

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

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Sub. S. B. No. 306

Senator Lang

To amend sections 1345.02, 3901.046, 3905.01, 1
3905.06, 3906.01, 3906.08, 3907.14, 3911.22, 2
3925.08, 3964.03, 3964.194, 4509.70, and 4513.70 3
and to enact sections 1345.82 and 3905.0612 of 4
the Revised Code regarding changes to Ohio 5
insurance laws and certain towed vehicles and 6
repair shop activities. 7

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

Section 1. That sections 1345.02, 3901.046, 3905.01, 8
3905.06, 3906.01, 3906.08, 3907.14, 3911.22, 3925.08, 3964.03, 9
3964.194, 4509.70, and 4513.70 be amended and sections 1345.82 10
and 3905.0612 of the Revised Code be enacted to read as follows: 11

Sec. 1345.02. (A) No supplier shall commit an unfair or 12
deceptive act or practice in connection with a consumer 13
transaction. Such an unfair or deceptive act or practice by a 14
supplier violates this section whether it occurs before, during, 15
or after the transaction. 16

(B) Without limiting the scope of division (A) of this 17
section, the act or practice of a supplier in representing any 18
of the following is deceptive: 19

(1) That the subject of a consumer transaction has	20
sponsorship, approval, performance characteristics, accessories,	21
uses, or benefits that it does not have;	22
(2) That the subject of a consumer transaction is of a	23
particular standard, quality, grade, style, prescription, or	24
model, if it is not;	25
(3) That the subject of a consumer transaction is new, or	26
unused, if it is not;	27
(4) That the subject of a consumer transaction is	28
available to the consumer for a reason that does not exist;	29
(5) That the subject of a consumer transaction has been	30
supplied in accordance with a previous representation, if it has	31
not, except that the act of a supplier in furnishing similar	32
merchandise of equal or greater value as a good faith substitute	33
does not violate this section;	34
(6) That the subject of a consumer transaction will be	35
supplied in greater quantity than the supplier intends;	36
(7) That replacement or repair is needed, if it is not;	37
(8) That a specific price advantage exists, if it does	38
not;	39
(9) That the supplier has a sponsorship, approval, or	40
affiliation that the supplier does not have;	41
(10) That a consumer transaction involves or does not	42
involve a warranty, a disclaimer of warranties or other rights,	43
remedies, or obligations if the representation is false.	44
(C) In construing division (A) of this section, the court	45
shall give due consideration and great weight to federal trade	46

commission orders, trade regulation rules and guides, and the 47
federal courts' interpretations of subsection 45 (a) (1) of the 48
"Federal Trade Commission Act," 38 Stat. 717 (1914), 15 U.S.C.A. 49
41, as amended. 50

(D) No supplier shall offer to a consumer or represent 51
that a consumer will receive a rebate, discount, or other 52
benefit as an inducement for entering into a consumer 53
transaction in return for giving the supplier the names of 54
prospective consumers, or otherwise helping the supplier to 55
enter into other consumer transactions, if earning the benefit 56
is contingent upon an event occurring after the consumer enters 57
into the transaction. 58

(E) (1) No supplier, in connection with a consumer 59
transaction involving natural gas service or public 60
telecommunications service to a consumer in this state, shall 61
request or submit, or cause to be requested or submitted, a 62
change in the consumer's provider of natural gas service or 63
public telecommunications service, without first obtaining, or 64
causing to be obtained, the verified consent of the consumer. 65
For the purpose of this division and with respect to public 66
telecommunications service only, the procedures necessary for 67
verifying the consent of a consumer shall be those prescribed by 68
rule by the public utilities commission for public 69
telecommunications service under division (D) of section 4905.72 70
of the Revised Code. Also, for the purpose of this division, the 71
act, omission, or failure of any officer, agent, or other 72
individual, acting for or employed by another person, while 73
acting within the scope of that authority or employment, is the 74
act or failure of that other person. 75

(2) Consistent with the exclusion, under 47 C.F.R. 76

64.1100(a)(3), of commercial mobile radio service providers from 77
the verification requirements adopted in 47 C.F.R. 64.1100, 78
64.1150, 64.1160, 64.1170, 64.1180, and 64.1190 by the federal 79
communications commission, division (E)(1) of this section does 80
not apply to a provider of commercial mobile radio service 81
insofar as such provider is engaged in the provision of 82
commercial mobile radio service. However, when that exclusion no 83
longer is in effect, division (E)(1) of this section shall apply 84
to such a provider. 85

(3) The attorney general may initiate criminal proceedings 86
for a prosecution under division (C) of section 1345.99 of the 87
Revised Code by presenting evidence of criminal violations to 88
the prosecuting attorney of any county in which the offense may 89
be prosecuted. If the prosecuting attorney does not prosecute 90
the violations, or at the request of the prosecuting attorney, 91
the attorney general may proceed in the prosecution with all the 92
rights, privileges, and powers conferred by law on prosecuting 93
attorneys, including the power to appear before grand juries and 94
to interrogate witnesses before grand juries. 95

(F) Concerning a consumer transaction in connection with a 96
residential mortgage, and without limiting the scope of division 97
(A) or (B) of this section, the act of a supplier in doing 98
either of the following is deceptive: 99

(1) Knowingly failing to provide disclosures required 100
under state and federal law; 101

(2) Knowingly providing a disclosure that includes a 102
material misrepresentation. 103

(G) Without limiting the scope of division (A) of this 104
section, the failure of a supplier to obtain or maintain any 105

registration, license, bond, or insurance required by state law 106
or local ordinance for the supplier to engage in the supplier's 107
trade or profession is an unfair or deceptive act or practice. 108

(H) A violation of section 111.242 of the Revised Code is 109
an unfair or deceptive act or practice. 110

(I) A violation of section 1345.82 of the Revised Code is 111
an unfair or deceptive act or practice. 112

Sec. 1345.82. (A) (1) As used in this section, "repair 113
facility" means any garage, body shop, or other entity that 114
undertakes the repair or replacement of those parts that 115
generally constitute the exterior of a motor vehicle. 116

(2) "Repair facility" does not include an entity owned or 117
operated by a motor vehicle dealer, as defined in section 118
4517.01 of the Revised Code. 119

(B) No repair facility shall require a consumer to sign a 120
contract that interferes with a policy of insurance, prohibits 121
an insurer or consumer from commencing an action under section 122
4513.70 of the Revised Code, or prohibits an insurer or consumer 123
from filing a writ of replevin under Chapter 2737. of the 124
Revised Code. 125

(C) No repair facility shall require a consumer to sign a 126
contract requiring the consumer to pay the legal fees of the 127
repair facility for filing any action designed to return the 128
vehicle to the consumer. 129

(D) No repair facility shall require a consumer to sign a 130
contract prohibiting the consumer from transferring the title of 131
the vehicle the consumer owns. 132

(E) No repair facility, or third party acting on behalf of 133

a repair facility, shall represent, negotiate, obtain, or 134
attempt to obtain an assignment of claims, rights, benefits, 135
power of attorney, or proceeds from a consumer. 136

(F) (1) A repair facility shall cease assessing or accruing 137
any and all charges for any fee reasonably related to storage, 138
regardless of how the fee is listed on a bill or list of 139
charges, once the repair facility has been notified by the 140
insurer, or has otherwise determined, that the vehicle has been 141
deemed a total loss. 142

(2) Notification under division (F) (1) of this section may 143
occur via electronic mail, commercial carrier service, or the 144
United States postal service. 145

(G) A repair facility shall allow prompt access to the 146
vehicle by the insurer for the purposes of inspection and 147
valuation of the loss. In no case shall access be prohibited 148
during normal business hours after the vehicle is towed or 149
otherwise delivered to the repair facility. 150

(H) A violation of this section constitutes a deceptive 151
act or practice in connection with a consumer transaction in 152
violation of section 1345.02 of the Revised Code and is subject 153
to any applicable penalties prescribed under Chapter 1345. of 154
the Revised Code. 155

Sec. 3901.046. (A) As used in this section: 156

(1) "Electronic signature" has the same meaning as in 157
section 1306.01 of the Revised Code. 158

(2) "Insurer" has the same meaning as in section 3901.32 159
of the Revised Code. 160

(B) An insurer may use an electronic signature to comply 161

with any signature requirement placed upon insurers by ~~this~~ 162
~~title~~ the Revised Code, including any requirement that a document 163
submitted by an insurer to the department of insurance be 164
signed. 165

Sec. 3905.01. As used in this chapter: 166

(A) "Affordable Care Act" means the "Patient Protection 167
and Affordable Care Act," 124 Stat. 119, 42 U.S.C. 18031 (2011). 168

(B) "Business entity" means a corporation, association, 169
partnership, limited liability company, limited liability 170
partnership, or other legal entity. 171

(C) "Home state" means the state or territory of the 172
United States, including the District of Columbia, in which an 173
insurance agent maintains the insurance agent's principal place 174
of residence or principal place of business and is licensed to 175
act as an insurance agent. 176

(D) "In-person assister" means any person, other than a 177
navigator, who receives any funding from, or who is selected or 178
designated by, an exchange, the state, or the federal government 179
to perform any of the activities and duties identified in 180
division (i) of section 1311 of the Affordable Care Act. "In- 181
person assister" includes any individual that is employed by, 182
supervised by, or affiliated with an in-person assister and 183
performs any of the activities and duties identified in division 184
(i) of section 1311 of the Affordable Care Act, any non- 185
navigator assistance personnel, and any other person deemed as 186
such by rules adopted by the superintendent under division (L) 187
of section 3905.471 of the Revised Code. 188

(E) "Insurance" means any of the lines of authority set 189
forth in Chapter 1739., 1751., or 1761. or Title XXXIX of the 190

Revised Code, or as additionally determined by the 191
superintendent of insurance. 192

(F) "Insurance agent" or "agent" means any person that, in 193
order to sell, solicit, or negotiate insurance, is required to 194
be licensed under the laws of this state, including limited 195
lines insurance agents~~and~~, surplus line brokers, and 196
unaffiliated insurance agents. 197

(G) "Insurer" has the same meaning as in section 3901.32 198
of the Revised Code. 199

(H) "License" means the authority issued by the 200
superintendent to a person to act as an insurance agent for the 201
lines of authority specified, but that does not create any 202
actual, apparent, or inherent authority in the person to 203
represent or commit an insurer. 204

(I) "Limited line credit insurance" means credit life, 205
credit disability, credit property, credit unemployment, 206
involuntary unemployment, mortgage life, mortgage guaranty, 207
mortgage disability, guaranteed automobile protection insurance, 208
or any other form of insurance offered in connection with an 209
extension of credit that is limited to partially or wholly 210
extinguishing that credit obligation and that is designated by 211
the superintendent as limited line credit insurance. 212

(J) "Limited line credit insurance agent" means a person 213
that sells, solicits, or negotiates one or more forms of limited 214
line credit insurance to individuals through a master, 215
corporate, group, or individual policy. 216

(K) "Limited lines insurance" means those lines of 217
authority set forth in divisions (B) (7) to (13) of section 218
3905.06 of the Revised Code or in rules adopted by the 219

superintendent, or any lines of authority the superintendent 220
considers necessary to recognize for purposes of complying with 221
section 3905.072 of the Revised Code. 222

(L) "Limited lines insurance agent" means a person 223
authorized by the superintendent to sell, solicit, or negotiate 224
limited lines insurance. 225

(M) "NAIC" means the national association of insurance 226
commissioners. 227

(N) "Insurance navigator" means a person selected to 228
perform the activities and duties identified in division (i) of 229
section 1311 of the Affordable Care Act that is certified by the 230
superintendent of insurance under section 3905.471 of the 231
Revised Code. "Insurance navigator" refers to a navigator 232
specified in section 1311 of the Affordable Care Act, 42 U.S.C. 233
13031. 234

(O) "Negotiate" means to confer directly with, or offer 235
advice directly to, a purchaser or prospective purchaser of a 236
particular contract of insurance with respect to the substantive 237
benefits, terms, or conditions of the contract, provided the 238
person that is conferring or offering advice either sells 239
insurance or obtains insurance from insurers for purchasers. 240

(P) "Person" means an individual or a business entity. 241

(Q) "Sell" means to exchange a contract of insurance by 242
any means, for money or its equivalent, on behalf of an insurer. 243

(R) "Self-service storage facility" means an entity that 244
is engaged in the business of providing real property designed 245
and used for the purpose of renting or leasing individual 246
storage space to the public who are to have access to the space 247
for the purpose of storing and removing personal property on a 248

self-service basis, but does not include a garage or other	249
storage area in a private residence.	250
(S) "Solicit" means to attempt to sell insurance, or to	251
ask or urge a person to apply for a particular kind of insurance	252
from a particular insurer.	253
(T) "Superintendent" or "superintendent of insurance"	254
means the superintendent of insurance of this state.	255
(U) "Terminate" means to cancel the relationship between	256
an insurance agent and the insurer or to terminate an insurance	257
agent's authority to transact insurance.	258
(V) "Uniform application" means the NAIC uniform	259
application for resident and nonresident agent licensing, as	260
amended by the NAIC from time to time.	261
(W) "Uniform business entity application" means the NAIC	262
uniform business entity application for resident and nonresident	263
business entities, as amended by the NAIC from time to time.	264
(X) "Exchange" means a health benefit exchange established	265
by the state government of Ohio or an exchange established by	266
the United States department of health and human services in	267
accordance with the "Patient Protection and Affordable Care	268
Act," 124 Stat. 119, 42 U.S.C. 18031 (2011).	269
<u>(Y) "Unaffiliated insurance agent" means a person licensed</u>	270
<u>by the superintendent under section 3905.0612 of the Revised</u>	271
<u>Code.</u>	272
Sec. 3905.06. (A) (1) The superintendent of insurance shall	273
issue a resident insurance agent license to an individual	274
applicant whose home state is Ohio upon submission of a	275
completed application and payment of any applicable fee required	276

under this chapter, if the superintendent finds all of the	277
following:	278
(a) The applicant is at least eighteen years of age.	279
(b) The applicant has not committed any act that is a	280
ground for the denial, suspension, or revocation of a license	281
under section 3905.14 of the Revised Code.	282
(c) If required under section 3905.04 of the Revised Code,	283
the applicant has completed a program of insurance education for	284
each line of authority for which the applicant has applied.	285
(d) If required under section 3905.04 of the Revised Code,	286
the applicant has passed an examination for each line of	287
authority for which the applicant has applied.	288
(e) Any applicant applying for variable life-variable	289
annuity line of authority is registered with the financial	290
industry regulatory authority (FINRA) as a registered	291
representative after having passed at least one of the following	292
examinations administered by the FINRA: the series 6	293
examination, the series 7 examination, the series 63	294
examination, the series 66 examination, or any other FINRA	295
examination approved by the superintendent.	296
(f) If required under section 3905.051 of the Revised	297
Code, the applicant has consented to a criminal records check	298
and the results of the applicant's criminal records check are	299
determined to be satisfactory by the superintendent in	300
accordance with section 9.79 of the Revised Code.	301
(g) The applicant is a United States citizen or has	302
provided proof of having legal authorization to work in the	303
United States.	304

(h) The applicant is honest and trustworthy and is otherwise suitable to be licensed.	305 306
(2) The superintendent shall issue a resident insurance agent license to a business entity applicant upon submission of a completed application and payment of any applicable fees required under this chapter if the superintendent finds all of the following:	307 308 309 310 311
(a) Except as provided under division (C)(2) of section 3905.062 or division (C)(2) of section 3905.063 of the Revised Code, the applicant either is domiciled in Ohio or maintains its principal place of business in Ohio.	312 313 314 315
(b) The applicant has designated a licensed insurance agent who will be responsible for the applicant's compliance with the insurance laws of this state.	316 317 318
(c) The applicant has not committed any act that is a ground for the denial, suspension, or revocation of a license under section 3905.14 of the Revised Code.	319 320 321
(d) Any applicant applying for a portable electronics insurance license line of authority satisfies the requirements of division (C)(1) of section 3905.062 of the Revised Code or any applicant applying for a self-service storage insurance license line of authority satisfies the requirements of division (C)(1) of section 3905.063 of the Revised Code.	322 323 324 325 326 327
(e) The applicant has submitted any other documents requested by the superintendent.	328 329
(B) An insurance agent license issued pursuant to division (A) of this section shall state the licensee's name, the license number, the date of issuance, the date the license expires, the line or lines of authority for which the licensee is qualified,	330 331 332 333

and any other information the superintendent deems necessary.	334
A licensee may be qualified for any of the following lines	335
of authority:	336
(1) Life, which is insurance coverage on human lives,	337
including benefits of endowment and annuities, and may include	338
benefits in the event of death or dismemberment by accident and	339
benefits for disability income;	340
(2) Accident and health, which is insurance coverage for	341
sickness, bodily injury, or accidental death, and may include	342
benefits for disability income;	343
(3) Property, which is insurance coverage for the direct	344
or consequential loss or damage to property of any kind;	345
(4) Casualty, which is insurance coverage against legal	346
liability, including coverage for death, injury, or disability	347
or damage to real or personal property;	348
(5) Personal lines, which is property and casualty	349
insurance coverage sold to individuals and families for	350
noncommercial purposes;	351
(6) Variable life and variable annuity products, which is	352
insurance coverage provided under variable life insurance	353
contracts and variable annuities;	354
(7) Credit, which is limited line credit insurance;	355
(8) Title, which is insurance coverage against loss or	356
damage suffered by reason of liens against, encumbrances upon,	357
defects in, or the unmarketability of, real property;	358
(9) Surety bail bond, which is the authority set forth in	359
sections 3905.83 to 3905.95 of the Revised Code;	360

(10) Portable electronics insurance, which is a limited line described in section 3905.062 of the Revised Code; 361
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(11) Self-service storage insurance, which is a limited line described in section 3905.063 of the Revised Code; 363
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(12) Travel insurance, which is a limited line described in sections 3905.064 to 3905.0611 of the Revised Code; 365
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(13) Any other line of authority designated by the superintendent. 367
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~~(C) (1)~~ (C) An unaffiliated insurance agent licensed under section 3905.0612 of the Revised Code may sell, solicit, or negotiate variable life and variable annuity products without a line of authority under this section. 369
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(D) (1) An individual seeking to renew a resident insurance agent license shall apply biennially for a renewal of the license on or before the last day of the licensee's birth month. 373
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A business entity seeking to renew a resident insurance agent license shall apply biennially for a renewal of the license on or before the date determined by the superintendent. The 376
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superintendent shall send a renewal notice to all licensees at least one month prior to the renewal date. 379
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Applications shall be submitted to the superintendent on forms prescribed by the superintendent. Each application shall be accompanied by a biennial renewal fee. The superintendent also may require an applicant to submit any document reasonably necessary to verify the information contained in the renewal application. 381
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(2) To be eligible for renewal, an individual applicant shall complete the continuing education requirements pursuant to section 3905.481 of the Revised Code prior to the renewal date. 387
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(3) If an applicant submits a completed renewal application, qualifies for renewal pursuant to divisions ~~(C)~~~~(1)~~ (D) (1) and (2) of this section, and has not committed any act that is a ground for the refusal to issue, suspension of, or revocation of a license under section 3905.14 of the Revised Code, the superintendent shall renew the applicant's resident insurance agent license.

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

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

~~(F)~~(G) A license that is suspended for nonrenewal that is not reinstated pursuant to division ~~(E)~~(F) of this section automatically is canceled unless the superintendent is investigating any allegations of wrongdoing by the agent or has

initiated proceedings under Chapter 119. of the Revised Code. In 420
that case, the license automatically is canceled after the 421
completion of the investigation or proceedings unless the 422
superintendent revokes the license. 423

~~(G)~~(H) An individual licensed as a resident insurance 424
agent who is unable to comply with the license renewal 425
procedures established under this section and who is unable to 426
engage in the business of insurance due to military service, a 427
long-term medical disability, or some other extenuating 428
circumstance may request an extension of the renewal date of the 429
individual's license. To be eligible for such an extension, the 430
individual shall submit a written request with supporting 431
documentation to the superintendent. At the superintendent's 432
discretion, the superintendent may not consider a written 433
request made after the renewal date of the license. 434

Sec. 3905.0612. Notwithstanding any contrary provision of 435
this chapter, the superintendent of insurance shall issue an 436
unaffiliated insurance agent license to an individual applicant 437
whose home state is Ohio upon submission of a completed 438
application and payment of any applicable fee required under 439
this chapter, if the superintendent finds all of the following: 440

(A) The applicant is self-appointed. 441

(B) The applicant practices as an independent consultant 442
for a fee established in advance by written contract in the 443
business of any of the following: 444

(1) Analyzing or abstracting insurance policies; 445

(2) Providing insurance advice or counseling; 446

(3) Making specific recommendations or comparisons of 447
insurance products. 448

(C) The applicant is not affiliated with an insurer, an insurer-appointed agent, or an insurance agency contracted with or employing insurer-appointed insurance agents. 449
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(D) The applicant is an investment adviser, as defined in section 1707.01 of the Revised Code, registered in this state or under the "Investment Advisers Act of 1940," 15 U.S.C. 80b-2, et seq. 452
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(E) The applicant has passed the series 65 examination administered by the financial industry regulatory authority (FINRA) or an equivalent examination approved by the superintendent. 456
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(F) The applicant meets all requirements prescribed by division (A) (1) of section 3905.06 of the Revised Code. 460
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Sec. 3906.01. As used in this chapter: 462

(A) "Annual financial statement" means an insurer's 463
statutorily required financial statement under the insurer's 464
respective authorizing chapter of the Revised Code. 465

(B) "Authorized control level risked-based capital" means 466
authorized control level RBC as defined in sections 1753.31 and 467
3903.81 of the Revised Code. 468

(C) "Cash equivalent" means a short-term, highly liquid 469
investment that is both readily convertible to known amounts of 470
cash and so near its maturity that it presents an insignificant 471
risk of change in value because of changes in interest rates, 472
and that has an original maturity date, to the entity holding 473
the investment, of three months or less. 474

(D) "Covered" means that an insurer owns, or can 475
immediately acquire through the exercise of options, warrants, 476

or conversion rights already owned, the underlying interest in 477
order to fulfill or secure its obligation under the option, cap, 478
or floor it has written. 479

(E) (1) "Derivative instrument" means an agreement, option, 480
instrument, or a series or a combination thereof of either of 481
the following types: 482

(a) To make or take delivery of, or assume or relinquish, 483
a specified amount of one or more underlying interest, or to 484
make a cash settlement in lieu thereof; 485

(b) That has a price, performance, value, or cash flow 486
based primarily upon the actual or expected price, level, 487
performance, value, or cash flow of one or more underlying 488
interests. 489

(2) "Derivative instrument" includes options, warrants, 490
caps, floors, collars, swaps, forwards, futures, and any other 491
agreements, options, or instruments substantially similar 492
thereto or any series or combination thereof. 493

(F) "Derivative transaction" means a transaction involving 494
the use of one or more derivative instruments. 495

(G) "Hedging transaction" means a derivative transaction 496
that is entered into and maintained to reduce either of the 497
following: 498

(1) The risk of economic loss due to a change in the 499
value, yield, price, cash flow, or quantity of assets or 500
liabilities that the insurer has acquired or incurred or 501
anticipates acquiring or incurring; 502

(2) The currency exchange rate risk or the degree of 503
exposure as to assets or liabilities that an insurer has 504

acquired or incurred or anticipates acquiring or incurring.	505
(H) "Income generation" means a derivative transaction	506
involving the writing of covered options, caps, or floors that	507
is intended to generate income or enhance return.	508
(I) "Lower-grade investment" means a rated credit	509
instrument or debt-like preferred stock rated <u>designated</u> 4, 5,	510
or 6 by the securities valuation office.	511
(J) "Medium-grade investment" means a rated credit	512
instrument or debt-like preferred stock rated <u>designated</u> 3 by	513
the securities valuation office.	514
(K) "Minimum asset requirement" is the requirement that an	515
insurer maintain assets in an amount equal to the sum of the	516
insurer's liabilities and its minimum financial security	517
benchmark, as required by division (A) of section 3906.11 of the	518
Revised Code.	519
(L) "Minimum financial security benchmark" is the amount	520
an insurer is required to have under section 3906.03 of the	521
Revised Code.	522
(M) "Replication transaction" means a derivative	523
transaction that is intended to replicate the performance of one	524
or more assets that an insurer is authorized to acquire under	525
this chapter. "Replication transaction" does not include a	526
derivative transaction that is entered into as a hedging	527
transaction.	528
(N) "Securities valuation office" means the securities	529
valuation office of the national association of insurance	530
commissioners or any successor office.	531
(O) "Securities valuation office listed mutual fund" means	532

a money market mutual fund or short-term bond fund that is 533
registered with the United States securities and exchange 534
commission under the "Investment Company Act of 1940," 54 Stat. 535
789, 15 U.S.C. 80a-1 to 80a-64, and that has been determined by 536
the securities valuation office to be eligible for special 537
reserve and reporting treatment, rather than as common stock. 538

(P) "Securities valuation office listed exchange traded 539
fund" means a bond or preferred stock exchange traded fund that 540
is registered with the United States securities and exchange 541
commission under the "Investment Company Act of 1940," 54 Stat. 542
789, 15 U.S.C. 80a-1 to 80a-64, and that has been ~~rated~~ 543
designated 1 or 2 by the securities valuation office and 544
determined by the office to be eligible for special reserve and 545
reporting treatment, rather than as common stock. 546

(Q) "Superintendent" means the superintendent of 547
insurance. 548

Sec. 3906.08. (A) For the purposes of determining an 549
insurer's minimum asset requirement under section 3906.11 of the 550
Revised Code, the following limitations on classes of 551
investments shall apply: 552

(1) For investments authorized by division (B) of section 553
3906.07 of the Revised Code and investments authorized by 554
division (G) of section 3906.07 of the Revised Code that are of 555
the types described in division (B) of section 3906.07 of the 556
Revised Code the following limitations shall apply: 557

(a) The aggregate amount of medium- and lower-grade 558
investments shall be not more than twenty per cent of an 559
insurer's admitted assets. 560

(b) The aggregate amount of lower-grade investments shall 561

be not more than ten per cent of an insurer's admitted assets.	562
(c) The aggregate amount of investments rated <u>designated</u> 5	563
or 6 by the securities valuation office shall be not more than	564
five per cent of the insurer's admitted assets.	565
(d) The aggregate amount of investments rated <u>designated</u> 6	566
by the securities valuation office shall be not more than one	567
per cent of an insurer's admitted assets.	568
(e) The aggregate amount of medium- and lower-grade	569
investments that receive as cash income less than the yield for	570
treasury issues with a comparative average life shall be not	571
more than one per cent of an insurer's admitted assets.	572
(2) Investments authorized by division (C) of section	573
3906.07 of the Revised Code shall be not more than forty-five	574
per cent of an insurer's admitted assets in the case of life	575
insurers and not more than twenty-five per cent of an insurer's	576
admitted assets in the case of insurers that are not life	577
insurers.	578
(3) Investments authorized by division (D) of section	579
3906.07 of the Revised Code shall be not more than twenty per	580
cent of an insurer's admitted assets in the case of life	581
insurers and not more than twenty-five per cent of an insurer's	582
admitted assets in the case of insurers that are not life	583
insurers.	584
(4) Investments authorized by division (E) of section	585
3906.07 of the Revised Code shall be not more than ten per cent	586
of an insurer's admitted assets.	587
(5) Investments authorized by division (F) of section	588
3906.07 of the Revised Code shall be not more than ten per cent	589
of an insurer's admitted assets.	590

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

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

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

(B) (1) For purposes of determining compliance with section 3906.11 of the Revised Code, securities issued by a single entity 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 621
institution, shall not exceed five per cent of an insurer's 622
admitted assets. 623

(C) For purposes of determining compliance with this 624
section, the admitted portion of assets of subsidiaries of an 625
insurer invested in under division (J) of section 3906.07 of the 626
Revised Code shall be deemed to be owned directly by the insurer 627
and any other investors in proportion to the market value of 628
their interest in the subsidiaries. If interest in the 629
subsidiary has no market value, then the asset allocation 630
proportion shall be determined by the reasonable value of 631
interest in the subsidiary as determined under the national 632
association of insurance commissioners' accounting practices and 633
procedures manual. 634

(D) If the superintendent considers it necessary to get a 635
proper evaluation of the investment portfolio of an insurer, the 636
superintendent may require that investments in mutual funds, 637
exchange traded funds, pooled investment vehicles, or other 638
investment companies be treated for purposes of this chapter as 639
if the investor owned directly its proportional share of the 640
assets owned by the mutual fund, exchange traded fund, pooled 641
investment vehicle, or investment company. 642

(E) Unless otherwise specified in this chapter, an 643
insurer's investment limitations shall be computed using the 644
insurer's general account admitted assets, capital, or surplus 645
as reported in the insurer's most recent annual financial 646
statement required to be filed with the superintendent. 647

Sec. 3907.14. The capital, surplus, and all accumulations 648
of every domestic life insurance company shall be invested as 649
follows: 650

(A) A domestic company may acquire, hold, and convey real estate: 651
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(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; 653
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(2) Which has been mortgaged to it in good faith by way of security for loans previously contracted or for money due; 658
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(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; 660
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(4) Which it has purchased at sales under mortgages and on any legal process in connection with its investments or under decrees obtained or made for such debts; 664
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(5) Which is acquired, owned, or held for the purpose of developing, improving, or otherwise utilizing such real estate for the production of income, without restriction or limitation as to time, and may acquire, lease, hold, and manage personal property used in connection therewith. No investments in real estate to be used primarily for recreational, agricultural, or mining purposes shall be made under authority of division (A) (5) of this section and except for investments authorized under divisions (A) (1), (2), (3), and (4) of this section, no domestic life insurance company shall invest in real estate under divisions (A) (5) and (R) of this section a sum exceeding in the aggregate ten per cent of its admitted assets on the preceding thirty-first day of December. 667
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All real estate specified in divisions (A) (3) and (4) of 680
this section, which is not necessary for its accommodation in 681
the convenient transaction of its business, shall be sold by the 682
company and disposed of within five years after it has acquired 683
the title to such real estate or within five years after such 684
real estate has ceased to be necessary for the accommodation of 685
its business, unless the company procures the certificate of the 686
superintendent of insurance that its interests will suffer 687
materially by a forced sale of the real estate, in which event 688
the time for the sale may be extended to such time as the 689
superintendent directs in such certificate. 690

(B) A domestic company may acquire, hold, and convey 691
tangible personal property or interests therein for the 692
production of income, provided no domestic company shall invest 693
in excess of two per cent of its admitted assets as of the 694
preceding thirty-first day of December under this division. 695

(C) In loans and liens upon the security of its own 696
policies, not exceeding the reserve or present value of the 697
policies, computed according to any standard authorized by law 698
or according to such higher standard as the company has adopted 699
and maintains on the policy, the reserve being the amount of 700
debts of the life insurance company by reason of its outstanding 701
policies in gross, which may be so treated in the returns for 702
taxation made by it; 703

(D) In bankers' acceptances and bills of exchange of the 704
kinds and maturities made eligible by law for rediscount with 705
federal reserve banks, provided that such acceptances and bills 706
of exchange are accepted by a bank or trust company incorporated 707
under the laws of the United States or of this state or any 708
other bank or trust company which is a member of the federal 709

reserve system;	710
(E) In equipment trust obligations or certificates,	711
security agreements, or other evidences of indebtedness entered	712
into directly or guaranteed by any company operating wholly or	713
partly within the United States or Canada, provided that the	714
debt obligation is secured by a first lien on tangible personal	715
property which is purchased or secured for payment thereof and	716
the debt obligation is repayable within twenty years from the	717
date of issue in annual, semiannual, or more frequent	718
installments beginning not later than the first year after such	719
date;	720
(F) In bonds issued by or for federal land banks and any	721
debentures issued by or for federal intermediate credit banks	722
under the "Federal Farm Loan Act of 1916," 39 Stat. 360, 12	723
U.S.C.A. 641 as amended; any debentures issued by or for banks	724
for cooperatives under the "Farm Credit Act of 1933," 48 Stat.	725
257, 12 U.S.C.A. 131 as amended;	726
(G) In bonds issued under the "Home Owners' Loan Act of	727
1933," 48 Stat. 128, 12 U.S.C.A. 1461;	728
(H) In notes, bonds, debentures, or other such obligations	729
issued by the federal housing administrator;	730
(I) (1) (a) In bonds or other evidences of indebtedness, not	731
in default as to principal or interest, which are valid	732
obligations issued, assumed or guaranteed by the United States,	733
by any state thereof, by the Commonwealth of Puerto Rico, by any	734
territory or insular possession of the United States, or by the	735
District of Columbia, or which are valid obligations issued,	736
assumed, or guaranteed by any county, municipal corporation,	737
district, or political subdivision, or by any civil division or	738

public instrumentality of such governmental units, if by 739
statutory or other legal requirements such obligations are 740
payable, as to both principal and interest, from taxes levied 741
upon all taxable property within the jurisdiction of such 742
governmental unit; 743

(b) In bonds or other obligations issued by or for account 744
of any such governmental unit having a population of five 745
thousand or more by the latest official federal or state census, 746
which are payable as to both principal and interest from 747
revenues or earnings from the whole or any part of a publicly 748
owned utility supplying water, gas, sewage disposal facility, or 749
electricity, or any or all of them, provided that by statute or 750
other applicable legal requirements, rates from the service or 751
operation of such utility must be fixed, maintained, and 752
collected at all times so as to produce sufficient revenues or 753
earnings to pay both principal and interest of such bonds or 754
obligations as they become due; 755

(c) In any bonds or obligations payable from and secured 756
by revenues of the United States, the Commonwealth of Puerto 757
Rico, or any state or instrumentality of any of them, or of the 758
District of Columbia or of any commission, board, or other 759
instrumentality of one or more of them, provided there is a 760
specific pledge of revenues, and provided that there is adequate 761
provision for payment of interest prior to completion of 762
construction and that rates, fees, tolls, or charges fixed are, 763
after completion of construction, sufficient to pay all expenses 764
of operation and maintenance and the principal and interest when 765
due. 766

(2) In legally authorized and executed bonds, notes, 767
warrants, and securities which are the direct obligation of or 768

are guaranteed by Canada, or which are the direct obligation of 769
or are guaranteed as to both principal and interest by any 770
province of Canada, or which are the direct obligation of or are 771
guaranteed as to both principal and interest by any municipality 772
of Canada having a population of fifty thousand or more by the 773
latest official census, and which are not in default as to 774
principal or interest; 775

(3) In bonds or other evidence of indebtedness, not in 776
default as to principal or interest, which are valid obligations 777
issued, assumed, or guaranteed by the United States, by any 778
state thereof, the Commonwealth of Puerto Rico, or by the 779
District of Columbia, if by statutory or other legal 780
requirements such obligations are payable, as to both principal 781
and interest, from selective taxes levied by such governmental 782
unit. 783

(J) (1) In mortgage bonds which are the direct obligation 784
of a railroad, and which are the first lien on a substantial 785
portion of its property, situated wholly in the United States or 786
partly in the United States and partly in Canada, the average 787
net yearly earnings of which, after deducting proper charges for 788
maintenance of way and equipment, for the five fiscal years 789
preceding such investments, have been at least one and one-half 790
times the average yearly interest for the same period on its 791
mortgages, bonds, and funded debts, and in the junior mortgage 792
bond issues of such railroad corporations of the same character 793
and under the same conditions where the average net yearly 794
earnings for the five fiscal years preceding such investment, 795
after deducting proper charges for maintenance of way and 796
equipment, have been at least three times the average yearly 797
interest charges on such issues and all prior liens; or in the 798
mortgage bonds of any incorporated railroad company which have 799

been assumed or guaranteed, both as to principal and interest, 800
by any incorporated railroad company whose bonds constitute a 801
legal investment under division (J) (1) of this section. In 802
applying the earnings test to any issuing, assuming, or 803
guaranteeing company, whether or not in legal existence during 804
the whole of such five years next preceding the date of 805
investment by such insurer, which has at any time during such 806
five-year period acquired the assets of any other company by 807
purchase, merger, consolidation, or otherwise, substantially as 808
an entirety, or has been reorganized pursuant to the bankruptcy 809
law, the earnings of such other predecessor or constituent 810
companies, or of the company so reorganized, available for 811
interest for such portion of such period that has preceded such 812
acquisition, or such reorganization, may be included in the 813
earnings of such issuing, assuming, or guaranteeing company for 814
such portion of such period as is determined in accordance with 815
adjusted or pro forma consolidated earnings statements covering 816
such portion of such period. In such cases the requirements as 817
to earnings shall be based upon the mortgages, bonds, and funded 818
debts as they exist immediately after such acquisitions or such 819
reorganizations. 820

(2) In mortgage bonds or other interest-bearing 821
obligations of terminal companies organized under the laws of 822
the United States or any state thereof, provided such bonds or 823
obligations have been assumed or guaranteed jointly or severally 824
by two or more railroad corporations whose bonds constitute 825
legal investments under division (J) (1) of this section; 826

(3) In loans to veterans guaranteed in whole or in part by 827
the United States pursuant to Title III of the "Servicemen's 828
Readjustment Act of 1944," 58 Stat. 284, 38 U.S.C.A. 693, as 829
amended, provided such guaranteed loans are liens upon real 830

estate; 831

(4) In mortgage bonds which are the direct obligation of 832
and first lien upon the property of a corporation engaged 833
directly and primarily in the production and sale of, or in the 834
purchase and sale of electricity or gas, or in the operation of 835
telephone or telegraph systems or waterworks, or in some 836
combination of them, and situated wholly in the United States, 837
or the Commonwealth of Puerto Rico, or partly in the United 838
States and partly in Canada, the average net yearly earnings of 839
which, after deducting proper charges for replacements, 840
depreciation, and obsolescence, for the five fiscal years 841
preceding such investment, have been at least one and one-half 842
times the average yearly interest for the same period on its 843
mortgages, bonds, and funded debts; 844

(5) Any such corporation, or any of its predecessors, 845
constituent, or successor corporations, must have been in 846
business not less than ten years prior to the date of the 847
purchase of such bonds, and must not have defaulted on the 848
interest or principal of any of its bonds or funded debts 849
outstanding during the five years immediately preceding the date 850
of purchase, provided that division (J) (5) of this section does 851
not preclude investments in mortgage bonds of railroads 852
reorganized through purchase of assets, merger, consolidation, 853
bankruptcy proceedings, or otherwise if such bonds are eligible 854
for investment under division (J) (1) of this section; 855

(6) No investment shall be made under division (J) (1), 856
(2), (4), or (5) of this section if such railroad or other 857
utility corporation and its business, and its issue of bonds, 858
funded debts, and stocks are not under the supervision and 859
control of an authorized state or federal official or 860

commission, provided that division (J) (6) of this section does 861
not apply to the mortgage bonds or other interest-bearing 862
obligations of companies engaged in the operation of telephone 863
or telegraph systems. 864

(K) (1) In bonds or notes secured by mortgages or deeds of 865
trust which are a first lien upon unencumbered fee simple real 866
estate in any state, the Commonwealth of Puerto Rico, the 867
District of Columbia, or Canada, provided the amount loaned does 868
not exceed eighty per cent of the actual market value of such 869
property. 870

The actual market value of any such property shall be 871
shown by a valuation and appraisalment in writing by a qualified 872
land appraiser. 873

In the event the amount loaned under division (K) (1) of 874
this section exceeds eighty per cent of the actual market value 875
of the land, the structures on the land must be insured by an 876
authorized fire insurance company or covered by other comparable 877
indemnification, and the policies or indemnifications shall be 878
payable or assigned to the mortgagee or to a trustee in its 879
behalf and shall be held by the mortgagee or an agent of the 880
mortgagee or by such trustee; or in lieu of holding such 881
policies or indemnifications, the mortgagee may purchase a 882
policy or policies of mortgage protection insurance, payable to 883
the mortgagee or a trustee in its behalf, insuring the mortgagee 884
against loss resulting from the failure of the mortgagor to 885
acquire and maintain, from such an authorized fire insurance 886
company or other comparable source, insurance or 887
indemnification. 888

(2) In bonds or notes secured by mortgages insured by the 889
federal housing administrator; 890

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

(4) The following shall not be considered as prior liens or encumbrances in the construction and application of this section: leasehold estates of any duration, rights-of-way, servitudes, joint driveways, easements, party wall agreements, current taxes and assessments not delinquent, and restrictions

as to building, use, and occupancy. 922

(5) This section does not prohibit a domestic life 923
insurance company from renewing or extending a loan for the 924
original or a lesser amount nor does it prohibit a company from 925
accepting as part payment for real estate sold by it a mortgage 926
on the real estate for a greater percentage of the purchase 927
price of the real estate than is otherwise permitted by this 928
section. 929

(L) In bonds, notes, or other evidences of indebtedness of 930
corporations, trusts, partnerships, or similar business entities 931
organized under the laws of the United States, or any state 932
thereof, the Commonwealth of Puerto Rico, the District of 933
Columbia, or Canada or any province of Canada, secured by 934
assignment of lease or leases or the rentals payable under such 935
leases, of real or personal property or both to (1) the United 936
States or any instrumentality thereof, or any state of the 937
United States, the Commonwealth of Puerto Rico, or the District 938
of Columbia, or any county, city, town, school, or water 939
district, authority, or other political subdivision in any such 940
government, or Canada, any province of Canada, or any municipal 941
corporation of Canada that has a population of fifty thousand or 942
more by the latest official census; or (2) one or more 943
corporations, trusts, partnerships, or similar business entities 944
organized under the laws of the United States, any state 945
thereof, the Commonwealth of Puerto Rico, the District of 946
Columbia, or Canada or any province of Canada, provided that (a) 947
the fixed rentals assigned shall be sufficient to repay the 948
indebtedness within the unexpired term of the lease, exclusive 949
of the term which may be provided by an enforceable option of 950
renewal; (b) such lessee has not defaulted in payment of 951
interest or principal on any of its bonds, notes, debentures, or 952

other evidences of indebtedness during the five years 953
immediately preceding the date of the investment, and provided 954
the average net earnings available for fixed charges of such 955
lessee under division (L) (2) of this section for not less than 956
five fiscal years preceding such investment have been at least 957
one and one-half times average fixed charges for that period and 958
during either of the last two years of such period, the net 959
earnings available for fixed charges shall have been not less 960
than one and one-half times fixed charges for such year, except 961
that railroad companies and utility companies may qualify as 962
lessees herein by application of the earnings test provided for 963
railroads under division (J) (1) of this section and for 964
utilities under division (J) (4) of this section; and (c) a first 965
lien on the interest of the lessor in the unencumbered property 966
so leased shall be obtained as additional security for the 967
indebtedness; 968

(M) In ground rents, land trust certificates, or fee 969
ownership certificates representing or evidencing beneficial 970
ownership of or interest in improved real estate under lease for 971
not less than twenty-five years from the date of such lease, in 972
which it must be provided that the lessee shall pay all taxes 973
and assessments levied on or assessed against said real estate, 974
shall maintain the improvements on the real estate in good 975
repair, and shall provide and maintain fire insurance in an 976
amount equal to the insurable value of the building on the real 977
estate; provided: 978

(1) The value of the land and improvements shall be 979
evidenced by an appraisement made under oath by a disinterested 980
appraiser resident in and the owner of real estate in the city 981
in which the property is situated, and such appraisement shall 982
not be less than one and sixty-seven hundredths times the amount 983

of such land trust certificates, which amount shall be not less 984
than twenty times the net annual rental distributable to holders 985
of outstanding certificates; 986

(2) Such beneficial interests shall only be in properties 987
on which actual earning records for five years immediately 988
preceding are available; 989

(3) Such declaration of trust or other trust instrument 990
shall provide for a depreciation or other similar fund, in an 991
amount which is not less than nine per cent of the net annual 992
distributable rental, for the benefit of the holders of 993
outstanding certificates. 994

(N) (1) In certificates of deposit or other evidence of 995
indebtedness of a savings and loan association provided the 996
certificates or other evidence of deposit are insured pursuant 997
to the "Financial Institutions Reform, Recovery, and Enforcement 998
Act of 1989," 103 Stat. 183, 12 U.S.C.A. 1811, as amended; 999

(2) In interest-bearing obligations, including savings 1000
accounts and time certificates of deposit of a national bank or 1001
state bank provided such bank is a member of the federal deposit 1002
insurance corporation created pursuant to the "Banking Act of 1003
1933," 92 Stat. 624, 12 U.S.C.A. 624, as amended. 1004

(O) In obligations issued, assumed, or guaranteed by the 1005
international finance corporation or by the international bank 1006
for reconstruction and development, the Asian development bank, 1007
the inter-American development bank, the African development 1008
bank, or other similar development bank in which the president, 1009
as authorized by congress and on behalf of the United States, 1010
has accepted membership; 1011

(P) (1) In the preferred stocks of any company organized 1012

under the laws of the United States or of any state thereof 1013
engaged directly and primarily in the production and sale of, or 1014
in the purchase and sale of electricity or gas, or in the 1015
operation of telephone or telegraph systems or water works, or 1016
in some combination of them, if the average annual net earnings 1017
of such company, for not less than five fiscal years preceding 1018
purchase thereof, after deduction of interest on all mortgages, 1019
bonds, debentures, and funded debts and after deduction of the 1020
proper charges for replacements, depreciation, and obsolescence, 1021
have been at least two times the average yearly amount which is 1022
required to pay the dividends or distributions on all preferred 1023
stocks; and in which the mortgages, bonds, debentures, funded 1024
debts, and preferred stocks shall not in the aggregate exceed 1025
seventy per cent of the total capitalization of such company, 1026
including mortgages, bonds, debentures, funded debts, and 1027
preferred and common stocks; 1028

(2) In the preferred stocks of any other company organized 1029
under the laws of the United States, or of any state thereof if 1030
the average annual net earnings of such company for a period of 1031
not less than five fiscal years preceding purchase thereof, 1032
after deduction of interest on all mortgages, bonds, debentures, 1033
and funded debts and after deduction of the proper charges for 1034
replacements, depreciation, and obsolescence, have been at least 1035
four times the amount which is required to pay the dividends or 1036
distributions on all preferred stocks, and in which the 1037
mortgages, bonds, debentures, funded debts, and preferred stocks 1038
shall not in the aggregate exceed sixty per cent of the total 1039
capitalization of such company, including mortgages, bonds, 1040
debentures, funded debts, and preferred and common stocks; 1041

(3) A domestic life insurance company shall not purchase 1042
any preferred stocks when the total market values of such stocks 1043

then owned with those purchased exceed in the aggregate of book 1044
values and purchase price the capital, surplus, and contingency 1045
funds, excluding all reserves required by law, of such company 1046
on the thirty-first day of December preceding the date of such 1047
purchase, or contemplated purchase, provided that in case of 1048
appreciations in values of stocks owned the cost rather than the 1049
market values shall be used in arriving at such aggregate; the 1050
purpose being to restrict the investments of such company in all 1051
preferred stocks to capital, surplus, and contingency funds. 1052

(4) In the bonds, notes, debentures, or other evidences of 1053
indebtedness of a solvent corporation, trust, partnership, or 1054
similar business entity existing under the laws of the United 1055
States, of any state thereof, the Commonwealth of Puerto Rico, 1056
or Canada or any province of Canada, provided that either any of 1057
the following apply: 1058

(a) The bonds, notes, debentures, or other evidences of 1059
indebtedness of such corporation, trust, partnership, or similar 1060
business entity are ~~rated~~ designated 1 or 2 by the securities 1061
valuation office of the national association of insurance 1062
commissioners; 1063

(b) The corporation, trust, partnership, or similar 1064
business entity has not defaulted in payment of interest or 1065
principal on any of its bonds, notes, debentures, or other 1066
evidences of indebtedness during the five years immediately 1067
preceding the date of purchase, and the average annual net 1068
earnings of such corporation, trust, partnership, or similar 1069
business entity that are available for fixed charges for not 1070
less than five fiscal years preceding such purchase have been at 1071
least one and one-half times the average fixed charges of such 1072
corporation, trust, partnership, or similar business entity for 1073

that period and during either of the last two years of such 1074
period, the net earnings available for fixed charges shall have 1075
been not less than one and one-half times the fixed charges of 1076
such corporation, trust, partnership, or similar business entity 1077
for such year; 1078

(c) The bonds, notes, debentures, or other evidences of 1079
indebtedness of such corporation, trust, partnership, or similar 1080
business entity are designated 3, 4, 5, or 6 by the securities 1081
valuation office of the national association of insurance 1082
commissioners subject to the following limits: 1083

(i) The aggregate of all such bonds, notes, debentures, or 1084
other evidences of indebtedness that are designated 3, 4, 5, and 1085
6 does not exceed twenty per cent of the insurer's admitted 1086
assets; 1087

(ii) The aggregate of all such bonds, notes, debentures, 1088
or other evidences of indebtedness that are designated 4, 5, and 1089
6 does not exceed ten per cent of the insurer's admitted assets; 1090

(iii) The aggregate of all such bonds, notes, debentures, 1091
or other evidences of indebtedness that are designated 5 and 6 1092
does not exceed three per cent of the insurer's admitted assets; 1093

(iv) The aggregate of all such bonds, notes, debentures, 1094
or other evidences of indebtedness that are designated 6 does 1095
not exceed one per cent of the insurer's admitted assets; 1096

(v) The aggregate amount of all such bonds, notes, 1097
debentures, or other evidences of indebtedness that are 1098
designated 3, 4, 5, and 6 that receive as cash income less than 1099
the yield for treasury issues with a comparative average life 1100
shall be not more than one per cent of an insurer's admitted 1101
assets. 1102

(5) In common stocks or shares of any solvent incorporated 1103
company organized under the laws of the United States, or of any 1104
state, district, or territory thereof, or the Commonwealth of 1105
Puerto Rico, provided that a dividend or distribution has been 1106
paid by the corporation in the preceding twelve months upon such 1107
stock to be purchased, or that such corporation, together with 1108
its predecessor corporation or corporations, has been in 1109
existence for a period of at least five years. No domestic 1110
company shall invest in common stock or shares under divisions 1111
(P) (5) and (R) of this section a sum exceeding in the aggregate 1112
ten per cent of its admitted assets on the preceding thirty- 1113
first day of December. 1114

(6) In the stocks, limited liability company membership 1115
interests, limited partnership interests, or limited liability 1116
partnership interests of insurance, financial, investment, and 1117
investment management companies, which investment management 1118
companies are registered with the securities and exchange 1119
commission under the "Investment Company Act of 1940," 54 Stat. 1120
789, 15 80a-1, as amended, or the stocks, limited liability 1121
company membership interests, limited partnership interests, or 1122
limited liability partnership interests in an entity wholly 1123
owned by a domestic company or by a domestic company and its 1124
affiliates, that is formed and maintained to acquire or hold 1125
specific assets or liabilities for bankruptcy remoteness or 1126
limitation of liability purposes, except its own stock, but no 1127
domestic life insurance company shall invest in such stocks, 1128
limited liability company membership interests, or limited 1129
liability partnership interests under division (P) (6) of this 1130
section, exclusive of its investments in stocks or limited 1131
liability company membership interests of insurance company 1132
subsidiaries or subsidiaries engaged exclusively in the 1133

ownership of insurance company subsidiaries, a sum exceeding the 1134
lesser of fifty per cent of its policyholder surplus or ten per 1135
cent of its admitted assets as of the preceding thirty-first day 1136
of December unless the approval of the superintendent of 1137
insurance is first obtained. Whenever the superintendent has 1138
reason to believe that the retention, investment, or acquisition 1139
of the stock, limited liability company membership interest, 1140
limited partnership interest, or limited liability partnership 1141
interest of any such company substantially lessens competition 1142
generally in the business of insurance or creates a monopoly 1143
therein the superintendent shall proceed under section 3901.13 1144
of the Revised Code to cause such domestic insurance company to 1145
divest itself of such stock, limited liability company 1146
membership interest, limited partnership interest, or limited 1147
liability partnership interest. 1148

(7) (a) In bonds, notes, debentures, or other evidences of 1149
indebtedness issued, assumed, or guaranteed by a solvent 1150
corporation, trust, or partnership formed or existing under the 1151
laws of a foreign jurisdiction, provided each such foreign 1152
investment is of the same kind and quality as United States 1153
investments authorized under this section; or in common or 1154
preferred stock, shares, membership interest, or partnership 1155
interest of any solvent business entity formed or existing under 1156
the laws of a foreign jurisdiction provided each such foreign 1157
investment is of the same kind and quality as United States 1158
investments authorized under this section; or in bonds or other 1159
evidences of indebtedness issued, assumed, or guaranteed by a 1160
foreign jurisdiction. 1161

An insurer shall not invest in foreign investments under 1162
division (P) (7) of this section, including investments 1163
denominated in foreign currency, a sum exceeding in the 1164

aggregate ~~fifteen~~twenty per cent of its admitted assets as of 1165
the preceding thirty-first day of December. The aggregate amount 1166
of investments held by an insurer in a single foreign 1167
jurisdiction shall not exceed ~~three~~seven per cent of its 1168
admitted assets as of the preceding thirty-first day of 1169
December. 1170

As used in division (P) (7) (a) of this section, "foreign 1171
jurisdiction" means a jurisdiction outside the United States, 1172
Puerto Rico, or Canada, whose bonds are ~~rated~~designated 1 or 2 1173
by the securities valuation office of the national association 1174
of insurance commissioners. 1175

(b) An insurer may acquire investments denominated in 1176
foreign currency whether or not they are foreign investments. 1177

An insurer shall not invest in investments denominated in 1178
foreign currency a sum exceeding in the aggregate ~~ten~~twenty per 1179
cent of its admitted assets as of the preceding thirty-first day 1180
of December provided the foreign currency is appropriately 1181
hedged. Such foreign currency is limited to ten per cent of its 1182
admitted assets as of the preceding thirty-first day of December 1183
if not hedged. The aggregate amount of investments denominated 1184
in a single foreign currency held by an insurer shall not exceed 1185
~~three~~seven per cent of an insurer's admitted assets as of the 1186
preceding thirty-first day of December provided the foreign 1187
currency is appropriately hedged. Such foreign currency is 1188
limited to three per cent of its admitted assets as of the 1189
preceding thirty-first day of December if not hedged. 1190

(c) As used in division (P) (7) of this section, "foreign 1191
currency" means a currency other than that of the United States. 1192

(8) An insurer may invest without limitation in 1193

investments of government money market funds. As used in 1194
division (P)(8) of this section, "government money market fund" 1195
means a mutual fund that at all times invests in obligations 1196
issued, guaranteed, or insured by the federal government of the 1197
United States, or collateralized repurchase agreements comprised 1198
of these obligations, and that qualifies for investment without 1199
a reserve pursuant to the purposes and procedures of the 1200
securities valuation office of the national association of 1201
insurance commissioners. 1202

(Q) In loans upon the pledge of any securities in which 1203
such companies are authorized by this section to invest, 1204
provided that any loan upon such a pledge shall not exceed 1205
eighty per cent of the cash market value of the collateral at 1206
the time of the making of such loan and at the end of each 1207
twelve-month period thereafter, and such company, through the 1208
collateral pledged to it, shall not exceed the amounts which it 1209
may, under this section, invest in one corporation so that, in 1210
the stocks and securities which may be owned and those which are 1211
pledged to it, the limitations in this section might be 1212
indirectly evaded; 1213

(R) (1) Any domestic legal reserve life insurance company 1214
may loan or invest its funds, to an extent not exceeding in the 1215
aggregate ~~five~~ten per cent of its total admitted assets, in 1216
loans or investments not permitted under this section. Any such 1217
company may also invest up to an additional five per cent of its 1218
total admitted assets, in loans or investments in small 1219
businesses having more than half of their assets or employees in 1220
this state and in venture capital firms having an office within 1221
this state, provided that, as a condition of a company making an 1222
investment in a venture capital firm, the firm must agree to use 1223
its best efforts to make investments, in an aggregate amount at 1224

least equal to the investment to be made by the company in that 1225
venture capital firm, in small businesses having their principal 1226
offices within this state and having either more than one-half 1227
of their assets within this state or more than one-half of their 1228
employees employed within this state. 1229

As used in division (R) of this section: 1230

(a) "Small businesses" means any corporation, partnership, 1231
proprietorship, or other entity that either does not have more 1232
than four hundred employees, or would qualify as a small 1233
business for the purpose of receiving financial assistance from 1234
small business investment companies licensed under the "Small 1235
Business Investment Act of 1958," 72 Stat. 689, 15 U.S.C.A. 661, 1236
as amended, and rules of the small business administration. 1237

(b) "Venture capital firms" means any corporation, 1238
partnership, proprietorship, or other entity, the principal 1239
business of which is or will be the making of investments in 1240
small businesses. 1241

(c) "Investments" means any equity investment, including 1242
limited partnership interests and other equity interests in 1243
which liability is limited to the amount of the investment, but 1244
does not include general partnership interests or other 1245
interests involving general liability. 1246

(2) In the event that, subsequent to being made under 1247
provisions of division (R) of this section, an investment is 1248
determined to have become qualified as an investment for a 1249
domestic life insurance company as provided for in this section, 1250
the company may consider such investment as held under the 1251
applicable provisions of the foregoing divisions (A) to (Q) of 1252
this section and such investment shall no longer be considered 1253

as having been made under the provisions of this division. 1254

(S) (1) No domestic life insurance company shall subscribe 1255
to or participate in any underwriting for the purchase or sale 1256
of securities or property, nor shall it enter into any such 1257
transaction for purchase or sale on account of said company 1258
jointly with any other person, nor shall any such company enter 1259
into any agreement to withhold from sale any of its property, 1260
but the disposition of its property shall be at all times within 1261
the control of its board of directors. Nothing contained in 1262
division (S) (1) of this section shall be construed to invalidate 1263
or prohibit an agreement by an insurance company for the 1264
purchase for its own account of an entire issue of the 1265
securities of a corporation or to invalidate or prohibit an 1266
agreement by an insurance company and one or more other 1267
investors to join and share in the purchase of investments for 1268
their individual accounts and for bona fide investment purposes. 1269

(2) In the determination of capitalization in this section 1270
the value of all bonds, debentures, and funded debts, and 1271
nonconvertible or nonparticipating preferred stocks shall be 1272
figured at par. Participating or convertible preferred shares 1273
shall be figured at par or market on the preceding thirty-first 1274
day of December, whichever is higher, and the value of all 1275
common shares shall be figured at the market on the preceding 1276
thirty-first day of December. 1277

(3) As used in this section: 1278

(a) "Funded debt" means all interest-bearing obligations 1279
maturing in more than one year from their issuance and all 1280
guaranteed or assumed interest-bearing obligations or stock. 1281
Securities or stock of a corporation pledged to secure other 1282
funded debt of the corporation are not included in the funded 1283

debt.	1284
(b) "Fixed charges" include actual interest incurred in	1285
each year on funded and unfunded debt and annual apportionment	1286
of debt discount or premium. Where interest is partially or	1287
entirely contingent upon earnings, "fixed charges" include	1288
contingent interest payments.	1289
(c) "Net earnings available for fixed charges" means	1290
income after deducting operating and maintenance expenses, taxes	1291
other than income taxes, depreciation, and depletion.	1292
Extraordinary, nonrecurring items of income or expense shall be	1293
excluded.	1294
(4) Except as provided in a plan of mutualization adopted	1295
pursuant to the provisions of sections 3913.01 to 3913.10 of the	1296
Revised Code, no domestic life insurance company may invest in	1297
or loan upon its own stock, either directly or indirectly.	1298
(5) If the investments of any domestic life insurance	1299
company are at the time of the making thereof or on October 13,	1300
1953, otherwise than as authorized in this section, such	1301
investments shall not be admitted or accepted as authorized	1302
investments for such company.	1303
(6) Any earnings test provided for in this section shall	1304
be deemed to have been met if the requirements of such earnings	1305
test are met by any company which assumes or guarantees the	1306
investment or which assumes or guarantees the performance of any	1307
lease which is the security for the investment. In applying any	1308
such earnings test, the operations of a company's predecessor	1309
companies, if any, for the stipulated period shall be included.	1310
(7) No domestic life insurance company shall at any time	1311
have invested in or loaned upon the security of the obligations,	1312

property, or securities of a particular corporation, trust, 1313
partnership, or similar business entity a sum exceeding the 1314
greater of two per cent of its admitted assets as of the 1315
preceding thirty-first day of December or twenty-five per cent 1316
of that portion of its capital and surplus, or its surplus in 1317
the case of a mutual company, that exceeds the minimum required 1318
capital and surplus under section 3907.05 of the Revised Code 1319
unless the approval of the superintendent of insurance is first 1320
obtained. The restrictions of division (S) (7) of this section do 1321
not apply to divisions (C), (F), (G), (H), (P) (6), and (R) of 1322
this section or to any valid obligation issued, assumed, or 1323
guaranteed by the United States, or any state thereof, the 1324
Commonwealth of Puerto Rico, the District of Columbia, or Canada 1325
or any province of Canada. For purposes of division (S) (7) of 1326
this section, such company may, at its option, consider either 1327
the lessor or the lessee under division (L) of this section to 1328
be the person to whom any such investment or loan is made. 1329

(8) This section does not affect the propriety or legality 1330
of an investment made by a domestic life insurance company which 1331
was in accordance with the laws in force at the time of the 1332
making of the investment. 1333

(T) A domestic life insurance company may seek permission 1334
from the superintendent of insurance to invest funds under 1335
Chapter 3906. of the Revised Code and may invest funds under 1336
that chapter if such permission is granted. 1337

(U) As used in divisions (U) and (V) of this section: 1338

(1) "Covered" means that an insurer owns, or can 1339
immediately acquire through the exercise of options, warrants, 1340
or conversion rights already owned, the underlying interest in 1341
order to fulfill or secure its obligation under the option, cap, 1342

or floor it has written. 1343

(2) (a) "Derivative instrument" means an agreement, option, 1344
instrument, or a series or combination thereof of either of the 1345
following types: 1346

(i) To make or take delivery of, or assume or relinquish, 1347
a specified amount of one or more underlying interests, or to 1348
make a cash settlement in lieu thereof; 1349

(ii) That has a price, performance, value, or cash flow 1350
based primarily upon the actual or expected price, level, 1351
performance, value, or cash flow of one or more underlying 1352
interests. 1353

(b) Derivative instruments include options, warrants, 1354
caps, floors, collars, swaps, forwards, futures, and any other 1355
agreements, options, or instruments substantially similar 1356
thereto or any series or combination thereof. 1357

(3) "Derivative transaction" means a transaction involving 1358
the use of one or more derivative instruments. 1359

(4) "Hedging transaction" means a derivative transaction 1360
that is entered into and maintained to reduce either of the 1361
following: 1362

(a) The risk of economic loss due to a change in the 1363
value, yield, price, cash flow, or quantity of assets or 1364
liabilities that the insurer has acquired or incurred or 1365
anticipates acquiring or incurring; 1366

(b) The currency exchange rate risk or the degree of 1367
exposure as to assets or liabilities that an insurer has 1368
acquired or incurred or anticipates acquiring or incurring. 1369

(5) "Income generation" means a derivative transaction 1370

involving the writing of covered options, caps, or floors that 1371
is intended to generate income or enhance return. 1372

(6) "Replication transaction" means a derivative 1373
transaction that is intended to replicate the performance of one 1374
or more assets that an insurer is authorized to acquire under 1375
this chapter. "Replication transaction" does not include a 1376
derivative transaction that is entered into as a hedging 1377
transaction. 1378

(V) (1) Prior to an insurer entering into derivative 1379
transactions, the board of directors of the insurer shall 1380
approve a derivative use plan. 1381

(2) An insurer shall notify the superintendent of 1382
insurance in writing within three days after identifying either 1383
of the following: 1384

(a) Any event or occurrence related to an insurer's 1385
derivatives use that may lead to a material change to the 1386
insurer's policyholder surplus; 1387

(b) Any event or occurrence related to an insurer's 1388
derivatives use that, with the passage of time, may lead to a 1389
material change to the insurer's policyholder surplus. 1390

(3) Prior to entering into derivative transactions, an 1391
insurer shall file with the superintendent a copy of its 1392
derivative use plan and internal controls, for informational 1393
purposes. The insurer shall keep current the copy of its 1394
derivative use plan and internal controls filed with the 1395
superintendent. The insurer shall not enter into derivative 1396
transactions until thirty calendar days after the date on which 1397
the derivative use plan and internal controls is filed with the 1398
superintendent. This thirty-calendar-day period is to begin on 1399

the date that the superintendent receives the derivative use plan and internal controls. 1400
1401

(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. 1402
1403
1404

(5) An insurer that engages in hedging transactions or replication transactions shall do both of the following: 1405
1406

(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; 1407
1408
1409
1410

(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. 1411
1412
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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. 1418
1419
1420

(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. 1421
1422
1423
1424

(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 1425
1426
1427
1428

are subject to section 3901.48 of the Revised Code and are 1429
confidential and privileged and shall not be considered a public 1430
record, as defined in section 149.43 of the Revised Code. The 1431
original documents and any copies of them shall not be subject 1432
to subpoena and shall not be made public by the superintendent 1433
or any other person, except as otherwise provided in section 1434
3901.48 of the Revised Code. 1435

Sec. 3911.22. (A) Any person who solicits an application 1436
for insurance upon the life of another person shall, in any 1437
controversy between the insured or ~~his~~ the insured's beneficiary 1438
and the company issuing a policy upon such application, be 1439
considered the agent of the company and not the agent of the 1440
insured. 1441

(B) Any person licensed under section 3905.0612 of the 1442
Revised Code who solicits an application for insurance upon the 1443
life of another person in accordance with division (C) of 1444
section 3905.06 of the Revised Code shall be considered an agent 1445
of the insured. 1446

Sec. 3925.08. Funds accumulated in the course of business, 1447
or surplus money above the capital stock, of any company 1448
organized under any law of this state, for the purpose provided 1449
in section 3925.01 of the Revised Code, shall only be loaned or 1450
invested in the securities listed in sections 3925.05 and 1451
3925.06 of the Revised Code, or in the following: 1452

(A) (1) Bonds and mortgages on unencumbered real estate 1453
within this or any other state worth twenty-five per cent more 1454
than the sum loaned thereon, exclusive of buildings, unless such 1455
buildings are insured in some company authorized to do business 1456
in this state, and the policy is transferred to the company 1457
making the investment; or, in lieu of transferring such 1458

policies, the mortgagee may purchase a policy or policies of 1459
mortgage protection insurance, payable to the mortgagee or a 1460
trustee in its behalf, insuring the mortgagee against loss 1461
resulting from the failure of the mortgagor to acquire and 1462
maintain, from such an authorized insurance company, insurance 1463
in the amount required by this section; 1464

(2) Bonds or notes secured by mortgages insured by the 1465
federal housing administrator; 1466

(3) Loans to veterans guaranteed in whole or in part by 1467
the United States pursuant to Title III of the "Servicemen's 1468
Readjustment Act of 1944," 58 Stat. 284, 38 U.S.C. 693, as 1469
amended, provided such guaranteed loans are liens upon real 1470
estate. 1471

(B) (1) Legally authorized and executed bonds, notes, 1472
warrants, and securities which are the direct obligation of or 1473
are guaranteed as to both principal and interest by Canada, or 1474
which are the direct obligation of or are guaranteed as to both 1475
principal and interest by any province of Canada, or which are 1476
the direct obligation of or are guaranteed as to both principal 1477
and interest by any municipal corporation of Canada having a 1478
population of one hundred thousand or more by the latest 1479
official census, and which are not in default as to principal or 1480
interest; 1481

(2) Obligations issued, assumed, or guaranteed by the 1482
international finance corporation or by the international bank 1483
for reconstruction and development, the Asian development bank, 1484
the inter-American development bank, the African development 1485
bank, or similar development bank in which the president, as 1486
authorized by congress and on behalf of the United States, has 1487
accepted membership. 1488

(C) Bonds or other evidences of indebtedness, not in 1489
default as to principal or interest, which are valid obligations 1490
issued, assumed, or guaranteed by the United States, by any 1491
state thereof, the Commonwealth of Puerto Rico, by any territory 1492
or insular possession of the United States, or by the District 1493
of Columbia, or which are valid obligations issued, assumed, or 1494
guaranteed by any county, municipal corporation, district, or 1495
political subdivision, or by any civil division or public 1496
instrumentality of such governmental units, if by statutory or 1497
other legal requirements such obligations are payable, as to 1498
both principal and interest, from taxes levied upon all taxable 1499
property within the jurisdiction of such governmental unit, or 1500
in bonds or other obligations issued by or for account of any 1501
such governmental unit having a population of five thousand or 1502
more by the latest official federal or state census, which are 1503
payable as to both principal and interest from revenues or 1504
earnings from the whole or any part of a publicly owned utility, 1505
provided that by statute or other applicable legal requirements, 1506
rates from the service or operation of such utility must be 1507
fixed, maintained, and collected at all times so as to produce 1508
sufficient revenues or earnings to pay both principal and 1509
interest of such bonds or obligations as they become due, and in 1510
any bonds or obligations issued or guaranteed by the United 1511
States, any state, the District of Columbia, the Commonwealth of 1512
Puerto Rico, any county, municipal corporation, district, 1513
political subdivision, civil division, commission, board, 1514
authority, agency, or other instrumentality of one or more of 1515
them, provided there is a specific pledge of revenues, earnings, 1516
or other adequate security and provided that no prior or parity 1517
obligation of the same issuer, payable from revenues or earnings 1518
from the same source, has been in default as to principal or 1519
interest during the five years next preceding the date of such 1520

investment, but such issuer need not have been in existence for 1521
that period, and obligations acquired under this section may be 1522
newly issued, and further provided that there is adequate 1523
provision for payment of expenses of operation and maintenance 1524
and the principal and interest on all obligations when due; 1525

(D) (1) Bonds or other evidences of indebtedness, bearing 1526
or accruing interest, issued, assumed, or guaranteed by any 1527
solvent corporation, trust, partnership, or similar business 1528
entity organized and existing under the laws of this or any 1529
other state, or of the United States, the Commonwealth of Puerto 1530
Rico, or of the District of Columbia, or of Canada or any 1531
province of Canada, upon which there is no existing interest or 1532
principal default, provided that ~~either~~any of the following 1533
apply: 1534

(a) The bonds or other evidences of indebtedness are ~~rated~~ 1535
designated 1 or 2 by the securities valuation office of the 1536
national association of insurance commissioners; 1537

(b) The corporation, together with its predecessor 1538
corporation or corporations, or the trust, partnership, or 1539
similar business entity, has been in existence for a period of 1540
at least five years; 1541

(c) The bonds, notes, debentures, or other evidences of 1542
indebtedness of such corporation, trust, partnership, or similar 1543
business entity are designated 3, 4, 5, or 6 by the securities 1544
valuation office of the national association of insurance 1545
commissioners, subject to the following limits: 1546

(i) The aggregate of all such bonds, notes, debentures, or 1547
other evidences of indebtedness that are designated 3, 4, 5, and 1548
6 does not exceed twenty per cent of the insurer's admitted 1549

<u>assets;</u>	1550
(ii) <u>The aggregate of all such bonds, notes, debentures,</u>	1551
<u>or other evidences of indebtedness that are designated 4, 5, and</u>	1552
<u>6 does not exceed ten per cent of the insurer's admitted assets;</u>	1553
(iii) <u>The aggregate of all such bonds, notes, debentures,</u>	1554
<u>or other evidences of indebtedness that are designated 5 and 6</u>	1555
<u>does not exceed three per cent of the insurer's admitted assets;</u>	1556
(iv) <u>The aggregate of all such bonds, notes, debentures,</u>	1557
<u>or other evidences of indebtedness that are designated 6 does</u>	1558
<u>not exceed one per cent of the insurer's admitted assets;</u>	1559
(v) <u>The aggregate amount of all such bonds, notes,</u>	1560
<u>debentures, or other evidences of indebtedness that are</u>	1561
<u>designated 3, 4, 5, and 6 that receive as cash income less than</u>	1562
<u>the yield for treasury issues with a comparative average life</u>	1563
<u>shall be not more than one per cent of an insurer's admitted</u>	1564
<u>assets.</u>	1565
(2) Stocks, limited liability company membership	1566
interests, limited partnership interests, or limited liability	1567
partnership interests of any insurance, financial, investment,	1568
or investment management companies, which investment management	1569
companies are registered with the securities and exchange	1570
commission under the "Investment Company Act of 1940," 54 Stat.	1571
789, 15 U.S.C. 80a-1, as amended, or the stocks, limited	1572
liability company membership interests, limited partnership	1573
interests, or limited liability partnership interests in an	1574
entity wholly owned by a domestic company or by a domestic	1575
company and its affiliates, that is formed and maintained to	1576
acquire or hold specific assets or liabilities for bankruptcy	1577
remoteness or limitation of liability purposes, except its own	1578

stock, and stocks, limited liability company membership 1579
interests, limited partnership interests, limited liability 1580
partnership interests, bonds, notes, and debentures of any 1581
company which is organized for, and limited in its operations 1582
to, the financing of insurance premiums, upon approval of such 1583
investments by the superintendent of insurance; except that 1584
approval shall not be required for the purchase of the 1585
outstanding stocks, limited liability company membership 1586
interests, limited partnership interests, or limited liability 1587
partnership interests of any such company, if investment in each 1588
such company does not exceed in the aggregate two and one-half 1589
per cent of the total admitted assets of the company making the 1590
investment as of the preceding thirty-first day of December. 1591
Whenever the superintendent has reason to believe that the 1592
retention, investment, or acquisition of the stock, limited 1593
liability company membership interest, limited partnership 1594
interest, or limited liability partnership interest of any such 1595
company substantially lessens competition generally in the 1596
business of insurance or creates a monopoly therein the 1597
superintendent shall proceed under section 3901.13 of the 1598
Revised Code to cause such domestic insurance company to divest 1599
itself of such stock, limited liability company membership 1600
interest, limited partnership interest, or limited liability 1601
partnership interest. 1602

(3) Other stocks, limited liability company membership 1603
interests, or limited partnership interests, or limited 1604
liability partnership interests of any solvent corporation 1605
organized under the laws of this or any other state, or of the 1606
United States, or of the District of Columbia, or of Canada or 1607
any province of Canada, provided that a dividend or distribution 1608
has been paid by the business entity in the preceding twelve 1609

months upon the stock, membership interest, or partnership 1610
interest to be purchased or such business entity, together with 1611
its predecessor entity or entities, has been in existence for a 1612
period of at least five years. 1613

(4) A domestic company may acquire, hold, and convey 1614
tangible personal property or interests therein for the 1615
production of income, provided no domestic company shall invest 1616
in excess of two per cent of its admitted assets as of the 1617
preceding thirty-first day of December under this division. 1618

(5) In equipment trust obligations or certificates, 1619
security agreements, or other evidences of indebtedness entered 1620
into directly or guaranteed by any company operating wholly or 1621
partly within the United States or Canada, provided that such 1622
debt obligation is secured by a first lien on tangible personal 1623
property which is purchased or secured for payment thereof and 1624
such debt obligation is repayable within twenty years from the 1625
date of issue in annual, semiannual, or more frequent 1626
installments beginning not later than the first year after such 1627
date. 1628

(6) An insurer may invest without limitation in 1629
investments of government money market funds. As used in 1630
division (D)(6) of this section, "government money market fund" 1631
means a fund that at all times invests in obligations issued, 1632
guaranteed, or insured by the federal government of the United 1633
States or collateralized repurchase agreements comprised of such 1634
obligations, and that qualifies for investment without a reserve 1635
pursuant to the purposes and procedures of the securities 1636
valuation office of the national association of insurance 1637
commissioners. 1638

(E) Negotiable promissory notes maturing in not more than 1639

six months from the date thereof, secured by collateral security 1640
through the transfer of any of the classes of securities 1641
described in this section or in sections 3925.05 and 3925.06 of 1642
the Revised Code, with absolute power of sale within twenty days 1643
after default in payment at maturity; 1644

(F) (1) Repurchase agreements with, and interest-bearing 1645
obligations, including savings accounts and time certificates of 1646
deposit of, a national bank of the United States, a commonwealth 1647
bank of Puerto Rico, a chartered bank of Canada, or a state 1648
bank, provided such bank is either a member of the federal 1649
deposit insurance corporation created pursuant to the "Banking 1650
Act of 1933," as amended, or the Canada deposit insurance 1651
corporation created pursuant to the act of parliament known as 1652
the "Canada Deposit Insurance Corporation Act," as amended. 1653

(2) Certificates of deposit, savings share accounts, 1654
investment share accounts, stock deposits, stock certificates, 1655
or other evidences of indebtedness of a savings and loan 1656
association, provided all such evidences of indebtedness are 1657
insured pursuant to the "Financial Institutions Reform, 1658
Recovery, and Enforcement Act of 1989," 103 Stat. 183, 12 1659
U.S.C.A. 1811, as amended; 1660

(3) Bankers' acceptances and bills of exchange of the 1661
kinds and maturities made eligible by law for rediscount with 1662
the federal reserve banks, provided that the same are accepted 1663
by a bank or trust company incorporated under the laws of the 1664
United States or of this state or any other bank or trust 1665
company which is a member of the federal reserve system. 1666

(G) Any securities issued as a result of any 1667
reorganization, or capital or debt adjustment, in whole or in 1668
part, in exchange for securities acquired by it prior to such 1669

reorganization, or capital or debt adjustment; 1670

(H) (1) In bonds, notes, debentures, or other evidences of 1671
indebtedness issued, assumed, or guaranteed by a solvent 1672
corporation, trust, or partnership formed or existing under the 1673
laws of a foreign jurisdiction, provided each such foreign 1674
investment is of the same kind and quality as United States 1675
investments authorized under this section; or in common or 1676
preferred stock, shares, membership interests, or partnership 1677
interests of any solvent business entity formed or existing 1678
under the laws of a foreign jurisdiction, provided each such 1679
foreign investment is of the same kind and quality as United 1680
States investments authorized under this section; or in bonds or 1681
other evidences of indebtedness issued, assumed, or guaranteed 1682
by a foreign jurisdiction. 1683

An insurer shall not invest in foreign investments under 1684
division (H) of this section, including investments denominated 1685
in foreign currency, a sum exceeding in the aggregate ~~fifteen-~~ 1686
twenty per cent of its admitted assets as of the preceding 1687
thirty-first day of December. The aggregate amount of 1688
investments held by an insurer in a single foreign jurisdiction 1689
shall not exceed ~~three-seven~~ per cent of its admitted assets as 1690
of the preceding thirty-first day of December. 1691

As used in division (H) (1) of this section, "foreign 1692
jurisdiction" means a jurisdiction outside the United States, 1693
Puerto Rico, or Canada whose bonds are ~~rated-designated~~ 1 or 2 1694
by the securities valuation office of the national association 1695
of insurance commissioners. 1696

(2) An insurer may acquire investments denominated in 1697
foreign currency whether or not they are foreign investments. 1698

An insurer shall not invest in investments denominated in foreign currency a sum exceeding in the aggregate ~~fifteen~~twenty per cent of its admitted assets as of the preceding thirty-first day of December provided the foreign currency is appropriately hedged. Such foreign currency is limited to ten per cent of its admitted assets as of the preceding thirty-first day of December if not hedged. The aggregate amount of investments denominated in a single foreign currency held by an insurer shall not exceed ~~three~~seven per cent of an insurer's admitted assets as of the preceding thirty-first day of December provided the foreign currency is appropriately hedged. Such single foreign currency is limited to three per cent of its admitted assets as of the preceding thirty-first day of December if not hedged.

(3) As used in division (H) of this section, "foreign currency" means a currency other than that of the United States.

(I)(1) Any securities or other property not permitted under section 3925.05, 3925.06, 3925.08, or 3925.20 of the Revised Code to an extent not exceeding in the aggregate ~~six~~ten per cent of the total admitted assets of such company on the preceding thirty-first day of December, within the limitations prescribed in division (J) of this section. Any such company may also invest up to an additional five per cent of the total admitted assets of such company on the preceding thirty-first day of December, within the limitations prescribed in division (J) of this section, in loans or investments in small businesses having more than half of their assets or employees in this state and in venture capital firms having an office within this state, provided that, as a condition of a company making an investment in a venture capital firm, the firm must agree to use its best efforts to make investments, in an aggregate amount at least equal to the investment to be made by the company in that

venture capital firm, in small businesses having their principal 1730
offices within this state and having either more than one-half 1731
of their assets within this state or more than one-half of their 1732
employees employed within this state. 1733

As used in division (I) of this section: 1734

(a) "Small businesses" means any corporation, partnership, 1735
proprietorship, or other entity that either does not have more 1736
than four hundred employees, or would qualify as a small 1737
business for the purpose of receiving financial assistance from 1738
small business investment companies licensed under the "Small 1739
Business Investment Act of 1958," 72 Stat. 689, 15 U.S.C.A. 661, 1740
as amended, and rules of the small business administration. 1741

(b) "Venture capital firms" means any corporation, 1742
partnership, proprietorship, or other entity, the principal 1743
business of which is or will be the making of investments in 1744
small businesses. 1745

(c) "Investments" means any equity investment, including 1746
limited partnership interests and other equity interests in 1747
which liability is limited to the amount of the investment, but 1748
does not include general partnership interests or other 1749
interests involving general liability. 1750

(2) In the event that, subsequent to being made under this 1751
division, a loan or investment is determined to have become 1752
qualified as a loan or investment under any of the divisions (A) 1753
to (F) of this section or under section 3925.05, 3925.06, or 1754
3925.20 of the Revised Code, the company may consider such loan 1755
or investment as held under such other statutory provision and 1756
such loan or investment shall no longer be considered as having 1757
been made under this division. 1758

(J) No domestic insurance company shall at any time have 1759
invested a sum exceeding five per cent of its admitted assets as 1760
of the preceding thirty-first day of December in the bonds, 1761
notes, debentures, other evidences of indebtedness, and stocks 1762
of a particular corporation, trust, partnership, or similar 1763
business entity, except for investments authorized under 1764
divisions (A) and (D) (2) of this section, and no domestic 1765
insurance company together with its subsidiary, if any, shall at 1766
any time own directly or indirectly more than twenty-five per 1767
cent of the outstanding bonds, notes, debentures, other 1768
evidences of indebtedness, and stocks of any corporation, except 1769
for investments authorized under divisions (A) and (D) (2) of 1770
this section. 1771

This section does not affect the propriety or legality of 1772
an investment made by such domestic insurance company which was 1773
in accordance with the laws in force at the time of the making 1774
of the investment. 1775

A business entity organized for the purpose provided in 1776
section 3925.01 of the Revised Code may seek permission from the 1777
superintendent of insurance to invest funds under Chapter 3906. 1778
of the Revised Code and may invest funds under that chapter if 1779
such permission is granted. 1780

(K) As used in divisions (K) and (L) of this section: 1781

(1) "Covered" means that an insurer owns, or can 1782
immediately acquire through the exercise of options, warrants, 1783
or conversion rights already owned, the underlying interest in 1784
order to fulfill or secure its obligation under the option, cap, 1785
or floor it has written. 1786

(2) (a) "Derivative instrument" means an agreement, option, 1787

instrument, or a series or combination thereof of either of the	1788
following types:	1789
(i) To make or take delivery of, or assume or relinquish,	1790
a specified amount of one or more underlying interest, or to	1791
make a cash settlement in lieu thereof;	1792
(ii) That has a price, performance, value, or cash flow	1793
based primarily upon the actual or expected price, level,	1794
performance, value, or cash flow of one or more underlying	1795
interests.	1796
(b) Derivative instruments include options, warrants,	1797
caps, floors, collars, swaps, forwards, futures, and any other	1798
agreements, options, or instruments substantially similar	1799
thereto or any series or combination thereof.	1800
(3) "Derivative transaction" means a transaction involving	1801
the use of one or more derivative instruments.	1802
(4) "Hedging transaction" means a derivative transaction	1803
that is entered into and maintained to reduce either of the	1804
following:	1805
(a) The risk of economic loss due to a change in the	1806
value, yield, price, cash flow, or quantity of assets or	1807
liabilities that the insurer has acquired or incurred or	1808
anticipates acquiring or incurring;	1809
(b) The currency exchange rate risk or the degree of	1810
exposure as to assets or liabilities that an insurer has	1811
acquired or incurred or anticipates acquiring or incurring.	1812
(5) "Income generation" means a derivative transaction	1813
involving the writing of covered options, caps, or floors that	1814
is intended to generate income or enhance return.	1815

(6) "Replication transaction" means a derivative 1816
transaction that is intended to replicate the performance of one 1817
or more assets that an insurer is authorized to acquire under 1818
this chapter. "Replication transaction" does not include a 1819
derivative transaction that is entered into as a hedging 1820
transaction. 1821

(L) (1) Prior to an insurer entering into derivative 1822
transactions, the board of directors of the insurer shall 1823
approve a derivative use plan. 1824

(2) An insurer shall notify the superintendent of 1825
insurance in writing within three days after identifying either 1826
of the following: 1827

(a) Any event or occurrence related to an insurer's 1828
derivatives use that may lead to a material change to the 1829
insurer's policyholder surplus; 1830

(b) Any event or occurrence related to an insurer's 1831
derivatives use that, with the passage of time, may lead to a 1832
material change to the insurer's policyholder surplus. 1833

(3) Prior to entering into derivative transactions, an 1834
insurer shall file with the superintendent a copy of its 1835
derivative use plan and internal controls, for informational 1836
purposes. The insurer shall keep current the copy of its 1837
derivative use plan and internal controls filed with the 1838
superintendent. The insurer shall not enter into derivative 1839
transactions until thirty calendar days after the date on which 1840
the derivative use plan and internal controls is filed with the 1841
superintendent. This thirty-calendar-day period is to begin on 1842
the date that the superintendent receives the derivative use 1843
plan and internal controls. 1844

(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.

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

(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;

(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.

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

(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.

(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 1874
original documents and any copies of them shall not be subject 1875
to subpoena and shall not be made public by the superintendent 1876
or any other person, except as otherwise provided in section 1877
3901.48 of the Revised Code. 1878

Sec. 3964.03. (A) A captive insurance company shall be 1879
organized under Chapter 1701., 1702., 1705., or 1706. of the 1880
Revised Code. 1881

(B) A captive insurance company shall not operate in this 1882
state unless all of the following are met: 1883

(1) The captive insurance company obtains from the 1884
superintendent a license to do the business of captive insurance 1885
in this state. 1886

(2) The captive insurance company's board of directors 1887
holds at least one meeting each year in this state. 1888

(3) The captive insurance company maintains its principal 1889
place of business in this state. 1890

(4) The person managing the captive insurance company is a 1891
resident of this state. 1892

(5) The captive insurance company appoints a registered 1893
agent to accept service of process and act on its behalf in this 1894
state. 1895

(C) Whenever an agent required under division (B) (5) of 1896
this section cannot, with reasonable diligence, be found at the 1897
registered office of the captive insurance company, the 1898
superintendent shall be an agent of such a captive insurance 1899
company upon whom any process, notice, or demand may be served. 1900

(D) A captive insurance company seeking a license to be a 1901

captive insurance company in this state shall file an 1902
application with the superintendent and shall submit all of the 1903
following along with the application: 1904

(1) A certified copy of its articles of incorporation, 1905
bylaws, or other organizational document and code of 1906
regulations; 1907

(2) A statement, made under oath by the president and 1908
secretary, in a form prescribed by the superintendent, showing 1909
the captive insurance company's financial condition; 1910

(3) A statement of the captive insurance company's assets 1911
relative to its risks, detailing the amount of assets and their 1912
liquidity; 1913

(4) An account of the adequacy of the expertise, 1914
experience, and character of the person or persons who will 1915
manage the captive insurance company; 1916

(5) An account of the loss prevention programs of the 1917
persons that the captive insurance company insures; 1918

(6) Actuarial assumptions and methodologies that will be 1919
utilized in calculating reserves; 1920

(7) Any other information considered necessary by the 1921
superintendent to determine whether the proposed captive 1922
insurance company will be able to meet its obligations. 1923

(E) (1) A special purpose financial captive insurance 1924
company shall follow the national association of insurance 1925
commissioner's accounting practices and procedures manual. 1926

(2) (a) Upon request, the superintendent may allow a 1927
special purpose financial captive insurance company to ~~use~~do 1928
either of the following: 1929

(i) Use a reserve basis other than that found in the 1930
national association of insurance commissioner's accounting 1931
practices and procedures manual; 1932

(ii) Admit an unimpaired asset held by the special purpose 1933
financial captive insurance company or any affiliate entity, 1934
which is intended to secure the reinsurance obligations of such 1935
parties, or which is not recognized as such in the national 1936
association of insurance commissioner's accounting practices and 1937
procedures manual. 1938

(b) The superintendent, in accordance with Chapter 119. of 1939
the Revised Code, shall adopt rules that define acceptable 1940
alternative reserve bases. 1941

(c) Such rules shall be adopted prior to availability for 1942
use of any such alternative reserve basis and shall ensure that 1943
the resulting reserves meet all of the following conditions: 1944

(i) Quantify the benefits and guarantees, and the funding, 1945
associated with the contracts and their risks at a level of 1946
conservatism that reflects conditions that include unfavorable 1947
events that have a reasonable probability of occurring during 1948
the lifetime of the contracts. For policies or contracts with 1949
significant tail risk, reflects conditions appropriately adverse 1950
to quantify the tail risk. 1951

(ii) Incorporate assumptions, risk analysis methods, and 1952
financial models and management techniques that are consistent 1953
with, but not necessarily identical to, those utilized within 1954
the company's overall risk assessment process, while recognizing 1955
potential differences in financial reporting structures and any 1956
prescribed assumptions or methods; 1957

(iii) Provide margins for uncertainty including adverse 1958

deviation and estimation error, such that the greater the 1959
uncertainty the larger the margin and resulting reserve. 1960

(d) An alternative basis for calculating a reserve or an 1961
admitted asset approved by the superintendent shall be treated 1962
as a public document after the date the alternative basis for 1963
calculating the reserve or admitted asset has been approved, 1964
regardless of the application of the uniform trade secrets act 1965
set forth in sections 1333.61 to 1333.69 of the Revised Code. 1966

(3) The special purpose financial captive insurance 1967
company shall submit a request for an alternative reserve basis 1968
in writing, and affirmed by the company's appointed actuary, 1969
that includes, at a minimum, the following information for the 1970
superintendent to consider in evaluating the request: 1971

(a) The reserves based on the national association of 1972
insurance commissioner's accounting practices and procedures 1973
manual and the reserves based on the proposed alternative method 1974
for calculation and the difference between these two 1975
calculations; 1976

(b) A detailed analysis of the proposed alternative method 1977
explaining why the use of an alternative basis for calculating 1978
the reserve is appropriate; 1979

(c) All assumptions utilized within the proposed 1980
alternative method, together with the source of the assumptions, 1981
as well as information, satisfactory to the superintendent, 1982
supporting the appropriateness of the assumptions and analysis 1983
and identifying the assumptions that result in the greatest 1984
variability in the reserve and how that analysis was used in 1985
setting those assumptions; 1986

(d) A detailed overview of the corporate governance and 1987

oversight of the actuarial valuation function;	1988
(e) Any other information the superintendent may require	1989
to assess the proposed alternative method for approval or	1990
disapproval.	1991
(4) At the expense of the special purpose financial	1992
captive insurance company, the superintendent may require the	1993
company to secure the affirmation of an independent qualified	1994
actuary in support of any alternative basis for calculating the	1995
reserve that is requested pursuant to this section or to assist	1996
the superintendent in the review of said request.	1997
(5) If the superintendent approves the use of an	1998
alternative basis for calculating a reserve, the special purpose	1999
financial captive insurance company, and the ceding insurer	2000
shall each include a note in its financial statements disclosing	2001
the use of a basis other than the national association of	2002
insurance commissioner's accounting practices and procedures	2003
manual and the difference between the reserve amount determined	2004
under the alternative basis and the reserve amount that would	2005
have been determined had the company utilized the national	2006
association of insurance commissioner's accounting practices and	2007
procedures manual.	2008
(6) (a) The superintendent shall establish an acceptable	2009
total capital and surplus requirement for each insurance company	2010
that will cede risks and obligations to a special purpose	2011
financial captive insurance company. The total capital and	2012
surplus requirement must be met at the time the special purpose	2013
financial captive insurance company applies for a license to do	2014
the business of captive insurance. The total capital and surplus	2015
requirement shall be determined in accordance with a minimum	2016
required total capital and surplus methodology that meets both	2017

of the following requirements:	2018
(i) Is consistent with current risk-based capital principles;	2019 2020
(ii) Takes into account all material risks and obligations, as well as the assets, of the insurance company.	2021 2022
(b) An insurance company ceding risks and obligations to a special purpose financial captive insurance company shall fully disclose all material risks and obligations, as well as its assets and all affiliated captive insurance company risks. The ceding insurance company shall advise the superintendent whenever there is a material change to such risks, obligations, or assets.	2023 2024 2025 2026 2027 2028 2029
(F) In determining whether to approve an application for a license, the superintendent shall consider all of the following:	2030 2031
(1) The character, reputation, financial standing, and purposes of the incorporators, or other founders, of the captive insurance company;	2032 2033 2034
(2) The character, reputation, financial responsibility, experience relating to insurance, and business qualifications of the officers and directors of the captive insurance company;	2035 2036 2037
(3) The amount of liquidity and assets of the captive insurance company relative to the risks to be assumed;	2038 2039
(4) The adequacy of the expertise, experience, and character of the person or persons who will manage the captive insurance company;	2040 2041 2042
(5) The overall soundness of the plan of operation;	2043
(6) The adequacy of the loss prevention programs of the	2044

persons that the captive insurance company insures. 2045

(G) (1) Each captive insurance company that offers direct 2046
insurance to its parent shall submit to the superintendent for 2047
approval a detailed description of the coverages, deductibles, 2048
coverage limits, proposed rates or rating plans, documentation 2049
from a qualified actuary that demonstrates the actuarial 2050
soundness of the proposed rates or rating plans, and other such 2051
additional information as the superintendent may require. 2052

(2) (a) Any captive insurance company licensed under the 2053
provisions of this chapter that seeks to make any material 2054
change to any item described in division (G) (1) of this section 2055
shall submit to the superintendent for approval a detailed 2056
description of the revision, documentation from a qualified 2057
actuary that demonstrates the actuarial soundness of the revised 2058
rates or rating plans, and other such additional information as 2059
the superintendent may require. 2060

(b) Each filing under division (G) (2) (a) of this section 2061
is deemed approved thirty days after the filing is received by 2062
the superintendent of insurance, unless the filing is 2063
disapproved by the superintendent during that thirty-day period. 2064

(c) If at any time subsequent to the thirty-day review 2065
period the superintendent finds that a filing does not 2066
demonstrate actuarial soundness, the superintendent shall hold a 2067
hearing requiring the captive insurance company to show cause 2068
why an order should not be made by the superintendent to 2069
disapprove the revised rates or rating plans. 2070

(d) If, upon such a hearing, the superintendent finds that 2071
the captive insurance company failed to demonstrate the 2072
actuarial soundness of the rates or rating plans, the 2073

superintendent shall issue an order directing the captive 2074
insurance company to cease and desist from using the revised 2075
rates or rating plans and to use rates or rating plans as 2076
determined appropriate by the superintendent. 2077

(H) Except as otherwise provided in this division, 2078
documents and information submitted by a captive insurance 2079
company pursuant to this section are not subject to section 2080
149.43 of the Revised Code, and are confidential, and may not be 2081
disclosed by the superintendent or any employee of the 2082
department of insurance without the written consent of the 2083
company. 2084

(1) Such documents and information may be discoverable in 2085
a civil action in which the captive insurance company filing the 2086
material is a party upon a finding by a court of competent 2087
jurisdiction that the information sought is relevant and 2088
necessary to the case and the information sought is unavailable 2089
from other, nonconfidential sources. 2090

(2) The superintendent may, at the superintendent's sole 2091
discretion, share documents required under this section with the 2092
chief deputy rehabilitator, the chief deputy liquidator, other 2093
deputy rehabilitators and liquidators, and any other person 2094
employed by, or acting on behalf of the superintendent pursuant 2095
to Chapter 3901. or 3903. of the Revised Code, with other local, 2096
state, federal, and international regulatory and law enforcement 2097
agencies, with local, state, and federal prosecutors, and with 2098
the national association of insurance commissioners and its 2099
affiliates and subsidiaries provided that the recipient agrees 2100
to maintain the confidential or privileged status of the 2101
documents and has authority to do so. 2102

(I) (1) Each applicant for a license to do the business of 2103

a captive insurance company in this state shall pay to the 2104
superintendent a nonrefundable fee of five hundred dollars for 2105
processing its application for a license. The superintendent is 2106
authorized to retain legal, financial, and examination services 2107
from outside the department, at the expense of the applicant. 2108
Each captive insurance company shall annually pay a license 2109
renewal fee of five hundred dollars. 2110

(2) The fees collected pursuant to division (I)(1) of this 2111
section shall be deposited into the state treasury to the credit 2112
of the department of insurance operating fund. 2113

Sec. 3964.194. (A) Notwithstanding any other section of 2114
the Revised Code, a counterparty may take credit for reinsurance 2115
ceded to a special purpose financial captive insurance company 2116
that is a subsidiary or affiliate of the counterparty, if assets 2117
valued using the basis of accounting applicable to the special 2118
purpose financial captive insurance company under division (E) 2119
of section 3964.03 of the Revised Code at least equal to the 2120
reserves as determined under the basis elected under division 2121
(E) of section 3964.03 of the Revised Code for the reinsurance 2122
are, notwithstanding section 3901.63 of the Revised Code, held 2123
directly by the ceding counterparty or ~~in trust on behalf of the~~ 2124
~~ceding counterparty, as security for payment of the special~~ 2125
purpose financial captive insurance company for the purpose of 2126
supporting the obligations under the reinsurance contract ~~with~~ 2127
~~the reinsuring special purpose financial captive insurance~~ 2128
~~company.~~ 2129

(B) Such funds ~~shall~~ may be held in compliance with the 2130
requirements of section 3901.63 of the Revised Code. 2131

(C) An Ohio domiciled counterparty in recording its 2132
investment in a special purpose financial captive insurance 2133

company domiciled in this state, shall value the investment 2134
using the special purpose financial captive insurance company's 2135
underlying audited statutory equity reflecting the reserves 2136
established pursuant to division (E) of section 3964.03 of the 2137
Revised Code. 2138

(D) Notwithstanding any other provision of the Revised 2139
Code that would otherwise apply, any change in surplus that may 2140
be recognized by any Ohio domiciled ceding counterparty pursuant 2141
to this chapter may be recognized in such ceding counterparty's 2142
calculation of its investment in a United States insurance 2143
subsidiary, controlled and affiliated entity investment, or any 2144
of its Ohio domiciled parents' calculations of their investment 2145
in a United States insurance subsidiary, controlled, and 2146
affiliated entities. 2147

Sec. 4509.70. (A) After consultation with the insurance 2148
companies authorized to issue automobile liability or physical 2149
damage policies, or both, in this state, the superintendent of 2150
insurance shall approve a reasonable plan, fair and equitable to 2151
the insurers and to their policyholders, for the apportionment 2152
among such companies of applicants for such policies and for 2153
motor-vehicle liability policies who are in good faith entitled 2154
to but are unable to procure such policies through ordinary 2155
methods. When any such plan has been approved by the 2156
superintendent, all such insurance companies shall subscribe and 2157
participate. Any applicant for such policy, any person insured 2158
under such plan of operation, and any insurance company 2159
affected, may appeal to the superintendent of insurance from any 2160
ruling or decision of the manager or committee designated in the 2161
plan to operate the assigned risk insurance plan. Any order or 2162
act of the superintendent under this section is subject to 2163
review as provided in sections 119.01 to 119.13 of the Revised 2164

Code, at the instance of any party in interest. 2165

(B) The plan described in division (A) of this section may 2166
permit the assigned risk insurance plan to directly issue and 2167
process claims arising from such policies described in division 2168
(A) of this section to applicants of automobile insurance 2169
policies who are in good faith entitled to but are unable to 2170
procure such policies through ordinary methods. 2171

(C) Every form of a policy, endorsement, rider, manual of 2172
classifications, rules, and rates, every rating plan, and every 2173
modification of any of them proposed to be used by the assigned 2174
risk insurance plan shall be filed, or the plan may satisfy its 2175
obligation to make such filings, as described in section 3937.03 2176
of the Revised Code. 2177

(D) Any automobile insurance policy issued by the assigned 2178
risk insurance plan under division (B) of this section: 2179

(1) Shall be recognized as if issued by an insurance 2180
company authorized to do business in this state; 2181

(2) Shall meet all requirements of proof of financial 2182
responsibility as described in division (K) of section 4509.01 2183
of the Revised Code. 2184

(E) Proof of financial responsibility provided by the 2185
assigned risk insurance plan to an automobile insurance 2186
policyholder that meets the requirements described in division 2187
(G) (1) (a) or (b) of section 4509.101 of the Revised Code shall 2188
be recognized as if issued by an insurance company authorized to 2189
do business in this state to demonstrate proof of financial 2190
responsibility under section 4509.101 of the Revised Code. 2191

(F) The assigned risk insurance plan designated in 2192
division (A) of this section shall do both of the following: 2193

(1) Make annual audited financial reports available to the	2194
superintendent of insurance promptly upon the completion of such	2195
audit;	2196
(2) Upon reasonable notice, make available to the	2197
superintendent of insurance all books and records relating to	2198
the insurance transactions of the assigned risk insurance plan.	2199
(G) (1) Except as provided in division (G) (2) of this	2200
section, records created, held by, or pertaining to the assigned	2201
risk insurance plan are not public records under section 149.43	2202
of the Revised Code, are confidential, and are not subject to	2203
inspection or disclosure.	2204
(2) Division (G) (1) of this section does not apply to the	2205
plan of operation and other information required to be filed	2206
under this section with the superintendent unless otherwise	2207
prohibited from release by law.	2208
(H) (1) For the purposes of division (H) of this section,	2209
"insurance agent" has the same meaning as in section 3905.01 of	2210
the Revised Code.	2211
(2) Provided that the assigned risk insurance plan	2212
establishes registration procedures for insurance agents under	2213
division (H) (3) of this section, the plan shall not accept an	2214
application for an automobile insurance policy issued under	2215
division (B) of this section unless that application is	2216
submitted through an insurance agent registered in accordance	2217
with those procedures.	2218
(3) The plan may do all of the following:	2219
(a) Establish procedures to register insurance agents;	2220
(b) Establish separate registrations for commercial and	2221

personal insurance agents, or one registration for both; 2222

(c) Empower the manager of the plan to make determinations 2223
on registration status, including by revoking an insurance 2224
agent's registration. 2225

(4) If an insurance agent is denied registration with the 2226
plan, or the insurance agent's registration is revoked, the plan 2227
may notify the superintendent of the plan's decision. The plan 2228
and manager are immune from civil liability for any decision to 2229
deny or revoke registration and from any decision to report 2230
denials or revocations to the superintendent. 2231

(5) All insurance agents submitting applications to the 2232
plan for automobile insurance coverage have an affirmative duty 2233
to ensure that all information included in the application and 2234
any supporting materials is true and accurate. 2235

(6) (a) An insurance agent shall not submit an application 2236
to the plan for automobile insurance coverage unless the agent 2237
exercises due diligence in confirming that the person seeking 2238
insurance is unable to obtain coverage through an insurer 2239
authorized to do business in this state. 2240

(b) For the purposes of this section, due diligence 2241
requires an insurance agent to contact at least five of the 2242
authorized insurers the agent represents or, if the agent does 2243
not represent five authorized insurers that customarily write 2244
automobile insurance coverage, as many of such insurers as the 2245
agent represents. 2246

(c) An insurance agent may assume that insurance coverage 2247
cannot be procured for the applicant through ordinary methods 2248
after each insurer contacted under division (H) (6) (b) of this 2249
section declines to provide coverage. 2250

(d) An insurance agent may assume that an authorized insurer declines to provide coverage to the applicant seeking insurance upon either of the following:

(i) Receiving notice from the insurer declining coverage;

(ii) Receiving no response from the insurer within ten days after the date the insurance agent initially makes contact with the insurer.

(e) The determination of whether an insurance agent has adequately complied with the due diligence requirements is at the discretion of the manager of the plan.

(f) An agent shall not submit an application on behalf of an applicant to the plan for any automobile insurance policy if any insurer admitted, authorized, or otherwise eligible to do business in this state has in any way communicated a willingness to insure the applicant, even if coverage provided by the plan costs less than other insurers.

~~(g)~~ (7) The manager of the plan may revoke the registration of an insurance agent who fails to comply with either division ~~(H)~~ (6) (H) (5) or (6) of this section.

(I) (1) The manager of the plan may, as a condition of granting insurance under this section, require an applicant to take any action necessary to accomplish any of following:

(a) The promotion of vehicle safety, public safety, or increased ability of the plan to underwrite applicant risk;

(b) The prevention of fraud against the plan;

(c) The acquisition of any information the manager of the plan deems necessary to determine an applicant's current and continued eligibility for the plan.

<u>(2) (a) The manager of the plan may request any information</u>	2279
<u>necessary to determine an applicant's eligibility for the plan.</u>	2280
<u>(b) An applicant has the burden of proof to establish that</u>	2281
<u>the applicant is eligible for insurance under the plan.</u>	2282
<u>(c) The determination of whether an applicant has</u>	2283
<u>adequately demonstrated eligibility for the plan is at the</u>	2284
<u>discretion of the manager of the plan.</u>	2285
<u>(3) The plan may employ any form of technology necessary</u>	2286
<u>to review applications for eligibility, determine any conditions</u>	2287
<u>required for the issuance of coverage under this section, or to</u>	2288
<u>find and prevent fraudulent activities.</u>	2289
<u>(4) (a) Consistent with the principle of the plan being a</u>	2290
<u>market of last resort, the plan may seek to place an applicant</u>	2291
<u>with any insurer admitted or authorized in this state,</u>	2292
<u>regardless of whether the agent submitting the application is</u>	2293
<u>appointed with the insurer.</u>	2294
<u>(b) An agent whose applicant is placed with such an</u>	2295
<u>insurer is not eligible for compensation from that insurer</u>	2296
<u>unless the agent is appointed by the receiving insurer under</u>	2297
<u>Ohio law.</u>	2298
<u>(5) (a) The manager of the plan may refuse to accept</u>	2299
<u>applications from any agent that the manager of the plan</u>	2300
<u>suspects has submitted applications that contain, or that are</u>	2301
<u>supported by, inaccurate or fraudulent information.</u>	2302
<u>(b) The manager of the plan shall communicate any</u>	2303
<u>suspicion of fraudulent activity to the superintendent of</u>	2304
<u>insurance.</u>	2305
<u>(c) The manager of the plan may resume accepting</u>	2306

applications from an agent once the manager has determined that 2307
the fraudulent activity did not occur or has ceased. 2308

(6) Knowingly submitting, or submitting with the purpose 2309
to defraud, false, manufactured, manipulated, or inaccurate 2310
information to the plan is insurance fraud and a violation of 2311
section 2913.47 of the Revised Code. 2312

Sec. 4513.70. (A) (1) An insurance company may commence a 2313
civil action against a towing service or storage facility on its 2314
own behalf, on behalf of the holder of a policy of automobile 2315
insurance, or on behalf of a motor vehicle owner for either or 2316
both of the following reasons: 2317

(a) The recovery of a motor vehicle that has been towed or 2318
stored and for which a claim has been filed with the insurance 2319
company; 2320

(b) Objecting to the amount billed by the towing service 2321
or storage facility. 2322

(2) The insurance company shall file the action in the 2323
municipal or county court with territorial jurisdiction over the 2324
location from which the vehicle was towed or stored, regardless 2325
of the value of the vehicle or the bill for services, within 2326
thirty-fourty-five days of receipt of the bill for services from 2327
the towing service or storage facility. If the insurance company 2328
objects to the amount billed by the towing service or storage 2329
facility, the complaint shall include the amount of the bill 2330
that is undisputed and the reasons the insurance company objects 2331
to the remainder of the bill. The insurance company shall file, 2332
along with the complaint, a copy of the bill and any evidence 2333
supporting the assertion that the billed amount is unreasonable. 2334
If the insurance company seeks the recovery of the vehicle, the 2335

insurance company shall pay to the towing service or storage 2336
facility the undisputed amount of the bill. 2337

(3) A towing service or storage facility shall not add any 2338
additional storage fees or similar fees related to the towing 2339
and storage of the vehicle to the disputed bill after an 2340
insurance company files an action in accordance with this 2341
section. 2342

(B) Upon receipt of payment of the undisputed amount of 2343
the bill and not later than two business days after receiving 2344
service or written notice from the insurance company of a 2345
complaint filed under division (A) of this section, the towing 2346
service or storage facility shall release the vehicle that is 2347
the subject of the complaint to the owner of the vehicle or to a 2348
representative of the insurance company that filed the 2349
complaint. If For purposes of encouraging the quick return of a 2350
vehicle to its owner, if the towing service or storage facility 2351
fails to release the vehicle as required under this division, 2352
the court ~~may~~ shall issue an order that imposes a penalty of up 2353
to one hundred dollars per day against a towing service or 2354
storage facility for each day the towing service or storage 2355
facility violates that division. The towing service or storage 2356
facility shall pay any fines assessed under this section to the 2357
clerk of courts. 2358

(C) The court shall make a determination as to whether the 2359
amount charged by the towing service or storage facility is 2360
unreasonable. If the court determines that the amount is 2361
reasonable, the court shall order the insurance company to pay 2362
the amount billed minus the undisputed amount that the insurance 2363
company paid to the towing service or storage facility under 2364
division (B) of this section if a payment was made under that 2365

division. If the court determines that the amount charged was 2366
unreasonable, the court shall determine a reasonable amount and 2367
order the insurance company to pay that amount minus the 2368
undisputed amount that the insurance company paid to the towing 2369
service or storage facility under division (B) of this section 2370
if a payment was made under that division. The court also may 2371
require either party to pay any additional amount and may impose 2372
any monetary penalties the court determines to be appropriate. 2373

(D) As used in this section: 2374

(1) "Storage facility" means any place to which a for-hire 2375
motor carrier delivers a towed motor vehicle for storage or any 2376
place that charges fees for storing a motor vehicle regardless 2377
of what person or entity towed or delivered the motor vehicle. 2378
"Storage facility" does not include either of the following: 2379

(a) A place owned or operated by a motor vehicle dealer, 2380
as defined in section 4517.01 of the Revised Code; 2381

(b) A salvage motor vehicle auction or a salvage motor 2382
vehicle pool as defined in section 4738.01 of the Revised Code. 2383

(2) "Towing service" means any for-hire motor carrier that 2384
tows motor vehicles. 2385

Section 2. That existing sections 1345.02, 3901.046, 2386
3905.01, 3905.06, 3906.01, 3906.08, 3907.14, 3911.22, 3925.08, 2387
3964.03, 3964.194, 4509.70, and 4513.70 of the Revised Code are 2388
hereby repealed. 2389