

**As Reported by the Senate Insurance Committee**

**131st General Assembly**

**Regular Session**

**2015-2016**

**S. B. No. 223**

**Senator Bacon**

**Cosponsors: Senators Hottinger, Tavares, Brown**

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**A BILL**

To amend sections 3956.01 and 3956.04 of the 1  
Revised Code to make changes to the health 2  
coverage benefit limits and coverage exclusions 3  
for life and health insurance guaranty 4  
associations. 5

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

**Section 1.** That sections 3956.01 and 3956.04 of the 6  
Revised Code be amended to read as follows: 7

**Sec. 3956.01.** As used in this chapter: 8

(A) "Account" means either of the two accounts created 9  
under section 3956.06 of the Revised Code. 10

(B) "Contractual obligation" means any obligation under a 11  
policy, contract, or certificate under a group policy or 12  
contract, or portion of the policy or contract, for which 13  
coverage is provided under section 3956.04 of the Revised Code. 14

(C) "Covered policy or contract" means any policy, 15  
contract, or group certificate within the scope of section 16  
3956.04 of the Revised Code. 17

(D) "Impaired insurer" means a member insurer that, after 18  
November 20, 1989, is not an insolvent insurer, and ~~to which~~ 19  
~~either of the following applies:~~ 20

~~(1) The insurer is considered by the superintendent to be 21~~  
~~potentially unable to fulfill its contractual obligations;~~ 22

~~(2) The insurer is placed under an order of rehabilitation 23~~  
or conservation by a court of competent jurisdiction. 24

(E) "Insolvent insurer" means a member insurer that, after 25  
November 20, 1989, is placed under an order of liquidation by a 26  
court of competent jurisdiction with a finding of insolvency. 27

(F) (1) "Member insurer" means any insurer that holds a 28  
certificate of authority or is licensed to transact in this 29  
state any kind of insurance for which coverage is provided under 30  
section 3956.04 of the Revised Code, and includes any insurer 31  
whose certificate of authority or license in this state may have 32  
been suspended, revoked, not renewed, or voluntarily withdrawn 33  
after November 20, 1989. 34

(2) "Member insurer" does not include any of the 35  
following: 36

(a) A health insuring corporation; 37

(b) A fraternal benefit society; 38

(c) A self-insurance or joint self-insurance pool or plan 39  
of the state or any political subdivision of the state; 40

(d) A mutual protective association; 41

(e) An insurance exchange; 42

(f) Any person who qualifies as a "member insurer" under 43  
section 3955.01 of the Revised Code and who does not receive 44

premiums on covered policies or contracts; 45

(g) Any entity similar to any of those described in 46  
divisions (F) (2) (a) to (f) of this section. 47

(3) "Member insurer" includes any insurer that operates 48  
any of the entities described in division (F) (2) of this section 49  
as a line of business, and not as a separate, affiliated legal 50  
entity, and otherwise qualifies as a member insurer. 51

(G) "Premiums" means amounts received on covered policies 52  
or contracts, less premiums, considerations, and deposits 53  
returned on the policies or contracts, and less dividends and 54  
experience credits on the policies and contracts. "Premiums" 55  
does not include either of the following: 56

(1) Any amounts in excess of one million dollars received 57  
on any unallocated annuity contract not issued under a 58  
governmental retirement plan established under Section 401, 59  
403(b), or 457 of the "Internal Revenue Code of 1986," 100 Stat. 60  
2085, 26 U.S.C.A. 1, as amended; 61

(2) Any amounts received for any policies or contracts or 62  
for the portions of any policies or contracts for which coverage 63  
is not provided under section 3956.04 of the Revised Code. 64  
Division (G) (2) of this section shall not be construed to 65  
require the exclusion, from assessable premiums, of premiums 66  
paid for coverages in excess of the interest limitations 67  
specified in division (B) (2) (c) of section 3956.04 of the 68  
Revised Code or of premiums paid for coverages in excess of the 69  
limitations with respect to any one individual, any one 70  
participant, or any one contract holder specified in division 71  
(C) (2) of section 3956.04 of the Revised Code. 72

(H) "Resident" means any person who resides in this state 73

at the time a member insurer is determined to be an impaired or 74  
insolvent insurer and to whom a contractual obligation is owed. 75  
A person may be a resident of only one state, which, in the case 76  
of a person other than a natural person, shall be its principal 77  
place of business. Citizens of the United States who are either 78  
residents of a foreign country or residents of a United States 79  
possession, territory, or protectorate that does not have an 80  
association similar to the association created by this chapter 81  
shall be considered residents of the state of domicile of the 82  
insurer that issued the policy or contract. 83

(I) "Structured settlement annuity" means an annuity 84  
purchased in order to fund periodic payments for a plaintiff or 85  
other claimant in payment for or with respect to personal injury 86  
suffered by the plaintiff or other claimant. 87

(J) "Subaccount" means any of the three subaccounts 88  
created under division (A) of section 3956.06 of the Revised 89  
Code. 90

~~(J)~~(K) "Supplemental contract" means any agreement 91  
entered into for the distribution of policy or contract 92  
proceeds. 93

~~(K)~~(L) "Unallocated annuity contract" means any annuity 94  
contract or group annuity certificate that is not issued to and 95  
owned by an individual, except to the extent of any annuity 96  
benefits guaranteed to an individual by an insurer under that 97  
contract or certificate. 98

**Sec. 3956.04.** (A) This chapter provides coverage, by the 99  
Ohio life and health insurance guaranty association, for the 100  
policies and contracts specified in division (B) of this section 101  
to all of the following persons: 102

(1) Persons who are the beneficiaries, assignees, or payees of the persons covered under division (A) (2) of this section, regardless of where they reside, except for nonresident certificate holders under group policies or contracts;

(2) Persons who are owners of or certificate holders under the policies or contracts other than structured settlement annuities, or, in the case of unallocated annuity contracts, the persons who are the contract holders, if either of the following applies:

(a) The persons are residents of this state;

(b) The persons are not residents of this state and all of the following conditions apply:

(i) The insurers that issued the policies or contracts are domiciled in this state;

(ii) At the time the policies or contracts were issued, the insurers did not hold a license or certificate of authority in the states in which the persons reside;

(iii) The states have associations similar to the association created by section 3956.06 of the Revised Code;

(iv) The persons are not eligible for coverage by those associations.

(3) Persons who are payees, or the beneficiary of a payee if the payee is deceased, under a structured settlement annuity if the payee is a resident of this state, regardless of where the contract owner resides.

(4) Persons who are payees, or the beneficiary of a payee if the payee is deceased, under a structured settlement annuity if the payee is not a resident of this state, but both of the

following are true: 131

(a) The contract owner of the structured settlement annuity is a resident of this state or, if the contract owner of the structured settlement annuity is not a resident of this state, the insurer that issued the structured settlement annuity is domiciled in this state and the state in which the contract owner resides has an association similar to the association created by this chapter. 132  
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(b) The payee, the beneficiary, and the contract owner are not eligible for coverage by the association of the state in which the payee or contract owner resides. 139  
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(5) Persons who are payees or beneficiaries of a contract owner resident of this state to the extent coverage is provided under division (A) (4) of this section, unless the payee or beneficiary is afforded any coverage by the association of another state. 142  
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This chapter is intended to provide coverage to a person who is a resident of this state and, in special circumstances, to a nonresident. To avoid duplicate coverage, if a person who would otherwise receive coverage under this chapter receives coverage under the laws of another state, the person shall not be provided coverage under this chapter. In determining the application of the provisions of this chapter in situations in which a person could be covered by the association of more than one state, whether as an owner, payee, beneficiary, or assignee, this chapter shall be construed in conjunction with other state laws to result in coverage by only one association. 147  
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(B) (1) This chapter provides coverage to the persons specified in division (A) of this section for direct, nongroup 158  
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life, health, ~~or annuity, and supplemental~~ policies or 160  
contracts, for certificates under direct group policies and 161  
contracts, for supplemental contracts to any of the preceding, 162  
and for unallocated annuity contracts, in each case issued by 163  
member insurers, except as otherwise limited in this chapter. 164  
Annuity contracts and certificates under group annuity contracts 165  
include, but are not limited to, guaranteed investment 166  
contracts, deposit administration contracts, unallocated funding 167  
agreements, allocated funding agreements, structured settlement 168  
~~agreements, lottery contracts~~ annuities, annuities issued to or 169  
in connection with government lotteries, and any immediate or 170  
deferred annuity contracts. 171

(2) This chapter does not provide coverage for any of the 172  
following: 173

(a) Any portion of a policy or contract not guaranteed by 174  
the insurer, or under which the risk is borne by the policy or 175  
contract holder; 176

(b) Any policy or contract of reinsurance, unless 177  
assumption certificates have been issued; 178

(c) Any portion of a policy or contract to the extent that 179  
the rate of interest on which it is based: 180

(i) Averaged over the period of four years prior to the 181  
date on which the association becomes obligated with respect to 182  
the policy or contract or if the policy or contract has been 183  
issued for a lesser period averaged over that period, exceeds 184  
the rate of interest determined by subtracting two percentage 185  
points from the monthly average-corporates as published by 186  
Moody's investors service, inc., or any successor to that 187  
service, averaged for the same period; 188

(ii) On and after the date on which the association 189  
becomes obligated with respect to the policy or contract, 190  
exceeds the rate of interest determined by subtracting three 191  
percentage points from the monthly average-corporates as 192  
published by Moody's investors service, inc., or any successor 193  
to that service, as most recently available. 194

If the monthly average-corporates is no longer published, 195  
the superintendent, by rule, shall establish a substantially 196  
similar average. 197

(d) Any plan or program of an employer, association, or 198  
similar entity to provide life, health, or annuity benefits to 199  
its employees or members to the extent that the plan or program 200  
is self-funded or uninsured, including but not limited to 201  
benefits payable by an employer, association, or similar entity 202  
under any of the following: 203

(i) A multiple employer welfare arrangement as defined in 204  
section ~~514-3(40)~~ of the "Employee Retirement Income Security 205  
Act of 1974," 88 Stat. 833, 29 U.S.C.A. ~~1001~~1002(40), as 206  
amended; 207

(ii) A minimum premium group insurance plan; 208

(iii) A stop-loss group insurance plan; 209

(iv) An administrative services only contract. 210

(e) Any portion of a policy or contract to the extent that 211  
it provides dividends or experience rating credits, or provides 212  
that any fees or allowances be paid to any person, including the 213  
policy or contract holder, in connection with the service to or 214  
administration of the policy or contract; 215

(f) Any policy or contract issued in this state by a 216

member insurer at a time when it was not licensed or did not 217  
have a certificate of authority to issue the policy or contract 218  
in this state; 219

(g) Any unallocated annuity contract issued to an employee 220  
benefit plan protected under the federal pension benefit 221  
guaranty corporation; 222

(h) Any portion of any unallocated annuity contract that 223  
is not issued to or in connection with a governmental lottery or 224  
a benefit plan of a specific employee, union, or association of 225  
natural persons; 226

(i) Any policy or contract issued to or for the benefit of 227  
a past or present director or officer within one year of the 228  
filing of the successful complaint that the insurer was impaired 229  
or insolvent; 230

(j) Any policy or contract issued by any entity described 231  
in division (F) (2) of section 3956.01 of the Revised Code; 232

(k) Any policy or contract issued by a member insurer if 233  
the member insurer is carrying on as a line of business, and not 234  
as a separate legal entity, the activities of any entity 235  
described in division (F) (2) of section 3956.01 of the Revised 236  
Code, and the policy or contract is issued as a product of those 237  
activities; 238

(l) Any policy or contract providing hospital, medical, 239  
prescription drug, or other health care benefits pursuant to 42 240  
U.S.C. Chapter 7, Title XVIII, Parts C and D and any 241  
corresponding regulations. 242

(C) The benefits for which the association may become 243  
liable shall not exceed the lesser of either of the following: 244

(1) The contractual obligations for which the insurer is	245
liable or would have been liable if it were not an impaired or	246
insolvent insurer;	247
(2) (a) With respect to any one life, regardless of the	248
number of policies or contracts:	249
(i) Three hundred thousand dollars in life insurance death	250
benefits, but not more than one hundred thousand dollars in net	251
cash surrender and net cash withdrawal values for life	252
insurance;	253
(ii) One hundred thousand dollars in health insurance	254
benefits <u>other than basic hospital, medical, and surgical</u>	255
<u>insurance, major medical insurance, disability insurance, or</u>	256
<u>long-term care insurance</u> , including any net cash surrender and	257
net cash withdrawal values;	258
(iii) <u>Three hundred thousand dollars in disability</u>	259
<u>insurance;</u>	260
(iv) <u>Three hundred thousand dollars in long-term care</u>	261
<u>insurance;</u>	262
(v) <u>Five hundred thousand dollars in basic hospital,</u>	263
<u>medical, and surgical insurance or major medical insurance;</u>	264
(vi) <u>Two hundred fifty thousand dollars in the present</u>	265
value of annuity benefits, including net cash surrender and net	266
cash withdrawal values.	267
(b) With respect to each individual participating in a	268
governmental retirement plan established under section 401,	269
403(b), or 457 of the "Internal Revenue Code of 1986," 100 Stat.	270
2085, 26 U.S.C.A. 1, as amended, and covered by an unallocated	271
annuity contract, or the beneficiaries of each such individual	272

if deceased, in the aggregate, two hundred fifty thousand 273  
dollars in present value annuity benefits, including net cash 274  
surrender and net cash withdrawal values. 275

The association is not liable to expend more than three 276  
hundred thousand dollars in the aggregate with respect to any 277  
one individual under divisions (C) (2) (a) ~~and~~, (b), and (d) of 278  
this section combined, except with respect to benefits for basic 279  
hospital, medical, and surgical insurance and major medical 280  
insurance under division (C) (2) (a) (v) of this section, in which 281  
case the aggregate liability of the association shall not exceed 282  
five hundred thousand dollars with respect to any one 283  
individual. 284

(c) With respect to any one contract holder, covered by 285  
any unallocated annuity contract not included in division (C) (2) 286  
(b) of this section, one million dollars in benefits, 287  
irrespective of the number of those contracts held by that 288  
contract holder. 289

(d) With respect to each payee of a structured settlement 290  
annuity, or the beneficiary or beneficiaries of the payee if the 291  
payee is deceased, two hundred fifty thousand dollars in present 292  
value of annuity benefits, in the aggregate, including net cash 293  
surrender and net cash withdrawal values, if any. 294

(D) The liability of the association is limited strictly 295  
by the express terms of the policies or contracts and by this 296  
chapter, and is not affected by the contents of any brochures, 297  
illustrations, advertisements in the print or electronic media, 298  
or other advertising material used in connection with the sale 299  
of the policies or contracts, or by oral statements made by 300  
agents or other sales representatives in connection with the 301  
sale of the policies or contracts. The association is not liable 302

for extra-contractual damages, punitive damages, attorney's 303  
fees, or interest other than as provided for by the terms of the 304  
policies or contracts as limited by this chapter, that might be 305  
awarded by any court or governmental agency in connection with 306  
the policies or contracts. 307

(E) The protection provided by this chapter does not apply 308  
where any guaranty protection is provided to residents of this 309  
state by the laws of the domiciliary state or jurisdiction of 310  
the impaired or insolvent insurer other than this state. 311

**Section 2.** That existing sections 3956.01 and 3956.04 of 312  
the Revised Code are hereby repealed. 313