(122nd General Assembly)
(Amended Substitute Senate Bill Number 154)

AN ACT

To amend sections 1751.38, 3901.021, 3905.02, 3905.06, 3905.07, 3905.08, 3905.18, 3905.20, 3905.27, 3905.30, 3905.40, 3905.48, 3905.481, 3905.482, 3905.49, 3905.99, 3913.40, 3921.33, 3923.121, 3931.101, 3931.11, 3941.02, 3953.21, 3953.23, 3960.11, and 4745.01; to amend, for the purpose of adopting a new section number as indicated in parentheses, section 3905.02 (3905.03); to enact new sections 3905.01, 3905.011, and 3905.02 and sections 3905.012, 3905.013, 3905.491, 3905.492, 3905.54, and 3905.55; and to repeal sections 3905.01, 3905.011, 3905.03, and 3905.05 of the Revised Code to revise the Insurance Agents Law; to specify that a fraternal benefit society organized under the laws of another state and admitted to transact business in Ohio may become a domestic insurer; to provide that an insurer is not prohibited from transferring its domicile to Ohio because its charter or bylaws contain characteristics of both a mutual and stock insurance company; and, if Am. Sub. H.B. 248 of the 122nd General Assembly is enacted, to supersede sections 3905.49 and 3905.491 of the Revised Code as they result from that act.

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

SECTION 1. That sections 1751.38, 3901.021, 3905.02, 3905.06, 3905.07, 3905.08, 3905.18, 3905.20, 3905.27, 3905.30, 3905.40, 3905.48, 3905.481, 3905.482, 3905.49, 3905.99, 3913.40, 3921.33, 3923.121, 3931.101, 3931.11, 3941.02, 3953.21, 3953.23, 3960.11, and 4745.01 be amended; section 3905.02 (3905.03) be amended for the purpose of

g a new section number as indicated in parentheses; and new sections 3905.01, 3905.011, and 3905.02 and sections 3905.012, 3905.013, 3905.491, 3905.492, 3905.54, and 3905.55 of the Revised Code be enacted to read as follows:

Sec. 1751.38. (A) As used in this section, "agent" means a person appointed by a health insuring corporation to engage in the solicitation or enrollment of subscribers or enrollees.

(B) Agents of health insuring corporations shall be licensed pursuant to section ~~3905.01~~ 3905.02 or 3905.18 of the Revised Code.

(C) Sections ~~3905.01, 3905.03, 3905.05~~ 3905.02, 3905.16 to 3905.18, 3905.181, 3905.19, 3905.23, 3905.40, 3905.41, 3905.42, 3905.46 to 3905.48, 3905.481, 3905.482, 3905.486, 3905.49, 3905.491, 3905.492, 3905.50, 3905.71 to 3905.79, and 3905.99 of the Revised Code shall apply to health insuring corporations and the agents of health insuring corporations in the same manner in which these sections apply to insurers and agents of insurers.

Sec. 3901.021. ~~Two-thirds~~ Three-fourths of all appointment and other fees collected under ~~section 3905.01, division (E) of section~~ SECTIONS 3905.02, 3905.03, 3905.07, AND 3905.18, and division (A)(6) of section 3905.26 of the Revised Code shall be paid into the state treasury to the credit of the department of insurance operating fund, which is hereby created. The remaining ~~one-third~~ one-fourth shall be credited to the general revenue fund. ~~If the superintendent of insurance is authorized by the controlling board to increase the fees pursuant to section 3905.011 of the Revised Code, the board may also direct that an amount equal to the increase, up to three-fourths of all fees collected after the increase pursuant to section 3905.011 of the Revised Code, shall be credited to the department of insurance operating fund, with the remaining portion to be credited to the general revenue fund.~~ All operating expenses of the department of insurance except those expenses defined under section 3901.07 of the Revised Code shall be paid from the department of insurance operating fund.

Sec. 3905.01. (A) No person shall procure an application or quote premiums for, discuss coverages of, or solicit, negotiate, effect, procure, place, write, deliver, renew, or bind, a policy of insurance through any medium for risks residing, located, or to be performed in this state, unless the person is licensed by the superintendent of insurance in accordance with this chapter.

(B) Division (A) of this section does not apply to any of the following persons:

(1) An insurer as defined in section 3901.32 Of the Revised Code;

(2) Any person who furnishes information regarding group insurance, enrolls individuals in group insurance plans, issues certificates under such plans, or otherwise assists in administering such plans, if no commission or other form of compensation related to premium or sales volume is paid for such services;

(3) Any employee of a creditor with respect to insurance products made available only in connection with a credit transaction, including credit life insurance, credit disability or accident and health insurance, credit property insurance, mortgage life insurance, mortgage accident and health insurance, involuntary unemployment insurance, individual life insurance, and individual disability or accident and health insurance, if the entire premium is financed as part of the credit transaction and the following conditions are met:

(a) If the insurance product is an individual life insurance policy, a licensed agent is responsible for the insurance transaction.

(b) If the employee of the creditor is paid by the insurance agent or by the insurance company, the employee holds a limited authority license.

For purposes of division (B)(3) of this section, "credit property insurance" means insurance covering risks of loss, damage, and destruction of property used as security for a credit transaction, which insurance may also cover other property that is merely incidental to the property used as security for the credit transaction.

(4) Any employer, or officer or employee of an employer, to the extent that the employer, officer, or employee is engaged in the administration or operation of any employee benefits program involving the use of insurance for the employer's employees or the employees of a subsidiary or affiliate of the employer, provided that the employer, officer, or employee is not compensated, either directly or indirectly, in any manner by an insurance agent or by the insurance company issuing the insurance;

(5) An adjuster employed by or representing an insurer in the adjustment of claims or a public insurance adjuster holding a certificate of authority issued under Chapter 3951. of the Revised Code when performing the duties of a public insurance adjuster.

(C) Division (A) of this section does not apply to any of the following activities when performed by an employee of, and at the direction of, an insurer or licensed insurance agent:

(1) The acceptance of premiums other than the initial premium;

(2) The gathering of information, such as names, addresses, expiration dates of current insurance, and names of current insurers;

(3) The setting of appointments for insurance agents, provided that the

person setting the appointment does not communicate any information about insurance;

(4) The servicing of existing insurance policies issued by or through the employee's employer, provided the servicing is not part of a solicitation;

(5) The performance of clerical or ministerial duties.

(D) The superintendent may adopt rules in accordance with Chapter 119. of the Revised Code to set forth the specific acts that comprise any of the activities described in this section, the performance of which either requires or does not require licensure as an agent.

Sec. 3905.011. (A) As used in this section and sections 3905.012 and 3905.013 of the Revised Code, "insurer" has the same meaning as in section 3901.32 of the Revised Code.

(B) Any person that is licensed as an agent under section 3905.02 or 3905.18 of the Revised Code is eligible to be appointed by one or more insurers authorized to do business in this state.

(C)(1) Prior to appointing an agent, an insurer shall certify to the superintendent of insurance, in accordance with rules adopted by the superintendent under section 3905.013 of the Revised Code, that the person is competent, financially responsible, and suitable to represent the insurer.

(2) No agent shall represent to the public that the agent has authority to represent a particular insurer until the insurer has acknowledged that authority by appointment of the agent in accordance with division (C)(1) of this section.

(D)(1) No insurer shall pay a commission, fee, or other type of consideration, or give any other thing of value, to a person that is required to be licensed by the superintendent under this chapter for the sale of, or for any direct or indirect connection with the sale of, any insurance sold by or on behalf of the insurer, but is not so licensed.

(2) Nothing in this section prohibits an insurer from entering into a compensation agreement with a creditor with respect to insurance products made available only in connection with a credit transaction, including credit life insurance, credit disability or accident and health insurance, credit property insurance, mortgage life insurance, mortgage accident and health insurance, involuntary unemployment insurance, individual life insurance, and individual disability or accident and health insurance, if the entire premium is financed as part of the credit transaction. For purposes of division (D)(2) of this section, "credit property insurance" has the same meaning as in division (B)(3) of section 3905.01 Of the Revised Code.

Sec. 3905.012. (A)(1) Except as provided in division (A)(2) of this section, any person licensed as an agent under section 3905.02 or 3905.18 of

the Revised Code, or appointed as a solicitor under section 3905.03 of the Revised Code, may at any time surrender any or all licenses held by the person.

(2) No agent shall surrender the agent's licenses if the superintendent of insurance is investigating any allegation of wrongdoing by the agent or has initiated proceedings under Chapter 119. Of the Revised Code and notice of an opportunity for a hearing has been issued to the agent, and any attempt to so surrender is invalid.

(B)(1) If an insurer or agent cancels the appointment of an agent or solicitor due to suspected fraud, misrepresentation, theft, conversion, or any other culpable misappropriation, the insurer or agent shall promptly notify the superintendent. The notice shall include a complete statement of the facts and the reasons for the cancellation.

(2) In the absence of fraud or actual malice, an insurer or agent is immune from any civil liability that otherwise might be incurred or imposed as a result of any action taken by the insurer or agent to comply with division (B)(1) of this section.

(C) If an agent's license is surrendered, revoked, or suspended, all appointments held by the agent are void. If a new license is issued to that person or if that person's previous license is reinstated, any appointment of the person to represent an insurer or agent must be made in accordance with the requirements of this chapter.

(D)(1) Any agent, other than a corporation, partnership, or limited liability company, who is no longer engaged in the business of insurance in any capacity for which an agent's license is required may apply to the superintendent for inactive status. The superintendent may grant such status only if the superintendent is satisfied that the person is not engaged in and does not intend to engage in any of the activities set forth in section 3905.01 of the Revised Code that requires an agent's license.

(2) A person who has been granted inactive status is exempt from any continuing education requirements imposed under this chapter.

(3) The superintendent may adopt rules in accordance with Chapter 119. of the Revised Code to establish procedures for applying for inactive status, criteria used to determine eligibility for such status, and standards and procedures for transferring from inactive to active status.

(E) The superintendent may suspend or revoke a license, or take any other disciplinary action authorized by this chapter, regardless of whether the person is appointed or otherwise authorized to represent an insurer or agent.

Sec. 3905.013. (A) The superintendent of insurance may adopt rules in

accordance with Chapter 119. of the Revised Code for purposes of implementing sections 3905.01 to 3905.03 and 3905.18 of the Revised Code, including rules that do the following:

(1) Set forth requirements and procedures for the issuance of an agent's license;

(2) Provide for the issuance of a limited authority license for a specific line of insurance and for the appointment of such a licensee, and set forth any prelicensing education, examination, or continuing education requirements the superintendent considers appropriate for the license;

(3) Set forth the circumstances under which the superintendent or the superintendent's designee may refuse to issue an agent's license to an applicant. Notwithstanding Chapter 119. of the Revised Code, an opportunity for a hearing shall not be granted to such an applicant until the superintendent has conducted an investigation of the matter.

(4) Establish procedures for certifying an insurer's appointment of an agent;

(5) Establish procedures for the surrender of licenses or appointments.

(B) The superintendent may direct licensees to pay any fees to any contracted vendor.

Sec. 3905.02. (A) An applicant for a license as an other than life insurance agent shall submit an application for such a license to the superintendent of insurance. The application shall be on a form furnished by the superintendent and be accompanied by a statement under oath by the applicant which gives the applicant's name, age, residence, present occupation, occupation for the five years next preceding the date of the application, and such other information as the superintendent may require.

The applicant shall also request a criminal records check conducted by the superintendent of the bureau of criminal identification and investigation in accordance with section 109.572 Of the Revised Code, and direct that the bureau's written response to that request be transmitted to the superintendent of insurance, or to the superintendent's designee, as specified on the form prescribed pursuant to that section. If the superintendent of insurance or the superintendent's designee fails to receive the bureau's response to the applicant's request for a criminal records check, the superintendent may refuse to issue a license under this section. The applicant shall pay any fee required by the bureau for conducting the criminal records check.

An applicant for a license shall submit to an examination as to the qualifications set forth in division (B) of this section.

(B) The superintendent of insurance shall issue to an applicant a license that states in substance that the person is authorized to do the business of an

other than life insurance agent in this state, if the superintendent is satisfied that the applicant is a suitable person and intends to hold self out in good faith as an agent; that the applicant is honest, trustworthy, and understands the duties and obligations of an agent, and is familiar with the insurance laws of this state and with the terms and provisions of the policies and contracts of insurance the applicant proposes to effect; that in applying for the license it is not the applicant's purpose or intention principally to solicit or place insurance on the applicant's own property or that of relatives, employers, or employees or that for which they or the applicant is agent, custodian, vendor, bailee, trustee, or payee; and that the applicant has completed the educational requirements set forth in section 3905.48 of the Revised Code.

The superintendent may suspend or revoke such a license as provided in section 3905.482 Of the Revised Code, and may suspend, revoke, refuse to continue, or refuse to issue such a license as provided in section 3905.49 of the Revised Code. Unless revoked or suspended by the superintendent or surrendered by the agent, such a license continues in force for the life of the agent, in the case of an individual, or until the corporation, partnership, or limited liability company ceases to exist.

If the superintendent refuses to issue such a license based in whole or in part upon the bureau's written response to a criminal records check requested pursuant to division (A) of this section, the superintendent shall send a copy of the response that the bureau transmitted to the superintendent or to the superintendent's designee, to the applicant at the applicant's home address upon the applicant's submission of a written request to the superintendent.

(C)(1) Each insurance company shall certify to the superintendent of insurance before the thirtieth day of June each year the names and addresses of the agents for whom it requests appointments or the continuance of appointments. All domestic, foreign, and alien companies shall pay to the superintendent a fee of twenty dollars for every such appointment when issued and for each continuance thereafter. Such an appointment, unless canceled by the insurance company, may be continued in force past the thirtieth day of June next after its issue and after the thirtieth day of June of each succeeding year provided that the appointee is licensed and is eligible for the appointment.

(2) An insurance company shall be bound by the acts of the person named in the appointment within that person's apparent authority as its agent.

(3) Division (C) of this section does not apply to life insurance

ompanies, including fraternals, nor to domestic mutual protective assessment fire associations as defined in section 3939.01 of the Revised Code.

(D) The superintendent of insurance may prescribe the forms to be used as evidence of the issuance of licenses and appointments under this section and may issue one or more certificates, in a form suitable for office display, to cover any number of insurance companies with which an agent has appointments.

(E)(1) The superintendent of insurance shall not issue or continue the license of a corporation, partnership, or limited liability company organized under the laws of this or any other state unless the corporation, partnership, or limited liability company is qualified to do business in this state under the applicable provisions of Title XVII of the Revised Code.

(2) The failure of a corporation, partnership, or limited liability company to be in good standing with the secretary of state or to maintain a valid appointment of statutory agent is grounds for suspension or revocation of its license.

(3) By applying for a license as an agent under this section, an individual, corporation, partnership, or limited liability company consents to the jurisdiction of the courts of this state.

Sec. ~~3905.02~~ 3905.03. (A) Any agent authorized and licensed as provided in section ~~3905.01~~ 3905.02 of the Revised Code, and ~~representing~~ appointed to represent one or more insurance corporations within this state, may ~~employ~~ appoint as many solicitors as the agent desires to represent the agent and the agent's agency, but ~~such~~ the solicitors shall not represent themselves, by advertisement or otherwise, as agents of insurance companies for which their employer may be the authorized agent, and ~~such~~ the solicitors shall in all instances represent themselves only as solicitors for ~~said~~ the agent. ~~Upon~~

Each agent that employs a person as a solicitor shall certify to the superintendent of insurance that the person is competent, financially responsible, and suitable to represent the agent. Upon written notice by any such agent that the agent has employed ~~such~~ a person as a solicitor, the superintendent ~~of insurance~~ shall issue to the solicitor ~~a license~~ an appointment in the form prepared by the superintendent, if the superintendent is satisfied that:

(1) The ~~applicant~~ solicitor is a suitable person and intends to hold self out in good faith as a solicitor~~;~~.

(2) The ~~applicant~~ solicitor is honest and trustworthy~~;~~.

(3) The ~~applicant~~ solicitor has training or instruction in the business and

understands the duties and obligations of a solicitor~~;~~.

(4) The ~~applicant~~ solicitor is licensed under section 3905.02 Of the Revised Code, is familiar with the insurance laws~~,~~ and is familiar with the provisions of the policies and contracts of insurance the ~~applicant~~ solicitor proposes to solicit~~;~~.

(5) ~~In applying for such license it~~ It is not ~~appointee's~~ the solicitor's purpose or intention principally to solicit or place insurance on ~~appointee's~~ the solicitor's own property or that of relatives, employers, or employees or that for which they or the ~~appointee~~ solicitor is agent, custodian, vendor, bailee, trustee, or payee. ~~Notice~~

(6) On and after July 1, 1987, the solicitor has completed the prelicensing educational requirements set forth in section 3905.48 of the Revised Code.

Notice shall be upon a form furnished by the superintendent and shall be accompanied by a statement under oath by the solicitor which ~~shall give~~ gives the ~~applicant's~~ solicitor's name, age, residence, present occupation, the ~~applicant's~~ solicitor's occupation for the five years next preceding the date of the notice, the kinds of insurance ~~for which~~ the ~~applicant~~ solicitor wishes ~~license~~ to solicit, and such other information as the superintendent requires, upon a blank furnished by the superintendent.

~~(6) On and after July 1, 1987, the applicant has completed the pre-licensing educational requirements set forth in section 3905.48 of the Revised Code.~~

(B) If ~~such appointee~~ the solicitor within the preceding two years has not been ~~appointed as a~~ licensed in this state as an insurance ~~solicitor or has not had an appointment as a licensed insurance solicitor continued by an insurance~~ agent ~~licensed in this state~~ for other than life insurance under section 3905.02 Of the Revised Code, the ~~appointee~~ solicitor shall submit to ~~a hearing and~~ an examination as to the qualifications set forth in divisions (A)(1) to (5) of this section.

(C) ~~For the purpose of licensing solicitors, insurance shall be considered as of three classes: fire insurance, including marine and inland transportation; casualty insurance; and surety insurance.~~ A solicitor who did not hold a license as solicitor prior to January 1, 1967, may be ~~licensed~~ appointed only if the solicitor is qualified for the same class or classes of insurance for which the agent employing the solicitor is licensed. ~~Each solicitor's license shall state the class or classes~~ a solicitor may solicit only those lines of insurance for which ~~issued and no~~ both the solicitor ~~shall be licensed for~~ and the ~~same kind of insurance by more than one~~ appointing agent are licensed. ~~Unless such license~~ No solicitor shall be appointed by

more than one agent.

Unless the solicitor's license is revoked or suspended by the superintendent ~~or unless the agent by written notice to the superintendent cancels the solicitor's authority as such solicitor, or unless such license is canceled by the superintendent upon written notice from the solicitor that the solicitor's authority has been canceled by the agent~~, such ~~license and any other license issued to a solicitor~~ appointment may, in the discretion of the superintendent, and at the request of the agent who employs the solicitor and the payment of the required fee, be continued past the thirtieth day of June next after its issue and after the thirtieth day of June each succeeding year. Each agent shall certify~~,~~ to the superintendent ~~of insurance~~, before the thirtieth day of June each year, the names and addresses of the solicitors the agent has employed during the preceding year, indicating those for whom the agent wishes ~~licenses~~ appointments to be continued.

The agent giving written notice shall pay to the superintendent a fee of twenty dollars for every such ~~license~~ appointment and for each continuance thereof. The issuance of a solicitor's ~~license~~ appointment shall be limited to a natural person ~~who is a resident of this state or to a natural person who is employed by a licensed resident agent and is conducting business only from within this state~~.

~~The superintendent may suspend or revoke such a license as provided in section 3905.482 of the Revised Code, and may suspend, revoke, refuse to continue or renew, or refuse to issue such a license as provided in section 3905.49 of the Revised Code.~~

Sec. 3905.06. Sections 3905.01 to 3905.06 of the Revised Code do not apply to ~~companies or associations transacting the business of life insurance or their agent or to~~ associations organized and operating under sections 3939.01 to 3939.09 of the Revised Code.

Sec. 3905.07. No person shall act in this state as special representative, state agent, field representative, state, district, or local manager, or in any similar capacity by whatever title designated, unless the person is licensed by the superintendent of insurance. Upon written notice by an insurance company authorized to transact business in this state of its employment of a person to act as such representative and that the person's duties are to appoint, supervise, or dismiss agents, to aid them in soliciting, negotiating, and receiving applications of and handling orders for insurance, and to aid the employer generally in the transaction of its business in this state, but not to solicit insurance on that person's own behalf, the superintendent shall issue a license as special representative to ~~such~~ the person. ~~Such~~ The license shall state in substance that the company is authorized to do business in this

state and that the person named ~~therein~~ in the license is a constituted special representative of the company in this state in the transaction of such business within the person's apparent authority as the company is authorized to transact therein. If ~~such~~ the special representative signs policies for the company, the special representative must qualify as an agent under section ~~3905.01~~ 3905.02 of the Revised Code. Unless the company, by written notice to the superintendent, cancels the special representative's authority to act for it, such license may, in the discretion of the superintendent and at the request of the company and payment of the required fee, be continued past the thirtieth day of June next after issue and the thirtieth day of June of each succeeding year. Each company shall pay a fee of five dollars for each such license and each continuance thereof.

A person licensed as a special representative under this section is not subject to section 3905.481 of the Revised Code unless the person is also licensed as an agent under section 3905.02 of the Revised Code.

Sec. 3905.08. If it appears from the written notice given to the superintendent of insurance pursuant to sections ~~3905.01,~~ 3905.02~~,~~ and 3905.18 of the Revised Code that the ~~appointment~~ application of any person to act as an agent~~, or the employment of any person to act as a solicitor,~~ is only for the purpose of ~~having such agent or such solicitor procure~~ procuring, ~~receive~~ receiving, or ~~forward~~ forwarding applications for insurance against accidents to or sickness of persons, or on the health of individuals and against personal injury, disablement, or death resulting from traveling or general accidents by land and water, then the scope of any hearing or examination, or questions in any application for license, as provided for in ~~any of said~~ those sections, shall be limited to that type of insurance only. If any such person ~~appointed as agent or employed as a solicitor~~ is otherwise qualified under ~~said~~ those sections, the superintendent shall issue to ~~such~~ the person an appropriate agent's ~~or solicitor's~~ license bearing an imprint across its face "accident and health insurance license." Such license only entitles the holder to procure applications for such insurance and forward the same to the company ~~or agent~~ that ~~he~~ the holder is ~~licensed~~ appointed to represent. ~~Such sections apply to any person appointed as an agent or employed as a solicitor, except to the extent that they are modified and amended by this section.~~ No agent ~~or solicitor~~ licensed under this section shall procure, receive, or forward applications for any kind of insurance except the kinds enumerated in this section. Any violation of this section~~,~~ by ~~any~~ an agent ~~or solicitor~~ licensed under this section is cause for the revocation of ~~said~~ the license and any other licenses issued by the superintendent to ~~said~~ the agent ~~or solicitor~~.

The acceptance by any insurance company from ~~any~~ an agent licensed under this section~~, or the acceptance by any insurance agent, whether licensed under this or any other section of the Revised Code, from any solicitor licensed under this section,~~ of an application for any kind of insurance except the kinds enumerated in this section, is cause for the revocation of the license of ~~said~~ the company ~~or agent~~ and for the revocation of any other licenses issued by the superintendent to ~~said~~ the company ~~or agent~~.

Sec. 3905.18. (A) ~~Upon written notice by~~ An applicant for a license as a life insurance ~~company authorized to transact business in this state of its appointment of a person to act as its~~ agent ~~in this state, and upon issuance of the certificate verified by an executive officer or managing agent thereof, that such company has investigated the character and record of such person and satisfied itself that he is trustworthy and qualified to act as its agent, and that he has completed the educational requirements set forth in section 3905.48 of the Revised Code,~~ shall submit to the superintendent of insurance ~~shall, on receipt of such certification, furnish to the agent~~ an application for an agent's license, which shall contain such questions touching the applicant's fitness to be licensed as an agent as the superintendent determines. ~~If such appointee within the preceding two years has not been appointed as a licensed life insurance agent or has not had his appointment as a licensed life insurance agent continued by an insurance company authorized to transact business in this state, the appointee~~ The application shall be accompanied by a statement under oath by the applicant that gives the applicant's name, age, residence, present occupation, occupation for the five years next preceding the date of the application, and such other information as the superintendent may require.

The applicant shall also request a criminal records check conducted by the superintendent of the bureau of criminal identification and investigation in accordance with section 109.572 Of the Revised Code, and direct that the bureau's written response to that request be transmitted to the superintendent of insurance, or to the superintendent's designee, as specified on the form prescribed pursuant to that section. If the superintendent of insurance or the superintendent's designee fails to receive the bureau's response to the applicant's request for a criminal records check, the superintendent may refuse to issue a license under this section. The applicant shall pay any fee required by the bureau for conducting the criminal records check.

An applicant for a license shall submit to an examination as to ~~his~~ the applicant's knowledge of life and sickness and accident insurance and the laws of this state governing ~~his~~ activities as a life insurance agent. ~~Unless~~

(B) Unless it appears that the ~~appointee~~ applicant is not of good reputation and character, is not a trustworthy person, is not suitable to be licensed, or has not completed ~~such~~ the educational requirements set forth in section 3905.48 Of the Revised Code, the superintendent of insurance shall issue to ~~him~~ the applicant a license which shall state, in substance, that the ~~company~~ person is authorized to do the business of a life insurance agent in this state~~, and that the person named therein is a constituted agent of the company in this state for the transaction of such business. Each notice and certificate shall be upon forms furnished by the superintendent and shall be accompanied by a statement under oath by the appointee which shall give his name, age, residence, present occupation, occupation for the five years next preceding the date of the notice, and such other information as the superintendent requires, upon a blank furnished by him~~.

~~(B)~~ The superintendent may suspend or revoke such a license as provided in section 3905.482 of the Revised Code, and may suspend, revoke, refuse to continue ~~or renew~~, or refuse to issue such a license as provided in section 3905.49 of the Revised Code. ~~Every such~~ Unless revoked or suspended by the superintendent or surrendered by the agent, such a license continues in force for the life of the agent, in the case of an individual, or until the corporation, partnership, or limited liability company ceases to exist.

If the superintendent refuses to issue such a license based in whole or in part upon the bureau's written response to a criminal records check requested pursuant to division (A) of this section, the superintendent shall send a copy of the response that the bureau transmitted to the superintendent or to the superintendent's designee, to the applicant at the applicant's home address upon the applicant's submission of a written request to the superintendent.

Each insurance company shall, upon the termination of the ~~employment~~ appointment of any such agent, forthwith file with the superintendent a statement of the termination of ~~such employment~~ the appointment.

(C) Upon written notice by a life insurance company authorized to transact business in this state of its appointment of a corporation, partnership, or limited liability company to act as its agent in this state, the superintendent of insurance shall furnish ~~such~~ the corporation, partnership, or limited liability company with an application for agent's license which shall contain such questions as will enable the superintendent to determine that ~~such~~ the corporation, partnership, or limited liability company was organized for the purpose of acting as an insurance agent~~,~~; that each employee of ~~such~~ the corporation, partnership, or limited liability company

who will negotiate for, place, or renew policies or agreements of life insurance on behalf of ~~such~~ the corporation, partnership, or limited liability company has been issued a life insurance agent's license pursuant to division (A) of this section; ~~that the voting shares of such corporation are beneficially owned by natural persons who are residents of this state;~~ that ~~such~~ the corporation, partnership, or limited liability company and ~~such~~ the life insurance company have executed a written agreement whereby the rights and duties of each are set forth; and that in applying for ~~such~~ the license it is not the appointee's purpose or intention principally to solicit or place insurance on the lives of the appointee's officers, employees, or shareholders, or the lives of relatives of such officers, employees, or shareholders, or upon the lives of persons for whom they, their relatives, or the appointee is agent, custodian, vendor, bailee, trustee, or payee. Unless it appears that ~~such~~ the corporation, partnership, or limited liability company was not organized for such purpose or that each such employee has not been so licensed or that ~~the voting shares of such corporation are not so beneficially owned or that~~ such a written agreement has not been executed, the superintendent shall issue to ~~such~~ the corporation, partnership, or limited liability company a license which ~~shall state~~ states, in substance, that ~~such~~ the corporation, partnership, or limited liability company is a life insurance agent.

(D) If the superintendent of insurance, at any time subsequent to the issuance of a life insurance agent's license to a corporation, partnership, or limited liability company, finds that ~~such~~ the corporation, partnership, or limited liability company has ceased to have as its purpose acting as an insurance agent or that each employee of ~~such~~ the corporation, partnership, or limited liability company who negotiates for, places, or renews policies or agreements of life insurance on behalf of ~~such~~ the corporation, partnership, or limited liability company has not been issued a life insurance agent's license or that the ~~voting shares of such corporation are not beneficially owned by natural persons who are residents of this state or that the~~ principal use of ~~such~~ the license has been to solicit, place, or effect insurance on the lives of the appointee's officers, employees, or shareholders, or on the lives of the relatives of such officers, employees, or shareholders, or upon the lives of persons for whom they, or their relatives, or the appointee is agent, custodian, vendor, bailee, trustee, or payee, or for any other cause shown ~~he~~, the superintendent may after hearing revoke the life insurance agent's license issued to ~~such~~ the corporation, partnership, or limited liability company or suspend ~~such~~ the license until such condition as ~~he~~ the superintendent finds existing ceases to exist. The finding of the

superintendent, either in refusing to grant a license or in revoking a license, shall be in writing, and shall state the facts upon which ~~his~~ the action is based. The action of the superintendent in granting, revoking, continuing, or refusing to grant, revoke, or continue ~~such~~ the license, shall be subject to review in accordance with Chapter 119. of the Revised Code.

(E) Unless the agent's license is revoked or suspended by the superintendent of insurance, or unless the company by written notice to the superintendent cancels the agent's authority to act for it, a life insurance agent's ~~license, and any other license issued to an agent~~ appointment may, in the discretion of the superintendent and at the request of the company and payment of the required fee, be continued past the thirtieth day of June next after its issue and after the thirtieth day of June in each succeeding year. ~~Except as provided in section 3905.011 of the Revised Code, all~~ All domestic, foreign, and alien companies shall pay a fee of twenty dollars for every such ~~license~~ appointment and for each continuance thereafter. While ~~such license~~ an appointment remains in force, a ~~foreign~~ company shall be bound by the acts of the person named ~~therein~~ in the appointment, within ~~his~~ the person's apparent authority as its acknowledged agent.

(F) The superintendent of insurance may prescribe the forms to be used as evidence of the issuance of licenses and appointments under this section and may issue one or more certificates, in a form suitable for office display, to cover any number of insurance companies with which an agent ~~is licensed~~ has appointments.

(G)(1) The superintendent of insurance shall not issue or continue the license of a corporation, partnership, or limited liability company organized under the laws of this or any other state unless the corporation, partnership, or limited liability company is qualified to do business in this state under the applicable provisions of Title XVII of the Revised Code.

(2) The failure of a corporation, partnership, or limited liability company to be in good standing with the secretary of state or to maintain a valid appointment of statutory agent is grounds for suspension or revocation of its license.

(3) By applying for a license as an agent under this section, an individual, corporation, partnership, or limited liability company consents to the jurisdiction of the courts of this state.

Sec. 3905.20. (A) Any person licensed as a life insurance agent ~~for a life insurance company authorized to deliver or issue for delivery in this state~~ shall, upon satisfactory completion of an examination as to the person's knowledge of policies, annuities, ~~or~~ and other contracts providing variable or fixed and variable benefits or contractual payments issued by life

insurance companies pursuant to section 3911.011 of the Revised Code ~~shall, upon written application of such company, satisfactory completion of an examination as to his knowledge of such policies, annuities, and contracts and the nature thereof~~, payment of the required fee, and compliance with the ~~pre-licensing~~ prelicensing educational requirements of section 3905.48 of the Revised Code, be licensed by the superintendent of insurance as a variable contract agent.

(B) The superintendent may suspend or revoke such a license as provided in section 3905.482 of the Revised Code, and may suspend, revoke, refuse to continue ~~or renew~~, or refuse to issue such a license as provided in section 3905.49 of the Revised Code. Revocation of ~~such~~ the person's license as a life insurance agent ~~or failure to renew such license~~ is cause for revoking ~~such~~ the person's license as a variable contract agent. ~~Every such~~ Unless revoked or suspended by the superintendent or surrendered by the agent, a variable contract agent's license continues in force for the life of the agent.

Each life insurance company shall, upon termination of the ~~employment~~ appointment of any such person as a variable contract agent, forthwith file with the superintendent a statement of the termination of ~~such employment~~ the appointment.

(C) Any corporation, partnership, or limited liability company licensed as a life insurance agent ~~for~~ and appointed by a life insurance company authorized to deliver or issue for delivery in this state policies, annuities, or other contracts providing variable or fixed and variable benefits or contractual payments pursuant to section 3911.011 of the Revised Code, may, ~~upon written application of such company and~~ upon a proper showing that all of ~~such~~ the corporation's, partnership's, or limited liability company's employees who will negotiate for, place, or renew any such policies, annuities, or contracts on behalf of ~~such~~ the corporation, partnership, or limited liability company have been issued licenses as variable contract agents pursuant to division (A) of this section, be licensed by the superintendent ~~of insurance~~ as a variable contract agent.

(D) The superintendent ~~of insurance~~ may, for cause shown and after hearing, revoke the variable contract agent's license issued to such corporation, partnership, or limited liability company, or suspend ~~such~~ the license until such condition as ~~he~~ the superintendent finds existing ceases to exist. The revocation or suspension of ~~such~~ the corporation's, partnership's, or limited liability company's license as a life insurance agent ~~or failure to renew such license~~ shall be cause for revoking or suspending, as the case may be, ~~such~~ the corporation's, partnership's, or limited liability company's

license as a variable contract agent. The finding of the superintendent, either in refusing to grant a license or in revoking a license, shall be in writing and state the facts upon which ~~his~~ the superintendent's action is based. The action of the superintendent in granting, revoking, continuing, or refusing to grant, revoke, or continue such license, shall be subject to review in accordance with Chapter 119. of the Revised Code.

(E) Unless revoked or suspended by the superintendent or surrendered by the corporation, partnership, or limited liability company, ~~or unless the company by written notice to the superintendent cancels the agent's authority to act for it,~~ a variable contract agent's license~~, and any other license issued to an agent may, in the discretion of the superintendent and at the request of the company and payment of the required fee, be~~Continues in force until the corporation, partnership, or limited liability company ceases to exist.

(F) Each life insurance company shall certify to the superintendent before the thirtieth day of June each year the names and addresses of the variable contract agents for whom it requests appointments or the continuance of appointments. Such an appointment, unless canceled by the INSURANCE company, may be continued in force past the thirtieth day of June next after its issue and after the thirtieth day of June in each succeeding year. ~~Except as provided in section 3905.011 of the Revised Code, all~~ All domestic, foreign, and alien companies shall pay a fee of twenty dollars for every such ~~license~~ appointment when issued and for each continuance thereafter. While such ~~license~~ appointment remains in force, a ~~foreign~~ company shall be bound by the acts of the person named ~~therein~~ in the appointment, within ~~his~~ the person's apparent authority as its authorized agent.

Sec. 3905.27. The superintendent of insurance may open an account in the name of each insurance company authorized to do business in this state and in the name of any authorized insurance agent, and charge ~~said~~ the accounts with all fees incurred by such companies or agents in accordance with sections ~~3905.01,~~ 3905.02, 3905.03, 3905.07, 3905.26, 3919.26, and 3931.03 of the Revised Code, and other statutes imposing fees. The statutory fee for each service requested shall be charged against the proper account forthwith upon the rendition of the service.

Not later than the tenth day of each calendar month the superintendent shall render an itemized statement to each company or agent whose account has been charged during the month next preceding, showing the amount of all fees charged during ~~said~~ that month and demanding that payment thereof be made not later than the first day of the month next following.

The failure of any insurance company within ~~said~~ that time to pay the amount of such fees in accordance with ~~such~~ the monthly statement, or, if ~~said~~ the statement or account is found to be incorrect, in accordance with a corrected monthly statement rendered by the superintendent, is grounds for the revocation of its certificate of authority to do business in this state. In the event of such an order of revocation, the superintendent shall forthwith cause a notice thereof to be published once in at least one newspaper at the seat of the government and also, if a domestic company, once in at least one newspaper published in the county where its home office is located, or, if a foreign or alien company, once in at least one newspaper published in a county of this state where an agency of ~~such~~ the company is located. After the publication of ~~such~~ the notice, no agent of ~~such~~ the company shall procure applications for insurance or issue policies.

In the event of the failure of any agent within the time fixed to pay the amount of fees charged against ~~his~~ the agent's account in accordance with the monthly statement rendered by the superintendent, ~~such~~ the agent's license may be revoked in the manner provided by sections ~~3905.01~~ 3905.02 and 3905.18 of the Revised Code.

Sec. 3905.30. The superintendent of insurance may issue a surplus line broker's license to any natural person who is a ~~citizen of the United States and has been a~~ resident of this or any other state or a province of Canada, or to any corporation, partnership, or limited liability company that is organized under the laws of this or any other state or a province of Canada. The applicant must have been licensed as a multiple line agent for at least two years prior to making application for the surplus line broker's license. ~~The applicant shall also have met the standards and passed the test provided for the issuance of a multiple line agent's license.~~ A surplus line broker's license permits the person named in the license to negotiate for and obtain insurance, other than life insurance, on property or persons in this state in insurers not authorized to transact business in this state. Each such license expires on the thirty-first day of January next after the year in which it is issued, and may be then renewed.

Sec. 3905.40. The superintendent of insurance ~~shall~~ may issue ~~no~~ a license to any ~~person as agent of an insurance company if such person~~ individual who is a resident of ~~a~~ another state ~~which, by its laws, prohibits residents of this state from acting as agents of insurance companies in such state; if the superintendent is satisfied that any person holding a license as such agent is a resident of such state, he shall revoke such license~~ or a province of Canada, or to any corporation, partnership, or limited liability company that is organized under the laws of another state or a province of

Canada. For the purpose of according such an applicant the full privileges of an insurance agent in this state, the superintendent shall accept the licensing obligations, prohibitions, and requirements that are imposed upon the applicant by the insurance authority and laws of the state or of the province of Canada of which the applicant is a resident, or under which the applicant is organized, as satisfying the licensing obligations, prohibitions, and requirements of this state, except for those obligations, prohibitions, and requirements imposed under section 3905.41 of the Revised Code.

For purposes of this section, the licensing requirements that must be accepted by the superintendent include the requirements for prelicensing and continuing education of the other state or province.

Sec. 3905.48. (A) ~~On and after July 1, 1987, no~~ No person, unless the person has complied with division (B) of this section, shall be permitted to take an examination for a license as an agent ~~or solicitor~~ to engage in the sale of any of the following types of insurance:

(1) Life insurance, annuity contracts, variable annuity contracts, and variable life insurance;

(2) Sickness and accident insurance;

(3) All lines of property and casualty insurance;

(4) All other lines of insurance for which an examination is required for licensing, except title insurance.

(B) No person shall be permitted to take an examination described in division (A) of this section unless either of the following applies:

(1) The person has earned a bachelor's or associate's degree in insurance in an accredited institution;

(2) The person has been granted a diploma for successfully completing a high school curriculum under section 3313.61 of the Revised Code or a certificate of high school equivalence under rule 3301-41-1 of the Administrative Code, or been granted a comparable diploma or certificate by another state, and has successfully completed at least forty hours of study in a program of insurance education approved by the superintendent of insurance in consultation with the insurance agent education advisory council under criteria established by the superintendent.

Sec. 3905.481. (A)(1) Except as provided in division (B) of this section, each person who is issued a license as an agent ~~or solicitor~~ on ~~and~~ or after ~~July 1, 1993,~~ the effective date of this amendment shall complete in accordance with division (A)(1) of this section at least ~~thirty~~ twenty hours of continuing education ~~instruction~~ offered in a course or program of study approved by the superintendent of insurance in consultation with the insurance agent education advisory council. The person shall complete the

initial ~~thirty~~ twenty hours of continuing education ~~instruction~~ during a period not to exceed twenty-four months commencing on the first day of January of the year immediately following the year of the issuance of the license and ending on the thirty-first day of December of the second year following the year of the issuance of the license. Thereafter, the person shall complete at least ~~thirty~~ twenty hours of continuing education ~~instruction~~ in every subsequent twenty-four-month period commencing on the first day of January and ending on the thirty-first day of December of the following year.

(2) Except as provided in division (B) of this section, each person who, on ~~July 1, 1993~~ the effective date of this amendment, holds a license as an agent ~~or solicitor~~ issued prior to that date shall complete~~, no later than December 31, 1995~~ during that person's applicable twenty-four month reporting period, at least ~~thirty~~ twenty hours of continuing education ~~instruction~~ offered in a course or program of study approved by the superintendent in consultation with the council. Thereafter, the person shall complete at least ~~thirty~~ twenty hours of ~~such~~ continuing education ~~instruction~~ in every subsequent twenty-four-month period commencing on the first day of January ~~of every even-numbered year~~ and ending on the thirty-first day of December of ~~every odd-numbered year~~ the following year.

(B) Division (A) of this section does not apply to any person or class of persons, as determined by the superintendent in consultation with the council.

(C) A person may comply with division (A) of this section by demonstrating to the council that the person has completed the minimum number of hours required by that division in a substantially similar course or program of study offered in another state.

Sec. 3905.482. (A) The superintendent of insurance shall suspend the agent's ~~or solicitor's~~ license of any person who fails to meet the requirements of section 3905.481 of the Revised Code and has not been granted under division (B) of this section an extension of time within which to complete the requirements. The suspension shall continue until the person demonstrates to the satisfaction of the superintendent that ~~he~~ the person has complied with the requirements of section 3905.481 of the Revised Code and all other provisions of this chapter. However, the superintendent shall revoke the license if the person fails to demonstrate such compliance within six months after the conclusion of the immediately preceding twenty-four-month compliance period and has not been granted under division (B) of this section an extension of time within which to complete the requirements. Any person whose license has been revoked under this

division and who desires to hold a license as an agent ~~or solicitor~~ under this chapter shall apply for a new agent's ~~or solicitor's~~ license in accordance with the requirements of this chapter.

(B) If a person cannot meet the requirements of section 3905.481 of the Revised Code due to a disability or inactivity due to special circumstances, the superintendent may grant the person a reasonable extension of time to enable the person to comply with the requirements of section 3905.481 of the Revised Code for the period of the disability or inactivity.

(C) Before revoking or suspending any agent's ~~or solicitor's~~ license under this section, the superintendent shall provide the licensee notice and an opportunity for a hearing in accordance with Chapter 119. of the Revised Code.

Sec. 3905.49. (A) As used in this section:

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

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

(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 ~~of insurance~~ may suspend, revoke, ~~refuse to continue or renew,~~ or refuse to issue or renew any license as an agent, surplus line broker, or ~~solicitor~~ limited insurance representative, or impose any other sanction authorized under this chapter, ~~if the superintendent finds any~~ for one or more of the following reasons:

(1) ~~The person has made a false~~ Obtaining or attempting to obtain any license or appointment through misrepresentation or fraud, including making any materially untrue statement ~~with respect to a material matter~~ in ~~the license~~ an application for a license or appointment;

(2) ~~Any cause for which issuance of the license could have been refused had it existed and been known to the superintendent at the time of issuance;~~

~~(3) The person has violated~~ Violating or ~~failed~~ failing to comply with any insurance law ~~or any lawful~~, rule, subpoena, consent agreement, or

order of the superintendent ~~or the commissioner of insurance of another state;~~

~~(4) The person has obtained or attempted to obtain any such license through mispresentation or fraud;~~

~~(5) The person has improperly withheld, misappropriated,~~;

(3) Misappropriating or ~~converted~~ converting to the person's own use any moneys belonging to policyholders, ~~insurers~~ prospective policyholders, beneficiaries, insurance companies, or others received in the course of the person's insurance business;

(4) Failing to timely submit an application for insurance. For purposes of division (B)(4) of this section, a submission is considered timely if it occurs within the time period expressly provided for by the insurer, or within seven days after the agent accepts a premium or an order to bind from a policyholder or applicant, whichever is later.

~~(6) The person has knowingly misrepresented~~ (5) Knowingly misrepresenting the terms, benefits, value, cost, or effective dates of any actual or proposed insurance policy or contract;

~~(7) The person has been~~ (6) Being convicted of a felony~~. If a person has been convicted of a felony based on evidence of acts or omissions related to the insurance business, the superintendent shall revoke any license issued to such person for a period of not less than two years. If the person did not hold a license at the time of the conviction, no license shall be issued to the person for a period of two years after the date of the conviction.~~

~~(8) The person is guilty of~~;

(7) Being convicted of a misdemeanor that involves the misuse or theft of money or property belonging to another, fraud, forgery, dishonest acts, or breach of a fiduciary duty, or that is based on any act or omission relating to the business of insurance, securities, or financial services;

(8) Committing an unfair ~~or deceptive~~ trade act or practice ~~or fraud~~ under any section of Title XXXIX of the Revised Code or any rule adopted thereunder;

(9) ~~In the conduct of the person's affairs under a license, the person has used fraudulent, coercive, or dishonest practices, or is incompetent, untrustworthy, or financially irresponsible;~~

~~(10) The person's~~ Having an insurance license ~~has been~~ suspended or revoked in any other state, province, ~~district,~~ or territory;

~~(11) The person has forged~~ (10) Forging or causing the forgery of another's name to any document related to or used in an ~~application for~~ insurance transaction;

~~(12) The person has cheated~~ (11) Possessing or using any unauthorized

materials during a licensing or continuing education examination or cheating on ~~an~~ a licensing or continuing education examination ~~for an insurance license.~~

~~(B) The license of a partnership or corporation may be suspended, revoked, or refused if the superintendent finds, after notice and hearing under Chapter 119. of the Revised Code, that an individual licensee's violation was known or should have been known by one or more of the partners, officers, directors, or managers acting on behalf of the partnership or corporation and such violation was not reported to the department of insurance or corrective action taken in relation to the violation;~~

(12) Failing to disclose to an applicant for insurance or policyholder upon accepting a premium or an order to bind coverage from the applicant or policyholder, that the person has not been appointed as agent by the insurer and is not an appointed solicitor of an appointed agent;

(13) Having any professional license suspended or revoked as a result of a mishandling of funds or breach of fiduciary responsibilities;

(14) Causing or permitting a policyholder or applicant for insurance to designate the person or the person's spouse, parent, child, or sibling as the beneficiary of a policy or annuity sold by the person, unless the person or a relative of the person is the insured or applicant;

(15) Failing to provide a written response to the department of insurance within thirty days after receipt of any written inquiry from the department;

(16) Failing to notify the superintendent of any change in the person's address, within thirty days after the change occurs, as required by section 3905.54 Of the Revised Code;

(17) 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;

(18) Engaging in any fraudulent or coercive practice in connection with the business of insurance;

(19) 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, general agent, surplus line broker, or licensee known to be involved in procuring, placing, or continuing the insurance for the policyholder or applicant, upon the binding of the coverage;

(20) In the case of an agent that is a corporation, limited liability company, or partnership, failing to report an individual licensee's violation to the department when the violation was known or should have been known by one or more of the partners, officers, managers, or members of the

corporation, limited liability company, or partnership;

(21) Submitting or using a document in the conduct of the business of insurance when the person knew or should have known that the document contained the forged signature of another person;

(22) Misrepresenting the person's qualifications or using in any way a professional designation that has not been conferred upon the person by the appropriate accrediting organization;

(23) Obtaining a premium loan or causing a premium loan to be made to or in the name of an insured without that person's knowledge and written authorization;

(24) Failing to notify the superintendent of any disciplinary action taken by the insurance authority of another state, within sixty days after the action was taken, as required by section 3905.54 Of the Revised Code;

(25) Failing to file any of the reports or notices required under this chapter;

(26) Submitting an application for insurance, or causing the issuance of an insurance policy or contract, on behalf of an applicant who did not request or authorize the insurance. Division (B)(26) of this section does not apply to any policy issued by an other than life insurance company.

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

(28) Providing misleading, deceptive, or untrue information to an applicant for insurance or a policyholder regarding a particular insurance agent, company, or product;

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

(30) Soliciting, marketing, or selling any product or service that offers benefits similar to insurance but is not regulated by the superintendent, without fully disclosing to the prospective purchaser that the product or service is not insurance and is not regulated by the superintendent;

(31) Failing to fulfill a refund obligation in a timely manner. For purposes of division (B)(31) of this section, a rebuttable presumption exists that a refund obligation is not fulfilled in a timely manner unless it is fulfilled within one of the following time periods:

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

(b) Thirty days after the date of the insurer's refund check, if the agent is

expected to issue a portion of the total refund;

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

(C) Before denying, revoking, suspending, or refusing to ~~continue or renew~~ issue any license or imposing any penalty under this section or section 3905.482 Of the Revised Code, the superintendent shall provide the licensee or applicant with notice and an opportunity for hearing~~, under~~ as provided in Chapter 119. of the Revised Code, ~~to the licensee or applicant and any insurer represented by the licensee or applicant~~ except as follows:

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

For purposes of this section, the "last known address" is the address that appears in the licensing records of the department of insurance.

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

(c) If service by ordinary mail fails, the superintendent may cause a summary of the substantive provisions of the notice to be published once a week for three consecutive weeks in a newspaper of general circulation in the county where the last known place of residence or business of the party is located. The notice is considered served on the date of the third publication.

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

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

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

(2) Any subpoena for the appearance of a witness or the production of

documents or other evidence at a hearing, or for the purpose of taking testimony for use at a hearing, shall be served by certified mail, return receipt requested, by an attorney or by an employee of the department designated by the superintendent. Such subpoenas shall be enforced in the manner provided in section 119.09 of the Revised Code. Nothing in this section shall be construed as limiting the superintendent's other statutory powers to issue subpoenas.

(D) ~~The~~ If the superintendent determines that a violation described in this section has occurred, the superintendent may ~~modify any order under this section and restore a license of or issue a license to a person if the superintendent finds, after notice and opportunity for hearing provided to affected parties, that the person can demonstrate all~~ do any of the following:

(1) ~~The person has made restitution for all pecuniary losses caused by his~~ assess a civil forfeiture in an amount not exceeding twenty-five thousand dollars per violation;

(2) ~~The person's character and reputation have been rehabilitated so that the person possesses the personal qualifications required for the initial issuance of a license;~~ Assess administrative costs to cover the expenses incurred by the department in the administrative action, including costs incurred in the investigation and hearing processes. Any costs collected shall be paid into the state treasury to the credit of the department of insurance operating fund created in section 3901.021 of the Revised Code.

(3) ~~If the order was an order of revocation based on a conviction for felony based on evidence of acts or omissions related to the insurance business, that two years have elapsed since the effective date of the order, or if the order was an order denying a license because of such a conviction, that two years have elapsed since the date of the conviction~~ Suspend all of the person's licenses for all lines of insurance for either a specified period of time or an indefinite period of time and under such terms and conditions as the superintendent may determine;

(4) ~~If required by the superintendent, the person passes the examination required for an initial issuance of the license~~ Permanently revoke all of the person's licenses for all lines of insurance;

(5) Refuse to issue a license;

(6) Refuse to renew a license;

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

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

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

(E) The superintendent ~~shall~~ may consider the following ~~standards~~ factors in denying a license, imposing suspensions, revocations, fines, or ~~refusals of continuations or renewals of licenses~~ other penalties, and issuing orders under this section:

(1) Whether the person acted in good faith ~~and without knowledge of his violation and makes~~;

(2) Whether the person made restitution for any pecuniary losses suffered by other persons as a result of ~~his~~ the person's actions~~. In such cases, the maximum suspension shall be ninety days.~~

~~(2) Whether, within the meanings defined in section 2901.22 of the Revised Code, the person acted purposely, knowingly, recklessly, or negligently~~;

(3) ~~Whether the amount of money or the nature of the property involved in the violation would, if it were the subject of a criminal offense, make a theft offense a misdemeanor or a felony~~ the actual harm or potential for harm to others;

(4) The degree of trust placed in the person by, and the ~~incompetency, inexperience, or susceptibility to undue influence or duress~~ vulnerability of, ~~any other person involved~~ persons who were or could have been adversely affected by the person's actions;

(5) ~~The effect of the violation upon the perception by insureds and insurance customers of the ethics and integrity of the insurance industry~~ whether the person was the subject of any previous administrative actions by the superintendent;

(6) The ~~extent to which~~ number of individuals adversely affected by the person's ~~conduct departed from the customary and usual ethical standards of persons engaged in the insurance business~~ acts or omissions;

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

(8) Whether the person obstructed or impeded, or attempted to obstruct

or impede, the superintendent's investigation;

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

(10) Remedial efforts to prevent future violations;

(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;

(12) Such other factors as the superintendent determines to be appropriate under the circumstances.

(F)(1) A violation described in division (B)(1), (2), (3), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (17), (18), (19), (20), (21), (22), (23), (25), (26), (27), (28), (29), (30), or (31) of this section is a class A offense for which the superintendent may impose any penalty set forth in division (D) of this section.

(2) A violation described in division (B)(4), (15), (16), or (24) of this section 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.

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

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

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

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

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

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

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

(2) Injunctive relief;

(3) Restitution;

(4) Any other appropriate relief.

(I) This section applies to both resident and nonresident agents who are licensed under this chapter.

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

Sec. 3905.491. (A) Upon written application of a person whose license was suspended, revoked, or surrendered for cause under section 3905.49 of the Revised Code, the superintendent of insurance shall hold a hearing to determine whether the administrative action imposing such suspension, revocation, or surrender should be modified, provided that all of the following conditions are met:

(1) At least five years have elapsed since the date of the administrative action sought to be modified;

(2) At least two years have elapsed since any previous request for a modification was made under this section;

(3) The burden of proof is on the person requesting the modification.

(B) The modification of an order issued or consent agreement entered into under section 3905.49 of the Revised Code is at the discretion of the superintendent. The superintendent may modify such an order or agreement if the superintendent finds all of the following:

(1) At least five years have elapsed since the date of the administrative action;

(2) The person is of good business repute and is suitable to be an insurance agent;

(3) The person has made restitution for all pecuniary losses suffered by any person as a result of the conduct that gave rise to the administrative action;

(4) The person has not been convicted of any felony or of any misdemeanor described in division (B)(7) of section 3905.49 of the Revised Code unless the conviction was the subject of a previous administrative action by the superintendent;

(5) The circumstances surrounding the previous violation are such that it is unlikely the person would commit such offenses in the future;

(6) The person's character has been rehabilitated.

(C) The issuance of any license pursuant to a modification under this section shall be conditioned upon the successful completion of all prelicensing education and examination requirements.

Sec. 3905.492. (A)(1) All records and other information obtained by the superintendent of insurance or the superintendent's deputies, examiners, assistants, or other employees, or agents relating to an investigation of an applicant for licensure under this chapter, or of an agent, solicitor, broker, or other person licensed under this chapter or Chapter 3951., 3957., or 3959. Of the Revised Code, are confidential and are not public records as defined in section 149.43 Of the Revised Code until the applicant or licensee is provided notice and opportunity for hearing pursuant to Chapter 119. Of the Revised Code with respect to such records or information. If no administrative action is initiated with respect to a particular matter about which the superintendent obtained records or other information as part of an investigation, all such records and information relating to that matter shall remain confidential for three years after the file on the matter is closed.

(2) Division (A)(1) of this section applies only to investigations that could result in administrative action under Title XVII or XXXIX or Chapter 119. of the Revised Code.

(B) The records and other information described in division (A) of this section shall remain confidential for all purposes except when it is appropriate for the superintendent and the superintendent's deputies, examiners, assistants, or other employees, or agents to take official action regarding the affairs of the applicant or licensee or in connection with actual or potential criminal proceedings.

(C) Employees or agents of the department of insurance shall not be required by any court in this state to testify in a civil action, if such testimony concerns any matter related to records or any other information considered confidential under this section of which they have knowledge.

(D) This section does not apply to any complaint or action under section 3905.04 Of the Revised Code.

Sec. 3905.54. Each agent licensed under this chapter shall notify the superintendent of insurance in writing of all of the following, as applicable:

(A) Any change in the agent's address, within thirty days after the change occurs. For purposes of this division, "address" means residential address, business address, and any other address or addresses the superintendent requires by rule adopted in accordance with Chapter 119. of the Revised Code.

(B) Any felony conviction, or any misdemeanor conviction described in division (B)(7) of section 3905.49 of the Revised Code, within thirty days after sentencing. The notice shall include the name of the court having jurisdiction over the matter, the case number, the offense charged, the sentence imposed, and a copy of the judgment entry.

(C) Any disciplinary action taken by the insurance authority of another state, within sixty days after the action is taken.

Sec. 3905.55. (A) Except as provided in division (B) of this section, an agent may charge a consumer a fee if all of the following conditions are met:

(1) The fee is disclosed to the consumer in a manner that separately identifies the fee and the premium.

(2) The fee is not calculated as a percentage of the premium.

(3) The fee is not refunded, forgiven, waived, offset, or reduced by any commission earned or received for any policy or coverage sold.

(4) The amount of the fee, and the consumer's obligation to pay the fee, are not conditioned upon the occurrence of a future event or condition, such as the purchase, cancellation, lapse, declination, or nonrenewal of insurance.

(5) The agent discloses to the consumer that the fee is being charged by the agent and not by the insurance company, that neither state law nor the insurance company requires the agent to charge the fee, and that the fee is not refundable.

(6) The consumer consents to the fee.

(7) The agent, in charging the fee, does not discriminate on the basis of race, sex, national origin, religion, disability, health status, age, marital status, or geographic location, and does not unfairly discriminate between persons of essentially the same class and of essentially the same hazard or expectation of life.

(B) A fee may not be charged for taking or submitting an initial application for coverage with any one insurer or different programs with the same insurer, or processing a change to an existing policy, a cancellation, a claim, or a renewal, in connection with any of the following personal lines policies:

(1) Private passenger automobile;

(2) Homeowners, including coverage for tenants or condominium

owners, owner-occupied fire or dwelling property coverage, personal umbrella liability, or any other personal lines-related coverage whether sold as a separate policy or as an endorsement to another personal lines policy;

(3) Individual life insurance;

(4) Individual sickness or accident insurance;

(5) Disability income policies;

(6) Credit insurance products.

(C) Notwithstanding any other provision of this section, an agent may charge a fee for agent services in connection with a policy issued on a no-commission basis, if the agent provides the consumer with prior disclosure of the fee and of the services to be provided.

(D) In the event of a dispute between an agent and a consumer regarding any disclosure required by this section, the agent has the burden of proving that the disclosure was made.

(E)(1) No person shall fail to comply with this section.

(2) Whoever violates division (E)(1) of this section is deemed to have engaged in an unfair and deceptive act or practice in the business of insurance under sections 3901.19 to 3901.26 of the Revised Code.

Sec. 3905.99. (A) Whoever violates sections 3905.181, 3905.21, or 3905.23 of the Revised Code shall be fined not less than twenty-five nor more than five hundred dollars or imprisoned not more than six months, or both.

(B) Whoever violates section 3905.31 or 3905.33 of the Revised Code shall be fined not less than twenty-five nor more than five hundred dollars or imprisoned not more than one year, or both.

(C) Whoever violates section 3905.37 or 3905.43 of the Revised Code shall be fined not less than one hundred nor more than five hundred dollars.

(D) Whoever violates section 3905.01 Of the Revised Code is guilty of a misdemeanor of the first degree.

Sec. 3913.40. (A) Any insurer, including any fraternal benefit society, that is organized under the laws of another state and is admitted to transact the business of insurance in this state may become a domestic insurer by complying with all of the requirements of law relative to the organization and licensing of a domestic insurer of the same type and by designating its principal place of business at a place in this state. Such a domestic insurer shall be issued like certificates and licenses to transact business in this state, is subject to the jurisdiction of this state, and shall be recognized as an insurer formed under the laws of this state as of the date of its original incorporation in its original domiciliary state. The superintendent of insurance shall approve any proposed transfer of domicile under this

division unless the superintendent determines that the transfer is not in the interest of policyholders of this state.

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

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

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

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

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

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

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

Sec. 3921.33. (A) Agents of fraternal benefit societies shall be licensed in the manner provided for agents of insurance companies in Chapter 3905. of the Revised Code, and shall be required to complete ~~the~~ continuing education ~~instruction~~ AS set forth in section 3905.481 of the Revised Code starting with the twenty-four-month period commencing on the first day of

January of 1999. However, no written or other examination shall be required of any person whose application for the original issuance of a license to represent a fraternal benefit society as its agent was filed with the superintendent of insurance prior to January 1, 1997.

(B) The following persons shall not be required to be licensed in accordance with division (A) of this section:

(1) Any regularly salaried officer, employee, or member of a licensed society who devotes substantially all of the person's services to activities other than the solicitation of fraternal insurance contracts from the public, and who receives for the solicitation of any such contracts no commission or other compensation directly dependent upon the amount of business obtained.

The officers, employees, and members described in division (B)(1) of this section also are not subject to examination by the superintendent under Chapter 3905. of the Revised Code.

(2) Any agent or representative of a society who devotes, or intends to devote, less than fifty per cent of the person's time to the solicitation and procurement of insurance contracts for the society. For purposes of division (B)(2) of this section, any person who, in the preceding calendar year, has received a commission or other compensation for soliciting and procuring any of the following contracts on behalf of an individual society is presumed to have devoted, or to have intended to devote, fifty per cent of the person's time to the solicitation and procurement of insurance contracts:

(a) Life insurance contracts that, in the aggregate, exceeded two hundred thousand dollars of coverage for all lives insured for the preceding calendar year;

(b) A permanent life insurance contract offering more than ten thousand dollars of coverage on an individual life;

(c) A term life insurance contract offering more than fifty thousand dollars of coverage on an individual life;

(d) Any insurance contracts other than life that the society may write and that insure the individual lives of more than twenty-five individuals;

(e) Any contract issued on a variable basis, as authorized by division (C) of section 3921.22 of the Revised Code.

Sec. 3923.121. (A) As used in this section:

(1) "Association" means a voluntary unincorporated association of insurers formed for the sole purpose of enabling cooperative action to provide sickness and accident insurance in accordance with this section.

(2) "Insurer" means any insurance company authorized to do the business of sickness and accident insurance in this state.

(3) "Insured" means a person covered under a group policy issued pursuant to this section.

(B) Any insurer may join with one or more other insurers, in an association, to offer, sell, and issue to a policyholder selected by the association a policy of group insurance against major financial loss from sickness and accident covering residents of this state who are sixty-five years of age or older and the spouses of such residents. The insurance shall be offered, issued, and administered in the name of the association. Membership in the association shall be open to any insurer and each insurer which participates shall be liable for a specified percentage of the risks. The policy may be executed on behalf of the association by a duly authorized person and need not be countersigned by an agent.

(C) The persons eligible for coverage under the policy shall be all residents of this state who are sixty-five years of age or older and their spouses, subject to reasonable underwriting restrictions to be set forth in the plan of the association. The policy may provide basic hospital and surgical coverage, basic medical coverage, major medical coverage, and any combination of these; provided that it shall not be required as a condition for obtaining major medical coverage that any basic coverage be taken.

(D) The association shall file with the superintendent of insurance any policy, contract, certificate, or other evidence of insurance, application, or other forms pertaining to such insurance together with the premium rates to be charged therefor. The superintendent may approve, disapprove, and withdraw approval of the forms in accordance with section 3923.02 of the Revised Code, or the premium rates if by reasonable assumptions such rates are excessive in relation to the benefits provided. In determining whether such rates by reasonable assumptions are excessive in relation to the benefits provided the superintendent shall give due consideration to past and prospective claim experience, within and outside this state, and to fluctuations in such claim experience, to a reasonable risk charge, to contribution to surplus and contingency funds, to past and prospective expenses, both within and outside this state, and to all other relevant factors within and outside this state, including any differing operating methods of the insurers joining in the issuance of the policy. In reviewing the forms the superintendent shall not be bound by the requirements of sections 3923.04 to 3923.07 of the Revised Code with respect to standard provisions to be included in sickness and accident policies or forms.

(E) The association may enroll eligible persons for coverage under the policy through any insurance agent licensed to sell sickness and accident insurance pursuant to section ~~3905.01~~ 3905.02, 3905.08, 3905.18, or

3941.02 of the Revised Code.

(F) The association shall file annually with the superintendent on such date and in such form as the superintendent may prescribe, a financial summary of its operations.

(G) The association may sue and be sued in its associate name and for such purposes only shall be treated as a domestic corporation. Service of process against ~~such~~ the association made upon a managing agent, any member thereof, or any agent authorized by appointment to receive service of process, shall have the same force and effect as if ~~such~~ the service had been made upon all members of the association.

(H) Under any policy issued as provided in this section, the policyholder, or such person as the policyholder shall designate, shall alone be a member of each domestic mutual insurance company joining in the issue of the policy and shall be entitled to one vote by virtue of such policy at the meetings of each such mutual insurance company. Notice of the annual meetings of each such mutual insurance company may be given by written notice to the policyholder or as otherwise prescribed in ~~said~~ the policy.

Sec. 3931.101. The provisions of sections 3905.01 to ~~3905.05, inclusive,~~ 3905.04 of the Revised Code, relating to the appointment, licensing, qualification and regulation of insurance agents, brokers and solicitors shall apply to all persons authorized to solicit powers of attorney or applications for contracts of indemnity for any reciprocal exchange, insurance exchange or attorney in fact as provided for in Chapter 3931~~,~~. of the Revised Code, except a traveling full time salaried non-commission employee of an attorney whose duties as such employee are primarily the performance of inspection underwriting, loss prevention engineering and claim services shall be exempt from this section and shall be regulated solely by section 3931.11 of the Revised Code.

Sec. 3931.11. Every attorney shall certify to the superintendent of insurance the names and addresses of the attorney's traveling full time salaried non-commission employees, primarily engaged in performing underwriting, loss prevention engineering and claim services, authorized by the attorney to solicit powers of attorney or applications for contracts of indemnity specified in section 3931.01 of the Revised Code. The authority of such persons shall continue until the first day of the next April, unless it is cancelled by the attorney and the certificate of such cancellation is filed with the superintendent, or unless the license of the attorney or authority of such person is revoked or suspended by the superintendent. Expiring certificates of authority of such persons may be renewed in like manner to

continue until the first day of the next April. The superintendent shall record the names and addresses of such persons so that their names may conveniently be inspected and shall thereupon certify and deliver to the attorney a list of the names of all persons so recorded.

If the superintendent finds that any such person has ~~wilfully~~ willfully violated, or failed to comply with, sections 3931.01 to 3931.12~~, inclusive,~~ of the Revised Code, or has been convicted of a felony in the United States, or in this or any state, or has been guilty of any act or acts which if performed by an agent licensed under section ~~3905.01~~ 3905.02 of the Revised Code would constitute statutory grounds for the revocation of such agent's license, the superintendent may refuse or revoke the authority of ~~such~~ the person and cancel the person's name on the superintendent's records, and the superintendent shall thereupon notify ~~such~~ the person and the attorney of ~~such~~ the revocation. Thereafter ~~such~~ the person shall not act as representative of any attorney until a new certificate of authority by the attorney thereafter appointing ~~such~~ the person is filed with and approved by the superintendent.

No such person shall act for any attorney in placing insurance or making such contracts of indemnity, unless the attorney has the license required by section 3931.10 of the Revised Code, nor unless the unexpired, unrevoked, and unsuspended certificate of such person's authority is filed with the superintendent. Any such person shall be individually liable on any contract of indemnity made, issued, or accepted through that person as representing any attorney who is not licensed by the superintendent to make such contracts of indemnity.

Sec. 3941.02. (A) A domestic mutual company may be organized by not less than twenty persons, to carry on the business of mutual insurance and to reinsure and to accept reinsurance as authorized by law and its articles of incorporation. Such persons shall execute articles of incorporation which, if not inconsistent with the constitution and laws of this state and of the United States, shall be approved by the attorney general and the secretary of state. The articles and the certificate of approval by the attorney general shall be recorded by the secretary of state who shall deposit a copy thereof with the superintendent of insurance.

(B) If the articles of incorporation of a domestic, foreign, or alien, mutual or stock insurance company empower it, or if the power of attorney or subscribers' agreement empowers the attorney in fact of a reciprocal or interinsurance exchange, to transact any of the kinds of insurance described in division (A) of section 3929.01 of the Revised Code, such company or attorney may apply to the superintendent for the appropriate license or

certificate of authority, as provided in section 3925.11, 3927.01, 3931.10, or 3941.06 of the Revised Code, which application shall state which of the kinds of insurance it proposes to transact, and the superintendent shall act thereon in the manner prescribed by that section.

(C) An Ohio agent shall be licensed, upon written notice of appointment by a domestic, foreign, or alien, mutual or stock insurance company, to procure, receive, or forward application for the kinds of insurance the company is authorized to transact in this state if the agent is then licensed to write all of the kinds of insurance described in division (A) of section 3929.01 of the Revised Code, either for the company or for any other company or companies authorized to transact insurance business in this state. An Ohio agent not so licensed shall not procure, receive, or forward applications for any kind of insurance for the company until qualified and licensed to procure, receive, or forward applications for all of the kinds of insurance described in division (A) of section 3929.01 of the Revised Code, in accordance with the applicable provisions of Chapter 3905. of the Revised Code and in accordance with such rules as the superintendent may adopt in connection therewith; provided any company, irrespective of the kinds of insurance it is authorized to transact, may apply for and obtain the renewal of licenses of its agents who were licensed on or before July 1, 1945, to procure, receive, or forward applications for any of the kinds of insurance described in division (A) of section 3929.01 of the Revised Code, and such agents shall not be required to be licensed for all the kinds of insurance transacted by the company making the applications for such renewals. Nothing in this section shall be construed to authorize an agent whose license is renewed under these provisions to procure, receive, or forward applications for any kind or kinds of insurance other than the kind or kinds for which the agent was authorized to procure, receive, or forward applications on July 1, 1945; provided, the procuring, receiving, or forwarding of applications by such an agent for any kind or kinds of insurance other than the kind or kinds the agent was authorized to procure, receive, or forward, as of July 1, 1945, is cause for revocation of the license of the agent by the superintendent and the acceptance by any insurance company licensed to do business in this state of an application for any kind of insurance other than the kind or kinds that the agent was authorized to procure, receive, or forward, as of July 1, 1945, is cause for revocation of the license of the company by the superintendent. Nothing in this section shall be construed to alter the provisions of sections 2301.373, ~~3905.05,~~ 3931.101, and 3931.11 of the Revised Code.

Sec. 3953.21. (A) Every title insurance company authorized to transact

business within this state shall certify annually to the superintendent of insurance the names of all title insurance agents representing it in this state in accordance with section ~~3905.01~~ 3905.02 of the Revised Code.

(B) No bank, trust company, bank and trust company, or other lending institution, mortgage service, brokerage, mortgage guaranty company, escrow company, real estate company or any subsidiaries thereof or any individuals so engaged shall be permitted to act as an agent for a title insurance company.

Sec. 3953.23. (A) Every title insurance agent shall keep ~~his~~ books of account and record and vouchers pertaining to the business of title insurance in such manner that the title insurance company may readily ascertain from time to time whether the agent has complied with this chapter.

(B) A title insurance agent may engage in the business of handling escrows of real property transactions directly connected with the business of title insurance, provided that the agent shall maintain a separate record of all receipts and disbursements of escrow funds and shall not commingle any such funds with agent's own funds or with funds held by agent in any other capacity; and if at any time the superintendent of insurance determines that an agent has failed to comply with any of the provisions of this section, the superintendent may revoke the license of ~~said~~ the agent pursuant to section ~~3905.01~~ 3905.02 of the Revised Code, subject to review as provided for in ~~sections 119.01 to 119.13, inclusive,~~ Chapter 119. of the Revised Code. All agents shall be covered by a fidelity bond in an amount and with a company satisfactory to the principal.

Sec. 3960.11. (A) No person shall act or aid in any manner in soliciting, negotiating, or procuring liability insurance in this state from a risk retention group unless the person is licensed as an insurance agent or broker in accordance with section ~~3905.01, 3905.03,~~ 3905.02 or 3905.30 of the Revised Code.

(B) No person shall act or aid in any manner in soliciting, negotiating, or procuring liability insurance in this state for a purchasing group from an authorized insurer or a risk retention group chartered in a state unless the person is licensed as an insurance agent or broker in accordance with section ~~3905.01, 3905.03,~~ 3905.02 or 3905.30 of the Revised Code.

(C) No person shall act or aid in any manner in soliciting, negotiating, or procuring liability insurance coverage in this state for any member of a purchasing group under a purchasing group's policy unless the person is licensed as an insurance agent or broker in accordance with section ~~3905.01, 3905.03,~~ 3905.02 or 3905.30 of the Revised Code.

(D) No person shall act or aid in any manner in soliciting, negotiating,

or procuring liability insurance from an insurer not authorized to do business in this state on behalf of a purchasing group located in this state unless the person is licensed as ~~an insurance agent or~~ a surplus ~~lines~~ line broker in accordance with section ~~3905.01, 3905.03, or~~ 3905.30 of the Revised Code.

Sec. 4745.01. (A) "Standard renewal procedure," as used in Chapters 905., 907., 909., 911., 913., 915., 918., 921., 923., 927., 942., 943., 953., 1321., 3710., 3713., 3715., 3719., 3731., 3742., 3748., 3769., 3783., ~~3905.,~~ 3921., 3951., 4104., 4105., 4143., 4169., 4561., 4701., 4703., 4707., 4709., 4713., 4715., 4717., 4723., 4725., 4727., 4728., 4729., 4731., 4733., 4734., 4735., 4739., 4741., 4747., 4749., 4753., 4755., 4757., 4759., 4761., 4766., 4773., and 4775. of the Revised Code, means the license renewal procedures specified in this chapter.

(B) "Licensing agency," as used in this chapter, means any department, division, board, section of a board, or other state governmental unit subject to the standard renewal procedure, as defined in this section, and authorized by the Revised Code to issue a license to engage in a specific profession, occupation, or occupational activity, or to have charge of and operate certain specified equipment, machinery, or premises.

(C) "License," as used in this chapter, means a license, certificate, permit, card, or other authority issued or conferred by a licensing agency by authority of which the licensee has or claims the privilege to engage in the profession, occupation, or occupational activity, or to have control of and operate certain specific equipment, machinery, or premises, over which the licensing agency has jurisdiction.

(D) "Licensee," as used in this chapter, means either the person to whom the license is issued or renewed by a licensing agency, or the person, partnership, or corporation at whose request the license is issued or renewed.

(E) "Renewal" and "renewed," as used in this chapter and in the chapters of the Revised Code specified in division (A) of this section, includes the continuing licensing procedure provided in Chapter 3748. of the Revised Code and rules adopted under it and in sections 1321.05~~, 3905.01, 3905.02, 3905.07, 3905.18,~~ and 3921.33 of the Revised Code, and as applied to those continuing licenses any reference in this chapter to the date of expiration of any license shall be construed to mean the due date of the annual or other fee for the continuing license.

SECTION 2. That existing sections 1751.38, 3901.021, 3905.02, 3905.06, 3905.07, 3905.08, 3905.18, 3905.20, 3905.27, 3905.30, 3905.40, 3905.48, 3905.481, 3905.482, 3905.49, 3905.99, 3913.40, 3921.33, 3923.121, 3931.101, 3931.11, 3941.02, 3953.21, 3953.23, 3960.11, and 4745.01 and

sections 3905.01, 3905.011, 3905.03, and 3905.05 of the Revised Code are hereby repealed.

SECTION 3. Sections 1 and 2 of this act, except for sections 3905.011, 3905.012, 3905.02, 3905.03, 3905.18, and 3905.20 of the Revised Code, shall take effect at the earliest time permitted by law. Sections 3905.011, 3905.012, 3905.02, 3905.03, 3905.18, and 3905.20 of the Revised Code, as amended, enacted, or repealed by this act, shall take effect October 1, 1998.

SECTION 4. It is the intent of the General Assembly that the Superintendent of Insurance take any action necessary to administer the Insurance Agents Law, as amended by this act, and to provide for an orderly transition for those persons licensed or appointed under that Law as it existed prior to the effective date of this act.

SECTION 5. The Department of Insurance shall, no later than October 1, 1999, issue a new license to each person who, on October 1, 1998, holds a license as an agent. Any license application that is pending on October 1, 1998, or that is received by the Department on or after that date, shall be reviewed in accordance with this act.

SECTION 6. The Insurance Agent Education Advisory Council operating pursuant to section 3905.483 of the Revised Code shall create a temporary committee to conduct a special study of the continuing education requirements for insurance agents as set forth in the Revised Code and the Administrative Code. The committee shall be composed of the eleven members of the Insurance Agent Education Advisory Council appointed by the Superintendent of Insurance pursuant to section 3905.483 of the Revised Code; a representative, appointed by the Governor, of private entities engaged in the business of providing continuing education to agents; a representative, appointed by the Governor, of financial institutions; two members of the House of Representatives, one from each party, appointed by the Speaker of the House of Representatives; and two members of the Senate, one from each party, appointed by the President of the Senate. The Superintendent or the Superintendent's designee shall serve on the committee as a nonvoting member.

The committee shall hold an organizational meeting within thirty days after the effective date of this section. At the organizational meeting, the

voting members of the committee shall elect a chairperson and a vice-chairperson for the committee. The committee shall meet at the call of the chairperson.

The committee shall study all aspects of the continuing education requirements for insurance agents as set forth in the Revised Code and the Administrative Code, and shall be charged with providing findings and recommendations on how any aspect of these requirements may be improved.

The study shall include, but is not limited to, an examination of issues related to the following questions:

(A) Will a reduction in the biennial continuing education requirement satisfy the continuing education requirements imposed by other states on nonresident agents?

(B) What are the best methods for assuring the quality of continuing education courses and programs of study?

(C) Is the Superintendent of Insurance's annual approval of a continuing education course or program of study necessary if there is no change in the course'sor program's curriculum, or could a course or program of study be approved for a longer period of time?

(D) Could the process of approval for continuing education courses and programs of study be streamlined, to provide for a more timely and efficient process of approval?

(E) Should an agent receive continuing education credit for completing courses or programs of study that pertain to subjects outside of the agent's area of practice or licensure?

(F) What is the optimal number of hours of instruction a statutory continuing education requirement should require agents to complete?

(G) Should continuing education requirements include a minimum number of hours of courses or programs of study on ethics?

(H) Should the completion of a correspondence course, which course requires the successful completion of a test on the course material, be an optional method for an agent's fulfillment of continuing education requirements?

(I) Should minimum requirements be established for instructors of continuing education courses, such as minimum industry experience and a current agent's license?

(J) Should an agent be limited as to the number of hours of continuing education credit that the agent may earn from private providers and associations or from insurance companies, as a percentage of the total number of hours of continuing education credit that the agent earns, or is

permitted to earn, during a single compliance period?

(K) Should an agent receive continuing education credit for completing sales-related courses or programs of study?

(L) Should an agent's receipt of any special designation exempt the agent from the completion of further continuing education requirements?

(M) Has the continuing education requirement improved the quality of licensed insurance agents?

(N) Would a system in which agents certified their compliance with continuing education requirements to the Superintendent, which system included a program of random verification of agent compliance by the Department of Insurance, be a feasible alternative to the current system of continuing education compliance verification?

The committee shall hold a sufficient number of public hearings outside of Franklin County to provide interested parties throughout the state a chance to voice their opinions and make recommendations with regard to the continuing education requirements for insurance agents.

The committee shall issue an interim report within nine months after the effective date of this section. The committee shall issue its final report within eighteen months after the effective date of this section. Copies of the interim and the final reports shall be submitted, at the time of their issuance, to the Speaker of the House of Representatives, to the President of the Senate, to the Governor, to the chair of the House committee having primary jurisdiction over insurance legislation, to the chair of the Senate committee having primary jurisdiction over insurance legislation, to the Superintendent of Insurance, and to the Insurance Agent Education Advisory Council. The committee may request staff assistance from the Legislative Service Commission as needed for the completion of the reports. Upon the issuance of its final report, the committee shall cease to exist.

SECTION 7. Persons holding a license as an agent on the effective date of section 3905.481 of the Revised Code, as amended by this act, shall retain their current compliance periods for purposes of completing the continuing education requirements provided under section 3905.481 of the Revised Code, as amended by this act.

SECTION 8. If Am. Sub. H.B. 248 is enacted by the 122nd General Assembly, sections 3905.49 and 3905.491 of the Revised Code, as the sections result from this act, supersede the same sections as they result from Am. Sub. H.B. 248.

SECTION 9. Section 3941.02 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 167 and Am. Sub. S.B. 259 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. This is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that such amendments are to be harmonized where not substantively irreconcilable and constitutes a legislative finding that such is the resulting version in effect prior to the effective date of this act.

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Speaker _____ of the House of Representatives.

_____

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

_____

Governor.

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

_____

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 _____