papers, information, and data, as the superintendent 2136
may require. 2137

(C) Within thirty days of the filing of the resolution and 2138
supporting documents and information required by division (B) of 2139
this section, the superintendent shall review them, and if it 2140
appears on their face that such conversion meets the 2141
requirements contained in division (A) of this section, ~~he the~~ 2142
superintendent shall order an examination of the company. If ~~he~~ 2143
the superintendent finds that such conversion does not meet the 2144
requirements contained in division (A), ~~he the superintendent~~ 2145
shall issue a written order prohibiting the conversion, stating 2146
in detail the reasons therefor. The company may, within thirty 2147
days after issuance of such order of prohibition, submit 2148
modifications to the proposed conversion, and ~~if the~~ 2149
~~superintendent finds~~ after finding that the conversion as so 2150
modified meets the requirements contained in division (A) ~~he the~~ 2151
superintendent shall rescind ~~his the~~ prior order and order an 2152
examination of the company. The examination conducted pursuant 2153
to this section shall be such as is necessary to verify that 2154
such conversion will meet the requirements contained in division 2155
(A). The expenses of such examination shall be paid by the 2156
company. 2157

(D) Upon completion of the examination, the superintendent 2158
shall appoint an appraisal committee, consisting of a fellow of 2159

the society of actuaries, an attorney at law, and a person who 2160
by reason of knowledge and experience is specially qualified in 2161
the valuation of insurance companies. No member of such 2162
committee shall have any direct or indirect interest in the 2163
company's affairs, nor shall any member be an employee of the 2164
department of insurance. Each such appraiser shall receive 2165
reasonable compensation for ~~his~~ the appraiser's services, plus 2166
reasonable expenses, as approved by the superintendent, which 2167
compensation and expenses shall be paid by the company. The 2168
appraisal committee shall determine the value of the company as 2169
of the date of the examination conducted pursuant to this 2170
section, taking into consideration the admitted and non-admitted 2171
assets, reserves, and other liabilities, equity in unearned 2172
premium reserves, the value of the agency plant, the value of 2173
insurance in force, and any other factor affecting the value of 2174
the company. 2175

The appraisal committee shall confirm or modify the 2176
determination of the board of directors as to the consideration 2177
to be given to each policyholder, including, if applicable, the 2178
number of ~~shares~~ shares of the new corporation and establish the 2179
priority rights for subscription to any additional shares that 2180
may be issued to each policyholder pursuant to section 3913.12 2181
of the Revised Code. Certified copies of the report of the 2182
appraisers shall be filed with the superintendent and sent to 2183
the company. 2184

(E) Within sixty days after the appraisal committee files 2185
its report with the superintendent, the company shall call a 2186
meeting of policyholders. Notice of the time and place of such 2187
meeting shall be sent by mail to each policyholder at ~~his~~ the 2188
policyholder's post office address as it appears on the books of 2189
the company, and to the superintendent, at least thirty days 2190

prior to such meeting. Such notice shall include a copy of the
prospectus required under division (B) (3) of this section as
approved by the superintendent, a summary of the examination
approved by the superintendent, a uniform ballot for voting on
the question of conversion, together with a postage prepaid
envelope for the return of such ballot, a copy or summary of the
report of the appraisal committee, a statement of the
consideration to be given to the policyholder, including, if
applicable, the number of shares of the new company to be issued
to the policyholder and the priority rights of the policyholder
for subscription to any additional shares that may be issued,
and a statement that if the conversion is approved by the
policyholders, the superintendent will fix a time and place for
a public hearing on such conversion not more than sixty days
after the date of such meeting. The superintendent shall appoint
sufficient inspectors to conduct the voting at said meeting and
to determine all questions concerning the verification of
ballots, the qualifications of voters, and the canvass of the
vote. The inspectors shall certify to the superintendent and to
the company the result of such proceedings. Voting at such
meeting may be in person, by proxy, or by mail as provided in
this division. All necessary expenses incurred by the department
in connection with such meeting, and certified by the
superintendent, shall be paid by the company.

(F) If such conversion is approved at such meeting by the
affirmative vote of a majority of the policyholders of such
company voting at the meeting, the superintendent shall fix the
time and place for a public hearing not more than sixty days
after the date of such meeting. Otherwise, ~~he~~ the superintendent
shall issue an order prohibiting the conversion. Notice of the
time and place of such hearing shall be published once each week

for two consecutive weeks in a newspaper of general circulation 2222
in the county where the home office of the company is located, 2223
and in Franklin county, and the last such publication shall be 2224
at least fifteen days prior to the date of such hearing. The 2225
expenses of publication of notice shall be paid by the company. 2226
At such hearing, the superintendent shall hear any person 2227
adversely affected by the conversion, who may present ~~his~~ the 2228
person's position, arguments, or contentions, offer and examine 2229
witnesses, and present evidence tending to show that such 2230
conversion does not meet the requirements contained in division 2231
(A) of this section. If the superintendent finds that such 2232
conversion meets such requirements, ~~he~~ the superintendent shall 2233
issue ~~his~~ a written order accepting the report of the appraisal 2234
committee and authorizing the conversion. Otherwise, ~~he~~ the 2235
superintendent shall issue such order as is appropriate to ~~his~~ the 2236
superintendent's findings. 2237

(G) At or after the issuance of the order authorizing the 2238
conversion, the articles of incorporation of the new company as 2239
approved by the superintendent shall be filed with the secretary 2240
of state. When such articles of incorporation of the new company 2241
are filed and accepted by the secretary of state, the mutual 2242
life insurance company shall become a stock life insurance 2243
company, and all property of every description and every 2244
interest therein, and all obligations of, belonging to, or due 2245
the mutual company shall thereafter be considered vested in the 2246
stock company without further act or deed. The stock insurance 2247
company shall be liable for all obligations of the mutual 2248
company and any claim existing or action or proceeding pending 2249
by or against the company may be prosecuted to judgment, with 2250
right of appeal as in other cases, as if such conversion had not 2251
taken place. All rights of creditors, and all liens upon the 2252

property of the mutual company shall be preserved unimpaired, 2253
limited in lien to the property affected by such liens 2254
immediately prior to the effective date of the conversion. 2255

The directors and officers of the mutual company shall 2256
serve as the directors and officers of the new company, until 2257
new directors and officers have been duly elected and qualified 2258
pursuant to the articles of incorporation and by-laws of the new 2259
company, and as otherwise provided by law. 2260

(H) Upon the conversion becoming effective pursuant to 2261
division (G) of this section, the new company shall forthwith 2262
proceed with winding up the affairs of the mutual company, and 2263
with the issuance of stock and priority rights in accordance 2264
with section 3913.12 of the Revised Code. Within six months 2265
after such effective date of the conversion, the new company 2266
shall file with the superintendent a written report containing 2267
such information as the superintendent may require to fully 2268
apprise ~~him~~ the superintendent of the status of the conversion 2269
and whether it has been or is being carried out in accordance 2270
with its terms and according to law. 2271

Sec. 3913.40. (A) Any insurer, including any fraternal 2272
benefit society, that is organized under the laws of another 2273
state and is admitted to transact the business of insurance in 2274
this state may become a domestic insurer by complying with all 2275
of the requirements of law relative to the organization and 2276
licensing of a domestic insurer of the same type and by 2277
designating its principal place of business at a place in this 2278
state. Such a domestic insurer shall be issued like certificates 2279
and licenses to transact business in this state, is subject to 2280
the jurisdiction of this state, and shall be recognized as an 2281
insurer formed under the laws of this state as of the date of 2282

its original incorporation in its original domiciliary state. 2283
The superintendent of insurance shall approve any proposed 2284
transfer of domicile under this division unless the 2285
superintendent determines that the transfer is not in the 2286
interest of policyholders of this state. 2287

(B) Any domestic insurer, upon the approval of the 2288
superintendent, may transfer its domicile to any other state in 2289
which it is admitted to transact the business of insurance. Upon 2290
such a transfer, the insurer shall cease to be a domestic 2291
insurer, and shall be admitted to this state if qualified as a 2292
foreign insurer. The superintendent shall approve any proposed 2293
transfer of domicile under this division unless the 2294
superintendent determines that the transfer is not in the 2295
interest of policyholders of this state. 2296

(C) (1) With respect to any insurer, including any 2297
fraternal benefit society, that is licensed to transact the 2298
business of insurance in this state and that transfers its 2299
domicile to this or any other state by merger, consolidation, or 2300
any other lawful method, both of the following apply: 2301

(a) The certificate of authority, ~~agents~~ agent 2302
appointments and licenses, rates, and other items as allowed by 2303
the superintendent that are in existence at the time of the 2304
transfer shall continue in effect upon the transfer if the 2305
insurer remains qualified to transact the business of insurance 2306
in this state. 2307

(b) All outstanding policies shall remain in effect and 2308
need not be endorsed as to the new name of the company or its 2309
new location unless so ordered by the superintendent. 2310

(2) Every transferring insurer as described in division 2311

(C) (1) of this section shall file new policy forms with the 2312
superintendent on or before the effective date of the transfer, 2313
but may use existing policy forms with appropriate endorsements 2314
if allowed by, and under such conditions as are approved by, the 2315
superintendent. Every such insurer shall notify the 2316
superintendent of the details of the proposed transfer, and 2317
shall file promptly any resulting amendments to corporate 2318
documents filed or required to be filed with the superintendent. 2319

(D) Nothing in this section or any other provision of the 2320
Revised Code prohibits an insurer from transferring its domicile 2321
to this state because its charter, bylaws, or any other 2322
organizational document contains characteristics of both a 2323
mutual insurance company and a stock insurance company. 2324

(E) The superintendent, in accordance with Chapter 119. of 2325
the Revised Code, may adopt rules to carry out the purposes of 2326
this section. 2327

Sec. 3915.05. No policy of life insurance shall be issued 2328
or delivered in this state or be issued by a life insurance 2329
company organized under the laws of this state unless such 2330
policy contains: 2331

(A) A provision that all premiums shall be payable in 2332
advance, either at the home office of the company or to an agent 2333
of the company, upon delivery of a receipt signed by one or more 2334
of the officers named in the policy; 2335

(B) A provision for a grace of one month for the payment 2336
of every premium after the first, which extension period may be 2337
subject to an interest charge and during which month the 2338
insurance shall continue in force, which provision may contain a 2339
stipulation that if the insured dies during the month of grace 2340

the overdue premium will be deducted in any settlement under the 2341
policy; 2342

(C) A provision that the policy and the application 2343
therefor, a copy of which application must be indorsed on the 2344
policy, shall constitute the entire contract between the parties 2345
and shall be incontestable after it has been in force during the 2346
lifetime of the insured for a period of not more than two years 2347
from its date, except for nonpayment of premiums, except for 2348
violations of the conditions relating to naval or military 2349
service in time of war or to aeronautics, and except at the 2350
option of the company, with respect to provisions relative to 2351
benefits in the event of total and permanent disability and 2352
provisions which grant additional insurance specifically against 2353
death by accident or by accidental means; 2354

(D) A provision that all statements made by the insured in 2355
the application shall, in the absence of fraud, be deemed 2356
representations and not warranties; 2357

(E) A provision that if the age of the insured has been 2358
understated the amount payable under the policy shall be such as 2359
the premium would have purchased at the correct age; 2360

(F) A provision that the policy shall participate in the 2361
surplus of the company and that, beginning not later than the 2362
end of the third policy year, the company will annually 2363
determine and account for the portion of the divisible surplus 2364
accruing on the policy, and that the owner of the policy has the 2365
right each year to have the current dividend arising from such 2366
participation paid in cash or applied to the purchase of paid-up 2367
additions, and if the policy provides other dividend options, it 2368
shall further provide that if the owner of the policy does not 2369
elect any such other option the dividend shall be applied to the 2370

purchase of paid-up additions. 2371

In lieu of such provision, the policy may contain a 2372
provision that: 2373

(1) The policy shall participate in the surplus of the 2374
company; 2375

(2) Beginning not later than the end of the fifth policy 2376
year, the company will determine and account for the portion of 2377
the divisible surplus accruing on the policy; 2378

(3) The owner of the policy has the right to have the 2379
current dividend arising from such participation paid in cash; 2380

(4) Such accounting and payment shall be had at periods of 2381
not more than five years, at the option of the policyholder. 2382

Renewable term policies of ten years or less may provide 2383
that the surplus accruing to such policies shall be determined 2384
and apportioned each year after the second policy year and 2385
accumulated during each renewal period, and that at the end of 2386
any renewal period, on renewal of the policy by the insured, the 2387
company shall apply the accumulated surplus as an annuity for 2388
the next succeeding renewal term in the reduction of premiums. 2389

The provisions described in this division are not required 2390
in nonparticipating policies. 2391

(G) A provision that after three full years' premiums have 2392
been paid, the company, at any time while the policy is in 2393
force, will advance, on proper assignment of the policy and on 2394
the sole security thereof, at a rate of interest calculated 2395
pursuant to section 3915.051 of the Revised Code, a sum equal 2396
to, or at the option of the owner of the policy, less than, the 2397
amount required by section 3915.08 of the Revised Code under the 2398

conditions specified in said section, and that the company will 2399
deduct from such loan value any indebtedness not already 2400
deducted in determining such value and any unpaid balance of the 2401
premium for the current policy year, and may collect interest in 2402
advance on the loan to the end of the current policy year. It 2403
shall be further stipulated in the policy that failure to repay 2404
any such advance or to pay interest does not ~~avoid~~ void the 2405
policy unless the total indebtedness thereon to the company 2406
equals or exceeds such loan value at the time of such failure 2407
nor until one month after notice has been mailed by the company 2408
to the last known address of insured and of the assignee. 2409

No conditions, other than as provided in this division or 2410
in section 3915.08 of the Revised Code, shall be exacted as a 2411
prerequisite to any such advance. 2412

This provision is not required in term insurance nor does 2413
it apply to any form of insurance granted as a nonforfeiture 2414
benefit. 2415

(H) A provision for nonforfeiture benefits and cash 2416
surrender values in accordance with the requirements of section 2417
3915.06, 3915.07, or 3915.071 of the Revised Code; 2418

(I) Except for policies which guarantee unscheduled 2419
changes in benefits upon the happening of specified events or 2420
upon the exercise of an option without change to a new policy, a 2421
table showing in figures the loan values and the options 2422
available under the policies each year upon default in premium 2423
payments, during at least the first twenty years of the policy; 2424

(J) A provision that if, in the event of default in 2425
premium payments, the value of the policy is applied to the 2426
purchase of other insurance, and if such insurance is in force 2427

and the original policy has not been surrendered to the company 2428
and canceled, the policy may be reinstated within three years 2429
from such default, upon evidence of insurability satisfactory to 2430
the company and payment of arrears of premiums with interest; 2431

(K) A provision that when a policy becomes a claim by the 2432
death of the insured, settlement shall be made upon receipt of 2433
due proof of death, or not later than two months after receipt 2434
of such proof; 2435

(L) A table showing the amounts of installments in which 2436
the policy provides its proceeds may be payable; 2437

(M) A title on its face and back, correctly describing 2438
such policy. 2439

Any of the provisions described in this section or 2440
portions thereof, relating to premiums not applicable to single 2441
premium policies, shall to that extent not be incorporated in 2442
such policies. 2443

Sec. 3915.053. (A) (1) Except as provided in division (A) 2444
(2) of this section, this section shall apply to any individual 2445
life insurance policy insuring the life of a reservist, as 2446
defined in section 3923.381 of the Revised Code, who is on 2447
active duty pursuant to an executive order of the president of 2448
the United States, an act of the congress of the United States, 2449
or section 5919.29 or 5923.21 of the Revised Code, if the life 2450
insurance policy meets both of the following conditions: 2451

(a) The policy has been in force for at least one hundred 2452
eighty days. 2453

(b) The policy has been brought within the "Servicemembers 2454
Civil Relief Act," 117 Stat. 2835 (2003), 50 U.S.C. App. 541, et 2455
seq. 2456

(2) This section does not apply to any policy that was 2457
~~cancelled~~ canceled or that had lapsed for the nonpayment of 2458
premiums prior to the commencement of the insured's period of 2459
military service. 2460

(B) An individual life insurance policy described in 2461
division (A) of this section shall not lapse or be forfeited for 2462
the nonpayment of premiums during a reservist's period of 2463
military service or during the two-year period subsequent to the 2464
end of the reservist's period of military service. 2465

(C) This section does not limit a life insurance company's 2466
enforcement of provisions in the insured's policy relating to 2467
naval or military service in time of war. 2468

Sec. 3915.073. (A) This section shall be known as the 2469
standard nonforfeiture law for individual deferred annuities. 2470

(B) This section does not apply to any reinsurance, group 2471
annuity purchased under a retirement plan or plan of deferred 2472
compensation established or maintained by an employer, including 2473
a partnership or sole proprietorship, or by an employee 2474
organization, or by both, other than a plan providing individual 2475
retirement accounts or individual retirement annuities under 2476
section 408 of the Internal Revenue Code of 1954, 26 U.S.C.A. 2477
408, as amended, premium deposit fund, variable annuity, 2478
investment annuity, immediate annuity, any deferred annuity 2479
contract after annuity payments have commenced, or reversionary 2480
annuity, nor to any contract which is delivered outside this 2481
state through an agent or other representative of the company 2482
issuing the contract. 2483

(C) No contract of annuity, except as stated in division 2484
(B) of this section, shall be delivered or issued for delivery 2485

in this state unless the contract contains in substance the 2486
following provisions, or corresponding provisions that in the 2487
opinion of the superintendent of insurance are at least as 2488
favorable to the contract owners, relative to the cessation of 2489
payment of consideration under the contract: 2490

(1) That upon cessation of payment of considerations under 2491
a contract, or upon the written request of the contract owner, 2492
the company shall grant a paid-up annuity benefit on a plan 2493
stipulated in the contract of such value as is specified in 2494
divisions (E), (F), (G), (H), and (J) of this section; 2495

(2) If a contract provides for a lump sum settlement at 2496
maturity, or at any other time, that upon surrender of the 2497
contract at or prior to the commencement of any annuity 2498
payments, the company shall pay in lieu of any paid-up annuity 2499
benefit a cash surrender benefit of such amount as is specified 2500
in divisions (E), (F), (H), and (J) of this section. The company 2501
may reserve the right to defer the payment of such cash 2502
surrender benefit for a period not to exceed six months after 2503
demand therefor with surrender of the contract. The deferral is 2504
contingent upon the company's conveyance of a written request 2505
for the deferral to the superintendent and the company's receipt 2506
of written approval from the superintendent for the deferral. 2507
The request shall address the necessity and equitability to all 2508
contract owners of the deferral. 2509

(3) A statement of the mortality table, if any, and 2510
interest rates used in calculating any minimum paid-up annuity, 2511
cash surrender, or death benefits that are guaranteed under the 2512
contract, together with sufficient information to determine the 2513
amounts of such benefits; 2514

(4) A statement that any paid-up annuity, cash surrender, 2515

or death benefits that may be available under the contract are 2516
not less than the minimum benefits required by any statute of 2517
the state in which the contract is delivered and an explanation 2518
of the manner in which such benefits are altered by the 2519
existence of any additional amounts credited by the company to 2520
the contract, any indebtedness to the company on the contract, 2521
or any prior withdrawals from or partial surrenders of the 2522
contract. 2523

Notwithstanding the requirements of this section, any 2524
deferred annuity contract may provide that if no considerations 2525
have been received under a contract for a period of two full 2526
years and the portion of the paid-up annuity benefit at maturity 2527
on the plan stipulated in the contract arising from 2528
considerations paid prior to such period would be less than 2529
twenty dollars monthly, the company may at its option terminate 2530
such contract by payment in cash of the then present value of 2531
such portion of the paid-up annuity benefit, calculated on the 2532
basis of the mortality table, if any, and interest rate 2533
specified in the contract for determining the paid-up annuity 2534
benefit, and by such payment shall be relieved of any further 2535
obligation under such contract. 2536

(D) The minimum values as specified in divisions (E), (F), 2537
(G), (H), and (J) of this section of any paid-up annuity, cash 2538
surrender, or death benefits available under an annuity contract 2539
shall be based upon minimum nonforfeiture amounts as defined in 2540
this division. 2541

(1) (a) The minimum nonforfeiture amount at any time at or 2542
prior to the commencement of any annuity payments shall be equal 2543
to an accumulation up to such time at rates of interest 2544
determined in accordance with division (D) (2) of this section of 2545

the net considerations, determined in accordance with division 2546
(D) (1) (b) of this section, paid prior to such time, decreased by 2547
the sum of: 2548

(i) Any prior withdrawals from or partial surrenders of 2549
the contract, accumulated at rates of interest determined in 2550
accordance with division (D) (2) of this section; 2551

(ii) An annual contract charge of fifty dollars, 2552
accumulated at rates of interest determined in accordance with 2553
division (D) (2) of this section; 2554

(iii) Any premium tax paid by the company for the 2555
contract, accumulated at rates of interest determined in 2556
accordance with division (D) (2) of this section; 2557

(iv) The amount of any indebtedness to the company on the 2558
contract, including interest due and accrued. 2559

(b) The net considerations for a given contract year used 2560
to define the minimum nonforfeiture amount shall be an amount 2561
equal to eighty-seven and one-half per cent of the gross 2562
considerations credited to the contract during that contract 2563
year. 2564

(2) (a) The interest rate used in determining minimum 2565
nonforfeiture amounts under divisions (D) (1) to (4) of this 2566
section shall be an annual rate of interest determined as the 2567
lesser of three per cent per annum or the following, which shall 2568
be specified in the contract if the interest rate will be reset: 2569

(i) The five-year constant maturity treasury rate reported 2570
by the federal reserve as of a date or an average over a period, 2571
rounded to the nearest one-twentieth of one per cent, specified 2572
in the contract, no longer than fifteen months prior to the 2573
contract issue date or the redetermination date specified in 2574

division (D) (2) (b) of this section;	2575
(ii) Reduced by one hundred twenty-five basis points;	2576
(iii) Where the resulting interest rate shall not be less than one per cent.	2577 2578
(b) The interest rate determined under division (D) (2) (a) of this section shall apply for an initial period and may be redetermined for additional periods. The redetermination date, basis and period, if any, shall be stated in the contract. The basis is the date or average over a specified period that produces the value of the five-year constant maturity treasury rate to be used at each redetermination date.	2579 2580 2581 2582 2583 2584 2585
(3) During the period or term that a contract provides substantive <u>substantive</u> participation in an equity-indexed benefit, the contract may provide for an increase in the reduction described in division (D) (2) (a) (ii) of this section by a maximum of one hundred basis points to reflect the value of the equity-indexed benefit. The present value at the contract issue date, and at each redetermination date thereafter, of the additional reduction shall not exceed the market value of the benefit. The superintendent may require a demonstration that the present value of the additional reduction does not exceed the market value of the benefit. If the demonstration is not acceptable to the superintendent, the superintendent may disallow or limit the additional reduction.	2586 2587 2588 2589 2590 2591 2592 2593 2594 2595 2596 2597 2598
(4) The superintendent may adopt rules to implement division (D) (3) of this section and to provide for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity-indexed benefit and for other contracts for which the	2599 2600 2601 2602 2603

superintendent determines adjustments are justified. 2604

(E) Any paid-up annuity benefit available under a contract 2605
shall be such that its present value on the date annuity 2606
payments are to commence is at least equal to the minimum 2607
nonforfeiture amount on that date. Such present value shall be 2608
computed using the mortality table, if any, and the interest 2609
rate specified in the contract for determining the minimum paid- 2610
up annuity benefits guaranteed in the contract. 2611

(F) For contracts which provide cash surrender benefits, 2612
such cash surrender benefits available prior to maturity shall 2613
not be less than the present value as of the date of surrender 2614
of that portion of the maturity value of the paid-up annuity 2615
benefit that would be provided under the contract at maturity 2616
arising from considerations paid prior to the time of cash 2617
surrender reduced by the amount appropriate to reflect any prior 2618
withdrawals from or partial surrenders of the contract, such 2619
present value being calculated on the basis of an interest rate 2620
not more than one per cent higher than the interest rate 2621
specified in the contract for accumulating the net 2622
considerations to determine such maturity value, decreased by 2623
the amount of any indebtedness to the company on the contract, 2624
including interest due and accrued, and increased by any 2625
existing additional amounts credited by the company to the 2626
contract. In no event shall any cash surrender benefit be less 2627
than the minimum nonforfeiture amount at that time. The death 2628
benefit under such contracts shall be at least equal to the cash 2629
surrender benefit. 2630

(G) For contracts that do not provide cash surrender 2631
benefits, the present value of any paid-up annuity benefit 2632
available as a nonforfeiture option at any time prior to 2633

maturity shall not be less than the present value of that 2634
portion of the maturity value of the paid-up annuity benefit 2635
provided under the contract arising from considerations paid 2636
prior to the time the contract is surrendered in exchange for, 2637
or changed to, a deferred paid-up annuity, such present value 2638
being calculated for the period prior to the maturity date on 2639
the basis of the interest rate specified in the contract for 2640
accumulating the net considerations to determine such maturity 2641
value, and increased by any existing additional amounts credited 2642
by the company to the contract. For contracts that do not 2643
provide any death benefits prior to the commencement of any 2644
annuity payments, such present values shall be calculated on the 2645
basis of such interest rate and the mortality table specified in 2646
the contract for determining the maturity value of the paid-up 2647
annuity benefit. However, in no event shall the present value of 2648
a paid-up annuity benefit be less than the minimum nonforfeiture 2649
amount at that time. 2650

(H) For the purpose of determining the benefits calculated 2651
under divisions (F) and (G) of this section, in the case of 2652
annuity contracts under which an election may be made to have 2653
annuity payments commence at optional maturity dates, the 2654
maturity date shall be deemed to be the latest date for which 2655
election shall be permitted by the contract, but shall not be 2656
deemed to be later than the anniversary of the contract next 2657
following the annuitant's seventieth birthday or the tenth 2658
anniversary of the contract, whichever is later. 2659

(I) Any contract that does not provide cash surrender 2660
benefits or does not provide death benefits at least equal to 2661
the minimum nonforfeiture amount prior to the commencement of 2662
any annuity payments shall include a statement in a prominent 2663
place in the contract that such benefits are not provided. 2664

(J) Any paid-up annuity, cash surrender, or death benefits 2665
available at any time, other than on the contract anniversary 2666
under any contract with fixed scheduled considerations, shall be 2667
calculated with allowance for the lapse of time and the payment 2668
of any scheduled considerations beyond the beginning of the 2669
contract year in which cessation of payment of considerations 2670
under the contract occurs. 2671

(K) For any contract that provides, within the same 2672
contract by rider or supplemental contract provision, both 2673
annuity benefits and life insurance benefits that are in excess 2674
of the greater of cash surrender benefits or a return of the 2675
gross considerations with interest, the minimum nonforfeiture 2676
benefit shall be equal to the sum of the minimum nonforfeiture 2677
benefits for the annuity portion and the minimum nonforfeiture 2678
benefits, if any, for the life insurance portion computed as if 2679
each portion were a separate contract. Notwithstanding the 2680
provisions of divisions (E), (F), (G), (H), and (J) of this 2681
section, additional benefits payable: 2682

(1) In the event of total and permanent disability; 2683

(2) As reversionary annuity or deferred reversionary 2684
annuity benefits; or 2685

(3) As other policy benefits additional to life insurance, 2686
endowment and annuity benefits, and considerations for all such 2687
additional benefits shall be disregarded in ascertaining the 2688
minimum nonforfeiture amounts, paid-up annuity, cash surrender, 2689
and death benefits that may be required by this section. 2690

The inclusion of such additional benefits shall not be 2691
required in any paid-up benefits, unless such additional 2692
benefits separately would require minimum nonforfeiture amounts, 2693

paid-up annuity, cash surrender, and death benefits. 2694

(L) The superintendent may adopt rules in accordance with 2695
Chapter 119. of the Revised Code to implement this section. 2696

Sec. 3915.13. No life insurance company nor any of its 2697
agents shall knowingly make, issue, or deliver in this state any 2698
policy or contract of life insurance which purports to be issued 2699
or to take effect as of a date more than ~~three~~six months before 2700
the application therefor was made, if thereby the premium on 2701
such policy or contract is reduced below the premium which would 2702
be payable thereon, as determined by the nearest birthday of the 2703
insured at the time when such application was made. In 2704
determining the date when an application was made, under this 2705
section the date of execution of the application or the date of 2706
medical examination, where such examination is required, 2707
whichever is later, shall govern. 2708

This section does not prohibit the exchange, alteration, 2709
or conversion of any policy of life or endowment insurance or 2710
any annuity in the manner provided by section 3915.12 of the 2711
Revised Code, nor does it invalidate any contract made in 2712
violation of this section. 2713

Sec. 3916.171. (A) No person shall commit a fraudulent 2714
viatical settlement act. 2715

(B) All of the following acts are fraudulent viatical 2716
settlement acts when committed by any person who, knowingly and 2717
with intent to defraud and for the purpose of depriving another 2718
of property or for pecuniary gain, commits, or permits any of 2719
its employees or its agents to commit them: 2720

(1) Presenting, causing to be presented, or preparing with 2721
knowledge or belief that it will be presented to or by a 2722

viatical settlement provider, viatical settlement broker, life	2723
expectancy provider, viatical settlement purchaser, financing	2724
entity, insurer, insurance broker, insurance agent, or any other	2725
person, any false material information, or concealing any	2726
material information, as part of, in support of, or concerning a	2727
fact material to, one or more of the following:	2728
(a) An application for the issuance of a viatical	2729
settlement contract or a policy;	2730
(b) The underwriting of a viatical settlement contract or	2731
a policy;	2732
(c) A claim for payment or benefit pursuant to a viatical	2733
settlement contract or a policy;	2734
(d) Any premiums paid on a policy;	2735
(e) Any payments and changes in ownership or beneficiary	2736
made in accordance with the terms of a viatical settlement	2737
contract or a policy;	2738
(f) The reinstatement or conversion of a policy;	2739
(g) The solicitation, offer, effectuation, or sale of a	2740
viatical settlement contract or a policy;	2741
(h) The issuance of written evidence of a viatical	2742
settlement contract or a policy;	2743
(i) A financing transaction;	2744
(j) Any application for or the existence of or any	2745
payments related to a loan secured directly or indirectly by any	2746
interest in a policy.	2747
(2) Failing to disclose to the insurer, where the insurer	2748
has requested such disclosure, that the prospective insured has	2749

undergone a life expectancy evaluation by any person or entity 2750
other than the insurer or its authorized representatives in 2751
connection with the application, underwriting, and issuance of 2752
the policy. 2753

(3) In the furtherance of a fraud or to prevent the 2754
detection of a fraud, doing any of the following: 2755

(a) Removing, concealing, altering, destroying, or 2756
sequestering from the superintendent of insurance the assets or 2757
records of a licensee or another person engaged in the business 2758
of viatical settlements; 2759

(b) Misrepresenting or concealing the financial condition 2760
of a licensee, financing entity, insurer, or any other person; 2761

(c) Transacting the business of viatical settlements in 2762
violation of any law of this state requiring a license, 2763
certificate of authority, or other legal authority for the 2764
transaction of the business of viatical settlements; 2765

(d) Filing with the superintendent of insurance or the 2766
chief insurance regulatory official of another jurisdiction a 2767
document containing false information or otherwise concealing 2768
from the superintendent any information about a material fact. 2769

(4) Recklessly entering into, negotiating, brokering, or 2770
otherwise dealing in a viatical settlement contract involving a 2771
policy that was obtained by presenting false, deceptive, or 2772
misleading information of any fact material to the policy, or by 2773
concealing information concerning any fact material to the 2774
policy, for the purpose of misleading and with the intent to 2775
defraud the issuer of the policy, the viatical settlement 2776
provider, or the viator; 2777

(5) Committing any embezzlement, theft, misappropriation, 2778

or conversion of moneys, funds, premiums, credits, or other 2779
property of a viatical settlement provider, insurer, insured, 2780
viator, policyowner, or any other person engaged in the business 2781
of viatical settlements or insurance; 2782

(6) Employing any plan, financial structure, device, 2783
scheme, or artifice to defraud in the business of viatical 2784
settlements; 2785

(7) Misrepresenting the state of residence or facilitating 2786
the change of the state in which a person owns a policy or the 2787
state of residency of a viator to a state or jurisdiction that 2788
does not have laws similar to this chapter for the express 2789
purposes of evading or avoiding the provisions of this chapter; 2790

(8) In the solicitation, application, or issuance of a 2791
policy, employing any device, scheme, or artifice in violation 2792
of ~~sections~~ section 3911.09 or 3911.091 of the Revised Code; 2793

(9) Engaging in any conduct related to a viatical 2794
settlement contract if the person knows or should have known 2795
that the intent of the transaction was to avoid the disclosure 2796
and notice requirements of section 3916.06 of the Revised Code; 2797

(10) Entering into a premium finance agreement with any 2798
person pursuant to which the person will receive, directly or 2799
indirectly, any proceeds, fees, or other considerations from the 2800
policy, the owner of the policy, the issuer of the policy, or 2801
from any other person with respect to the premium finance 2802
agreement or any viatical settlement contract, or from any 2803
transaction related to the policy, that are in addition to the 2804
amount required to pay the principal, interest, costs, and 2805
expenses related to the policy premiums pursuant to the premium 2806
finance agreement or subsequent sale of the agreement. Any 2807

payments, charges, fees, or other amounts in addition to the 2808
amounts required to pay the principal, interest, costs, and 2809
expenses related to policy premiums paid under the premium 2810
finance agreement shall be remitted to the original owner of the 2811
policy or, if the owner is not living at the time of the 2812
determination of the overpayment, to the estate of the owner. 2813

(11) With respect to any viatical settlement contract or a 2814
policy, for a viatical settlement broker or an agent registered 2815
under this chapter as operating as a viatical settlement broker 2816
to knowingly solicit an offer from, effectuate a viatical 2817
settlement with, or make a sale to any viatical settlement 2818
provider, viatical settlement purchaser, financing entity, or 2819
related provider trust that is controlling, controlled by, or 2820
under common control with such viatical settlement broker or 2821
registered agent unless both of the following are true: 2822

(a) The viatical settlement broker or agent disclosed that 2823
affiliation to the viator. 2824

(b) The viatical settlement broker or agent is controlled 2825
by or under common control with a person that is regulated under 2826
the "Securities Act of 1933" or the "Securities Act of 1934," 15 2827
U.S.C. 77a et seq., as amended. 2828

(12) With respect to any viatical settlement contract or a 2829
policy, for a viatical settlement provider to knowingly enter 2830
into a viatical settlement contract with a viator if, in 2831
connection with such viatical settlement contract, anything of 2832
value will be paid to a viatical settlement broker or an agent 2833
registered under this chapter as operating as a viatical 2834
settlement broker that is controlling, controlled by, or under 2835
common control with such viatical settlement provider or the 2836
viatical settlement purchaser, financing entity, or related 2837

provider trust that is involved in such viatical settlement 2838
contract unless both of the following are true: 2839

(a) The viatical settlement broker or agent disclosed that 2840
affiliation to the viator. 2841

(b) The viatical settlement broker or agent is controlled 2842
by or under common control with a person that is regulated under 2843
the "Securities Act of 1933" or the "Securities Act of 1934," 15 2844
U.S.C. 77a et seq., as amended. 2845

(13) Issuing, soliciting, marketing, or otherwise 2846
promoting the purchase of a policy for the purpose of or with 2847
emphasis on settling the policy; 2848

(14) Issuing or using a pattern of false, misleading, or 2849
deceptive life expectancies; 2850

(15) Issuing, soliciting, marketing, or otherwise 2851
promoting stranger-originated life insurance; 2852

(16) Attempting to commit, assisting, aiding or abetting 2853
in the commission of, or conspiracy to commit any act or 2854
omission specified in divisions (B)(1) to (15) of this section. 2855

Sec. 3919.14. A company or association organized under 2856
section 3919.01 of the Revised Code amending its articles of 2857
incorporation and its constitution and bylaws is subject to 2858
sections 3919.11 and 3919.12 of the Revised Code as to its 2859
organization and government, and it shall make separate annual 2860
statements to the superintendent of insurance of the business 2861
transacted by it under the assessment plan, as required by 2862
section ~~3919.01 to 3919.15, inclusive,~~ 3919.16 of the Revised 2863
Code, ~~or for the purpose of and of the business transacted by it~~ 2864
under the level premium or legal reserve plan, as required by 2865
section 3907.19 of the Revised Code. 2866

Sec. 3922.11. (A) The superintendent of insurance shall 2867
establish and maintain a system for receiving and reviewing 2868
requests for external review for adverse benefit determinations 2869
where the determination by the health plan issuer was based on a 2870
contractual issue and did not involve a medical judgment or a 2871
determination based on any medical information, except for 2872
emergency services, as specified in division (C) of section 2873
3922.05 of the Revised Code. 2874

(B) A health plan issuer shall submit a request for 2875
external review pursuant to division (B) or (C) of section 2876
3922.05 of the Revised Code to the superintendent, in accordance 2877
with any associated rules, policies, or procedures adopted by 2878
the superintendent of insurance. 2879

(C) On receipt of a request from a health plan issuer, the 2880
superintendent shall consider whether the health care service is 2881
a service covered under the terms of the covered person's 2882
policy, contract, certificate, or agreement, except that the 2883
superintendent shall not conduct a review under this section 2884
unless the covered person has exhausted the health plan issuer's 2885
internal appeal process, pursuant to sections 3922.03 and 2886
3922.04 of the Revised Code. The health plan issuer and covered 2887
person shall provide the superintendent with any information 2888
required by the superintendent that is in their possession and 2889
is germane to the review. 2890

(D) Unless the superintendent is not able to do so because 2891
making the determination requires a medical ~~judgement~~ judgment 2892
or a determination based on medical information, the 2893
superintendent shall determine whether the health care service 2894
at issue is a service covered under the terms of the covered 2895
person's contract, policy, certificate, or agreement. The 2896

superintendent shall notify the covered person and the health 2897
plan issuer of the superintendent's determination. 2898

(E) If the superintendent notifies the health plan issuer 2899
that making the determination requires a medical~~judgement~~_ 2900
judgment or a determination based on medical information, the 2901
health plan issuer shall initiate an external review under this 2902
chapter. 2903

(F) If the superintendent determines that the health 2904
service is a covered service, the health plan issuer shall cover 2905
the service. 2906

(G) If the superintendent determines that the health care 2907
service is not a covered service, the health plan issuer is not 2908
required to cover the service or afford the covered person an 2909
external review by an independent review organization. 2910

Sec. 3922.14. (A) To be accredited by the superintendent 2911
of insurance to conduct external reviews under section 3922.13 2912
of the Revised Code, in addition to the requirements provided in 2913
section 3922.13 of the Revised Code and any associated rules 2914
adopted by the superintendent, an independent review 2915
organization shall do all of the following: 2916

(1) Develop and maintain written policies and procedures 2917
that govern all aspects of both the standard external review 2918
process and the expedited external review process set forth in 2919
this chapter, including a quality assurance mechanism that does 2920
all of the following: 2921

(a) Ensures that external reviews are conducted within the 2922
time frames prescribed under this chapter and that the required 2923
notices are provided in a timely manner; 2924

(b) Ensures the selection of qualified and impartial 2925

clinical reviewers to conduct external reviews on behalf of the independent review organization;	2926 2927
(c) Ensures that chosen clinical reviewers are suitably matched according to their area of expertise to specific cases and that the independent review organization employs or contracts with an adequate number of clinical reviewers to meet this requirement;	2928 2929 2930 2931 2932
(d) Ensures the confidentiality of medical and treatment records and clinical review criteria;	2933 2934
(e) Ensures that any person employed by, or who is under contract with, the independent review organization adheres to the requirements of this chapter.	2935 2936 2937
(2) Maintain a toll-free telephone service to receive information on a twenty-four-hour-a-day, seven-days-a-week basis related to external reviews that is capable of accepting, recording, and providing appropriate instruction to incoming telephone callers during other than normal business hours;	2938 2939 2940 2941 2942
(3) Agree to maintain and provide to the superintendent, upon request and in accordance with any associated rules, policies, or procedures adopted by the superintendent of insurance, the information prescribed in section 3922.17 of the Revised Code.	2943 2944 2945 2946 2947
(B) An independent review organization may not own or control, be a subsidiary of or in any way be owned or controlled by, or exercise control with a health plan issuer, a national, state, or local trade association of health plan issuers, or a national, state, or local trade association of health care providers.	2948 2949 2950 2951 2952 2953
(C) (1) Neither the independent review organization	2954

selected to conduct the external review nor any clinical 2955
reviewer assigned by the independent organization to conduct the 2956
external review may have a material, professional, familial, or 2957
financial affiliation with any of the following: 2958

(a) The health plan issuer that is the subject of the 2959
external review, or any officer, director, or management 2960
employee of the health plan issuer; 2961

(b) The covered person whose treatment is the subject of 2962
the external review; 2963

(c) The health care provider, or the health care 2964
provider's medical group or independent practice association, 2965
recommending the health care service or treatment that is the 2966
subject of the external review; 2967

(d) The facility at which the recommended health care 2968
service would be provided; 2969

(e) The developer or manufacturer of the principal drug, 2970
device, procedure, or other therapy being recommended for the 2971
covered person whose treatment is the subject of the external 2972
review. 2973

(2) The superintendent may make a determination as to 2974
whether an independent review organization or a clinical 2975
reviewer of the independent review organization has a material 2976
professional, familial, or financial conflict of interest for 2977
purposes of division (C) (1) of this section. In making this 2978
determination, the superintendent may take into consideration 2979
situations where an independent review organization, or a 2980
clinical reviewer, may have an apparent conflict of interest, 2981
but that the characteristics of the relationship or connection 2982
in question are such that they do not fall under the definition 2983

of conflict of interest provided under division (D) (1) of this 2984
section. If the superintendent determines that a conflict of 2985
interest exists, the superintendent shall disallow an 2986
independent review organization or a clinical reviewer from 2987
conducting the external review in question. Such determinations 2988
related to conflicts of interest are the sole discretion of the 2989
superintendent of insurance. 2990

(D) (1) An independent review organization that is 2991
accredited by a nationally recognized private accrediting entity 2992
that has independent review accreditation standards that the 2993
superintendent has determined are equivalent to or exceed the 2994
minimum qualifications of this section shall be presumed in 2995
compliance with this section to be eligible for accreditation by 2996
the superintendent under section ~~3922.14~~3922.13 of the Revised 2997
Code. 2998

(2) The superintendent shall initially review and 2999
periodically review the independent review organization 3000
accreditation standards of a nationally recognized private 3001
accrediting entity to determine whether the entity's standards 3002
are, and continue to be, equivalent to or exceed the minimum 3003
qualifications established under this section. The 3004
superintendent may accept a review conducted by the national 3005
association of insurance commissioners for the purpose of the 3006
determination under this division. 3007

(3) Upon request, a nationally recognized, private 3008
accrediting entity shall make its current independent review 3009
organization accreditation standards available to the 3010
superintendent or the national association of insurance 3011
commissioners in order for the superintendent to determine if 3012
the entity's standards are equivalent to or exceed the minimum 3013

qualifications established under this section. The 3014
superintendent may exclude any private accrediting entity that 3015
is not reviewed by the national association of insurance 3016
commissioners. 3017

(E) An independent review organization shall be unbiased 3018
in its review of adverse benefit determinations and shall 3019
establish and maintain written procedures to ensure that it is 3020
unbiased. 3021

Sec. 3923.021. (A) As used in this section: 3022

(1) "Benefits provided are not unreasonable in relation to 3023
the premium charged" means the rates were calculated in 3024
accordance with sound actuarial principles. 3025

(2) "Individual policy of sickness and accident insurance" 3026
includes sickness and accident insurance made available by 3027
insurers in the individual market to individuals, with or 3028
without family members or dependents, through group policies 3029
issued to one or more associations or entities. 3030

(B) With respect to any filing, made pursuant to section 3031
3923.02 of the Revised Code, of any premium rates for any 3032
individual policy of sickness and accident insurance or 3033
certificates made available by an insurer to individuals in the 3034
individual market through a group policy or for any indorsement 3035
or rider pertaining thereto, the superintendent of insurance 3036
may, within thirty days after filing: 3037

(1) Disapprove such filing after finding that the benefits 3038
provided are unreasonable in relation to the premium charged. 3039
Such disapproval shall be effected by written order of the 3040
superintendent, a copy of which shall be mailed to the insurer 3041
that has made the filing. In the order, the superintendent shall 3042

specify the reasons for the disapproval and state that a hearing 3043
will be held within fifteen days after requested in writing by 3044
the insurer. If a hearing is so requested, the superintendent 3045
shall also give such public notice as the superintendent 3046
considers appropriate. The superintendent, within fifteen days 3047
after the commencement of any hearing, shall issue a written 3048
order, a copy of which shall be mailed to the insurer that has 3049
made the filing, either affirming the prior disapproval or 3050
approving such filing after finding that the benefits provided 3051
are not unreasonable in relation to the premium charged. 3052

(2) Set a date for a public hearing to commence no later 3053
than forty days after the filing. The superintendent shall give 3054
the insurer making the filing twenty days' written notice of the 3055
hearing and shall give such public notice as the superintendent 3056
considers appropriate. The superintendent, within twenty days 3057
after the commencement of a hearing, shall issue a written 3058
order, a copy of which shall be mailed to the insurer that has 3059
made the filing, either approving such filing if the 3060
superintendent finds that the benefits provided are not 3061
unreasonable in relation to the premium charged, or disapproving 3062
such filing if the superintendent finds that the benefits 3063
provided are unreasonable in relation to the premium charged. 3064
This division does not apply to any insurer organized or 3065
transacting the business of insurance under Chapter 3907. or 3066
3909. of the Revised Code. 3067

(3) Take no action, in which case such filing shall be 3068
deemed to be approved and shall become effective upon the 3069
thirty-first day after such filing, unless the superintendent 3070
has previously given to the insurer a written approval. 3071

(C) At any time after any filing has been approved 3072

pursuant to this section, the superintendent may, after a 3073
hearing of which at least twenty days' written notice has been 3074
given to the insurer that has made such filing and for which 3075
such public notice as the superintendent considers appropriate 3076
has been given, withdraw approval of such filing after finding 3077
that the benefits provided are unreasonable in relation to the 3078
premium charged. Such withdrawal of approval shall be effected 3079
by written order of the superintendent, a copy of which shall be 3080
mailed to the insurer that has made the filing, which shall 3081
state the ground for such withdrawal and the date, not less than 3082
forty days after the date of such order, when the withdrawal ~~or~~ 3083
of approval shall become effective. 3084

(D) The superintendent may retain at the insurer's expense 3085
such attorneys, actuaries, accountants, and other experts not 3086
otherwise a part of the superintendent's staff as shall be 3087
reasonably necessary to assist in the preparation for and 3088
conduct of any public hearing under this section. The expense 3089
for retaining such experts and the expenses of the department of 3090
insurance incurred in connection with such public hearing shall 3091
be assessed against the insurer in an amount not to exceed one 3092
one-hundredth of one per cent of the sum of premiums earned plus 3093
net realized investment gain or loss of such insurer as 3094
reflected in the most current annual statement on file with the 3095
superintendent. Any person retained shall be under the direction 3096
and control of the superintendent and shall act in a purely 3097
advisory capacity. 3098

Sec. 3923.04. Except as provided in section 3923.07 of the 3099
Revised Code, every policy of sickness and accident insurance 3100
delivered, issued for delivery, or used in this state shall 3101
contain the standard provisions specified in this section in the 3102
words in which the same appear in this section. Such standard 3103

provisions shall be preceded individually by the caption 3104
appearing in this section or, at the option of the insurer, by 3105
such appropriate individual or group captions or subcaptions as 3106
the superintendent of insurance may approve. 3107

(A) A provision as follows: Entire contract; changes. This 3108
policy, including the indorsements and the attached papers, if 3109
any, constitutes the entire contract of insurance. No change in 3110
this policy shall be valid until approved by an executive 3111
officer of the insurer and unless such approval be indorsed 3112
hereon or attached hereto. No agent has authority to change this 3113
policy or to waive any of its provisions. 3114

No statement made by an applicant for a policy of sickness 3115
and accident insurance not included therein shall avoid the 3116
policy or be used to deny any claim thereunder or be used in any 3117
legal proceeding thereunder. 3118

(B) A provision in two parts as follows: Time limit on 3119
certain defenses. 3120

1) After two years from the date of issue of this policy 3121
no misstatements, except fraudulent misstatements, made by the 3122
applicant in the application for this policy shall be used to 3123
void this policy or to deny a claim for loss incurred or 3124
disability (as defined in this policy) commencing after the 3125
expiration of such two year period. 3126

The policy provision in division (B) (1) of this section 3127
shall not be so construed as to affect any legal requirements 3128
for avoidance of a policy or denial of a claim during such 3129
initial twoyear period, nor to limit the application of 3130
divisions (A), (B), (C), (D), and (E) of section 3923.05 of the 3131
Revised Code in the event of misstatement with respect to age, 3132

occupation, or other insurance. 3133

A policy which the insured has the right to continue in 3134
force subject to its terms by the timely payment of premiums 3135
until at least age fifty, or a policy issued after the insured 3136
has attained age forty-four and which the insured has the right 3137
to continue in force subject to its terms by the timely payment 3138
of premiums for at least five years from its date of issue, may 3139
contain, in lieu of the foregoing policy provision in division 3140
(B) (1) of this section, a provision, from which the clause in 3141
parentheses may be omitted at the insurer's option, under the 3142
caption Incontestable, as follows: After this policy has been in 3143
force for a period of two years during the lifetime of the 3144
insured (excluding any period during which the insured is 3145
disabled), it shall become incontestable as to the statements 3146
contained in the application. 3147

(2) No claim for loss incurred or disability (as defined 3148
in this policy) commencing after two years from the date of 3149
issue of this policy shall be reduced or denied on the ground 3150
that a disease or physical condition not excluded from coverage 3151
by name or specific description effective on the date of loss 3152
had existed prior to the effective date of coverage of this 3153
policy. 3154

No chronic disease or chronic physical condition may be 3155
excluded from the coverage of a policy of sickness insurance or 3156
from the sickness insurance coverage of a policy of sickness and 3157
accident insurance except by name or specific description. 3158

(C) A provision as follows: Grace period. A grace period 3159
of days will be granted for the payment of each 3160
premium falling due after the first premium, during which grace 3161
period this policy shall continue in force. 3162

The insurer shall insert in the blank space in the policy 3163
provision in division (C) of this section a number not smaller 3164
than seven for weekly premium policies or ten for monthly 3165
premium policies or thirty-one for all other policies. 3166

A policy in which the insurer reserves the right to refuse 3167
any renewal shall contain a provision, at the beginning of the 3168
policy provision in division (C) of this section, as follows: 3169
Unless not less than five days prior to the premium due date the 3170
insurer has delivered to the insured or has mailed to ~~his~~ the 3171
insured's last address as shown by the records of the insurer 3172
written notice of its intention not to renew this policy beyond 3173
the period for which the premium has been accepted. Each such 3174
policy, other than an accident insurance only policy, shall 3175
provide in substance, in a provision thereof or in an 3176
indorsement thereon or in a rider attached thereto, that the 3177
insurer may not refuse renewal of the policy before the first 3178
anniversary, or between anniversaries, of its date of issue, and 3179
that any non-renewal of the policy by the insurer or insured 3180
shall be without prejudice to any claim originating prior to the 3181
effective date of non-renewal. 3182

(D) A provision as follows: Reinstatement. If any renewal 3183
premium be not paid within the time granted the insured for 3184
payment, a subsequent acceptance of premium by the insurer or by 3185
any agent duly authorized by the insurer to accept such premium, 3186
without requiring in connection therewith an application for 3187
reinstatement, shall reinstate this policy. If the insurer or 3188
such agent requires an application for reinstatement and issues 3189
a conditional receipt for the premium tendered, this policy will 3190
be reinstated upon approval of such application by the insurer 3191
or, lacking such approval, upon the forty-fifth day following 3192
the date of such conditional receipt unless the insurer has 3193

previously notified the insured in writing of its disapproval of 3194
such application. The reinstated policy shall cover only loss 3195
resulting from such accidental injury as may be sustained after 3196
the date of reinstatement and loss due to such sickness as may 3197
begin more than ten days after such date. In all other respects 3198
the insured and insurer shall have the same rights thereunder as 3199
they had under this policy immediately before the due date of 3200
the defaulted premium, subject to any provisions indorsed hereon 3201
or attached hereto in connection with the reinstatement. Any 3202
premium accepted in connection with a reinstatement shall be 3203
applied to a period for which premium has not been previously 3204
paid, but not to any period more than sixty days prior to the 3205
date of reinstatement. 3206

The last sentence of the policy provision in division (D) 3207
of this section may be omitted from any policy which the insured 3208
has the right to continue in force subject to its terms by the 3209
timely payment of premiums until at least age fifty or from any 3210
policy issued after the insured has attained age forty-four and 3211
which the insured has the right to continue in force subject to 3212
its terms by the timely payment of premiums for at least five 3213
years from its date of issue. 3214

(E) A provision as follows: Notice of claim. Written 3215
notice of claim must be given to the insurer within twenty days 3216
after the occurrence or commencement of any loss covered by this 3217
policy, or as soon thereafter as is reasonably possible. Notice 3218
given by or on behalf of the insured or the beneficiary to the 3219
insurer at or to any authorized agent of the insurer, 3220
with information sufficient to identify the insured, shall be 3221
deemed notice to the insurer. 3222

The insurer shall insert in the blank space in the policy 3223

provision in division (E) of this section the location of such 3224
office as it may desire to designate for the purpose of notice. 3225

In a policy providing a loss of time benefit which may be 3226
payable for at least two years, an insurer may insert, between 3227
the first and second sentences of the policy provision in 3228
division (E) of this section, a provision as follows: 3229

Subject to the qualifications set forth below, if the 3230
insured suffers loss of time on account of disability for which 3231
indemnity may be payable for at least two years, ~~he~~ the insured 3232
shall, at least once in every six months after having given 3233
notice of claim, give to the insurer notice of continuance of 3234
said disability, except in the event of legal incapacity. The 3235
period of six months following any filing of proof by the 3236
insured or any payment by the insurer on account of such claim 3237
or any denial of liability in whole or in part by the insurer 3238
shall be excluded in applying this provision. Delay in giving of 3239
such notice shall not impair the insured's right to any 3240
indemnity which would otherwise have accrued during the period 3241
of six months preceding the date on which such notice is 3242
actually given. 3243

(F) A provision as follows: Claim forms. The insurer, upon 3244
receipt of a notice of claim, will furnish to the claimant such 3245
forms as are usually furnished by it for filing proofs of loss. 3246
If such forms are not furnished within fifteen days after the 3247
giving of such notice the claimant shall be deemed to have 3248
complied with the requirements of this policy as to proof of 3249
loss upon submitting, within the time fixed in this policy for 3250
filing proofs of loss, written proof covering the occurrence, 3251
the character and the extent of the loss for which claim is 3252
made. 3253

(G) A provision as follows: Proofs of loss. Written proof 3254
of loss must be furnished to the insurer at its office in case 3255
of claim for loss for which this policy provides any periodic 3256
payment contingent upon continuing loss within ninety days after 3257
the termination of the period for which the insurer is liable 3258
and in case of claim for any other loss within ninety days after 3259
the date of such loss. Failure to furnish such proof within the 3260
time required shall not invalidate nor reduce any claim if it 3261
was not reasonably possible to give proof within such time, 3262
provided such proof is furnished as soon as reasonably possible 3263
and in no event, except in the absence of legal capacity, later 3264
than one year from the time proof is otherwise required. 3265

(H) A provision as follows: Time of payment of claims. 3266
Indemnities payable under this policy for any loss, other than 3267
loss for which this policy provides any periodic payment, will 3268
be paid immediately upon, or within thirty days after, receipt 3269
of due written proof of such loss. Subject to due written proof 3270
of loss, all accrued indemnities for loss for which this policy 3271
provides periodic payment will be paid and any balance 3272
remaining unpaid upon the termination of liability will be paid 3273
immediately upon receipt of due written proof. 3274

The insurer shall insert in the blank space in the 3275
provision in division (H) of this section a period for payment 3276
which must not be less frequently than monthly. The insurer may 3277
at its option omit from the provision in division (H) of this 3278
section ", or within thirty days after,". 3279

(I) A provision as follows: Payment of claims. Indemnity 3280
for loss of life will be payable in accordance with the 3281
beneficiary designation and the provisions respecting such 3282
payment which may be prescribed herein and effective at the time 3283

of payment. If no such designation or provision is then 3284
effective, such indemnity shall be payable to the estate of the 3285
insured. Any other accrued indemnities unpaid at the insured's 3286
death may, at the option of the insurer, be paid either to such 3287
beneficiary or to such estate. All other indemnities will be 3288
payable to the insured. 3289

The insurer may at its option add at the end of the 3290
provision in division (I) of this section, the following 3291
provisions or either of the following provisions: 3292

(1) If any indemnity of this policy shall be payable to 3293
the estate of the insured, or to an insured or beneficiary who 3294
is a minor or otherwise not competent to give a valid release, 3295
the insurer may pay such indemnity, up to an amount not 3296
exceeding dollars, to any relative by blood or 3297
connection by marriage of the insured or beneficiary who is 3298
deemed by the insurer to be equitably entitled thereto. Any 3299
payment made by the insurer in good faith pursuant to this 3300
provision shall fully discharge the insurer to the extent of 3301
such payment. 3302

(2) Subject to any written direction of the insured in the 3303
application or otherwise all or a portion of any indemnities 3304
provided by this policy on account of hospital, nursing, 3305
medical, or surgical services may, at the insurer's option and 3306
unless the insured requests otherwise in writing not later than 3307
the time of filing proofs of such loss, be paid directly to the 3308
hospital or person rendering such services; but it is not 3309
required that the services be rendered by a particular hospital 3310
or person. 3311

The insurer shall insert in the blank space in the policy 3312
provision in division (I)(1) of this section an amount which 3313

shall not exceed one thousand dollars. 3314

(J) A provision as follows: Physical examination and 3315
autopsy. The insurer at its own expense shall have the right and 3316
opportunity to examine the person of the insured when and as 3317
often as it may reasonably require during the pendency of a 3318
claim hereunder and to make an autopsy in case of death where it 3319
is not forbidden by law. 3320

(K) A provision as follows: Legal actions. No action at 3321
law or in equity shall be brought to recover on this policy 3322
prior to the expiration of sixty days after written proof of 3323
loss has been furnished in accordance with the requirements of 3324
this policy. No such action shall be brought after the 3325
expiration of three years after the time written proof of loss 3326
is required to be furnished. 3327

(L) A provision as follows: Change of beneficiary. Unless 3328
the insured makes an irrevocable designation of beneficiary, the 3329
right to change of beneficiary is reserved to the insured and 3330
the consent of the beneficiary or beneficiaries shall not be 3331
requisite to surrender or assignment of this policy or to any 3332
change of beneficiary or beneficiaries, or to any other changes 3333
in this policy. 3334

The insurer may at its option omit from the provision in 3335
division (L) of this section the following: Unless the insured 3336
makes an irrevocable designation of beneficiary. 3337

(M) A provision, which shall be contained in the policy or 3338
in an indorsement thereon or in a rider attached thereto, as 3339
follows: Cancellation by the insured. Non-cancellation by the 3340
insurer. The insured may cancel this policy at any time by 3341
written notice delivered or mailed to the insurer, effective 3342

upon receipt or on such later date as may be specified in such 3343
notice. In the event of cancellation, the insurer will return 3344
promptly the unearned portion of any premium paid. The earned 3345
premium shall be computed by the use of the short-rate table 3346
last filed with the state official having supervision of 3347
insurance in the state where the insured resided when this 3348
policy was issued. Cancellation shall be without prejudice to 3349
any claim originating prior to the effective date of 3350
cancellation. The insurer may not cancel this policy. This 3351
provision nullifies any other provision, contained in this 3352
policy or in any indorsement hereon or in any rider attached 3353
hereto, which provides for cancellation of this policy by the 3354
insurer or by the insured. 3355

Sec. 3923.53. (A) Every public employee benefit plan that 3356
is established or modified in this state shall provide benefits 3357
for the expenses of both of the following: 3358

(1) Screening mammography to detect the presence of breast 3359
cancer in adult women; 3360

(2) Cytologic screening for the presence of cervical 3361
cancer. 3362

(B) The benefits provided under division (A) (1) of this 3363
section shall cover expenses in accordance with all of the 3364
following: 3365

(1) If a woman is at least thirty-five years of age but 3366
under forty years of age, one screening mammography; 3367

(2) If a woman is at least forty years of age but under 3368
fifty years of age, either of the following: 3369

(a) One screening mammography every two years; 3370

(b) If a licensed physician has determined that the woman 3371
has risk factors to breast cancer, one screening mammography 3372
every year. 3373

(3) If a woman is at least fifty years of age but under 3374
sixty-five years of age, one screening mammography every year. 3375

(C) As used in this division, "medicare reimbursement 3376
rate" means the reimbursement rate paid in this state under the 3377
medicare program for screening mammography that does not include 3378
digitization or computer-aided detection, regardless of whether 3379
the actual benefit includes digitization or computer-aided 3380
detection. 3381

(1) Subject to divisions (C) (2) and (3) of this section, 3382
if a provider, hospital, or other health care facility provides 3383
a service that is a component of the screening mammography 3384
benefit in division ~~(B)~~(A) (1) of this section and submits a 3385
separate claim for that component, a separate payment shall be 3386
made to the provider, hospital, or other health care facility in 3387
an amount that corresponds to the ratio paid by medicare in this 3388
state for that component. 3389

(2) Regardless of whether separate payments are made for 3390
the benefit provided under division (A) (1) of this section, the 3391
total benefit for a screening mammography shall not exceed one 3392
hundred thirty per cent of the medicare reimbursement rate in 3393
this state for screening mammography. If there is more than one 3394
medicare reimbursement rate in this state for screening 3395
mammography or a component of a screening mammography, the 3396
reimbursement limit shall be one hundred thirty per cent of the 3397
lowest medicare reimbursement rate in this state. 3398

(3) The benefit paid in accordance with division (C) (1) of 3399

this section shall constitute full payment. No provider, 3400
hospital, or other health care facility shall seek or receive 3401
compensation in excess of the payment made in accordance with 3402
division (C) (1) of this section, except for approved deductibles 3403
and copayments. 3404

(D) The benefits provided under division (A) (1) of this 3405
section shall be provided only for screening mammographies that 3406
are performed in a facility or mobile mammography screening unit 3407
that is accredited under the American college of radiology 3408
mammography accreditation program or in a hospital as defined in 3409
section 3727.01 of the Revised Code. 3410

(E) The benefits provided under division (A) (2) of this 3411
section shall be provided only for cytologic screenings that are 3412
processed and interpreted in a laboratory certified by the 3413
college of American pathologists or in a hospital as defined in 3414
section 3727.01 of the Revised Code. 3415

Sec. 3925.09. No insurance company shall own more than one 3416
fourth of the capital stock of a national bank, nor invest in or 3417
loan on the stocks and bonds, both included, of any railroad 3418
company, to an extent exceeding one fifth of its own capital and 3419
surplus, nor in the aggregate shall the investment in and loan 3420
on all railroad property exceed one fourth of its own capital 3421
and surplus. Not more than one half of its capital and surplus 3422
shall be loaned on mortgages of real estate, as provided in 3423
~~sections~~ section 3925.05 of the Revised Code for the investment 3424
thereof, and not more than one tenth of the capital and surplus 3425
actually existing of such a company shall be invested in a 3426
single mortgage. The current market value of the evidences of 3427
indebtedness mentioned in this section, in which the 3428
accumulations or surplus money above the capital stock of an 3429

insurance company may be loaned or invested, must be at all 3430
times during the continuance of the loans at least twenty per 3431
cent more than the sum loaned thereon. 3432

Sec. 3927.08. Every insurance company other than a life 3433
insurance company, organized by act of congress or under the 3434
laws of another state or government, annually, at the time and 3435
in the form and manner required of similar companies organized 3436
under the laws of this state, shall file a statement of its 3437
condition and affairs in the office of the superintendent of 3438
insurance. A company organized under or incorporated by a 3439
foreign government shall also furnish a supplementary statement 3440
for the year ending on the preceding thirty-first day of 3441
December, verified by the oath of the manager of such company 3442
residing in the United States, which shall comprise a report of 3443
its business and affairs in the United States, as required from 3444
companies organized in this state, together with any other 3445
information that may be required by the superintendent. If such 3446
annual statement is satisfactory evidence to the superintendent 3447
of the solvency and ability of the company to meet all its 3448
engagements at maturity, and that the deposit is maintained as 3449
provided by section 3927.06 of the Revised Code, the 3450
superintendent shall issue, during the month of January in each 3451
year or within sixty days thereafter, renewal certificates of 3452
authority to the ~~agent~~ agents of the company, certified copies 3453
of which shall be filed in the county recorder's office of each 3454
county in which an agency is located and retained therewith for 3455
a minimum of two years from the date of filing. Such 3456
certificates shall be the authority for such agents to issue new 3457
policies in this state for the ensuing year. 3458

Sec. 3929.04. In case of the death of any employee by 3459
reason of the wrongful or negligent acts of ~~his~~ the employee's 3460

employer, or negligence or wrongful acts for which said employer 3461
is liable, the personal representative of the deceased employee 3462
has all the rights and remedies that the employee would have had 3463
under ~~section~~ section 3929.03 of the Revised Code had death not 3464
resulted. 3465

Sec. 3930.10. There shall be no liability imposed on the 3466
part of and no cause of action of any nature arises against the 3467
Ohio commercial insurance joint underwriting association, its 3468
members, board of governors, agents, or employees, an insurer or 3469
its employees, any licensed agent or broker, or the 3470
superintendent of insurance ~~of his~~ or the superintendent's 3471
authorized representatives, their members or employees, for any 3472
action taken by them in the performance of their powers and 3473
duties under sections 3930.03 to 3930.17 of the Revised Code. 3474
Any reports and communications in connection therewith are not 3475
public records. 3476

Sec. 3931.03. The attorney under section 3931.01 of the 3477
Revised Code shall file with the superintendent of insurance a 3478
declaration, verified by ~~his~~ the attorney's oath, or, when the 3479
attorney is a corporation, by the oath of its authorized 3480
officers, setting forth: 3481

(A) The name of the attorney and the name or designation 3482
under which such contracts are issued, which name or designation 3483
shall not be so similar to any other name or designation 3484
previously adopted by an attorney, or by any insurance 3485
organization in the United States, prior to the adoption of such 3486
name or designation by the attorney, as to confuse or deceive, 3487
unless such other attorney or organization consents thereto in 3488
writing; 3489

(B) The location of the principal office; 3490

(C) The kind of insurance to be effected;	3491
(D) A copy of each form of policy, contract, or agreement under or by which such insurance is to be effected;	3492 3493
(E) A copy of the form of power of attorney under which such insurance is to be effected;	3494 3495
(F) The fact that applications have been made for indemnity upon at least seventy-five separate risks, aggregating not less than one and one-half million dollars, represented by executed contracts or bona fide applications to become concurrently effective;	3496 3497 3498 3499 3500
(G) The fact that there is in the possession <u>possession</u> of such attorney net assets of not less than three hundred thousand dollars, available for the payment of losses;	3501 3502 3503
(H) A financial statement in the form prescribed for the annual statement;	3504 3505
(I) The instrument authorizing service of process as provided for in section 3931.04 of the Revised Code;	3506 3507
(J) A certificate showing compliance with the deposit requirements, if any, applicable to a mutual insurance company authorized to do the kind or kinds of insurance to be effected;	3508 3509 3510
(K) A copy of all bylaws, codes of regulations, any other document wherein the relationships between the subscribers and between the subscribers and the attorney are set forth, and any amendments to any of the foregoing. Any filing made pursuant to this division shall become effective thirty days from the date of filing, unless disapproved by the superintendent. Any action taken by the superintendent under this division may be appealed pursuant to Chapter 119. of the Revised <u>Revised</u> Code.	3511 3512 3513 3514 3515 3516 3517 3518

This division does not apply to filings required pursuant 3519
to Chapters 3935. and 3937. of the Revised Code. 3520

Sec. 3931.99. ~~(A)~~ Whoever violates sections 3931.01 to 3521
3931.12, inclusive, of the Revised Code, or fails to comply with 3522
any duty imposed ~~upon him~~ by such sections, for which violation 3523
or failure no penalty is otherwise provided by law, shall be 3524
fined not more than five hundred dollars. 3525

Sec. 3941.46. Any foreign or alien mutual company licensed 3526
in this state which is a party to a merger or consolidation 3527
shall on or before the effective date thereof file with the 3528
superintendent a copy of the agreement. If the surviving company 3529
is, at the effective date of the merger or consolidation, 3530
licensed as an insurer in this state its license shall continue 3531
in effect as though no merger or consolidation had taken place, 3532
and on request the superintendent shall transfer to it any 3533
additional licenses issued by this state and then held by any 3534
nonsurviving insurer which is a party to the merger or 3535
consolidation. Revocation or suspension of any of such licenses 3536
shall be made only pursuant to the procedures and on the grounds 3537
provided in this code, provided, that an additional ground for 3538
revocation or suspension of license shall be that the merger or 3539
consolidation may ~~save~~ have the effect of substantially 3540
lessening competition or tending to create a monopoly as to any 3541
line of insurance in this state. On receipt of a copy of the 3542
agreement of merger or consolidation to which this section 3543
applies, the superintendent shall determine whether such 3544
revocation or suspension proceedings should be commenced. In 3545
making such determination the superintendent may consider any 3546
information on file with any agency, division or department of 3547
this or any other state, together with any additional relevant 3548
information which shall be furnished by the company or 3549

companies, pursuant to ~~his~~ the superintendent's request. A 3550
determination that the merger or consolidation does not violate 3551
the additional ground provided in this section shall be 3552
conclusively established by the lapse of three months after the 3553
effective date of the merger or consolidation without 3554
commencement of proceedings to revoke or suspend the license or 3555
licenses on that ground. 3556

Sec. 3951.04. The superintendent of insurance shall issue 3557
certificates of authority to any person, firm, association, 3558
partnership, or corporation making application therefor who is 3559
trustworthy and competent to act as a public insurance adjuster 3560
in such manner as to safeguard the interest of the public and 3561
who ~~have~~ has complied with the prerequisites herein described. 3562
A certificate of authority issued to a firm, association, 3563
partnership, or corporation shall authorize only the members of 3564
the firm, association, or partnership or the officers and 3565
directors of the corporation, specified in the certificate of 3566
authority to act as a public insurance adjuster. 3567

The superintendent shall not issue any certificate of 3568
authority to any applicant who is convicted of a felony, or any 3569
crime or offense involving fraudulent or dishonest practice or 3570
who, within three years preceding the date of filing such 3571
application, has been guilty of any practice which would be 3572
grounds for suspension or revocation of a certificate of 3573
authority as a public insurance adjuster. 3574

Sec. 3951.10. On receipt of a notice pursuant to section 3575
3123.43 of the Revised Code, the superintendent of insurance 3576
shall comply with sections 3123.41 to 3123.50 of the Revised 3577
Code and any applicable rules adopted under section 3123.63 of 3578
the Revised Code with respect to a certificate issued ~~issued~~ 3579

pursuant to this chapter. 3580

Sec. 3953.14. (A) Except as provided in Chapter 3953. of 3581
the Revised Code the investments of a title insurance company 3582
shall be governed by sections 3925.05 to 3925.21, ~~inclusive,~~ of 3583
the Revised Code. 3584

(B) Provided it shall at all times keep at least one 3585
hundred thousand dollars invested in the classes of securities 3586
authorized for the investment of capital other than title plant 3587
and real estate as provided in division (C) of this section, a 3588
title insurance company may invest not more than ten per cent of 3589
its admitted assets in a title plant without the prior approval 3590
of the superintendent. The title plant shall be considered an 3591
admitted asset at the fair value thereof. In determining the 3592
fair value of a title plant, no value shall be attributed to 3593
furniture and fixtures, and the real estate in which the title 3594
plant is housed shall be carried as real estate. The value of 3595
title abstracts, title briefs, copies of conveyances or other 3596
documents, indices, and other records comprising the title 3597
plant, shall be determined by considering the expenses incurred 3598
in obtaining them, the age thereof, the cost of replacements 3599
less depreciation, and all other relevant factors. Once the 3600
value of a title plant has been determined, such value may be 3601
increased only by the acquisition of another title plant by 3602
purchase, consolidation, or merger; in no event shall the value 3603
of the title ~~plan~~ plant be increased by additions made thereto 3604
as part of the normal course of abstracting and insuring titles 3605
to real estate. Subject to the above limitations and with the 3606
approval of the superintendent of insurance, a title insurance 3607
company may enter into agreements with one or more other title 3608
insurance companies authorized to do business in this state, 3609
whereby such companies shall participate in the ownership, 3610

management, and control of a title plant to service the needs of 3611
all such companies or such companies may hold stock of a 3612
corporation owning and operating a title plant for such 3613
purposes; provided that each of the companies participating in 3614
the ownership, management, and control of such jointly owned 3615
title plant shall keep the sum of one hundred thousand dollars 3616
invested as above set forth. 3617

(C) Any title insurance company may purchase, receive, 3618
hold, and convey real estate or any interest therein: 3619

(1) Required for its convenient accommodation in the 3620
transaction of its business with reasonable regard to future 3621
needs; 3622

(2) Acquired in connection with a claim under a policy of 3623
title insurance; 3624

(3) Acquired in satisfaction or on account of loans, 3625
mortgages, liens, judgments, or decrees, previously owing to it 3626
in the course of its business; 3627

(4) Acquired in part payment of the consideration of the 3628
sale of real property owned by it if the transaction results in 3629
a net reduction in the company's investment in real estate; 3630

(5) Reasonably necessary for the purpose of maintaining or 3631
enhancing the sale value of real property previously acquired or 3632
held by it under ~~subdivisions~~ division (C)(1), (2), (3), or (4) 3633
of this ~~division~~ section. 3634

Sec. 3956.01. As used in this chapter: 3635

(A) "Account" means either of the two accounts created 3636
under section 3956.06 of the Revised Code. 3637

(B) "Contractual obligation" means any obligation under a 3638

policy, contract, or certificate under a group policy or 3639
contract, or portion of the policy or contract, for which 3640
coverage is provided under section 3956.04 of the Revised Code. 3641

(C) "Covered policy or contract" means any policy, 3642
contract, or group certificate within the scope of section 3643
3956.04 of the Revised Code. 3644

(D) "Impaired insurer" means a member insurer that, after 3645
November 20, 1989, is not an insolvent insurer and is placed 3646
under an order of rehabilitation or conservation by a court of 3647
competent jurisdiction. 3648

(E) "Insolvent insurer" means a member insurer that, after 3649
November 20, 1989, is placed under an order of liquidation by a 3650
court of competent jurisdiction with a finding of insolvency. 3651

(F) (1) "Member insurer" means any insurer that holds a 3652
certificate of authority or is licensed to transact in this 3653
state any kind of insurance for which coverage is provided under 3654
section 3956.04 of the Revised Code, and includes any insurer 3655
whose certificate of authority or license in this state may have 3656
been suspended, revoked, not renewed, or voluntarily withdrawn 3657
after November 20, 1989. 3658

(2) "Member insurer" does not include any of the 3659
following: 3660

(a) A health insuring corporation; 3661

(b) A fraternal benefit society; 3662

(c) A self-insurance or joint self-insurance pool or plan 3663
of the state or any political subdivision of the state; 3664

(d) A mutual protective association; 3665

(e) An insurance exchange; 3666

(f) Any person who qualifies as a "member insurer" under 3667
section 3955.01 of the Revised Code and who does not receive 3668
premiums on covered policies or contracts; 3669

(g) Any entity similar to any of those described in 3670
divisions (F) (2) (a) to (f) of this section. 3671

(3) "Member insurer" includes any insurer that operates 3672
any of the entities described in division (F) (2) of this section 3673
as a line of business, and not as a separate, affiliated legal 3674
entity, and otherwise qualifies as a member insurer. 3675

(G) "Premiums" means amounts received on covered policies 3676
or contracts, less premiums, considerations, and deposits 3677
returned on the policies or contracts, and less dividends and 3678
experience credits on the policies and contracts. "Premiums" 3679
does not include either of the following: 3680

(1) Any amounts in excess of one million dollars received 3681
on any unallocated annuity contract not issued under a 3682
governmental retirement plan established under Section 401, 3683
403(b), or 457 of the "Internal Revenue Code of 1986," 100 Stat. 3684
2085, 26 U.S.C.A. 1, as amended; 3685

(2) Any amounts received for any policies or contracts or 3686
for the portions of any policies or contracts for which coverage 3687
is not provided under section 3956.04 of the Revised Code. 3688
Division (G) (2) of this section shall not be construed to 3689
require the exclusion, from assessable premiums, of premiums 3690
paid for coverages in excess of the interest limitations 3691
specified in division (B) (2) (c) of section 3956.04 of the 3692
Revised Code or of premiums paid for coverages in excess of the 3693
limitations with respect to any one individual, any one 3694

participant, or any one contract holder specified in division 3695
(C) (2) of section 3956.04 of the Revised Code. 3696

(H) "Resident" means any person who resides in this state 3697
at the time a member insurer is determined to be an impaired or 3698
insolvent insurer and to whom a contractual obligation is owed. 3699
A person may be a resident of only one state, which, in the case 3700
of a person other than a natural person, shall be its principal 3701
place of business. Citizens of the United States who are either 3702
residents of a foreign country or residents of a United States 3703
possession, territory, or protectorate that does not have an 3704
association similar to the association created by this chapter 3705
shall be considered residents of the state of domicile of the 3706
insurer that issued the policy or contract. 3707

(I) "Structured settlement annuity" means an annuity 3708
purchased in order to fund periodic payments for a plaintiff or 3709
other claimant in payment for or with respect to personal injury 3710
suffered by the plaintiff or other claimant. 3711

(J) "Subaccount" means any of the three subaccounts 3712
created under division (A) of section 3956.06 of the Revised 3713
Code. 3714

(K) "Supplemental contract" means any agreement entered 3715
into for the distribution of policy or contract proceeds. 3716

~~(K)~~(L) "Unallocated annuity contract" means any annuity 3717
contract or group annuity certificate that is not issued to and 3718
owned by an individual, except to the extent of any annuity 3719
benefits guaranteed to an individual by an insurer under that 3720
contract or certificate. 3721

Sec. 3959.01. As used in this chapter: 3722

(A) "Administration fees" means any amount charged a 3723

covered person for services rendered. "Administration fees" 3724
includes commissions earned or paid by any person relative to 3725
services performed by an administrator. 3726

(B) "Administrator" means any person who adjusts or 3727
settles claims on, residents of this state in connection with 3728
life, dental, health, prescription drugs, or disability 3729
insurance or self-insurance programs. "Administrator" includes a 3730
pharmacy benefit manager. "Administrator" does not include any 3731
of the following: 3732

(1) An insurance agent or solicitor licensed in this state 3733
whose activities are limited exclusively to the sale of 3734
insurance and who does not provide any administrative services; 3735

(2) Any person who administers or operates the workers' 3736
compensation program of a self-insuring employer under Chapter 3737
4123. of the Revised Code; 3738

(3) Any person who administers pension plans for the 3739
benefit of the person's own members or employees or administers 3740
pension plans for the benefit of the members or employees of any 3741
other person; 3742

(4) Any person that administers an insured plan or a self- 3743
insured plan that provides life, dental, health, or disability 3744
benefits exclusively for the person's own members or employees; 3745

(5) Any health insuring corporation holding a certificate 3746
of authority under Chapter 1751. of the Revised Code or an 3747
insurance company that is authorized to write life or sickness 3748
and accident insurance in this state. 3749

(C) "Aggregate excess insurance" means that type of 3750
coverage whereby the insurer agrees to reimburse the insured 3751
employer or trust for all benefits or claims paid during an 3752

agreement period on behalf of all covered persons under the plan 3753
or trust which exceed a stated deductible amount and subject to 3754
a stated maximum. 3755

(D) "Contracted pharmacy" or "pharmacy" means a pharmacy 3756
located in this state participating in either the network of a 3757
pharmacy benefit manager or in a health care or pharmacy benefit 3758
plan through a direct contract or through a contract with a 3759
pharmacy services administration organization, group purchasing 3760
organization, or another contracting agent. 3761

(E) "Contributions" means any amount collected from a 3762
covered person to fund the self-insured portion of any plan in 3763
accordance with the plan's provisions, summary plan 3764
descriptions, and contracts of insurance. 3765

(F) "Drug product reimbursement" means the amount paid by 3766
a pharmacy benefit manager to a contracted pharmacy for the cost 3767
of the drug dispensed to a patient and does not include a 3768
dispensing or professional fee. 3769

(G) "Fiduciary" has the meaning set forth in section 3770
1002(21)(A) of the "Employee Retirement Income Security Act of 3771
1974," 88 Stat. 829, 29 U.S.C. 1001, as amended. 3772

(H) "Fiscal year" means the twelve-month accounting period 3773
commencing on the date the plan is established and ending twelve 3774
months following that date, and each corresponding twelve-month 3775
accounting period thereafter as provided for in the summary plan 3776
description. 3777

(I) "Insurer" means an entity authorized to do the 3778
business of insurance in this state or, for the purposes of this 3779
section, a health insuring corporation authorized to issue 3780
health care plans in this state. 3781

(J) "Managed care organization" means an entity that 3782
provides medical management and cost containment services and 3783
includes a medicaid managed care organization, as defined in 3784
section 5167.01 of the Revised Code. 3785

(K) "Maximum allowable cost" means a maximum drug product 3786
reimbursement for an individual drug or for a group of 3787
therapeutically and pharmaceutically equivalent multiple source 3788
drugs that are listed in the United States food and drug 3789
administration's approved drug products with therapeutic 3790
equivalence evaluations, commonly referred to as the orange 3791
book. 3792

(L) "Maximum allowable cost list" means a list of the 3793
drugs for which a pharmacy benefit manager imposes a maximum 3794
allowable cost. 3795

(M) "Multiple employer welfare arrangement" has the same 3796
meaning as in section 1739.01 of the Revised Code. 3797

(N) "Pharmacy benefit manager" means an entity that 3798
contracts with pharmacies on behalf of an employer, a multiple 3799
employer welfare arrangement, public employee benefit plan, 3800
state agency, insurer, managed care organization, or other 3801
third-party payer to provide pharmacy health benefit services or 3802
administration. "Pharmacy benefit manager" includes the state 3803
pharmacy benefit manager selected under section 5167.24 of the 3804
Revised Code. 3805

(O) "Plan" means any arrangement in written form for the 3806
payment of life, dental, health, or disability benefits to 3807
covered persons defined by the summary plan description and 3808
includes a drug benefit plan administered by a pharmacy benefit 3809
manager. 3810

(P) "Plan sponsor" means the person who establishes the 3811
plan. 3812

(Q) "Self-insurance program" means a program whereby an 3813
employer provides a plan of benefits for its employees without 3814
involving an intermediate insurance carrier to assume risk or 3815
pay claims. "Self-insurance program" includes but is not limited 3816
to employer programs that pay claims up to a prearranged limit 3817
beyond which they purchase insurance coverage to protect against 3818
unpredictable or catastrophic losses. 3819

(R) "Specific excess insurance" means that type of 3820
coverage whereby the insurer agrees to reimburse the insured 3821
employer or trust for all benefits or claims paid during an 3822
agreement period on behalf of a covered person in excess of a 3823
stated deductible amount and subject to a stated maximum. 3824

(S) "Summary plan description" means the written document 3825
adopted by the plan sponsor which outlines the plan of benefits, 3826
conditions, limitations, exclusions, and other pertinent details 3827
relative to the benefits provided to covered persons thereunder. 3828

(T) "Third-party payer" has the same meaning as in section 3829
3901.38 of the Revised Code. 3830

Sec. 3960.07. (A) No purchasing group shall conduct 3831
business in this state unless it has done both of the following: 3832

(1) Issued a notice to the superintendent of insurance 3833
that does all of the following: 3834

(a) Identifies the state in which the purchasing group is 3835
domiciled and all other states in which the group intends to do 3836
business; 3837

(b) Specifies the lines and classifications of liability 3838

insurance that the purchasing group intends to purchase and 3839
specifies the method by which and the person or persons, if any, 3840
through whom insurance will be offered to its members whose 3841
risks are resident or located in this state; 3842

(c) Identifies the name and domicile of the insurance 3843
company from which the purchasing group intends to purchase its 3844
insurance; 3845

(d) Identifies the principal place of business of the 3846
purchasing group; 3847

(e) Provides any other information that the superintendent 3848
may require to verify that the purchasing group is qualified 3849
under division (I) of section 3960.01 of the Revised Code. 3850

A purchasing group, within ten days, shall notify the 3851
superintendent of any changes in any of the items set forth in 3852
division (A) (1) this section. 3853

(2) Registered with the superintendent, paid a filing fee 3854
as determined by the superintendent, and consented to the 3855
exercise of jurisdiction over it by the superintendent and the 3856
courts of this state. The fee shall be paid into the state 3857
treasury to the credit of the department of insurance operating 3858
fund pursuant to section 3901.021 of the Revised Code. 3859

Division (A) (2) of this section does not apply to a 3860
purchasing group to which all of the following apply: 3861

(a) It was domiciled in any state before April 1, 1986, 3862
and on and after October 27, 1986; 3863

(b) It purchased insurance from an insurance carrier 3864
licensed in any state before and after October 27, 1986; 3865

(c) It was a purchasing group meeting the requirements of 3866

the federal "Product Liability Risk Retention Act of 1981," 95 3867
Stat. 949, 15 U.S.C.A. 3901, before October 27, 1986; 3868

(d) It does not purchase insurance that was not authorized 3869
for purposes of an exemption under that act, as in effect before 3870
October 27, 1986. 3871

(B) Each purchasing group that is required to give notice 3872
pursuant to division (A) (1) of this section also shall furnish 3873
any information that may be required by the superintendent to do 3874
both of the following: 3875

(1) Determine where the purchasing group is located; 3876

(2) Determine appropriate tax treatment. 3877

~~(C) Within thirty days after the effective date of this 3878
section, any purchasing group that was doing business in this 3879
state prior to the enactment of this section shall furnish 3880
notice to the superintendent pursuant to division (A) (1) of this 3881
section and furnish any information that may be required 3882
pursuant to division (B) of this section. 3883~~

~~(D) Sections 3937.01 to 3937.17 of the Revised Code apply 3884
to admitted insurers that provide insurance to purchasing 3885
groups. 3886~~

Sec. 3964.19. (A) As used in sections 3964.19 to 3964.194 3887
of the Revised Code: 3888

(1) "Counterparty" means a special purpose financial 3889
captive insurance company's parent or an affiliated entity that 3890
is an insurer domiciled in this state that cedes life insurance 3891
risks to the special purpose financial captive insurance company 3892
pursuant to a special purpose financial captive insurance 3893
company contract. 3894

(2) "Insolvency" or "insolvent" means that the special purpose financial captive insurance company is unable to pay its obligations when they are due, unless those obligations are the subject of a bona fide dispute.

(3) "Insurance securitization" means a package of related risk transfer instruments, capital market offerings, and facilitating administrative agreements, for which a special purpose financial captive insurance company obtains proceeds, either directly or indirectly, through the issuance of securities, where the investment risk to the holders of the securities is contingent upon the obligations of the special purpose financial captive insurance company to the counterparty under the special purpose financial captive insurance company contract, in accordance with the transaction terms, and pursuant to this section. This includes situations where the securitization proceeds are held in trust to secure the obligations of the special purpose financial captive insurance company under one or more special purpose financial captive insurance company contracts.

(4) "Organizational document" means the special purpose financial captive insurance company's articles of incorporation, bylaws, code of regulations, operating agreement, or other foundational documents that establish the special purpose financial captive insurance company as a legal entity.

(5) "Securities" means debt obligations, equity investments, surplus certificates, surplus notes, funding agreements, derivatives, and other legal forms of financial instruments.

(6) "Special purpose financial captive insurance company contract" means a contract between a special purpose financial

captive insurance company and a counterparty pursuant to which 3925
the special purpose financial captive insurance company agrees 3926
to provide insurance or reinsurance protection to the 3927
counterparty for risks associated with the counterparty's 3928
insurance or reinsurance business, and includes a contract 3929
entered into under division (F) of this section. 3930

(7) "Special purpose financial captive insurance company 3931
securities" means the securities issued by a special purpose 3932
financial captive insurance company. 3933

(B) The requirements of this section shall not apply to a 3934
specific special purpose financial captive insurance company if 3935
the superintendent finds a specific requirement is inappropriate 3936
due to the nature of the risks to be insured by the special 3937
purpose financial captive insurance company and if the special 3938
purpose financial captive insurance company meets the criteria 3939
established by rules and regulations adopted and promulgated by 3940
the superintendent. 3941

(C) (1) A special purpose financial captive insurance 3942
company may not issue a contract for assumption of risk or 3943
indemnification of loss other than a special purpose financial 3944
captive insurance company contract. However, the special purpose 3945
financial captive insurance company may cede a risk assumed 3946
through a special purpose financial captive insurance company 3947
contract to a third-party reinsurer through the purchase of 3948
reinsurance or retrocession protection if approved by the 3949
superintendent. 3950

(2) A special purpose financial captive insurance company 3951
may enter into contracts and conduct other commercial activities 3952
related or incidental to and necessary to fulfill the purposes 3953
of special purpose financial captive insurance company 3954

contracts, insurance securitization, and this section. Those 3955
activities may include: 3956

(a) Entering into special purpose financial captive 3957
insurance company contracts; 3958

(b) Issuing securities of the special purpose financial 3959
captive insurance company in accordance with applicable 3960
securities law; 3961

(c) Complying with the terms of special purpose financial 3962
captive insurance company contracts or securities; 3963

(d) Entering into trust, swap, tax, administration, 3964
reimbursement, or fiscal agent transactions; 3965

(e) Complying with trust indenture, reinsurance, 3966
retrocession, and other agreements necessary or incidental to 3967
effectuate an insurance securitization in compliance with this 3968
section and in the plan of operation considered by the 3969
superintendent under division (F) (5) of section 3964.03 of the 3970
Revised Code. 3971

(D) (1) A special purpose financial captive insurance 3972
company may issue securities, subject to and in accordance with 3973
applicable law, its plan of operation considered by the 3974
superintendent under division (E) of section 3964.03 of the 3975
Revised Code, and its organizational documents. 3976

(2) A special purpose financial captive insurance company, 3977
in connection with the issuance of securities, may enter into 3978
and perform all of its obligations under any required contracts 3979
to facilitate the issuance of these securities. 3980

(3) The obligation to repay principal or interest, or 3981
both, on the securities issued by the special purpose financial 3982

captive insurance company shall reflect the risk associated with 3983
the obligations of the special purpose financial captive 3984
insurance company to the counterparty under the special purpose 3985
financial captive insurance company contract. 3986

(E) (1) (a) A special purpose financial captive insurance 3987
company may enter into ~~asset~~ the following types of transactions 3988
for the purposes described in division (E) (1) (b) of this 3989
section: 3990

(i) Asset management agreements, including swap 3991
agreements, ~~guaranteed;~~ 3992

(ii) Guaranteed investment contracts, ~~or other;~~ 3993

(iii) Other transactions with the objective of reducing 3994
timing differences in the funding of upfront, or ongoing, 3995
transaction expenses, or managing asset, credit, prepayment, or 3996
interest rate risk of the investments of the special purpose 3997
financial captive insurance company ~~to~~. 3998

(b) The purpose of the transactions described in division 3999
(E) (1) (a) of this section shall be any of the following: 4000

(i) To ensure that the investments are sufficient to 4001
assure payment or repayment of the securities, and related 4002
interest or principal payments, issued pursuant to a special 4003
purpose financial captive insurance company insurance 4004
securitization transaction ~~or the;~~ 4005

(ii) To ensure that the investments are sufficient to 4006
assure payment or repayment of the obligations required under a 4007
special purpose financial captive insurance company contract ~~or~~ 4008
~~for any;~~ 4009

(iii) Any other purpose approved by the superintendent. 4010

(2) An asset management agreement shall not be entered 4011
into under this section by a special purpose financial captive 4012
insurance company unless it has been approved by the 4013
superintendent. 4014

(F) (1) If a special purpose financial captive insurance 4015
company has entered into a special purpose financial captive 4016
insurance company contract with a counterparty and the special 4017
purpose financial captive insurance company has conducted an 4018
insurance securitization that is made up, in part or in whole, 4019
of the risks of that contract, then the special purpose 4020
financial captive insurance company may enter into a second 4021
contract with the counterparty under which the counterparty is 4022
held liable for those losses or other obligations that were 4023
securitized. 4024

(2) Such obligations may be funded and secured with assets 4025
held in trust for the benefit of the counterparty pursuant to 4026
agreements contemplated by this section and invested in a manner 4027
that meet the criteria in sections 3907.14 and 3907.141 of the 4028
Revised Code. 4029

(G) (1) A special purpose financial captive insurance 4030
company may enter into agreements with affiliated companies and 4031
third parties and conduct business necessary to fulfill its 4032
obligations and administrative duties incidental to an insurance 4033
securitization and a special purpose financial captive insurance 4034
company contract entered into under division (F) of this 4035
section. 4036

(2) The agreements may include management and 4037
administrative services agreements and other allocation and cost 4038
sharing agreements, or swap and asset management agreements, or 4039
both, or agreements for other contemplated types of transactions 4040

provided in this section. 4041

(H) A special purpose financial captive insurance company 4042
contract entered into under division (F) of this section shall 4043
contain all of the following: 4044

(1) A requirement that the special purpose financial 4045
captive insurance company do either of the following: 4046

(a) Enter into a trust agreement specifying what 4047
recoverables or reserves, or both, the agreement is to cover and 4048
to establish a trust account for the benefit of the counterparty 4049
and the security holders; 4050

(b) Establish such other methods of security acceptable to 4051
the superintendent. 4052

(2) A stipulation that assets deposited in the trust 4053
account shall be valued in accordance with their current fair- 4054
market value and shall consist only of investments permitted by 4055
sections 3907.14 and 3907.141 of the Revised Code; 4056

(3) A requirement that, if a trust arrangement is used, 4057
the special purpose financial captive insurance company, before 4058
depositing assets with the trustee, execute assignments, execute 4059
endorsements in blank, or take such actions as are necessary to 4060
transfer legal title to the trustee of all assets requiring 4061
assignment, in order that the counterparty, or the trustee upon 4062
the direction of the counterparty, may negotiate whenever 4063
necessary the assets without consent or signature from the 4064
special purpose financial captive insurance company or another 4065
entity; 4066

(4) A stipulation that, if a trust arrangement is used, 4067
the special purpose financial captive insurance company and the 4068
counterparty agree that the assets in the trust account 4069

established pursuant to the contract: 4070

(a) May be withdrawn by the counterparty, or the trustee 4071
on its behalf, at any time, but only in accordance with the 4072
terms of the contract; 4073

(b) Shall be utilized and applied by the counterparty, 4074
without diminution because of insolvency on the part of the 4075
counterparty or the special purpose financial captive insurance 4076
company, only for the purposes set forth in the credit for 4077
reinsurance laws and rules of this state. As used in this 4078
division, "counterparty" includes any successor of the 4079
counterparty by operation of law, including, subject to the 4080
provisions of this section, but without further limitation, any 4081
liquidator, rehabilitator, or receiver of the counterparty. 4082

(I) A special purpose financial captive insurance company 4083
contract entered into under division (F) of this section may 4084
contain provisions that give the special purpose financial 4085
captive insurance company the right to seek approval from the 4086
counterparty to withdraw from the trust all or part of the 4087
assets, or income from them, contained in the trust and to 4088
transfer the assets to the special purpose financial captive 4089
insurance company if such provisions comply with the credit for 4090
reinsurance laws and rules of this state. 4091

(J) (1) A special purpose financial captive insurance 4092
company contract entered into under division (F) of this 4093
section, meeting the requirements of this section, shall be 4094
granted credit for reinsurance treatment or otherwise qualify as 4095
an asset or a reduction from liability for reinsurance ceded by 4096
a domestic insurer to a special purpose financial captive 4097
insurance company as an assuming insurer for the benefit of the 4098
counterparty if both of the following apply: 4099

(a) The assets are held or invested in one or more of the 4100
forms allowed in sections 3907.14 and 3907.141 of the Revised 4101
Code. 4102

(b) The agreement is in compliance with section 3901.64 of 4103
the Revised Code. 4104

(2) The contract shall be granted credit or otherwise 4105
qualify as an asset or reduction from liability only to the 4106
extent of the value of the assets held in trust for, or letters 4107
of credit, that meet the requirements set forth in division (C) 4108
of section 3964.05 of the Revised Code, or as approved by the 4109
superintendent, for the benefit of the counterparty under the 4110
special purpose financial captive insurance company contract. 4111

(K) A special purpose financial captive insurance company 4112
may make investments that meet the qualifications set forth in 4113
sections 3907.14 and 3907.141 of the Revised Code, however these 4114
investments shall not be subject to any limitations contained in 4115
such sections as to invested amounts. The superintendent may 4116
prohibit or limit any investment that threatens the solvency or 4117
liquidity of a special purpose financial captive insurance 4118
company or that is not made in accordance with the approved plan 4119
of operation. 4120

Sec. 3999.16. No officer, director, trustee, agent, or 4121
employee of any insurance company, corporation, or association 4122
authorized to transact business in this state shall knowingly 4123
use underwriting standards or rates that result in unfair 4124
discrimination against any handicapped person. This section does 4125
not prevent reasonable classifications of handicapped ~~person~~ 4126
persons for determining insurance rates. 4127

As used in this section, "handicapped" means a medically 4128

diagnosable, abnormal condition which is expected to continue 4129
for a considerable length of time, whether correctable or 4130
uncorrectable by good medical practice, which can reasonably be 4131
expected to limit the person's functional ability, including but 4132
not limited to seeing, hearing, thinking, ambulating, climbing, 4133
descending, lifting, grasping, sitting, rising, any related 4134
function, or any limitation due to weakness or significantly 4135
decreased endurance, so that ~~he~~ the person cannot perform ~~his~~ 4136
the person's everyday routine living and working without 4137
significantly increased hardship and vulnerability to what are 4138
considered the everyday obstacles and hazards encountered by the 4139
nonhandicapped. 4140

Section 2. That existing sections 167.03, 1751.32, 4141
1751.74, 1751.84, 1753.31, 3901.045, 3901.45, 3901.811, 3901.87, 4142
3902.08, 3903.01, 3903.52, 3903.56, 3903.71, 3903.724, 3903.728, 4143
3903.7211, 3903.74, 3904.01, 3904.16, 3905.051, 3905.14, 4144
3905.84, 3909.04, 3911.24, 3913.11, 3913.40, 3915.05, 3915.053, 4145
3915.073, 3915.13, 3916.171, 3919.14, 3922.11, 3922.14, 4146
3923.021, 3923.04, 3923.53, 3925.09, 3927.08, 3929.04, 3930.10, 4147
3931.03, 3931.99, 3941.46, 3951.04, 3951.10, 3953.14, 3956.01, 4148
3959.01, 3960.07, 3964.19, and 3999.16 of the Revised Code are 4149
hereby repealed. 4150

Section 3. With the exception of amendments made to 4151
sections 167.03 and 3915.13 of the Revised Code, it is the 4152
intent of the General Assembly for the amendments made in this 4153
act to be nonsubstantive as provided in section 1.301 of the 4154
Revised Code. 4155