

**As Reported by the Senate Insurance and Financial Institutions  
Committee**

**130th General Assembly  
Regular Session  
2013-2014**

**Sub. S. B. No. 140**

**Senator Bacon**

**Cosponsor: Senator Kearney**

—

**A BILL**

To amend sections 1751.25, 3901.043, 3901.045, 1  
3901.17, 3901.32, 3901.321, 3901.33, 3901.34, 2  
3901.341, 3901.35, 3901.36, 3901.62, 3901.63, 3  
3901.64, 3903.72, 3903.721, 3903.83, 3907.14, 4  
3913.01, 3913.34, 3915.04, 3915.071, 3915.072, 5  
3921.21, 3925.08, 3939.01, and 3953.15, to amend, 6  
for the purpose of adopting new section numbers as 7  
indicated in parentheses, sections 3903.72 8  
(3903.723) and 3903.721 (3903.724), to enact new 9  
sections 3903.72 and 3903.721 and sections 10  
3901.351, 3901.371, 3901.372, 3901.373, 3901.374, 11  
3901.375, 3901.376, 3901.377, 3901.378, 3901.41, 12  
3901.621, 3901.631, 3903.722, 3903.725, 3903.726, 13  
3903.727, 3903.728, 3903.729, 3903.7210, 14  
3903.7211, 3906.01 to 3906.15, and 3937.19, and to 15  
repeal sections 3907.09, 3907.10, 3907.11, and 16  
3907.13 of the Revised Code to enact the Insurance 17  
Regulatory Modernization Act to revise the 18  
insurance laws regarding alternative investments, 19  
holding company systems, risk management, reserves 20  
kept for life insurance policies, automated 21  
transactions, reinsurance, and mergers and 22

consolidations.

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

**Section 1.** That sections 1751.25, 3901.043, 3901.045, 24  
3901.17, 3901.32, 3901.321, 3901.33, 3901.34, 3901.341, 3901.35, 25  
3901.36, 3901.62, 3901.63, 3901.64, 3903.72, 3903.721, 3903.83, 26  
3907.14, 3913.01, 3913.34, 3915.04, 3915.071, 3915.072, 3921.21, 27  
3925.08, 3939.01, and 3953.15 be amended, sections 3903.72 28  
(3903.723) and 3903.721 (3903.724) be amended for the purpose of 29  
adopting new section numbers as indicated in parentheses, new 30  
sections 3903.72 and 3903.721, and sections 3901.351, 3901.371, 31  
3901.372, 3901.373, 3901.374, 3901.375, 3901.376, 3901.377, 32  
3901.378, 3901.41, 3901.621, 3901.631, 3903.722, 3903.725, 33  
3903.726, 3903.727, 3903.728, 3903.729, 3903.7210, 3903.7211, 34  
3906.01, 3906.02, 3906.03, 3906.04, 3906.05, 3906.06, 3906.07, 35  
3906.08, 3906.09, 3906.10, 3906.11, 3906.12, 3906.13, 3906.14, 36  
3906.15, and 3937.19 of the Revised Code be enacted to read as 37  
follows: 38

**Sec. 1751.25.** The (A) Except as provided in division (B) of 39  
this section, the funds of a health insuring corporation shall be 40  
invested only in securities or other investments or assets that 41  
constitute permissible investments under section 1751.26 or 42  
3925.08 of the Revised Code. 43

(B) A health insuring corporation may seek permission from 44  
the superintendent of insurance to invest funds under Chapter 45  
3906. of the Revised Code and may invest funds under that chapter 46  
if such permission is granted. 47

**Sec. 3901.043.** The superintendent of insurance may adopt 48  
rules in accordance with Chapter 119. of the Revised Code to 49  
establish reasonable fees for any service or transaction performed 50

by the department of insurance pursuant to section 1751.03, 51  
3901.321, 3901.341, ~~3907.09, 3907.10, 3907.11~~, 3907.12, 3911.011, 52  
3913.40, 3915.14, 3917.06, 3918.07, 3923.02, 3935.04, 3937.03, or 53  
3953.28 of the Revised Code or any provision in sections 3913.01 54  
to 3913.23 or in Chapter 3905. of the Revised Code, if no fee is 55  
otherwise provided under Title XVII or XXXIX of the Revised Code 56  
for such service or transaction. Any fee collected pursuant to 57  
those rules shall be paid into the state treasury to the credit of 58  
the department of insurance operating fund. 59

**Sec. 3901.045.** (A) The superintendent of insurance may 60  
receive documents and information, including otherwise 61  
confidential or privileged documents and information, from local, 62  
state, federal, and international regulatory and law enforcement 63  
agencies, from local, state, and federal prosecutors, and from the 64  
national association of insurance commissioners and its affiliates 65  
and subsidiaries, provided that the superintendent maintains as 66  
confidential or privileged any document or information received 67  
with notice or the understanding that the document or information 68  
is confidential or privileged under the laws of the jurisdiction 69  
that is the source of the document or information. 70

(B) The superintendent may also receive documents and 71  
information, including otherwise confidential or privileged 72  
documents and information, from the chief deputy rehabilitator, 73  
the chief deputy liquidator, other deputy rehabilitators and 74  
liquidators, and from any other person employed by, or acting on 75  
behalf of, the superintendent pursuant to Chapter 3901. or 3903. 76  
of the Revised Code, provided that the superintendent maintains as 77  
confidential or privileged any document or information received 78  
with the notice or understanding that the document or information 79  
is confidential or privileged, except that the superintendent may 80  
share and disclose such a document or information when authorized 81  
by other sections of the Revised Code. 82

(C) The superintendent has the authority to maintain as 83  
confidential or privileged the documents and information received 84  
pursuant to this section. 85

(D) The superintendent's authority to receive documents and 86  
information under this section, from the persons and subject to 87  
the conditions listed in this section, is not limited in any way 88  
by section 1751.19, 3901.36, 3901.44, 3901.48, 3901.70, 3903.11, 89  
~~3903.72~~ 3903.722, 3903.7211, 3903.88, 3905.492, 3905.50, 3922.21, 90  
or 3999.36 of the Revised Code. 91

**Sec. 3901.17.** (A) As used in this section: 92

(1) "Captive insurer" has the same meaning ~~defined as~~ in 93  
section 3905.36 of the Revised Code. 94

(2) "Insurer" includes, but is not limited to, any person 95  
that is an affiliate of or affiliated with the insurer, as defined 96  
in ~~division (A) of~~ section 3901.32 of the Revised Code, and any 97  
person that is a subsidiary of the insurer as defined in ~~division~~ 98  
~~(F) of~~ section 3901.32 of the Revised Code. 99

(3) "Laws of this state relating to insurance" has the same 100  
meaning ~~defined in division (A)(1) of~~ as in section 3901.04 of the 101  
Revised Code. 102

(4) "Person" has the same meaning ~~defined in division (A) of~~ 103  
as in section 3901.19 of the Revised Code. 104

(5) "Home state" has the same meaning as in section 3905.30 105  
of the Revised Code. 106

(B) Any of the following acts in this state, effected by mail 107  
or otherwise, by any foreign or alien insurer not authorized to 108  
transact business within this state, any nonresident person acting 109  
on behalf of an insurer, or any nonresident insurance agent 110  
subjects the insurer, person, or agent to the exercise of personal 111  
jurisdiction over the insurer, person, or agent to the extent 112

permitted by the constitutions of this state and of the United	113
States:	114
(1) Issuing or delivering contracts of insurance to residents	115
of this state or to corporations authorized to do business	116
therein;	117
(2) Making or proposing to make any insurance contracts;	118
(3) Soliciting, taking, or receiving any application for	119
insurance;	120
(4) Receiving or collecting any premium, commission,	121
membership fee, assessment, dues, or other consideration for any	122
insurance contract or any part thereof;	123
(5) Disseminating information as to coverage or rates,	124
forwarding applications, inspecting risks, fixing rates,	125
investigating or adjusting claims or losses, or transacting any	126
matters subsequent to effecting a contract of insurance and	127
arising out of it;	128
(6) Doing any kind of business recognized as constituting the	129
doing of an insurance business under Title XXXIX of the Revised	130
Code or subject to regulation by the superintendent of insurance	131
under the laws of this state relating to insurance.	132
Any such act shall be considered to be the doing of an	133
insurance business in this state by such insurer, person, or agent	134
and shall be its agreement that service of any lawful subpoena,	135
notice, order, or process is of the same legal force and validity	136
as personal service of the subpoena, notice, order, or process in	137
this state upon the insurer, person, or agent.	138
(C) Service of process in judicial proceedings shall be as	139
provided by the Rules of Civil Procedure. Service in or out of	140
this state of notice, orders, or subpoenas in administrative	141
proceedings before the superintendent shall be as provided in	142

section 3901.04 of the Revised Code.	143
(D) Service of any notice, order, subpoena, or process in any such action, suit, or proceeding shall, in addition to the manner provided in division (C) of this section, be valid if served upon any person within this state who, in this state on behalf of such insurer, person, or agent is or has been:	144
(1) Soliciting, procuring, effecting, or negotiating for insurance;	145
(2) Making, issuing, or delivering any contract of insurance;	146
(3) Collecting or receiving any premium, membership fees, assessment, dues, or other consideration for insurance;	147
(4) Disseminating information as to coverage or rates, forwarding applications, inspecting risks, fixing rates, investigating or adjusting claims or losses, or transacting any matters subsequent to effecting a contract of insurance and arising out of it.	148
(E) Nothing in this section shall limit or abridge the right to serve any subpoena, order, process, notice, or demand upon any insurer, person, or agent in any other manner permitted by law.	149
(F) Every person investigating or adjusting any loss or claim under a policy of insurance not excepted under division (I) of this section and issued by any such insurer and covering a subject of insurance that was resident, located, or to be performed in this state at the time of issuance shall immediately report the policy to the superintendent.	150
(G) If this state is the home state of the insured, each such insurer that does any of the acts set forth in division (B) of this section shall be subject to the requirements of section 3905.36 of the Revised Code.	151
(H) No contract of insurance effected in this state by mail	152

or otherwise by any such insurer is enforceable by the insurer.	173
(I) This section does not apply to:	174
(1) Insurance obtained pursuant to sections 3905.30 to 3905.36 of the Revised Code;	175 176
(2) The transaction of reinsurance by insurers;	177
(3) Transactions in this state involving a policy of group life or group accident and sickness insurance solicited, written, and delivered outside this state;	178 179 180
(4) Transactions involving contracts of insurance independently procured through negotiations occurring entirely outside this state which are reported and the tax is paid in accordance with section 3905.36 of the Revised Code;	181 182 183 184
(5) An attorney at law acting on behalf of the attorney's clients in the adjustment of claims or losses;	185 186
(6) Ocean marine insurance;	187
(7) Transactions involving policies issued by a captive insurer.	188 189
<b>Sec. 3901.32.</b> As used in sections 3901.32 to 3901.37 of the Revised Code:	190 191
(A) "Affiliate of" or "affiliated with" a specific person means a person that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, the person specified.	192 193 194 195
(B) "Control," including "controlling," "controlled by," and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the	196 197 198 199 200 201

power is the result of an official position with or corporate 202  
office held by the person. Control shall be presumed to exist if 203  
any person, directly or indirectly, owns, controls, holds with the 204  
power to vote, or holds proxies representing, ten per cent or more 205  
of the voting securities of any other person. This presumption may 206  
be rebutted by a showing made in the manner provided in division 207  
(J) of section 3901.33 of the Revised Code that control does not 208  
exist in fact. The superintendent of insurance may determine, 209  
after furnishing all persons in interest notice and opportunity to 210  
be heard and making specific findings of fact to support such 211  
determination, that control exists in fact, notwithstanding the 212  
absence of a presumption to that effect. 213

(C) "Enterprise risk" means any activity, circumstance, 214  
event, or series of events involving one or more affiliates of an 215  
insurer that, if not remedied promptly, is likely to have a 216  
materially adverse effect on the financial condition or liquidity 217  
of the insurer or its insurance holding company system as a whole. 218  
"Enterprise risk" includes anything that would cause the insurer's 219  
risk-based capital to fall into company action level as set forth 220  
in section 3903.83 of the Revised Code or would cause the insurer 221  
to be in a hazardous financial condition. 222

(D) "Insurance holding company system" means two or more 223  
affiliated persons, one or more of which is an insurer. 224

~~(D)~~(E) "Insurer" means any person engaged in the business of 225  
insurance, guaranty, or membership, an inter-insurance exchange, a 226  
mutual or fraternal benefit society, or a health insuring 227  
corporation, ~~excepting~~. "Insurer" does not include any agency, 228  
authority, or instrumentality of the United States, its 229  
possessions and territories, the Commonwealth of Puerto Rico, the 230  
District of Columbia, or a state or political subdivision of a 231  
state. 232

~~(E)~~(F) "Person" means an individual, a corporation, a 233

partnership, an association, a joint stock company, a trust, an 234  
unincorporated organization, any similar entity, or any 235  
combination of the foregoing acting in concert. 236

~~(F)~~(G) "Subsidiary" of a specified person is an affiliate 237  
controlled by such person, directly or indirectly, through one or 238  
more intermediaries. 239

~~(G)~~(H) "Voting security" includes any security convertible 240  
into or evidencing a right to acquire a voting security. 241

**Sec. 3901.321.** (A) For the purposes of this section: 242

(1) "Acquiring party" means any person by whom or on whose 243  
behalf a merger or other acquisition of control is to be effected. 244

(2) "Domestic insurer" includes any person controlling a 245  
domestic insurer unless the person, as determined by the 246  
superintendent of insurance, is either directly or through its 247  
affiliates primarily engaged in business other than the business 248  
of insurance. 249

(3) "Person" does not include any securities broker holding, 250  
in the usual and customary broker's function, less than twenty per 251  
cent of the voting securities of an insurance company or of any 252  
person that controls an insurance company. 253

(B)(1) Subject to compliance with division (B)(2) of this 254  
section, no person other than the issuer shall do any of the 255  
following if, as a result, the person would, directly or 256  
indirectly, including by means of conversion or the exercise of 257  
any right to acquire, be in control of a domestic insurer: 258

(a) Make a tender offer for any voting security of a domestic 259  
insurer; 260

(b) Make a request or invitation for tenders of any voting 261  
security of a domestic insurer; 262

(c) Enter into any agreement to exchange securities of a domestic insurer;	263 264
(d) Seek to acquire or acquire, in the open market or otherwise, any voting security of a domestic insurer;	265 266
(e) Enter into an agreement to merge with, or otherwise to acquire control of, a domestic insurer.	267 268
(2)(a) No person shall engage in any transaction described in division (B)(1) of this section, unless all of the following conditions are met:	269 270 271
(i) The person has filed with the superintendent of insurance a statement containing the information required by division (C) of this section;	272 273 274
(ii) The person has sent the statement to the domestic insurer;	275 276
(iii) The offer, request, invitation, agreement, or acquisition has been approved by the superintendent in the manner provided in division (F) of this section.	277 278 279
(b) The requirements of division (B)(2)(a) of this section shall be met at the time any offer, request, or invitation is made, or any agreement is entered into, or prior to the acquisition of the securities if no offer or agreement is involved.	280 281 282 283 284
<u>(3) Any controlling person of a domestic insurer seeking to divest its controlling interest in the domestic insurer shall file a confidential notice of its proposed divestiture with the superintendent at least thirty days prior to the cessation of control, and provide a copy of the confidential notice to the insurer. The superintendent may require the person seeking to divest the controlling interest to file for and obtain approval of the transaction. The information shall remain confidential until</u>	285 286 287 288 289 290 291 292

the conclusion of the transaction unless the superintendent, in 293  
the superintendent's discretion, determines that the confidential 294  
treatment will interfere with enforcement of this section. If the 295  
statement required by division (B)(2) of this section is otherwise 296  
filed with the superintendent in relation to all parties that 297  
acquire a controlling interest as a result of the divestiture, 298  
this division shall not apply. 299

(C) The statement required by division (B)(2) of this section 300  
shall be made under oath or affirmation, and shall contain all of 301  
the following information: 302

(1) The name and address of each acquiring party; 303

(2) If the acquiring party is an individual, the individual's 304  
principal occupation and all offices and positions held during the 305  
past five years, and any conviction of crimes other than minor 306  
traffic violations during the past ten years; 307

(3) If the acquiring party is not an individual, a report of 308  
the nature of its business operations during the past five years 309  
or for such lesser period as the acquiring party and any of its 310  
predecessors shall have been in existence; an informative 311  
description of the business intended to be done by the acquiring 312  
party and the acquiring party's subsidiaries; and a list of all 313  
individuals who are or who have been selected to become directors 314  
or executive officers of the acquiring party, who perform or will 315  
perform functions appropriate to such positions. The list shall 316  
include for each individual the information required by division 317  
(C)(2) of this section. 318

(4) The source, nature, and amount of the consideration used 319  
or to be used in effecting the merger or other acquisition of 320  
control, a description of any transaction in which funds were or 321  
are to be obtained for any such purpose, including any pledge of 322  
the domestic insurer's stock, or the stock of any of its 323

subsidiaries or controlling affiliates, and the identity of 324  
persons furnishing such consideration; 325

(5) Fully audited financial information as to the earnings 326  
and financial condition of each acquiring party for its preceding 327  
five fiscal years, or for such lesser period as the acquiring 328  
party and any of its predecessors shall have been in existence, 329  
and similar unaudited information as of a date not earlier than 330  
ninety days prior to the filing of the statement; 331

(6) Any plans or proposals which each acquiring party may 332  
have to liquidate such domestic insurer, to sell its assets or 333  
merge or consolidate it with any person, or to make any other 334  
material change in its business or corporate structure or 335  
management; 336

(7) The number of shares of any security of such issuer or 337  
such controlling person that each acquiring party proposes to 338  
acquire, and the terms of the offer, request, invitation, 339  
agreement, or acquisition, and a statement as to the method by 340  
which the fairness of the proposal was determined; 341

(8) The amount of each class of any security of such issuer 342  
or such controlling person which is beneficially owned or 343  
concerning which there is a right to acquire beneficial ownership 344  
by each acquiring party; 345

(9) A full description of any contracts, arrangements, or 346  
understandings with respect to any security of such issuer or such 347  
controlling person in which any acquiring party is involved, 348  
including but not limited to transfer of any of the securities, 349  
joint ventures, loan or option arrangements, puts or calls, 350  
guarantees of loans, guarantees against loss or guarantees of 351  
profits, division of losses or profits, or the giving or 352  
withholding of proxies. The description shall identify the persons 353  
with whom such contracts, arrangements, or understandings have 354

been made. 355

(10) A description of the purchase of any security of such 356  
issuer or such controlling person during the year preceding the 357  
filing of the statement, by any acquiring party, including the 358  
dates of purchase, names of the purchasers, and consideration paid 359  
or agreed to be paid therefor; 360

(11) A description of any recommendations to purchase any 361  
security of such issuer or such controlling person made during the 362  
year preceding the filing of the statement, by any acquiring 363  
party, or by anyone based upon interviews or at the suggestion of 364  
the acquiring party; 365

(12) Copies of all tender offers for, requests, or 366  
invitations for tenders of, exchange offers for, and agreements to 367  
acquire or exchange any securities of such issuer or such 368  
controlling person, and, if distributed, of additional 369  
solicitation material relating thereto; 370

(13) The terms of any agreement, contract, or understanding 371  
made with or proposed to be made with any broker or dealer as to 372  
solicitation of securities of such issuer or such controlling 373  
person for tender, and the amount of any fees, commissions, or 374  
other compensation to be paid to brokers or dealers with regard 375  
thereto; 376

(14) With respect to proposed affiliations between depository 377  
institutions or any affiliate thereof, within the meaning of Title 378  
I, section 104(c) of the "Gramm-Leach-Bliley Act," Pub. L. No. 379  
106-102, 113 Stat. 1338 (1999), and a domestic insurer, the 380  
proposed effective date of the acquisition or change of control; 381

(15) An agreement by the person required to file the 382  
statement required by division (B) of this section that the person 383  
will provide the annual registration required by division (K) of 384  
section 3901.33 of the Revised Code for so long as the person has 385

control of the domestic insurer; 386

(16) An acknowledgment by the person required to file the 387  
statement required by division (B) of this section that the person 388  
and all subsidiaries within the person's control in the insurance 389  
holding company system will provide information to the 390  
superintendent upon request as necessary to evaluate enterprise 391  
risk to the insurer; 392

(17) Such additional information as the superintendent may by 393  
rule prescribe as necessary or appropriate for the protection of 394  
policyholders of the domestic insurer or in the public interest. 395

(D)(1) If the person required to file the statement required 396  
by division (B)(2) of this section is a partnership, limited 397  
partnership, syndicate, or other group, the superintendent may 398  
require that the information required by division (C) of this 399  
section be furnished with respect to each partner of such 400  
partnership or limited partnership, each member of such syndicate 401  
or group, and each person that controls such partner or member. If 402  
any such partner, member, or person is a corporation, or the 403  
person required to file the statement is a corporation, the 404  
superintendent may require that the information required by 405  
division (C) of this section be furnished with respect to the 406  
corporation, each officer and director of the corporation, and 407  
each person that is directly or indirectly the beneficial owner of 408  
more than ten per cent of the outstanding voting securities of the 409  
corporation. 410

(2) If any material change occurs in the facts set forth in 411  
the statement required by division (B)(2) of this section, an 412  
amendment setting forth such change, together with copies of all 413  
documents and other material relevant to the change, shall be 414  
filed with the superintendent by the person subject to division 415  
(B)(2) of this section and sent to the domestic insurer within two 416  
business days after such person learns of the occurrence of the 417

material change. 418

(E) If any offer, request, invitation, agreement, or 419  
acquisition described in division (B)(1) of this section is 420  
proposed to be made by means of a registration statement under the 421  
"Securities Act of 1933," 48 Stat. 74, 15 U.S.C.A. 78a, or in 422  
circumstances requiring the disclosure of similar information 423  
under the "Securities Exchange Act of 1934," 48 Stat. 881, 15 424  
U.S.C.A. 78a, or under a state law requiring similar registration 425  
or disclosure, the person required to file the statement required 426  
by division (B)(2) of this section may use such documents in 427  
furnishing the information required by that statement. 428

(F)(1) The superintendent shall approve any merger or other 429  
acquisition of control described in division (B)(1) of this 430  
section unless, after a public hearing, the superintendent finds 431  
that any of the following apply: 432

(a) After the change of control, the domestic insurer would 433  
not be able to satisfy the requirements for the issuance of a 434  
license to write the line or lines of insurance for which it is 435  
presently licensed; 436

(b) The effect of the merger or other acquisition of control 437  
would be substantially to lessen competition in insurance in this 438  
state or tend to create a monopoly; 439

(c) The financial condition of any acquiring party is such as 440  
might jeopardize the financial stability of the domestic insurer, 441  
or prejudice the interests of its policyholders; 442

(d) The plans or proposals that the acquiring party has to 443  
liquidate the domestic insurer, sell its assets, or consolidate or 444  
merge it with any person, or to make any other material change in 445  
its business or corporate structure or management, are unfair and 446  
unreasonable to policyholders of the domestic insurer and not in 447  
the public interest; 448

(e) The competence, experience, and integrity of those 449  
persons that would control the operation of the domestic insurer 450  
are such that it would not be in the interest of policyholders of 451  
the domestic insurer and of the public to permit the merger or 452  
other acquisition of control; 453

(f) The acquisition is likely to be hazardous or prejudicial 454  
to the insurance-buying public. 455

(2)(a) Chapter 119. of the Revised Code, except for section 456  
119.09 of the Revised Code, applies to any hearing held under 457  
division (F)(1) of this section, including the notice of the 458  
hearing, the conduct of the hearing, the orders issued pursuant to 459  
it, the review of the orders, and all other matters relating to 460  
the holding of the hearing, but only to the extent that Chapter 461  
119. of the Revised Code is not inconsistent or in conflict with 462  
this section. 463

(b) The notice of a hearing required under this division 464  
shall be transmitted by personal service, certified mail, e-mail, 465  
or any other method designed to ensure and confirm receipt of the 466  
notice, to the persons and addresses designated to receive notices 467  
and correspondence in the information statement filed under 468  
division (B)(2) of this section. Confirmation of receipt of the 469  
notice, including electronic "Read Receipt" confirmation, shall 470  
constitute evidence of compliance with the requirement of this 471  
section. The notice of hearing shall include the reasons for the 472  
proposed action and a statement informing the acquiring party that 473  
the party is entitled to a hearing. The notice also shall inform 474  
the acquiring party that at the hearing the acquiring party may 475  
appear in person, by attorney, or by such other representative as 476  
is permitted to practice before the superintendent, or that the 477  
acquiring party may present its position, arguments, or 478  
contentions in writing, and that at the hearing the acquiring 479  
party may present evidence and examine witnesses appearing for and 480

against the acquiring party. A copy of the notice also shall be 481  
transmitted to attorneys or other representatives of record 482  
representing the acquiring party. 483

(c) The hearing shall be held at the offices of the 484  
superintendent within ten calendar days, but not earlier than 485  
seven calendar days, of the date of transmission of the notice of 486  
hearing by any means, unless it is postponed or continued; but in 487  
no event shall the hearing be held unless notice is received at 488  
least three days prior to the hearing. The superintendent may 489  
postpone or continue the hearing upon receipt of a written request 490  
by an acquiring party, or upon the superintendent's motion, 491  
provided, however, a hearing in connection with a proposed change 492  
of control involving a depository institution or any affiliate 493  
thereof, within the meaning of Title I, section 104(c) of the 494  
"Gramm-Leach-Bliley Act," Pub. L. No. 106-102, 113 Stat. 1338 495  
(1999), and a domestic insurer, may be postponed or continued only 496  
upon the request of an acquiring party, or upon the 497  
superintendent's motion when the acquiring party agrees in writing 498  
to extend the sixty-day period provided for in section 104(c) of 499  
the "Gramm-Leach-Bliley Act," by a number of days equal to the 500  
number of days of such postponement or continuance. 501

(d) For the purpose of conducting any hearing held under this 502  
section, the superintendent may require the attendance of such 503  
witnesses and the production of such books, records, and papers as 504  
the superintendent desires, and may take the depositions of 505  
witnesses residing within or without the state in the same manner 506  
as is prescribed by law for the taking of depositions in civil 507  
actions in the court of common pleas, and for that purpose the 508  
superintendent may, and upon the request of an acquiring party 509  
shall, issue a subpoena for any witnesses or a subpoena duces 510  
tecum to compel the production of any books, records, or papers, 511  
directed to the sheriff of the county where such witness resides 512

or is found, which shall be served and returned in the same manner 513  
as a subpoena in a criminal case is served and returned. The fees 514  
of the sheriff shall be the same as that allowed in the court of 515  
common pleas in criminal cases. Witnesses shall be paid the fees 516  
and mileage provided for under section 119.094 of the Revised 517  
Code. Fees and mileage shall be paid from the fund in the state 518  
treasury for the use of the superintendent in the same manner as 519  
other expenses of the superintendent are paid. In any case of 520  
disobedience or neglect of any subpoena served on any person or 521  
the refusal of any witness to testify in any matter regarding 522  
which the witness may lawfully be interrogated, the court of 523  
common pleas of any county where such disobedience, neglect, or 524  
refusal occurs or any judge thereof, on application by the 525  
superintendent, shall compel obedience by attachment proceedings 526  
for contempt, as in the case of disobedience of the requirements 527  
of a subpoena issued from the court or a refusal to testify 528  
therein. 529

In any hearing held under this section, a record of the 530  
testimony, as provided by stenographic means or by use of audio 531  
electronic recording devices, as determined by the superintendent, 532  
and other evidence submitted shall be taken at the expense of the 533  
superintendent. The record shall include all of the testimony and 534  
other evidence, and rulings on the admissibility thereof, 535  
presented at the hearing. 536

The superintendent shall pass upon the admissibility of 537  
evidence, but a party to the proceedings may at that time object 538  
to the rulings of the superintendent, and if the superintendent 539  
refuses to admit evidence, the party offering the evidence shall 540  
proffer the evidence. The proffer shall be made a part of the 541  
record of the hearing. 542

In any hearing held under this section, the superintendent 543  
may call any person to testify under oath as upon 544

cross-examination. The superintendent, or any one delegated by the 545  
superintendent to conduct a hearing, may administer oaths or 546  
affirmations. 547

In any hearing under this section, the superintendent may 548  
appoint a hearing officer to conduct the hearing; the hearing 549  
officer has the same powers and authority in conducting the 550  
hearing as is granted to the superintendent. The hearing officer 551  
shall have been admitted to the practice of law in the state and 552  
be possessed of any additional qualifications as the 553  
superintendent requires. The hearing officer shall submit to the 554  
superintendent a written report setting forth the hearing 555  
officer's finding of fact and conclusions of law and a 556  
recommendation of the action to be taken by the superintendent. A 557  
copy of the written report and recommendation shall, within seven 558  
days of the date of filing thereof, be served upon the acquiring 559  
party or the acquiring party's attorney or other representative of 560  
record, by personal service, certified mail, ~~e-mail~~ electronic 561  
mail, or any other method designed to ensure and confirm receipt 562  
of the report. The acquiring party may, within three days of 563  
receipt of the copy of the written report and recommendation, file 564  
with the superintendent written objections to the report and 565  
recommendation, which objections the superintendent shall consider 566  
before approving, modifying, or disapproving the recommendation. 567  
The superintendent may grant extensions of time to the acquiring 568  
party within which to file such objections. No recommendation of 569  
the hearing officer shall be approved, modified, or disapproved by 570  
the superintendent until after three days following the service of 571  
the report and recommendation as provided in this section. The 572  
superintendent may order additional testimony to be taken or 573  
permit the introduction of further documentary evidence. The 574  
superintendent may approve, modify, or disapprove the 575  
recommendation of the hearing officer, and the order of the 576  
superintendent based on the report, recommendation, transcript of 577

testimony, and evidence, or the objections of the acquiring party, 578  
and additional testimony and evidence shall have the same effect 579  
as if the hearing had been conducted by the superintendent. No 580  
such recommendation is final until confirmed and approved by the 581  
superintendent as indicated by the order entered in the record of 582  
proceedings, and if the superintendent modifies or disapproves the 583  
recommendations of the hearing officer, the reasons for the 584  
modification or disapproval shall be included in the record of 585  
proceedings. 586

After the order is entered, the superintendent shall transmit 587  
in the manner and by any of the methods set forth in division 588  
(F)(2)(b) of this section a certified copy of the order and a 589  
statement of the time and method by which an appeal may be 590  
perfected. A copy of the order shall be mailed to the attorneys or 591  
other representatives of record representing the acquiring party. 592

(e) An order of disapproval issued by the superintendent may 593  
be appealed to the court of common pleas of Franklin county by 594  
filing a notice of appeal with the superintendent and a copy of 595  
the notice of appeal with the court, within fifteen calendar days 596  
after the transmittal of the copy of the order of disapproval. The 597  
notice of appeal shall set forth the order appealed from and the 598  
grounds for appeal, in accordance with section 119.12 of the 599  
Revised Code. 600

(3) The superintendent may retain at the acquiring party's 601  
expense any attorneys, actuaries, accountants, and other experts 602  
not otherwise a part of the superintendent's staff as may be 603  
reasonably necessary to assist the superintendent in reviewing the 604  
proposed acquisition of control. 605

(G) This section does not apply to either of the following: 606

(1) Any transaction that is subject to section ~~3907.09~~, 607  
~~3907.10~~, ~~3907.11~~, or 3921.14, or sections 3925.27 to 3925.31, 608

3941.35 to 3941.46, or section 3953.19 of the Revised Code; 609

(2) Any offer, request, invitation, agreement, or acquisition 610  
that the superintendent by order exempts from this section on 611  
either of the following bases: 612

(a) It has not been made or entered into for the purpose and 613  
does not have the effect of changing or influencing the control of 614  
a domestic insurer; 615

(b) It is not otherwise comprehended within the purposes of 616  
this section. 617

(H) Nothing in this section or in any other section of Title 618  
XXXIX of the Revised Code shall be construed to impair the 619  
authority of the attorney general to investigate or prosecute 620  
actions under any state or federal antitrust law with respect to 621  
any merger or other acquisition involving domestic insurers. 622

(I) In connection with a proposed change of control involving 623  
a depository institution or any affiliate thereof, within the 624  
meaning of Title I, section 104(c) of the "Gramm-Leach-Bliley 625  
Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999), and a domestic 626  
insurer, not later than sixty days after the date of the 627  
notification of the proposed change in control submitted pursuant 628  
to division (B)(2) of this section, the superintendent shall make 629  
any determination that the person acquiring control of the insurer 630  
shall maintain or restore the capital of the insurer to the level 631  
required by the laws and regulations of this state. 632

**Sec. 3901.33.** (A) Every insurer that is authorized to do 633  
business in this state and that is a member of an insurance 634  
holding company system shall register with the superintendent of 635  
insurance, except a foreign insurer subject to disclosure 636  
requirements and standards adopted by statute or regulation in the 637  
jurisdiction of its domicile that are substantially similar to 638

those contained in this section and section 3901.341 of the Revised Code. Every insurer that is subject to registration under this section shall register initially not later than ~~December 31, 1971, or within~~ thirty days after it becomes subject to registration, ~~whichever is later~~, unless the superintendent for good cause shown extends the time for registration, and then within the extended time, and every such insurer shall register annually after its initial registration. The superintendent may require any authorized insurer that is a member of a holding company system that is not subject to registration under this section to furnish a copy of the registration statement or other information filed by the insurance company with the insurance regulatory authority of domiciliary jurisdiction.

(B) Every insurer subject to registration shall file a registration statement with the superintendent on a form and in a format provided by the superintendent, which shall contain current information about all of the following:

(1) The capital structure, general financial condition, ownership, and management of the insurer and any person controlling the insurer;

(2) The identity of every member of the insurance holding company system;

(3) The following agreements in force, relationships subsisting, and transactions currently outstanding between the insurer and its affiliates:

(a) Loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

(b) Purchases, sales, or exchanges of assets;

(c) Transactions not in the ordinary course of business;

(d) Guarantees or undertakings for the benefit of an 669  
affiliate that result in an actual contingent exposure of the 670  
insurer's assets to liability, other than insurance contracts 671  
entered into in the ordinary course of the insurer's business; 672

(e) All management and service contracts and all cost-sharing 673  
arrangements; 674

(f) Reinsurance agreements; 675

(g) Dividends and other distributions to shareholders; 676

(h) Consolidated tax allocation agreements. 677

(4) Any pledge of the insurer's stock, including stock of any 678  
subsidiary or controlling affiliate, for a loan made to any member 679  
of the insurance holding company system; 680

(5) If requested by the superintendent, financial statements 681  
of an insurance holding company system, including all affiliates. 682  
Financial statements may include annual audited financial 683  
statements filed with the United States securities and exchange 684  
commission pursuant to the "Securities Act of 1933," 48 Stat. 74, 685  
15 U.S.C. 77a, or the "Securities Exchange Act of 1934," 48 Stat. 686  
881, 15 U.S.C. 78a. The insurer may satisfy the request by 687  
providing the superintendent with the most recently filed parent 688  
corporation financial statements that have been filed with the 689  
securities and exchange commission. 690

(6) Other matters concerning transactions between registered 691  
insurers and any affiliates as may be included from time to time 692  
in any registration forms adopted or approved by the 693  
superintendent; 694

(7) Statements that the insurer's or its ultimate controlling 695  
person's board of directors oversees corporate governance and 696  
internal controls and that the insurer's or its ultimate 697  
controlling person's officers or senior management have approved, 698

implemented, and continue to maintain and monitor corporate 699  
governance and internal control procedures; 700

(8) Any other information required by the superintendent by 701  
rule or regulation. 702

(C) Each registration statement filed pursuant to division 703  
(B) of this section shall summarize the information that has 704  
changed from the prior registration statement filed pursuant to 705  
that division. 706

(D) No information need be disclosed on the registration 707  
statement filed pursuant to division (B) of this section if the 708  
information is not material for the purposes of this section. 709  
Unless the superintendent by rule, regulation, or order provides 710  
otherwise, sales, purchases, exchanges, loans or extensions of 711  
credit, or investments involving one-half of one per cent or less 712  
of an insurer's admitted assets as of the thirty-first day of 713  
December next preceding shall not be deemed material for the 714  
purposes of this section. 715

(E) Each registered insurer shall keep current the 716  
information required to be disclosed in its registration statement 717  
by reporting all material changes or additions on amendment forms 718  
provided by the superintendent within fifteen days after the end 719  
of the month in which it learns of each change or addition. 720

(F) The superintendent shall terminate the registration of 721  
any insurer that demonstrates that it no longer is a member of an 722  
insurance holding company system. 723

(G) The superintendent may require or allow two or more 724  
affiliated insurers subject to registration under this section to 725  
file a consolidated registration statement or consolidated reports 726  
amending their consolidated registration statement or their 727  
individual registration statements. 728

(H) The superintendent may allow an insurer that is 729

authorized to do business in this state and that is part of an 730  
insurance holding company system to register on behalf of any 731  
affiliated insurer that is required to register under division (A) 732  
of this section and to file all information and material required 733  
to be filed under this section. 734

(I) This section does not apply to any insurer, information, 735  
or transaction if and to the extent that the superintendent by 736  
rule, regulation, or order exempts it from this section. 737

(J) Any person may file with the superintendent a disclaimer 738  
of affiliation with any authorized insurer or such a disclaimer 739  
may be filed by the insurer or any member of an insurance holding 740  
company system. The disclaimer shall fully disclose all material 741  
relationships and bases for affiliation between the person and the 742  
insurer as well as the basis for disclaiming the affiliation. 743  
After a disclaimer has been filed, the insurer shall be relieved 744  
of any duty to register or report under this section which may 745  
arise out of the insurer's relationship with the person unless and 746  
until the superintendent disallows the disclaimer. The 747  
superintendent shall disallow such a disclaimer only in the manner 748  
provided in Chapter 119. of the Revised Code. 749

(K) The ultimate controlling person of every insurer subject 750  
to registration under this section also shall file an annual 751  
enterprise risk report. The report shall be appropriate to the 752  
nature, scale, and complexity of the operations of the insurance 753  
holding company system and shall, to the best of the ultimate 754  
controlling person's knowledge and belief, identify the material 755  
risks within the insurance holding company system that could pose 756  
enterprise risk to the insurer. The ultimate controlling person 757  
shall file the report with the lead state commissioner of the 758  
insurance holding company system as determined by the procedures 759  
within the financial analysis handbook adopted by the national 760  
association of insurance commissioners. 761

(L) The failure to file any registration statement or any amendment thereto or enterprise risk report required by this section within the time specified for the filing is a violation of this section.

**Sec. 3901.34.** (A) ~~Material transactions by registered insurers with their affiliates~~ Transactions within an insurance holding company system to which an insurer subject to registration is a party shall be subject to the following standards:

(1) The terms shall be fair and reasonable.

(2) Charges or fees for services performed shall be reasonable.

(3) Expenses incurred and payment received shall be allocated to the insurer in conformity with customary insurance accounting practices that are consistently applied.

(4) The books, accounts, and records of each party shall be so maintained as to clearly and accurately disclose the precise nature and details of the transactions including such accounting information as is necessary to support the reasonableness of the charges or fees to the respective parties.

(5) The insurer's surplus as regards policyholders following any dividends or distributions to shareholder affiliates shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(6) Agreements for cost-sharing services and management services shall include such provisions as required by the superintendent of insurance in rule or regulation.

(B) For the purposes of this section, in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, may be

considered:	792
(1) The size of the insurer as measured by its assets, capital, surplus, reserves, premium writings, insurance in force, and other appropriate criteria;	793 794 795
(2) The extent to which the insurer's business is diversified among the several lines of insurance;	796 797
(3) The number and size of risks insured in each line of business;	798 799
(4) The extent of the geographical dispersion of the insurer's insured risks;	800 801
(5) The nature and extent of the insurer's reinsurance program;	802 803
(6) The quality, diversification, and liquidity of the insurer's investment portfolio;	804 805
(7) The recent past and projected future trend in the size of the insurer's surplus as regards policyholders;	806 807
(8) The adequacy of the insurer's reserves;	808
(9) The quality and liquidity of investments in subsidiaries. The superintendent may discount any such investment or treat any investment as a nonadmitted asset for purposes of determining the adequacy of surplus as regards policyholders whenever the investment so warrants.	809 810 811 812 813
(10) The quality of the insurer's earnings and the extent to which the reported earnings include extraordinary items;	814 815
(11) The surplus as regards policyholders maintained by other comparable insurers in respect of the factors enumerated in this division.	816 817 818
(C) No insurer subject to registration under section 3901.33 of the Revised Code shall pay any extraordinary dividend or make	819 820

any other extraordinary distribution to its shareholders and the 821  
declaration of any such dividend or distribution shall be 822  
conditional and shall confer no rights upon shareholders until 823  
thirty days after the superintendent has received notice of the 824  
declaration thereof and has not within the thirty-day period 825  
disapproved the dividend or distribution, or the superintendent 826  
has approved the dividend or distribution within the thirty-day 827  
period. 828

Prior to paying any dividend or distribution, the insurer 829  
shall notify the superintendent on a form provided by the 830  
superintendent for informational purposes within five business 831  
days following its declaration of any dividend or distribution and 832  
at least ten calendar days prior to payment of such dividend or 833  
distribution, such ten-calendar-day period to be measured from the 834  
date of the superintendent's receipt of the notice. 835

For the purposes of this section, an extraordinary dividend 836  
or distribution includes any dividend or distribution of cash or 837  
other property, whose fair market value, together with that of 838  
other dividends or distributions made within the preceding twelve 839  
months, exceeds the greater of ten per cent of the insurer's 840  
surplus as regards policyholders as of the thirty-first day of 841  
December next preceding, or the net income of the insurer for the 842  
twelve-month period ending the thirty-first day of December next 843  
preceding, but shall not include pro rata distributions of any 844  
class of the insurer's own securities. 845

Any dividend or distribution paid from other than earned 846  
surplus shall be considered an extraordinary dividend or 847  
extraordinary distribution. For the purposes of this section, 848  
"earned surplus" means an amount equal to an insurer's unassigned 849  
funds as set forth in its most recent statutory financial 850  
statement submitted to the superintendent, including net 851  
unrealized capital gains and losses or revaluation of assets. 852

Sec. 3901.341. (A) No insurer subject to registration under 853  
section 3901.33 of the Revised Code shall enter into any of the 854  
following transactions with any person in its insurance holding 855  
company system, including amendments or modifications of affiliate 856  
agreements previously filed under this section that are subject to 857  
the materiality standards contained in divisions (A)(1) to (5) of 858  
this section, until thirty days after the superintendent of 859  
insurance has received, for ~~his~~ the superintendent's review, 860  
written notice of the insurer's intention to enter into the 861  
transaction and if, during that period, the superintendent has not 862  
disapproved the proposed transaction. The notice for amendments or 863  
modifications shall include the reasons for the change and the 864  
financial impact on the domestic insurer. Informal notice shall be 865  
reported to the superintendent within thirty days after 866  
termination of a previously filed agreement. These requirements 867  
shall apply to all of the following transactions: 868

(1) Any sale, purchase, exchange of assets, loan, extension 869  
of credit, guarantee, or investment, if the transaction equals or 870  
exceeds, with respect to insurers other than life insurers, the 871  
lesser of three per cent of the insurer's admitted assets as of 872  
the thirty-first day of December next preceding or twenty-five per 873  
cent of the insurer's surplus as regards policyholders as of the 874  
thirty-first day of December next preceding or, with respect to 875  
life insurers, three per cent of the insurer's admitted assets as 876  
of the thirty-first day of December next preceding; 877

(2) Any loan or extension of credit to any person that is not 878  
an affiliate of the insurer, if both of the following apply: 879

(a) The loan or extension of credit equals or exceeds, with 880  
respect to insurers other than life insurers, the lesser of three 881  
per cent of the insurer's admitted assets as of the thirty-first 882  
day of December next preceding or twenty-five per cent of the 883

insurer's surplus as regards policyholders as of the thirty-first 884  
day of December next preceding or, with respect to life insurers, 885  
three per cent of the insurer's admitted assets as of the 886  
thirty-first day of December next preceding. 887

(b) The insurer makes the loan or extends the credit with an 888  
agreement or understanding that the proceeds of the transaction, 889  
in whole or in substantial part, are to be used to make loans or 890  
extend credit to, to purchase assets of, or to make investments 891  
in, any affiliate of the insurer. 892

(3) Reinsurance agreements or modifications ~~of such~~ 893  
agreements including all of the following: 894

(a) All new reinsurance pooling agreements; 895

(b) All reinsurance pooling agreements in which a domestic 896  
company is newly added; 897

(c) Agreements in which the reinsurance premium or the change 898  
in the insurer's liabilities, or the projected reinsurance premium 899  
or a change in the insurer's liabilities in any of the next three 900  
years, equals or exceeds five per cent of the insurer's surplus as 901  
regards policyholders as of the thirty-first day of December next 902  
preceding. ~~Division~~ 903

Division (A)(3) of this section also applies to reinsurance 904  
agreements that may require as consideration the transfer of 905  
assets from an insurer to a nonaffiliate, if the insurer and 906  
nonaffiliate have an agreement or understanding that any portion 907  
of the assets will be transferred to one or more affiliates of the 908  
insurer. 909

(4) All management agreements, service contracts, tax 910  
allocations agreements, and cost-sharing arrangements; 911

(5) Any other material transaction that the superintendent, 912  
pursuant to rules adopted in accordance with Chapter 119. of the 913

Revised Code, determines may render the insurer's surplus as 914  
regards policyholders unreasonable in relation to the insurer's 915  
outstanding liabilities and inadequate to its financial needs. 916

(B) In reviewing transactions under division (A) of this 917  
section, the superintendent shall consider whether the terms of 918  
the transaction are fair and reasonable and whether the 919  
transaction may adversely affect the interests of policyholders. 920

(C) Any transaction or agreement described in division (A) of 921  
this section that is not disapproved by the superintendent in 922  
accordance with that division is effective as of the effective 923  
date set forth in the notice required under this section. 924

(D) The superintendent, pursuant to rules adopted in 925  
accordance with Chapter 119. of the Revised Code, may designate 926  
certain types of transactions that need not be submitted for 927  
review under division (A) of this section, if those transactions 928  
would not have a significant impact on the financial condition of 929  
an insurer. 930

(E) A domestic insurer shall not enter into any transaction 931  
described in division (A) of this section with members of its 932  
insurance holding company system if the transaction is part of a 933  
plan or series of similar transactions and if the purpose of 934  
entering into the separate transactions is to avoid the review 935  
required under division (A) of this section that would otherwise 936  
occur. If the superintendent determines that the insurer, within a 937  
twelve-month period, entered into those separate transactions for 938  
that purpose, ~~he~~ the superintendent may take any action authorized 939  
by section 3901.37 of the Revised Code. 940

(F) A domestic insurer shall give written notice to the 941  
superintendent, within thirty days after making an investment, if 942  
the investment is made in a corporation and the total investment 943  
in the corporation by the insurance holding company system exceeds 944

ten per cent of the voting securities of the corporation. 945

(G) Nothing in division (A) of this section shall be 946  
construed to authorize or permit any transaction that would 947  
otherwise be contrary to law. 948

**Sec. 3901.35.** (A)~~(1)~~ In addition to the powers ~~which that~~ the 949  
superintendent has under sections 3901.01 to 3901.31,~~inclusive,~~ 950  
of the Revised Code, relating to the examination of insurers, the 951  
superintendent of insurance, subject to sections 119.01 to 119.13, ~~952~~  
~~inclusive,~~ of the Revised Code, shall also have the power to ~~order~~ 953  
examine any insurer registered under section 3901.33 of the 954  
Revised Code and its affiliates to ascertain the financial 955  
condition of the insurer, including the enterprise risk to the 956  
insurer by the ultimate controlling party, or by any entity or 957  
combination of entities within the insurance holding company 958  
system, or by the insurance holding company system on a 959  
consolidated basis. 960

(2) The superintendent of insurance may order any insurer 961  
registered under section 3901.33 of the Revised Code to produce 962  
~~for examination~~ such records, books, or other information papers 963  
in the possession of the insurer and its affiliates as may be 964  
reasonably necessary to ascertain the financial condition or 965  
~~legality of conduct of such insurer, but only if the~~ 966  
~~superintendent finds that an examination of such insurer pursuant~~ 967  
~~to sections 3901.01 to 3901.31, inclusive, of the Revised Code,~~ 968  
~~would be inadequate or the interests of the policyholders of such~~ 969  
~~insurer may be adversely affected. In the event such insurer fails~~ 970  
~~to comply with such order, the superintendent shall have the power~~ 971  
~~to examine such affiliates to obtain such information~~ determine 972  
compliance with sections 3901.32 to 3901.37 of the Revised Code. 973

(3) To determine compliance with sections 3901.32 to 3901.37 974  
of the Revised Code, the superintendent may order any insurer 975

registered under section 3901.33 of the Revised Code to produce 976  
information not in the possession of the insurer if the insurer 977  
can obtain access to such information pursuant to a contractual 978  
relationship, statutory obligation, or other method. If the 979  
insurer cannot obtain the information requested by the 980  
superintendent, the insurer shall provide the superintendent a 981  
detailed explanation of the reason that the insurer cannot obtain 982  
the information and the identity of the holder of information. 983  
Whenever it appears to the superintendent that the detailed 984  
explanation is without merit, the superintendent may require, 985  
after notice and hearing, that the insurer pay a penalty of up to 986  
five hundred dollars per day, or the superintendent may suspend or 987  
revoke the insurer's license. 988

(B) The superintendent may retain at the registered insurer's 989  
expense such attorneys, actuaries, accountants, and other experts 990  
not otherwise a part of the superintendent's staff as shall be 991  
reasonably necessary to assist in the conduct of the examination 992  
under division (A) of this section. Any persons so retained shall 993  
be under the direction and control of the superintendent and shall 994  
act in a purely advisory capacity. 995

(C) Each registered insurer producing for examination 996  
records, books, and papers pursuant to division (A) of this 997  
section shall be liable for and shall pay the expense of such 998  
examination in accordance with section 3901.07 of the Revised 999  
Code. 1000

(D) If the insurer fails to comply with an order issued 1001  
pursuant to this section, the superintendent may examine the 1002  
affiliates to obtain the information. The superintendent also may 1003  
issue subpoenas, administer oaths, and examine under oath any 1004  
person for purposes of determining compliance with this section. 1005  
Upon the failure or refusal of any person to obey a subpoena, the 1006  
superintendent may petition the court of common pleas of Franklin 1007

county for an order compelling the witness to appear and testify 1008  
or produce documentary evidence. Failure to obey the court order 1009  
shall be punishable as contempt of court. A person who receives a 1010  
subpoena issued pursuant to this division shall appear as a 1011  
witness at the place specified in the subpoena within the state. 1012  
The person is entitled to the same fees and mileage as a witness 1013  
in a civil action in the court of common pleas. Any fees, mileage, 1014  
or actual expenses necessarily incurred in securing the attendance 1015  
of a witness and their testimony shall be itemized and charged 1016  
against the insurer being examined. 1017

Sec. 3901.351. (A) With respect to any insurer registered 1018  
under section 3901.33 of the Revised Code and in accordance with 1019  
division (C) of this section, the superintendent of insurance may 1020  
participate in a supervisory college for any domestic insurer that 1021  
is part of an insurance holding company system with international 1022  
operations in order to determine compliance by the insurer with 1023  
sections 3901.32 to 3901.37 of the Revised Code. In participating, 1024  
the superintendent may do all of the following: 1025

(1) Initiate the establishment of a supervisory college; 1026

(2) Clarify the membership and participation of other 1027  
supervisors in the supervisory college; 1028

(3) Clarify the functions of the supervisory college and the 1029  
role of other regulators, including the establishment of a 1030  
group-wide supervisor; 1031

(4) Coordinate the ongoing activities of the supervisory 1032  
college, including planning meetings, supervisory activities, and 1033  
processes for information sharing; 1034

(5) Establish a crisis management plan. 1035

(B) Each registered insurer subject to this section shall be 1036  
liable for and shall pay the reasonable expenses of the 1037

superintendent's participation in a supervisory college in 1038  
accordance with division (C) of this section, including reasonable 1039  
travel expenses. The superintendent may establish a regular 1040  
assessment to the insurer for the payment of these expenses. A 1041  
supervisory college may be convened as either a temporary or 1042  
permanent forum for communication and cooperation between the 1043  
regulators charged with the supervision of the insurer or its 1044  
affiliates. 1045

(C) In order to assess the business strategy, financial 1046  
position, legal and regulatory position, risk exposure, risk 1047  
management, and governance processes, and as part of the 1048  
examination of individual insurers in accordance with section 1049  
3901.35 of the Revised Code, the superintendent may participate in 1050  
a supervisory college with other regulators charged with 1051  
supervision of the insurer or its affiliates, including other 1052  
state, federal, and international regulatory agencies. The 1053  
superintendent may enter into agreements in accordance with 1054  
section 3901.36 of the Revised Code that provide the basis for 1055  
cooperation between the superintendent and the other regulatory 1056  
agencies, and the activities of the supervisory college. 1057

(D) Nothing in this section shall delegate to the supervisory 1058  
college the authority of the superintendent to regulate or 1059  
supervise the insurer or its affiliates within its jurisdiction. 1060

(E) As used in this section, "supervisory college" means a 1061  
forum for cooperation and communication between the involved 1062  
supervisors established for the fundamental purpose of 1063  
facilitating all of the following: 1064

(1) The effectiveness of supervision of entities that belong 1065  
to an insurance group; 1066

(2) The supervision of the insurance group as a whole on a 1067  
group-wide basis; 1068

(3) Improving the legal entity supervision of the entities 1069  
within the insurance group. 1070

**Sec. 3901.36.** (A) ~~All information, documents, and copies~~ 1071  
~~thereof~~ Documents, materials, or other information in the 1072  
possession or control of the department of insurance that are 1073  
obtained by or disclosed to the superintendent of insurance or any 1074  
other person in the course of an examination or investigation made 1075  
pursuant to section 3901.35 of the Revised Code and all 1076  
information reported pursuant to section 3901.33 of the Revised 1077  
Code shall be given confidential and privileged treatment and 1078  
shall not be subject to section 149.43 of the Revised Code, 1079  
subpoena, ~~or be made public by the superintendent or any other~~ 1080  
~~person.~~ 1081

~~(B) Notwithstanding division (A) of this section, the~~ 1082  
discovery, and shall not be admissible in evidence in any private 1083  
civil action. The superintendent may do any of the following: 1084

~~(1) Disclose documents and information that are the subject~~ 1085  
~~of this section upon obtaining~~ shall not make the documents, 1086  
materials, or other information public unless one of the following 1087  
applies: 1088

(1) The superintendent uses the documents, materials, or 1089  
other information in furtherance of any regulatory or legal action 1090  
brought as a part of the superintendent's official duties. 1091

(2) The superintendent has obtained the prior written consent 1092  
~~from~~ of the insurer to which pertaining to the disclosure of the 1093  
documents and, materials, or other information ~~pertain~~ of the 1094  
insurer. 1095

~~(2) Disclose documents and information that are the subject~~ 1096  
~~of this section in such a manner as the superintendent considers~~ 1097  
~~appropriate~~ (3) The superintendent, after giving the insurer and 1098

those affiliates that are the subject of the documents ~~and,~~ 1099  
materials, or other information notice and an opportunity to be 1100  
heard in accordance with Chapter 119. of the Revised Code, ~~if the~~ 1101  
~~superintendent~~ determines that the interests of policyholders, 1102  
shareholders, or the public will be served by the disclosure~~+~~ 1103

~~(3) Share documents and information that are the subject of~~ 1104  
~~this section with the chief deputy rehabilitator, the chief deputy~~ 1105  
~~liquidator, other deputy rehabilitators and liquidators, and any~~ 1106  
~~other person employed by, or acting on behalf of, the~~ 1107  
~~superintendent pursuant to Chapter 3901. or 3903. of the Revised~~ 1108  
Code, in which case the superintendent may make disclosures as the 1109  
superintendent considers appropriate. 1110

(B) Neither the superintendent nor any person who receives 1111  
documents, materials, or other information while acting under the 1112  
authority of the superintendent or with whom such documents, 1113  
materials, or other information are shared pursuant to this 1114  
section shall be permitted or required to testify in any private 1115  
civil action concerning any confidential documents, materials, or 1116  
information subject to division (A) of this section. 1117

(C) In order to assist in the performance of the 1118  
superintendent's duties under this section, the superintendent may 1119  
do either of the following: 1120

(1) Share documents, materials, or other information, 1121  
including the confidential and privileged documents, materials, or 1122  
other information subject to division (A) of this section with 1123  
other local, state, federal, and international regulatory and law 1124  
enforcement agencies, ~~with local, state, and federal prosecutors,~~ 1125  
~~and~~ with the national association of insurance commissioners and 1126  
its affiliates and subsidiaries, and with members of any 1127  
supervisory college described in section 3901.351 of the Revised 1128  
Code, provided that the recipient agrees to maintain the 1129  
confidential or privileged status of the confidential or 1130

privileged ~~document~~ documents, materials, or other information and 1131  
has verified in writing the legal authority to do so+ 1132

~~(4) Disclose documents and information that are the subject 1133  
of this section in the furtherance of any regulatory or legal 1134  
action brought by or on behalf of the superintendent or the state, 1135  
resulting from the exercise of the superintendent's official 1136  
duties. 1137~~

~~(C) Notwithstanding divisions (A) and (B) of this section, 1138  
the superintendent may authorize the national association of 1139  
insurance commissioners and its affiliates and subsidiaries by 1140  
agreement to share confidential or privileged documents or 1141  
information received pursuant to division (B)(3) of this section 1142  
with local, state, federal, and international regulatory and law 1143  
enforcement agencies and with local, state, and federal 1144  
prosecutors, provided that the recipient agrees to maintain the 1145  
confidential or privileged status of the confidential or 1146  
privileged document or information and has authority to do so. 1147~~

~~(D) Notwithstanding divisions (A) and (B) of this section, 1148  
the chief deputy rehabilitator, the chief deputy liquidator, and 1149  
other deputy rehabilitators and liquidators may disclose documents 1150  
and information that are the subject of this section in the 1151  
furtherance of any regulatory or legal action brought by or on 1152  
behalf of the superintendent, the rehabilitator, the liquidator, 1153  
or the state resulting from the exercise of the superintendent's 1154  
official duties in any capacity. 1155~~

~~(E) Nothing in this section shall prohibit the superintendent 1156  
from receiving documents and information in accordance with 1157  
section 3901.045 of the Revised Code. The superintendent may share 1158  
confidential and privileged documents, materials, or other 1159  
information reported pursuant to section 3901.33 of the Revised 1160  
Code only with superintendents of states having statutes or 1161  
regulations substantially similar to division (A) of this section 1162~~

and who have agreed in writing not to disclose such information. 1163

(2) Receive documents, materials, or information, including 1164  
otherwise confidential and privileged documents, materials, or 1165  
information from the national association of insurance 1166  
commissioners and its affiliates and subsidiaries and from 1167  
regulatory and law enforcement officials of other foreign or 1168  
domestic jurisdictions. The superintendent shall maintain as 1169  
confidential or privileged any such document, material, or 1170  
information received with notice or the understanding that it is 1171  
confidential or privileged under the laws of the jurisdiction that 1172  
is the source of the document, material, or information. 1173

(D) The superintendent shall enter into written agreements 1174  
with the national association of insurance commissioners governing 1175  
sharing and use of information provided pursuant to sections 1176  
3901.32 to 3901.37 of the Revised Code consistent with division 1177  
(C) of this section. The written agreements shall do all of the 1178  
following: 1179

(1) Specify procedures and protocols regarding the 1180  
confidentiality and security of information shared with the 1181  
national association of insurance commissioners and its affiliates 1182  
and subsidiaries pursuant to sections 3901.32 to 3901.37 of the 1183  
Revised Code, including procedures and protocols for sharing by 1184  
the national association of insurance commissioners with other 1185  
state, federal, or international regulators; 1186

(2) Specify that ownership of information shared with the 1187  
national association of insurance commissioners and its affiliates 1188  
and subsidiaries pursuant to sections 3901.32 to 3901.37 of the 1189  
Revised Code remains with the superintendent and the national 1190  
association of insurance commissioners' use of the information is 1191  
subject to the direction of the superintendent; 1192

(3) Require prompt notice to be given to an insurer whose 1193

confidential information is in the possession of the national 1194  
association of insurance commissioners or its affiliates or 1195  
subsidiaries and is subject to a request or subpoena for 1196  
disclosure or production; 1197

(4) Require the national association of insurance 1198  
commissioners and its affiliates and subsidiaries to consent to 1199  
intervention by an insurer in any judicial or administrative 1200  
action in which the national association of insurance 1201  
commissioners and its affiliates and subsidiaries may be required 1202  
to disclose confidential information about the insurer shared with 1203  
the national association of insurance commissioners and its 1204  
affiliates and subsidiaries pursuant to sections 3901.32 to 1205  
3901.37 of the Revised Code. 1206

(E) The sharing of information by the superintendent pursuant 1207  
to sections 3901.32 to 3901.37 of the Revised Code shall not 1208  
constitute a delegation of regulatory or rule-making authority. 1209  
The superintendent is solely responsible for the administration, 1210  
execution, and enforcement of the provisions of sections 3901.32 1211  
to 3901.37 of the Revised Code. 1212

~~(F) The superintendent may enter into agreements governing~~ 1213  
~~the sharing and use of documents and information consistent with~~ 1214  
~~the requirements of this section.~~ 1215

~~(G)(1) No waiver of any applicable privilege or claim of~~ 1216  
~~confidentiality in the documents and, materials, or other~~ 1217  
~~information described in this section shall occur as a result of~~ 1218  
~~sharing or receiving documents and information as authorized in~~ 1219  
~~divisions (B)(3), division (C), and (E) of this section.~~ 1220

~~(2) The disclosure of a document or information in connection~~ 1221  
~~with a regulatory or legal action pursuant to divisions (B)(4) and~~ 1222  
~~(D) of this section does not prohibit an insurer or any other~~ 1223  
~~person from taking steps to limit the dissemination of the~~ 1224

~~document or information to persons not involved in or the subject~~ 1225  
~~of the regulatory or legal action on the basis of any recognized~~ 1226  
~~privilege arising under any other section of the Revised Code or~~ 1227  
~~the common law. (G) Documents, materials, or other information in~~ 1228  
~~the possession or control of the national association of insurance~~ 1229  
~~commissioners pursuant to this section shall be given confidential~~ 1230  
~~and privileged treatment and shall not be subject to section~~ 1231  
~~149.43 of the Revised Code, subpoena, or discovery, and shall not~~ 1232  
~~be admissible in evidence in any private civil action.~~ 1233

Sec. 3901.371. The purpose of sections 3901.371 to 3901.378 1234  
of the Revised Code is to provide the requirements for maintaining 1235  
a risk management framework and completing an own risk and 1236  
solvency assessment, and to provide guidance and instructions for 1237  
filing an own risk and solvency assessment summary report with the 1238  
superintendent of insurance. The requirements of these sections 1239  
shall apply to all insurers domiciled in this state unless exempt 1240  
pursuant to section 3901.376 of the Revised Code. 1241

The general assembly finds and declares that the own risk and 1242  
solvency assessment summary report will contain confidential and 1243  
sensitive information related to an insurer or insurance group's 1244  
identification of risks material and relevant to the insurer or 1245  
insurance group filing the report. This information will include 1246  
proprietary and trade secret information that has the potential 1247  
for harm and competitive disadvantage to the insurer or insurance 1248  
group if the information is made public. It is the intent of the 1249  
general assembly that the own risk and solvency assessment summary 1250  
report shall be a confidential document filed with the 1251  
superintendent, that the own risk and solvency assessment summary 1252  
report will be shared only as stated in sections 3901.371 to 1253  
3901.378 of the Revised Code to assist the superintendent of 1254  
insurance in the performance of the superintendent's duties, and 1255  
that in no event shall the own risk and solvency assessment 1256

summary report be subject to public disclosure. 1257

**Sec. 3901.372.** For the purposes of sections 3901.371 to 1258  
3907.378 of the Revised Code: 1259

(A) "Insurance group" means those insurers and affiliates 1260  
included within an insurance holding company system as defined in 1261  
section 3901.32 of the Revised Code. 1262

(B) "Insurer" has the same meaning as set forth in section 1263  
3901.32 of the Revised Code. 1264

(C) "Own risk and solvency assessment" means a confidential 1265  
internal assessment, appropriate to the nature, scale, and 1266  
complexity of an insurer or insurance group, conducted by that 1267  
insurer or insurance group of the material and relevant risks 1268  
associated with the insurer or insurance group's current business 1269  
plan, and the sufficiency of capital resources to support those 1270  
risks. 1271

(D) "Own risk and solvency assessment guidance manual" means 1272  
the current version of the own risk and solvency assessment 1273  
guidance manual developed and adopted by the national association 1274  
of insurance commissioners and as amended from time to time. A 1275  
change in the own risk and solvency assessment guidance manual 1276  
shall be effective on the first day of January following the 1277  
calendar year in which the changes have been adopted by the 1278  
national association of insurance commissioners. 1279

(E) "Own risk and solvency assessment summary report" means a 1280  
confidential high-level summary of an insurer or insurance group's 1281  
own risk and solvency assessment. 1282

**Sec. 3901.373.** An insurer shall maintain a risk management 1283  
framework to assist the insurer with identifying, assessing, 1284  
monitoring, managing, and reporting on its material and relevant 1285  
risks. This requirement may be satisfied if the insurance group of 1286

which the insurer is a member maintains a risk management 1287  
framework applicable to the operations of the insurer. 1288

Sec. 3901.374. Unless exempted by section 3901.376 of the 1289  
Revised Code, an insurer, or the insurance group of which the 1290  
insurer is a member, shall regularly conduct an own risk and 1291  
solvency assessment consistent with a process comparable to the 1292  
own risk and solvency assessment guidance manual. The own risk and 1293  
solvency assessment shall be conducted not less than annually, but 1294  
also at any time when there are significant changes to the risk 1295  
profile of the insurer or the insurance group of which the insurer 1296  
is a member. 1297

Sec. 3901.375. (A)(1) Upon the request of the superintendent 1298  
of insurance, and not more than once annually, an insurer shall 1299  
submit to the superintendent an own risk and solvency assessment 1300  
summary report, or any combination of reports that together 1301  
contain the information described in the own risk and solvency 1302  
assessment guidance manual, applicable to the insurer or the 1303  
insurance group of which it is a member. 1304

(2) Notwithstanding any request from the superintendent, if 1305  
the insurer is a member of an insurance group, the insurer shall 1306  
submit the report required by division (A)(1) of this section if 1307  
the superintendent is the lead state commissioner of the insurance 1308  
group as determined by the procedures within the financial 1309  
analysis handbook adopted by the national association of insurance 1310  
commissioners. 1311

(B) The report shall include a signature of the insurer or 1312  
insurance group's chief risk officer, or other executive having 1313  
responsibility for the oversight of the insurer's enterprise risk 1314  
management process, attesting to the best of the officer's or 1315  
executive's belief and knowledge that the insurer applies the 1316

enterprise risk management process described in the own risk and solvency assessment summary report, and that a copy of the report has been provided to the insurer's board of directors or the appropriate committee thereof. 1317  
1318  
1319  
1320

(C) An insurer may comply with division (A) of this section by providing the most recent and substantially similar report provided by the insurer or another member of an insurance group of which the insurer is a member to the commissioner of another state or to a supervisor or regulator of a foreign jurisdiction, if that report provides information that is comparable to the information described in the own risk and solvency assessment guidance manual. Any such report in a language other than English must be accompanied by a translation of that report into the English language. 1321  
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Sec. 3901.376. (A)(1) An insurer shall be exempt from the requirements of sections 3901.371 to 3901.378 of the Revised Code if both of the following apply: 1331  
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1333

(a) The insurer has annual direct written and unaffiliated assumed premium, including international direct and assumed premium, less than five hundred million dollars. 1334  
1335  
1336

(b) The insurance group of which the insurer is a member has annual direct written and unaffiliated assumed premium, including international direct and assumed premium, less than one billion dollars. 1337  
1338  
1339  
1340

(2) The annual direct written and unaffiliated assumed premium described in divisions (A)(1)(a) and (b) of this section does not include premiums reinsured with the federal crop insurance corporation and federal flood program. 1341  
1342  
1343  
1344

(B) If an insurer qualifies for exemption pursuant to division (A)(1)(a) of this section, but the insurance group of 1345  
1346

which the insurer is a member does not qualify for exemption 1347  
pursuant to division (A)(1)(b) of this section, and if an own risk 1348  
and solvency assessment summary report is required pursuant to 1349  
division (E) of this section, then the summary report shall 1350  
include every insurer within the insurance group. This requirement 1351  
may be satisfied if the insurer submits more than one own risk and 1352  
solvency assessment summary report for any combination of insurers 1353  
provided the combination of reports includes every insurer within 1354  
the insurance group. 1355

(C) If an insurer does not qualify for exemption pursuant to 1356  
division (A)(1)(a) of this section, but the insurance group of 1357  
which it is a member qualifies for exemption pursuant to division 1358  
(A)(1)(b) of this section, then the insurer shall only file an own 1359  
risk and solvency assessment summary report if required pursuant 1360  
to division (E) of this section. 1361

(D)(1) An insurer that does not qualify for exemption 1362  
pursuant to division (A) of this section may apply to the 1363  
superintendent of insurance for a waiver from the requirements of 1364  
sections 3901.371 to 3901.378 of the Revised Code based upon 1365  
unique circumstances. In deciding whether to grant the insurer's 1366  
request for waiver, the superintendent may consider any of the 1367  
following: 1368

(a) The type and volume of business written; 1369

(b) The ownership and organizational structure of the insurer 1370  
or insurance group of which the insurer is a member; 1371

(c) Any other factor the superintendent considers relevant to 1372  
the insurer or insurance group of which the insurer is a member. 1373

(2) If the insurer is part of an insurance group with 1374  
insurers domiciled in more than one state, the superintendent 1375  
shall coordinate with the lead state commissioner and with the 1376  
other domiciliary commissioners in considering whether to grant 1377

the insurer's request for a waiver. 1378

(E) Notwithstanding the exemptions stated in this section, 1379  
the superintendent may require that an insurer maintain a risk 1380  
management framework, conduct an own risk and solvency assessment, 1381  
and file an own risk and solvency assessment summary report in any 1382  
of the following circumstances: 1383

(1) Based on unique circumstances, including the type and 1384  
volume of business written and the ownership and organizational 1385  
structure of the insurer or insurance group of which the insurer 1386  
is a member; 1387

(2) At the request of a federal agency; 1388

(3) At the request of an international supervisor; 1389

(4) If the insurer has risk-based capital for a company 1390  
action level event as set forth in section 3903.83 of the Revised 1391  
Code, meets one or more of the standards set out in section 1392  
3903.09 or 3903.71 of the Revised Code, or otherwise exhibits 1393  
qualities of a troubled insurer as determined by the 1394  
superintendent. 1395

(F) If an insurer that qualifies for an exemption pursuant to 1396  
division (A) of this section subsequently no longer qualifies for 1397  
that exemption due to changes in premium as reflected in the 1398  
insurer's most recent annual statement, or in the most recent 1399  
annual statements of the insurers within the insurance group of 1400  
which the insurer is a member, the insurer shall have one year 1401  
after the year the threshold is exceeded to comply with the 1402  
requirements of sections 3901.371 to 3901.378 of the Revised Code. 1403

**Sec. 3901.377.** (A) The own risk and solvency assessment 1404  
summary report shall be prepared consistent with the own risk and 1405  
solvency assessment guidance manual, subject to the requirements 1406  
of division (B) of this section, and all documentation and 1407

supporting information shall be maintained and made available for 1408  
examination upon request of the superintendent of insurance. 1409

(B) The superintendent's review of the own risk and solvency 1410  
assessment summary report, and any additional requests for 1411  
information, shall be made using similar procedures used in the 1412  
analysis and examination of multi-state or global insurers and 1413  
insurance groups. 1414

Sec. 3901.378. (A) Documents, materials, or other 1415  
information, including the own risk and solvency assessment 1416  
summary report, in the possession or control of the department of 1417  
insurance that are obtained by, created by, or disclosed to the 1418  
superintendent of insurance, or any other person under sections 1419  
3901.371 to 3901.378 of the Revised Code, are recognized by this 1420  
state as being proprietary and to contain trade secrets. 1421

(B) The documents described in division (A) of this section 1422  
shall be confidential by law and privileged, and shall not be 1423  
admissible into evidence in any private civil action or subject to 1424  
section 149.43 of the Revised Code, subpoena, or discovery. 1425

(C)(1) Notwithstanding division (B) of this section, the 1426  
superintendent may use the documents, materials, or other 1427  
information in furtherance of any regulatory or legal action 1428  
brought as a part of the superintendent's official duties. 1429

(2) The superintendent shall not otherwise make the 1430  
documents, materials, or other information public without the 1431  
prior written consent of the insurer. 1432

(D) Neither the superintendent nor any person who receives 1433  
documents, materials, or other own risk and solvency assessment 1434  
related information, through examination or otherwise, while 1435  
acting under the authority of the superintendent or with whom such 1436  
documents, materials, or other information are shared pursuant to 1437

sections 3901.371 to 3901.378 of the Revised Code shall be 1438  
permitted or required to testify in any private civil action 1439  
concerning any confidential documents, materials, or information 1440  
subject to division (A) of this section. 1441

(E)(1) In order to assist in the performance of the 1442  
superintendent's regulatory duties, the superintendent may do 1443  
either of the following: 1444

(a) Upon request, share documents, materials, or other own 1445  
risk and solvency assessment related information, including 1446  
confidential and privileged documents, materials, or information 1447  
subject to division (A) of this section, and proprietary and trade 1448  
secret documents, with other state, federal and international 1449  
financial regulatory agencies, members of any supervisory college 1450  
as described in section 3901.351 of the Revised Code, the national 1451  
association of insurance commissioners, or any third-party 1452  
consultant designated by the superintendent; 1453

(b) Receive documents, materials, or other own risk and 1454  
solvency assessment related information, including confidential 1455  
and privileged documents, materials, or information subject to 1456  
division (A) of this section, and proprietary and trade secret 1457  
documents, from regulatory officials of other foreign or domestic 1458  
jurisdictions, including members of any supervisory college as 1459  
described in section 3901.351 of the Revised Code, and from the 1460  
national association of insurance commissioners. 1461

(2) The recipient of any information pursuant to division 1462  
(E)(1)(a) of this section shall agree in writing to maintain the 1463  
confidentiality and privileged status of the documents, materials, 1464  
or other information and verify in writing their legal authority 1465  
to maintain confidentiality. If the superintendent receives any 1466  
information pursuant to division (E)(1)(b) of this section, the 1467  
superintendent shall maintain as confidential or privileged any 1468  
documents, materials, or information received with notice or the 1469

understanding that it is confidential or privileged under the laws 1470  
of the jurisdiction that is the source of the document, material, 1471  
or information. 1472

(3) The superintendent shall enter into a written agreement 1473  
with the national association of insurance commissioners or a 1474  
third-party consultant governing sharing and use of information 1475  
provided pursuant to sections 3901.371 to 3901.378 of the Revised 1476  
Code. The written agreement shall do the all of the following: 1477

(a) Specify procedures and protocols regarding the 1478  
confidentiality and security of information shared with the 1479  
national association of insurance commissioners or a third-party 1480  
consultant pursuant to sections 3901.371 to 3901.378 of the 1481  
Revised Code, including procedures and protocols for sharing by 1482  
the national association of insurance commissioners with other 1483  
state regulators from states in which the insurance group has 1484  
domiciled insurers; 1485

(b) Provide that the recipient of information agrees in 1486  
writing to maintain the confidentiality and privileged status of 1487  
the own risk and solvency assessment related documents, materials, 1488  
or other information obtained pursuant to sections 3901.371 to 1489  
3901.378 of the Revised Code, and has verified in writing the 1490  
legal authority to maintain confidentiality; 1491

(c) Specify that ownership of information shared with the 1492  
national association of insurance commissioners or a third-party 1493  
consultant pursuant to sections 3901.371 to 3901.378 of the 1494  
Revised Code remains with the superintendent and the national 1495  
association of insurance commissioners' or a third-party 1496  
consultant's use of the information is subject to the direction of 1497  
the superintendent; 1498

(d) Prohibit the national association of insurance 1499  
commissioners or a third-party consultant from storing the 1500

information obtained pursuant to sections 3901.371 to 3901.378 of 1501  
the Revised Code in a permanent database after the underlying 1502  
analysis is completed; 1503

(e) Require prompt notice to be given to an insurer whose 1504  
confidential information in the possession of the national 1505  
association of insurance commissioners or a third-party consultant 1506  
pursuant to sections 3901.371 to 3901.378 of the Revised Code is 1507  
subject to a request or subpoena for disclosure or production of 1508  
the information; 1509

(f) Require the national association of insurance 1510  
commissioners or a third-party consultant to consent to 1511  
intervention by an insurer in any judicial or administrative 1512  
action in which the national association of insurance 1513  
commissioners or a third-party consultant may be required to 1514  
disclose confidential information about the insurer that was 1515  
obtained pursuant to sections 3901.371 to 3901.378 of the Revised 1516  
Code; 1517

(g) Require the national association of insurance 1518  
commissioners or a third-party consultant to use documents, 1519  
materials, or other information, including the own risk solvency 1520  
assessment summary report, for the specific purposes as directed 1521  
by the superintendent; 1522

(h) Prohibit the national association of insurance 1523  
commissioners or a third-party consultant from using, sharing, or 1524  
disclosing any documents, materials, or other information, 1525  
including the own risk and solvency assessment summary report, 1526  
beyond the scope of the responsibilities outlined by the 1527  
superintendent; 1528

(i) Provide for the insurer's written consent in the case of 1529  
an agreement involving a third-party consultant. 1530

(F) The sharing of information, materials, and documents by 1531

the superintendent pursuant to sections 3901.371 to 3901.378 of 1532  
the Revised Code shall not constitute a delegation of regulatory 1533  
or rule-making authority, and the superintendent is solely 1534  
responsible for the administration, execution, and enforcement of 1535  
sections 3901.371 to 3901.378 of the Revised Code. 1536

(G) No waiver of any applicable privilege or claim of 1537  
confidentiality in the documents, proprietary and trade-secret 1538  
materials, or other own risk and solvency assessment related 1539  
information shall occur as a result of disclosure of such own risk 1540  
and solvency assessment related information, materials, or 1541  
documents to the superintendent as a result of sharing authorized 1542  
in sections 3901.371 to 3901.378 of the Revised Code. 1543

(H) Documents, materials, or other information in the 1544  
possession or control of the national association of insurance 1545  
commissioners or a third-party consultant pursuant to sections 1546  
3901.371 to 3901.378 of the Revised Code shall be confidential by 1547  
law and privileged, and shall not be subject to section 149.43 of 1548  
the Revised Code, subpoena, discovery, or admissible in evidence 1549  
in any private civil action. 1550

**Sec. 3901.41.** (A) As used in this section: 1551

(1) "Automated transaction" has the same meaning as in 1552  
section 1306.01 of the Revised Code, and includes electronic 1553  
transactions between two or more persons conducting business 1554  
pursuant to the laws of this state relating to insurance. 1555

(2) "Contact point" means any electronic identification to 1556  
which messages can be sent, including, but not limited to, any of 1557  
the following: 1558

(a) An electronic mail address; 1559

(b) An instant message identity; 1560

(c) A wireless telephone number, or any other personal 1561

<u>electronic communication device;</u>	1562
<u>(d) A facsimile number.</u>	1563
<u>(3) "Insured" means a certificate holder, contract owner,</u> <u>customer, policyholder, or subscriber as those terms are used in</u> <u>the laws of this state relating to insurance.</u>	1564 1565 1566
<u>(4) "Insurer" has the same meaning as in section 3901.32 of</u> <u>the Revised Code.</u>	1567 1568
<u>(5) "Laws of this state relating to insurance" has the same</u> <u>meaning as in section 3901.04 of the Revised Code.</u>	1569 1570
<u>(6) "Personally identifiable information" means any</u> <u>individually identifiable information gathered in connection with</u> <u>an insurance transaction, including a person's name, address,</u> <u>social security number, and banking information.</u>	1571 1572 1573 1574
<u>(7) "Secure web site" means a web site that meets both of the</u> <u>following criteria:</u>	1575 1576
<u>(a) The web site uses the hypertext transfer protocol secure</u> <u>communication protocol or other equally secure communication</u> <u>protocol.</u>	1577 1578 1579
<u>(b) The web site requires a person to enter a unique user</u> <u>credential to access personally identifiable information for which</u> <u>the person has the legal right to access.</u>	1580 1581 1582
<u>(B) Notwithstanding any laws of this state relating to</u> <u>insurance, sections 1306.01 to 1306.23 of the Revised Code, the</u> <u>"Uniform Electronics Transactions Act," apply to the business of</u> <u>insurance in this state.</u>	1583 1584 1585 1586
<u>(C)(1) If an insured agrees to conduct the business of</u> <u>insurance via an automated transaction, any information issued or</u> <u>delivered in writing may be issued or delivered electronically to</u> <u>a contact point provided by the insured, as long as both of the</u> <u>following apply:</u>	1587 1588 1589 1590 1591

(a) The transmission of information is in compliance with 1592  
sections 1306.07 and 1306.14 of the Revised Code. 1593

(b) The details of the automated transaction are fully 1594  
disclosed to the insured in the application, policy, certificate, 1595  
contract of insurance, or by another method that ensures notice to 1596  
the insured. An insurer's form used only to notify an insured of 1597  
and obtain consent for an automated transaction does not need to 1598  
be approved or accepted by the superintendent of insurance. 1599

(2)(a) Except for notices of cancellation, nonrenewal, or 1600  
termination, an insurer may deliver information via a secure web 1601  
site if the insurer sends an electronic notice to a contact point 1602  
and the electronic notice includes a hyperlink to the secure web 1603  
site. 1604

(b) If an insurer uses a secure web site to deliver changes 1605  
in terms or conditions in an insured's policy, certificate, or 1606  
contract of insurance, including any endorsements or amendments, 1607  
the electronic notice to the insured's contact point shall include 1608  
all of the following: 1609

(i) A list or summary of the changes; 1610

(ii) A link to the complete document located on the insurer's 1611  
secure web site; 1612

(iii) The following or substantially similar statement 1613  
displayed in a prominent manner: 1614

"There are changes in the terms or conditions of your policy, 1615  
certificate, or contract of insurance." 1616

(3) At a minimum, the details of the automated transaction 1617  
shall include all of the following: 1618

(a) A clear and conspicuous statement informing the insured 1619  
of any right or option of the insured to receive a record on 1620  
paper; 1621

(b) The right of the insured to withdraw the insured's consent, and any consequences or fees if the insured withdraws consent; 1622  
1623  
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(c) A description of the procedures the insured must use to withdraw consent and to update the insured's contact point. 1625  
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(4) Agreement to participate in a part of an automated transaction shall not be used to confirm the insured's consent to transact the entire business of insurance pursuant to this section. 1627  
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(5) A withdrawal of consent by an insured shall be effective within a reasonable time period, not to exceed ten business days after the receipt of the withdrawal by the insurer. 1631  
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(D) The insurer shall send all notices of cancellation, nonrenewal, termination, or changes in the terms or conditions of the policy, certificate, or contract of insurance to the last known contact point supplied by the insured. If the insurer has knowledge that the insured's contact point is no longer valid, the insurer shall send the information via regular mail to the last known address furnished to the insurer by the insured. 1634  
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(E) Any insurer conducting the business of insurance via an automated transaction shall allow the insurer's insureds who agree to participate in an automated transaction the option to withdraw consent from participating in the automated transaction. 1641  
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(F) Notwithstanding any laws or regulations of this state relating to insurance, any policy, certificate, or contract of insurance, including any endorsements or amendments, that do not contain personally identifiable information may be posted to the insurer's web site in lieu of any other method of delivery. If the insurer elects to post any policy, certificate, or contract of insurance to the insurer's web site, all of the following shall apply: 1645  
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(1) The policy, certificate, or contract of insurance is readily accessible by the insured and, once the policy, certificate, or contract of insurance is no longer used by the insurer in this state, it is stored in a readily accessible archive; 1653  
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(2) The policy, certificate, or contract of insurance is posted in such a manner that the insured can easily identify the insured's applicable policy, certificate, or contract and print or download the insured's documents without charge and without the use of any special program or application that is not readily available to the public without charge; 1658  
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(3) The insurer provides written notice at the time of issuance of the initial policy, certificate, contract, or any renewal forms of a method by which the insured may obtain upon request a paper or electronic copy of their policy, certificate, or contract without charge; 1664  
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(4) The insurer clearly identifies the applicable policy, endorsements, amendments, certificate, or contract of insurance purchased by the insured on any declaration page, certificate of insurance, summary of benefits, or other evidence of coverage issued to the insured; 1669  
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(5) The insurer gives notice, in the manner it customarily communicates with an insured, of any changes to the policy, certificate, or contract of insurance, including any endorsements or amendments, and of the insured's right to obtain upon request a paper or electronic copy of the policy, endorsements, or amendments without charge. 1674  
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(G) Notwithstanding any other section of Title XXXIX or Chapters 1739. or 1751. of the Revised Code or rules adopted thereunder to the contrary, an insurer may deliver any notices, documents, or information to an insured via an automated 1680  
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transaction pursuant to this section. 1684

(H) This section does not supersede any time periods, filing requirements, or content of notices, documents, notices to insureds' agents required pursuant to sections 3937.25, 3937.26, and 3937.27 of the Revised Code, or information otherwise required by a law other than this section relating to insurance. This section does not apply to disclosures through electronic media of certificates, explanation of benefit statements, and other mandated materials under the "Employee Retirement Income Security Act of 1974," 88 Stat. 829, 29 U.S.C. 1001, as amended, and any regulation adopted thereunder. 1685  
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(I) If the consent of an insured to receive certain notices, documents, or information in an electronic form is on file with an insurer before the effective date of this section, if the consent was not accompanied by the details of the automated transaction described in division (C)(3) of this section, and if, pursuant to this section, an insurer intends to deliver additional notices, documents, or information to that insured in an electronic form, then, prior to delivering or at the time of delivering such additional notice, documents, or information electronically, the insurer shall notify the insured of the details of the automated transaction in compliance with division (C)(3) of this section. 1695  
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(J) The superintendent of insurance may adopt rules in accordance with Chapter 119. of the Revised Code as the superintendent considers necessary to carry out the purposes of this section. 1706  
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**Sec. 3901.62.** (A) Except as provided in sections 3901.63 and 3901.64 of the Revised Code, a domestic ceding insurer that is authorized to do any insurance business in this state may take credit for any reinsurance ceded as either an asset or a reduction of liability only if one of the following applies: 1710  
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(1) The reinsurance is ceded to an assuming insurer that is authorized to do any insurance or reinsurance business in this state. 1715  
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(2) The reinsurance is ceded to an assuming insurer that is accredited by the superintendent of insurance as a reinsurer in this state in accordance with division (B) of this section. 1718  
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(3) The reinsurance is ceded to an assuming insurer that is not authorized to do any insurance or reinsurance business in this state, provided the reinsurance is ceded to a reinsurance pool or other risk-sharing entity in which participation is required by law, rule, or regulation of the jurisdiction in which the pool or entity is located. 1721  
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~~(3)~~(4) The reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in ~~division (B)(2) of~~ section 3901.63 of the Revised Code, for the payment of the valid claims of its United States policyholders and ceding insurers, and their assigns and successors in interest in accordance with division (C) of this section. 1727  
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(5) The reinsurance is ceded to an assuming insurer that has been certified by the superintendent as a reinsurer in this state and that secures its obligations in accordance with division (D) of this section. 1734  
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(B)(1) In order to be eligible for accreditation under division (A)(2) of this section, the assuming insurer shall do all of the following: 1738  
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(a) File with the superintendent evidence of its submission to this state's jurisdiction; 1741  
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(b) Submit to this state's authority to examine its books and records; 1743  
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(c) Maintain a license to transact insurance or reinsurance in at least one state or, in the case of a United States branch of a foreign or alien assuming insurer, be entered through and licensed to transact insurance or reinsurance in at least one state; 1745  
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(d) File annually with the superintendent a copy of its annual statement filed with the insurance department of its state of domicile, and a copy of its most recent audited financial statement; 1750  
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(e) Demonstrate to the satisfaction of the superintendent that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. 1754  
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(2) An assuming insurer is considered to meet the requirement of division (B)(1)(e) of this section as of the time of its application to the superintendent for accreditation if it maintains a surplus with regard to policyholders in an amount not less than twenty million dollars, and the superintendent has not denied its accreditation within ninety days after submission of its application. 1758  
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(C)(1) A trust maintained by an assuming insurer under division (A)~~(3)~~(4) of this section shall meet the following requirements: 1765  
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~~(1)~~(a) In the case of a single assuming insurer, the trust shall consist of a trusteed account representing the assuming insurer's liabilities attributable to business underwritten in the United States. A trusteed surplus of not less than twenty million dollars shall be maintained by the assuming insurer, except that at any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the superintendent with principal 1768  
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regulatory oversight of the trust may authorize a reduction in the 1776  
required trustee surplus, but only after a finding, based on an 1777  
assessment of the risk, that the new required surplus level is 1778  
adequate for the protection of ceding insurers within the United 1779  
States, policyholders, and claimants in light of reasonably 1780  
foreseeable adverse loss development. 1781

The risk assessment may involve an actuarial review, 1782  
including an independent analysis of reserves and cash flows, and 1783  
shall consider all material risk factors, including when 1784  
applicable the lines of business involved, the stability of the 1785  
incurred loss estimates, and the effect of the surplus 1786  
requirements on the assuming insurer's liquidity or solvency. 1787

The minimum required trustee surplus shall not be reduced to 1788  
an amount less than thirty per cent of the assuming insurer's 1789  
liabilities attributable to reinsurance ceded by ceding insurers 1790  
within the United States covered by the trust. 1791

~~(2)~~(b) In the case of a group of assuming insurers, including 1792  
incorporated and individual unincorporated underwriters, the trust 1793  
shall consist of a trustee account representing the group's 1794  
liabilities attributable to business written in the United States. 1795  
A trustee surplus shall be maintained by the group, of which 1796  
surplus one hundred million dollars shall be held jointly for the 1797  
benefit of the United States ceding insurers of any member of the 1798  
group. The following requirements apply to the group of assuming 1799  
insurers: 1800

~~(a)~~(i) The incorporated members of the group shall not engage 1801  
in any business other than underwriting as a member of the group, 1802  
and shall be subject to the same level of solvency regulation and 1803  
control by the group's domiciliary regulator as are the 1804  
unincorporated members. 1805

~~(b)~~(ii) The group shall make available to the superintendent 1806

of insurance an annual certification of the solvency of each 1807  
underwriter in the group. The certification shall be provided by 1808  
the group's domiciliary regulator and its independent public 1809  
accountants. 1810

~~(3)~~(c) In the case of a group of incorporated insurers under 1811  
common administration with aggregate policyholders' surplus of ten 1812  
billion dollars that has continuously transacted an insurance 1813  
business outside the United States for at least three years 1814  
immediately prior to assuming reinsurance, the trust shall be in 1815  
an amount equal to the group's several liabilities attributable to 1816  
business ceded by United States ceding insurers to any member of 1817  
the group pursuant to reinsurance contracts issued in the name of 1818  
the group. A joint trusteed surplus shall be maintained by the 1819  
group, of which surplus one hundred million dollars shall be held 1820  
jointly for the benefit of United States ceding insurers of any 1821  
member of the group as additional security for any such 1822  
liabilities. The following requirements apply to the group of 1823  
incorporated insurers: 1824

~~(a)~~(i) The group shall comply with all filing requirements 1825  
contained in this section. 1826

~~(b)~~(ii) The books and records of the group shall be subject 1827  
to examination by the superintendent in the same manner as the 1828  
books and records of insurers are subject to examination by the 1829  
superintendent in accordance with section 3901.07 of the Revised 1830  
Code. The group shall bear the expenses of these examinations in 1831  
the manner provided by that section. 1832

~~(c)~~(iii) Each member of the group shall make available to the 1833  
superintendent an annual certification of the member's solvency by 1834  
the member's domiciliary regulator and an independent public 1835  
accountant. 1836

~~(c)~~(2) A trust maintained by an assuming insurer under 1837

division (A)~~(3)~~(4) of this section shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. The trust shall be in a form approved by the superintendent and shall include the following:

~~(1)~~(a) The trust instrument shall provide that contested claims are valid and enforceable upon the final order of any court of competent jurisdiction in the United States.

~~(2)~~(b) The trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, and their assigns and successors in interest.

~~(3)~~(c) The trust, and the assuming insurer maintaining the trust, shall allow the superintendent to conduct examinations in the same manner as the superintendent conducts examinations of insurers under section 3901.07 of the Revised Code.

~~(D)~~(3) No later than the last day of February of each year, the trustees of a trust maintained by an assuming insurer under division (A)~~(3)~~(4) of this section shall provide the superintendent with a written report setting forth the balance of the trust and listing the trust's investments as of the preceding thirty-first day of December. The trustees shall certify the date of the termination of the trust, if termination of the trust is planned, or shall certify that the trust does not expire prior to the following thirty-first day of December.

~~(E)~~(4) To enable the superintendent to determine the sufficiency of a trust maintained by an assuming insurer under division (A)~~(3)~~(4) of this section, the assuming insurer shall annually report information on the trust to the superintendent that is substantially the same as that information licensed insurers are required to report under sections 3907.19, 3909.06, and 3929.30 of the Revised Code on forms adopted under section

3901.77 of the Revised Code. 1869

(D)(1) In order to be eligible for certification under 1870  
division (A)(5) of this section, the assuming insurer shall do all 1871  
of the following: 1872

(a) Be domiciled and licensed to transact insurance or 1873  
reinsurance in a qualified jurisdiction as determined by the 1874  
superintendent pursuant to division (D)(3) of this section; 1875

(b) Maintain minimum capital and surplus, or its equivalent, 1876  
in an amount to be determined by the superintendent in rule or 1877  
regulation; 1878

(c) Maintain financial strength ratings from two or more 1879  
rating agencies that meet criteria the superintendent sets forth 1880  
in rule or regulation; 1881

(d) Agree to submit to the jurisdiction of this state, 1882  
appoint the superintendent as its agent for service of process in 1883  
this state, and agree to provide security for one hundred per cent 1884  
of the assuming insurer's liabilities attributable to reinsurance 1885  
ceded by ceding insurers in the United States if it resists 1886  
enforcement of a final judgment from the United States; 1887

(e) Agree to meet applicable information filing requirements 1888  
as determined by the superintendent with respect to an initial 1889  
application for certification and on an ongoing basis; 1890

(f) Satisfy any other requirements for certification 1891  
considered relevant by the superintendent. 1892

(2) An association, including incorporated and individual 1893  
unincorporated underwriters, may be a certified reinsurer. In 1894  
order to be eligible for certification, an association, in 1895  
addition to satisfying the requirements of division (D)(1) of this 1896  
section, shall also meet the following requirements: 1897

(a) The association shall satisfy its minimum capital and 1898

surplus requirements through the capital and surplus equivalents 1899  
(net of liabilities), or the net liabilities, of the association 1900  
and its members which shall include a joint central fund that may 1901  
be applied to any unsatisfied obligation of the association or any 1902  
of its members, in an amount determined by the superintendent in 1903  
order to provide adequate protection. 1904

(b) The incorporated members of the association shall not be 1905  
engaged in any business other than underwriting as a member of the 1906  
association, and shall be subject to the same level of regulation 1907  
and solvency control by the association's domiciliary regulator as 1908  
the unincorporated members. 1909

(c) The association shall provide the superintendent an 1910  
annual certification by the association's domiciliary regulator of 1911  
the solvency of each underwriter member within ninety days after 1912  
its financial statements are due to be filed with the 1913  
association's domiciliary regulator. If a certification is 1914  
unavailable, the association shall provide the superintendent with 1915  
financial statements prepared by independent public accountants of 1916  
each underwriter member of the association. 1917

(3) The superintendent shall create and publish a list of 1918  
qualified jurisdictions under which an assuming insurer licensed 1919  
and domiciled in such jurisdiction is eligible to be considered by 1920  
the superintendent for certification as a certified reinsurer. 1921

(a) The superintendent shall consider the list of qualified 1922  
jurisdictions published through the national association of 1923  
insurance commissioner's committee process in determining 1924  
qualified jurisdictions. If the superintendent approves a 1925  
jurisdiction as qualified that does not appear on the list, the 1926  
superintendent shall provide justification in accordance with 1927  
criteria to be developed by the superintendent under rule or 1928  
regulation. 1929

(b) Jurisdictions within the United States that meet the requirement for accreditation under the national association of insurance commissioner's financial standards and accreditation program shall be recognized as qualified. 1930  
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(c) To determine if a domiciliary jurisdiction not located within the United States is eligible to be recognized as a qualified jurisdiction, the superintendent shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits, and the extent of reciprocal recognition afforded by the jurisdiction to reinsurers licensed and domiciled in the United States. 1934  
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(d) A qualified jurisdiction shall agree to share information and cooperate with the superintendent with respect to all certified reinsurers domiciled within that jurisdiction. 1942  
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(e) A jurisdiction shall not be recognized as a qualified jurisdiction if the superintendent has determined that the jurisdiction does not adequately and promptly enforce final judgments and arbitration awards from the United States. 1945  
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(f) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the superintendent may revoke the reinsurer's certification or suspend the reinsurer's certification indefinitely. 1949  
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(g) The superintendent may consider additional factors as the superintendent considers appropriate. 1953  
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(4) The superintendent shall assign a rating to each certified reinsurer giving due consideration to the financial strength ratings assigned by rating agencies pursuant to division (D)(1)(c) of this section. The superintendent shall publish a list of all certified reinsurers and their ratings. 1955  
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(5) A certified reinsurer shall secure obligations assumed 1960

from a ceding insurer within the United States at a level 1961  
consistent with its rating as specified by the superintendent in 1962  
rule or regulation. 1963

(a) Except as otherwise provided in division (D)(5) of this 1964  
section, a certified reinsurer shall maintain security in a form 1965  
acceptable to the superintendent and consistent with section 1966  
3901.63 of the Revised Code, or in a multibeneficiary trust on 1967  
behalf of the ceding insurer in accordance with division (A)(4) of 1968  
this section, in order for a domestic ceding insurer to qualify 1969  
for full financial statement credit for reinsurance ceded to a 1970  
certified reinsurer. 1971

(b) If a certified reinsurer chooses to secure its 1972  
obligations incurred as a certified reinsurer in the form of a 1973  
multibeneficiary trust for the benefit of the ceding insurer, the 1974  
certified reinsurer shall maintain separate trust accounts for its 1975  
obligations incurred under reinsurance agreements issued or 1976  
renewed as a certified reinsurer with reduced security as 1977  
permitted by this division or comparable laws of other 1978  
jurisdictions within the United States, and for its obligations 1979  
subject to division (A)(4) of this section. 1980

(c) Upon termination of any such trust account described in 1981  
division (A)(4) of this section, a certified reinsurer shall be 1982  
bound by the language of the trust and agreement with the 1983  
superintendent that has principal regulatory oversight of each 1984  
trust account to fund any deficiency of any other trust account 1985  
out of the remaining surplus of such trust as a condition to 1986  
certification under division (D)(1) of this section. 1987

(d) The minimum trustee surplus requirements provided in 1988  
division (C) of this section are not applicable with respect to a 1989  
multibeneficiary trust maintained by a certified reinsurer for the 1990  
purpose of securing obligations incurred under division (A)(5) of 1991  
this section, except that such trust shall maintain a minimum 1992

trusteed surplus of ten million dollars. 1993

(e) With respect to obligations incurred by a certified reinsurer under division (A)(5) of this section, if the security is insufficient, the superintendent shall reduce the allowable credit by an amount proportionate to the deficiency, and the superintendent may impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due. 1994  
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(f) Except as otherwise provided in division (D)(5) of this section, a reinsurer whose certification has been terminated for any reason shall be treated under this section as a certified reinsurer required to secure one hundred per cent of its obligations. The superintendent may continue to assign a higher rating to the reinsurer if the reinsurer is in inactive status or the reinsurer's certification has been suspended. As used in division (D)(5)(f) of this section, "terminated" means revocation, suspension, voluntary surrender, or inactive status. 2001  
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(6) If an applicant for certification has been certified as a reinsurer in a national association of insurance commissioners accredited jurisdiction, the superintendent may defer to that jurisdiction's certification and rating assignment, and the assuming insurer shall be considered to be a certified reinsurer in this state. 2010  
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(7) A certified reinsurer that ceases to assume new business in this state may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of division (A)(5) of this section, and the superintendent shall assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business. 2016  
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~~(F)~~(E) An assuming insurer shall file a written instrument 2025  
appointing an attorney as its agent in this state upon whom all 2026  
service of process may be served. Service of process upon this 2027  
agent shall bring the assuming insurer within the jurisdiction of 2028  
the courts of this state as if served upon an agent pursuant to 2029  
section 3927.03 of the Revised Code. 2030

(F) Nothing in this section shall prohibit the parties to a 2031  
reinsurance agreement from agreeing to provisions in the agreement 2032  
establishing security requirements that exceed the minimum 2033  
security requirements established for certified reinsurers under 2034  
this section. 2035

(G)(1) In order to facilitate the prompt payment of claims, 2036  
the superintendent may permit a certified reinsurer to defer the 2037  
posting of security for catastrophe recoverables for a period of 2038  
up to one year from the date of the first instance of a liability 2039  
reserve entry by the ceding insurer as a result of a loss from a 2040  
catastrophic occurrence. 2041

(2) Upon notice by the ceding insurer to the superintendent 2042  
that the certified reinsurer has failed to pay claims owed under a 2043  
reinsurance agreement in a timely manner, the superintendent shall 2044  
notify the certified reinsurer that it is no longer permitted to 2045  
defer the posting of security for catastrophe recoverables. 2046

(3) Reinsurance recoverables for only the following lines of 2047  
business, as reported on the national association of insurance 2048  
commissioners' annual financial statement related specifically to 2049  
the catastrophic occurrence, shall be included in the deferral: 2050

(a) Fire; 2051

(b) Allied lines; 2052

(c) Farmowner's multiple peril; 2053

(d) Homeowners multiple peril; 2054

<u>(e) Commercial multiple peril;</u>	2055
<u>(f) Inland marine;</u>	2056
<u>(g) Earthquake;</u>	2057
<u>(h) Auto physical damage.</u>	2058
<u>(4) The superintendent may adopt rules in accordance with</u>	2059
<u>Chapter 119. of the Revised Code to establish the process for a</u>	2060
<u>certified reinsurer to seek a deferral of posting of security for</u>	2061
<u>catastrophe recoverables.</u>	2062
<u>Sec. 3901.621. (A) If a reinsurer accredited pursuant to</u>	2063
<u>division (B)(1) of section 3901.62 of the Revised Code or</u>	2064
<u>certified pursuant to division (D)(1) of that section ceases to</u>	2065
<u>meet the requirements for accreditation or certification, the</u>	2066
<u>superintendent may suspend or revoke the reinsurer's accreditation</u>	2067
<u>or certification after a hearing held pursuant to Chapter 119. of</u>	2068
<u>the Revised Code. The suspension or revocation shall not take</u>	2069
<u>effect until after the superintendent's order or hearing, unless</u>	2070
<u>one of the following applies:</u>	2071
<u>(1) The reinsurer waives its right to a hearing.</u>	2072
<u>(2) The superintendent's order is based on regulatory action</u>	2073
<u>by the reinsurer's domiciliary jurisdiction or the voluntary</u>	2074
<u>surrender or termination of the reinsurer's eligibility to</u>	2075
<u>transact insurance or reinsurance business in its domiciliary</u>	2076
<u>jurisdiction or in the primary certifying state of the reinsurer</u>	2077
<u>under division (D)(6) of section 3901.62 of the Revised Code.</u>	2078
<u>(3) The superintendent finds that an emergency requires</u>	2079
<u>immediate action, and a court of competent jurisdiction has not</u>	2080
<u>stayed the superintendent's action.</u>	2081
<u>(B) While a reinsurer's accreditation or certification is</u>	2082
<u>suspended, no reinsurance contract issued or renewed after the</u>	2083
<u>effective date of the suspension qualifies for credit except to</u>	2084

the extent that the reinsurer's obligations under the contract are 2085  
secured in accordance with section 3901.63 of the Revised Code. 2086

(C) If the superintendent revokes a reinsurer's accreditation 2087  
or certification, no credit for reinsurance may be granted under 2088  
section 3901.62 or 3901.63 of the Revised Code after the effective 2089  
date of the revocation except to the extent that the reinsurer's 2090  
obligations under the contract are secured in accordance with 2091  
division (D)(5) of section 3901.62 or section 3901.63 of the 2092  
Revised Code. 2093

**Sec. 3901.63.** (A) If section 3901.62 of the Revised Code does 2094  
not apply to the reinsurance ceded to an assuming insurer by a 2095  
domestic ceding insurer that is authorized to do any insurance 2096  
business in this state, the ceding insurer may take credit for the 2097  
reinsurance ceded as a reduction of liability in an amount not 2098  
exceeding the liabilities carried by the ceding insurer, if the 2099  
ceding insurer complies with section 3901.64 of the Revised Code, 2100  
and if funds are held directly by the ceding insurer or in trust 2101  
on behalf of the ceding insurer, in accordance with this section, 2102  
as security for the payment of obligations under the reinsurance 2103  
contract with the assuming insurer. 2104

(B)(1) If the funds are held directly by the ceding insurer 2105  
under division (A) of this section, the funds shall be held in the 2106  
United States and shall be under the exclusive control of, and 2107  
subject to withdrawal solely by, the ceding insurer. If the funds 2108  
are held in trust on behalf of the ceding insurer under division 2109  
(A) of this section, the funds shall be held in the United States 2110  
in a qualified United States financial institution. 2111

(2) For the purposes of division (B)(1) of this section, a 2112  
"United States financial institution" is qualified if both of the 2113  
following apply: 2114

(a) The institution is organized under or, in the case of a 2115

United States branch or agency office of a foreign banking organization, is chartered under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers.

(b) The institution is regulated, supervised, and examined by federal or state officials that have regulatory authority over banks and trust companies.

(C) The funds held directly by the ceding insurer or in trust on behalf of the ceding insurer shall be in any of the following forms:

(1) Cash;

(2) Securities that are listed by the securities valuation office of the national association of insurance commissioners, including those considered exempt from filing as defined by the purposes and procedures manual of the securities valuation office, and that qualify as admitted assets;

(3) Irrevocable, unconditional, and automatically renewable letters of credit that are issued or confirmed by a qualified United States financial institution. For purposes of division (C)(3) of this section, a United States financial institution is qualified if all of the following apply:

(a) It is organized under or, in the case of a United States branch or agency office of a foreign banking organization, is chartered under the laws of the United States or any state thereof.

(b) It is regulated, supervised, and examined by federal or state officials that have regulatory authority over banks and trust companies.

(c) The superintendent of insurance or the securities valuation office of the national association of insurance

commissioners has determined that it meets such standards of 2146  
financial condition and standing as are considered necessary and 2147  
appropriate for purposes of ensuring that its letters of credit 2148  
will be of a quality that is acceptable to the superintendent. 2149

(4) Any other form of security the superintendent determines 2150  
to be acceptable. 2151

(D) Notwithstanding any subsequent failure of an issuing or 2152  
confirming financial institution to meet the standards of issuer 2153  
acceptability set forth in division (C)(3) of this section, a 2154  
letter of credit issued or confirmed by a financial institution 2155  
that meets those standards on the date of the issuance or 2156  
confirmation shall continue to be acceptable as security until its 2157  
expiration, extension, renewal, modification, or amendment, 2158  
whichever occurs first. 2159

Sec. 3901.631. (A) A domestic ceding insurer shall take steps 2160  
to manage its reinsurance recoverables proportionate to its own 2161  
book of business. 2162

(1) A domestic ceding insurer shall notify the superintendent 2163  
within thirty days after reinsurance recoverables from any single 2164  
assuming insurer, or group of affiliated assuming insurers, exceed 2165  
fifty per cent of the domestic ceding insurer's last reported 2166  
surplus to policyholders, or after it has determined that 2167  
reinsurance recoverables from any single assuming insurer, or 2168  
group of affiliated assuming insurers, are likely to exceed this 2169  
limit. 2170

(2) The notification required in division (A)(1) of this 2171  
section shall demonstrate that the exposure is safely managed by 2172  
the domestic ceding insurer. 2173

(B) A domestic ceding insurer shall take steps to diversify 2174  
its reinsurance program. 2175

(1) A domestic ceding insurer shall notify the superintendent within thirty days after ceding to any single assuming insurer, or group of affiliated assuming insurers, more than twenty per cent of the ceding insurer's gross written premium in the prior calendar year, or after it has determined that the reinsurance ceded to any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit.

(2) The notification required in division (B)(1) of this section shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

**Sec. 3901.64.** (A) A domestic ceding insurer may take credit for any reinsurance ceded as provided in sections 3901.61 to 3901.63 of the Revised Code only if the reinsurance agreement contained in the reinsurance contract, and any agreement that provides security for the payment of the obligations under the reinsurance agreement, including any trust agreement, provide, in substance, for the following:

(1) In the event of the insolvency of the ceding insurer, the reinsurance, whether paid directly or from trust assets securing the reinsurance agreement, shall be payable by the assuming insurer on the basis of the liability of the ceding insurer under the policy or contract reinsured, without any diminution because the ceding insurer is insolvent or because the liquidator or statutory receiver has failed to pay all or any portion of any claims;

(2) The reinsurance payments, whether paid directly or from trust assets securing the reinsurance agreement, shall be made by the assuming insurer directly to the ceding insurer, or in the event of its insolvency or liquidation, to its liquidator or statutory receiver except where the reinsurance contract or other written agreement specifically provides for direct payment of the

reinsurance to the insured or beneficiary of the insurance policy 2207  
in the event of the insolvency of the ceding insurer. 2208

(B)(1) The reinsurance agreement may provide that the 2209  
domiciliary liquidator or statutory receiver shall give written 2210  
notice to the assuming insurer that a claim is pending against the 2211  
ceding insurer on the policy or contract reinsured. The notice 2212  
shall be given within a reasonable amount of time after the claim 2213  
is filed with the liquidator or statutory receiver. During the 2214  
pendency of the claim, any assuming insurer may investigate the 2215  
claim and interpose, at its own expense, in the proceeding where 2216  
the claim is to be adjudicated any defenses which it deems to be 2217  
available to the ceding insurer or its liquidator. 2218

(2) The expense may be filed as a claim against the insolvent 2219  
ceding insurer to the extent of a proportionate share of the 2220  
benefit that may accrue to the ceding insurer solely as a result 2221  
of the defense undertaken by the assuming insurer. Where two or 2222  
more assuming insurers are involved in the same claim and a 2223  
majority in interest elect to interpose a defense to the claim, 2224  
the expense shall be apportioned in accordance with the terms of 2225  
the reinsurance agreement as though the expense had been incurred 2226  
by the ceding insurer. 2227

(C) If the assuming insurer is not licensed, or accredited or 2228  
certified to transact insurance or reinsurance in this state, the 2229  
credit permitted by division (A)(4) of section 3901.62 of the 2230  
Revised Code shall not be allowed unless the assuming insurer 2231  
agrees to do both of the following in the reinsurance agreements: 2232

(1)(a) If the assuming insurer fails to perform its 2233  
obligations under the terms of the reinsurance agreement, at the 2234  
request of the ceding insurer, the assuming insurer shall submit 2235  
to the jurisdiction of any court of competent jurisdiction in any 2236  
state within the United States, comply with all requirements 2237  
necessary to give the court jurisdiction, and abide by the final 2238

decision of the court or of any appellate court in the event of an 2239  
appeal. 2240

(b) The assuming insurer shall designate the superintendent 2241  
or a designated attorney as its true and lawful attorney upon whom 2242  
may be served any lawful process in any action, suit, or 2243  
proceeding instituted by or on behalf of the ceding insurer. 2244

(2) This division is not intended to conflict with or 2245  
override the obligation of the parties to a reinsurance agreement 2246  
to arbitrate their disputes, if this obligation is created in the 2247  
agreement. 2248

(D) If the assuming insurer does not meet the requirements of 2249  
division (A)(1), (2), or (3) of section 3901.62 of the Revised 2250  
Code, the credit permitted by divisions (A)(4) and (5) of that 2251  
section shall not be allowed unless the assuming insurer agrees in 2252  
the trust agreements to the following conditions: 2253

(1) Notwithstanding any other provisions in the trust 2254  
instrument, if the trust fund is inadequate because it contains an 2255  
amount less than the amount required by division (C)(1) of section 2256  
3901.62 of the Revised Code, or if the grantor of the trust has 2257  
been declared insolvent or placed into receivership, 2258  
rehabilitation, liquidation, or similar proceedings under the laws 2259  
of its state or country of domicile, the trustee shall comply with 2260  
an order of the superintendent with regulatory oversight over the 2261  
trust or with an order of a court of competent jurisdiction 2262  
directing the trustee to transfer to the superintendent with 2263  
regulatory oversight all of the assets of the trust fund. 2264

(2) The assets shall be distributed by, and claims shall be 2265  
filed with and valued by, the superintendent with regulatory 2266  
oversight in accordance with the laws of the state, in which the 2267  
trust is domiciled, that are applicable to the liquidation of 2268  
domestic insurance companies. 2269

(3) If the superintendent with regulatory oversight 2270  
determines that the assets of the trust fund, or any part thereof, 2271  
are not necessary to satisfy the claims of the ceding insurers 2272  
within the United States or the grantor of the trust, the 2273  
superintendent with regulatory oversight shall return the assets 2274  
or part thereof to the trustee for distribution in accordance with 2275  
the trust agreement. 2276

(4) The grantor shall waive any right otherwise available to 2277  
it under the laws of the United States that are inconsistent with 2278  
this division. 2279

**Sec. 3903.72.** (A) The definitions provided in division (B) of 2280  
this section shall apply after the operative date of the valuation 2281  
manual. 2282

(B) As used in sections 3903.72 to 3903.7211 of the Revised 2283  
Code: 2284

(1) "Accident and health insurance" means a contract that 2285  
incorporates morbidity risk and provides protection against 2286  
economic loss resulting from accident, sickness, or medical 2287  
conditions and as may be specified in the valuation manual. 2288

(2) "Appointed actuary" means a qualified actuary who is 2289  
appointed in accordance with the valuation manual to prepare the 2290  
actuarial opinion required in section 3903.722 of the Revised 2291  
Code. 2292

(3) "Company" means an entity that meets either of the 2293  
following criteria: 2294

(a) The entity has written, issued, or reinsured life 2295  
insurance contracts, accident and health insurance contracts, or 2296  
deposit-type contracts in this state and has at least one such 2297  
policy in force or on claim. 2298

(b) The entity has written, issued, or reinsured life 2299

insurance contracts, accident and health insurance contracts, or 2300  
deposit-type contracts in any state and is required to hold a 2301  
certificate of authority to write life insurance, accident and 2302  
health insurance, or deposit-type contracts in this state. 2303

(4) "Deposit-type contract" means a contract that does not 2304  
incorporate mortality or morbidity risks and as may be specified 2305  
in the valuation manual. 2306

(5) "Life insurance" means a contract that incorporates 2307  
mortality risk, including an annuity and pure endowment contract, 2308  
and as may be specified in the valuation manual. 2309

(6) "Operative date of the valuation manual" means the date 2310  
specified in division (B) of section 3903.728 of the Revised Code. 2311

(7) "Policyholder behavior" means any action a policyholder, 2312  
contract holder, or any other person with the right to elect 2313  
options under a policy or contract, such as a certificate holder, 2314  
may take under a policy or contract subject to this section 2315  
including lapse, withdrawal, transfer, deposit, premium payment, 2316  
loan, annuitization, or benefit elections prescribed by the policy 2317  
or contract. "Policyholder behavior" does not include events of 2318  
mortality or morbidity that result in benefits prescribed in the 2319  
terms of the policy or contract. 2320

(8) "Principle-based valuation" means a reserve valuation 2321  
that uses one or more methods or one or more assumptions 2322  
determined by the insurer and that is required to comply with 2323  
section 3903.729 of the Revised Code. 2324

(9) "Qualified actuary" means an individual who is qualified 2325  
to sign a statement of actuarial opinion in accordance with the 2326  
American academy of actuaries qualification standards for 2327  
actuaries signing such statements and who meets the requirements 2328  
specified in the valuation manual. 2329

(10) "Superintendent" means superintendent of insurance. 2330

(11) "Tail risk" means a risk that occurs either when the frequency of low probability events is higher than expected under a normal probability distribution or when there are observed events of very significant size or magnitude.

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(12) "Valuation manual" means the manual of valuation instructions adopted by the national association of insurance commissioners or as subsequently amended.

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**Sec. 3903.721.** (A)(1) The superintendent shall annually value, or cause to be valued, the reserve liabilities, referred to as reserves, for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this state issued prior to the operative date of the valuation manual.

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In calculating reserves, the superintendent may use group methods and approximate averages for fractions of a year or otherwise. The valuation of the reserves of a company organized under the laws of a foreign government shall be limited to its United States business.

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In lieu of the valuation of the reserves required of a foreign or alien company, the superintendent may accept a valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when the valuation complies with the minimum standard provided in sections 3903.72 to 3903.7211 of the Revised Code.

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(2) The provisions set forth in sections 3903.723, 3903.724, 3903.725, and 3903.727 of the Revised Code shall apply to all policies and contracts, as appropriate, issued on or after January 1, 1989, and prior to the operative date of the valuation manual. The provisions set forth in sections 3903.726, 3903.728, and 3903.729 of the Revised Code shall not apply to any such policies and contracts.

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(3) The minimum standard for the valuation of policies and contracts issued prior to January 1, 1989, shall be that provided by the laws in effect immediately prior to that date. 2362  
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(B)(1) For all outstanding life insurance contracts, annuity and pure endowment contracts, deposit-type contracts, and accident and health contracts of every company issued on or after the operative date of the valuation manual, the superintendent shall annually value, or cause to be valued, the reserve liabilities for such contracts according to sections 3903.727, 3903.728, and 3903.729 of the Revised Code. The valuation of the reserves of a company organized under the laws of a foreign government shall be limited to its United States business. 2365  
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In lieu of the valuation of the reserves required of a foreign or alien company, the superintendent may accept a valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when the valuation complies with the minimum standard provided in sections 3903.72 to 3903.7211 of the Revised Code. 2374  
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(2) The provisions set forth in sections 3903.728 and 3903.729 of the Revised Code shall apply to all policies and contracts issued on or after the operative date of the valuation manual. 2380  
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**Sec. 3903.722.** (A) This section shall apply prior to the operative date of the valuation manual. 2384  
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(B) Every life insurance company doing business in this state shall annually submit to the superintendent the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by rule by the superintendent are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply with the applicable laws 2386  
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of this state. The superintendent shall adopt rules establishing 2393  
the form and content of this opinion, and may require the life 2394  
insurance company to supply information in addition to that 2395  
contained in the actuarial opinion. 2396

(C)(1) Every life insurance company, except as exempted by 2397  
rule adopted by the superintendent, shall also include in the 2398  
annual opinion required by division (B) of this section an opinion 2399  
of the same qualified actuary as to whether the reserves and 2400  
related actuarial items held in support of the policies and 2401  
contracts specified by rule by the superintendent, when considered 2402  
in light of the assets held by the company with respect to the 2403  
reserves and related actuarial items, including the investment 2404  
earnings on the assets and the considerations anticipated to be 2405  
received and retained under the policies and contracts, make 2406  
adequate provision for the company's obligations under the 2407  
policies and contracts, including the benefits under and the 2408  
expenses associated with the policies and contracts. 2409

(2) The superintendent may provide by rule for a transition 2410  
period for establishing any higher reserves that the qualified 2411  
actuary may consider necessary to render the opinion required by 2412  
division (C) of this section. 2413

(D) Each opinion required by division (C)(1) of this section 2414  
shall be governed by the following provisions: 2415

(1) The opinion shall be supported by a memorandum prepared 2416  
in a form and contain content as specified by rule by the 2417  
superintendent. 2418

(2) If a life insurance company fails to provide a supporting 2419  
memorandum within the period of time specified by rule by the 2420  
superintendent, or if the superintendent determines that a 2421  
supporting memorandum fails to meet the standards set out in the 2422  
rule, or is otherwise unacceptable to the superintendent, the 2423

superintendent may employ, at the expense of the insurance 2424  
company, a qualified actuary to review the opinion and the basis 2425  
for the opinion and prepare such supporting memorandum as is 2426  
required by the superintendent. 2427

(E) Every opinion required by this section is governed by the 2428  
following: 2429

(1) The opinion shall be submitted with the annual statement 2430  
reflecting the valuation of the reserve liabilities for each year 2431  
ending on or after December 31, 2012. 2432

(2) The opinion shall apply to all business in force 2433  
including individual and group health insurance plans in form and 2434  
substance as specified in rules adopted by the superintendent. 2435

(3) The opinion shall be based on standards adopted from time 2436  
to time by the actuarial standards board of the American academy 2437  
of actuaries and on such additional standards as the 2438  
superintendent may prescribe by rule. 2439

(4) In the case of an opinion required to be submitted by a 2440  
foreign or alien life insurance company, the superintendent may 2441  
accept the opinion filed by that company with the insurance 2442  
regulatory authority of another state if the superintendent 2443  
determines that the opinion reasonably meets the requirements 2444  
applicable to a company domiciled in this state. 2445

(5) Except in cases of fraud or willful misconduct, the 2446  
qualified actuary is not liable for damages in any civil action to 2447  
any person, other than the insurance company and the 2448  
superintendent, for any act, error, omission, decision, or conduct 2449  
with respect to the actuary's opinion. 2450

(6) The superintendent shall establish by rule penalties for 2451  
an insurance company's or qualified actuary's failure to comply 2452  
with this section. 2453

(7) Except as provided in divisions (E)(9) and (F) of this section, documents, materials, or other information in the possession or control of the department of insurance that are a memorandum in support of the opinion or other material provided by the insurance company to the superintendent in connection with the memorandum shall be confidential by law and privileged, is not a public record under section 149.43 of the Revised Code, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. 2454  
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(8) Neither the superintendent nor any person who received documents, materials, or other information while acting under the authority of the superintendent shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to division (F) of this section. 2463  
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(9) A memorandum in support of the opinion, and any other associated material, may be subject to subpoena for the purpose of defending an action seeking damages from the actuary submitting the memorandum by reason of an action required by this section or by rules adopted by the superintendent. 2469  
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(10) If any portion of a confidential and privileged memorandum is cited by the company in its marketing, is cited before any governmental agency other than a state insurance regulatory authority, or is released by the company to the news media, the entire memorandum shall no longer be confidential and privileged. 2474  
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(F) Notwithstanding division (E) of this section, the superintendent may do any of the following: 2480  
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(1) Disclose memoranda and other materials described in this section upon obtaining prior written consent from the insurer to which the memorandum or other materials pertain; 2482  
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(2) Disclose memoranda and other materials described in this 2485  
section to the American academy of actuaries upon receipt of a 2486  
written request from the academy stating that a memorandum or 2487  
other material is required for the purpose of professional 2488  
disciplinary proceedings. A request from the American academy of 2489  
actuaries shall set forth the procedures to be used by the academy 2490  
for preserving the confidential and privileged status of the 2491  
memorandum or other material. If the procedures set forth are not 2492  
satisfactory to the superintendent, the superintendent shall not 2493  
release the memorandum or other material to the academy. 2494

(3) Share documents and materials or other information, 2495  
including the confidential and privileged documents, materials, or 2496  
information subject to division (E) of this section, with other 2497  
state, federal, and international regulatory agencies and law 2498  
enforcement officials and with the national association of 2499  
insurance commissioners and its affiliates and subsidiaries, 2500  
provided that the recipient agrees to maintain the confidential or 2501  
privileged status of any confidential or privileged memorandum or 2502  
other material and has the legal authority to do so; 2503

(4) Use memoranda and other materials described in this 2504  
section in the furtherance of any regulatory or legal action 2505  
brought by or on behalf of the superintendent or the state, 2506  
resulting from the exercise of the superintendent's official 2507  
duties. 2508

(G) Notwithstanding divisions (E) and (F) of this section, 2509  
the superintendent may authorize the national association of 2510  
insurance commissioners and its affiliates and subsidiaries by 2511  
agreement to share confidential or privileged memoranda and other 2512  
material received pursuant to division (F)(3) of this section with 2513  
local, state, federal, and international regulatory and law 2514  
enforcement agencies and with local, state, and federal 2515  
prosecutors, provided that the recipient agrees to maintain the 2516

confidential or privileged status of the confidential or 2517  
privileged memorandum or other material and has authority to do 2518  
so. 2519

(H) Nothing in this section shall prohibit the superintendent 2520  
from receiving memoranda and other material in accordance with 2521  
section 3901.045 of the Revised Code. 2522

(I) The superintendent may enter into agreements governing 2523  
the sharing and use of memoranda and materials consistent with the 2524  
requirements of this section. 2525

(J) No waiver of any applicable privilege or claim of 2526  
confidentiality in the memoranda and materials described in this 2527  
section shall occur as a result of sharing or receiving memoranda 2528  
and material as authorized in divisions (F)(2) and (3), (G), and 2529  
(H) of this section. 2530

~~**Sec. 3903.72 3903.723.** (A) The superintendent of insurance~~ 2531  
~~shall annually value, or cause to be valued, the reserve~~ 2532  
~~liabilities, referred to in this section as reserves, for all~~ 2533  
~~outstanding life insurance policies and annuity and pure endowment~~ 2534  
~~contracts of every life insurance company doing business in this~~ 2535  
~~state. The superintendent may certify the amount of such reserves,~~ 2536  
~~specifying the mortality tables, rates of interest, and net level~~ 2537  
~~premium method and other methods used to calculate reserves. In~~ 2538  
~~calculating reserves, the superintendent may use group methods and~~ 2539  
~~approximate averages for fractions of a year or otherwise. The~~ 2540  
~~valuation of the reserves of a company organized under the laws of~~ 2541  
~~a foreign government shall be limited to its United States~~ 2542  
~~business.~~ 2543

~~In lieu of a valuation of the reserves of a foreign company,~~ 2544  
~~the superintendent may accept the valuation made, or caused to be~~ 2545  
~~made, by the insurance supervisory official of any state or other~~ 2546  
~~jurisdiction when such valuation complies with the minimum~~ 2547

~~standards required by this section, provided such official accepts 2548  
the certificate of valuation of the superintendent when such 2549  
certificate states that the valuation was made in a specified 2550  
manner and when such valuation complies with the minimum standards 2551  
required by the law of that state or jurisdiction. 2552~~

~~A company, which adopts a standard of valuation producing 2553  
aggregate reserves greater than those required by this section, 2554  
may adopt a lower standard of valuation with the approval of the 2555  
superintendent, but not lower than the minimum provided by this 2556  
section. However, the holding of additional reserves previously 2557  
determined by a qualified actuary to be necessary for the actuary 2558  
to render the opinions required by divisions (B)(1) and (2) of 2559  
this section shall not be deemed to be the adoption of a higher 2560  
standard of valuation. 2561~~

~~(B)(1) Every life insurance company doing business in this 2562  
state shall annually submit to the superintendent the opinion of a 2563  
qualified actuary as to whether the reserves and related actuarial 2564  
items held in support of the policies and contracts specified by 2565  
rule by the superintendent are computed appropriately, are based 2566  
on assumptions that satisfy contractual provisions, and are 2567  
consistent with prior reported amounts. The opinion shall be 2568  
submitted no later than March 1, 1996, and no later than the first 2569  
day of March of each year thereafter. The superintendent shall 2570  
adopt rules establishing the form and content of this opinion, and 2571  
may require the life insurance company to supply information in 2572  
addition to that contained in the actuarial opinion. 2573~~

~~As used in this section, a "qualified actuary" means a person 2574  
who is a member in good standing of the American academy of 2575  
actuaries and who meets the requirements set by rule by the 2576  
superintendent. 2577~~

~~(2)(a) Every life insurance company, except as exempted by 2578  
rule adopted by the superintendent, shall also include in the 2579~~

~~annual opinion required by division (B)(1) of this section an 2580  
opinion of the same qualified actuary as to whether the reserves 2581  
and related actuarial items held in support of the policies and 2582  
contracts specified by rule by the superintendent, when considered 2583  
in light of the assets held by the company with respect to the 2584  
reserves and related actuarial items, including, but not limited 2585  
to, the investment earnings on the assets and the considerations 2586  
anticipated to be received and retained under the policies and 2587  
contracts, make adequate provision for the company's obligations 2588  
under the policies and contracts, including, but not limited to, 2589  
the benefits under and the expenses associated with the policies 2590  
and contracts. 2591~~

~~(b) The superintendent may provide by rule for a transition 2592  
period for establishing any higher reserves that the qualified 2593  
actuary may consider necessary to render the opinion required by 2594  
division (B) of this section. 2595~~

~~(c) Each opinion required by division (B) of this section 2596  
shall be supported by a memorandum prepared in form and content as 2597  
specified by rule by the superintendent. 2598~~

~~(d) If a life insurance company fails to provide a supporting 2599  
memorandum within the period of time specified by rule by the 2600  
superintendent, or if the superintendent determines that a 2601  
supporting memorandum fails to meet the standards set out in the 2602  
rule, or is otherwise unacceptable to the superintendent, the 2603  
superintendent may employ, at the expense of the insurance 2604  
company, a qualified actuary to review the opinion and the basis 2605  
for the opinion and prepare such supporting memorandum as is 2606  
required by the superintendent. 2607~~

~~(3) Every opinion required by division (B) of this section is 2608  
governed by the following: 2609~~

~~(a) The opinion shall be submitted with the annual statement 2610~~

~~reflecting the valuation of the reserve liabilities.~~ 2611

~~(b) The opinion shall apply to all business in force including individual and group health insurance plans.~~ 2612  
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~~(c) The opinion shall be based on standards adopted from time to time by the actuarial standards board of the American academy of actuaries and on such additional standards as the superintendent may prescribe by rule.~~ 2614  
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~~(d) In the case of an opinion required to be submitted by a foreign or alien life insurance company, the superintendent may accept the opinion filed by that company with the insurance regulatory authority of another state if the superintendent determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.~~ 2618  
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~~(e) Except in cases of fraud or willful misconduct, the qualified actuary is not liable for damages in any civil action to any person, other than the insurance company and the superintendent, for any act, error, omission, decision, or conduct with respect to the actuary's opinion.~~ 2624  
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~~(f) The superintendent shall establish by rule penalties for an insurance company's or qualified actuary's failure to comply with this section.~~ 2629  
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~~(g) The superintendent shall keep as confidential and privileged any memorandum received in support of a qualified actuary's opinion and also any other material provided by the insurance company to the superintendent in connection with the opinion. The memorandum and other materials shall not be made public, and shall not be subject to subpoena other than for the purpose of defending an action required by this section or rules adopted under this section. However, if any portion of a confidential and privileged memorandum is cited by the company in its marketing, is cited before any governmental agency other than~~ 2632  
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~~a state insurance regulatory authority, or is released by the~~ 2642  
~~company to the news media, the entire memorandum shall no longer~~ 2643  
~~be confidential and privileged.~~ 2644

~~(h) Notwithstanding division (B)(3)(g) of this section, the~~ 2645  
~~superintendent may do any of the following:~~ 2646

~~(i) Disclose memoranda and other materials described in this~~ 2647  
~~section upon obtaining prior written consent from the insurer to~~ 2648  
~~which the memorandum or other materials pertain;~~ 2649

~~(ii) Disclose memoranda and other materials described in this~~ 2650  
~~section to the American academy of actuaries upon receipt of a~~ 2651  
~~written request from the academy stating that a memorandum or~~ 2652  
~~other material is required for the purpose of professional~~ 2653  
~~disciplinary proceedings. A request from the American academy of~~ 2654  
~~actuaries shall set forth the procedures to be used by the academy~~ 2655  
~~for preserving the confidential and privileged status of the~~ 2656  
~~memorandum or other material. If the procedures set forth are not~~ 2657  
~~satisfactory to the superintendent, the superintendent shall not~~ 2658  
~~release the memorandum or other material to the academy.~~ 2659

~~(iii) Share memoranda and other materials described in this~~ 2660  
~~section with the chief deputy rehabilitator, the chief deputy~~ 2661  
~~liquidator, other deputy rehabilitators and liquidators, and any~~ 2662  
~~other person employed by, or acting on behalf of, the~~ 2663  
~~superintendent pursuant to Chapter 3901. or 3903. of the Revised~~ 2664  
~~Code, with other local, state, federal, and international~~ 2665  
~~regulatory and law enforcement agencies, with local, state, and~~ 2666  
~~federal prosecutors, and with the national association of~~ 2667  
~~insurance commissioners and its affiliates and subsidiaries,~~ 2668  
~~provided that the recipient agrees to maintain the confidential or~~ 2669  
~~privileged status of any confidential or privileged memorandum or~~ 2670  
~~other material and has authority to do so;~~ 2671

~~(iv) Disclose memoranda and other materials described in this~~ 2672

~~section in the furtherance of any regulatory or legal action 2673  
brought by or on behalf of the superintendent or the state, 2674  
resulting from the exercise of the superintendent's official 2675  
duties. 2676~~

~~(i) Notwithstanding divisions (B)(3)(g) and (h) of this 2677  
section, the superintendent may authorize the national association 2678  
of insurance commissioners and its affiliates and subsidiaries by 2679  
agreement to share confidential or privileged memoranda and other 2680  
material received pursuant to division (B)(3)(h)(iii) of this 2681  
section with local, state, federal, and international regulatory 2682  
and law enforcement agencies and with local, state, and federal 2683  
prosecutors, provided that the recipient agrees to maintain the 2684  
confidential or privileged status of the confidential or 2685  
privileged memorandum or other material and has authority to do 2686  
so. 2687~~

~~(j) Notwithstanding divisions (B)(3)(g) and (h) of this 2688  
section, the chief deputy rehabilitator, the chief deputy 2689  
liquidator, and other deputy rehabilitators and liquidators may 2690  
disclose memoranda and other material described in this section in 2691  
the furtherance of any regulatory or legal action brought by or on 2692  
behalf of the superintendent, the rehabilitator, the liquidator, 2693  
or the state resulting from the exercise of the superintendent's 2694  
official duties in any capacity. 2695~~

~~(k) Nothing in this section shall prohibit the superintendent 2696  
from receiving memoranda and other material in accordance with 2697  
section 3901.045 of the Revised Code. 2698~~

~~(l) The superintendent may enter into agreements governing 2699  
the sharing and use of memoranda and materials consistent with the 2700  
requirements of this section. 2701~~

~~(m)(i) No waiver of any applicable privilege or claim of 2702  
confidentiality in the memoranda and materials described in this 2703~~

~~section shall occur as a result of sharing or receiving memoranda and material as authorized in divisions (B)(3)(h)(ii) and (iii), (B)(3)(i), and (B)(3)(k) of this section.~~

~~(ii) The disclosure of any memorandum or material in connection with a regulatory or legal action pursuant to divisions (B)(3)(h)(iv) and (B)(3)(j) of this section does not prohibit an insurer or any other person from taking steps to limit the dissemination of the memorandum or material to persons not involved in or the subject of the regulatory or legal action on the basis of any recognized privilege arising under any other section of the Revised Code or the common law.~~

~~(C) Except in the case of policies and contracts to which division (D) of this section applies, the minimum standard for the valuation of reserves shall be the method set forth in section 3915.04 of the Revised Code, using four per cent interest and the American experience table of mortality; provided that in no event shall a company's aggregate reserves for policies and contracts which guarantee nonforfeiture benefits be less than the aggregate reserves calculated in accordance with the standard used in calculating nonforfeiture benefits for such policies and contracts.~~

~~Reserves for such policies and contracts may be calculated according to standards which produce aggregate reserves greater than the minimum reserves required by this division.~~

~~(D) This division applies to all life insurance policies and annuity and pure endowment contracts issued on and after November 5, 1959, or each earlier date not before July 17, 1947, elected by the company for one or more of such policies or contracts as the date on which it would comply with the provisions of the nonforfeiture law for life insurance provided in section 3915.07 of the Revised Code or with the provisions of this division. The minimum standard for the valuation of all such policies and~~

~~contracts shall be the commissioners reserve valuation method 2736  
defined in division (E), (F), (H), or (K) of this section and the 2737  
following tables and interest rates: 2738~~

~~(1) Using the mortality, morbidity, and interest rates as 2739  
provided in divisions (B) to (H) of this section and in sections 2740  
3903.724, 3903.725, and 3903.727 of the Revised Code, the minimum 2741  
standard for the valuation of policies and contracts shall be 2742  
derived according to the commissioners reserve valuation methods 2743  
defined in divisions (I) to (L) and (O) of this section and 2744  
section 3903.727 of the Revised Code for policies and contracts 2745  
issued on or after January 1, 1989. 2746~~

~~(B) For ordinary life insurance policies, excluding 2747  
disability and accidental death benefits, issued on the standard 2748  
basis: 2749~~

~~(a) On and after November 5, 1959, or an earlier date, not 2750  
before July 17, 1947, specified in a written notice by the company 2751  
to the superintendent of its election to use this table and before 2752  
division (D)(1)(b) of this section became operative for subsequent 2753  
policy issues, the commissioners 1941 standard ordinary mortality 2754  
table and three and one half per cent interest; 2755~~

~~(b) On and after January 1, 1966, or an earlier date, not 2756  
before November 5, 1959, specified in a written notice by the 2757  
company to the superintendent of its election to use this table 2758  
and before division (D)(1)(c) of this section becomes operative 2759  
for subsequent policy issues, the commissioners 1958 standard 2760  
ordinary mortality table and three and one half per cent interest 2761  
before January 1, 1975; four per cent interest on and after 2762  
January 1, 1975 and before January 1, 1979; and four and one half 2763  
per cent interest on and after January 1, 1979; provided that 2764  
modified premiums and present values for female risks may be 2765  
calculated at an age three years younger than the actual age of 2766  
the insured for policies issued before January 1, 1979, and at an 2767~~

~~age six years younger for policies issued on and after January 1, 1979.~~ 2768  
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~~(c) On and after January 1, 1989, or an earlier date, not before January 1, 1983, specified in a written notice by the company to the superintendent of its election to use this table, the commissioners 1980 standard ordinary mortality table and the applicable valuation interest rate as defined in section 3903.721 of the Revised Code. The company may elect to use the commissioners 1980 standard ordinary mortality table with ten-year select mortality factors for any specified plan of life insurance. The superintendent may approve the use of any ordinary mortality table adopted after 1980 by the national association of insurance commissioners for determining the minimum standard for the valuation of such policies.~~ 2770  
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(2) on or after January 1, 1989, the minimum standard for the valuation of policies and contracts shall be derived from the following: 2782  
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(1) The commissioners 1980 standard ordinary mortality table; 2785

(2) At the election of the company for any one or more specified plans of life insurance, the commissioners 1980 standard ordinary mortality table with ten-year select mortality factors; 2786  
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(3) Any ordinary mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by rules adopted by the department of insurance for use in determining the minimum standard of valuation for such policies. 2789  
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(C) For industrial life insurance policies, excluding disability and accidental death benefits, issued on the standard basis: 2793  
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~~(a) On and after November 5, 1959, or an earlier date, not before July 17, 1947, specified in a written notice by the company to the superintendent of its election to use this table and before~~ 2796  
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~~division (D)(2)(b) of this section became operative for subsequent 2799  
policy issues, the 1941 standard industrial mortality table and 2800  
three and one half per cent interest; 2801~~

~~(b) On and after January 1, 1968, or an earlier date, not 2802  
before September 2, 1963, specified in a written notice by the 2803  
company to the superintendent of its election to use this table on 2804  
or after January 1, 1989, the minimum standard for the valuation 2805  
of policies shall be derived from the commissioners 1961 standard 2806  
industrial mortality table and three and one half per cent 2807  
interest before January 1, 1975; four per cent interest on and 2808  
after January 1, 1975 and before January 1, 1979; four and 2809  
one half per cent interest on and after January 1, 1979 and before 2810  
January 1, 1989, or before an earlier date, not before January 1, 2811  
1983, specified in a written notice by the company to the 2812  
superintendent of its election to issue such policies pursuant to 2813  
the provisions of the nonforfeiture law for life insurance 2814  
provided in section 3915.071 of the Revised Code. On and after 2815  
January 1, 1989, or such earlier date, the interest rate to be 2816  
used in calculating the minimum reserve for such policies is the 2817  
applicable valuation interest rate as defined in section 3903.721 2818  
of the Revised Code. The superintendent may approve the use of any 2819  
industrial mortality table adopted after 1980 by the national 2820  
association of insurance commissioners for determining the minimum 2821  
standard for the valuation of such policies or any industrial 2822  
mortality table adopted after 1980 by the national association of 2823  
insurance commissioners that is approved by rules adopted by the 2824  
superintendent for use in determining the minimum standard of 2825  
valuation for the policies. 2826~~

~~(3)(D) For all individual annuity and pure endowment 2827  
contracts, excluding disability and accidental death benefits, 2828  
issued; 2829~~

~~(a) On and after November 5, 1959, or an earlier date, not 2830~~

~~before July 17, 1947, as of which the company elected to comply with this division (D)(3)(a) and before division (D)(3)(b) of this section became operative for subsequent contract issues, the 1937 standard annuity mortality table, or, at the option of the company, the annuity mortality table for 1949, ultimate, or any modification of either table approved by the superintendent and three and one half per cent interest;~~

~~(b) On and after January 1, 1979, or an earlier date, not before January 1, 1975, specified by the company in a written notice to the superintendent of its election to use this table, the issued on or after January 1, 1989, the minimum standard for the valuation of contracts shall be derived from both of the following:~~

~~(1) The valuation interest rates as defined in section 3903.724 of the Revised Code;~~

~~(2) The 1971 individual annuity mortality table or any modification of that table approved by the superintendent and four per cent interest on and after January 1, 1975 and before January 1, 1979; four and one half per cent interest on and after January 1, 1979, and before January 1, 1983; and the valuation interest rate as defined in section 3903.721 of the Revised Code on and after January 1, 1983, except that on and after January 1, 1975, and before January 1, 1979, the interest rate is six per cent for single premium immediate contracts and on and after January 1, 1979, and before January 1, 1983, the interest rate is five and one half per cent for single premium deferred contracts and seven and one half per cent for single premium immediate contracts. The superintendent may approve the use of any individual annuity mortality table adopted after 1980 by the national association of insurance commissioners, either as adopted or as modified by the superintendent, for determining the minimum standard for the valuation of such contracts.~~

~~(4)(E) For all group annuity and pure endowment contracts, 2863  
excluding disability and accidental death benefits, purchased 2864  
under group annuity and pure endowment contracts: 2865~~

~~(a) On and after November 5, 1959, or an earlier date, not 2866  
before July 17, 1947, as of which the company elected to comply 2867  
with this division (D)(4)(a) and before division (D)(4)(b) of this 2868  
section became operative for subsequent contract purchases in the 2869  
policies issued on or after January 1, 1989, the group annuity 2870  
mortality table for 1951, any modification of this table approved 2871  
by the superintendent, or either of the tables, or modification of 2872  
either of them, specified in division (D)(3)(a) of this section 2873  
for individual annuity and pure endowment contracts and three and 2874  
one half per cent interest; 2875~~

~~(b) On and after January 1, 1979, or an earlier date, not 2876  
before January 1, 1975, specified by the company in a written 2877  
notice to the superintendent of its election to use this table, 2878  
the minimum standard for the valuation of contracts shall be 2879  
derived from both of the following: 2880~~

~~(1) The valuation interest rates as defined in section 2881  
3903.724 of the Revised Code; 2882~~

~~(2) The 1971 group annuity mortality table, or any 2883  
modification of that table approved by the superintendent, and six 2884  
per cent interest on and after January 1, 1975, and before January 2885  
1, 1979; seven and one half per cent interest on and after January 2886  
1, 1979, and before January 1, 1983, and the valuation interest 2887  
rate as defined in section 3903.721 of the Revised Code on and 2888  
after January 1, 1983. The superintendent may approve the use of 2889  
any group annuity mortality table adopted after 1980 by the 2890  
national association of insurance commissioners, either as adopted 2891  
or as modified by the superintendent, for determining the minimum 2892  
standard for the valuation of such contracts. 2893~~

~~(5)(F)~~ For total and permanent disability benefits in or 2894  
supplementary to ordinary policies and contracts issued: 2895

~~(a) On and after July 17, 1947, and before January 1, 1961,~~ 2896  
~~the class (3) disability table (1926) and three and one half per~~ 2897  
~~cent interest. This table, for active lives, shall be combined~~ 2898  
~~with a mortality table permitted for calculating the reserves for~~ 2899  
~~life insurance policies.~~ 2900

~~(b)(1) On and after January 1, 1961~~ 1989, the minimum 2901  
standard for the valuation of policies and contracts shall be 2902  
derived from the tables of period 2 disablement rates and the 1930 2903  
to 1950 termination rates of the 1952 disability study of the 2904  
society of actuaries, with due regard for the type of benefit+ 2905  
~~except that a company may, at its option, use the class (3)~~ 2906  
~~disability table (1926) for policies and contracts issued on and~~ 2907  
~~after January 1, 1961, and before January 1, 1966. Any such table,~~ 2908  
~~for active lives, shall be combined with a mortality table~~ 2909  
~~permitted for calculating the reserves for life insurance~~ 2910  
~~policies. The interest rate to be used in calculating minimum~~ 2911  
~~reserves for such benefits may not exceed the applicable rate~~ 2912  
~~specified in division (D)(1) of this section for ordinary life~~ 2913  
~~insurance policies. The superintendent may approve the use of or~~ 2914  
~~any other table of disablement rates and termination rates adopted~~ 2915  
~~after 1980 by the national association of insurance commissioners~~ 2916  
~~for use in determining the minimum standard for the valuation of~~ 2917  
~~such total and permanent benefits those policies.~~ 2918

Any such table shall, for active lives, be combined with a 2919  
mortality table permitted for calculating the reserves for life 2920  
insurance policies. 2921

(2) The interest rate to be used in calculating minimum 2922  
reserves for such benefits shall not exceed the applicable rate 2923  
specified in section 3903.724 of the Revised Code for ordinary 2924  
life insurance policies. 2925

~~(6)(G)~~ For accidental death benefits in or supplementary to policies issued: 2926  
2927

~~(a) On and after July 17, 1947, and before January 1, 1961, the inter company double indemnity mortality table and three and one half per cent interest. This table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.~~ 2928  
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~~(b)(1) On and after January 1, 1961 1989, the minimum standard for the valuation of policies shall be derived from the 1959 accidental death benefits table; except that a company may, at its option, use the inter company double indemnity mortality table for policies issued on and after January 1, 1961, and before January 1, 1966. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies. The interest rate to be used in calculating the minimum reserves for such benefits may not exceed the applicable rate specified in division (D)(1) of this section for ordinary life insurance policies. The superintendent may approve the use of or any accidental death benefits table adopted after 1980 by the national association of insurance commissioners for use in determining the minimum standard for the valuation of such accidental death benefits that is approved in rules adopted by the superintendent.~~ 2933  
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The table used shall be combined with a mortality table for calculating the reserves for life insurance policies. 2949  
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(2) The interest rate to be used in calculating minimum reserves for such benefits shall not exceed the applicable rate specified in section 3903.724 of the Revised Code for ordinary life insurance policies. 2951  
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~~(7)(H)~~ For group life insurance, life insurance issued on the substandard basis and all other special benefits, such tables as 2955  
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may be approved by the superintendent and interest not to exceed 2957  
the applicable rate used in division (D)(1) of this section for 2958  
ordinary life insurance policies. 2959

~~(E) This division defines the (I) Except as otherwise 2960  
provided in divisions (L) and (O) of this section and in section 2961  
3903.727 of the Revised Code, reserves according to the 2962  
commissioners reserve valuation method for all policies, riders, 2963  
and supplemental policy provisions, with the life insurance or and 2964  
endowment benefits, or both, of policies providing for a uniform 2965  
amounts amount of life insurance and requiring the payment of 2966  
uniform premiums. Reserves for such policies, riders, and 2967  
provisions, except as otherwise provided in divisions (F) and (K) 2968  
of this section, shall be the excess, if any, of the present value 2969  
on the valuation date of the future guaranteed benefits over the 2970  
then present value on that date of the any future modified net 2971  
premiums therefor. The modified net premium is a premiums for a 2972  
policy shall be the uniform percentage of each the respective 2973  
contract premium specified premiums for the guaranteed benefits 2974  
such that the present value, at the date of issue of the policy, 2975  
of all modified net premiums shall be equal to the sum of the then 2976  
present value, on the date of issue, of the future guaranteed 2977  
benefits plus the excess provided for by the policy and the excess 2978  
of division ~~(E)~~(I)(1) over division ~~(E)~~(I)(2) of this section, as 2979  
follows: 2980~~

(1) A net level annual premium equal to the present value, at 2981  
the date of issue, of such benefits provided for after the first 2982  
policy year, divided by the present value, at the date of issue, 2983  
of an annuity of one per annum payable on the first and each 2984  
subsequent anniversary of the policy on which a premium falls due; 2985  
~~provided that such.~~ However, the net level annual premium shall 2986  
not exceed the net level annual premium on the nineteen-year 2987  
premium whole life plan for insurance of the same amount at an age 2988

one year higher than the age at issue of the policy. 2989

(2) A net one-year term premium for such benefits provided 2990  
for in the first policy year. 2991

~~(F)~~(J) This division defines the commissioners reserve 2992  
valuation method for all life insurance policies issued on or 2993  
after January 1, 1989, that have a first year premium in excess of 2994  
the premium for the second policy year and for which excess no 2995  
comparable benefit is provided in the first year and that provide 2996  
either an endowment benefit or cash surrender value, or ~~both a~~ 2997  
combination, in an amount greater than the excess premium. 2998

~~Reserves for such policies before the assumed ending date shall be~~ 2999  
~~the greater of the amount calculated in accordance with division~~ 3000  
~~(E) of this section and the reserve calculated in accordance with~~ 3001  
~~that division but with the following changes~~ The reserve according 3002  
to the commissioners reserve valuation method as of any policy 3003  
anniversary occurring on or before the assumed ending date defined 3004  
herein as the first policy anniversary on which the sum of any 3005  
endowment benefit and any cash surrender value then available is 3006  
greater than the excess premium shall, except as otherwise 3007  
provided in division (O) of this section, be the greater of either 3008  
of the following: 3009

(1) The reserve as of the policy anniversary, with the policy 3010  
anniversary being calculated as described in division (I) of this 3011  
section; 3012

(2) The reserve as of the policy anniversary calculated as 3013  
described in division (I) of this section, but with: 3014

~~(1)~~(a) The value defined in division ~~(E)~~(I)(1) of this 3015  
section ~~shall be~~ being reduced by fifteen per cent of the amount 3016  
of such excess first-year premium; 3017

~~(2)~~(b) All present values of benefits and premiums ~~shall be~~ 3018  
being determined without reference to premiums and benefits 3019

provided for by the policy after the assumed ending date; 3020

~~(3)(c)~~ The policy ~~shall be~~ being assumed to mature on the 3021  
assumed ending date ~~in the amount of its~~ as an endowment ~~benefits~~ 3022  
~~and cash surrender value. The assumed ending date is the first~~ 3023  
~~policy anniversary on which the sum of any endowment benefit and~~ 3024  
~~any cash surrender value then available is greater than such~~ 3025  
~~excess first-year premium.~~ 3026

~~On and after the assumed ending date, the reserve for such~~ 3027  
~~policies shall be calculated in accordance with division (E) of~~ 3028  
~~this section;~~ 3029

(d) The cash surrender value provided on the assumed ending 3030  
date being considered as an endowment benefit. 3031

In making the above comparison, the mortality and interest 3032  
bases stated in this section and in section 3903.724 of the 3033  
Revised Code shall be used. 3034

~~(G)(K)~~ Reserves according to the commissioners reserve 3035  
valuation method shall be calculated by a method consistent with 3036  
the principles of divisions (I) and (J) of this section for: 3037

(1) ~~All~~ Life insurance policies, ~~riders, and supplemental~~ 3038  
~~policy provisions~~ providing for a varying amounts amount of life 3039  
insurance or requiring payment of varying premiums; 3040

(2) Group annuity and pure endowment contracts purchased 3041  
under a retirement plan or plan of deferred compensation, 3042  
established or maintained by an employer, including a partnership 3043  
or sole proprietorship, or by an employee organization, or by 3044  
both, other than a plan providing individual retirement accounts 3045  
or individual retirement annuities under section 408 of the 3046  
Internal Revenue Code of 1954, as amended; 3047

(3) Disability and accidental death benefits in all policies 3048  
and contracts; ~~and~~ 3049

(4) All other benefits, except life insurance and endowment 3050  
benefits in life insurance policies and benefits provided by all 3051  
other annuity and pure endowment contracts, ~~shall be calculated by~~ 3052  
~~a method consistent with the principles of division (E) of this~~ 3053  
~~section.~~ 3054

~~Extra premiums charged because of impairments or special 3055~~  
~~hazards shall be disregarded in determining modified net premiums.~~ 3056

~~(H)(L)(1)~~ This division defines the commissioners annuity 3057  
reserve valuation method for all annuity and pure endowment 3058  
contracts other than group annuity and pure endowment contracts 3059  
purchased under a retirement plan or plan of deferred 3060  
compensation, established or maintained by an employer, including 3061  
a partnership or sole proprietorship, or by an employee 3062  
organization, or by both, other than a plan providing individual 3063  
retirement accounts or individual retirement annuities under 3064  
section 408 of the Internal Revenue Code of 1954, as amended. 3065

(2) Reserves for benefits under such contracts, excluding 3066  
disability and accidental death benefits, shall be the greatest of 3067  
the respective excesses of the present values, at the date of 3068  
valuation, of the future guaranteed benefits, including guaranteed 3069  
nonforfeiture benefits, provided for by such contract at the end 3070  
of each respective contract year, over the present value, at the 3071  
date of valuation, of any future valuation considerations derived 3072  
from future gross considerations required by the terms of the 3073  
contract that become payable prior to the end of each such 3074  
respective contract year. The future guaranteed benefits shall be 3075  
determined by using the mortality table, if any, and the interest 3076  
rate, or rates, specified in such contracts for determining 3077  
guaranteed benefits. The valuation considerations are the portions 3078  
of the respective gross considerations applied under the terms of 3079  
such contracts to determine nonforfeiture values. 3080

~~(I)(M)(1)~~ In no event shall a company's aggregate reserves 3081

for all life insurance policies, ~~to which division (D) of this~~ 3082  
~~section applies~~, excluding disability and accidental death 3083  
benefits issued on or after January 1, 1989, be less than the 3084  
aggregate reserves calculated in accordance with the method set 3085  
forth in divisions ~~(E), (F), (G)(I), (K)(J), and (K)~~, (L), (O), 3086  
and (P) of this section and the mortality table or tables and rate 3087  
or rates of interest used in calculating nonforfeiture benefits 3088  
for such policies. 3089

(2) In no event shall the aggregate reserves for all 3090  
policies, contracts, and benefits be less than the aggregate 3091  
reserves determined by the ~~qualified~~ appointed actuary to be 3092  
necessary to render the opinion required by ~~division (B) of this~~ 3093  
section 3903.722 of the Revised Code. 3094

~~(J)(N)(1)~~ Reserves for policies and contracts issued prior to 3095  
January 1, 1989, may be calculated, at the option of the company, 3096  
according to any standards that produce greater aggregate reserves 3097  
for all such policies and contracts than the minimum reserves 3098  
required by the laws in effect immediately prior to that date. 3099

(2) Reserves for any category of policies, contracts, or 3100  
benefits as established by the superintendent, issued on or after 3101  
January 1, 1989, may be calculated, at the option of the company, 3102  
according to any standards ~~which~~ that produce aggregate reserves 3103  
for such category greater than those calculated according to the 3104  
minimum standards provided in this section, but the rate or rates 3105  
of interest used for policies and contracts, other than annuity 3106  
and pure endowment contracts, shall not be higher than the 3107  
corresponding rate or rates of interest used in calculating any 3108  
nonforfeiture benefits provided for in such standards. 3109

~~(K)(3)~~ A company, which adopts at any time a standard of 3110  
valuation producing greater aggregate reserves than those 3111  
calculated according to the minimum standard provided under 3112  
sections 3903.72 to 3903.7211 of the Revised Code, may adopt a 3113

lower standard of valuation with the approval of the 3114  
superintendent, but not lower than the minimum provided in these 3115  
sections. However, for the purposes of this division, the holding 3116  
of additional reserves previously determined by the appointed 3117  
actuary to be necessary to render the opinion required by sections 3118  
3903.722 and 3903.726 of the Revised Code shall not be considered 3119  
to be the adoption of a higher standard of valuation. 3120

(O) If in any contract year the gross premium charged by a 3121  
company on a policy or contract is less than the valuation net 3122  
premium calculated by the method used in calculating the reserve 3123  
for a policy or contract but using the minimum valuation standards 3124  
of mortality and rate of interest is more than the gross premium 3125  
for such policy or contract, the minimum reserve required for such 3126  
policy or contract shall be the greater of either the reserve 3127  
calculated according to the mortality table, rate of interest, and 3128  
method actually used for such policy or contract, or the reserve 3129  
calculated by such method but using the minimum valuation 3130  
standards of mortality and rate of interest and replacing the 3131  
valuation net premium by the actual gross premium in each contract 3132  
year for which the valuation net premium exceeds the actual gross 3133  
premium. The minimum valuation standards of mortality and rate of 3134  
interest referred to in this division are those required by 3135  
division (D) divisions (A) to (H) of this section and section 3136  
3903.724 of the Revised Code. 3137

~~For the purposes of this division, the minimum reserve for~~ 3138  
~~any policy to which the provisions of division (F) of this section~~ 3139  
~~apply shall be calculated~~ For a life insurance policy issued on or 3140  
after January 1, 1987, for which the gross premium in the first 3141  
policy year exceeds that of the second year and for which no 3142  
comparable additional benefit is provided in the first year for 3143  
the excess and that provides an endowment benefit or a cash 3144  
surrender value or a combination in an amount greater than the 3145

excess premium, the provisions of this division shall be applied 3146  
as if the method used in calculating the reserve for such policy 3147  
were the method defined in division ~~(E)~~(I) of this section. The 3148  
minimum reserve for such policy, at each policy anniversary, shall 3149  
be the greater of the minimum reserve calculated in accordance 3150  
with division ~~(F)~~(J) of this section and in accordance with this 3151  
division. 3152

~~(L) Methods for determining the reserves for plans of (P) In~~ 3153  
the case of a plan of life insurance that provides for future 3154  
premium determination, the amounts of which are to be determined 3155  
by the insurance company based on then estimates of future 3156  
experience, or in the case of a life insurance or annuity which 3157  
are that is of such a nature that the minimum reserves cannot be 3158  
determined by the methods described in divisions (I), (J), (K), 3159  
(L), and (O) of this section shall be promulgated by rule adopted 3160  
by the superintendent. The, the reserves to be held under such 3161  
plans must the plan shall be appropriate in relation to the 3162  
benefits and the pattern of premiums for each that plan and must 3163  
shall be computed by methods which are a method that is consistent 3164  
with the principles of this section as determined by rules adopted 3165  
by the superintendent. This division applies to any plan of life 3166  
insurance which provides for future premium determination, the 3167  
amounts of which are to be determined by the company on the basis 3168  
of an estimate of future experience made at the time of any such 3169  
determination. 3170

~~(M)~~(O) The superintendent shall adopt rules specifying 3171  
minimum reserve standards for the valuation of individual and 3172  
group health plans. 3173

**Sec. ~~3903.721~~ 3903.724.** (A) The This section shall determine 3174  
the calendar year statutory valuation interest rate rates (VIR) 3175  
required by division (D) of section 3903.72 of the Revised Code is 3176

determined <u>used in determining the minimum standard for the</u>	3177
<u>valuation of all of the following:</u>	3178
<u>(1) Life insurance policies issued on or after January 1,</u>	3179
<u>1989;</u>	3180
<u>(2) Individual annuity and pure endowment contracts issued on</u>	3181
<u>or after January 1, 1989;</u>	3182
<u>(3) Annuities and pure endowments purchased on or after</u>	3183
<u>January 1, 1989, under group annuity and pure endowment contracts;</u>	3184
<u>(4) The net increase, if any, in amounts held under a</u>	3185
<u>guaranteed interest contract in a calendar year after January 1,</u>	3186
<u>1989.</u>	3187
<u>(B) The calendar year statutory valuation interest rates</u>	3188
<u>shall be calculated as follows and the results rounded to the</u>	3189
<u>nearest one-quarter of one per cent:</u>	3190
<u>(1)(a) For <del>all</del> life insurance <del>policies</del>, by adding three per</u>	3191
cent to the result of multiplying W (the applicable weighting	3192
factor) by R(sub-1) minus three per cent (where R(sub-1) is the	3193
lesser of the reference interest rate and nine per cent) and also	3194
adding the result of multiplying one-half of the weighting factor	3195
by R(sub-2) minus nine per cent (where R(sub-2) is the greater of	3196
the reference interest rate and nine per cent), expressed as	3197
follows:	3198
VIR = .03 + W (R(sub-1) - .03) + W/2(R(sub-2) - .09).	3199
<u>(b) Provided that if the <u>calendar year statutory</u> valuation</u>	3200
interest rate for <del>policies</del> <u>a life insurance policy</u> issued in any	3201
calendar year determined in accordance with this division does not	3202
differ from the <u>calendar year</u> valuation interest rate for similar	3203
policies issued in the preceding calendar year by at least	3204
one-half of one per cent, the <u>calendar year</u> valuation interest	3205
rate for <del>such policies</del> <u>the policy</u> shall be equal to the <u>calendar</u>	3206
<u>year</u> valuation interest rate for the preceding calendar year. <del>For</del>	3207

~~any calendar year the~~ The calendar year statutory valuation 3208  
~~interest rate is~~ shall be determined for each ~~preceding calendar~~ 3209  
~~year starting with 1980 and for each subsequent year prior to the~~ 3210  
operative date of the valuation manual. 3211

(2) For all ~~annuity and guaranteed interest contracts~~ single 3212  
premium immediate annuities and for annuity benefits involving 3213  
life contingencies arising from other annuities with cash 3214  
settlement options and from guaranteed interest contracts with 3215  
cash settlement options by adding to three per cent the result of 3216  
multiplying W (the applicable weighting factor) by R minus three 3217  
per cent (where R is the reference interest rate), expressed as 3218  
follows: 3219

$$\text{VIR} = .03 + W (R - .03). \quad 3220$$

~~Provided that~~ 3221

(3) Except as provided in division (B)(2) of this section, 3222  
for other annuities with cash settlement options and guaranteed 3223  
interest contracts with cash settlement options, valued on an 3224  
issue year basis, the life insurance formula stated in division 3225  
~~(A)(B)(1)~~ of this section shall apply to all annuity and 3226  
guaranteed interest contracts ~~with cash settlement options valued~~ 3227  
~~on an issue year basis and~~ with guarantee durations in excess of 3228  
ten years ~~other than single premium immediate annuities and~~ 3229  
~~annuity benefits involving life contingencies arising from other~~ 3230  
~~annuity and guaranteed interest contracts.~~ 3231

~~(3) The results obtained under divisions (A)(1) and (2) of~~ 3232  
~~this section shall be rounded to the nearer one quarter of one per~~ 3233  
~~cent.~~ 3234

~~(B) The weighting factors for~~ and the formula for single 3235  
premium immediate annuities stated in division (B)(2) of this 3236  
section shall apply to annuities and guaranteed interest contracts 3237  
with guarantee duration of ten years or less. 3238

(4) For other annuities with no cash settlement options and 3239  
for guaranteed interest contracts with no cash settlement options, 3240  
the formula for single premium immediate annuities stated in 3241  
division (B)(2) of this section shall apply. 3242

(5) For other annuities with cash settlement options and 3243  
guaranteed interest contracts with cash settlement options, valued 3244  
on a change in fund basis, the formula for single premium 3245  
immediate annuities stated in division (B)(2) of this section 3246  
shall apply. 3247

(C) For life insurance policies change with the guarantee 3248  
duration of the plan of insurance. The, the guarantee duration is 3249  
the maximum number of years the life insurance can remain in force 3250  
on a basis guaranteed in the policy or under an option to convert 3251  
to a plan of life insurance with premium rates or nonforfeiture 3252  
values, or both, guaranteed in the policy. ~~The~~ 3253

(D) The weighting factors for the formulas prescribed in 3254  
division (B) of this section are shown in the following table: 3255

Weighting Factors for Life Insurance		3256
Guarantee Duration	Weighting	3257
(Years)	Factors	3258
10 or less	.50	3259
More than 10, but not more than 20	.45	3260
More than 20	.35	3261

~~(C)~~(E) The weighting factor for single premium immediate 3262  
annuities and for annuity benefits involving life contingencies 3263  
arising from other annuity and guaranteed interest contracts with 3264  
cash settlement options is ~~eighty hundredths~~ .80. 3265

~~(D)~~(F) Weighting factors for all other annuity and guaranteed 3266  
interest contracts vary with the type of plan and guarantee 3267  
duration. The types of plans are as follows: 3268

(1) A plan type A is one in which funds may not be withdrawn 3269

or may be withdrawn in only one of three ways:	3270
(a) With an adjustment to reflect changes in interest rates	3271
or asset values since receipt of the funds by the company;	3272
(b) Without such adjustment but in installments over five or	3273
more years;	3274
(c) As an immediate life annuity.	3275
(2) A plan type B is one in which the funds may not be	3276
withdrawn before the expiration of the interest rate guarantee	3277
unless an adjustment is made to reflect changes in interest rates	3278
or asset values since receipt of the funds by the company or	3279
unless they are withdrawn in installments over five or more years.	3280
At the end of the interest rate guarantee, funds may be withdrawn	3281
in a single sum or in installments over less than five years	3282
without adjustment.	3283
(3) A plan type C is one in which the funds may be withdrawn	3284
before the end of the interest rate guarantee in a single sum or	3285
in installments over less than five years without adjustment <u>to</u>	3286
<u>reflect changes in interest rates or asset values since receipt of</u>	3287
<u>the funds by the company</u> or subject only to a fixed surrender	3288
charge stipulated in the contract as a percentage of the fund.	3289
(4) The guarantee duration for an annuity or guaranteed	3290
interest contract with cash settlement options is the number of	3291
years for which the contract guarantees interest rates in excess	3292
of the <u>calendar year</u> valuation interest rate for life insurance	3293
policies with guarantee duration in excess of twenty years. The	3294
guarantee duration for annuity and guaranteed interest contracts	3295
without cash settlement options is the number of years from the	3296
date of issue or date of purchase to the date annuity benefits are	3297
scheduled to commence.	3298
(5) Annuity and guaranteed interest contracts with cash	3299
settlement options may be valued on an issue year basis or on a	3300

~~change in fund basis. If valued on an issue year basis, the~~ 3301  
~~interest rate used to determine the minimum valuation standard for~~ 3302  
~~the entire duration is the valuation interest rate for the year of~~ 3303  
~~issue or purchase. If valued on a change in fund basis, the~~ 3304  
~~interest rate used to determine the minimum valuation standard~~ 3305  
~~applicable to each change in the fund held under the contract is~~ 3306  
~~the valuation interest rate for the year of change in the fund.~~ 3307  
Annuity and guaranteed interest contracts without cash settlement 3308  
options must be valued on an issue year basis. As used in this 3309  
division, an issue year basis of valuation refers to a valuation 3310  
basis under which the interest rate used to determine the minimum 3311  
valuation standard for the entire duration of the annuity or 3312  
guaranteed interest contract is the calendar year valuation 3313  
interest rate for the year of issue or year of purchase of the 3314  
annuity or guaranteed interest contract, and the change in fund 3315  
basis of valuation refers to a valuation basis under which the 3316  
interest rate used to determine the minimum valuation standard 3317  
applicable to each change in the fund held under the annuity or 3318  
guaranteed interest contract is the calendar year valuation 3319  
interest rate for the year of the change in the fund. 3320

(6) ~~These weighting~~ Weighting factors for other annuities and 3321  
for guaranteed interest contracts, except as stated in division 3322  
(E) of this section, are specified in the applicable table shown 3323  
below. ~~Table I applies to~~ 3324

(a) For annuity and guaranteed interest contracts valued on 3325  
an issue year basis ~~that either guarantee interest on~~ 3326  
~~considerations received more than one year after issue or purchase~~ 3327  
~~or that have no cash settlement options. Table II applies to~~ 3328  
~~annuity and guaranteed interest contracts with cash settlement~~ 3329  
~~options valued on an issue year basis that do not guarantee~~ 3330  
~~interest on considerations received more than one year after issue~~ 3331  
~~or purchase. Tables III and IV are for contracts similar to those~~ 3332

~~in tables I and II, respectively, except that they are valued on a change in fund basis and the one year guarantee refers to one year following the valuation date.:~~

Weighting Factors for Annuities and Guaranteed 3336

Interest Contracts 3337

~~Table I 3338~~

~~Issue Year Basis — Interest on Considerations After First Year 3339~~

~~Guaranteed Or No Cash Settlement Options 3340~~

Weighting Factor for 3341

Plan Type 3342

Guarantee Duration (Years)	A	B	C	3343
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5 or less	.80	.60	.50	3344
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More than 5, but not more than 10	.75	.60	.50	3345
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More than 10, but not more than 20	.65	.50	.45	3346
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More than 20	.45	.35	.35	3347
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~~Table II 3348~~

~~Issue Year Basis — Interest on Considerations After First Year 3349~~

~~NOT Guaranteed And Cash Settlement Options 3350~~

~~Weighting Factor for 3351~~

~~Plan Type 3352~~

<del>Guarantee Duration (Years)</del>	<del>A</del>	<del>B</del>	<del>C</del>	<del>3353</del>
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<del>5 or less</del>	<del>.85</del>	<del>.65</del>	<del>.55</del>	<del>3354</del>
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<del>More than 5, but not more than 10</del>	<del>.80</del>	<del>.65</del>	<del>.55</del>	<del>3355</del>
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<del>More than 10, but not more than 20</del>	<del>.70</del>	<del>.55</del>	<del>.50</del>	<del>3356</del>
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<del>More than 20</del>	<del>.50</del>	<del>.40</del>	<del>.40</del>	<del>3357</del>
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~~Table III 3358~~

~~Change in Fund Basis — Interest on Considerations Guaranteed 3359~~

~~More Than Twelve Months After Valuation Date 3360~~

~~Weighting Factor for 3361~~

~~Plan Type 3362~~

<del>Guarantee Duration (Years)</del>	<del>A</del>	<del>B</del>	<del>C</del>	<del>3363</del>
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<del>5 or less</del>	<del>.95</del>	<del>.85</del>	<del>.55</del>	<del>3364</del>
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<del>More than 5, but not more than 10</del>	<del>.90</del>	<del>.85</del>	<del>.55</del>	<del>3365</del>
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More than 10, but not more than 20	.80	.75	.50	3366
More than 20	.60	.60	.40	3367

Table IV 3368

~~Change in Fund Basis — Interest on Considerations NOT~~ 3369

~~Guaranteed More Than Twelve Months After Valuation Date~~ 3370

~~Weighting Factor for~~ 3371

~~Plan Type~~ 3372

<del>Guarantee Duration (Years)</del>	<del>A</del>	<del>B</del>	<del>C</del>	
<del>5 or less</del>	<del>1.00</del>	<del>.90</del>	<del>.60</del>	3374
<del>More than 5, but not more than 10</del>	<del>.95</del>	<del>.90</del>	<del>.90</del>	3375
<del>More than 10, but not more than 20</del>	<del>.85</del>	<del>.80</del>	<del>.55</del>	3376
<del>More than 20</del>	<del>.65</del>	<del>.65</del>	<del>.45</del>	3377

~~(E)(b) For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in division (F)(6)(a) of this section increased by the following amounts:~~ 3378  
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3380

~~(i) For plan type A, .15;~~ 3381

~~(ii) For plan type B, .25;~~ 3382

~~(iii) For plan type C, .05.~~ 3383

~~(c) For annuities and guaranteed interest contracts valued on an issue year basis, other than those with no cash settlement options, that do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis that do not guarantee interest rates on considerations received more than twelve months beyond the valuation date, the factors shown in item (F)(6)(a) or derived in item (F)(6)(b) increased by .05 for all plan types.~~ 3384  
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~~(G) The reference interest rate is determined by taking comparing the monthly average for of the applicable period of time of Moody's corporate bond yield average — monthly average eorporates composite yield of the monthly average on seasoned~~ 3393  
3394  
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corporate bonds, as published by Moody's investors service, inc. 3397  
for the applicable time period, as prescribed below: 3398

(1) The reference interest rate for all life insurance is the 3399  
lesser of such average over the thirty-six month period and such 3400  
average over the twelve-month period ending on the thirtieth day 3401  
of June of the calendar year preceding the year of issue. 3402

(2) The reference interest rate for annuity and guaranteed 3403  
interest contracts with cash settlement options, except single 3404  
premium immediate annuities and annuity benefits involving life 3405  
contingencies arising from other annuity and guaranteed interest 3406  
contracts with cash settlement options, valued on an issue year 3407  
basis with guarantee durations in excess of ten years, is the 3408  
lesser of such average over the thirty-six month period and such 3409  
average over the twelve-month period ending on the thirtieth day 3410  
of June of the calendar year of issue or purchase. 3411

(3) The reference interest rate for other annuities with cash 3412  
settlement options and guaranteed interest contracts with cash 3413  
settlement options, valued on a year of issue basis, except as 3414  
stated in division (G)(6) of this section, with guarantee duration 3415  
of ten years or less, such average over the twelve-month period 3416  
ending on the thirtieth day of June of the calendar year of issue 3417  
or purchase. 3418

(4) The reference interest rate for other annuities with no 3419  
cash settlement options and for guaranteed interest contracts with 3420  
no cash settlement options, such average over the twelve-month 3421  
period ending on the thirtieth day of June of the calendar year of 3422  
issue or purchase. 3423

(5) The reference interest rate for all other annuity and 3424  
guaranteed interest contracts with cash settlement options valued 3425  
on a change in fund basis is such average over the twelve-month 3426  
period ending on the thirtieth day of June of the calendar year in 3427

which a change in the fund occurs. 3428

~~(4)~~(6) The reference interest rate for all single premium 3429  
immediate annuities, and annuity benefits involving life 3430  
contingencies arising from other annuity and guaranteed interest 3431  
contracts with cash settlement options, ~~and all other annuity and~~ 3432  
~~guaranteed interest contracts~~ is such average over the 3433  
twelve-month period ending on the thirtieth day of June of the 3434  
calendar year of issue or purchase. 3435

~~(5)~~(7) If such corporate bond rate average is no longer 3436  
published or the national association of insurance commissioners 3437  
determines that such average is no longer appropriate, the 3438  
superintendent may by rule approve the use of any alternative 3439  
method for the determination of the reference interest rate 3440  
adopted by the commissioners. 3441

Sec. 3903.725. For individual annuity and pure endowment 3442  
contracts issued on or after January 1, 1989, and for annuities 3443  
and pure endowments purchased on or after January 1, 1989, under 3444  
group annuity and pure endowment contracts, the minimum standard 3445  
of valuation shall be the commissioners reserve valuation methods 3446  
defined in divisions (I), (J), (K), and (L) of section 3903.723 of 3447  
the Revised Code, interest rates defined in section 3903.724 of 3448  
the Revised Code, and the following tables: 3449

(A) For individual single premium immediate annuity contracts 3450  
issued on or after January 1, 1989, excluding any disability and 3451  
accidental death benefits in those contracts, the 1971 individual 3452  
annuity mortality table or any individual annuity mortality table 3453  
adopted after 1980 by the national association of insurance 3454  
commissioners that is approved in rules adopted by the 3455  
superintendent for use in determining the minimum standard of 3456  
valuation for these contracts, or any modification of these tables 3457  
approved by the superintendent; 3458

(B) For individual annuity and pure endowment contracts 3459  
issued on or after January 1, 1989, other than single premium 3460  
immediate annuity contracts, excluding any disability and 3461  
accidental death benefits in those contracts, the 1971 individual 3462  
annuity mortality table or any individual annuity mortality table 3463  
adopted after 1980 by the national association of insurance 3464  
commissioners that is adopted in rules by the superintendent for 3465  
use in determining the minimum standard of valuation for those 3466  
contracts, or any modification of these tables approved by the 3467  
superintendent; 3468

(C) For annuities and pure endowments purchased on or after 3469  
January 1, 1989, under group annuity and pure endowment contracts, 3470  
excluding any disability and accidental death benefits purchased 3471  
under those contracts, the 1971 group annuity mortality table, or 3472  
any group annuity mortality table adopted after 1980 by the 3473  
national association of insurance commissioners that is approved 3474  
in rules adopted by the superintendent for use in determining the 3475  
minimum standard of valuation for annuities and pure endowments, 3476  
or any modification of these tables approved by the 3477  
superintendent. 3478

**Sec. 3903.726.** (A) This section shall apply on and after the 3479  
operative date of the valuation manual. 3480

(B) Every company with an outstanding life insurance 3481  
contract, accident and health insurance contract, or deposit-type 3482  
contract in this state that is subject to rules adopted by the 3483  
superintendent shall annually submit the opinion of an appointed 3484  
actuary as to whether the reserves and related actuarial items 3485  
held in support of the policies and contracts are computed 3486  
appropriately, are based on assumptions that satisfy contractual 3487  
provisions, are consistent with prior reported amounts, and comply 3488  
with applicable laws of this state. The valuation manual shall 3489

prescribe the specifics of this opinion. 3490

(C) Every company with an outstanding life insurance contract, accident and health insurance contract, or deposit-type contract in this state that is subject to rules adopted by the superintendent, except as exempted in the valuation manual, shall also annually include in the opinion required by division (B) of this section, an opinion of the same appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including the benefits under and expenses associated with the policies and contracts. 3491  
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(D) Each opinion required by divisions (B) and (C) of this section shall be governed by the following provisions: 3506  
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(1) The opinion shall be in form and substance as specified in the valuation manual and acceptable to the superintendent. 3508  
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(2) The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after the operative date of the valuation manual. 3510  
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(3) The opinion shall apply to all policies and contracts subject to division (C) of this section, plus other actuarial liabilities as may be specified in the valuation manual. 3513  
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(4) The opinion shall be based on standards adopted from time to time by the actuarial standards board or its successor, and on such additional standards as may be prescribed in the valuation manual. 3516  
3517  
3518  
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(5) In the case of an opinion required to be submitted by a 3520

foreign or alien company, the superintendent may accept the 3521  
opinion filed by that company with the insurance supervisory 3522  
official of another state if the superintendent determines that 3523  
the opinion reasonably meets the requirements applicable to a 3524  
company domiciled in this state. 3525

(6) Except in cases of fraud or willful misconduct, the 3526  
appointed actuary shall not be liable for damages to any person, 3527  
other than the insurance company and the superintendent, for any 3528  
act, error, omission, decision, or conduct with respect to the 3529  
appointed actuary's opinion. 3530

(7) Disciplinary action by the superintendent against the 3531  
company or the appointed actuary shall be defined in rules adopted 3532  
by the superintendent. 3533

(E) In addition to the requirements specified in division (D) 3534  
of this section, each opinion required by division (C) of this 3535  
section shall be governed by the following provisions: 3536

(1) A memorandum, in form and substance as specified in the 3537  
valuation manual, and acceptable to the superintendent, shall be 3538  
prepared to support each actuarial opinion. 3539

(2) If the insurance company fails to provide a supporting 3540  
memorandum at the request of the superintendent within a period 3541  
specified in the valuation manual or the superintendent determines 3542  
that the supporting memorandum provided by the insurance company 3543  
fails to meet the standards prescribed by the valuation manual or 3544  
is otherwise unacceptable to the superintendent, the 3545  
superintendent may engage a qualified actuary at the expense of 3546  
the company to review the opinion and the basis for the opinion 3547  
and prepare the supporting memorandum required by the 3548  
superintendent. 3549

**Sec. 3903.727.** For accident and health insurance contracts 3550

issued on or after the operative date of the valuation manual, the 3551  
standard prescribed in the valuation manual is the minimum 3552  
standard of valuation required under division (B) of section 3553  
3903.721 of the Revised Code. For disability, accident and 3554  
sickness, accident and health insurance contracts issued on or 3555  
after January 1, 1989, and prior to the operative date of the 3556  
valuation manual, the minimum standard of valuation is the 3557  
standard adopted in rules by the superintendent. 3558

**Sec. 3903.728.** (A) For policies issued on or after the 3559  
operative date of the valuation manual, the standard prescribed in 3560  
the valuation manual is the minimum standard of valuation required 3561  
under division (B) of section 3903.721 of the Revised Code, except 3562  
as provided under divisions (E) and (G) of this section. 3563

(B) The operative date of the valuation manual is January 1 3564  
of the first calendar year following the first July 1 as of which 3565  
all of the following have occurred: 3566

(1) The valuation manual has been adopted by the national 3567  
association of insurance commissioners by an affirmative vote of 3568  
at least forty-two members, or three-fourths of the members 3569  
voting, whichever is greater. 3570

(2) The standard valuation law, as amended by the national 3571  
association of insurance commissioners in 2009, or legislation 3572  
including substantially similar terms and provisions, has been 3573  
enacted by states representing greater than seventy-five per cent 3574  
of the direct premiums written as reported in one or more of the 3575  
following annual statements submitted for 2008: life, accident, 3576  
and health annual statements; health annual statements; or 3577  
fraternal annual statements. 3578

(3) The standard valuation law, as amended by the national 3579  
association of insurance commissioners in 2009, or legislation 3580

including substantially similar terms and provisions, has been 3581  
enacted by at least forty-two of the following fifty-five 3582  
jurisdictions: the fifty states of the United States, American 3583  
Samoa, the American Virgin Islands, the District of Columbia, 3584  
Guam, and Puerto Rico. 3585

(C) Unless a change in the valuation manual specifies a later 3586  
effective date, changes to the valuation manual shall be effective 3587  
on January 1 following the date when all of the following have 3588  
occurred: 3589

(1) The change to the valuation manual has been adopted by 3590  
the national association of insurance commissioners by an 3591  
affirmative vote representing both of the following: 3592

(a) At least three-fourths of the members of the national 3593  
association of insurance commissioners voting, but not less than a 3594  
majority of the total membership; 3595

(b) Members of the national association of insurance 3596  
commissioners representing jurisdictions totaling greater than 3597  
seventy-five per cent of the direct premiums written as reported 3598  
in one or more of the following annual statements most recently 3599  
available prior to the vote in division (C)(1)(a) of this section: 3600  
life, accident, and health annual statements; health annual 3601  
statements; or fraternal annual statements. 3602

(D) The valuation manual shall specify all of the following: 3603

(1) Minimum valuation standards for and definitions of the 3604  
policies or contracts subject to division (B) of section 3903.721 3605  
of the Revised Code. The minimum valuation standards shall be: 3606

(a) The commissioners reserve valuation method for life 3607  
insurance contracts, other than annuity contracts, subject to 3608  
division (B) of section 3903.721 of the Revised Code; 3609

(b) The commissioners annuity reserve valuation method for 3610

annuity contracts subject to division (B) of section 3903.721 of 3611  
the Revised Code; 3612

(c) Minimum reserves for all other policies or contracts 3613  
subject to division (B) of section 3903.721 of the Revised Code. 3614

(2) Which policies or contracts or types of policies or 3615  
contracts are subject to the requirements of a principle-based 3616  
valuation in division (A) of section 3903.729 of the Revised Code 3617  
and the minimum valuation standards consistent with those 3618  
requirements. 3619

(3) For policies and contracts subject to a principle-based 3620  
valuation under section 3903.729 of the Revised Code: 3621

(a) Requirements for the format of reports to the 3622  
superintendent under division (B)(3) of section 3903.729 of the 3623  
Revised Code that shall include information necessary to determine 3624  
if the valuation is appropriate and in compliance with sections 3625  
3903.72 to 3903.7211 of the Revised Code. 3626

(b) Assumptions for risks over which the company does not 3627  
have significant control or influence. 3628

(c) Procedures for corporate governance and oversight of the 3629  
actuarial function, and a process for appropriate waiver or 3630  
modification of such procedures. 3631

(4) For policies not subject to a principle-based valuation 3632  
under section 3903.729 of the Revised Code, the minimum valuation 3633  
standard, which shall be or do either of the following: 3634

(a) Be consistent with the minimum standard of valuation 3635  
prior to the operative date of the valuation manual; 3636

(b) Develop reserves that quantify the benefits and 3637  
guarantees, and the funding, associated with the contracts and 3638  
their risks at a level of conservatism that reflects conditions 3639  
that include unfavorable events that have a reasonable probability 3640

of occurring. 3641

(5) Other requirements, including those relating to reserve 3642  
methods, models for measuring risk, generation of economic 3643  
scenarios, assumptions, margins, use of company experience, risk 3644  
measurement, disclosure, certifications, reports, actuarial 3645  
opinions and memorandums, transition rules, and internal controls; 3646

(6) The data and form of the data required under section 3647  
3903.7210 of the Revised Code, with whom the data must be 3648  
submitted, and other requirements specified by the superintendent, 3649  
which may include data analyses and reporting of analyses. 3650

(E) In the absence of a specific valuation requirement or if 3651  
a specific valuation requirement in the valuation manual is not, 3652  
in the opinion of the superintendent, in compliance with sections 3653  
3903.72 to 3903.7211 of the Revised Code, then the company shall, 3654  
with respect to such requirements, comply with minimum valuation 3655  
standards prescribed in rules adopted by the superintendent. 3656

(F) The superintendent may engage a qualified actuary, at the 3657  
expense of the company, to perform an actuarial examination of the 3658  
company and opine on the appropriateness of any reserve assumption 3659  
or method used by the company, or to review and opine on a 3660  
company's compliance with any requirement set forth in sections 3661  
3903.72 to 3903.7211 of the Revised Code. The superintendent may 3662  
rely upon the opinion, regarding provisions contained within 3663  
sections 3903.72 to 3903.7211 of the Revised Code, of a qualified 3664  
actuary engaged by the insurance commissioner of another state, 3665  
district, or territory of the United States. As used in this 3666  
division, the term "engage" includes employment and contracting. 3667

(G) The superintendent may require a company to change any 3668  
assumption or method that in the opinion of the superintendent is 3669  
necessary in order to comply with the requirements of the 3670  
valuation manual or sections 3903.72 to 3903.7211 of the Revised 3671

Code, and the company shall adjust the reserves as required by the 3672  
superintendent. The superintendent may take other disciplinary 3673  
action as permitted under applicable laws. 3674

Sec. 3903.729. (A) A company shall establish reserves using a 3675  
principle-based valuation that meets the following conditions for 3676  
policies or contracts as specified in the valuation manual: 3677

(1) The principle-based valuation shall quantify the benefits 3678  
and guarantees, and the funding, associated with the contracts and 3679  
their risks at a level of conservatism that reflects conditions 3680  
that include unfavorable events that have a reasonable probability 3681  
of occurring during the lifetime of the contracts. 3682

(2) The principle-based valuation shall reflect conditions, 3683  
for policies or contracts with significant tail risk, 3684  
appropriately adverse to quantify the tail risk. 3685

(3) The principle-based valuation shall incorporate 3686  
assumptions, risk analysis methods, and financial models and 3687  
management techniques that are consistent with, but not 3688  
necessarily identical to, those utilized within the company's 3689  
overall risk assessment process, while recognizing potential 3690  
differences in financial reporting structures and any prescribed 3691  
assumptions or methods. 3692

(4) The principle-based valuation shall incorporate 3693  
assumptions that are derived in one of the following manners: 3694

(a) The assumption is prescribed in the valuation manual. 3695

(b) For assumptions that are not prescribed, the assumptions 3696  
shall: 3697

(i) Be established utilizing the company's available 3698  
experience, to the extent it is relevant and statistically 3699  
credible; 3700

(ii) To the extent company data is not available, relevant, 3701

or statistically credible, be established utilizing other relevant 3702  
statistically credible experience. 3703

(5) The principle-based valuation shall provide margins for 3704  
uncertainty including adverse deviation and estimation error, such 3705  
that the greater the uncertainty the larger the margin and 3706  
resulting reserve. 3707

(B) A company using a principle-based valuation for one or 3708  
more policies or contracts subject to this section as specified in 3709  
the valuation manual shall do all of the following: 3710

(1) Establish procedures for corporate governance and 3711  
oversight of the actuarial valuation function consistent with 3712  
those described in the valuation manual; 3713

(2) Provide to the superintendent and the company's board of 3714  
directors an annual certification of the effectiveness of the 3715  
internal controls with respect to the principle-based valuation. 3716  
Such controls shall be designed to assure that all material risks 3717  
inherent in the liabilities and associated assets subject to such 3718  
valuation are included in the valuation, and that valuations are 3719  
made in accordance with the valuation manual. The certification 3720  
shall be based on the controls in place as of the end of the 3721  
preceding calendar year. 3722

(3) Develop, and file with the superintendent upon request, a 3723  
principle-based valuation report that complies with standards 3724  
prescribed in the valuation manual. 3725

Sec. 3903.7210. A company shall submit mortality, morbidity, 3726  
policyholder behavior, or expense experience and other data as 3727  
prescribed in the valuation manual for policies it has issued that 3728  
are in force on or after the operative date of the valuation 3729  
manual. 3730

Sec. 3903.7211. (A) As used in this section: 3731

<u>(1) "Confidential information" means all of the following:</u>	3732
<u>(a) A memorandum in support of an opinion submitted under</u>	3733
<u>sections 3903.722 and 3903.726 of the Revised Code and any other</u>	3734
<u>documents, materials, and other information, including all working</u>	3735
<u>papers, and copies thereof, created, produced, or obtained by or</u>	3736
<u>disclosed to the superintendent or any other person in connection</u>	3737
<u>with such memorandum.</u>	3738
<u>(b)(i) Except as provided in division (A)(1)(b)(ii) of this</u>	3739
<u>section, all documents, materials, and other information,</u>	3740
<u>including all working papers, and copies thereof, created,</u>	3741
<u>produced, or obtained by or disclosed to the superintendent or any</u>	3742
<u>other person in the course of an examination made under division</u>	3743
<u>(F) of section 3903.728 of the Revised Code.</u>	3744
<u>(ii) If an examination report or other material prepared in</u>	3745
<u>connection with an examination made under section 3901.07 of the</u>	3746
<u>Revised Code is not held as private and confidential information</u>	3747
<u>under that section, an examination report or other material</u>	3748
<u>prepared in connection with an examination made under division (F)</u>	3749
<u>of section 3903.728 of the Revised Code shall not be considered</u>	3750
<u>confidential information to the same extent as if such examination</u>	3751
<u>report or other material had been prepared under section 3901.07</u>	3752
<u>of the Revised Code.</u>	3753
<u>(c) Any reports, documents, materials, and other information</u>	3754
<u>developed by a company in support of, or in connection with, an</u>	3755
<u>annual certification by the company under division (B)(2) of</u>	3756
<u>section 3903.729 of the Revised Code evaluating the effectiveness</u>	3757
<u>of the company's internal controls with respect to a</u>	3758
<u>principle-based valuation and any other documents, materials, and</u>	3759
<u>other information, including all working papers, and copies</u>	3760
<u>thereof, created, produced, or obtained by or disclosed to the</u>	3761
<u>superintendent or any other person in connection with such</u>	3762
<u>reports, documents, materials, and other information;</u>	3763

(d) Any principle-based valuation report developed under 3764  
division (B)(3) of section 3903.729 of the Revised Code and any 3765  
other documents, materials, and other information, including all 3766  
working papers, and copies thereof, created, produced, or obtained 3767  
by or disclosed to the superintendent or any other person in 3768  
connection with such report; 3769

(e) Any documents, materials, data, and other information 3770  
submitted by a company under section 3903.7210 of the Revised 3771  
Code, referred to collectively as "experience data," and any other 3772  
documents, materials, data, and other information, including all 3773  
working papers, and copies thereof, created or produced in 3774  
connection with such experience data, in each case that include 3775  
any potentially company-identifying or personally identifiable 3776  
information, that is provided to or obtained by the 3777  
superintendent, which when combined with any experience data is 3778  
referred to as "experience materials," and any other documents, 3779  
materials, data, and other information, including all working 3780  
papers, and copies thereof, created, produced, or obtained by or 3781  
disclosed to the superintendent or any other person in connection 3782  
with such experience materials. 3783

(2) "Regulatory agency," "law enforcement agency," and the 3784  
"national association of insurance commissioners" includes their 3785  
employees, agents, consultants, and contractors. 3786

(B)(1) Except as provided in division (B)(2) of this section 3787  
and as otherwise provided in this section, a company's 3788  
confidential information is confidential by law and privileged, is 3789  
not a public record under section 149.43 of the Revised Code, 3790  
shall not be subject to subpoena, and shall not be subject to 3791  
discovery or admissible in evidence in any private civil action. 3792  
Except as otherwise provided in this section, neither the 3793  
superintendent nor any person who received confidential 3794  
information while acting under the superintendent's authority 3795

shall be permitted or required to testify in any private civil 3796  
action concerning that confidential information. 3797

(2) The superintendent is authorized to use the confidential 3798  
information in the furtherance of any regulatory or legal action 3799  
brought against the company as a part of the superintendent's 3800  
official duties. 3801

(C)(1) In order to assist in the performance of the 3802  
superintendent's duties, the superintendent may share confidential 3803  
information with all of the following: 3804

(a) Other state, federal, and international regulatory 3805  
agencies; 3806

(b) The national association of insurance commissioners and 3807  
its affiliates and subsidiaries; 3808

(c) The actuarial board for counseling and discipline, or its 3809  
successor, in the case of confidential information specified in 3810  
divisions (A)(1)(a) and (d) of this section only, upon a request 3811  
stating that the confidential information is required for the 3812  
purpose of professional disciplinary proceedings; 3813

(d) State, federal, and international law enforcement 3814  
officials. 3815

(2) The superintendent may share confidential information as 3816  
specified in divisions (C)(1)(a) through (d) of this section only 3817  
if the recipient agrees, and has the legal authority to agree, to 3818  
maintain the confidentiality and privileged status of such 3819  
documents, materials, data, and other information in the same 3820  
manner and to the same extent as required for the superintendent. 3821

(D) The superintendent may receive documents, materials, 3822  
data, and other information, including otherwise confidential and 3823  
privileged documents, materials, data, or information, from the 3824  
national association of insurance commissioners and its affiliates 3825

and subsidiaries, from regulatory or law enforcement officials of 3826  
other foreign or domestic jurisdictions, and from the actuarial 3827  
board for counseling and discipline or its successor. The 3828  
superintendent shall maintain as confidential or privileged any 3829  
document, material, data, or other information received with 3830  
notice or the understanding that it is confidential or privileged 3831  
under the laws of the jurisdiction that is the source of the 3832  
document, material, data, or other information. 3833

(E) The superintendent may enter into agreements governing 3834  
sharing and use of information consistent with this section. 3835

(F) No waiver of any applicable privilege or claim of 3836  
confidentiality in the confidential information shall occur as a 3837  
result of disclosure to the superintendent under this section or 3838  
as a result of sharing as authorized in division (C) of this 3839  
section. 3840

(G) A privilege established under the law of any state or 3841  
jurisdiction that is substantially similar to the privilege 3842  
established under this section shall be available and enforced in 3843  
any proceeding in, and in any court of, this state. 3844

(H) Notwithstanding divisions (B) to (G) of this section, any 3845  
confidential information specified in divisions (A)(1)(a) and (d) 3846  
of this section are subject to all of the following: 3847

(1) The confidential information may be subject to subpoena 3848  
for the purpose of defending an action seeking damages from the 3849  
appointed actuary submitting the related memorandum in support of 3850  
an opinion submitted under sections 3903.722 and 3903.726 of the 3851  
Revised Code or principle-based valuation report developed under 3852  
division (B)(3) of section 3903.729 of the Revised Code by reason 3853  
of an action required by sections 3903.72 to 3903.7211 of the 3854  
Revised Code or by rules adopted pursuant to those sections. 3855

(2) The confidential information may otherwise be released by 3856

the superintendent with the written consent of the company. 3857

(3) Once any portion of a memorandum in support of an opinion 3858  
submitted under section 3903.722 and 3903.726 of the Revised Code 3859  
or a principle-based valuation report developed under division 3860  
(B)(3) of section 3903.729 of the Revised Code is cited by the 3861  
company in its marketing or is publicly volunteered to or before a 3862  
governmental agency other than a state insurance department or is 3863  
released by the company to the news media, all portions of that 3864  
memorandum or report shall no longer be confidential. 3865

**Sec. 3903.83.** (A) For purposes of sections 3903.81 to 3903.93 3866  
of the Revised Code, a "company action level event" is any of the 3867  
following events: 3868

(1) A domestic or foreign insurer's filing of an RBC report 3869  
that indicates that the insurer's total adjusted capital is 3870  
greater than or equal to its regulatory action level RBC but less 3871  
than its company action level RBC; 3872

(2) A life or health insurer's filing of an RBC report that 3873  
indicates that the insurer's total adjusted capital is greater 3874  
than or equal to its company action level RBC but less than the 3875  
product of ~~2.5~~ 3.0 and its authorized control level RBC, and that 3876  
indicates a negative trend; 3877

(3) A property and casualty insurer's filing of an RBC report 3878  
that indicates that the insurer's total adjusted capital is 3879  
greater than or equal to its company action level RBC but less 3880  
than the product of its authorized control level RBC and 3.0, and 3881  
that triggers the trend test determined in accordance with the 3882  
trend test calculation included in the property and casualty RBC 3883  
instructions; 3884

(4) The notification by the superintendent of insurance to an 3885  
insurer of an adjustment to the insurer's RBC report, which 3886

adjusted RBC report shows the insurer's total adjusted capital 3887  
within the range described in either division (A)(1) or (2) of 3888  
this section, provided that the insurer does not challenge the 3889  
adjusted RBC report under section 3903.87 of the Revised Code; 3890

(5) The superintendent's notification to an insurer, 3891  
following the hearing required under section 3903.87 of the 3892  
Revised Code, that the superintendent has rejected the insurer's 3893  
challenge to an adjusted RBC report showing the insurer's total 3894  
adjusted capital within the range described in either division 3895  
(A)(1) or (2) of this section. 3896

(B) In the case of a company action level event, the insurer 3897  
shall prepare and submit to the superintendent an RBC plan that 3898  
shall: 3899

(1) Identify the conditions that contributed to the company 3900  
action level event; 3901

(2) Contain proposals of corrective actions that the insurer 3902  
intends to take to eliminate the conditions leading to the company 3903  
action level event; 3904

(3) Provide projections of the insurer's financial results in 3905  
the current year and at least the four succeeding years, both in 3906  
the absence of the proposed corrective actions and giving effect 3907  
to the proposed corrective actions. The projections shall include 3908  
projections of statutory operating income, net income, capital, 3909  
and surplus. Projections for both new and renewal business may 3910  
include separate projections for each major line of business, and 3911  
may separately identify each significant income, expense, and 3912  
benefit component of the projection. 3913

(4) Identify the key assumptions impacting the insurer's 3914  
projections made pursuant to division (B)(3) of this section, and 3915  
describe the sensitivity of the projections to the assumptions; 3916

(5) Identify the quality of, and problems associated with, 3917

the insurer's business, including, but not limited to, its assets, 3918  
anticipated business growth and associated surplus strain, 3919  
extraordinary exposure to risk, mix of business, and use of 3920  
reinsurance. 3921

(C) The RBC plan shall be submitted within forty-five days 3922  
after a company action level event. However, if an insurer has 3923  
challenged an adjusted RBC report pursuant to section 3903.87 of 3924  
the Revised Code, the RBC plan need not be submitted until after 3925  
the hearing required under section 3903.87 of the Revised Code. If 3926  
the superintendent rejects the insurer's challenge, the RBC plan 3927  
shall be submitted within forty-five days after the 3928  
superintendent's notification to the insurer of the rejection of 3929  
the challenge. 3930

(D)(1) Within sixty days after an insurer submits an RBC plan 3931  
to the superintendent, the superintendent shall either require the 3932  
insurer to implement the RBC plan or shall notify the insurer that 3933  
the RBC plan is unsatisfactory in the judgment of the 3934  
superintendent. If the superintendent has determined that the RBC 3935  
plan is unsatisfactory, the notification to the insurer shall set 3936  
forth the reasons for the determination, and may set forth 3937  
proposed revisions that will render the RBC plan satisfactory in 3938  
the judgment of the superintendent. Upon such notification from 3939  
the superintendent, the insurer shall prepare and submit a revised 3940  
RBC plan, which may incorporate by reference any revisions 3941  
proposed by the superintendent. 3942

(2) If an insurer challenges, under section 3903.87 of the 3943  
Revised Code, a notification from the Superintendent that the 3944  
insurer's RBC plan or a revised RBC plan is unsatisfactory, 3945  
submission of a revised RBC plan need not be made unless the 3946  
superintendent rejects the insurer's challenge following the 3947  
hearing required by section 3903.87 of the Revised Code and then 3948  
notifies the insurer of this rejection. 3949

(3) An insurer shall submit a revised RBC plan to the 3950  
superintendent within forty-five days after receiving notification 3951  
from the superintendent that its RBC plan is unsatisfactory, or, 3952  
that its challenge to a notification made under division (D)(1) of 3953  
this section has been rejected, as applicable. 3954

(E) Notwithstanding division (D) of this section, if the 3955  
superintendent notifies an insurer that its RBC plan or revised 3956  
RBC plan is unsatisfactory, the superintendent may, at the 3957  
superintendent's discretion, but subject to the insurer's right to 3958  
a hearing under section 3903.87 of the Revised Code, specify in 3959  
the notification that the notification constitutes a regulatory 3960  
action level event. 3961

(F) Every domestic insurer that submits an RBC plan or 3962  
revised RBC plan to the superintendent shall file a copy of the 3963  
RBC plan or revised RBC plan with the insurance regulatory 3964  
authority of every state in which the insurer is authorized to do 3965  
business upon receiving the insurance regulatory authority's 3966  
written request for a copy of the plan, if the state has a 3967  
confidentiality law with provisions substantially similar to those 3968  
set forth in divisions (A) and (B) of section 3903.88 of the 3969  
Revised Code. The insurer shall file the copy in that state no 3970  
later than the later of: 3971

(1) Fifteen days after receiving the request for a copy of 3972  
the plan; 3973

(2) The date on which the RBC plan or revised RBC plan is 3974  
filed pursuant to division (C) or (D) of this section. 3975

**Sec. 3906.01. As used in this chapter:** 3976

(A) "Annual financial statement" means an insurer's 3977  
statutorily required financial statement under the insurer's 3978  
respective authorizing chapter of the Revised Code. 3979

(B) "Authorized control level risked-based capital" means 3980  
authorized control level RBC as defined in sections 1753.31 and 3981  
3903.81 of the Revised Code. 3982

(C) "Cash equivalent" means a short-term, highly liquid 3983  
investment that is both readily convertible to known amounts of 3984  
cash and so near its maturity that it presents an insignificant 3985  
risk of change in value because of changes in interest rates, and 3986  
that has an original maturity date, to the entity holding the 3987  
investment, of three months or less. 3988

(D) "Covered" means that an insurer owns, or can immediately 3989  
acquire through the exercise of options, warrants, or conversion 3990  
rights already owned, the underlying interest in order to fulfill 3991  
or secure its obligation under the option, cap, or floor it has 3992  
written. 3993

(E)(1) "Derivative instrument" means an agreement, option, 3994  
instrument, or a series or a combination thereof of either of the 3995  
following types: 3996

(a) To make or take delivery of, or assume or relinquish, a 3997  
specified amount of one or more underlying interest, or to make a 3998  
cash settlement in lieu thereof; 3999

(b) That has a price, performance, value, or cash flow based 4000  
primarily upon the actual or expected price, level, performance, 4001  
value, or cash flow of one or more underlying interests. 4002

(2) "Derivative instrument" includes options, warrants, caps, 4003  
floors, collars, swaps, forwards, futures, and any other 4004  
agreements, options, or instruments substantially similar thereto 4005  
or any series or combination thereof. 4006

(F) "Derivative transaction" means a transaction involving 4007  
the use of one or more derivative instruments. 4008

(G) "Hedging transaction" means a derivative transaction that 4009

is entered into and maintained to reduce either of the following: 4010

(1) The risk of economic loss due to a change in the value, yield, price, cash flow, or quantity of assets or liabilities that the insurer has acquired or incurred or anticipates acquiring or incurring; 4011  
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(2) The currency exchange rate risk or the degree of exposure as to assets or liabilities that an insurer has acquired or incurred or anticipates acquiring or incurring. 4015  
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(H) "Income generation" means a derivative transaction involving the writing of covered options, caps, or floors that is intended to generate income or enhance return. 4018  
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(I) "Lower-grade investment" means a rated credit instrument or debt-like preferred stock rated 4, 5, or 6 by the securities valuation office. 4021  
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(J) "Medium-grade investment" means a rated credit instrument or debt-like preferred stock rated 3 by the securities valuation office. 4024  
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(K) "Minimum asset requirement" is the requirement that an insurer maintain assets in an amount equal to the sum of the insurer's liabilities and its minimum financial security benchmark, as required by division (A) of section 3906.11 of the Revised Code. 4027  
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(L) "Minimum financial security benchmark" is the amount an insurer is required to have under section 3906.03 of the Revised Code. 4032  
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(M) "Replication transaction" means a derivative transaction that is intended to replicate the performance of one or more assets that an insurer is authorized to acquire under this chapter. "Replication transaction" does not include a derivative transaction that is entered into as a hedging transaction. 4035  
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(N) "Securities valuation office" means the securities valuation office of the national association of insurance commissioners or any successor office. 4040  
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(O) "Securities valuation office listed mutual fund" means a money market mutual fund or short-term bond fund that is registered with the United States securities and exchange commission under the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C. 80a-1 to 80a-64, and that has been determined by the securities valuation office to be eligible for special reserve and reporting treatment, rather than as common stock. 4043  
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(P) "Securities valuation office listed exchange traded fund" means a bond or preferred stock exchange traded fund that is registered with the United States securities and exchange commission under the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C. 80a-1 to 80a-64, and that has been rated 1 or 2 by the securities valuation office and determined by the office to be eligible for special reserve and reporting treatment, rather than as common stock. 4050  
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(Q) "Superintendent" means the superintendent of insurance. 4058

**Sec. 3906.02.** (A) This chapter, and any rules adopted under it, apply to entities organized under Chapters 1731., 1751., 3907., 3919., 3921., 3925., 3931., 3939., 3941., and 3953. of the Revised Code. 4059  
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(B) An insurer may apply to the superintendent for permission to make investments under this chapter, in lieu of making investments under any other section of the Revised Code. 4063  
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(C) In determining whether to permit an entity to invest pursuant to this chapter, the superintendent shall consider all of the following: 4066  
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(1) The character, reputation, and financial standing of the 4069

<u>officers of the entity;</u>	4070
<u>(2) The character, reputation, and financial condition of the entity;</u>	4071 4072
<u>(3) The adequacy of the expertise, experience, character, and reputation of the person or persons who will manage the investments on behalf of the entity;</u>	4073 4074 4075
<u>(4) The quality of the enterprise risk management program implemented by the entity to identify, assess, monitor, manage, and report on its key investment and related risks;</u>	4076 4077 4078
<u>(5) Any other factor the superintendent considers relevant.</u>	4079
<u>(D) Separate accounts established in accordance with section 3907.15 of the Revised Code shall continue to be governed by that section.</u>	4080 4081 4082
<b><u>Sec. 3906.03. (A)(1) Unless otherwise established in accordance with divisions (A)(2) and (3) of this section, the amount of the minimum financial security benchmark for an insurer shall be the greatest of the following:</u></b>	4083 4084 4085 4086
<u>(a) The authorized control level risk-based capital applicable to the insurer, as defined and set forth by sections 1753.31 to 1753.43 or 3903.81 to 3903.93 of the Revised Code, less the asset valuation reserve as defined in the risk-based capital instructions defined in division (M) of section 3903.81 of the Revised Code;</u>	4087 4088 4089 4090 4091 4092
<u>(b) The minimum capital or minimum surplus required by statute or rule for maintenance of an insurer's certificate of authority in this state;</u>	4093 4094 4095
<u>(c) All invested assets of an entity organized under Chapter 3919. or 3939. of the Revised Code;</u>	4096 4097
<u>(d) For title insurers, the quotient of annualized net earned</u>	4098

premiums divided by eight; 4099

(e) For multiple employer welfare arrangements, the greater 4100  
of three hundred per cent of the risk-based capital amount 4101  
reported in the annual statement or the quotient of annualized net 4102  
earned premiums divided by twelve. 4103

(2) The superintendent may, in accordance with division (B) 4104  
of this section, establish by order a minimum financial security 4105  
benchmark to apply to a specific insurer that exceeds the amount 4106  
arrived at under division (A)(1) of this section. 4107

(3) The superintendent may by rule change the minimum 4108  
financial security benchmark that is a multiple of authorized 4109  
control level risk-based capital, or equivalent risk-based capital 4110  
calculation, to apply to any class of insurers provided the amount 4111  
established by the rule is not less than the amount arrived at 4112  
under division (A)(1) of this section. 4113

(B) The superintendent shall determine the amount of minimum 4114  
capital or minimum surplus as specified in division (A)(1)(b) of 4115  
this section to determine an insurer's minimum financial security 4116  
benchmark. The amount shall be sufficient to provide reasonable 4117  
security against contingencies affecting the insurer's financial 4118  
position that are not fully covered by reserves or by reinsurance. 4119

(1) In determining this amount, the superintendent shall 4120  
consider all of the following risks: 4121

(a) Increases in the frequency or severity of losses beyond 4122  
the levels contemplated by the premium rates charged; 4123

(b) Increases in expenses beyond those contemplated by the 4124  
premium rates charged; 4125

(c) Decreases in the value of assets, or the return on 4126  
invested assets below those planned on; 4127

(d) Changes in economic conditions that would make liquidity 4128

<u>more important than contemplated and would force untimely sale of</u>	4129
<u>assets or prevent timely investments;</u>	4130
<u>(e) Currency devaluation to which the insurer may be subject;</u>	4131
<u>(f) Any other contingencies the superintendent identifies</u>	4132
<u>that may affect the insurer's operations.</u>	4133
<u>(2) In determining the minimum financial security benchmark</u>	4134
<u>under division (A)(2) of this section, the superintendent shall</u>	4135
<u>also take into account the following factors:</u>	4136
<u>(a) The most reliable information available as to the</u>	4137
<u>magnitude of the various risks under division (B)(1) of this</u>	4138
<u>section;</u>	4139
<u>(b) The extent to which the risks in division (B)(1) of this</u>	4140
<u>section are independent of each other or are related, and whether</u>	4141
<u>any dependency is direct or inverse;</u>	4142
<u>(c) The insurer's recent history of profits or losses;</u>	4143
<u>(d) The extent to which the insurer has provided protection</u>	4144
<u>against adverse contingencies in ways other than the establishment</u>	4145
<u>of surplus, including redundancy of premiums, adjustability of</u>	4146
<u>contracts under their terms, investment valuation reserves,</u>	4147
<u>whether voluntary or mandatory, appropriate reinsurance, the use</u>	4148
<u>of conservative actuarial assumptions to provide a margin of</u>	4149
<u>security, reserve adjustments in recognition of previous rate</u>	4150
<u>inadequacies, contingency or catastrophe reserves, diversification</u>	4151
<u>of assets, and underwriting risks;</u>	4152
<u>(e) Independent judgments on the soundness of the insurer's</u>	4153
<u>operations, as evidenced by the ratings of reliable professional</u>	4154
<u>financial reporting services;</u>	4155
<u>(f) Any other factor the superintendent considers relevant.</u>	4156
<b><u>Sec. 3906.04. (A) Subject to this chapter, an insurer making</u></b>	4157

investments under this chapter may loan or invest its funds, and 4158  
may buy, sell, hold title to, possess, occupy, pledge, convey, 4159  
manage, protect, insure, and deal with its investments, property, 4160  
and other assets to the same extent as any other person or 4161  
corporation under the laws of this state and of the United States. 4162

(B) With respect to all of the insurer's investments, the 4163  
board of directors of an insurer making investments under this 4164  
chapter shall exercise the judgment and care, under the 4165  
circumstances then prevailing, that persons of reasonable 4166  
prudence, discretion, and intelligence would exercise in the 4167  
management of a like enterprise, not in regard to speculating but 4168  
in regard to the permanent disposition of their funds, considering 4169  
the probable income as well as the probable safety of their 4170  
capital. Investments shall be of sufficient value, liquidity, and 4171  
diversity to assure the insurer's ability to meet its outstanding 4172  
obligations based on reasonable assumptions as to new business 4173  
production for current lines of business. As part of its exercise 4174  
of judgment and care, the board of directors shall take into 4175  
account the prudence evaluation criteria of division (C) of 4176  
section 3906.05 of the Revised Code. The exercise of judgment and 4177  
care by the board of directors under this section shall also be 4178  
governed by sections 1701.59 and 1702.30 of the Revised Code, as 4179  
applicable. 4180

(C) An insurer making investments under this chapter shall 4181  
establish and implement internal controls and procedures to assure 4182  
compliance with investment policies and procedures to assure that 4183  
all of the following are met: 4184

(1) The insurer's investment staff and any consultants used 4185  
are reputable and capable. 4186

(2) A periodic evaluation and monitoring process occurs for 4187  
assessing the effectiveness of investment policy and strategies. 4188

(3) Management's performance is assessed in meeting the 4189  
stated objectives within the investment policy through periodic 4190  
presentations to the board of directors. 4191

(4) Appropriate analyses are undertaken on the degree to 4192  
which asset cash flows are adequate to meet liability cash flows 4193  
under different economic environments. These analyses shall be 4194  
conducted at least annually and make specific reference to the 4195  
economic conditions considered. 4196

**Sec. 3906.05.** (A) An insurer making investments under this 4197  
chapter shall consider the factors listed in division (C) of this 4198  
section along with its business in determining whether an 4199  
investment portfolio or investment policy is prudent. 4200

(B) The superintendent shall consider the factors listed in 4201  
division (C) of this section prior to making a determination that 4202  
an insurer's investment portfolio or investment policy is not 4203  
prudent. 4204

(C) Insurers and the superintendent shall consider the 4205  
following factors according to divisions (A) and (B) of this 4206  
section: 4207

(1) General economic conditions; 4208

(2) The possible effect of inflation or deflation; 4209

(3) The expected tax consequences of investment decisions or 4210  
strategies; 4211

(4) The fairness and reasonableness of the terms of an 4212  
investment considering its probable risk and reward 4213  
characteristics and relationship to the investment portfolio as a 4214  
whole; 4215

(5) The extent of the diversification of the insurer's 4216  
investments among all of the following: 4217

<u>(a) Individual investments;</u>	4218
<u>(b) Classes of investments;</u>	4219
<u>(c) Industry concentrations;</u>	4220
<u>(d) Dates of maturity;</u>	4221
<u>(e) Geographic areas.</u>	4222
<u>(6) The quality and liquidity of investments in affiliates;</u>	4223
<u>(7) The investment exposure to all of the following risks,</u>	4224
<u>quantified in a manner consistent with the insurer's acceptable</u>	4225
<u>risk level as described in the insurer's written investment</u>	4226
<u>policy, required under division (H) of section 3906.06 of the</u>	4227
<u>Revised Code:</u>	4228
<u>(a) Liquidity;</u>	4229
<u>(b) Credit and default;</u>	4230
<u>(c) Systemic or market;</u>	4231
<u>(d) Interest rate;</u>	4232
<u>(e) Call, prepayment, and extension;</u>	4233
<u>(f) Currency;</u>	4234
<u>(g) Foreign sovereign.</u>	4235
<u>(8) The amount of the insurer's assets, capital and surplus,</u>	4236
<u>premium writings, insurance in force, and other appropriate</u>	4237
<u>characteristics;</u>	4238
<u>(9) The amount and adequacy of the insurer's reported</u>	4239
<u>liabilities;</u>	4240
<u>(10) The relationship of the expected cash flows of the</u>	4241
<u>insurer's assets and liabilities, and the risk of adverse changes</u>	4242
<u>in the insurer's assets and liabilities;</u>	4243
<u>(11) The adequacy of the insurer's capital and surplus to</u>	4244
<u>secure the risks and liabilities of the insurer;</u>	4245

(12) Any other factors relevant to whether an investment is prudent. 4246  
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Sec. 3906.06. In acquiring, investing, exchanging, holding, selling, and managing investments under this chapter, an insurer shall establish and follow a written investment policy that shall be reviewed and approved by the insurer's board of directors on at least an annual basis. The content and format of an insurer's investment policy are at the insurer's discretion, but shall include written guidelines appropriate to the insurer's business with regard to all of the following: 4248  
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(A) The general investment policy of the insurer, containing policies, procedures, and controls covering all aspects of the investing function; 4256  
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(B) Quantified goals and objectives regarding the composition of classes of investments, including maximum internal limits; 4259  
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(C) Periodic evaluations of the investment portfolio as to its risk and reward characteristics; 4261  
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(D) Professional standards for the individuals making day-to-day investment decisions to assure that investments are managed in an ethical, prudent, and capable manner; 4263  
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(E) The types of investments that are allowed and that are prohibited, based on their risk and reward characteristics and the insurer's level of experience with the investments; 4266  
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(F) The relationship of classes of investments to the insurer's insurance products and liabilities; 4269  
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(G) The manner in which the insurer intends to implement section 3906.05 of the Revised Code; 4271  
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(H) The level of risk, based on quantitative measures, appropriate for the insurer given the level of capitalization and expertise available to the insurer. 4273  
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<u>Sec. 3906.07. All of the following classes of investments may</u>	4276
<u>be counted for the purposes specified in section 3906.11 of the</u>	4277
<u>Revised Code, whether they are made directly or as a participant</u>	4278
<u>in a partnership, joint venture, or limited liability company:</u>	4279
	4280
<u>(A) Cash, and cash equivalents, in the direct possession of</u>	4281
<u>the insurer or on deposit with a financial institution regulated</u>	4282
<u>by any federal or state agency of the United States;</u>	4283
<u>(B) Bonds, debt-like preferred stock, and other evidences of</u>	4284
<u>indebtedness of governmental units in the United States or Canada,</u>	4285
<u>or the instrumentalities of the governmental units, or private</u>	4286
<u>business entities domiciled in the United States or Canada,</u>	4287
<u>including asset-backed securities, securities valuation office</u>	4288
<u>listed mutual funds, and securities valuation office listed</u>	4289
<u>exchange traded funds;</u>	4290
<u>(C) Loans with a loan to value ratio of no greater than</u>	4291
<u>eighty per cent that are secured by mortgages, trust deeds, or</u>	4292
<u>other security interests in real property located in the United</u>	4293
<u>States or Canada, or secured by insurance against default issued</u>	4294
<u>by a government insurance corporation of the United States or</u>	4295
<u>Canada or by an insurer authorized to do business in this state;</u>	4296
<u>(D) Unaffiliated common stock, or equity-like preferred</u>	4297
<u>stock, or equity interests in any business entity organized under</u>	4298
<u>the United States, any state thereof, the District of Columbia,</u>	4299
<u>the Commonwealth of Puerto Rico, Canada, or any province or</u>	4300
<u>territory of Canada, or shares of mutual funds or exchange traded</u>	4301
<u>funds registered with the securities and exchange commission of</u>	4302
<u>the United States under the "Investment Company Act of 1940," 54</u>	4303
<u>Stat. 789, 15 U.S.C. 80a-1 to 80a-64, other than securities</u>	4304
<u>valuation office listed mutual funds and securities valuation</u>	4305
<u>office listed exchange traded funds;</u>	4306

<u>(E) Real property necessary for the convenient transaction of the insurer's business;</u>	4307 4308
<u>(F) Real property, together with the fixtures, furniture, furnishings, and equipment pertaining thereto in the United States or Canada, which produces, or after suitable improvement can reasonably be expected to produce, substantial income;</u>	4309 4310 4311 4312
<u>(G) Loans, securities, or other investments of the types described in divisions (A) to (F) of this section in countries other than the United States and Canada;</u>	4313 4314 4315
<u>(H) Bonds or other evidences of indebtedness of international development organizations of which the United States is a member;</u>	4316 4317
<u>(I) Loans upon the security of the insurer's own policies in amounts that are adequately secured by the policies and that in no case exceed the surrender values of the policies;</u>	4318 4319 4320
<u>(J) Subsidiary or affiliate equity investments, including common stock, equity-like preferred stock, limited liability partnerships, or limited liability membership interests, of entities that are engaged exclusively in insurance, finance, or investments, and investment management companies that are registered with the securities and exchange commission under the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C. 80a-1 to 80a-64, as amended;</u>	4321 4322 4323 4324 4325 4326 4327 4328
<u>(K) Investments not otherwise permitted by this section, not specifically prohibited by statute, to which both of the following apply:</u>	4329 4330 4331
<u>(1) The assets do not exceed five per cent of the first five hundred million dollars of the insurer's admitted assets plus ten per cent of the insurer's admitted assets exceeding five hundred million dollars.</u>	4332 4333 4334 4335
<u>(2) The assets qualified to meet the minimum asset</u>	4336

requirement at the time they were acquired. 4337

Sec. 3906.08. (A) For the purposes of determining an 4338  
insurer's minimum asset requirement under section 3906.11 of the 4339  
Revised Code, the following limitations on classes of investments 4340  
shall apply: 4341

(1) For investments authorized by division (B) of section 4342  
3906.07 of the Revised Code and investments authorized by division 4343  
(G) of section 3906.07 of the Revised Code that are of the types 4344  
described in division (B) of section 3906.07 of the Revised Code 4345  
the following limitations shall apply: 4346

(a) The aggregate amount of medium- and lower-grade 4347  
investments shall be not more than twenty per cent of an insurer's 4348  
admitted assets. 4349

(b) The aggregate amount of lower-grade investments shall be 4350  
not more than ten per cent of an insurer's admitted assets. 4351

(c) The aggregate amount of investments rated 5 or 6 by the 4352  
securities valuation office shall be not more than five per cent 4353  
of the insurer's admitted assets. 4354

(d) The aggregate amount of investments rated 6 by the 4355  
securities valuation office shall be not more than one per cent of 4356  
an insurer's admitted assets. 4357

(e) The aggregate amount of medium- and lower-grade 4358  
investments that receive as cash income less than the yield for 4359  
treasury issues with a comparative average life shall be not more 4360  
than one per cent of an insurer's admitted assets. 4361

(2) Investments authorized by division (C) of section 3906.07 4362  
of the Revised Code shall be not more than forty-five per cent of 4363  
an insurer's admitted assets in the case of life insurers and not 4364  
more than twenty-five per cent of an insurer's admitted assets in 4365  
the case of insurers that are not life insurers. 4366

(3) Investments authorized by division (D) of section 3906.07 4367  
of the Revised Code shall be not more than twenty per cent of an 4368  
insurer's admitted assets in the case of life insurers and not 4369  
more than twenty-five per cent of an insurer's admitted assets in 4370  
the case of insurers that are not life insurers. 4371

(4) Investments authorized by division (E) of section 3906.07 4372  
of the Revised Code shall be not more than ten per cent of an 4373  
insurer's admitted assets. 4374

(5) Investments authorized by division (F) of section 3906.07 4375  
of the Revised Code shall be not more than ten per cent of an 4376  
insurer's admitted assets. 4377

(6) Investments authorized by division (G) of section 3906.07 4378  
of the Revised Code shall be not more than twenty per cent of an 4379  
insurer's admitted assets. 4380

(7) Investments authorized by division (H) of section 3906.07 4381  
of the Revised Code shall be not more than two per cent of an 4382  
insurer's admitted assets. 4383

(8) Investments authorized by division (J) of section 3906.07 4384  
of the Revised Code shall be not more than ten per cent of an 4385  
insurer's admitted assets in the case of life insurers and not 4386  
more than three per cent of an insurer's admitted assets in the 4387  
case of insurers that are not life insurers. An insurer may exceed 4388  
the limits described in division (A)(8) of this section with 4389  
investments in a wholly owned domestic insurer, or in a 4390  
corporation, or similar business entity organized under the laws 4391  
of the United States, any state thereof, or any other jurisdiction 4392  
approved by the superintendent, that is formed and maintained to 4393  
acquire or hold shares of an insurer, with the prior written 4394  
consent of the superintendent. 4395

(B)(1) For purposes of determining compliance with section 4396  
3906.11 of the Revised Code, securities issued by a single entity 4397

and its affiliates, other than the government of the United States, or agencies whose securities are backed by the full faith and credit of the United States, and subsidiaries authorized under division (J) of section 3906.07 of the Revised Code, shall be not more than five per cent of an insurer's admitted assets in the case of life insurers and shall be not more than five per cent of an insurer's admitted assets in the case of insurers that are non-life insurers.

(2) Notwithstanding division (B)(1) of this section, investments in the voting securities of a depository institution, or any company that controls a depository institution, shall not exceed five per cent of an insurer's admitted assets.

(C) For purposes of determining compliance with this section, the admitted portion of assets of subsidiaries of an insurer invested in under division (J) of section 3906.07 of the Revised Code shall be deemed to be owned directly by the insurer and any other investors in proportion to the market value of their interest in the subsidiaries. If interest in the subsidiary has no market value, then the asset allocation proportion shall be determined by the reasonable value of interest in the subsidiary as determined under the national association of insurance commissioners' accounting practices and procedures manual.

(D) If the superintendent considers it necessary to get a proper evaluation of the investment portfolio of an insurer, the superintendent may require that investments in mutual funds, exchange traded funds, pooled investment vehicles, or other investment companies be treated for purposes of this chapter as if the investor owned directly its proportional share of the assets owned by the mutual fund, exchange traded fund, pooled investment vehicle, or investment company.

(E) Unless otherwise specified in this chapter, an insurer's investment limitations shall be computed using the insurer's

general account admitted assets, capital, or surplus as reported 4430  
in the insurer's most recent annual financial statement required 4431  
to be filed with the superintendent. 4432

Sec. 3906.09. An insurer investing under this chapter that is 4433  
doing business that requires the insurer to make payment in 4434  
different currencies shall have investments in securities in each 4435  
of these currencies in an amount that, independent of all other 4436  
investments, meets the requirements of this chapter, as applied 4437  
separately to the insurer's obligations in each currency. The 4438  
superintendent may, by order, exempt an insurer, or, by rule, a 4439  
class of insurers, from this requirement if the obligations in 4440  
other currencies are small enough that no significant problem for 4441  
financial solidity would be created by substantial fluctuations in 4442  
relative currency values. 4443

Sec. 3906.10. (A) An insurer investing under this chapter 4444  
shall not invest in investments that are prohibited for an insurer 4445  
by statute or rules of this state. 4446

(B) An insurer investing under this chapter shall not invest 4447  
in a partnership as a general partner. 4448

(C) The superintendent shall set a reasonable amount of time, 4449  
not to exceed five years, for disposal of a prohibited investment 4450  
in hardship cases if the insurer demonstrates that the investment 4451  
was legal when made or the result of a mistake made in good faith, 4452  
or if the superintendent determines that the sale of the asset 4453  
would be contrary to the interests of insureds, creditors, or the 4454  
general public. 4455

(D) Violation of division (A) of this section may be grounds 4456  
for regulatory action pursuant to divisions (A) and (I) of section 4457  
3903.12 of the Revised Code. 4458

Sec. 3906.11. (A) An insurer investing under this chapter shall maintain assets in an amount equivalent to the sum of its liabilities and its minimum financial security benchmark at all times. 4459  
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(B) Assets invested under this chapter may be counted toward satisfaction of the minimum asset requirement only so far as they are invested in compliance with this chapter and any applicable rules adopted, or orders issued, by the superintendent pursuant to this chapter. 4463  
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(C) The amount of admitted assets used to calculate the minimum asset requirement shall be reduced by the amount of the liability recorded on an insurer's statutory balance sheet for all of the following: 4468  
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(1) The return of acceptable collateral received in a reverse repurchase transaction or a securities lending transaction; 4472  
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(2) Cash received in a dollar roll transaction; 4474

(3) Other amounts reported as borrowed money. 4475

(D) Assets other than invested assets may be counted toward satisfaction of the minimum asset requirement at admitted annual financial statement value. However, loans to officers or directors or their immediate families shall not be counted toward the satisfaction of the minimum asset requirement. 4476  
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(E) An investment held as an admitted asset by an insurer on the effective date of this section that qualified under the applicable insurance investment law of this state shall remain qualified as an admitted asset under this chapter. 4481  
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(F) Notwithstanding any provision of this chapter to the contrary, an asset acquired in the bona fide enforcement of creditors' rights or in bona fide workouts or settlements of disputed claims may be counted toward the minimum asset 4485  
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requirement for five years if the asset is real property and three 4489  
years if the asset is not real property. 4490

(G) The superintendent may determine an insurer to be 4491  
financially hazardous under section 3903.09 of the Revised Code if 4492  
either of the following apply: 4493

(1) The insurer does not own the amount of assets needed to 4494  
meet its minimum asset requirement. 4495

(2) The insurer is unable to apply the amount of assets 4496  
needed to meet its minimum asset requirement toward compliance 4497  
with this chapter. 4498

Sec. 3906.12. (A) Prior to an insurer entering into 4499  
derivative transactions, the board of directors of the insurer 4500  
investing under this chapter shall approve a derivative use plan. 4501

(B) An insurer shall notify the superintendent of insurance 4502  
in writing within three days after identifying either of the 4503  
following: 4504

(1) Any event or occurrence related to an insurer's 4505  
derivatives use that may lead to a material change to the 4506  
insurer's policyholder surplus; 4507

(2) Any event or occurrence related to an insurer's 4508  
derivatives use that, with the passage of time, may lead to a 4509  
material change to the insurer's policyholder surplus. 4510

(C) Prior to entering into derivative transactions, an 4511  
insurer shall file with the superintendent a copy of its 4512  
derivative use plan and internal controls, for informational 4513  
purposes. The insurer shall keep current the copy of its 4514  
derivative use plan and internal controls filed with the 4515  
superintendent. The insurer shall not enter into derivative 4516  
transactions until thirty calendar days after the date on which 4517  
the derivative use plan and internal controls is filed with the 4518

superintendent. This thirty-calendar-day period is to begin on the 4519  
date that the superintendent receives the derivative use plan and 4520  
internal controls. 4521

(D) The superintendent may adopt rules prescribing the form 4522  
and content of derivative use plans, as well as any internal 4523  
controls the superintendent considers necessary. 4524

(E) An insurer that engages in hedging transactions or 4525  
replication transactions shall do both of the following: 4526

(1) Maintain its position in any outstanding derivative 4527  
instrument used as part of a hedging transaction or replication 4528  
transaction for as long as the hedging transaction or replication 4529  
transaction continues to be effective; 4530

(2) Demonstrate to the superintendent, upon request, that any 4531  
derivative transaction entered into and involving hedging 4532  
transaction or replication transaction is an effective hedging 4533  
transaction or replication transaction. The insurer must be able 4534  
to demonstrate this at the time the derivative transaction is 4535  
entered into, and for as long as the transaction continues to be 4536  
in place. 4537

(F) An insurer may not invest, or use, a derivative 4538  
instrument for any purpose other than a hedging transaction, 4539  
income generation, or replication. 4540

(G) All documents provided to the superintendent under this 4541  
section shall be deemed trade secrets and shall be provided with 4542  
trade secret protection. Such documents shall also be considered 4543  
work papers of the superintendent that are subject to section 4544  
3901.48 of the Revised Code and are confidential and privileged 4545  
and shall not be considered a public record, as defined in section 4546  
149.43 of the Revised Code. The original documents and any copies 4547  
of them shall not be subject to subpoena and shall not be made 4548  
public by the superintendent or any other person, except as 4549

otherwise provided in section 3901.48 of the Revised Code. 4550

Sec. 3906.13. (A) If the superintendent determines that an 4551  
insurer's investment practices do not meet the requirements of 4552  
this chapter, the superintendent may, after notification to the 4553  
insurer of the superintendent's findings, order the insurer to 4554  
make changes necessary to comply with this chapter. 4555

(B) If the superintendent determines that the financial 4556  
condition, current investment practice, or current investment plan 4557  
of an insurer are or may endanger the interests of insureds, 4558  
creditors, or the general public, the superintendent may impose 4559  
reasonable additional restrictions upon the admissibility or 4560  
valuation of investments and may impose restrictions on the 4561  
investment practices of the insurer, including prohibiting an 4562  
investment or requiring the divestment of an investment. 4563

(C) The superintendent may count toward satisfaction of the 4564  
minimum asset requirement any assets that an insurer is required 4565  
to invest under the laws of a country other than the United States 4566  
as a condition for doing business in that country if the 4567  
superintendent finds that counting them does not endanger the 4568  
interests of the insurer's insureds or creditors, or the general 4569  
public. 4570

(D) If the superintendent is satisfied by evidence of the 4571  
solidity of an insurer and the competence of management and its 4572  
investment advisors, the superintendent, after a hearing, may, by 4573  
order, adjust the class limitations prescribed in section 3906.08 4574  
of the Revised Code for that insurer, to the extent that the 4575  
superintendent is satisfied that the interests of the insurer's 4576  
insureds and creditors and the general public are sufficiently 4577  
protected. Such adjustments, in aggregate, shall be limited to an 4578  
amount equal to ten per cent of the insurer's liabilities. 4579

Sec. 3906.14. (A) An insurer subject to an order of the 4580  
superintendent under section 3906.03 or 3906.13 of the Revised 4581  
Code may request a hearing within thirty days of the date of the 4582  
order. The hearing shall be held in compliance with Chapter 119. 4583  
of the Revised Code. 4584

(B) The superintendent shall hold hearings required under 4585  
this section privately unless the insurer requests a public 4586  
hearing, in which case the hearing shall be public. 4587

Sec. 3906.15. (A) The superintendent may, in accordance with 4588  
section 119.03 of the Revised Code, adopt rules interpreting and 4589  
implementing the provisions of this chapter. 4590

(B) The superintendent may, in accordance with section 119.03 4591  
of the Revised Code, adopt one or more of the following 4592  
restrictions on investments in rules: 4593

(1) The superintendent may prescribe for defined classes of 4594  
insurers special procedural requirements, including special 4595  
reports and prior approval on investments, as well as disapproval 4596  
of investments subsequent to either. 4597

(2) The superintendent may prescribe substantive restrictions 4598  
on investments of defined classes of insurers, including all of 4599  
the following: 4600

(a) Specification of classes of assets that may not be 4601  
counted toward satisfaction of the minimum asset requirement even 4602  
though the assets may be counted for unrestricted insurers; 4603

(b) Specification of maximum amounts of assets that an 4604  
insurer may invest in a single investment, issue, or class or 4605  
group of classes of investments that shall be expressed as 4606  
percentages of total assets, capital, surplus, legal reserves, or 4607  
other variables; 4608

(c) Prescription of qualitative tests for investments and conditions under which investments may be made, including requirements of specified ratings from investment advisory services, listing on specified stock exchanges, collateral, marketability, currency matching, and the financial and legal status of the issuer and its earnings capacity.

(C) If the superintendent is satisfied by evidence of the solidity of an insurer and the competence of management and its investment advisors, the superintendent, after a hearing, may by order grant an exemption to that insurer from any restriction made under division (B) of this section to the extent that the superintendent is satisfied that the interests of the insurer's insureds and creditors, as well as the general public, are protected.

**Sec. 3907.14.** The capital, surplus, and all accumulations of every domestic life insurance company shall be invested as follows:

(A) A domestic company may acquire, hold, and convey real estate:

(1) Which has been acquired or is acquired for its principal offices, or which is used in connection therewith, provided that it shall not invest more than five per cent of its admitted assets on the preceding thirty-first day of December in such real estate;

(2) Which has been mortgaged to it in good faith by way of security for loans previously contracted or for money due;

(3) Which has been conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or which it may receive in or on account of an exchange for real estate acquired in its operations;

(4) Which it has purchased at sales under mortgages and on

any legal process in connection with its investments or under 4639  
decrees obtained or made for such debts; 4640

(5) Which is acquired, owned, or held for the purpose of 4641  
developing, improving, or otherwise utilizing such real estate for 4642  
the production of income, without restriction or limitation as to 4643  
time, and may acquire, lease, hold, and manage personal property 4644  
used in connection therewith. No investments in real estate to be 4645  
used primarily for recreational, agricultural, or mining purposes 4646  
shall be made under authority of division (A)(5) of this section 4647  
and except for investments authorized under divisions (A)(1), (2), 4648  
(3), and (4) of this section, no domestic life insurance company 4649  
shall invest in real estate under divisions (A)(5) and (R) of this 4650  
section a sum exceeding in the aggregate ten per cent of its 4651  
admitted assets on the preceding thirty-first day of December. 4652

All real estate specified in divisions (A)(3) and (4) of this 4653  
section, which is not necessary for its accommodation in the 4654  
convenient transaction of its business, shall be sold by the 4655  
company and disposed of within five years after it has acquired 4656  
the title to such real estate or within five years after such real 4657  
estate has ceased to be necessary for the accommodation of its 4658  
business, unless the company procures the certificate of the 4659  
superintendent of insurance that its interests will suffer 4660  
materially by a forced sale of the real estate, in which event the 4661  
time for the sale may be extended to such time as the 4662  
superintendent directs in such certificate. 4663

(B) A domestic company may acquire, hold, and convey tangible 4664  
personal property or interests therein for the production of 4665  
income, provided no domestic company shall invest in excess of two 4666  
per cent of its admitted assets as of the preceding thirty-first 4667  
day of December under this division. 4668

(C) In loans and liens upon the security of its own policies, 4669  
not exceeding the reserve or present value of the policies, 4670

computed according to any standard authorized by law or according 4671  
to such higher standard as the company has adopted and maintains 4672  
on the policy, the reserve being the amount of debts of the life 4673  
insurance company by reason of its outstanding policies in gross, 4674  
which may be so treated in the returns for taxation made by it; 4675

(D) In bankers' acceptances and bills of exchange of the 4676  
kinds and maturities made eligible by law for rediscount with 4677  
federal reserve banks, provided that such acceptances and bills of 4678  
exchange are accepted by a bank or trust company incorporated 4679  
under the laws of the United States or of this state or any other 4680  
bank or trust company which is a member of the federal reserve 4681  
system; 4682

(E) In equipment trust obligations or certificates, security 4683  
agreements, or other evidences of indebtedness entered into 4684  
directly or guaranteed by any company operating wholly or partly 4685  
within the United States or Canada, provided that the debt 4686  
obligation is secured by a first lien on tangible personal 4687  
property which is purchased or secured for payment thereof and the 4688  
debt obligation is repayable within twenty years from the date of 4689  
issue in annual, semiannual, or more frequent installments 4690  
beginning not later than the first year after such date; 4691

(F) In bonds issued by or for federal land banks and any 4692  
debentures issued by or for federal intermediate credit banks 4693  
under the "Federal Farm Loan Act of 1916," 39 Stat. 360, 12 4694  
U.S.C.A. 641 as amended; any debentures issued by or for banks for 4695  
cooperatives under the "Farm Credit Act of 1933," 48 Stat. 257, 12 4696  
U.S.C.A. 131 as amended; 4697

(G) In bonds issued under the "Home Owners' Loan Act of 4698  
1933," 48 Stat. 128, 12 U.S.C.A. 1461; 4699

(H) In notes, bonds, debentures, or other such obligations 4700  
issued by the federal housing administrator; 4701

(I)(1)(a) In bonds or other evidences of indebtedness, not in 4702  
default as to principal or interest, which are valid obligations 4703  
issued, assumed or guaranteed by the United States, by any state 4704  
thereof, by the Commonwealth of Puerto Rico, by any territory or 4705  
insular possession of the United States, or by the District of 4706  
Columbia, or which are valid obligations issued, assumed, or 4707  
guaranteed by any county, municipal corporation, district, or 4708  
political subdivision, or by any civil division or public 4709  
instrumentality of such governmental units, if by statutory or 4710  
other legal requirements such obligations are payable, as to both 4711  
principal and interest, from taxes levied upon all taxable 4712  
property within the jurisdiction of such governmental unit; 4713

(b) In bonds or other obligations issued by or for account of 4714  
any such governmental unit having a population of five thousand or 4715  
more by the latest official federal or state census, which are 4716  
payable as to both principal and interest from revenues or 4717  
earnings from the whole or any part of a publicly owned utility 4718  
supplying water, gas, sewage disposal facility, or electricity, or 4719  
any or all of them, provided that by statute or other applicable 4720  
legal requirements, rates from the service or operation of such 4721  
utility must be fixed, maintained, and collected at all times so 4722  
as to produce sufficient revenues or earnings to pay both 4723  
principal and interest of such bonds or obligations as they become 4724  
due; 4725

(c) In any bonds or obligations payable from and secured by 4726  
revenues of the United States, the Commonwealth of Puerto Rico, or 4727  
any state or instrumentality of any of them, or of the District of 4728  
Columbia or of any commission, board, or other instrumentality of 4729  
one or more of them, provided there is a specific pledge of 4730  
revenues, and provided that there is adequate provision for 4731  
payment of interest prior to completion of construction and that 4732  
rates, fees, tolls, or charges fixed are, after completion of 4733

construction, sufficient to pay all expenses of operation and 4734  
maintenance and the principal and interest when due. 4735

(2) In legally authorized and executed bonds, notes, 4736  
warrants, and securities which are the direct obligation of or are 4737  
guaranteed by Canada, or which are the direct obligation of or are 4738  
guaranteed as to both principal and interest by any province of 4739  
Canada, or which are the direct obligation of or are guaranteed as 4740  
to both principal and interest by any municipality of Canada 4741  
having a population of fifty thousand or more by the latest 4742  
official census, and which are not in default as to principal or 4743  
interest; 4744

(3) In bonds or other evidence of indebtedness, not in 4745  
default as to principal or interest, which are valid obligations 4746  
issued, assumed, or guaranteed by the United States, by any state 4747  
thereof, the Commonwealth of Puerto Rico, or by the District of 4748  
Columbia, if by statutory or other legal requirements such 4749  
obligations are payable, as to both principal and interest, from 4750  
selective taxes levied by such governmental unit. 4751

(J)(1) In mortgage bonds which are the direct obligation of a 4752  
railroad, and which are the first lien on a substantial portion of 4753  
its property, situated wholly in the United States or partly in 4754  
the United States and partly in Canada, the average net yearly 4755  
earnings of which, after deducting proper charges for maintenance 4756  
of way and equipment, for the five fiscal years preceding such 4757  
investments, have been at least one and one-half times the average 4758  
yearly interest for the same period on its mortgages, bonds, and 4759  
funded debts, and in the junior mortgage bond issues of such 4760  
railroad corporations of the same character and under the same 4761  
conditions where the average net yearly earnings for the five 4762  
fiscal years preceding such investment, after deducting proper 4763  
charges for maintenance of way and equipment, have been at least 4764  
three times the average yearly interest charges on such issues and 4765

all prior liens; or in the mortgage bonds of any incorporated 4766  
railroad company which have been assumed or guaranteed, both as to 4767  
principal and interest, by any incorporated railroad company whose 4768  
bonds constitute a legal investment under division (J)(1) of this 4769  
section. In applying the earnings test to any issuing, assuming, 4770  
or guaranteeing company, whether or not in legal existence during 4771  
the whole of such five years next preceding the date of investment 4772  
by such insurer, which has at any time during such five-year 4773  
period acquired the assets of any other company by purchase, 4774  
merger, consolidation, or otherwise, substantially as an entirety, 4775  
or has been reorganized pursuant to the bankruptcy law, the 4776  
earnings of such other predecessor or constituent companies, or of 4777  
the company so reorganized, available for interest for such 4778  
portion of such period that has preceded such acquisition, or such 4779  
reorganization, may be included in the earnings of such issuing, 4780  
assuming, or guaranteeing company for such portion of such period 4781  
as is determined in accordance with adjusted or pro forma 4782  
consolidated earnings statements covering such portion of such 4783  
period. In such cases the requirements as to earnings shall be 4784  
based upon the mortgages, bonds, and funded debts as they exist 4785  
immediately after such acquisitions or such reorganizations. 4786

(2) In mortgage bonds or other interest-bearing obligations 4787  
of terminal companies organized under the laws of the United 4788  
States or any state thereof, provided such bonds or obligations 4789  
have been assumed or guaranteed jointly or severally by two or 4790  
more railroad corporations whose bonds constitute legal 4791  
investments under division (J)(1) of this section; 4792

(3) In loans to veterans guaranteed in whole or in part by 4793  
the United States pursuant to Title III of the "Servicemen's 4794  
Readjustment Act of 1944," 58 Stat. 284, 38 U.S.C.A. 693, as 4795  
amended, provided such guaranteed loans are liens upon real 4796  
estate; 4797

(4) In mortgage bonds which are the direct obligation of and 4798  
first lien upon the property of a corporation engaged directly and 4799  
primarily in the production and sale of, or in the purchase and 4800  
sale of electricity or gas, or in the operation of telephone or 4801  
telegraph systems or waterworks, or in some combination of them, 4802  
and situated wholly in the United States, or the Commonwealth of 4803  
Puerto Rico, or partly in the United States and partly in Canada, 4804  
the average net yearly earnings of which, after deducting proper 4805  
charges for replacements, depreciation, and obsolescence, for the 4806  
five fiscal years preceding such investment, have been at least 4807  
one and one-half times the average yearly interest for the same 4808  
period on its mortgages, bonds, and funded debts; 4809

(5) Any such corporation, or any of its predecessors, 4810  
constituent, or successor corporations, must have been in business 4811  
not less than ten years prior to the date of the purchase of such 4812  
bonds, and must not have defaulted on the interest or principal of 4813  
any of its bonds or funded debts outstanding during the five years 4814  
immediately preceding the date of purchase, provided that division 4815  
(J)(5) of this section does not preclude investments in mortgage 4816  
bonds of railroads reorganized through purchase of assets, merger, 4817  
consolidation, bankruptcy proceedings, or otherwise if such bonds 4818  
are eligible for investment under division (J)(1) of this section; 4819

(6) No investment shall be made under division (J)(1), (2), 4820  
(4), or (5) of this section if such railroad or other utility 4821  
corporation and its business, and its issue of bonds, funded 4822  
debts, and stocks are not under the supervision and control of an 4823  
authorized state or federal official or commission, provided that 4824  
division (J)(6) of this section does not apply to the mortgage 4825  
bonds or other interest-bearing obligations of companies engaged 4826  
in the operation of telephone or telegraph systems. 4827

(K)(1) In bonds or notes secured by mortgages or deeds of 4828  
trust which are a first lien upon unencumbered fee simple real 4829

estate in any state, the Commonwealth of Puerto Rico, the District of Columbia, or Canada, provided the amount loaned does not exceed eighty per cent of the actual market value of such property.

The actual market value of any such property shall be shown by a valuation and appraisal in writing by a qualified land appraiser.

In the event the amount loaned under division (K)(1) of this section exceeds eighty per cent of the actual market value of the land, the structures on the land must be insured by an authorized fire insurance company or covered by other comparable indemnification, and the policies or indemnifications shall be payable or assigned to the mortgagee or to a trustee in its behalf and shall be held by the mortgagee or an agent of the mortgagee or by such trustee; or in lieu of holding such policies or indemnifications, the mortgagee may purchase a policy or policies of mortgage protection insurance, payable to the mortgagee or a trustee in its behalf, insuring the mortgagee against loss resulting from the failure of the mortgagor to acquire and maintain, from such an authorized fire insurance company or other comparable source, insurance or indemnification.

(2) In bonds or notes secured by mortgages insured by the federal housing administrator;

(3) In bonds or notes secured by mortgages or deeds of trust which are a first lien on leasehold estates in wholly or partly improved real property, unencumbered, except rentals accruing from the property to the owner of the fee, provided that any loan secured by a leasehold estate must provide for amortization by repayment of principal at least once in each year in amounts sufficient to repay the loan within a period of four-fifths of the unexpired term of the leasehold but within a period of not more than thirty years, and further provided that the amount loaned on the leasehold estate does not exceed seventy-five per cent of

total market value of the leasehold estate determined by 4862  
appraisements in writing made under oath by two real estate 4863  
owners, residents of the county or local district in which the 4864  
real estate is located, or by a qualified land appraiser; if the 4865  
amount loaned exceeds seventy-five per cent of the value of that 4866  
portion of the leasehold estate represented by the value of the 4867  
land, exclusive of improvements on the land, such improvements 4868  
shall be insured against fire for the benefit of the mortgagee in 4869  
an amount not less than the difference between seventy-five per 4870  
cent of the value of such land, exclusive of buildings, and the 4871  
amount loaned; the policies for such amount shall be payable to 4872  
and held by the mortgagee or a trustee named in the lease who 4873  
shall be required by the terms of said lease to use and apply the 4874  
proceeds of such insurance for repairing, restoring, or rebuilding 4875  
such buildings; 4876

(4) The following shall not be considered as prior liens or 4877  
encumbrances in the construction and application of this section: 4878  
leasehold estates of any duration, rights-of-way, servitudes, 4879  
joint driveways, easements, party wall agreements, current taxes 4880  
and assessments not delinquent, and restrictions as to building, 4881  
use, and occupancy. 4882

(5) This section does not prohibit a domestic life insurance 4883  
company from renewing or extending a loan for the original or a 4884  
lesser amount nor does it prohibit a company from accepting as 4885  
part payment for real estate sold by it a mortgage on the real 4886  
estate for a greater percentage of the purchase price of the real 4887  
estate than is otherwise permitted by this section. 4888

(L) In bonds, notes, or other evidences of indebtedness of 4889  
corporations, trusts, partnerships, or similar business entities 4890  
organized under the laws of the United States, or any state 4891  
thereof, the Commonwealth of Puerto Rico, the District of 4892  
Columbia, or Canada or any province of Canada, secured by 4893

assignment of lease or leases or the rentals payable under such 4894  
leases, of real or personal property or both to (1) the United 4895  
States or any instrumentality thereof, or any state of the United 4896  
States, the Commonwealth of Puerto Rico, or the District of 4897  
Columbia, or any county, city, town, school, or water district, 4898  
authority, or other political subdivision in any such government, 4899  
or Canada, any province of Canada, or any municipal corporation of 4900  
Canada that has a population of fifty thousand or more by the 4901  
latest official census; or (2) one or more corporations, trusts, 4902  
partnerships, or similar business entities organized under the 4903  
laws of the United States, any state thereof, the Commonwealth of 4904  
Puerto Rico, the District of Columbia, or Canada or any province 4905  
of Canada, provided that (a) the fixed rentals assigned shall be 4906  
sufficient to repay the indebtedness within the unexpired term of 4907  
the lease, exclusive of the term which may be provided by an 4908  
enforceable option of renewal; (b) such lessee has not defaulted 4909  
in payment of interest or principal on any of its bonds, notes, 4910  
debentures, or other evidences of indebtedness during the five 4911  
years immediately preceding the date of the investment, and 4912  
provided the average net earnings available for fixed charges of 4913  
such lessee under division (L)(2) of this section for not less 4914  
than five fiscal years preceding such investment have been at 4915  
least one and one-half times average fixed charges for that period 4916  
and during either of the last two years of such period, the net 4917  
earnings available for fixed charges shall have been not less than 4918  
one and one-half times fixed charges for such year, except that 4919  
railroad companies and utility companies may qualify as lessees 4920  
herein by application of the earnings test provided for railroads 4921  
under division (J)(1) of this section and for utilities under 4922  
division (J)(4) of this section; and (c) a first lien on the 4923  
interest of the lessor in the unencumbered property so leased 4924  
shall be obtained as additional security for the indebtedness; 4925

(M) In ground rents, land trust certificates, or fee 4926

ownership certificates representing or evidencing beneficial 4927  
ownership of or interest in improved real estate under lease for 4928  
not less than twenty-five years from the date of such lease, in 4929  
which it must be provided that the lessee shall pay all taxes and 4930  
assessments levied on or assessed against said real estate, shall 4931  
maintain the improvements on the real estate in good repair, and 4932  
shall provide and maintain fire insurance in an amount equal to 4933  
the insurable value of the building on the real estate; provided: 4934

(1) The value of the land and improvements shall be evidenced 4935  
by an appraisalment made under oath by a disinterested appraiser 4936  
resident in and the owner of real estate in the city in which the 4937  
property is situated, and such appraisalment shall not be less than 4938  
one and sixty-seven hundredths times the amount of such land trust 4939  
certificates, which amount shall be not less than twenty times the 4940  
net annual rental distributable to holders of outstanding 4941  
certificates; 4942

(2) Such beneficial interests shall only be in properties on 4943  
which actual earning records for five years immediately preceding 4944  
are available; 4945

(3) Such declaration of trust or other trust instrument shall 4946  
provide for a depreciation or other similar fund, in an amount 4947  
which is not less than nine per cent of the net annual 4948  
distributable rental, for the benefit of the holders of 4949  
outstanding certificates. 4950

(N)(1) In certificates of deposit or other evidence of 4951  
indebtedness of a savings and loan association provided the 4952  
certificates or other evidence of deposit are insured pursuant to 4953  
the "Financial Institutions Reform, Recovery, and Enforcement Act 4954  
of 1989," 103 Stat. 183, 12 U.S.C.A. 1811, as amended; 4955

(2) In interest-bearing obligations, including savings 4956  
accounts and time certificates of deposit of a national bank or 4957

state bank provided such bank is a member of the federal deposit insurance corporation created pursuant to the "Banking Act of 1933," 92 Stat. 624, 12 U.S.C.A. 624, as amended.

(O) In obligations issued, assumed, or guaranteed by the international finance corporation or by the international bank for reconstruction and development, the Asian development bank, the inter-American development bank, the African development bank, or other similar development bank in which the president, as authorized by congress and on behalf of the United States, has accepted membership;

(P)(1) In the preferred stocks of any company organized under the laws of the United States or of any state thereof engaged directly and primarily in the production and sale of, or in the purchase and sale of electricity or gas, or in the operation of telephone or telegraph systems or water works, or in some combination of them, if the average annual net earnings of such company, for not less than five fiscal years preceding purchase thereof, after deduction of interest on all mortgages, bonds, debentures, and funded debts and after deduction of the proper charges for replacements, depreciation, and obsolescence, have been at least two times the average yearly amount which is required to pay the dividends or distributions on all preferred stocks; and in which the mortgages, bonds, debentures, funded debts, and preferred stocks shall not in the aggregate exceed seventy per cent of the total capitalization of such company, including mortgages, bonds, debentures, funded debts, and preferred and common stocks;

(2) In the preferred stocks of any other company organized under the laws of the United States, or of any state thereof if the average annual net earnings of such company for a period of not less than five fiscal years preceding purchase thereof, after deduction of interest on all mortgages, bonds, debentures, and

funded debts and after deduction of the proper charges for 4990  
replacements, depreciation, and obsolescence, have been at least 4991  
four times the amount which is required to pay the dividends or 4992  
distributions on all preferred stocks, and in which the mortgages, 4993  
bonds, debentures, funded debts, and preferred stocks shall not in 4994  
the aggregate exceed sixty per cent of the total capitalization of 4995  
such company, including mortgages, bonds, debentures, funded 4996  
debts, and preferred and common stocks; 4997

(3) A domestic life insurance company shall not purchase any 4998  
preferred stocks when the total market values of such stocks then 4999  
owned with those purchased exceed in the aggregate of book values 5000  
and purchase price the capital, surplus, and contingency funds, 5001  
excluding all reserves required by law, of such company on the 5002  
thirty-first day of December preceding the date of such purchase, 5003  
or contemplated purchase, provided that in case of appreciations 5004  
in values of stocks owned the cost rather than the market values 5005  
shall be used in arriving at such aggregate; the purpose being to 5006  
restrict the investments of such company in all preferred stocks 5007  
to capital, surplus, and contingency funds. 5008

(4) In the bonds, notes, debentures, or other evidences of 5009  
indebtedness of a solvent corporation, trust, partnership, or 5010  
similar business entity existing under the laws of the United 5011  
States, of any state thereof, the Commonwealth of Puerto Rico, or 5012  
Canada or any province of Canada, provided that either: 5013

(a) The bonds, notes, debentures, or other evidences of 5014  
indebtedness of such corporation, trust, partnership, or similar 5015  
business entity are rated 1 or 2 by the securities valuation 5016  
office of the national association of insurance commissioners; 5017

(b) The corporation, trust, partnership, or similar business 5018  
entity has not defaulted in payment of interest or principal on 5019  
any of its bonds, notes, debentures, or other evidences of 5020  
indebtedness during the five years immediately preceding the date 5021

of purchase, and the average annual net earnings of such 5022  
corporation, trust, partnership, or similar business entity that 5023  
are available for fixed charges for not less than five fiscal 5024  
years preceding such purchase have been at least one and one-half 5025  
times the average fixed charges of such corporation, trust, 5026  
partnership, or similar business entity for that period and during 5027  
either of the last two years of such period, the net earnings 5028  
available for fixed charges shall have been not less than one and 5029  
one-half times the fixed charges of such corporation, trust, 5030  
partnership, or similar business entity for such year. 5031

(5) In common stocks or shares of any solvent incorporated 5032  
company organized under the laws of the United States, or of any 5033  
state, district, or territory thereof, or the Commonwealth of 5034  
Puerto Rico, provided that a dividend or distribution has been 5035  
paid by the corporation in the preceding twelve months upon such 5036  
stock to be purchased, or that such corporation, together with its 5037  
predecessor corporation or corporations, has been in existence for 5038  
a period of at least five years. No domestic company shall invest 5039  
in common stock or shares under divisions (P)(5) and (R) of this 5040  
section a sum exceeding in the aggregate ten per cent of its 5041  
admitted assets on the preceding thirty-first day of December. 5042

(6) In the stocks, limited liability company membership 5043  
interests, limited partnership interests, or limited liability 5044  
partnership interests of insurance, financial, investment, and 5045  
investment management companies, which investment management 5046  
companies are registered with the securities and exchange 5047  
commission under the "Investment Company Act of 1940," 54 Stat. 5048  
789, 15 80a-1, as amended, or the stocks, limited liability 5049  
company membership interests, limited partnership interests, or 5050  
limited liability partnership interests in an entity wholly owned 5051  
by a domestic company or by a domestic company and its affiliates, 5052  
that is formed and maintained to acquire or hold specific assets 5053

or liabilities for bankruptcy remoteness or limitation of 5054  
liability purposes, except its own stock, but no domestic life 5055  
insurance company shall invest in such stocks, limited liability 5056  
company membership interests, or limited liability partnership 5057  
interests under division (P)(6) of this section, exclusive of its 5058  
investments in stocks or limited liability company membership 5059  
interests of insurance company subsidiaries or subsidiaries 5060  
engaged exclusively in the ownership of insurance company 5061  
subsidiaries, a sum exceeding the lesser of fifty per cent of its 5062  
policyholder surplus or ten per cent of its admitted assets as of 5063  
the preceding thirty-first day of December unless the approval of 5064  
the superintendent of insurance is first obtained. Whenever the 5065  
superintendent has reason to believe that the retention, 5066  
investment, or acquisition of the stock, limited liability company 5067  
membership interest, limited partnership interest, or limited 5068  
liability partnership interest of any such company substantially 5069  
lessens competition generally in the business of insurance or 5070  
creates a monopoly therein the superintendent shall proceed under 5071  
section 3901.13 of the Revised Code to cause such domestic 5072  
insurance company to divest itself of such stock, limited 5073  
liability company membership interest, limited partnership 5074  
interest, or limited liability partnership interest. 5075

(7)(a) In bonds, notes, debentures, or other evidences of 5076  
indebtedness issued, assumed, or guaranteed by a solvent 5077  
corporation, trust, or partnership formed or existing under the 5078  
laws of a foreign jurisdiction, provided each such foreign 5079  
investment is of the same kind and quality as United States 5080  
investments authorized under this section; or in common or 5081  
preferred stock, shares, membership interest, or partnership 5082  
interest of any solvent business entity formed or existing under 5083  
the laws of a foreign jurisdiction provided each such foreign 5084  
investment is of the same kind and quality as United States 5085  
investments authorized under this section; or in bonds or other 5086

evidences of indebtedness issued, assumed, or guaranteed by a 5087  
foreign jurisdiction. 5088

An insurer shall not invest in foreign investments under 5089  
division (P)(7) of this section, including investments denominated 5090  
in foreign currency, a sum exceeding in the aggregate fifteen per 5091  
cent of its admitted assets as of the preceding thirty-first day 5092  
of December. The aggregate amount of investments held by an 5093  
insurer in a single foreign jurisdiction shall not exceed three 5094  
per cent of its admitted assets as of the preceding thirty-first 5095  
day of December. 5096

As used in division (P)(7)(a) of this section, "foreign 5097  
jurisdiction" means a jurisdiction outside the United States, 5098  
Puerto Rico, or ~~Canada~~ Canada, whose bonds are rated 1 by the 5099  
securities valuation office of the national association of 5100  
insurance commissioners. 5101

(b) An insurer may acquire investments denominated in foreign 5102  
currency whether or not they are foreign investments. 5103

An insurer shall not invest in investments denominated in 5104  
foreign currency a sum exceeding in the aggregate ten per cent of 5105  
its admitted assets as of the preceding thirty-first day of 5106  
December. The aggregate amount of investments denominated in a 5107  
single foreign currency held by an insurer shall not exceed three 5108  
per cent of an insurer's admitted assets as of the preceding 5109  
thirty-first day of December. 5110

(c) As used in division (P)(7) of this section, "foreign 5111  
currency" means a currency other than that of the United States. 5112

(8) An insurer may invest without limitation in investments 5113  
of government money market funds. As used in division (P)(8) of 5114  
this section, "government money market fund" means a mutual fund 5115  
that at all times invests in obligations issued, guaranteed, or 5116  
insured by the federal government of the United States, or 5117

collateralized repurchase agreements comprised of these 5118  
obligations, and that qualifies for investment without a reserve 5119  
pursuant to the purposes and procedures of the securities 5120  
valuation office of the national association of insurance 5121  
commissioners. 5122

(Q) In loans upon the pledge of any securities in which such 5123  
companies are authorized by this section to invest, provided that 5124  
any loan upon such a pledge shall not exceed eighty per cent of 5125  
the cash market value of the collateral at the time of the making 5126  
of such loan and at the end of each twelve-month period 5127  
thereafter, and such company, through the collateral pledged to 5128  
it, shall not exceed the amounts which it may, under this section, 5129  
invest in one corporation so that, in the stocks and securities 5130  
which may be owned and those which are pledged to it, the 5131  
limitations in this section might be indirectly evaded; 5132

(R)(1) Any domestic legal reserve life insurance company may 5133  
loan or invest its funds, to an extent not exceeding in the 5134  
aggregate five per cent of its total admitted assets, in loans or 5135  
investments not permitted under this section. Any such company may 5136  
also invest up to an additional five per cent of its total 5137  
admitted assets, in loans or investments in small businesses 5138  
having more than half of their assets or employees in this state 5139  
and in venture capital firms having an office within this state, 5140  
provided that, as a condition of a company making an investment in 5141  
a venture capital firm, the firm must agree to use its best 5142  
efforts to make investments, in an aggregate amount at least equal 5143  
to the investment to be made by the company in that venture 5144  
capital firm, in small businesses having their principal offices 5145  
within this state and having either more than one-half of their 5146  
assets within this state or more than one-half of their employees 5147  
employed within this state. 5148

As used in division (R) of this section: 5149

(a) "Small businesses" means any corporation, partnership, proprietorship, or other entity that either does not have more than four hundred employees, or would qualify as a small business for the purpose of receiving financial assistance from small business investment companies licensed under the "Small Business Investment Act of 1958," 72 Stat. 689, 15 U.S.C.A. 661, as amended, and rules of the small business administration.

(b) "Venture capital firms" means any corporation, partnership, proprietorship, or other entity, the principal business of which is or will be the making of investments in small businesses.

(c) "Investments" means any equity investment, including limited partnership interests and other equity interests in which liability is limited to the amount of the investment, but does not include general partnership interests or other interests involving general liability.

(2) In the event that, subsequent to being made under provisions of division (R) of this section, an investment is determined to have become qualified as an investment for a domestic life insurance company as provided for in this section, the company may consider such investment as held under the applicable provisions of the foregoing divisions (A) to (Q) of this section and such investment shall no longer be considered as having been made under the provisions of this division.

(S)(1) No domestic life insurance company shall subscribe to or participate in any underwriting for the purchase or sale of securities or property, nor shall it enter into any such transaction for purchase or sale on account of said company jointly with any other person, nor shall any such company enter into any agreement to withhold from sale any of its property, but the disposition of its property shall be at all times within the control of its board of directors. Nothing contained in division

(S)(1) of this section shall be construed to invalidate or 5182  
prohibit an agreement by an insurance company for the purchase for 5183  
its own account of an entire issue of the securities of a 5184  
corporation or to invalidate or prohibit an agreement by an 5185  
insurance company and one or more other investors to join and 5186  
share in the purchase of investments for their individual accounts 5187  
and for bona fide investment purposes. 5188

(2) In the determination of capitalization in this section 5189  
the value of all bonds, debentures, and funded debts, and 5190  
nonconvertible or nonparticipating preferred stocks shall be 5191  
figured at par. Participating or convertible preferred shares 5192  
shall be figured at par or market on the preceding thirty-first 5193  
day of December, whichever is higher, and the value of all common 5194  
shares shall be figured at the market on the preceding 5195  
thirty-first day of December. 5196

(3) As used in this section: 5197

(a) "Funded debt" means all interest-bearing obligations 5198  
maturing in more than one year from their issuance and all 5199  
guaranteed or assumed interest-bearing obligations or stock. 5200  
Securities or stock of a corporation pledged to secure other 5201  
funded debt of the corporation are not included in the funded 5202  
debt. 5203

(b) "Fixed charges" include actual interest incurred in each 5204  
year on funded and unfunded debt and annual apportionment of debt 5205  
discount or premium. Where interest is partially or entirely 5206  
contingent upon earnings, "fixed charges" include contingent 5207  
interest payments. 5208

(c) "Net earnings available for fixed charges" means income 5209  
after deducting operating and maintenance expenses, taxes other 5210  
than income taxes, depreciation, and depletion. Extraordinary, 5211  
nonrecurring items of income or expense shall be excluded. 5212

(4) Except as provided in a plan of mutualization adopted 5213  
pursuant to the provisions of sections 3913.01 to 3913.10 of the 5214  
Revised Code, no domestic life insurance company may invest in or 5215  
loan upon its own stock, either directly or indirectly. 5216

(5) If the investments of any domestic life insurance company 5217  
are at the time of the making thereof or on October 13, 1953, 5218  
otherwise than as authorized in this section, such investments 5219  
shall not be admitted or accepted as authorized investments for 5220  
such company. 5221

(6) Any earnings test provided for in this section shall be 5222  
deemed to have been met if the requirements of such earnings test 5223  
are met by any company which assumes or guarantees the investment 5224  
or which assumes or guarantees the performance of any lease which 5225  
is the security for the investment. In applying any such earnings 5226  
test, the operations of a company's predecessor companies, if any, 5227  
for the stipulated period shall be included. 5228

(7) No domestic life insurance company shall at any time have 5229  
invested in or loaned upon the security of the obligations, 5230  
property, or securities of a particular corporation, trust, 5231  
partnership, or similar business entity a sum exceeding the 5232  
greater of two per cent of its admitted assets as of the preceding 5233  
thirty-first day of December or twenty-five per cent of that 5234  
portion of its capital and surplus, or its surplus in the case of 5235  
a mutual company, that exceeds the minimum required capital and 5236  
surplus under section 3907.05 of the Revised Code unless the 5237  
approval of the superintendent of insurance is first obtained. The 5238  
restrictions of division (S)(7) of this section do not apply to 5239  
divisions (C), (F), (G), (H), (P)(6), and (R) of this section or 5240  
to any valid obligation issued, assumed, or guaranteed by the 5241  
United States, or any state thereof, the Commonwealth of Puerto 5242  
Rico, the District of Columbia, or Canada or any province of 5243  
Canada. For purposes of division (S)(7) of this section, such 5244

company may, at its option, consider either the lessor or the 5245  
lessee under division (L) of this section to be the person to whom 5246  
any such investment or loan is made. 5247

(8) This section does not affect the propriety or legality of 5248  
an investment made by a domestic life insurance company which was 5249  
in accordance with the laws in force at the time of the making of 5250  
the investment. 5251

(T) A domestic life insurance company may seek permission 5252  
from the superintendent of insurance to invest funds under Chapter 5253  
3906. of the Revised Code and may invest funds under that chapter 5254  
if such permission is granted. 5255

(U) As used in divisions (U) and (V) of this section: 5256

(1) "Covered" means that an insurer owns, or can immediately 5257  
acquire through the exercise of options, warrants, or conversion 5258  
rights already owned, the underlying interest in order to fulfill 5259  
or secure its obligation under the option, cap, or floor it has 5260  
written. 5261

(2)(a) "Derivative instrument" means an agreement, option, 5262  
instrument, or a series or combination thereof of either of the 5263  
following types: 5264

(i) To make or take delivery of, or assume or relinquish, a 5265  
specified amount of one or more underlying interests, or to make a 5266  
cash settlement in lieu thereof; 5267

(ii) That has a price, performance, value, or cash flow based 5268  
primarily upon the actual or expected price, level, performance, 5269  
value, or cash flow of one or more underlying interests. 5270

(b) Derivative instruments include options, warrants, caps, 5271  
floors, collars, swaps, forwards, futures, and any other 5272  
agreements, options, or instruments substantially similar thereto 5273  
or any series or combination thereof. 5274

<u>(3) "Derivative transaction" means a transaction involving</u>	5275
<u>the use of one or more derivative instruments.</u>	5276
<u>(4) "Hedging transaction" means a derivative transaction that</u>	5277
<u>is entered into and maintained to reduce either of the following:</u>	5278
<u>(a) The risk of economic loss due to a change in the value,</u>	5279
<u>yield, price, cash flow, or quantity of assets or liabilities that</u>	5280
<u>the insurer has acquired or incurred or anticipates acquiring or</u>	5281
<u>incurring;</u>	5282
<u>(b) The currency exchange rate risk or the degree of exposure</u>	5283
<u>as to assets or liabilities that an insurer has acquired or</u>	5284
<u>incurred or anticipates acquiring or incurring.</u>	5285
<u>(5) "Income generation" means a derivative transaction</u>	5286
<u>involving the writing of covered options, caps, or floors that is</u>	5287
<u>intended to generate income or enhance return.</u>	5288
<u>(6) "Replication transaction" means a derivative transaction</u>	5289
<u>that is intended to replicate the performance of one or more</u>	5290
<u>assets that an insurer is authorized to acquire under this</u>	5291
<u>chapter. "Replication transaction" does not include a derivative</u>	5292
<u>transaction that is entered into as a hedging transaction.</u>	5293
<u>(V)(1) Prior to an insurer entering into derivative</u>	5294
<u>transactions, the board of directors of the insurer shall approve</u>	5295
<u>a derivative use plan.</u>	5296
<u>(2) An insurer shall notify the superintendent of insurance</u>	5297
<u>in writing within three days after identifying either of the</u>	5298
<u>following:</u>	5299
<u>(a) Any event or occurrence related to an insurer's</u>	5300
<u>derivatives use that may lead to a material change to the</u>	5301
<u>insurer's policyholder surplus;</u>	5302
<u>(b) Any event or occurrence related to an insurer's</u>	5303
<u>derivatives use that, with the passage of time, may lead to a</u>	5304

material change to the insurer's policyholder surplus. 5305

(3) Prior to entering into derivative transactions, an insurer shall file with the superintendent a copy of its derivative use plan and internal controls, for informational purposes. The insurer shall keep current the copy of its derivative use plan and internal controls filed with the superintendent. The insurer shall not enter into derivative transactions until thirty calendar days after the date on which the derivative use plan and internal controls is filed with the superintendent. This thirty-calendar-day period is to begin on the date that the superintendent receives the derivative use plan and internal controls. 5306  
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(4) The superintendent may adopt rules prescribing the form and content of derivative use plans, as well as any internal controls the superintendent considers necessary. 5317  
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(5) An insurer that engages in hedging transactions or replication transactions shall do both of the following: 5320  
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(a) Maintain its position in any outstanding derivative instrument used as part of a hedging transaction or replication transaction for as long as the hedging transaction or replication transaction continues to be effective; 5322  
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(b) Demonstrate to the superintendent, upon request, that any derivative transaction entered into and involving hedging transaction or replication transaction is an effective hedging transaction or replication transaction. The insurer must be able to demonstrate this at the time the derivative transaction is entered into, and for as long as the transaction continues to be in place. 5326  
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(6) An insurer may not invest in, or use, a derivative instrument for any purpose other than a hedging transaction, income generation, or replication. 5333  
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(7) An insurer shall not invest in, or use a derivative instrument for purposes of income generation in a sum exceeding in the aggregate five per cent of its admitted assets, as of the preceding thirty-first day of December. 5336  
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(8) All documents provided to the superintendent under division (V) of this section shall be deemed trade secrets and shall be provided with trade secret protection. Such documents shall also be considered work papers of the superintendent that are subject to section 3901.48 of the Revised Code and are confidential and privileged and shall not be considered a public record, as defined in section 149.43 of the Revised Code. The original documents and any copies of them shall not be subject to subpoena and shall not be made public by the superintendent or any other person, except as otherwise provided in section 3901.48 of the Revised Code. 5340  
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**Sec. 3913.01.** Any domestic stock life insurance corporation, 5351  
incorporated under a general law, may become a mutual life 5352  
insurance corporation, and to that end may carry out a plan for 5353  
the acquisition of shares of its capital stock, provided such 5354  
plan: 5355

(A) Has been adopted by a vote of a majority of the directors 5356  
of such corporation; 5357

(B) Has been approved by a vote of stockholders representing 5358  
a majority of the capital stock then outstanding at a meeting of 5359  
stockholders called for the purpose; 5360

(C) Has been approved by a majority of the policyholders 5361  
voting at a meeting of policyholders called for the purpose, each 5362  
of whom is insured in a sum of at least one thousand dollars and 5363  
whose insurance shall then be in force and shall have been in 5364  
force for at least one year prior to such meeting. 5365

As used in this section, "policyholder" means the person 5366  
insured under an individual policy of life insurance, and the 5367  
person to whom any annuity or pure endowment is presently or 5368  
prospectively payable by the terms of an individual annuity or 5369  
pure endowment contract, except where the policy or contract 5370  
declares some other person to be the owner or holder thereof, in 5371  
which case such owner or policyholder shall be deemed the 5372  
policyholder, and except in cases of assignment. In the case of 5373  
any individual policy or contract insuring two or more persons 5374  
jointly or in case the policy or contract declares two or more 5375  
persons to be the owner, the persons insured or declared to be the 5376  
owner are considered as one policyholder for the purposes of this 5377  
section. In case any such policy or contract has been assigned by 5378  
an assignment absolute on its face to an assignee other than the 5379  
corporation, and such assignment has been filed at the principal 5380  
office of the corporation at least thirty days prior to the date 5381  
of the meeting of policyholders, then such assignee shall be 5382  
deemed a policyholder. Except as provided in this section, an 5383  
assignee of a policy or contract shall not be deemed a 5384  
policyholder. The reference in division (C) of this section to 5385  
insurance in the amount of one thousand dollars or more is deemed 5386  
to include any annuity contract, the commuted value of which is 5387  
one thousand dollars or more on the date of said meeting, and any 5388  
pure endowment contract for the principal sum of one thousand 5389  
dollars or more. 5390

Notice of the meeting of policyholders shall be given by 5391  
mailing such notice from the home office of the corporation at 5392  
least thirty days prior to such meeting in a sealed envelope, 5393  
postage prepaid, addressed to such policyholders at their last 5394  
known post-office addresses, provided that personal delivery of 5395  
such written notice to any policyholder evidenced by written 5396  
receipt therefor may be substituted for mailing the same. The 5397  
meeting shall be otherwise provided for and conducted in such 5398

manner as is provided in the mutualization plan, provided that 5399  
policyholders may vote in person, by proxy, or by mail, and that 5400  
all votes shall be cast by ballot on a uniform ballot furnished by 5401  
the corporation. The superintendent of insurance shall supervise 5402  
and direct the method and procedure of said meeting and shall 5403  
appoint an adequate number of inspectors to conduct the voting at 5404  
said meeting who may determine all questions concerning the 5405  
verification of the ballots, the ascertainment of the validity of 5406  
such ballots, the qualifications of the voters, and the canvass of 5407  
the vote, and who shall certify to the superintendent and to the 5408  
corporation the result of such proceedings, which shall be 5409  
supervised by said inspectors in accordance with such rules as are 5410  
prescribed by the superintendent. All necessary expenses incurred 5411  
by the superintendent shall be paid by the corporation, as 5412  
certified to by ~~him~~ the superintendent. 5413

Before such a plan can be carried out, it must be submitted 5414  
to the superintendent and must be approved by ~~him~~ the 5415  
superintendent in writing; provided that every payment for the 5416  
acquisition of any shares of the capital stock of such 5417  
corporation, the purchase price of which is not fixed by such 5418  
plan, shall be subject to the approval of the superintendent, and 5419  
provided that neither such plan, nor any such payment, shall be 5420  
approved by the superintendent unless at the time of such 5421  
approvals, respectively, the corporation, after deducting the 5422  
aggregate sum appropriated by such plan for the acquisition of any 5423  
part or all of its capital stock, and, in the case of any payment 5424  
not fixed by such plan and subject to separate approval by the 5425  
superintendent, after deducting also the amount of such payment, 5426  
shall be possessed of net assets of not less than two hundred 5427  
thousand dollars from which it shall maintain its deposit made 5428  
previously with the superintendent, and such assets shall be not 5429  
less than the entire liabilities of the corporation, including the 5430  
net values of its outstanding contracts computed according to the 5431

standard adopted by the corporation under ~~section~~ sections 3903.72 5432  
to 3903.7211 of the Revised Code and including all funds, 5433  
contingent reserves, and surplus, except for such surplus as has 5434  
been appropriated or paid under such plan. 5435

**Sec. 3913.34.** (A) Sections 3913.11 to 3913.13 and 3913.20 to 5436  
3913.23 of the Revised Code shall apply to a mutual insurance 5437  
holding company as if the mutual insurance holding company were a 5438  
domestic mutual insurance company. The members of the mutual 5439  
insurance holding company are deemed to be members of a domestic 5440  
mutual insurance company for all purposes of such sections. 5441

(B) A reorganization of a domestic mutual life insurance 5442  
company subject to sections 3913.25 to 3913.38 of the Revised Code 5443  
~~also is subject to sections 3907.09 to 3907.11 of the Revised~~ 5444  
~~Code, if applicable, but~~ is not subject to sections 3901.32 to 5445  
3901.323 of the Revised Code. 5446

(C) Notwithstanding division (B) of this section, for a 5447  
period of five years following the effective date of a 5448  
reorganization under sections 3913.25 to 3913.38 of the Revised 5449  
Code, no person shall acquire control of a reorganized stock 5450  
company without compliance with sections 3901.32 to 3901.323 of 5451  
the Revised Code. For purposes of this division, "control" has the 5452  
same meaning as in division (B) of section 3901.32 of the Revised 5453  
Code, except that control is presumed to exist if any person, 5454  
directly or indirectly, owns, controls, holds with the power to 5455  
vote, or holds proxies representing five per cent or more of the 5456  
voting securities of any other person. 5457

(D) An intermediate holding company or, if there is no such 5458  
company, a reorganized stock company shall not issue shares of 5459  
stock, in addition to the shares issued pursuant to the 5460  
reorganization plan under which the company was formed, without 5461  
the prior approval of the mutual insurance holding company as its 5462

majority shareholder. The prior approval of the mutual insurance 5463  
holding company must be evidenced by a resolution of the board of 5464  
directors of the mutual insurance holding company delivered to the 5465  
board of directors of the intermediate holding company or the 5466  
reorganized stock company prior to the issuance of the additional 5467  
shares. 5468

(E) A mutual insurance holding company, and an intermediate 5469  
holding company, if any, are deemed to be insurers subject to 5470  
sections 3901.07, 3901.071, and 3901.48 of the Revised Code. 5471

**Sec. 3915.04.** Life insurance policies may provide for not 5472  
more than one year preliminary term insurance by incorporation 5473  
therein of the following clause immediately preceding the "change 5474  
of beneficiary" clause: 5475

"The first year's insurance under this policy is term 5476  
insurance." 5477

If the premium charged for term insurance under a limited 5478  
payment life or endowment preliminary term policy, providing for 5479  
the payment of all premiums thereon in less than twenty years from 5480  
the date of the policy, exceeds that charged for like insurance 5481  
under whole life preliminary term policies of the same company, 5482  
the reserve thereon at the end of any year, including the first, 5483  
shall not be less than the reserve on a whole life preliminary 5484  
term policy issued in the same year and at the same age together 5485  
with an amount equivalent to the accumulation of a net level 5486  
premium sufficient to provide for a pure endowment at the end of 5487  
the premium-payment period equal to the difference between the 5488  
value at the end of such period of such a whole life preliminary 5489  
term policy and the full reserve at such time of such limited 5490  
payment life or endowment policy. This section does not apply to 5491  
any policy issued under section 3915.07 of the Revised Code on or 5492  
after the operative date for such policy as authorized by division 5493

(H) of such section. 5494

This section is applicable to any preliminary term policies, 5495  
except in the case of ~~policies which are subject to the valuation~~ 5496  
~~requirements of division (D) of~~ life insurance policies and 5497  
annuity and pure endowment contracts issued between July 17, 1947, 5498  
and November 5, 1959, that are subject to valuation under section 5499  
~~3903.72~~ 3903.723 of the Revised Code. 5500

**Sec. 3915.071.** (A) As used in this section, "operative date 5501  
of the valuation manual" means the January 1 of the first calendar 5502  
year that the valuation manual, as defined in section 3903.72 of 5503  
the Revised Code, is effective. 5504

(B) No policy of life insurance shall be delivered or issued 5505  
for delivery in this state, on or after January 1, 1989, or the 5506  
operative date (not before January 1, 1983) applicable to such 5507  
policy, as permitted by division (P) of this section, unless it 5508  
contains in substance the provisions set out in this division 5509  
which are applicable to the plan of insurance or corresponding 5510  
provisions which, in the opinion of the superintendent of 5511  
insurance, are at least as favorable to the policyholder: 5512

(1) That the company will, upon proper request within sixty 5513  
days after the due date of a premium in default, grant a paid-up 5514  
nonforfeiture benefit on a plan stated in the policy. The 5515  
effective date of the benefit shall be the due date of the unpaid 5516  
premium. The benefit shall be in the amount specified in this 5517  
section. 5518

(2) That upon proper request, within the same sixty-day 5519  
period, the company may substitute an alternative nonforfeiture 5520  
benefit of an actuarially equivalent value. The amount may be 5521  
greater or the death benefit may be for a longer period. If the 5522  
benefit is an endowment benefit, the amount may be greater or 5523  
payment may be made earlier. 5524

(3) That after premiums have been paid for at least three 5525  
full years for ordinary insurance or for at least five full years 5526  
for industrial insurance, the company will, upon surrender of the 5527  
policy within sixty days after the due date of an unpaid premium, 5528  
pay a cash surrender value in the amount specified in this section 5529  
in lieu of any paid-up nonforfeiture benefits. 5530

(4) That if another available nonforfeiture benefit is not 5531  
elected within sixty days after the due date of an unpaid premium, 5532  
the paid-up nonforfeiture benefit specified in the policy shall 5533  
become effective. 5534

(5) That if all premiums for the policy have been paid, the 5535  
company will pay the cash surrender value, upon surrender of the 5536  
policy within thirty days after a policy anniversary, in the 5537  
amount specified in this section. That value will also be 5538  
available within any such thirty-day period if the policy is 5539  
continuing under any nonforfeiture benefit which became effective 5540  
on or after the third policy anniversary in the case of ordinary 5541  
insurance or the fifth policy anniversary in the case of 5542  
industrial insurance. 5543

(6) A statement of the mortality table, interest rate, and 5544  
method used in calculating cash surrender values and paid-up 5545  
nonforfeiture benefits available under policies which guarantee 5546  
unscheduled changes in benefits or premiums upon the happening of 5547  
specified events or upon the exercise of an option without change 5548  
to a new policy. 5549

For all other policies, a statement of the mortality table 5550  
and interest rate used in calculating the cash surrender values 5551  
and paid-up nonforfeiture benefits, together with a table showing 5552  
such values and benefits on each policy anniversary during the 5553  
first twenty policy years, or the term of the policy, if shorter. 5554  
Values and benefits are to be calculated on the assumption that 5555  
there are no dividends or paid-up additions credited to the policy 5556

and that there is no indebtedness to the company on the policy. 5557

(7) A statement that the cash surrender values and paid-up 5558  
nonforfeiture benefits are not less than those required by the law 5559  
of the state in which the policy is delivered. 5560

(8) An explanation of the manner in which cash surrender 5561  
values and paid-up nonforfeiture benefits are increased by any 5562  
paid-up additions to the policy and decreased by any indebtedness 5563  
to the company on the policy. 5564

(9) A statement that a detailed statement of the method of 5565  
computation of values and benefits has been filed with the 5566  
insurance supervisory official of the state in which the policy is 5567  
delivered if such a detailed statement is not included in the 5568  
policy. 5569

(10) A statement of the method used in calculating the cash 5570  
surrender value and paid-up nonforfeiture benefit available on any 5571  
policy anniversary beyond the last anniversary for which values 5572  
and benefits are consecutively shown in the policy. 5573

The company shall reserve the right to defer the payment of 5574  
any cash surrender value for a period of six months after demand 5575  
and surrender of the policy. 5576

~~(B)~~(C) Upon default in payment of a premium due on a policy 5577  
anniversary, any cash surrender value shall be determined as of 5578  
the due date. The value shall be not less than the present value 5579  
on the anniversary of the future guaranteed benefits which would 5580  
have been provided for by the policy, including any existing 5581  
paid-up additions, had default not occurred, less the present 5582  
value on the anniversary of the adjusted premiums corresponding to 5583  
the premiums which would have fallen due on and after such 5584  
anniversary and less any indebtedness to the company on the 5585  
policy. Any cash surrender value provided for by the policy shall 5586  
be in substantial compliance with section 3915.072 of the Revised 5587

Code. 5588

If supplemental life insurance or annuity benefits are added 5589  
at issue, at the option of the insured, to a policy by rider or 5590  
supplemental policy provision and for an identifiable additional 5591  
premium, the cash surrender values for the basic insurance and for 5592  
the supplemental insurance or benefits shall be determined as if 5593  
each had been issued as a separate policy. The cash surrender 5594  
value of the policy shall be the sum of the cash surrender value 5595  
of the basic insurance and of the supplemental insurance or 5596  
benefits. 5597

The cash surrender value for a family policy, which defines a 5598  
primary insured and which provides term insurance on the life of 5599  
the spouse of the primary insured expiring before the spouse's age 5600  
seventy-one, is the sum of the cash surrender value of the 5601  
insurance on the primary insured and the cash surrender value of 5602  
the term insurance on the spouse, determined as if the insurance 5603  
on each had been issued as a separate policy. 5604

Any cash surrender value available within thirty days after a 5605  
policy anniversary, under a policy paid up by completion of all 5606  
premium payments or continued under any paid-up nonforfeiture 5607  
benefit, shall be not less than the present value, on the 5608  
anniversary, of the future guaranteed benefits provided by the 5609  
policy, including any paid-up additions, and decreased by any 5610  
indebtedness to the company on the policy. 5611

Any paid-up nonforfeiture benefit available upon default in 5612  
payment of the premium due on a policy anniversary shall have a 5613  
present value as of the anniversary at least equal to the policy's 5614  
cash surrender value on that date or, if none is provided for, the 5615  
cash surrender value which would have been required by this 5616  
section in the absence of the condition that premiums shall have 5617  
been paid for the requisite number of years. 5618

~~(C)~~(D)(1) Amounts payable as extra premiums to cover 5619  
impairments or special hazards and uniform annual contract charges 5620  
or policy fees specified in the policy statement of the method to 5621  
be used in calculating cash surrender values and paid-up 5622  
nonforfeiture benefits are excluded in calculating adjusted 5623  
premiums and recalculated future adjusted premiums. 5624

A policy issued on a substandard basis but similar to one 5625  
issued on a standard basis may be considered the same as the 5626  
standard policy in calculating adjusted premiums and present 5627  
values if tabular mortality costs in each policy year are the same 5628  
as those in the standard policy and if the policies differ only in 5629  
that the substandard policy provides reduced graded amounts of 5630  
insurance and the standard policy provides higher uniform amounts 5631  
of insurance. 5632

(2) The adjusted premiums for any policy are calculated on an 5633  
annual basis and shall be a uniform per cent of the respective 5634  
premiums specified in the policy for each policy year such that 5635  
the present value, at the date of issue, of all such adjusted 5636  
premiums is equal to the sum of the following: 5637

(a) The present value at the date of issue of the future 5638  
guaranteed benefits; 5639

(b) One per cent of either the amount of insurance, if 5640  
uniform in amount, or the average amount of insurance at the 5641  
beginning of each of the first ten policy years; and 5642

(c) One hundred twenty-five per cent of the nonforfeiture net 5643  
level premium, as defined in division ~~(C)~~(D)(3) of this section, 5644  
provided that for the purposes of this division ~~(C)~~(D)(2)(c) the 5645  
nonforfeiture net level premium shall not be deemed to exceed four 5646  
per cent of either the amount of insurance, if uniform in amount, 5647  
or the average amount of insurance at the beginning of each of the 5648  
first ten policy years. 5649

The date of issue, as used in this division, is the date as 5650  
of which the rated age of the insured is determined. 5651

(3) The nonforfeiture net level premium is equal to the 5652  
present value, at the date of issue, of the guaranteed benefits 5653  
provided for by the policy divided by the present value, at the 5654  
date of issue, of an annuity of one per annum payable on the date 5655  
of issue and on each anniversary of the policy on which a premium 5656  
falls due. 5657

(4) Adjusted premiums, present values, additional expense 5658  
allowances, and nonforfeiture net level premiums for policies 5659  
which guarantee unscheduled changes in benefits or premiums upon 5660  
the happening of specified events or upon the exercise of an 5661  
option without change to a new policy are determined as follows: 5662

(a) At the date of issue, adjusted premiums, nonforfeiture 5663  
net level premiums, and present values are calculated on the 5664  
assumption that there will be no change in future benefits or 5665  
premiums; 5666

(b) At the time of a change in benefits or premiums, future 5667  
adjusted premiums, nonforfeiture net level premiums and present 5668  
values are recalculated on the assumption that there will be no 5669  
other change in future benefits or premiums; 5670

(c) These recalculated future adjusted premiums are a uniform 5671  
percentage of the respective future premiums specified in the 5672  
policy for each policy year after the change such that the present 5673  
value, at the time of change, of the future adjusted premiums is 5674  
equal to the sum of: 5675

(i) The present value at the time of change of all future 5676  
guaranteed benefits provided for by the policy; 5677

(ii) Any additional expense allowance less the cash surrender 5678  
value at that time or, if none, the value of any paid-up 5679  
nonforfeiture benefit. 5680

(d) The additional expense allowance, at the time of change, 5681  
is the sum of one per cent of any increase in the average amount 5682  
of insurance and one hundred twenty-five per cent of any increase 5683  
in the nonforfeiture net level premium. The average amount of 5684  
insurance after the change is the average amount of insurance at 5685  
the beginning of the first ten policy years following the change. 5686  
The average amount of insurance before the change is the average 5687  
amount of insurance at the beginning of each of the first ten 5688  
policy years starting with the date of the most recent previous 5689  
change or, if there has been no change, the date of issue. 5690

(e) The recalculated nonforfeiture net level premium is the 5691  
quotient of (i) the present value of the increase in future 5692  
guaranteed benefits provided by the policy plus (ii) the 5693  
nonforfeiture net level premium before the change times the 5694  
present value of an annuity of one per annum payable on each 5695  
anniversary of the policy on and after the date of change on which 5696  
a premium would, except for the change, have fallen due divided by 5697  
(iii) the present value of an annuity of one per annum payable on 5698  
each anniversary on or after the date of change on which a premium 5699  
falls due. 5700

~~(D)~~(E) For policies issued prior to the operative date of the 5701  
valuation manual: 5702

(1) For all policies of ordinary insurance issued on the 5703  
standard basis, all adjusted premiums and present values referred 5704  
to in this section shall be calculated on the basis of the 5705  
commissioners 1980 standard ordinary mortality table and a rate of 5706  
interest not exceeding the nonforfeiture interest rate provided 5707  
for by division ~~(F)~~(E)(3) of this section or, at the option of the 5708  
company, a rate not exceeding the nonforfeiture interest rate for 5709  
policies issued in the preceding calendar year. The company may 5710  
elect to use the commissioners 1980 standard ordinary mortality 5711  
table with ten-year select mortality factors for any specified 5712

plan of life insurance. The superintendent may approve the use of 5713  
any ordinary mortality table adopted after 1980 by the national 5714  
association of insurance commissioners in determining the minimum 5715  
nonforfeiture standard for such policies. 5716

~~(E)~~(2) For all policies of industrial insurance issued on the 5717  
standard basis, all adjusted premiums and present values referred 5718  
to in this section shall be calculated on the basis of the 5719  
commissioners 1961 standard industrial mortality table and a rate 5720  
of interest not exceeding the nonforfeiture interest rate provided 5721  
for by division ~~(F)~~(E)(3) of this section or, at the option of the 5722  
company, a rate not exceeding the nonforfeiture interest rate for 5723  
policies issued in the preceding calendar year. The superintendent 5724  
may approve the use of any industrial mortality table adopted 5725  
after 1980 by the national association of insurance commissioners 5726  
in determining the minimum nonforfeiture standard for such 5727  
policies. 5728

~~(F)~~(3) The nonforfeiture interest rate for a policy issued in 5729  
any calendar year is equal to one hundred twenty-five per cent of 5730  
the valuation interest rate for the policy as defined in section 5731  
~~3903.721~~ 3903.724 of the Revised Code, rounded to the nearer 5732  
one-quarter of one per cent, provided, however, that the 5733  
nonforfeiture interest rate shall not be less than four per cent. 5734

(F) For all policies issued on or after the operative date of 5735  
the valuation manual: 5736

(1) For all policies of ordinary insurance, the valuation 5737  
manual shall provide the commissioners standard mortality table 5738  
for use in determining the minimum nonforfeiture standard that may 5739  
be substituted for the commissioners 1980 standard ordinary 5740  
mortality table, with or without ten-year select mortality 5741  
factors, or for the commissioners 1980 extended term insurance 5742  
table. If the superintendent approves by rule any commissioners 5743  
standard ordinary mortality table adopted by the national 5744

association of insurance commissioners for use in determining the 5745  
minimum nonforfeiture standard for policies issued on or after the 5746  
operative date of the valuation manual, then that minimum 5747  
nonforfeiture standard supersedes the minimum nonforfeiture 5748  
standard provided by the valuation manual. 5749

(2) For all policies of industrial insurance, the valuation 5750  
manual shall provide the commissioners standard mortality table 5751  
for use in determining the minimum nonforfeiture standard that may 5752  
be substituted for the commissioners 1961 standard industrial 5753  
mortality table or the commissioners 1961 industrial extended term 5754  
insurance table. If the superintendent approves by rule any 5755  
commissioners standard industrial mortality table adopted by the 5756  
national association of insurance commissioners for use in 5757  
determining the minimum nonforfeiture standard for policies issued 5758  
on or after the operative date of the valuation manual, then that 5759  
minimum nonforfeiture standard supersedes the minimum 5760  
nonforfeiture standard provided by the valuation manual. 5761

(3) The nonforfeiture interest rate per annum for any policy 5762  
issued in a particular calendar year shall be provided by the 5763  
valuation manual. 5764

(G) Any cash surrender value for any paid-up nonforfeiture 5765  
benefit including any paid-up dividend additions shall be 5766  
calculated on the basis of the mortality table and rate of 5767  
interest used in determining the amount of such benefit and 5768  
paid-up dividend additions. 5769

(H) Guaranteed paid-up nonforfeiture benefits, including any 5770  
paid-up additions, shall be calculated on the basis of an interest 5771  
rate no lower than that specified in the policy when calculating 5772  
cash surrender values. 5773

(I) Present values, for any paid-up term insurance or any 5774  
paid-up term insurance with accompanying pure endowment offered as 5775

a nonforfeiture benefit, shall be calculated using rates of 5776  
mortality not to exceed those shown in the commissioners 1980 5777  
extended term insurance table for policies of ordinary insurance 5778  
and those shown in the commissioners 1961 industrial extended term 5779  
insurance table for policies of industrial insurance. The 5780  
superintendent may approve the use of any extended term insurance 5781  
table adopted after 1980 by the national association of insurance 5782  
commissioners in determining such present values. 5783

(J) Adjusted premiums and present values for policies that 5784  
are issued on a substandard basis may be calculated on the basis 5785  
of such table of mortality as may be specified by the company and 5786  
approved by the superintendent. 5787

(K) The superintendent of insurance may by rule adopt methods 5788  
for computing cash surrender values and paid-up nonforfeiture 5789  
benefits for plans of life insurance which are of such a nature 5790  
that values cannot be determined by any method described in this 5791  
section, provided the superintendent is satisfied that the 5792  
benefits provided in any such plan are substantially as favorable 5793  
to policyholders and insureds as the minimum benefits otherwise 5794  
required by this section and that the benefits and patterns of 5795  
premiums for the plan will not mislead prospective policyholders 5796  
or insureds. Such methods must be consistent with the principles 5797  
of this section. This division shall apply to any plan of life 5798  
insurance which provides for future premium determination, the 5799  
amounts of which are to be determined by the company on the basis 5800  
of estimates of future experience made at the time of any such 5801  
determination. 5802

(L) Any cash surrender value and any paid-up nonforfeiture 5803  
benefit, available upon default in payment of a premium due at any 5804  
time other than on a policy anniversary, shall be calculated with 5805  
allowance for lapse of time and payment of fractional premiums 5806  
beyond the preceding policy anniversary. All values referred to in 5807

this section may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up addition, other than paid-up term additions, shall be not less than the amount used to provide such additions.

(M) All other policy benefits additional to life insurance and endowment benefits shall be disregarded, and premiums for all such additional benefits and any extra premiums to cover impairments or special hazards shall be disregarded, in ascertaining the cash surrender values and nonforfeiture benefits required by this section. No such additional benefits shall be required to be included in any paid-up nonforfeiture benefit. Such benefits include additional benefits payable:

(1) For death or dismemberment by accident or accidental means;

(2) For total and permanent disability;

(3) As reversionary annuity or deferred reversionary annuity benefits;

(4) As term insurance benefits provided by rider or supplemental policy provisions to which, issued as a separate policy, this section would not apply;

(5) As term insurance on the life of a child or lives of children provided in a policy on the life of a parent, if such term insurance expires before the child's age is twenty-six, is uniform in amount after the child's age is one, and has not become paid-up by reason of the death of a parent.

(N) This section does not apply to any reinsurance, group insurance, pure endowment or annuity or reversionary annuity contract nor to any:

(1) Term policy, or renewal thereof, of uniform amount and for twenty years or less expiring before age seventy-one which

provides no guaranteed nonforfeiture or endowment benefit and for 5838  
which uniform premiums are payable during the entire term and any 5839  
renewal of the policy; 5840

(2) Term policy of decreasing amount, which provides no 5841  
guaranteed nonforfeiture or endowment benefits, and for which each 5842  
adjusted premium is less than the adjusted premium for a term 5843  
policy described in division (N)(1) of this section issued at the 5844  
same age and for the same initial amount of insurance; 5845

(3) Policy, which provides no guaranteed nonforfeiture or 5846  
endowment benefits, and for which the cash surrender value or 5847  
present value of any paid-up nonforfeiture benefit for any policy 5848  
year calculated according to this section as of the beginning of 5849  
such policy year, does not exceed two and one-half per cent of the 5850  
amount of insurance at the beginning of the same policy year; 5851

(4) Policy which is delivered outside this state through an 5852  
agent or other representative of the company issuing the policy. 5853

For purposes of determining the applicability of this 5854  
division to a joint-term life insurance policy, the age at expiry 5855  
shall be the age at expiry of the oldest life. 5856

(O) No approved policy form need be refiled if nonforfeiture 5857  
values or methods for computing such values for it are refiled and 5858  
the only change is in the interest rate or the mortality table. 5859

(P) The operative date of this section shall be January 1, 5860  
1989, except that an earlier operative date may be elected as 5861  
provided in this division. A company may, by written notice filed 5862  
with the superintendent, elect to issue all, or one or more, of 5863  
its policy forms pursuant to this section on and after a date 5864  
specified in the notice. The date specified may be any date on or 5865  
after January 1, 1983, and before January 1, 1989. The date 5866  
specified shall be the operative date of this section for the 5867  
policy form or forms specified in the notice. 5868

No other statute shall be construed to prohibit any life insurance company from classifying its policies and electing to issue specified forms of policies pursuant to the plan set forth in this section, while using other legal basis as to reserve calculations and nonforfeiture values for other of its policies, nor shall it be construed to prohibit any life insurance company from adopting other reasonable classifications of policies or policyholders.

**Sec. 3915.072.** This section applies to all policies of life insurance, not excluded by division (N) of section 3915.071 of the Revised Code, that are delivered, or issued for delivery, in this state on or after January 1, 1989.

(A) Upon default in payment of the premium due on a policy anniversary, the cash surrender value shall not differ by more than two-tenths of one per cent of the amount of insurance from the sum of the greater of zero or the basic cash value, as defined in division (B) of this section, and the present value of any paid-up additions less any indebtedness to the company on the policy. If the amount of insurance is not uniform, the amount is the average amount of insurance in force at the beginning of each of the first ten policy years.

(B) The basic cash value is equal to the present value on the anniversary of the future guaranteed benefits which would have been provided for by the policy had default not occurred less the present value on the anniversary of the nonforfeiture factors corresponding to the premiums which would have fallen due on and after the anniversary. The basic cash value may not be less than the value obtained by substituting the adjusted premiums, as defined in division ~~(C)~~(D)(2) of section 3915.071 of the Revised Code, for the nonforfeiture factors. Paid-up additions and indebtedness to the company on the policy are not taken into

consideration in determining basic cash value. Basic cash values 5900  
for policies having supplemental life insurance or annuity 5901  
benefits or for a family policy as described in division (B) of 5902  
section 3915.071 of the Revised Code shall be determined in the 5903  
manner provided in division (B) of that section for cash surrender 5904  
values. 5905

(C) The nonforfeiture factor is a percentage of the adjusted 5906  
premium, as defined in division ~~(C)~~(D)(2) of section 3915.071 of 5907  
the Revised Code, for each policy year. The percentage must be the 5908  
same for each policy year after the second until the later of the 5909  
fifth policy anniversary and the first policy anniversary after 5910  
the second on which the cash surrender value, before including any 5911  
paid-up additions and before deducting any indebtedness, is at 5912  
least equal to two-tenths of one per cent of the amount of 5913  
insurance. Any change in percentage after the fifth policy 5914  
anniversary must apply to no fewer than five consecutive policy 5915  
years before a different percentage can be adopted. If the amount 5916  
of insurance is not uniform, the amount is the average amount of 5917  
insurance in force at the beginning of each of the first ten 5918  
policy years. 5919

(D) Adjusted premiums and present values shall be calculated 5920  
using the same mortality table and interest rate used to 5921  
demonstrate the policy's compliance with section 3915.071 of the 5922  
Revised Code. The cash surrender values referred to in this 5923  
section include any endowment benefit provided for by the policy. 5924

(E) Any cash surrender value available upon default in a 5925  
premium payment due at any time other than on a policy 5926  
anniversary, and the amount of any paid-up nonforfeiture benefit 5927  
available upon default in a premium at any time shall be 5928  
calculated in accordance with the requirements for determining 5929  
analogous minimum amounts in section 3915.071 of the Revised Code. 5930  
The amounts of any cash surrender values and paid-up nonforfeiture 5931

benefits granted in connection with additional benefits such as 5932  
those listed in division (M) of section 3915.071 of the Revised 5933  
Code shall conform with the principles of this section. 5934

**Sec. 3921.21. A** (A) Except as provided in division (B) of 5935  
this section, a fraternal benefit society shall invest its funds 5936  
only in such investments as are authorized by section 3907.14 of 5937  
the Revised Code for the investment of assets of life insurers and 5938  
subject to the limitations thereon. Any foreign or alien society 5939  
permitted or seeking to do business in this state that invests its 5940  
funds in accordance with the laws of the state, district, 5941  
territory, country, or province in which it is incorporated, is 5942  
held to meet the requirements of this section for the investment 5943  
of funds. 5944

(B) A fraternal benefit society may seek permission from the 5945  
superintendent of insurance to invest funds under Chapter 3906. of 5946  
the Revised Code and may invest funds under that chapter if such 5947  
permission is granted. 5948

**Sec. 3925.08.** Funds accumulated in the course of business, or 5949  
surplus money above the capital stock, of any company organized 5950  
under any law of this state, for the purpose provided in section 5951  
3925.01 of the Revised Code, shall only be loaned or invested in 5952  
the securities listed in sections 3925.05 and 3925.06 of the 5953  
Revised Code, or in the following: 5954

(A)(1) Bonds and mortgages on unencumbered real estate within 5955  
this or any other state worth twenty-five per cent more than the 5956  
sum loaned thereon, exclusive of buildings, unless such buildings 5957  
are insured in some company authorized to do business in this 5958  
state, and the policy is transferred to the company making the 5959  
investment; or, in lieu of transferring such policies, the 5960  
mortgagee may purchase a policy or policies of mortgage protection 5961

insurance, payable to the mortgagee or a trustee in its behalf, 5962  
insuring the mortgagee against loss resulting from the failure of 5963  
the mortgagor to acquire and maintain, from such an authorized 5964  
insurance company, insurance in the amount required by this 5965  
section; 5966

(2) Bonds or notes secured by mortgages insured by the 5967  
federal housing administrator; 5968

(3) Loans to veterans guaranteed in whole or in part by the 5969  
United States pursuant to Title III of the "Servicemen's 5970  
Readjustment Act of 1944," 58 Stat. 284, 38 U.S.C. 693, as 5971  
amended, provided such guaranteed loans are liens upon real 5972  
estate. 5973

(B)(1) Legally authorized and executed bonds, notes, 5974  
warrants, and securities which are the direct obligation of or are 5975  
guaranteed as to both principal and interest by Canada, or which 5976  
are the direct obligation of or are guaranteed as to both 5977  
principal and interest by any province of Canada, or which are the 5978  
direct obligation of or are guaranteed as to both principal and 5979  
interest by any municipal corporation of Canada having a 5980  
population of one hundred thousand or more by the latest official 5981  
census, and which are not in default as to principal or interest; 5982

(2) Obligations issued, assumed, or guaranteed by the 5983  
international finance corporation or by the international bank for 5984  
reconstruction and development, the Asian development bank, the 5985  
inter-American development bank, the African development bank, or 5986  
similar development bank in which the president, as authorized by 5987  
congress and on behalf of the United States, has accepted 5988  
membership. 5989

(C) Bonds or other evidences of indebtedness, not in default 5990  
as to principal or interest, which are valid obligations issued, 5991  
assumed, or guaranteed by the United States, by any state thereof, 5992

the Commonwealth of Puerto Rico, by any territory or insular 5993  
possession of the United States, or by the District of Columbia, 5994  
or which are valid obligations issued, assumed, or guaranteed by 5995  
any county, municipal corporation, district, or political 5996  
subdivision, or by any civil division or public instrumentality of 5997  
such governmental units, if by statutory or other legal 5998  
requirements such obligations are payable, as to both principal 5999  
and interest, from taxes levied upon all taxable property within 6000  
the jurisdiction of such governmental unit, or in bonds or other 6001  
obligations issued by or for account of any such governmental unit 6002  
having a population of five thousand or more by the latest 6003  
official federal or state census, which are payable as to both 6004  
principal and interest from revenues or earnings from the whole or 6005  
any part of a publicly owned utility, provided that by statute or 6006  
other applicable legal requirements, rates from the service or 6007  
operation of such utility must be fixed, maintained, and collected 6008  
at all times so as to produce sufficient revenues or earnings to 6009  
pay both principal and interest of such bonds or obligations as 6010  
they become due, and in any bonds or obligations issued or 6011  
guaranteed by the United States, any state, the District of 6012  
Columbia, the Commonwealth of Puerto Rico, any county, municipal 6013  
corporation, district, political subdivision, civil division, 6014  
commission, board, authority, agency, or other instrumentality of 6015  
one or more of them, provided there is a specific pledge of 6016  
revenues, earnings, or other adequate security and provided that 6017  
no prior or parity obligation of the same issuer, payable from 6018  
revenues or earnings from the same source, has been in default as 6019  
to principal or interest during the five years next preceding the 6020  
date of such investment, but such issuer need not have been in 6021  
existence for that period, and obligations acquired under this 6022  
section may be newly issued, and further provided that there is 6023  
adequate provision for payment of expenses of operation and 6024  
maintenance and the principal and interest on all obligations when 6025

due; 6026

(D)(1) Bonds or other evidences of indebtedness, bearing or 6027  
accruing interest, issued, assumed, or guaranteed by any solvent 6028  
corporation, trust, partnership, or similar business entity 6029  
organized and existing under the laws of this or any other state, 6030  
or of the United States, the Commonwealth of Puerto Rico, or of 6031  
the District of Columbia, or of Canada or any province of Canada, 6032  
upon which there is no existing interest or principal default, 6033  
provided that either: 6034

(a) The bonds or other evidences of indebtedness are rated 1 6035  
or 2 by the securities valuation office of the national 6036  
association of insurance commissioners; 6037

(b) The corporation, together with its predecessor 6038  
corporation or corporations, or the trust, partnership, or similar 6039  
business entity, has been in existence for a period of at least 6040  
five years. 6041

(2) Stocks, limited liability company membership interests, 6042  
limited partnership interests, or limited liability partnership 6043  
interests of any insurance, financial, investment, or investment 6044  
management companies, which investment management companies are 6045  
registered with the securities and exchange commission under the 6046  
"Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C. 80a-1, 6047  
as amended, or the stocks, limited liability company membership 6048  
interests, limited partnership interests, or limited liability 6049  
partnership interests in an entity wholly owned by a domestic 6050  
company or by a domestic company and its affiliates, that is 6051  
formed and maintained to acquire or hold specific assets or 6052  
liabilities for bankruptcy remoteness or limitation of liability 6053  
purposes, except its own stock, and stocks, limited liability 6054  
company membership interests, limited partnership interests, 6055  
limited liability partnership interests, bonds, notes, and 6056  
debentures of any company which is organized for, and limited in 6057

its operations to, the financing of insurance premiums, upon 6058  
approval of such investments by the superintendent of insurance; 6059  
except that approval shall not be required for the purchase of the 6060  
outstanding stocks, limited liability company membership 6061  
interests, limited partnership interests, or limited liability 6062  
partnership interests of any such company, if investment in each 6063  
such company does not exceed in the aggregate two and one-half per 6064  
cent of the total admitted assets of the company making the 6065  
investment as of the preceding thirty-first day of December. 6066  
Whenever the superintendent has reason to believe that the 6067  
retention, investment, or acquisition of the stock, limited 6068  
liability company membership interest, limited partnership 6069  
interest, or limited liability partnership interest of any such 6070  
company substantially lessens competition generally in the 6071  
business of insurance or creates a monopoly therein the 6072  
superintendent shall proceed under section 3901.13 of the Revised 6073  
Code to cause such domestic insurance company to divest itself of 6074  
such stock, limited liability company membership interest, limited 6075  
partnership interest, or limited liability partnership interest. 6076

(3) Other stocks, limited liability company membership 6077  
interests, or limited partnership interests, or limited liability 6078  
partnership interests of any solvent corporation organized under 6079  
the laws of this or any other state, or of the United States, or 6080  
of the District of Columbia, or of Canada or any province of 6081  
Canada, provided that a dividend or distribution has been paid by 6082  
the business entity in the preceding twelve months upon the stock, 6083  
membership interest, or partnership interest to be purchased or 6084  
such business entity, together with its predecessor entity or 6085  
entities, has been in existence for a period of at least five 6086  
years. 6087

(4) A domestic company may acquire, hold, and convey tangible 6088  
personal property or interests therein for the production of 6089

income, provided no domestic company shall invest in excess of two 6090  
per cent of its admitted assets as of the preceding thirty-first 6091  
day of December under this division. 6092

(5) In equipment trust obligations or certificates, security 6093  
agreements, or other evidences of indebtedness entered into 6094  
directly or guaranteed by any company operating wholly or partly 6095  
within the United States or Canada, provided that such debt 6096  
obligation is secured by a first lien on tangible personal 6097  
property which is purchased or secured for payment thereof and 6098  
such debt obligation is repayable within twenty years from the 6099  
date of issue in annual, semiannual, or more frequent installments 6100  
beginning not later than the first year after such date. 6101

(6) An insurer may invest without limitation in investments 6102  
of government money market funds. As used in division (D)(6) of 6103  
this section, "government money market fund" means a fund that at 6104  
all times invests in obligations issued, guaranteed, or insured by 6105  
the federal government of the United States or collateralized 6106  
repurchase agreements comprised of such obligations, and that 6107  
qualifies for investment without a reserve pursuant to the 6108  
purposes and procedures of the securities valuation office of the 6109  
national association of insurance commissioners. 6110

(E) Negotiable promissory notes maturing in not more than six 6111  
months from the date thereof, secured by collateral security 6112  
through the transfer of any of the classes of securities described 6113  
in this section or in sections 3925.05 and 3925.06 of the Revised 6114  
Code, with absolute power of sale within twenty days after default 6115  
in payment at maturity; 6116

(F)(1) Repurchase agreements with, and interest-bearing 6117  
obligations, including savings accounts and time certificates of 6118  
deposit of, a national bank of the United States, a commonwealth 6119  
bank of Puerto Rico, a chartered bank of Canada, or a state bank, 6120  
provided such bank is either a member of the federal deposit 6121

insurance corporation created pursuant to the "Banking Act of 1933," as amended, or the Canada deposit insurance corporation created pursuant to the act of parliament known as the "Canada Deposit Insurance Corporation Act," as amended.

(2) Certificates of deposit, savings share accounts, investment share accounts, stock deposits, stock certificates, or other evidences of indebtedness of a savings and loan association, provided all such evidences of indebtedness are insured pursuant to the "Financial Institutions Reform, Recovery, and Enforcement Act of 1989," 103 Stat. 183, 12 U.S.C.A. 1811, as amended;

(3) Bankers' acceptances and bills of exchange of the kinds and maturities made eligible by law for rediscount with the federal reserve banks, provided that the same are accepted by a bank or trust company incorporated under the laws of the United States or of this state or any other bank or trust company which is a member of the federal reserve system.

(G) Any securities issued as a result of any reorganization, or capital or debt adjustment, in whole or in part, in exchange for securities acquired by it prior to such reorganization, or capital or debt adjustment;

(H)(1) In bonds, notes, debentures, or other evidences of indebtedness issued, assumed, or guaranteed by a solvent corporation, trust, or partnership formed or existing under the laws of a foreign jurisdiction, provided each such foreign investment is of the same kind and quality as United States investments authorized under this section; or in common or preferred stock, shares, membership interests, or partnership interests of any solvent business entity formed or existing under the laws of a foreign jurisdiction, provided each such foreign investment is of the same kind and quality as United States investments authorized under this section; or in bonds or other evidences of indebtedness issued, assumed, or guaranteed by a

foreign jurisdiction. 6154

An insurer shall not invest in foreign investments under 6155  
division (H) of this section, including investments denominated in 6156  
foreign currency, a sum exceeding in the aggregate fifteen per 6157  
cent of its admitted assets as of the preceding thirty-first day 6158  
of December. The aggregate amount of investments held by an 6159  
insurer in a single foreign jurisdiction shall not exceed three 6160  
per cent of its admitted assets as of the preceding thirty-first 6161  
day of December. 6162

As used in division (H)(1) of this section, "foreign 6163  
jurisdiction" means a jurisdiction outside the United States, 6164  
Puerto Rico, or Canada whose bonds are rated 1 by the securities 6165  
valuation office of the national association of insurance 6166  
commissioners. 6167

(2) An insurer may acquire investments denominated in foreign 6168  
currency whether or not they are foreign investments. 6169

An insurer shall not invest in investments denominated in 6170  
foreign currency a sum exceeding in the aggregate fifteen per cent 6171  
of its admitted assets as of the preceding thirty-first day of 6172  
December. The aggregate amount of investments denominated in a 6173  
single foreign currency held by an insurer shall not exceed three 6174  
per cent of an insurer's admitted assets as of the preceding 6175  
thirty-first day of December. 6176

(3) As used in division (H) of this section, "foreign 6177  
currency" means a currency other than that of the United States. 6178

(I)(1) Any securities or other property not permitted under 6179  
section 3925.05, 3925.06, 3925.08, or 3925.20 of the Revised Code 6180  
to an extent not exceeding in the aggregate six per cent of the 6181  
total admitted assets of such company on the preceding 6182  
thirty-first day of December, within the limitations prescribed in 6183  
division (J) of this section. Any such company may also invest up 6184

to an additional five per cent of the total admitted assets of 6185  
such company on the preceding thirty-first day of December, within 6186  
the limitations prescribed in division (J) of this section, in 6187  
loans or investments in small businesses having more than half of 6188  
their assets or employees in this state and in venture capital 6189  
firms having an office within this state, provided that, as a 6190  
condition of a company making an investment in a venture capital 6191  
firm, the firm must agree to use its best efforts to make 6192  
investments, in an aggregate amount at least equal to the 6193  
investment to be made by the company in that venture capital firm, 6194  
in small businesses having their principal offices within this 6195  
state and having either more than one-half of their assets within 6196  
this state or more than one-half of their employees employed 6197  
within this state. 6198

As used in division (I) of this section: 6199

(a) "Small businesses" means any corporation, partnership, 6200  
proprietorship, or other entity that either does not have more 6201  
than four hundred employees, or would qualify as a small business 6202  
for the purpose of receiving financial assistance from small 6203  
business investment companies licensed under the "Small Business 6204  
Investment Act of 1958," 72 Stat. 689, 15 U.S.C.A. 661, as 6205  
amended, and rules of the small business administration. 6206

(b) "Venture capital firms" means any corporation, 6207  
partnership, proprietorship, or other entity, the principal 6208  
business of which is or will be the making of investments in small 6209  
businesses. 6210

(c) "Investments" means any equity investment, including 6211  
limited partnership interests and other equity interests in which 6212  
liability is limited to the amount of the investment, but does not 6213  
include general partnership interests or other interests involving 6214  
general liability. 6215

(2) In the event that, subsequent to being made under this 6216  
division, a loan or investment is determined to have become 6217  
qualified as a loan or investment under any of the divisions (A) 6218  
to (F) of this section or under section 3925.05, 3925.06, or 6219  
3925.20 of the Revised Code, the company may consider such loan or 6220  
investment as held under such other statutory provision and such 6221  
loan or investment shall no longer be considered as having been 6222  
made under this division. 6223

(J) No domestic insurance company shall at any time have 6224  
invested a sum exceeding five per cent of its admitted assets as 6225  
of the preceding thirty-first day of December in the bonds, notes, 6226  
debentures, other evidences of indebtedness, and stocks of a 6227  
particular corporation, trust, partnership, or similar business 6228  
entity, except for investments authorized under divisions (A) and 6229  
(D)(2) of this section, and no domestic insurance company together 6230  
with its subsidiary, if any, shall at any time own directly or 6231  
indirectly more than twenty-five per cent of the outstanding 6232  
bonds, notes, debentures, other evidences of indebtedness, and 6233  
stocks of any corporation, except for investments authorized under 6234  
divisions (A) and (D)(2) of this section. 6235

This section does not affect the propriety or legality of an 6236  
investment made by such domestic insurance company which was in 6237  
accordance with the laws in force at the time of the making of the 6238  
investment. 6239

A business entity organized for the purpose provided in 6240  
section 3925.01 of the Revised Code may seek permission from the 6241  
superintendent of insurance to invest funds under Chapter 3906. of 6242  
the Revised Code and may invest funds under that chapter if such 6243  
permission is granted. 6244

(K) As used in divisions (K) and (L) of this section: 6245

(1) "Covered" means that an insurer owns, or can immediately 6246

acquire through the exercise of options, warrants, or conversion 6247  
rights already owned, the underlying interest in order to fulfill 6248  
or secure its obligation under the option, cap, or floor it has 6249  
written. 6250

(2)(a) "Derivative instrument" means an agreement, option, 6251  
instrument, or a series or combination thereof of either of the 6252  
following types: 6253

(i) To make or take delivery of, or assume or relinquish, a 6254  
specified amount of one or more underlying interest, or to make a 6255  
cash settlement in lieu thereof; 6256

(ii) That has a price, performance, value, or cash flow based 6257  
primarily upon the actual or expected price, level, performance, 6258  
value, or cash flow of one or more underlying interests. 6259

(b) Derivative instruments include options, warrants, caps, 6260  
floors, collars, swaps, forwards, futures, and any other 6261  
agreements, options, or instruments substantially similar thereto 6262  
or any series or combination thereof. 6263

(3) "Derivative transaction" means a transaction involving 6264  
the use of one or more derivative instruments. 6265

(4) "Hedging transaction" means a derivative transaction that 6266  
is entered into and maintained to reduce either of the following: 6267

(a) The risk of economic loss due to a change in the value, 6268  
yield, price, cash flow, or quantity of assets or liabilities that 6269  
the insurer has acquired or incurred or anticipates acquiring or 6270  
incurring; 6271

(b) The currency exchange rate risk or the degree of exposure 6272  
as to assets or liabilities that an insurer has acquired or 6273  
incurred or anticipates acquiring or incurring. 6274

(5) "Income generation" means a derivative transaction 6275  
involving the writing of covered options, caps, or floors that is 6276

intended to generate income or enhance return. 6277

(6) "Replication transaction" means a derivative transaction 6278  
that is intended to replicate the performance of one or more 6279  
assets that an insurer is authorized to acquire under this 6280  
chapter. "Replication transaction" does not include a derivative 6281  
transaction that is entered into as a hedging transaction. 6282

(L)(1) Prior to an insurer entering into derivative 6283  
transactions, the board of directors of the insurer shall approve 6284  
a derivative use plan. 6285

(2) An insurer shall notify the superintendent of insurance 6286  
in writing within three days after identifying either of the 6287  
following: 6288

(a) Any event or occurrence related to an insurer's 6289  
derivatives use that may lead to a material change to the 6290  
insurer's policyholder surplus; 6291

(b) Any event or occurrence related to an insurer's 6292  
derivatives use that, with the passage of time, may lead to a 6293  
material change to the insurer's policyholder surplus. 6294

(3) Prior to entering into derivative transactions, an 6295  
insurer shall file with the superintendent a copy of its 6296  
derivative use plan and internal controls, for informational 6297  
purposes. The insurer shall keep current the copy of its 6298  
derivative use plan and internal controls filed with the 6299  
superintendent. The insurer shall not enter into derivative 6300  
transactions until thirty calendar days after the date on which 6301  
the derivative use plan and internal controls is filed with the 6302  
superintendent. This thirty-calendar-day period is to begin on the 6303  
date that the superintendent receives the derivative use plan and 6304  
internal controls. 6305

(4) The superintendent may adopt rules prescribing the form 6306  
and content of derivative use plans, as well as any internal 6307

controls the superintendent considers necessary. 6308

(5) An insurer that engages in hedging transactions or replication transactions shall do both of the following: 6309  
6310

(a) Maintain its position in any outstanding derivative instrument used as part of a hedging transaction or replication transaction for as long as the hedging transaction or replication transaction continues to be effective; 6311  
6312  
6313  
6314

(b) Demonstrate to the superintendent, upon request, that any derivative transaction entered into and involving hedging transaction or replication transaction is an effective hedging transaction or replication transaction. The insurer must be able to demonstrate this at the time the derivative transaction is entered into, and for as long as the transaction continues to be in place. 6315  
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(6) An insurer may not invest in, or use, a derivative instrument for any purpose other than a hedging transaction, income generation, or replication. 6322  
6323  
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(7) An insurer shall not invest in, or use a derivative instrument for purposes of income generation a sum exceeding in the aggregate five per cent of its admitted assets, as of the preceding thirty-first day of December. 6325  
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(8) All documents provided to the superintendent under division (L) of this section shall be deemed trade secrets and shall be provided with trade secret protection. Such documents shall also be considered work papers of the superintendent that are subject to section 3901.48 of the Revised Code and are confidential and privileged and shall not be considered a public record, as defined in section 149.43 of the Revised Code. The original documents and any copies of them shall not be subject to subpoena and shall not be made public by the superintendent or any other person, except as otherwise provided in section 3901.48 of 6329  
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6338

the Revised Code. 6339

Sec. 3937.19. (A) As used in this section: 6340

(1) "Personal lines policy of insurance" means a policy of 6341  
property and casualty insurance issued to a natural person 6342  
primarily for personal or family protection for personal 6343  
automobile, homeowner's, tenant's, mobile-homeowner's, 6344  
non-commercial dwelling fire or personal umbrella coverage. 6345

(2) "Customer" has the same meaning as in section 3901.19 of 6346  
the Revised Code. 6347

(B)(1) An insurer may, but is not required to, provide or 6348  
make a policy summary of material coverages and exclusions in a 6349  
personal lines policy of insurance available to a customer. If an 6350  
insurer chooses to provide or make any such policy summary 6351  
available, the summary shall include at a minimum all of the 6352  
following: 6353

(a) A brief description of the principal benefits provided 6354  
under the policy for which a premium is charged; 6355

(b) A brief description of the principal exclusions, provided 6356  
under the policy; 6357

(c) A statement of the loss valuation methods provided under 6358  
the policy; 6359

(d) The following notice, or a substantially similar notice, 6360  
prominently displayed in conjunction with the policy summary: 6361

"You should read your insurance policy and get assistance in 6362  
understanding the coverages and any exclusions directly from your 6363  
agent or the insurance company issuing your policy. This policy 6364  
summary is for informational purposes only and is designed to 6365  
provide a basic description of insurance coverages and exclusions 6366  
in your policy. This summary does not reflect all the coverages 6367  
and exclusions contained in your policy and is qualified in its 6368

entirety to the policy terms. 6369

State law prohibits this policy summary from replacing, 6370  
modifying, altering, amending, or changing any of the terms or 6371  
provisions of the insurance policy that is the subject of this 6372  
summary." 6373

(2) A policy summary, as described in division (B)(1) of this 6374  
section, does not include the policy declarations page and any 6375  
notations contained therein. 6376

(C) Nothing contained in this section shall be construed to 6377  
prohibit an insurer from providing information related to an 6378  
insurance policy that does not meet the requirements prescribed in 6379  
division (B) of this section. 6380

(D) An insurer may display sections of a policy summary 6381  
individually, in any combination or in any order, as long as the 6382  
summary meets the requirements prescribed in division (B) of this 6383  
section and the notice contained in division (B)(1)(d) of this 6384  
section appears in each section of the policy summary. If the 6385  
policy summary is paginated, then the notice contained in division 6386  
(B)(1)(d) of this section shall appear on each page. 6387

(E) An insurer's election to provide or make a policy summary 6388  
available to a customer does not obligate the insurer to provide a 6389  
policy summary upon the renewal of the policy or for any other 6390  
policies issued to the same customer. 6391

(F) If an insurer elects to provide or make a policy summary 6392  
available for a personal lines policy of insurance, the insurer 6393  
shall provide a policy summary for the named insured under a 6394  
policy for that product. 6395

(G) A policy summary provided or made available under this 6396  
section shall not be considered a replacement for the terms of the 6397  
policy of insurance, shall not have the effect of altering the 6398  
coverage afforded by the policy, and shall not confer new or 6399

additional rights beyond those expressly provided for in the 6400  
policy. Nothing in this section shall be construed to create or 6401  
imply a private cause of action for a violation of this section. A 6402  
policy summary provided or made available pursuant to this section 6403  
shall not be admissible in court or in any other legal or 6404  
administrative proceeding, except to enforce division (H) of this 6405  
section. 6406

(H) No person doing the business of insurance in this state 6407  
shall provide or use a policy summary that contains any false, 6408  
misleading, or deceptive representation or statement. 6409

(I) Any violation of this section is an unfair and deceptive 6410  
act or practice in the business of insurance under sections 6411  
3901.19 to 3901.26 of the Revised Code. If the superintendent, by 6412  
written order, finds that any person is about to engage, is 6413  
engaging, or has engaged in a violation of this section, the 6414  
superintendent may impose any or all of the administrative 6415  
remedies set forth in divisions (D)(1) to (5) of section 3901.22 6416  
of the Revised Code. If the superintendent finds that the 6417  
violation was due to gross or willful misconduct, the 6418  
superintendent may order that person to reimburse any customer 6419  
harmed by the violation or violations, including reimbursement or 6420  
payment of insurance claims for which a loss occurred as a result 6421  
of a customer's reliance upon a policy summary containing any 6422  
false, misleading, or deceptive representation or statement. 6423

**Sec. 3939.01.** (A) Any number of persons of lawful age, not 6424  
less than ten in number, owning insurable property in this state, 6425  
may associate themselves together for the purpose of insuring each 6426  
other against the risk of direct physical loss or damage to 6427  
property in this state, including theft of property in this state, 6428  
except loss or damage to motor vehicles caused by collision. Any 6429  
association organized under this section shall file with the 6430

department of insurance all policy forms currently in use by the 6431  
association and all additions, deletions, or amendments to the 6432  
policy forms at least thirty days prior to the use of the policy 6433  
forms, additions, deletions, or amendments. Each filing under this 6434  
division is deemed approved thirty days after the filing is 6435  
received by the superintendent of insurance, unless the filing is 6436  
disapproved by the superintendent during that thirty-day period. 6437

(B) Any association organized under this section, from time 6438  
to time, may assess upon and collect from its members or other 6439  
responsible parties sums of money that are necessary to pay 6440  
expenses and losses that occur, or are anticipated to occur, from 6441  
those covered perils. The assessment and collection of those sums 6442  
of money shall be regulated by the constitution of the association 6443  
adopted under section 3939.06 of the Revised Code. The 6444  
constitution shall require the assessments to be made directly and 6445  
specifically upon the members or other responsible parties, and to 6446  
be paid by them out of any funds paid to or deposited with the 6447  
association in anticipation of assessments. Any association 6448  
organized under this section may borrow money for the payment of 6449  
losses and associated expenses, but those loans shall not be made 6450  
for a period of time that extends beyond the collection of the 6451  
association's next assessment. 6452

(C) Any association organized under this section may 6453  
accumulate a surplus from its assessments. ~~That~~ Except as provided 6454  
in division (D) of this section, that surplus and all other funds 6455  
received or accumulated in the course of business shall be 6456  
invested under sections 3925.05 and 3925.08 of the Revised Code. 6457  
Upon prior approval of the superintendent of insurance, the 6458  
association may invest that surplus and those other funds in real 6459  
estate for the association's convenient accommodation in the 6460  
transaction of its business. The association shall not have at any 6461  
one time more than ten per cent of its admitted assets invested in 6462

real estate. 6463

(D) An association organized under this section may seek 6464  
permission from the superintendent of insurance to invest funds 6465  
under Chapter 3906. of the Revised Code and may invest funds under 6466  
that chapter if such permission is granted. 6467

(E) Any association organized under this section may insure 6468  
farm buildings, residential and detached dwellings, outbuildings, 6469  
churches, township buildings, grange buildings, farm machinery, 6470  
equipment, and other farm personal property, household goods and 6471  
personal effects, pleasure and utility vehicles, and other similar 6472  
property, except motor vehicles titled or capable of being titled 6473  
for use on public roads and property used exclusively for 6474  
commercial or industrial purposes. 6475

The property described in this division may be classified 6476  
only for the purpose of determining and levying assessments, and 6477  
that property may be located within or without the limits of any 6478  
municipal corporation. 6479

~~(E)~~(F) Any association organized under this section may 6480  
collect a charge on each contract of insurance in accordance with 6481  
its constitution adopted under section 3939.06 of the Revised 6482  
Code. 6483

~~(F)~~(G) Any association organized under this section may make 6484  
contracts of reinsurance for the kinds of insurance authorized by 6485  
sections 3939.01 to 3939.11 of the Revised Code or accept 6486  
reinsurance on any portion of that insurance. 6487

**Sec. 3953.15.** The (A) Except as provided in division (B) of 6488  
this section, the unearned premium reserve of a title insurance 6489  
company shall be invested in accordance with sections 3925.05 to 6490  
3925.08, inclusive, of the Revised Code. 6491

(B) A title insurance company may seek permission from the 6492

superintendent of insurance to invest funds under Chapter 3906. of 6493  
the Revised Code and may invest funds under that chapter if such 6494  
permission is granted. 6495

**Section 2.** That existing sections 1751.25, 3901.043, 6496  
3901.045, 3901.17, 3901.32, 3901.321, 3901.33, 3901.34, 3901.341, 6497  
3901.35, 3901.36, 3901.62, 3901.63, 3901.64, 3903.72, 3903.721, 6498  
3903.83, 3907.14, 3913.01, 3913.34, 3915.04, 3915.071, 3915.072, 6499  
3921.21, 3925.08, 3939.01, and 3953.15, and sections 3907.09, 6500  
3907.10, 3907.11, and 3907.13 of the Revised Code are hereby 6501  
repealed. 6502

**Section 3.** Sections 3901.371 to 3907.378 of the Revised Code, 6503  
as enacted in this act, shall take effect on January 1, 2015. The 6504  
first filing of the own risk and solvency assessment summary 6505  
report, as required by section 3901.375 of the Revised Code, shall 6506  
be in 2015. 6507

**Section 4.** The intent of the General Assembly, in enacting 6508  
this act is to protect and to further the interests of insureds, 6509  
creditors, and the general public by providing, with minimum 6510  
interference with management initiative and judgment, prudent 6511  
standards for the development and administration of insurer 6512  
investment programs. 6513

**Section 5.** This act shall be known as the "Ohio Insurer 6514  
Investment Act." 6515

**Section 6.** The Superintendent of Insurance shall adopt rules 6516  
in accordance with Chapter 119. of the Revised Code to implement 6517  
the amendments to sections 3901.62, 3901.63, and 3901.64 of the 6518  
Revised Code as enacted in this act and to implement new sections 6519  
3901.621 and 3901.631 of the Revised Code as enacted in this act. 6520

It is the intent of the General Assembly in mandating the adoption 6521  
of these rules that the Superintendent adopt rules that are 6522  
substantially similar to those portions of the Credit for 6523  
Reinsurance Model Regulation, #786, as approved by the National 6524  
Association of Insurance Commissioners on November 6, 2011, that 6525  
the Reinsurance Task Force of the National Association of 6526  
Insurance Commissioners approved on May 4, 2012, as key elements 6527  
for purposes of accreditation. 6528

**Section 7.** Notwithstanding division (V)(3) of section 3907.14 6529  
and division (L)(3) of section 3925.08 of the Revised Code, an 6530  
insurer that is engaged in derivative transactions, pursuant to a 6531  
derivative use plan approved by that insurer's board of directors, 6532  
prior to the effective date of this act, may continue to engage in 6533  
derivative transactions pursuant to that derivative use plan for a 6534  
period of no longer than one hundred twenty days after the 6535  
effective date of this act. 6536