

# AN ACT

To amend sections 3901.32, 3903.01, 3903.05, 3903.26, 3905.01, 3905.06, and 3905.40 and to enact sections 3901.352 and 3905.064 of the Revised Code to permit the Superintendent of Insurance to act as or select a group-wide supervisor for an internationally active insurance group, regarding delinquency proceedings involving insurer-members of federal home loan banks, and to oversee the sale of travel insurance.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 3901.32, 3903.01, 3903.05, 3903.26, 3905.01, 3905.06, and 3905.40 be amended and sections 3901.352 and 3905.064 of the Revised Code be enacted to read as follows:

Sec. 3901.32. As used in sections 3901.32 to 3901.37 of the Revised Code:

(A) "Affiliate of" or "affiliated with" a specific person means a person that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, the person specified.

(B) "Control," including "controlling," "controlled by," and "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. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten per cent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided in division (J) of section 3901.33 of the Revised Code that control does not exist in fact. The superintendent of insurance may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(C) "Enterprise risk" means any activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a materially adverse effect on the financial condition or liquidity of the insurer or its insurance holding company system as a whole. "Enterprise risk" includes anything that would cause the insurer's risk-based capital to fall into company action level as set forth in section 3903.83 of the Revised Code or would cause the insurer to be in a hazardous financial condition.

(D) "Group-wide supervisor" means the regulatory official who is authorized by the superintendent to conduct and coordinate group-wide supervision of an internationally active insurance group and who is determined by the superintendent pursuant to division (A) of section

3901.352 of the Revised Code to have sufficient contacts with the internationally active insurance group.

(E) "Insurance holding company system" means two or more affiliated persons, one or more of which is an insurer.

(E)-(F) "Insurer" means any person engaged in the business of insurance, guaranty, or membership, an inter-insurance exchange, a mutual or fraternal benefit society, or a health insuring corporation. "Insurer" does not include any agency, authority, or instrumentality of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

(F)-(G) "Internationally active insurance group" means an insurance holding company system that includes an insurer registered under section 3901.33 of the Revised Code and that meets all of the following criteria:

(1) Insurers that are part of the insurance holding company system write premiums in at least three countries.

(2) The percentage of gross premiums written outside the United States by the insurance holding company system is at least ten per cent of the system's total gross written premiums.

(3) Based on a three-year rolling average, either the total assets of the insurance holding company system are at least fifty billion dollars, or the total gross written premiums of the insurance holding company system are at least ten billion dollars.

(H) "Person" means an individual, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity, or any combination of the foregoing acting in concert.

(G)-(I) "Subsidiary" of a specified person is an affiliate controlled by such person, directly or indirectly, through one or more intermediaries.

(H)-(J) "Voting security" includes any security convertible into or evidencing a right to acquire a voting security.

Sec. 3901.352. (A)(1) The superintendent of insurance is authorized to act as the group-wide supervisor for any internationally active insurance group in accordance with this section. However, the superintendent may otherwise acknowledge a regulatory official from another jurisdiction as the group-wide supervisor for an internationally active insurance group, if the group meets any of the following conditions:

(a) Does not have substantial insurance operations in the United States;

(b) Has substantial operations in the United States, but not in this state;

(c) Has substantial insurance operations in the United States and this state, but the superintendent has determined pursuant to the factors set forth in divisions (B) and (F) of this section that the other regulatory official is the appropriate group-wide supervisor.

(2) An insurance holding company system that does not otherwise qualify as an internationally active insurance group may request that the superintendent make a determination or acknowledgment as to a group-wide supervisor for the insurance holding company system pursuant to this section.

(B)(1) In cooperation with other state, federal, and international regulatory agencies, the superintendent shall identify one group-wide supervisor for each internationally active insurance

group. The superintendent may determine that the superintendent is the appropriate group-wide supervisor for an internationally active insurance group that conducts substantial insurance operations concentrated in this state. However, the superintendent may acknowledge that a regulatory official from another jurisdiction is the appropriate group-wide supervisor for the internationally active insurance group. The superintendent shall consider the following factors when making a determination or acknowledgment under division (B)(1) of this section:

(a) The place of domicile of the insurers within the internationally active insurance group that hold the largest share of the group's written premiums, assets, or liabilities;

(b) The place of domicile of the top-tiered insurer in the internationally active insurance group's insurance holding company system;

(c) The location of the executive offices or largest operational offices of the internationally active insurance group;

(d) For the purposes of division (C)(1) of this section, whether another regulatory official is acting or is seeking to act as the group-wide supervisor for the internationally active insurance group under a regulatory system that the superintendent determines to be either of the following:

(i) Substantially similar to the regulatory system under the laws of this state;

(ii) Otherwise sufficient in terms of providing for group-wide supervision, enterprise risk analysis, and cooperation with other regulatory officials.

(e) Whether another regulatory official acting, or seeking to act, as the group-wide supervisor for the internationally active insurance group provides the superintendent with reasonably reciprocal recognition and cooperation.

(2) If the superintendent is identified in division (B)(1) of this section as the group-wide supervisor of an internationally active insurance group, the superintendent may determine that it is appropriate to acknowledge another supervisor to serve as the group-wide supervisor. The acknowledgment of the new group-wide supervisor shall be made in accordance with all of the following:

(a) After consideration of the factors listed in division (B)(1) of this section;

(b) In cooperation with and subject to the acknowledgment of other regulatory officials involved with supervision of members of the internationally active insurance group;

(c) In consultation with the internationally active insurance group.

(C)(1) Notwithstanding any other provision of law, when another regulatory official is acting as the group-wide supervisor of an internationally active insurance group, the superintendent shall acknowledge that regulatory official as the group-wide supervisor.

(2) The superintendent shall make a determination or acknowledgment under division (B) of this section as to the appropriate group-wide supervisor for an internationally active insurance group if a material change in the internationally active insurance group results in either of the following:

(a) The internationally active insurance group's insurers domiciled in this state holding the largest share of the group's premiums, assets, or liabilities;

(b) This state being the place of domicile of the top-tiered insurer in the internationally active insurance group's insurance holding company system.

(D)(1) Pursuant to section 3901.35 of the Revised Code, the superintendent may collect from any insurer registered under section 3901.33 of the Revised Code all information necessary to

determine whether the superintendent may act as the group-wide supervisor of an internationally active insurance group or if the superintendent may acknowledge another regulatory official to act as the group-wide supervisor.

(2) Prior to issuing a determination that an internationally active insurance group is subject to group-wide supervision by the superintendent, the superintendent shall notify the insurer registered under section 3901.33 of the Revised Code and the ultimate controlling person within the internationally active insurance group. The superintendent shall give the internationally active insurance group not less than thirty days to provide the superintendent with additional information pertinent to the pending determination.

(3) The superintendent shall publish on its internet web site the identity of internationally active insurance groups that the superintendent has determined are subject to group-wide supervision by the superintendent.

(E) If the superintendent is the group-wide supervisor for an internationally active insurance group, the superintendent may engage in any of the following activities:

(1) Assess the enterprise risks within the internationally active insurance group to ensure all of the following:

(a) That the material financial condition and liquidity risks to members of the internationally active insurance group that are engaged in the business of insurance are identified by management;

(b) That reasonable and effective mitigation measures are in place.

(2) Request from any member of an internationally active insurance group subject to the superintendent's supervision information necessary and appropriate to assess enterprise risk, including information about the members of the internationally active insurance group regarding all of the following:

(a) Governance, risk assessment, and management;

(b) Capital adequacy;

(c) Material intercompany transactions.

(3) Coordinate and, through the authority of the regulatory officials of the jurisdictions in which members of the internationally active insurance group are domiciled, compel development and implementation of reasonable measures designed to ensure that the internationally active insurance group is able to timely recognize and mitigate enterprise risks to members of the internationally active insurance group that are engaged in the business of insurance;

(4) Communicate with other state, federal, and international regulatory agencies for members of the internationally active insurance group and share relevant information, subject to the confidentiality provisions of section 3901.36 of the Revised Code, through a supervisory college as set forth in section 3901.351 of the Revised Code or otherwise;

(5) Enter into agreements with or obtain documentation from any insurer registered under section 3901.33 of the Revised Code, any member of the internationally active insurance group, and any other state, federal, and international regulatory agency for members of the internationally active insurance group, that provides the basis for or otherwise clarifies the superintendent's role as group-wide supervisor. The agreements or documentation may include provisions for resolving disputes with other regulatory officials. The agreements or documentation shall not serve as evidence in any proceeding to show that any insurer or person within an insurance holding company system not

domiciled or incorporated in this state is doing business in this state or is otherwise subject to jurisdiction in this state.

(6) Any other group-wide supervision activities consistent with this section that the superintendent considers necessary.

(F) If the superintendent acknowledges that another regulatory official from a jurisdiction that is not accredited by the national association of insurance commissioners is the group-wide supervisor of an internationally active insurance group, the superintendent may reasonably cooperate, through a supervisory college as set forth in section 3901.351 of the Revised Code or otherwise, with group-wide supervision undertaken by the group-wide supervisor if all of the following are true:

(1) The superintendent's cooperation is in compliance with the Revised Code.

(2) The regulatory official also recognizes and cooperates with the superintendent's activities as a group-wide supervisor for other internationally active insurance groups, as applicable. If such recognition and cooperation is not reasonably reciprocal, the superintendent may refuse to recognize and cooperate with the regulatory official as group-wide supervisor.

(G) The superintendent may enter into agreements with or obtain documentation from any insurer registered under section 3901.33 of the Revised Code, any affiliate of the insurer, and other state, federal, and international regulatory agencies for members of the internationally active insurance group that provides the basis for or otherwise clarifies a regulatory official's role as group-wide supervisor of an internationally active insurance group.

(H) An insurer registered under section 3901.33 of the Revised Code shall be liable for and shall pay the reasonable expenses of the superintendent's participation in the administration of this section, including engaging attorneys, actuaries, and any other professionals and all reasonable travel expenses.

(I) The superintendent may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.

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

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

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

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

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

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

(1) A contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a board of trade designated as a contract market by the commodity futures trading commission under the "Commodity Exchange Act," 7 U.S.C. 1 et seq., as amended, or a board of trade outside the United States;

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

(3) An agreement or transaction that is subject to regulation under section 4c(b) of the

"Commodity Exchange Act," 7 U.S.C. 6c(b), as amended, and that is commonly known to the commodities trade as a commodity option;

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

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

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

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

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

(1) The issuance or delivery of contracts of insurance to persons resident in this state;

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

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

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

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

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

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

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

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

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

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

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

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

~~(N)~~ (O) "Insolvency" or "insolvent" means:

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

- (a) The inability to pay any obligation within thirty days after it becomes payable;
- (b) If an assessment is made within thirty days after such date, the inability to pay the obligation thirty days following the date specified in the first assessment notice issued after the date of loss.

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

- (a) Any capital and surplus required by law for its organization;
- (b) The total par or stated value of its authorized and issued capital stock.

(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)(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)(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.

~~(O)~~~~(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.

~~(P)~~~~(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 entitlements under a qualified financial contract, including liquidation or close-out values relating to those obligations or entitlements;

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

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

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

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

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

~~(S)~~~~(T)~~ "Reciprocal state" means any state other than this state in which in substance and effect division (A) of section 3903.18, and sections 3903.52, 3903.53, and 3903.55 to 3903.57 of the Revised Code are in force, in which provisions are in force requiring that the superintendent or equivalent official be the receiver, liquidator, rehabilitator, or conservator of a delinquent insurer, and in which some provision exists for the avoidance of fraudulent conveyances and preferential transfers.

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

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

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

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

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

~~(Y)~~~~(Z)~~ "Superintendent" or "superintendent of insurance" means the superintendent of insurance of this state, or, when the context requires, the superintendent or commissioner of insurance, or equivalent official, of another state.

~~(Z)~~~~(AA)~~ "Swap agreement" has the same meaning as in the federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 1821(e)(8)(D), as now and hereafter amended.

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

Sec. 3903.05. (A) Upon complaint or motion of any receiver, conservator, rehabilitator, or liquidator appointed in a proceeding under sections 3903.01 to 3903.59 of the Revised Code, any court of general jurisdiction may issue a temporary restraining order, a preliminary injunction, a permanent injunction, or such other orders that the court considers necessary and proper to prevent any one or more of the following:

- (1) The transaction of further business;
- (2) The transfer of property;
- (3) Interference with the receiver, conservator, rehabilitator, or liquidator or with a



proceeding under sections 3903.01 to 3903.59 of the Revised Code;

- (4) Waste of the insurer's assets;
- (5) Dissipation and transfer of bank accounts;
- (6) The commencement or further prosecution of any actions or proceedings;
- (7) The obtaining of preferences, judgments, attachments, garnishments, or liens against the insurer, its assets, or its policyholders;
- (8) The levying of execution against the insurer, its assets, or its policyholders;
- (9) The making of any sale or deed for nonpayment of taxes or assessments that would lessen the value of the assets of the insurer;
- (10) The withholding from the receiver, conservator, rehabilitator, or liquidator of books, accounts, documents, or other records relating to the business of the insurer;
- (11) Any other threatened or contemplated action that might lessen the value of the insurer's assets or prejudice the rights of policyholders, creditors, or shareholders, or the administration of any proceeding under sections 3903.01 to 3903.59 of the Revised Code.

(B) The receiver, conservator, rehabilitator, or liquidator may apply to any court outside of this state for any relief described in division (A) of this section.

(C)(1) A federal home loan bank shall not be stayed or otherwise prohibited by a court from exercising its rights regarding collateral pledged by an insurer-member for more than ten days following the date a temporary restraining order, preliminary injunction, or permanent injunction is issued by the court pursuant to division (A) of this section.

(2) A federal home loan bank exercising its rights regarding collateral pledged by an insurer-member shall, within seven days of receiving a redemption request made by the insurer-member, repurchase any of the insurer-member's outstanding capital stock in excess of the amount the insurer-member must hold as a minimum investment. The federal home loan bank shall repurchase the excess outstanding capital stock only to the extent that it determines in good faith that the repurchase is both of the following:

(a) Permissible under federal laws and regulations and the federal home loan bank's capital plan;

(b) Consistent with the capital stock practices currently applicable to the federal home loan bank's entire membership.

(D)(1) Not later than ten days after the date of appointment of a receiver, conservator, rehabilitator, or liquidator in a proceeding under sections 3903.01 to 3903.59 of the Revised Code involving an insurer-member of a federal home loan bank, the federal home loan bank shall provide to the receiver, conservator, rehabilitator, or liquidator a process and timeline for all of the following:

(a) The release of any collateral held by the federal home loan bank that exceeds the amount that is required to support the secured obligations of the insurer-member and that is remaining after any repayment of loans, as determined under the applicable agreements between the federal home loan bank and the insurer-member;

(b) The release of any collateral of the insurer-member remaining in the federal home loan bank's possession following repayment in full of all outstanding secured obligations of the insurer-member;

(c) The payment of fees owed by the insurer-member and the operation, maintenance,

closure, or disposition of deposits and other accounts of the insurer-member, as mutually agreed upon by the receiver, conservator, rehabilitator, or liquidator and the federal home loan bank;

(d) Any redemption or repurchase of federal home loan bank stock or excess stock of any class that the insurer-member is required to own under agreements between the federal home loan bank and the insurer-member.

(2) Upon the request of a receiver, conservator, rehabilitator, or liquidator appointed in a proceeding under sections 3903.01 to 3903.59 of the Revised Code involving a federal home loan bank insurer-member, the federal home loan bank shall provide to the receiver, conservator, rehabilitator, or liquidator any available options for the insurer-member to renew or restructure a loan. In determining which options are available, the federal home loan bank may consider market conditions, the terms of any loans outstanding to the insurer-member, the applicable policies of the federal home loan bank, and the federal laws and regulations applicable to federal home loan banks.

(E) As used in this section, "insurer-member" means a member of the federal home loan bank in question that is an insurer.

Sec. 3903.26. (A) ~~Every~~ Except as provided in division (D) of this section, every transfer made or suffered and every obligation incurred by an insurer within one year prior to the filing of a successful complaint for rehabilitation or liquidation under sections 3903.01 to 3903.59 of the Revised Code is fraudulent as to then existing and future creditors if made or incurred without fair consideration, or with actual intent to hinder, delay, or defraud either existing or future creditors. A transfer made or an obligation incurred by an insurer ordered to be rehabilitated or liquidated under sections 3903.01 to 3903.59 of the Revised Code, which is fraudulent under this section, may be avoided by the rehabilitator or liquidator, except as to a person who in good faith is a purchaser, lienor, or obligee for a present fair equivalent value, and except that any purchaser, lienor, or obligee, who in good faith has given a consideration less than fair for such transfer, lien, or obligation, may retain the property, lien, or obligation as security for repayment. The court may, on due notice, order any such transfer or obligation to be preserved for the benefit of the estate, and in that event, the rehabilitator or liquidator shall succeed to and may enforce the rights of the purchaser, lienor, or obligee.

(B)(1) A transfer of property other than real property is deemed to be made or suffered when it becomes so far perfected that no subsequent lien obtainable by legal or equitable proceedings on a simple contract could become superior to the rights of the transferee under division (C) of section 3903.28 of the Revised Code.

(2) A transfer of real property is deemed to be made or suffered when it becomes so far perfected that no subsequent bona fide purchaser from the insurer could obtain rights superior to the rights of the transferee.

(3) A transfer which creates an equitable lien is not deemed to be perfected if there are available means by which a legal lien can be created.

(4) Any transfer not perfected prior to the filing of a complaint for rehabilitation or liquidation is deemed to be made immediately before the filing of the complaint.

(5) The provisions of divisions (B)(1) to (5) of this section apply whether or not there are or were creditors who might have obtained any liens or persons who might have become bona fide purchasers.

(C) Any transaction of the insurer with a reinsurer shall be deemed fraudulent and may be avoided by the rehabilitator or liquidator under division (A) of this section if both of the following apply:

(1) The transaction consists of the termination, adjustment, or settlement of a reinsurance contract in which the reinsurer is released from any part of its duty to pay the originally specified share of losses that had occurred prior to the time of the transaction, unless the reinsurer gives a present fair equivalent value for the release;

(2) Any part of the transaction took place within one year prior to the date of filing of the complaint through which the rehabilitation or liquidation was commenced.

(D)(1) Except as provided in division (D)(2) of this section, any transfer of and any obligation to transfer money or other property from an insurer-member of a federal home loan bank to the federal home loan bank under a federal home loan bank security, pledge, collateral, or guarantee agreement, or other similar arrangement or credit enhancement, shall not be deemed fraudulent and shall not be avoided by the rehabilitator or liquidator under division (A) of this section if the agreement, arrangement, or enhancement is both of the following:

(a) Made in the ordinary course of business;

(b) Made in compliance with the applicable federal home loan bank agreement.

(2) Notwithstanding division (D)(1) of this section, a transfer may be deemed fraudulent and may be avoided by the rehabilitator or liquidator under division (A) of this section if the transfer is made with the intent to hinder, delay, or defraud an insurer-member of the federal home loan bank, the liquidator or rehabilitator of the insurer-member, or existing or future creditors of the insurer-member.

(3) As used in division (D) of this section, "insurer-member" means a member of the federal home loan bank in question that is an insurer.

Sec. 3905.01. As used in this chapter:

(A) "Affordable Care Act" means the "Patient Protection and Affordable Care Act," 124 Stat. 119, 42 U.S.C. 18031 (2011).

(B) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

(C) "Home state" means the state or territory of the United States, including the District of Columbia, in which an insurance agent maintains the insurance agent's principal place of residence or principal place of business and is licensed to act as an insurance agent.

(D) "In-person assister" means any person, other than a navigator, who receives any funding from, or who is selected or designated by, an exchange, the state, or the federal government to perform any of the activities and duties identified in division (i) of section 1311 of the Affordable Care Act. "In-person assister" includes any individual that is employed by, supervised by, or affiliated with an in-person assister and performs any of the activities and duties identified in division (i) of section 1311 of the Affordable Care Act, any non-navigator assistance personnel, and any other person deemed as such by rules adopted by the superintendent under division (L) of section 3905.471 of the Revised Code.

(E) "Insurance" means any of the lines of authority set forth in Chapter 1739., 1751., or 1761. or Title XXXIX of the Revised Code, or as additionally determined by the superintendent of

insurance.

(F) "Insurance agent" or "agent" means any person that, in order to sell, solicit, or negotiate insurance, is required to be licensed under the laws of this state, including limited lines insurance agents and surplus line brokers.

(G) "Insurer" has the same meaning as in section 3901.32 of the Revised Code.

(H) "License" means the authority issued by the superintendent to a person to act as an insurance agent for the lines of authority specified, but that does not create any actual, apparent, or inherent authority in the person to represent or commit an insurer.

(I) "Limited line credit insurance" means credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection insurance, or any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation and that is designated by the superintendent as limited line credit insurance.

(J) "Limited line credit insurance agent" means a person that sells, solicits, or negotiates one or more forms of limited line credit insurance to individuals through a master, corporate, group, or individual policy.

(K) "Limited lines insurance" means those lines of authority set forth in divisions (B)(7) to ~~(12)~~(13) of section 3905.06 of the Revised Code or in rules adopted by the superintendent, or any lines of authority the superintendent considers necessary to recognize for purposes of complying with section 3905.072 of the Revised Code.

(L) "Limited lines insurance agent" means a person authorized by the superintendent to sell, solicit, or negotiate limited lines insurance.

(M) "NAIC" means the national association of insurance commissioners.

(N) "Insurance navigator" means a person selected to perform the activities and duties identified in division (i) of section 1311 of the Affordable Care Act that is certified by the superintendent of insurance under section 3905.471 of the Revised Code. "Insurance navigator" refers to a navigator specified in section 1311 of the Affordable Care Act, 42 U.S.C. 13031.

(O) "Negotiate" means to confer directly with, or offer advice directly to, a purchaser or prospective purchaser of a particular contract of insurance with respect to the substantive benefits, terms, or conditions of the contract, provided the person that is conferring or offering advice either sells insurance or obtains insurance from insurers for purchasers.

(P) "Person" means an individual or a business entity.

(Q) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurer.

(R) "Self-service storage facility" means an entity that is engaged in the business of providing real property designed and used for the purpose of renting or leasing individual storage space to the public who are to have access to the space for the purpose of storing and removing personal property on a self-service basis, but does not include a garage or other storage area in a private residence.

(S) "Solicit" means to attempt to sell insurance, or to ask or urge a person to apply for a particular kind of insurance from a particular insurer.

(T) "Superintendent" or "superintendent of insurance" means the superintendent of insurance of this state.

(U) "Terminate" means to cancel the relationship between an insurance agent and the insurer or to terminate an insurance agent's authority to transact insurance.

(V) "Uniform application" means the NAIC uniform application for resident and nonresident agent licensing, as amended by the NAIC from time to time.

(W) "Uniform business entity application" means the NAIC uniform business entity application for resident and nonresident business entities, as amended by the NAIC from time to time.

(X) "Exchange" means a health benefit exchange established by the state government of Ohio or an exchange established by the United States department of health and human services in accordance with the "Patient Protection and Affordable Care Act," 124 Stat. 119, 42 U.S.C. 18031 (2011).

Sec. 3905.06. (A)(1) The superintendent of insurance shall issue a resident insurance agent license to an individual applicant whose home state is Ohio upon submission of a completed application and payment of any applicable fee required under this chapter, if the superintendent finds all of the following:

(a) The applicant is at least eighteen years of age.

(b) The applicant has not committed any act that is a ground for the denial, suspension, or revocation of a license under section 3905.14 of the Revised Code.

(c) If required under section 3905.04 of the Revised Code, the applicant has completed a program of insurance education for each line of authority for which the applicant has applied.

(d) If required under section 3905.04 of the Revised Code, the applicant has passed an examination for each line of authority for which the applicant has applied.

(e) Any applicant applying for variable life-variable annuity line of authority is registered with the financial industry regulatory authority (FINRA) as a registered representative after having passed at least one of the following examinations administered by the FINRA: the series 6 examination, the series 7 examination, the series 63 examination, the series 66 examination, or any other FINRA examination approved by the superintendent.

(f) If required under section 3905.051 of the Revised Code, the applicant has consented to a criminal records check and the results of the applicant's criminal records check are determined to be satisfactory by the superintendent.

(g) The applicant is a United States citizen or has provided proof of having legal authorization to work in the United States.

(h) The applicant is of good reputation and character, is honest and trustworthy, and is otherwise suitable to be licensed.

(2) The superintendent shall issue a resident insurance agent license to a business entity applicant upon submission of a completed application and payment of any applicable fees required under this chapter if the superintendent finds all of the following:

(a) Except as provided under division (C)(2) of section 3905.062 or division (C)(2) of section 3905.063 of the Revised Code, the applicant either is domiciled in Ohio or maintains its principal place of business in Ohio.

(b) The applicant has designated a licensed insurance agent who will be responsible for the applicant's compliance with the insurance laws of this state.

(c) The applicant has not committed any act that is a ground for the denial, suspension, or revocation of a license under section 3905.14 of the Revised Code.

(d) Any applicant applying for a portable electronics insurance license line of authority satisfies the requirements of division (C)(1) of section 3905.062 of the Revised Code or any applicant applying for a self-service storage insurance license line of authority satisfies the requirements of division (C)(1) of section 3905.063 of the Revised Code.

(e) The applicant has submitted any other documents requested by the superintendent.

(B) An insurance agent license issued pursuant to division (A) of this section shall state the licensee's name, the license number, the date of issuance, the date the license expires, the line or lines of authority for which the licensee is qualified, and any other information the superintendent deems necessary.

A licensee may be qualified for any of the following lines of authority:

(1) Life, which is insurance coverage on human lives, including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;

(2) Accident and health, which is insurance coverage for sickness, bodily injury, or accidental death, and may include benefits for disability income;

(3) Property, which is insurance coverage for the direct or consequential loss or damage to property of any kind;

(4) Casualty, which is insurance coverage against legal liability, including coverage for death, injury, or disability or damage to real or personal property;

(5) Personal lines, which is property and casualty insurance coverage sold to individuals and families for noncommercial purposes;

(6) Variable life and variable annuity products, which is insurance coverage provided under variable life insurance contracts and variable annuities;

(7) Credit, which is limited line credit insurance;

(8) Title, which is insurance coverage against loss or damage suffered by reason of liens against, encumbrances upon, defects in, or the unmarketability of, real property;

(9) Surety bail bond, which is the authority set forth in sections 3905.83 to 3905.95 of the Revised Code;

(10) Portable electronics insurance, which is a limited line described in section 3905.062 of the Revised Code;

(11) Self-service storage insurance, which is a limited line described in section 3905.063 of the Revised Code;

(12) Travel insurance, which is a limited line described in section 3905.064 of the Revised Code;

(13) Any other line of authority designated by the superintendent.

(C)(1) An individual seeking to renew a resident insurance agent license shall apply biennially for a renewal of the license on or before the last day of the licensee's birth month. A business entity seeking to renew a resident insurance agent license shall apply biennially for a renewal of the license on or before the date determined by the superintendent. The superintendent shall send a renewal notice to all licensees at least one month prior to the renewal date.

Applications shall be submitted to the superintendent on forms prescribed by the superintendent. Each application shall be accompanied by a biennial renewal fee. The superintendent also may require an applicant to submit any document reasonably necessary to verify the information contained in the renewal application.

(2) To be eligible for renewal, an individual applicant shall complete the continuing education requirements pursuant to section 3905.481 of the Revised Code prior to the renewal date.

(3) If an applicant submits a completed renewal application, qualifies for renewal pursuant to divisions (C)(1) and (2) of this section, and has not committed any act that is a ground for the refusal to issue, suspension of, or revocation of a license under section 3905.14 of the Revised Code, the superintendent shall renew the applicant's resident insurance agent license.

(D) If an individual or business entity does not apply for the renewal of the individual or business entity's license on or before the license renewal date specified in division (C)(1) of this section, the individual or business entity may submit a late renewal application along with all applicable fees required under this chapter prior to the first day of the second month following the license renewal date.

(E) A license issued under this section that is not renewed on or before its renewal date pursuant to division (C) of this section or its late renewal date pursuant to division (D) of this section automatically is suspended for nonrenewal on the first day of the second month following the renewal date. If a license is suspended for nonrenewal pursuant to this division, the individual or business entity is eligible to apply for reinstatement of the license within the twelve-month period following the date by which the license should have been renewed by complying with the reinstatement procedure established by the superintendent and paying all applicable fees required under this chapter.

(F) A license that is suspended for nonrenewal that is not reinstated pursuant to division (E) of this section automatically is canceled unless the superintendent is investigating any allegations of wrongdoing by the agent or has initiated proceedings under Chapter 119. of the Revised Code. In that case, the license automatically is canceled after the completion of the investigation or proceedings unless the superintendent revokes the license.

(G) An individual licensed as a resident insurance agent who is unable to comply with the license renewal procedures established under this section and who is unable to engage in the business of insurance due to military service, a long-term medical disability, or some other extenuating circumstance may request an extension of the renewal date of the individual's license. To be eligible for such an extension, the individual shall submit a written request with supporting documentation to the superintendent. At the superintendent's discretion, the superintendent may not consider a written request made after the renewal date of the license.

Sec. 3905.064. (A) As used in this section:

(1) "Limited lines travel insurance agent" means an individual or business entity licensed to sell, solicit, or negotiate travel insurance under this section.

(2) "Travel insurance" means insurance coverage for personal risks incident to planned travel, including all of the following:

(a) Interruption or cancellation of a trip or event;

(b) Loss of baggage or personal effects;

(c) Damages to accommodations or rental vehicles;

(d) Sickness, accident, disability, or death occurring during travel.

"Travel insurance" does not include major medical plans that provide comprehensive medical protection for a traveler with a trip lasting six months or longer, including a plan covering a person working overseas as an expatriate or in a deployed military unit.

(3) "Travel retailer" means a business entity that makes, arranges, or offers travel services, and that may offer or sell travel insurance as a service to its customers on behalf of, and under the direction of, a limited lines travel insurance agent in conjunction with the making, arranging, or offering of travel services.

(B) No person shall offer or sell travel insurance except as provided in this section.

(C) Notwithstanding any other provision of law, the superintendent of insurance may issue to an individual or business entity a limited lines travel insurance agent license that authorizes the holder of the license to sell, solicit, or negotiate travel insurance through a licensed insurer if both of the following requirements are met:

(1) The individual or business entity has submitted an application to the superintendent for the license on a form and in a manner prescribed by the superintendent.

(2) The individual or business entity has paid all fees applicable under this chapter.

(D)(1) At the time the superintendent of insurance issues a license under this section, the limited lines travel insurance agent shall establish and maintain on a form prescribed by the superintendent a register of each travel retailer that offers or sells travel insurance on the agent's behalf.

(2) The limited lines travel insurance agent shall submit the register to the department of insurance upon reasonable request, and shall certify that the registered travel retailer complies with 18 U.S.C. 1033.

(E) Notwithstanding any other provision of law, a travel retailer may offer and sell travel insurance under a limited lines travel insurance agent that is a business entity if all of the following conditions are met:

(1) The limited lines travel insurance agent or travel retailer provides all of the following information to purchasers of travel insurance at the time of sale or in the fulfillment materials provided to purchasers:

(a) A description of the material terms or the actual terms of the insurance coverage;

(b) A description of the process for filing a claim;

(c) A description of the review or cancellation process for the travel insurance policy;

(d) The identity and contact information of the insurer and limited lines travel insurance agent.

(2)(a) The limited lines travel insurance agent designates one of the agent's employees as the responsible insurance agent who is responsible for the limited lines travel insurance agent's compliance with the travel insurance laws and rules of this state. The designated responsible insurance agent must be a licensed insurance agent qualified in any of the following lines of authority in accordance with section 3905.06 of the Revised Code:

(i) Travel;

(ii) Property;



(iii) Personal.

(b) The responsible insurance agent shall comply with the fingerprinting requirements of section 3905.051 of the Revised Code or the applicable fingerprinting requirements of the home state of the limited lines travel insurance agent.

(3) The limited lines travel insurance agent business entity and the responsible insurance agent are responsible for the acts of the travel retailer and use reasonable means to ensure compliance with this section by the travel retailer.

(4)(a)(i) The limited lines travel insurance agent requires each employee and authorized representative of the travel retailer, whose duties include offering or selling travel insurance, to receive a program of instruction or training.

(ii) The training material shall, at minimum, contain instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers.

(b) The superintendent may review all training programs or materials at the superintendent's discretion.

(5) The travel retailer offers or sells the travel insurance only in conjunction with the making, arranging, or offering of travel services.

(F) A limited lines travel insurance agent, as well as any travel retailer and the retailer's employees that are registered under division (D) of this section, are exempt from any examination and education requirements as set forth in section 3905.04 of the Revised Code for purposes of this section only.

(G)(1) Any travel retailer offering or selling travel insurance shall make available to prospective purchasers brochures or other written materials that contain all of the following:

(a) The identity and contact information of the insurer and the limited lines travel insurance agent;

(b) An explanation that the purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer;

(c) An explanation that an unlicensed travel retailer is permitted to provide general information about the insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance offered by the travel retailer or to evaluate the adequacy of the customer's existing insurance coverage.

(2) A travel retailer's employee or authorized representative who is not licensed as an insurance agent shall not do any of the following:

(a) Evaluate or interpret the technical terms, benefits, and conditions of the offered travel insurance coverage;

(b) Evaluate or provide advice concerning a prospective purchaser's existing insurance coverage;

(c) Hold itself out as a licensed insurer, licensed agent, or insurance expert;

(d) Offer or sell travel insurance, unless the travel insurance is offered or sold in conjunction with and incidental to the sale of travel services.

(3) Notwithstanding any other provision of law, a travel retailer whose insurance-related activities, and those of its employees and authorized representatives, are limited to offering or selling

travel insurance on behalf of and under the direction of a limited lines travel insurance agent that meets the requirements of this section, is authorized to offer and sell insurance and receive related compensation for these services, if the travel retailer is registered by the limited lines travel insurance agent as described in division (D) of this section. Any compensation paid to a travel retailer's employee or authorized representative for the services described in this section shall be incidental to the employee's or authorized representative's overall compensation and not based primarily on the number of customers who purchase travel insurance coverage.

(a) Nothing in this section shall be construed to prohibit payment of compensation to a travel retailer or its employees or authorized representatives for activities under the limited lines travel insurance agent's license that are incidental to the overall compensation of the travel retailer or the employees or authorized representatives of the facility.

(b) All costs paid or charged to a consumer for the purchase of travel insurance or related services shall be separately itemized on the customer's bill.

(H) Travel insurance may be provided under individual or group insurance.

(I) Any limited lines travel insurance agent, or any travel retailer offering or selling travel insurance under a limited lines travel insurance agent, that fails to comply with the provisions of this section is deemed to have engaged in an unfair and deceptive act or practice in the business of insurance as defined in section 3901.21 of the Revised Code and is subject to section 3905.14 of the Revised Code.

(J) A license issued under this section shall be renewed on a biennial basis as set forth in sections 3905.06 and 3905.07 of the Revised Code.

Sec. 3905.40. There shall be paid to the superintendent of insurance the following fees:

(A) Each insurance company doing business in this state shall pay:

- (1) For filing a copy of its charter or deed of settlement, two hundred fifty dollars;
- (2) For filing each statement, one hundred seventy-five dollars;
- (3) For each certificate of authority or license, one hundred seventy-five, and for each certified copy thereof, five dollars;
- (4) For each copy of a paper filed in the superintendent's office, twenty cents per page;
- (5) For issuing certificates of deposits or certified copies thereof, five dollars for the first certificate or copy and one dollar for each additional certificate or copy;
- (6) For issuing certificates of compliance or certified copies thereof, sixty dollars;
- (7) For affixing the seal of office and certifying documents, other than those enumerated herein, two dollars;
- (8) For each agent appointment and each annual renewal of an agent appointment, not more than twenty dollars.

(B) Each domestic life insurance company doing business in this state shall pay for annual valuation of its policies, one cent on every one thousand dollars of insurance.

(C) Each applicant for licensure as an insurance agent except applicants for licensure as surety bail bond agents, surplus line brokers, portable electronics insurance vendors, and self-service storage facilities shall pay ten dollars for each line of authority requested. Fees collected under this division shall be credited to the department of insurance operating fund created in section 3901.021 of the Revised Code.

(D) Each domestic mutual life insurance company shall pay for verifying that any amendment to its articles of incorporation was regularly adopted, two hundred fifty dollars with each application for verification. Any such amendment shall be considered to have been regularly adopted when approved by the affirmative vote of two-thirds of the policyholders present in person or by proxy at any annual meeting of policyholders or at a special meeting of policyholders called for that purpose.

(E) Each insurance agent doing business in this state shall pay a biennial license renewal fee of twenty-five dollars, except the following insurance agents are not required to pay that license renewal fee:

(1) Individual resident agents who have met their continuing education requirements under section 3905.481 of the Revised Code;

(2) Surety bail bond agents;

(3) Surplus line brokers;

(4) Portable electronics insurance vendors;

(5) Self-service storage facilities;

(6) Limited lines travel insurance agents.

(F) Each applicant for licensure as a portable electronics insurance vendor with a portable electronics insurance limited lines license and each licensed vendor doing business in this state shall pay the following fees prescribed by the superintendent:

(1) For vendors engaged in portable electronic transactions at more than ten locations in this state, an application fee not to exceed five thousand dollars for an initial license and a biennial license renewal fee not to exceed two thousand five hundred dollars for each renewal thereafter;

(2) For vendors engaged in portable electronic transactions at ten or fewer locations in this state, an application fee not to exceed three thousand dollars for an initial license and a biennial license renewal fee not to exceed one thousand dollars for each renewal thereafter.

(G) Each applicant for licensure as a limited lines travel insurance agent shall pay an application fee prescribed by the superintendent not to exceed fifty dollars for an initial license and a biennial license renewal fee prescribed by the superintendent not to exceed fifty dollars for each renewal thereafter.

(H) Each applicant for a self-service storage insurance limited lines license and each holder of such a license in this state shall pay an application fee not to exceed ten dollars for an initial license and a biennial license renewal fee not to exceed twenty-five dollars for each renewal thereafter.

~~(H)-(I)~~ All fees collected by the superintendent under this section except any fees collected under divisions (A)(2), (3), and (6) of this section shall be credited to the department of insurance operating fund created under section 3901.021 of the Revised Code.

SECTION 2. That existing sections 3901.32, 3903.01, 3903.05, 3903.26, 3905.01, 3905.06, and 3905.40 of the Revised Code are hereby repealed.

SECTION 3. The amendment of sections 3901.32, 3905.01, 3905.06, and 3905.40 and the

enactment of sections 3901.352 and 3905.064 of the Revised Code in this act shall take effect ninety days after the effective date of this act.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Sub. S. B. No. 169

132nd G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20 \_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_