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136th General Assembly  
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Sub. S. B. No. 306

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To amend sections 1345.02, 3901.046, 3905.01, 1  
3906.01, 3906.08, 3907.14, 3925.08, 3964.03, 2  
3964.194, 4509.70, and 4513.70 and to enact 3  
sections 1345.82 and 3905.0612 of the Revised 4  
Code regarding changes to Ohio insurance laws 5  
and certain towed vehicles and repair shop 6  
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  
3906.01, 3906.08, 3907.14, 3925.08, 3964.03, 3964.194, 4509.70, 9  
and 4513.70 be amended and sections 1345.82 and 3905.0612 of the 10  
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



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(1) That the subject of a consumer transaction has sponsorship, approval, performance characteristics, accessories, uses, or benefits that it does not have;

(2) That the subject of a consumer transaction is of a particular standard, quality, grade, style, prescription, or model, if it is not;

(3) That the subject of a consumer transaction is new, or unused, if it is not;

(4) That the subject of a consumer transaction is available to the consumer for a reason that does not exist;

(5) That the subject of a consumer transaction has been supplied in accordance with a previous representation, if it has not, except that the act of a supplier in furnishing similar merchandise of equal or greater value as a good faith substitute does not violate this section;

(6) That the subject of a consumer transaction will be supplied in greater quantity than the supplier intends;

(7) That replacement or repair is needed, if it is not;

(8) That a specific price advantage exists, if it does not;

(9) That the supplier has a sponsorship, approval, or affiliation that the supplier does not have;

(10) That a consumer transaction involves or does not involve a warranty, a disclaimer of warranties or other rights, remedies, or obligations if the representation is false.

(C) In construing division (A) of this section, the court shall give due consideration and great weight to federal trade

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 either of the following is met: 140

(a) The repair facility has been notified by the insurer, 141  
or has otherwise determined, that the vehicle has been deemed a 142  
total loss. 143

(b) An insurance company files an action under section 144  
4513.70 of the Revised Code. Any fee described in division (F) 145  
(1) of this section by a repair facility after an action under 146  
section 4513.70 of the Revised Code is filed must be rescinded 147  
or refunded once the repair facility receives notification of 148  
the action being filed. 149

(2) Notification under division (F) (1) of this section may 150  
occur via electronic mail, commercial carrier service, or the 151  
United States postal service, or service or written notice from 152  
the insurance company of a complaint being filed as described in 153  
division (B) of section 4513.70 of the Revised Code. 154

(G) A repair facility shall allow prompt access to the 155  
vehicle by the insurer for the purposes of inspection and 156  
valuation of the loss. In no case shall access be prohibited 157  
during normal business hours after the vehicle is towed or 158  
otherwise delivered to the repair facility. 159

(H) A violation of this section constitutes a deceptive 160  
act or practice in connection with a consumer transaction in 161  
violation of section 1345.02 of the Revised Code and is subject 162

to any applicable penalties prescribed under Chapter 1345. of 163  
the Revised Code. 164

**Sec. 3901.046.** (A) As used in this section: 165

(1) "Electronic signature" has the same meaning as in 166  
section 1306.01 of the Revised Code. 167

(2) "Insurer" has the same meaning as in section 3901.32 168  
of the Revised Code. 169

(B) An insurer may use an electronic signature to comply 170  
with any signature requirement placed upon insurers by ~~this~~ 171  
~~title~~the Revised Code, including any requirement that a document 172  
submitted by an insurer to the department of insurance be 173  
signed. 174

**Sec. 3905.01.** As used in this chapter: 175

(A) "Affordable Care Act" means the "Patient Protection 176  
and Affordable Care Act," 124 Stat. 119, 42 U.S.C. 18031 (2011). 177

(B) "Business entity" means a corporation, association, 178  
partnership, limited liability company, limited liability 179  
partnership, or other legal entity. 180

(C) "Home state" means the state or territory of the 181  
United States, including the District of Columbia, in which an 182  
insurance agent maintains the insurance agent's principal place 183  
of residence or principal place of business and is licensed to 184  
act as an insurance agent. 185

(D) "In-person assister" means any person, other than a 186  
navigator, who receives any funding from, or who is selected or 187  
designated by, an exchange, the state, or the federal government 188  
to perform any of the activities and duties identified in 189  
division (i) of section 1311 of the Affordable Care Act. "In- 190

person assister" includes any individual that is employed by, 191  
supervised by, or affiliated with an in-person assister and 192  
performs any of the activities and duties identified in division 193  
(i) of section 1311 of the Affordable Care Act, any non- 194  
navigator assistance personnel, and any other person deemed as 195  
such by rules adopted by the superintendent under division (L) 196  
of section 3905.471 of the Revised Code. 197

(E) "Insurance" means any of the lines of authority set 198  
forth in Chapter 1739., 1751., or 1761. or Title XXXIX of the 199  
Revised Code, or as additionally determined by the 200  
superintendent of insurance. 201

(F) "Insurance agent" or "agent" means any person that, in 202  
order to sell, solicit, or negotiate insurance, is required to 203  
be licensed under the laws of this state, including limited 204  
lines insurance agents~~and~~, surplus line brokers, and investment 205  
adviser insurance agents. 206

(G) "Insurer" has the same meaning as in section 3901.32 207  
of the Revised Code. 208

(H) "License" means the authority issued by the 209  
superintendent to a person to act as an insurance agent for the 210  
lines of authority specified, but that does not create any 211  
actual, apparent, or inherent authority in the person to 212  
represent or commit an insurer. 213

(I) "Limited line credit insurance" means credit life, 214  
credit disability, credit property, credit unemployment, 215  
involuntary unemployment, mortgage life, mortgage guaranty, 216  
mortgage disability, guaranteed automobile protection insurance, 217  
or any other form of insurance offered in connection with an 218  
extension of credit that is limited to partially or wholly 219

extinguishing that credit obligation and that is designated by 220  
the superintendent as limited line credit insurance. 221

(J) "Limited line credit insurance agent" means a person 222  
that sells, solicits, or negotiates one or more forms of limited 223  
line credit insurance to individuals through a master, 224  
corporate, group, or individual policy. 225

(K) "Limited lines insurance" means those lines of 226  
authority set forth in divisions (B) (7) to (13) of section 227  
3905.06 of the Revised Code or in rules adopted by the 228  
superintendent, or any lines of authority the superintendent 229  
considers necessary to recognize for purposes of complying with 230  
section 3905.072 of the Revised Code. 231

(L) "Limited lines insurance agent" means a person 232  
authorized by the superintendent to sell, solicit, or negotiate 233  
limited lines insurance. 234

(M) "NAIC" means the national association of insurance 235  
commissioners. 236

(N) "Insurance navigator" means a person selected to 237  
perform the activities and duties identified in division (i) of 238  
section 1311 of the Affordable Care Act that is certified by the 239  
superintendent of insurance under section 3905.471 of the 240  
Revised Code. "Insurance navigator" refers to a navigator 241  
specified in section 1311 of the Affordable Care Act, 42 U.S.C. 242  
13031. 243

(O) "Negotiate" means to confer directly with, or offer 244  
advice directly to, a purchaser or prospective purchaser of a 245  
particular contract of insurance with respect to the substantive 246  
benefits, terms, or conditions of the contract, provided the 247  
person that is conferring or offering advice either sells 248

insurance or obtains insurance from insurers for purchasers.	249
(P) "Person" means an individual or a business entity.	250
(Q) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurer.	251 252
(R) "Self-service storage facility" means an entity that is engaged in the business of providing real property designed and used for the purpose of renting or leasing individual storage space to the public who are to have access to the space for the purpose of storing and removing personal property on a self-service basis, but does not include a garage or other storage area in a private residence.	253 254 255 256 257 258 259
(S) "Solicit" means to attempt to sell insurance, or to ask or urge a person to apply for a particular kind of insurance from a particular insurer.	260 261 262
(T) "Superintendent" or "superintendent of insurance" means the superintendent of insurance of this state.	263 264
(U) "Terminate" means to cancel the relationship between an insurance agent and the insurer or to terminate an insurance agent's authority to transact insurance.	265 266 267
(V) "Uniform application" means the NAIC uniform application for resident and nonresident agent licensing, as amended by the NAIC from time to time.	268 269 270
(W) "Uniform business entity application" means the NAIC uniform business entity application for resident and nonresident business entities, as amended by the NAIC from time to time.	271 272 273
(X) "Exchange" means a health benefit exchange established by the state government of Ohio or an exchange established by the United States department of health and human services in	274 275 276

accordance with the "Patient Protection and Affordable Care Act," 124 Stat. 119, 42 U.S.C. 18031 (2011).	277 278
<u>(Y) "Investment adviser insurance agent" means a person licensed by the superintendent under section 3905.0612 of the Revised Code.</u>	279 280 281
<u>Sec. 3905.0612. (A) (1) The superintendent of insurance may adopt rules as necessary to provide for an investment adviser insurance agent license.</u>	282 283 284
<u>(2) If adopted, such rules may address all of the following:</u>	285 286
<u>(a) Examination of applicants administered by the department of insurance;</u>	287 288
<u>(b) Product training;</u>	289
<u>(c) Supervision by the insurer issuing the product;</u>	290
<u>(d) Any other topics deemed necessary by the superintendent.</u>	291 292
<u>(B) Upon adoption of the rules authorized under division (A) of this section, the superintendent of insurance shall issue an investment adviser insurance agent license to an individual applicant whose home state is Ohio upon submission of a completed application and payment of any applicable fee required under this chapter, if the superintendent finds all of the following:</u>	293 294 295 296 297 298 299
<u>(1) The applicant meets all requirements prescribed by the superintendent.</u>	300 301
<u>(2) The applicant seeks to provide advice for a fee established in advance by written contract in the business of</u>	302 303

<u>any of the following:</u>	304
<u>(a) Analyzing or abstracting insurance policies;</u>	305
<u>(b) Providing insurance advice or counseling;</u>	306
<u>(c) Making specific recommendations or comparisons of</u> <u>insurance products.</u>	307 308
<u>(3) The applicant is either of the following:</u>	309
<u>(a) An investment adviser, as defined in section 1707.01</u> <u>of the Revised Code, registered and in good standing in this</u> <u>state or under the "Investment Advisers Act of 1940," 15 U.S.C.</u> <u>80b-2, et seq.;</u>	310 311 312 313
<u>(b) An investment adviser representative, as defined in</u> <u>section 1707.01 of the Revised Code, licensed in this state or</u> <u>acting as a supervised person of an investment adviser</u> <u>registered under the "Investment Advisers Act of 1940," 15</u> <u>U.S.C, 80b-1, et seq.</u>	314 315 316 317 318
<u>(4) The applicant meets all requirements prescribed by</u> <u>division (A)(1) of section 3905.06 of the Revised Code.</u>	319 320
<u>(C) Notwithstanding division (A)(1)(e) of section 3905.06</u> <u>of the Revised Code or any other provision of the Revised Code</u> <u>to the contrary, an applicant applying for a variable life-</u> <u>variable annuity line of authority who otherwise meets all the</u> <u>requirements prescribed in this section is not required to be</u> <u>registered with the financial industry regulatory authority as a</u> <u>registered representative in order to obtain an investment</u> <u>adviser insurance agent license.</u>	321 322 323 324 325 326 327 328
<u>(D)(1) Before an investment adviser insurance agent may</u> <u>sell, solicit, or negotiate an insurance product or undertake</u> <u>any of the advice activities described in division (B)(2) of</u>	329 330 331

<u>this section, the investment adviser insurance agent and the</u>	332
<u>insurer issuing such product shall enter into a written contract</u>	333
<u>governing their relationship and their respective obligations</u>	334
<u>with respect to all of the following:</u>	335
<u>(a) Supervision;</u>	336
<u>(b) Monitoring;</u>	337
<u>(c) Product-specific training;</u>	338
<u>(d) Review of recommendations;</u>	339
<u>(e) Responding to insurance examinations and</u>	340
<u>investigations;</u>	341
<u>(f) Termination of the relationship;</u>	342
<u>(g) Compliance with all applicable laws and regulations.</u>	343
<u>(2) Notwithstanding division (D) (1) of this section, the</u>	344
<u>superintendent of insurance may adopt rules prescribing</u>	345
<u>additional requirements for such contracts, including</u>	346
<u>requirements related to registration with and notification to</u>	347
<u>the department of insurance.</u>	348
<u>(E) Notwithstanding any provision of the Revised Code to</u>	349
<u>the contrary, an investment adviser insurance agent who meets</u>	350
<u>all requirements of this section and any related rules, based</u>	351
<u>solely on the sale, solicitation, or negotiation of any product</u>	352
<u>of an insurer, the receipt of compensation from the insurer, or</u>	353
<u>both, shall not be deemed as acting as an agent of such an</u>	354
<u>insurer for purposes of division (A) of section 3905.20 of the</u>	355
<u>Revised Code and is not required to be appointed by such</u>	356
<u>insurer.</u>	357
<b>Sec. 3906.01.</b> As used in this chapter:	358

(A) "Annual financial statement" means an insurer's 359  
statutorily required financial statement under the insurer's 360  
respective authorizing chapter of the Revised Code. 361

(B) "Authorized control level risked-based capital" means 362  
authorized control level RBC as defined in sections 1753.31 and 363  
3903.81 of the Revised Code. 364

(C) "Cash equivalent" means a short-term, highly liquid 365  
investment that is both readily convertible to known amounts of 366  
cash and so near its maturity that it presents an insignificant 367  
risk of change in value because of changes in interest rates, 368  
and that has an original maturity date, to the entity holding 369  
the investment, of three months or less. 370

(D) "Covered" means that an insurer owns, or can 371  
immediately acquire through the exercise of options, warrants, 372  
or conversion rights already owned, the underlying interest in 373  
order to fulfill or secure its obligation under the option, cap, 374  
or floor it has written. 375

(E) (1) "Derivative instrument" means an agreement, option, 376  
instrument, or a series or a combination thereof of either of 377  
the following types: 378

(a) To make or take delivery of, or assume or relinquish, 379  
a specified amount of one or more underlying interest, or to 380  
make a cash settlement in lieu thereof; 381

(b) That has a price, performance, value, or cash flow 382  
based primarily upon the actual or expected price, level, 383  
performance, value, or cash flow of one or more underlying 384  
interests. 385

(2) "Derivative instrument" includes options, warrants, 386  
caps, floors, collars, swaps, forwards, futures, and any other 387

agreements, options, or instruments substantially similar	388
thereto or any series or combination thereof.	389
(F) "Derivative transaction" means a transaction involving	390
the use of one or more derivative instruments.	391
(G) "Hedging transaction" means a derivative transaction	392
that is entered into and maintained to reduce either of the	393
following:	394
(1) The risk of economic loss due to a change in the	395
value, yield, price, cash flow, or quantity of assets or	396
liabilities that the insurer has acquired or incurred or	397
anticipates acquiring or incurring;	398
(2) The currency exchange rate risk or the degree of	399
exposure as to assets or liabilities that an insurer has	400
acquired or incurred or anticipates acquiring or incurring.	401
(H) "Income generation" means a derivative transaction	402
involving the writing of covered options, caps, or floors that	403
is intended to generate income or enhance return.	404
(I) "Lower-grade investment" means a rated credit	405
instrument or debt-like preferred stock <del>rated</del> <u>designated</u> 4, 5,	406
or 6 by the securities valuation office.	407
(J) "Medium-grade investment" means a rated credit	408
instrument or debt-like preferred stock <del>rated</del> <u>designated</u> 3 by	409
the securities valuation office.	410
(K) "Minimum asset requirement" is the requirement that an	411
insurer maintain assets in an amount equal to the sum of the	412
insurer's liabilities and its minimum financial security	413
benchmark, as required by division (A) of section 3906.11 of the	414
Revised Code.	415

(L) "Minimum financial security benchmark" is the amount 416  
an insurer is required to have under section 3906.03 of the 417  
Revised Code. 418

(M) "Replication transaction" means a derivative 419  
transaction that is intended to replicate the performance of one 420  
or more assets that an insurer is authorized to acquire under 421  
this chapter. "Replication transaction" does not include a 422  
derivative transaction that is entered into as a hedging 423  
transaction. 424

(N) "Securities valuation office" means the securities 425  
valuation office of the national association of insurance 426  
commissioners or any successor office. 427

(O) "Securities valuation office listed mutual fund" means 428  
a money market mutual fund or short-term bond fund that is 429  
registered with the United States securities and exchange 430  
commission under the "Investment Company Act of 1940," 54 Stat. 431  
789, 15 U.S.C. 80a-1 to 80a-64, and that has been determined by 432  
the securities valuation office to be eligible for special 433  
reserve and reporting treatment, rather than as common stock. 434

(P) "Securities valuation office listed exchange traded 435  
fund" means a bond or preferred stock exchange traded fund that 436  
is registered with the United States securities and exchange 437  
commission under the "Investment Company Act of 1940," 54 Stat. 438  
789, 15 U.S.C. 80a-1 to 80a-64, and that has been ~~rated~~ 439  
designated 1 or 2 by the securities valuation office and 440  
determined by the office to be eligible for special reserve and 441  
reporting treatment, rather than as common stock. 442

(Q) "Superintendent" means the superintendent of 443  
insurance. 444

**Sec. 3906.08.** (A) For the purposes of determining an 445  
insurer's minimum asset requirement under section 3906.11 of the 446  
Revised Code, the following limitations on classes of 447  
investments shall apply: 448

(1) For investments authorized by division (B) of section 449  
3906.07 of the Revised Code and investments authorized by 450  
division (G) of section 3906.07 of the Revised Code that are of 451  
the types described in division (B) of section 3906.07 of the 452  
Revised Code the following limitations shall apply: 453

(a) The aggregate amount of medium- and lower-grade 454  
investments shall be not more than twenty per cent of an 455  
insurer's admitted assets. 456

(b) The aggregate amount of lower-grade investments shall 457  
be not more than ten per cent of an insurer's admitted assets. 458

(c) The aggregate amount of investments ~~rated~~designated 5 459  
or 6 by the securities valuation office shall be not more than 460  
five per cent of the insurer's admitted assets. 461

(d) The aggregate amount of investments ~~rated~~designated 6 462  
by the securities valuation office shall be not more than one 463  
per cent of an insurer's admitted assets. 464

(e) The aggregate amount of medium- and lower-grade 465  
investments that receive as cash income less than the yield for 466  
treasury issues with a comparative average life shall be not 467  
more than one per cent of an insurer's admitted assets. 468

(2) Investments authorized by division (C) of section 469  
3906.07 of the Revised Code shall be not more than forty-five 470  
per cent of an insurer's admitted assets in the case of life 471  
insurers and not more than twenty-five per cent of an insurer's 472  
admitted assets in the case of insurers that are not life 473

insurers.	474
(3) Investments authorized by division (D) of section 3906.07 of the Revised Code shall be not more than twenty per cent of an insurer's admitted assets in the case of life insurers and not more than twenty-five per cent of an insurer's admitted assets in the case of insurers that are not life insurers.	475 476 477 478 479 480
(4) Investments authorized by division (E) of section 3906.07 of the Revised Code shall be not more than ten per cent of an insurer's admitted assets.	481 482 483
(5) Investments authorized by division (F) of section 3906.07 of the Revised Code shall be not more than ten per cent of an insurer's admitted assets.	484 485 486
(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.	487 488 489
(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.	490 491 492
(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	493 494 495 496 497 498 499 500 501 502

maintained to acquire or hold shares of an insurer, with the 503  
prior written consent of the superintendent. 504

(B) (1) For purposes of determining compliance with section 505  
3906.11 of the Revised Code, securities issued by a single 506  
entity and its affiliates, other than the government of the 507  
United States, or agencies whose securities are backed by the 508  
full faith and credit of the United States, and subsidiaries 509  
authorized under division (J) of section 3906.07 of the Revised 510  
Code, shall be not more than five per cent of an insurer's 511  
admitted assets in the case of life insurers and shall be not 512  
more than five per cent of an insurer's admitted assets in the 513  
case of insurers that are non-life insurers. 514

(2) Notwithstanding division (B) (1) of this section, 515  
investments in the voting securities of a depository 516  
institution, or any company that controls a depository 517  
institution, shall not exceed five per cent of an insurer's 518  
admitted assets. 519

(C) For purposes of determining compliance with this 520  
section, the admitted portion of assets of subsidiaries of an 521  
insurer invested in under division (J) of section 3906.07 of the 522  
Revised Code shall be deemed to be owned directly by the insurer 523  
and any other investors in proportion to the market value of 524  
their interest in the subsidiaries. If interest in the 525  
subsidiary has no market value, then the asset allocation 526  
proportion shall be determined by the reasonable value of 527  
interest in the subsidiary as determined under the national 528  
association of insurance commissioners' accounting practices and 529  
procedures manual. 530

(D) If the superintendent considers it necessary to get a 531  
proper evaluation of the investment portfolio of an insurer, the 532

superintendent may require that investments in mutual funds, 533  
exchange traded funds, pooled investment vehicles, or other 534  
investment companies be treated for purposes of this chapter as 535  
if the investor owned directly its proportional share of the 536  
assets owned by the mutual fund, exchange traded fund, pooled 537  
investment vehicle, or investment company. 538

(E) Unless otherwise specified in this chapter, an 539  
insurer's investment limitations shall be computed using the 540  
insurer's general account admitted assets, capital, or surplus 541  
as reported in the insurer's most recent annual financial 542  
statement required to be filed with the superintendent. 543

**Sec. 3907.14.** The capital, surplus, and all accumulations 544  
of every domestic life insurance company shall be invested as 545  
follows: 546

(A) A domestic company may acquire, hold, and convey real 547  
estate: 548

(1) Which has been acquired or is acquired for its 549  
principal offices, or which is used in connection therewith, 550  
provided that it shall not invest more than five per cent of its 551  
admitted assets on the preceding thirty-first day of December in 552  
such real estate; 553

(2) Which has been mortgaged to it in good faith by way of 554  
security for loans previously contracted or for money due; 555

(3) Which has been conveyed to it in satisfaction of debts 556  
previously contracted in the course of its dealings, or which it 557  
may receive in or on account of an exchange for real estate 558  
acquired in its operations; 559

(4) Which it has purchased at sales under mortgages and on 560  
any legal process in connection with its investments or under 561

decrees obtained or made for such debts; 562

(5) Which is acquired, owned, or held for the purpose of 563  
developing, improving, or otherwise utilizing such real estate 564  
for the production of income, without restriction or limitation 565  
as to time, and may acquire, lease, hold, and manage personal 566  
property used in connection therewith. No investments in real 567  
estate to be used primarily for recreational, agricultural, or 568  
mining purposes shall be made under authority of division (A) (5) 569  
of this section and except for investments authorized under 570  
divisions (A) (1), (2), (3), and (4) of this section, no domestic 571  
life insurance company shall invest in real estate under 572  
divisions (A) (5) and (R) of this section a sum exceeding in the 573  
aggregate ten per cent of its admitted assets on the preceding 574  
thirty-first day of December. 575

All real estate specified in divisions (A) (3) and (4) of 576  
this section, which is not necessary for its accommodation in 577  
the convenient transaction of its business, shall be sold by the 578  
company and disposed of within five years after it has acquired 579  
the title to such real estate or within five years after such 580  
real estate has ceased to be necessary for the accommodation of 581  
its business, unless the company procures the certificate of the 582  
superintendent of insurance that its interests will suffer 583  
materially by a forced sale of the real estate, in which event 584  
the time for the sale may be extended to such time as the 585  
superintendent directs in such certificate. 586

(B) A domestic company may acquire, hold, and convey 587  
tangible personal property or interests therein for the 588  
production of income, provided no domestic company shall invest 589  
in excess of two per cent of its admitted assets as of the 590  
preceding thirty-first day of December under this division. 591

(C) In loans and liens upon the security of its own 592  
policies, not exceeding the reserve or present value of the 593  
policies, computed according to any standard authorized by law 594  
or according to such higher standard as the company has adopted 595  
and maintains on the policy, the reserve being the amount of 596  
debts of the life insurance company by reason of its outstanding 597  
policies in gross, which may be so treated in the returns for 598  
taxation made by it; 599

(D) In bankers' acceptances and bills of exchange of the 600  
kinds and maturities made eligible by law for rediscount with 601  
federal reserve banks, provided that such acceptances and bills 602  
of exchange are accepted by a bank or trust company incorporated 603  
under the laws of the United States or of this state or any 604  
other bank or trust company which is a member of the federal 605  
reserve system; 606

(E) In equipment trust obligations or certificates, 607  
security agreements, or other evidences of indebtedness entered 608  
into directly or guaranteed by any company operating wholly or 609  
partly within the United States or Canada, provided that the 610  
debt obligation is secured by a first lien on tangible personal 611  
property which is purchased or secured for payment thereof and 612  
the debt obligation is repayable within twenty years from the 613  
date of issue in annual, semiannual, or more frequent 614  
installments beginning not later than the first year after such 615  
date; 616

(F) In bonds issued by or for federal land banks and any 617  
debentures issued by or for federal intermediate credit banks 618  
under the "Federal Farm Loan Act of 1916," 39 Stat. 360, 12 619  
U.S.C.A. 641 as amended; any debentures issued by or for banks 620  
for cooperatives under the "Farm Credit Act of 1933," 48 Stat. 621

257, 12 U.S.C.A. 131 as amended; 622

(G) In bonds issued under the "Home Owners' Loan Act of 623  
1933," 48 Stat. 128, 12 U.S.C.A. 1461; 624

(H) In notes, bonds, debentures, or other such obligations 625  
issued by the federal housing administrator; 626

(I) (1) (a) In bonds or other evidences of indebtedness, not 627  
in default as to principal or interest, which are valid 628  
obligations issued, assumed or guaranteed by the United States, 629  
by any state thereof, by the Commonwealth of Puerto Rico, by any 630  
territory or insular possession of the United States, or by the 631  
District of Columbia, or which are valid obligations issued, 632  
assumed, or guaranteed by any county, municipal corporation, 633  
district, or political subdivision, or by any civil division or 634  
public instrumentality of such governmental units, if by 635  
statutory or other legal requirements such obligations are 636  
payable, as to both principal and interest, from taxes levied 637  
upon all taxable property within the jurisdiction of such 638  
governmental unit; 639

(b) In bonds or other obligations issued by or for account 640  
of any such governmental unit having a population of five 641  
thousand or more by the latest official federal or state census, 642  
which are payable as to both principal and interest from 643  
revenues or earnings from the whole or any part of a publicly 644  
owned utility supplying water, gas, sewage disposal facility, or 645  
electricity, or any or all of them, provided that by statute or 646  
other applicable legal requirements, rates from the service or 647  
operation of such utility must be fixed, maintained, and 648  
collected at all times so as to produce sufficient revenues or 649  
earnings to pay both principal and interest of such bonds or 650  
obligations as they become due; 651

(c) In any bonds or obligations payable from and secured 652  
by revenues of the United States, the Commonwealth of Puerto 653  
Rico, or any state or instrumentality of any of them, or of the 654  
District of Columbia or of any commission, board, or other 655  
instrumentality of one or more of them, provided there is a 656  
specific pledge of revenues, and provided that there is adequate 657  
provision for payment of interest prior to completion of 658  
construction and that rates, fees, tolls, or charges fixed are, 659  
after completion of construction, sufficient to pay all expenses 660  
of operation and maintenance and the principal and interest when 661  
due. 662

(2) In legally authorized and executed bonds, notes, 663  
warrants, and securities which are the direct obligation of or 664  
are guaranteed by Canada, or which are the direct obligation of 665  
or are guaranteed as to both principal and interest by any 666  
province of Canada, or which are the direct obligation of or are 667  
guaranteed as to both principal and interest by any municipality 668  
of Canada having a population of fifty thousand or more by the 669  
latest official census, and which are not in default as to 670  
principal or interest; 671

(3) In bonds or other evidence of indebtedness, not in 672  
default as to principal or interest, which are valid obligations 673  
issued, assumed, or guaranteed by the United States, by any 674  
state thereof, the Commonwealth of Puerto Rico, or by the 675  
District of Columbia, if by statutory or other legal 676  
requirements such obligations are payable, as to both principal 677  
and interest, from selective taxes levied by such governmental 678  
unit. 679

(J) (1) In mortgage bonds which are the direct obligation 680  
of a railroad, and which are the first lien on a substantial 681

portion of its property, situated wholly in the United States or 682  
partly in the United States and partly in Canada, the average 683  
net yearly earnings of which, after deducting proper charges for 684  
maintenance of way and equipment, for the five fiscal years 685  
preceding such investments, have been at least one and one-half 686  
times the average yearly interest for the same period on its 687  
mortgages, bonds, and funded debts, and in the junior mortgage 688  
bond issues of such railroad corporations of the same character 689  
and under the same conditions where the average net yearly 690  
earnings for the five fiscal years preceding such investment, 691  
after deducting proper charges for maintenance of way and 692  
equipment, have been at least three times the average yearly 693  
interest charges on such issues and all prior liens; or in the 694  
mortgage bonds of any incorporated railroad company which have 695  
been assumed or guaranteed, both as to principal and interest, 696  
by any incorporated railroad company whose bonds constitute a 697  
legal investment under division (J) (1) of this section. In 698  
applying the earnings test to any issuing, assuming, or 699  
guaranteeing company, whether or not in legal existence during 700  
the whole of such five years next preceding the date of 701  
investment by such insurer, which has at any time during such 702  
five-year period acquired the assets of any other company by 703  
purchase, merger, consolidation, or otherwise, substantially as 704  
an entirety, or has been reorganized pursuant to the bankruptcy 705  
law, the earnings of such other predecessor or constituent 706  
companies, or of the company so reorganized, available for 707  
interest for such portion of such period that has preceded such 708  
acquisition, or such reorganization, may be included in the 709  
earnings of such issuing, assuming, or guaranteeing company for 710  
such portion of such period as is determined in accordance with 711  
adjusted or pro forma consolidated earnings statements covering 712  
such portion of such period. In such cases the requirements as 713

to earnings shall be based upon the mortgages, bonds, and funded 714  
debts as they exist immediately after such acquisitions or such 715  
reorganizations. 716

(2) In mortgage bonds or other interest-bearing 717  
obligations of terminal companies organized under the laws of 718  
the United States or any state thereof, provided such bonds or 719  
obligations have been assumed or guaranteed jointly or severally 720  
by two or more railroad corporations whose bonds constitute 721  
legal investments under division (J) (1) of this section; 722

(3) In loans to veterans guaranteed in whole or in part by 723  
the United States pursuant to Title III of the "Servicemen's 724  
Readjustment Act of 1944," 58 Stat. 284, 38 U.S.C.A. 693, as 725  
amended, provided such guaranteed loans are liens upon real 726  
estate; 727

(4) In mortgage bonds which are the direct obligation of 728  
and first lien upon the property of a corporation engaged 729  
directly and primarily in the production and sale of, or in the 730  
purchase and sale of electricity or gas, or in the operation of 731  
telephone or telegraph systems or waterworks, or in some 732  
combination of them, and situated wholly in the United States, 733  
or the Commonwealth of Puerto Rico, or partly in the United 734  
States and partly in Canada, the average net yearly earnings of 735  
which, after deducting proper charges for replacements, 736  
depreciation, and obsolescence, for the five fiscal years 737  
preceding such investment, have been at least one and one-half 738  
times the average yearly interest for the same period on its 739  
mortgages, bonds, and funded debts; 740

(5) Any such corporation, or any of its predecessors, 741  
constituent, or successor corporations, must have been in 742  
business not less than ten years prior to the date of the 743

purchase of such bonds, and must not have defaulted on the 744  
interest or principal of any of its bonds or funded debts 745  
outstanding during the five years immediately preceding the date 746  
of purchase, provided that division (J) (5) of this section does 747  
not preclude investments in mortgage bonds of railroads 748  
reorganized through purchase of assets, merger, consolidation, 749  
bankruptcy proceedings, or otherwise if such bonds are eligible 750  
for investment under division (J) (1) of this section; 751

(6) No investment shall be made under division (J) (1), 752  
(2), (4), or (5) of this section if such railroad or other 753  
utility corporation and its business, and its issue of bonds, 754  
funded debts, and stocks are not under the supervision and 755  
control of an authorized state or federal official or 756  
commission, provided that division (J) (6) of this section does 757  
not apply to the mortgage bonds or other interest-bearing 758  
obligations of companies engaged in the operation of telephone 759  
or telegraph systems. 760

(K) (1) In bonds or notes secured by mortgages or deeds of 761  
trust which are a first lien upon unencumbered fee simple real 762  
estate in any state, the Commonwealth of Puerto Rico, the 763  
District of Columbia, or Canada, provided the amount loaned does 764  
not exceed eighty per cent of the actual market value of such 765  
property. 766

The actual market value of any such property shall be 767  
shown by a valuation and appraisal in writing by a qualified 768  
land appraiser. 769

In the event the amount loaned under division (K) (1) of 770  
this section exceeds eighty per cent of the actual market value 771  
of the land, the structures on the land must be insured by an 772  
authorized fire insurance company or covered by other comparable 773

indemnification, and the policies or indemnifications shall be 774  
payable or assigned to the mortgagee or to a trustee in its 775  
behalf and shall be held by the mortgagee or an agent of the 776  
mortgagee or by such trustee; or in lieu of holding such 777  
policies or indemnifications, the mortgagee may purchase a 778  
policy or policies of mortgage protection insurance, payable to 779  
the mortgagee or a trustee in its behalf, insuring the mortgagee 780  
against loss resulting from the failure of the mortgagor to 781  
acquire and maintain, from such an authorized fire insurance 782  
company or other comparable source, insurance or 783  
indemnification. 784

(2) In bonds or notes secured by mortgages insured by the 785  
federal housing administrator; 786

(3) In bonds or notes secured by mortgages or deeds of 787  
trust which are a first lien on leasehold estates in wholly or 788  
partly improved real property, unencumbered, except rentals 789  
accruing from the property to the owner of the fee, provided 790  
that any loan secured by a leasehold estate must provide for 791  
amortization by repayment of principal at least once in each 792  
year in amounts sufficient to repay the loan within a period of 793  
four-fifths of the unexpired term of the leasehold but within a 794  
period of not more than thirty years, and further provided that 795  
the amount loaned on the leasehold estate does not exceed 796  
seventy-five per cent of total market value of the leasehold 797  
estate determined by appraisements in writing made under oath by 798  
two real estate owners, residents of the county or local 799  
district in which the real estate is located, or by a qualified 800  
land appraiser; if the amount loaned exceeds seventy-five per 801  
cent of the value of that portion of the leasehold estate 802  
represented by the value of the land, exclusive of improvements 803  
on the land, such improvements shall be insured against fire for 804

the benefit of the mortgagee in an amount not less than the 805  
difference between seventy-five per cent of the value of such 806  
land, exclusive of buildings, and the amount loaned; the 807  
policies for such amount shall be payable to and held by the 808  
mortgagee or a trustee named in the lease who shall be required 809  
by the terms of said lease to use and apply the proceeds of such 810  
insurance for repairing, restoring, or rebuilding such 811  
buildings; 812

(4) The following shall not be considered as prior liens 813  
or encumbrances in the construction and application of this 814  
section: leasehold estates of any duration, rights-of-way, 815  
servitudes, joint driveways, easements, party wall agreements, 816  
current taxes and assessments not delinquent, and restrictions 817  
as to building, use, and occupancy. 818

(5) This section does not prohibit a domestic life 819  
insurance company from renewing or extending a loan for the 820  
original or a lesser amount nor does it prohibit a company from 821  
accepting as part payment for real estate sold by it a mortgage 822  
on the real estate for a greater percentage of the purchase 823  
price of the real estate than is otherwise permitted by this 824  
section. 825

(L) In bonds, notes, or other evidences of indebtedness of 826  
corporations, trusts, partnerships, or similar business entities 827  
organized under the laws of the United States, or any state 828  
thereof, the Commonwealth of Puerto Rico, the District of 829  
Columbia, or Canada or any province of Canada, secured by 830  
assignment of lease or leases or the rentals payable under such 831  
leases, of real or personal property or both to (1) the United 832  
States or any instrumentality thereof, or any state of the 833  
United States, the Commonwealth of Puerto Rico, or the District 834

of Columbia, or any county, city, town, school, or water 835  
district, authority, or other political subdivision in any such 836  
government, or Canada, any province of Canada, or any municipal 837  
corporation of Canada that has a population of fifty thousand or 838  
more by the latest official census; or (2) one or more 839  
corporations, trusts, partnerships, or similar business entities 840  
organized under the laws of the United States, any state 841  
thereof, the Commonwealth of Puerto Rico, the District of 842  
Columbia, or Canada or any province of Canada, provided that (a) 843  
the fixed rentals assigned shall be sufficient to repay the 844  
indebtedness within the unexpired term of the lease, exclusive 845  
of the term which may be provided by an enforceable option of 846  
renewal; (b) such lessee has not defaulted in payment of 847  
interest or principal on any of its bonds, notes, debentures, or 848  
other evidences of indebtedness during the five years 849  
immediately preceding the date of the investment, and provided 850  
the average net earnings available for fixed charges of such 851  
lessee under division (L) (2) of this section for not less than 852  
five fiscal years preceding such investment have been at least 853  
one and one-half times average fixed charges for that period and 854  
during either of the last two years of such period, the net 855  
earnings available for fixed charges shall have been not less 856  
than one and one-half times fixed charges for such year, except 857  
that railroad companies and utility companies may qualify as 858  
lessees herein by application of the earnings test provided for 859  
railroads under division (J) (1) of this section and for 860  
utilities under division (J) (4) of this section; and (c) a first 861  
lien on the interest of the lessor in the unencumbered property 862  
so leased shall be obtained as additional security for the 863  
indebtedness; 864

(M) In ground rents, land trust certificates, or fee 865

ownership certificates representing or evidencing beneficial 866  
ownership of or interest in improved real estate under lease for 867  
not less than twenty-five years from the date of such lease, in 868  
which it must be provided that the lessee shall pay all taxes 869  
and assessments levied on or assessed against said real estate, 870  
shall maintain the improvements on the real estate in good 871  
repair, and shall provide and maintain fire insurance in an 872  
amount equal to the insurable value of the building on the real 873  
estate; provided: 874

(1) The value of the land and improvements shall be 875  
evidenced by an appraisal made under oath by a disinterested 876  
appraiser resident in and the owner of real estate in the city 877  
in which the property is situated, and such appraisal shall 878  
not be less than one and sixty-seven hundredths times the amount 879  
of such land trust certificates, which amount shall be not less 880  
than twenty times the net annual rental distributable to holders 881  
of outstanding certificates; 882

(2) Such beneficial interests shall only be in properties 883  
on which actual earning records for five years immediately 884  
preceding are available; 885

(3) Such declaration of trust or other trust instrument 886  
shall provide for a depreciation or other similar fund, in an 887  
amount which is not less than nine per cent of the net annual 888  
distributable rental, for the benefit of the holders of 889  
outstanding certificates. 890

(N) (1) In certificates of deposit or other evidence of 891  
indebtedness of a savings and loan association provided the 892  
certificates or other evidence of deposit are insured pursuant 893  
to the "Financial Institutions Reform, Recovery, and Enforcement 894  
Act of 1989," 103 Stat. 183, 12 U.S.C.A. 1811, as amended; 895

(2) In interest-bearing obligations, including savings 896  
accounts and time certificates of deposit of a national bank or 897  
state bank provided such bank is a member of the federal deposit 898  
insurance corporation created pursuant to the "Banking Act of 899  
1933," 92 Stat. 624, 12 U.S.C.A. 624, as amended. 900

(O) In obligations issued, assumed, or guaranteed by the 901  
international finance corporation or by the international bank 902  
for reconstruction and development, the Asian development bank, 903  
the inter-American development bank, the African development 904  
bank, or other similar development bank in which the president, 905  
as authorized by congress and on behalf of the United States, 906  
has accepted membership; 907

(P) (1) In the preferred stocks of any company organized 908  
under the laws of the United States or of any state thereof 909  
engaged directly and primarily in the production and sale of, or 910  
in the purchase and sale of electricity or gas, or in the 911  
operation of telephone or telegraph systems or water works, or 912  
in some combination of them, if the average annual net earnings 913  
of such company, for not less than five fiscal years preceding 914  
purchase thereof, after deduction of interest on all mortgages, 915  
bonds, debentures, and funded debts and after deduction of the 916  
proper charges for replacements, depreciation, and obsolescence, 917  
have been at least two times the average yearly amount which is 918  
required to pay the dividends or distributions on all preferred 919  
stocks; and in which the mortgages, bonds, debentures, funded 920  
debts, and preferred stocks shall not in the aggregate exceed 921  
seventy per cent of the total capitalization of such company, 922  
including mortgages, bonds, debentures, funded debts, and 923  
preferred and common stocks; 924

(2) In the preferred stocks of any other company organized 925

under the laws of the United States, or of any state thereof if 926  
the average annual net earnings of such company for a period of 927  
not less than five fiscal years preceding purchase thereof, 928  
after deduction of interest on all mortgages, bonds, debentures, 929  
and funded debts and after deduction of the proper charges for 930  
replacements, depreciation, and obsolescence, have been at least 931  
four times the amount which is required to pay the dividends or 932  
distributions on all preferred stocks, and in which the 933  
mortgages, bonds, debentures, funded debts, and preferred stocks 934  
shall not in the aggregate exceed sixty per cent of the total 935  
capitalization of such company, including mortgages, bonds, 936  
debentures, funded debts, and preferred and common stocks; 937

(3) A domestic life insurance company shall not purchase 938  
any preferred stocks when the total market values of such stocks 939  
then owned with those purchased exceed in the aggregate of book 940  
values and purchase price the capital, surplus, and contingency 941  
funds, excluding all reserves required by law, of such company 942  
on the thirty-first day of December preceding the date of such 943  
purchase, or contemplated purchase, provided that in case of 944  
appreciations in values of stocks owned the cost rather than the 945  
market values shall be used in arriving at such aggregate; the 946  
purpose being to restrict the investments of such company in all 947  
preferred stocks to capital, surplus, and contingency funds. 948

(4) In the bonds, notes, debentures, or other evidences of 949  
indebtedness of a solvent corporation, trust, partnership, or 950  
similar business entity existing under the laws of the United 951  
States, of any state thereof, the Commonwealth of Puerto Rico, 952  
or Canada or any province of Canada, provided that either any of 953  
the following apply: 954

(a) The bonds, notes, debentures, or other evidences of 955

indebtedness of such corporation, trust, partnership, or similar 956  
business entity are ~~rated~~ designated 1 or 2 by the securities 957  
valuation office of the national association of insurance 958  
commissioners; 959

(b) The corporation, trust, partnership, or similar 960  
business entity has not defaulted in payment of interest or 961  
principal on any of its bonds, notes, debentures, or other 962  
evidences of indebtedness during the five years immediately 963  
preceding the date of purchase, and the average annual net 964  
earnings of such corporation, trust, partnership, or similar 965  
business entity that are available for fixed charges for not 966  
less than five fiscal years preceding such purchase have been at 967  
least one and one-half times the average fixed charges of such 968  
corporation, trust, partnership, or similar business entity for 969  
that period and during either of the last two years of such 970  
period, the net earnings available for fixed charges shall have 971  
been not less than one and one-half times the fixed charges of 972  
such corporation, trust, partnership, or similar business entity 973  
for such year; 974

(c) The bonds, notes, debentures, or other evidences of 975  
indebtedness of such corporation, trust, partnership, or similar 976  
business entity are designated 3, 4, 5, or 6 by the securities 977  
valuation office of the national association of insurance 978  
commissioners subject to the following limits: 979

(i) The aggregate of all such bonds, notes, debentures, or 980  
other evidences of indebtedness that are designated 3, 4, 5, and 981  
6 does not exceed twenty per cent of the insurer's admitted 982  
assets; 983

(ii) The aggregate of all such bonds, notes, debentures, 984  
or other evidences of indebtedness that are designated 4, 5, and 985

<u>6 does not exceed ten per cent of the insurer's admitted assets;</u>	986
<u>(iii) The aggregate of all such bonds, notes, debentures,</u>	987
<u>or other evidences of indebtedness that are designated 5 and 6</u>	988
<u>does not exceed three per cent of the insurer's admitted assets;</u>	989
<u>(iv) The aggregate of all such bonds, notes, debentures,</u>	990
<u>or other evidences of indebtedness that are designated 6 does</u>	991
<u>not exceed one per cent of the insurer's admitted assets;</u>	992
<u>(v) The aggregate amount of all such bonds, notes,</u>	993
<u>debentures, or other evidences of indebtedness that are</u>	994
<u>designated 3, 4, 5, and 6 that receive as cash income less than</u>	995
<u>the yield for treasury issues with a comparative average life</u>	996
<u>shall be not more than one per cent of an insurer's admitted</u>	997
<u>assets.</u>	998
(5) In common stocks or shares of any solvent incorporated	999
company organized under the laws of the United States, or of any	1000
state, district, or territory thereof, or the Commonwealth of	1001
Puerto Rico, provided that a dividend or distribution has been	1002
paid by the corporation in the preceding twelve months upon such	1003
stock to be purchased, or that such corporation, together with	1004
its predecessor corporation or corporations, has been in	1005
existence for a period of at least five years. No domestic	1006
company shall invest in common stock or shares under divisions	1007
(P) (5) and (R) of this section a sum exceeding in the aggregate	1008
ten per cent of its admitted assets on the preceding thirty-	1009
first day of December.	1010
(6) In the stocks, limited liability company membership	1011
interests, limited partnership interests, or limited liability	1012
partnership interests of insurance, financial, investment, and	1013
investment management companies, which investment management	1014

companies are registered with the securities and exchange 1015  
commission under the "Investment Company Act of 1940," 54 Stat. 1016  
789, 15 80a-1, as amended, or the stocks, limited liability 1017  
company membership interests, limited partnership interests, or 1018  
limited liability partnership interests in an entity wholly 1019  
owned by a domestic company or by a domestic company and its 1020  
affiliates, that is formed and maintained to acquire or hold 1021  
specific assets or liabilities for bankruptcy remoteness or 1022  
limitation of liability purposes, except its own stock, but no 1023  
domestic life insurance company shall invest in such stocks, 1024  
limited liability company membership interests, or limited 1025  
liability partnership interests under division (P) (6) of this 1026  
section, exclusive of its investments in stocks or limited 1027  
liability company membership interests of insurance company 1028  
subsidiaries or subsidiaries engaged exclusively in the 1029  
ownership of insurance company subsidiaries, a sum exceeding the 1030  
lesser of fifty per cent of its policyholder surplus or ten per 1031  
cent of its admitted assets as of the preceding thirty-first day 1032  
of December unless the approval of the superintendent of 1033  
insurance is first obtained. Whenever the superintendent has 1034  
reason to believe that the retention, investment, or acquisition 1035  
of the stock, limited liability company membership interest, 1036  
limited partnership interest, or limited liability partnership 1037  
interest of any such company substantially lessens competition 1038  
generally in the business of insurance or creates a monopoly 1039  
therein the superintendent shall proceed under section 3901.13 1040  
of the Revised Code to cause such domestic insurance company to 1041  
divest itself of such stock, limited liability company 1042  
membership interest, limited partnership interest, or limited 1043  
liability partnership interest. 1044

(7) (a) In bonds, notes, debentures, or other evidences of 1045

indebtedness issued, assumed, or guaranteed by a solvent 1046  
corporation, trust, or partnership formed or existing under the 1047  
laws of a foreign jurisdiction, provided each such foreign 1048  
investment is of the same kind and quality as United States 1049  
investments authorized under this section; or in common or 1050  
preferred stock, shares, membership interest, or partnership 1051  
interest of any solvent business entity formed or existing under 1052  
the laws of a foreign jurisdiction provided each such foreign 1053  
investment is of the same kind and quality as United States 1054  
investments authorized under this section; or in bonds or other 1055  
evidences of indebtedness issued, assumed, or guaranteed by a 1056  
foreign jurisdiction. 1057

An insurer shall not invest in foreign investments under 1058  
division (P) (7) of this section, including investments 1059  
denominated in foreign currency, a sum exceeding in the 1060  
aggregate ~~fifteen~~twenty per cent of its admitted assets as of 1061  
the preceding thirty-first day of December. The aggregate amount 1062  
of investments held by an insurer in a single foreign 1063  
jurisdiction shall not exceed ~~three~~seven per cent of its 1064  
admitted assets as of the preceding thirty-first day of 1065  
December. 1066

As used in division (P) (7) (a) of this section, "foreign 1067  
jurisdiction" means a jurisdiction outside the United States, 1068  
Puerto Rico, or Canada, whose bonds are ~~rated~~designated 1 or 2 1069  
by the securities valuation office of the national association 1070  
of insurance commissioners. 1071

(b) An insurer may acquire investments denominated in 1072  
foreign currency whether or not they are foreign investments. 1073

An insurer shall not invest in investments denominated in 1074  
foreign currency a sum exceeding in the aggregate ~~ten~~twenty per 1075

cent of its admitted assets as of the preceding thirty-first day 1076  
of December provided the foreign currency is appropriately 1077  
hedged. Such foreign currency is limited to ten per cent of its 1078  
admitted assets as of the preceding thirty-first day of December 1079  
if not hedged. The aggregate amount of investments denominated 1080  
in a single foreign currency held by an insurer shall not exceed 1081  
~~three-seven~~ per cent of an insurer's admitted assets as of the 1082  
preceding thirty-first day of December provided the foreign 1083  
currency is appropriately hedged. Such foreign currency is 1084  
limited to three per cent of its admitted assets as of the 1085  
preceding thirty-first day of December if not hedged. 1086

(c) As used in division (P) (7) of this section, "foreign 1087  
currency" means a currency other than that of the United States. 1088

(8) An insurer may invest without limitation in 1089  
investments of government money market funds. As used in 1090  
division (P) (8) of this section, "government money market fund" 1091  
means a mutual fund that at all times invests in obligations 1092  
issued, guaranteed, or insured by the federal government of the 1093  
United States, or collateralized repurchase agreements comprised 1094  
of these obligations, and that qualifies for investment without 1095  
a reserve pursuant to the purposes and procedures of the 1096  
securities valuation office of the national association of 1097  
insurance commissioners. 1098

(Q) In loans upon the pledge of any securities in which 1099  
such companies are authorized by this section to invest, 1100  
provided that any loan upon such a pledge shall not exceed 1101  
eighty per cent of the cash market value of the collateral at 1102  
the time of the making of such loan and at the end of each 1103  
twelve-month period thereafter, and such company, through the 1104  
collateral pledged to it, shall not exceed the amounts which it 1105

may, under this section, invest in one corporation so that, in 1106  
the stocks and securities which may be owned and those which are 1107  
pledged to it, the limitations in this section might be 1108  
indirectly evaded; 1109

(R) (1) Any domestic legal reserve life insurance company 1110  
may loan or invest its funds, to an extent not exceeding in the 1111  
aggregate ~~five~~ten per cent of its total admitted assets, in 1112  
loans or investments not permitted under this section. Any such 1113  
company may also invest up to an additional five per cent of its 1114  
total admitted assets, in loans or investments in small 1115  
businesses having more than half of their assets or employees in 1116  
this state and in venture capital firms having an office within 1117  
this state, provided that, as a condition of a company making an 1118  
investment in a venture capital firm, the firm must agree to use 1119  
its best efforts to make investments, in an aggregate amount at 1120  
least equal to the investment to be made by the company in that 1121  
venture capital firm, in small businesses having their principal 1122  
offices within this state and having either more than one-half 1123  
of their assets within this state or more than one-half of their 1124  
employees employed within this state. 1125

As used in division (R) of this section: 1126

(a) "Small businesses" means any corporation, partnership, 1127  
proprietorship, or other entity that either does not have more 1128  
than four hundred employees, or would qualify as a small 1129  
business for the purpose of receiving financial assistance from 1130  
small business investment companies licensed under the "Small 1131  
Business Investment Act of 1958," 72 Stat. 689, 15 U.S.C.A. 661, 1132  
as amended, and rules of the small business administration. 1133

(b) "Venture capital firms" means any corporation, 1134  
partnership, proprietorship, or other entity, the principal 1135

business of which is or will be the making of investments in 1136  
small businesses. 1137

(c) "Investments" means any equity investment, including 1138  
limited partnership interests and other equity interests in 1139  
which liability is limited to the amount of the investment, but 1140  
does not include general partnership interests or other 1141  
interests involving general liability. 1142

(2) In the event that, subsequent to being made under 1143  
provisions of division (R) of this section, an investment is 1144  
determined to have become qualified as an investment for a 1145  
domestic life insurance company as provided for in this section, 1146  
the company may consider such investment as held under the 1147  
applicable provisions of the foregoing divisions (A) to (Q) of 1148  
this section and such investment shall no longer be considered 1149  
as having been made under the provisions of this division. 1150

(S) (1) No domestic life insurance company shall subscribe 1151  
to or participate in any underwriting for the purchase or sale 1152  
of securities or property, nor shall it enter into any such 1153  
transaction for purchase or sale on account of said company 1154  
jointly with any other person, nor shall any such company enter 1155  
into any agreement to withhold from sale any of its property, 1156  
but the disposition of its property shall be at all times within 1157  
the control of its board of directors. Nothing contained in 1158  
division (S) (1) of this section shall be construed to invalidate 1159  
or prohibit an agreement by an insurance company for the 1160  
purchase for its own account of an entire issue of the 1161  
securities of a corporation or to invalidate or prohibit an 1162  
agreement by an insurance company and one or more other 1163  
investors to join and share in the purchase of investments for 1164  
their individual accounts and for bona fide investment purposes. 1165

(2) In the determination of capitalization in this section 1166  
the value of all bonds, debentures, and funded debts, and 1167  
nonconvertible or nonparticipating preferred stocks shall be 1168  
figured at par. Participating or convertible preferred shares 1169  
shall be figured at par or market on the preceding thirty-first 1170  
day of December, whichever is higher, and the value of all 1171  
common shares shall be figured at the market on the preceding 1172  
thirty-first day of December. 1173

(3) As used in this section: 1174

(a) "Funded debt" means all interest-bearing obligations 1175  
maturing in more than one year from their issuance and all 1176  
guaranteed or assumed interest-bearing obligations or stock. 1177  
Securities or stock of a corporation pledged to secure other 1178  
funded debt of the corporation are not included in the funded 1179  
debt. 1180

(b) "Fixed charges" include actual interest incurred in 1181  
each year on funded and unfunded debt and annual apportionment 1182  
of debt discount or premium. Where interest is partially or 1183  
entirely contingent upon earnings, "fixed charges" include 1184  
contingent interest payments. 1185

(c) "Net earnings available for fixed charges" means 1186  
income after deducting operating and maintenance expenses, taxes 1187  
other than income taxes, depreciation, and depletion. 1188  
Extraordinary, nonrecurring items of income or expense shall be 1189  
excluded. 1190

(4) Except as provided in a plan of mutualization adopted 1191  
pursuant to the provisions of sections 3913.01 to 3913.10 of the 1192  
Revised Code, no domestic life insurance company may invest in 1193  
or loan upon its own stock, either directly or indirectly. 1194

(5) If the investments of any domestic life insurance 1195  
company are at the time of the making thereof or on October 13, 1196  
1953, otherwise than as authorized in this section, such 1197  
investments shall not be admitted or accepted as authorized 1198  
investments for such company. 1199

(6) Any earnings test provided for in this section shall 1200  
be deemed to have been met if the requirements of such earnings 1201  
test are met by any company which assumes or guarantees the 1202  
investment or which assumes or guarantees the performance of any 1203  
lease which is the security for the investment. In applying any 1204  
such earnings test, the operations of a company's predecessor 1205  
companies, if any, for the stipulated period shall be included. 1206

(7) No domestic life insurance company shall at any time 1207  
have invested in or loaned upon the security of the obligations, 1208  
property, or securities of a particular corporation, trust, 1209  
partnership, or similar business entity a sum exceeding the 1210  
greater of two per cent of its admitted assets as of the 1211  
preceding thirty-first day of December or twenty-five per cent 1212  
of that portion of its capital and surplus, or its surplus in 1213  
the case of a mutual company, that exceeds the minimum required 1214  
capital and surplus under section 3907.05 of the Revised Code 1215  
unless the approval of the superintendent of insurance is first 1216  
obtained. The restrictions of division (S)(7) of this section do 1217  
not apply to divisions (C), (F), (G), (H), (P)(6), and (R) of 1218  
this section or to any valid obligation issued, assumed, or 1219  
guaranteed by the United States, or any state thereof, the 1220  
Commonwealth of Puerto Rico, the District of Columbia, or Canada 1221  
or any province of Canada. For purposes of division (S)(7) of 1222  
this section, such company may, at its option, consider either 1223  
the lessor or the lessee under division (L) of this section to 1224  
be the person to whom any such investment or loan is made. 1225

(8) This section does not affect the propriety or legality 1226  
of an investment made by a domestic life insurance company which 1227  
was in accordance with the laws in force at the time of the 1228  
making of the investment. 1229

(T) A domestic life insurance company may seek permission 1230  
from the superintendent of insurance to invest funds under 1231  
Chapter 3906. of the Revised Code and may invest funds under 1232  
that chapter if such permission is granted. 1233

(U) As used in divisions (U) and (V) of this section: 1234

(1) "Covered" means that an insurer owns, or can 1235  
immediately acquire through the exercise of options, warrants, 1236  
or conversion rights already owned, the underlying interest in 1237  
order to fulfill or secure its obligation under the option, cap, 1238  
or floor it has written. 1239

(2) (a) "Derivative instrument" means an agreement, option, 1240  
instrument, or a series or combination thereof of either of the 1241  
following types: 1242

(i) To make or take delivery of, or assume or relinquish, 1243  
a specified amount of one or more underlying interests, or to 1244  
make a cash settlement in lieu thereof; 1245

(ii) That has a price, performance, value, or cash flow 1246  
based primarily upon the actual or expected price, level, 1247  
performance, value, or cash flow of one or more underlying 1248  
interests. 1249

(b) Derivative instruments include options, warrants, 1250  
caps, floors, collars, swaps, forwards, futures, and any other 1251  
agreements, options, or instruments substantially similar 1252  
thereto or any series or combination thereof. 1253

- (3) "Derivative transaction" means a transaction involving 1254  
the use of one or more derivative instruments. 1255
- (4) "Hedging transaction" means a derivative transaction 1256  
that is entered into and maintained to reduce either of the 1257  
following: 1258
- (a) The risk of economic loss due to a change in the 1259  
value, yield, price, cash flow, or quantity of assets or 1260  
liabilities that the insurer has acquired or incurred or 1261  
anticipates acquiring or incurring; 1262
- (b) The currency exchange rate risk or the degree of 1263  
exposure as to assets or liabilities that an insurer has 1264  
acquired or incurred or anticipates acquiring or incurring. 1265
- (5) "Income generation" means a derivative transaction 1266  
involving the writing of covered options, caps, or floors that 1267  
is intended to generate income or enhance return. 1268
- (6) "Replication transaction" means a derivative 1269  
transaction that is intended to replicate the performance of one 1270  
or more assets that an insurer is authorized to acquire under 1271  
this chapter. "Replication transaction" does not include a 1272  
derivative transaction that is entered into as a hedging 1273  
transaction. 1274
- (V) (1) Prior to an insurer entering into derivative 1275  
transactions, the board of directors of the insurer shall 1276  
approve a derivative use plan. 1277
- (2) An insurer shall notify the superintendent of 1278  
insurance in writing within three days after identifying either 1279  
of the following: 1280
- (a) Any event or occurrence related to an insurer's 1281

derivatives use that may lead to a material change to the 1282  
insurer's policyholder surplus; 1283

(b) Any event or occurrence related to an insurer's 1284  
derivatives use that, with the passage of time, may lead to a 1285  
material change to the insurer's policyholder surplus. 1286

(3) Prior to entering into derivative transactions, an 1287  
insurer shall file with the superintendent a copy of its 1288  
derivative use plan and internal controls, for informational 1289  
purposes. The insurer shall keep current the copy of its 1290  
derivative use plan and internal controls filed with the 1291  
superintendent. The insurer shall not enter into derivative 1292  
transactions until thirty calendar days after the date on which 1293  
the derivative use plan and internal controls is filed with the 1294  
superintendent. This thirty-calendar-day period is to begin on 1295  
the date that the superintendent receives the derivative use 1296  
plan and internal controls. 1297

(4) The superintendent may adopt rules prescribing the 1298  
form and content of derivative use plans, as well as any 1299  
internal controls the superintendent considers necessary. 1300

(5) An insurer that engages in hedging transactions or 1301  
replication transactions shall do both of the following: 1302

(a) Maintain its position in any outstanding derivative 1303  
instrument used as part of a hedging transaction or replication 1304  
transaction for as long as the hedging transaction or 1305  
replication transaction continues to be effective; 1306

(b) Demonstrate to the superintendent, upon request, that 1307  
any derivative transaction entered into and involving hedging 1308  
transaction or replication transaction is an effective hedging 1309  
transaction or replication transaction. The insurer must be able 1310

to demonstrate this at the time the derivative transaction is 1311  
entered into, and for as long as the transaction continues to be 1312  
in place. 1313

(6) An insurer may not invest in, or use, a derivative 1314  
instrument for any purpose other than a hedging transaction, 1315  
income generation, or replication. 1316

(7) An insurer shall not invest in, or use a derivative 1317  
instrument for purposes of income generation in a sum exceeding 1318  
in the aggregate five per cent of its admitted assets, as of the 1319  
preceding thirty-first day of December. 1320

(8) All documents provided to the superintendent under 1321  
division (V) of this section shall be deemed trade secrets and 1322  
shall be provided with trade secret protection. Such documents 1323  
shall also be considered work papers of the superintendent that 1324  
are subject to section 3901.48 of the Revised Code and are 1325  
confidential and privileged and shall not be considered a public 1326  
record, as defined in section 149.43 of the Revised Code. The 1327  
original documents and any copies of them shall not be subject 1328  
to subpoena and shall not be made public by the superintendent 1329  
or any other person, except as otherwise provided in section 1330  
3901.48 of the Revised Code. 1331

**Sec. 3925.08.** Funds accumulated in the course of business, 1332  
or surplus money above the capital stock, of any company 1333  
organized under any law of this state, for the purpose provided 1334  
in section 3925.01 of the Revised Code, shall only be loaned or 1335  
invested in the securities listed in sections 3925.05 and 1336  
3925.06 of the Revised Code, or in the following: 1337

(A) (1) Bonds and mortgages on unencumbered real estate 1338  
within this or any other state worth twenty-five per cent more 1339

than the sum loaned thereon, exclusive of buildings, unless such 1340  
buildings are insured in some company authorized to do business 1341  
in this state, and the policy is transferred to the company 1342  
making the investment; or, in lieu of transferring such 1343  
policies, the mortgagee may purchase a policy or policies of 1344  
mortgage protection insurance, payable to the mortgagee or a 1345  
trustee in its behalf, insuring the mortgagee against loss 1346  
resulting from the failure of the mortgagor to acquire and 1347  
maintain, from such an authorized insurance company, insurance 1348  
in the amount required by this section; 1349

(2) Bonds or notes secured by mortgages insured by the 1350  
federal housing administrator; 1351

(3) Loans to veterans guaranteed in whole or in part by 1352  
the United States pursuant to Title III of the "Servicemen's 1353  
Readjustment Act of 1944," 58 Stat. 284, 38 U.S.C. 693, as 1354  
amended, provided such guaranteed loans are liens upon real 1355  
estate. 1356

(B) (1) Legally authorized and executed bonds, notes, 1357  
warrants, and securities which are the direct obligation of or 1358  
are guaranteed as to both principal and interest by Canada, or 1359  
which are the direct obligation of or are guaranteed as to both 1360  
principal and interest by any province of Canada, or which are 1361  
the direct obligation of or are guaranteed as to both principal 1362  
and interest by any municipal corporation of Canada having a 1363  
population of one hundred thousand or more by the latest 1364  
official census, and which are not in default as to principal or 1365  
interest; 1366

(2) Obligations issued, assumed, or guaranteed by the 1367  
international finance corporation or by the international bank 1368  
for reconstruction and development, the Asian development bank, 1369

the inter-American development bank, the African development 1370  
bank, or similar development bank in which the president, as 1371  
authorized by congress and on behalf of the United States, has 1372  
accepted membership. 1373

(C) Bonds or other evidences of indebtedness, not in 1374  
default as to principal or interest, which are valid obligations 1375  
issued, assumed, or guaranteed by the United States, by any 1376  
state thereof, the Commonwealth of Puerto Rico, by any territory 1377  
or insular possession of the United States, or by the District 1378  
of Columbia, or which are valid obligations issued, assumed, or 1379  
guaranteed by any county, municipal corporation, district, or 1380  
political subdivision, or by any civil division or public 1381  
instrumentality of such governmental units, if by statutory or 1382  
other legal requirements such obligations are payable, as to 1383  
both principal and interest, from taxes levied upon all taxable 1384  
property within the jurisdiction of such governmental unit, or 1385  
in bonds or other obligations issued by or for account of any 1386  
such governmental unit having a population of five thousand or 1387  
more by the latest official federal or state census, which are 1388  
payable as to both principal and interest from revenues or 1389  
earnings from the whole or any part of a publicly owned utility, 1390  
provided that by statute or other applicable legal requirements, 1391  
rates from the service or operation of such utility must be 1392  
fixed, maintained, and collected at all times so as to produce 1393  
sufficient revenues or earnings to pay both principal and 1394  
interest of such bonds or obligations as they become due, and in 1395  
any bonds or obligations issued or guaranteed by the United 1396  
States, any state, the District of Columbia, the Commonwealth of 1397  
Puerto Rico, any county, municipal corporation, district, 1398  
political subdivision, civil division, commission, board, 1399  
authority, agency, or other instrumentality of one or more of 1400

them, provided there is a specific pledge of revenues, earnings, 1401  
or other adequate security and provided that no prior or parity 1402  
obligation of the same issuer, payable from revenues or earnings 1403  
from the same source, has been in default as to principal or 1404  
interest during the five years next preceding the date of such 1405  
investment, but such issuer need not have been in existence for 1406  
that period, and obligations acquired under this section may be 1407  
newly issued, and further provided that there is adequate 1408  
provision for payment of expenses of operation and maintenance 1409  
and the principal and interest on all obligations when due; 1410

(D) (1) Bonds or other evidences of indebtedness, bearing 1411  
or accruing interest, issued, assumed, or guaranteed by any 1412  
solvent corporation, trust, partnership, or similar business 1413  
entity organized and existing under the laws of this or any 1414  
other state, or of the United States, the Commonwealth of Puerto 1415  
Rico, or of the District of Columbia, or of Canada or any 1416  
province of Canada, upon which there is no existing interest or 1417  
principal default, provided that ~~either~~ any of the following 1418  
apply: 1419

(a) The bonds or other evidences of indebtedness are ~~rated~~ 1420  
designated 1 or 2 by the securities valuation office of the 1421  
national association of insurance commissioners; 1422

(b) The corporation, together with its predecessor 1423  
corporation or corporations, or the trust, partnership, or 1424  
similar business entity, has been in existence for a period of 1425  
at least five years; 1426

(c) The bonds, notes, debentures, or other evidences of 1427  
indebtedness of such corporation, trust, partnership, or similar 1428  
business entity are designated 3, 4, 5, or 6 by the securities 1429  
valuation office of the national association of insurance 1430

<u>commissioners, subject to the following limits:</u>	1431
<u>(i) The aggregate of all such bonds, notes, debentures, or</u>	1432
<u>other evidences of indebtedness that are designated 3, 4, 5, and</u>	1433
<u>6 does not exceed twenty per cent of the insurer's admitted</u>	1434
<u>assets;</u>	1435
<u>(ii) The aggregate of all such bonds, notes, debentures,</u>	1436
<u>or other evidences of indebtedness that are designated 4, 5, and</u>	1437
<u>6 does not exceed ten per cent of the insurer's admitted assets;</u>	1438
<u>(iii) The aggregate of all such bonds, notes, debentures,</u>	1439
<u>or other evidences of indebtedness that are designated 5 and 6</u>	1440
<u>does not exceed three per cent of the insurer's admitted assets;</u>	1441
<u>(iv) The aggregate of all such bonds, notes, debentures,</u>	1442
<u>or other evidences of indebtedness that are designated 6 does</u>	1443
<u>not exceed one per cent of the insurer's admitted assets;</u>	1444
<u>(v) The aggregate amount of all such bonds, notes,</u>	1445
<u>debentures, or other evidences of indebtedness that are</u>	1446
<u>designated 3, 4, 5, and 6 that receive as cash income less than</u>	1447
<u>the yield for treasury issues with a comparative average life</u>	1448
<u>shall be not more than one per cent of an insurer's admitted</u>	1449
<u>assets.</u>	1450
(2) Stocks, limited liability company membership	1451
interests, limited partnership interests, or limited liability	1452
partnership interests of any insurance, financial, investment,	1453
or investment management companies, which investment management	1454
companies are registered with the securities and exchange	1455
commission under the "Investment Company Act of 1940," 54 Stat.	1456
789, 15 U.S.C. 80a-1, as amended, or the stocks, limited	1457
liability company membership interests, limited partnership	1458
interests, or limited liability partnership interests in an	1459

entity wholly owned by a domestic company or by a domestic 1460  
company and its affiliates, that is formed and maintained to 1461  
acquire or hold specific assets or liabilities for bankruptcy 1462  
remoteness or limitation of liability purposes, except its own 1463  
stock, and stocks, limited liability company membership 1464  
interests, limited partnership interests, limited liability 1465  
partnership interests, bonds, notes, and debentures of any 1466  
company which is organized for, and limited in its operations 1467  
to, the financing of insurance premiums, upon approval of such 1468  
investments by the superintendent of insurance; except that 1469  
approval shall not be required for the purchase of the 1470  
outstanding stocks, limited liability company membership 1471  
interests, limited partnership interests, or limited liability 1472  
partnership interests of any such company, if investment in each 1473  
such company does not exceed in the aggregate two and one-half 1474  
per cent of the total admitted assets of the company making the 1475  
investment as of the preceding thirty-first day of December. 1476  
Whenever the superintendent has reason to believe that the 1477  
retention, investment, or acquisition of the stock, limited 1478  
liability company membership interest, limited partnership 1479  
interest, or limited liability partnership interest of any such 1480  
company substantially lessens competition generally in the 1481  
business of insurance or creates a monopoly therein the 1482  
superintendent shall proceed under section 3901.13 of the 1483  
Revised Code to cause such domestic insurance company to divest 1484  
itself of such stock, limited liability company membership 1485  
interest, limited partnership interest, or limited liability 1486  
partnership interest. 1487

(3) Other stocks, limited liability company membership 1488  
interests, or limited partnership interests, or limited 1489  
liability partnership interests of any solvent corporation 1490

organized under the laws of this or any other state, or of the 1491  
United States, or of the District of Columbia, or of Canada or 1492  
any province of Canada, provided that a dividend or distribution 1493  
has been paid by the business entity in the preceding twelve 1494  
months upon the stock, membership interest, or partnership 1495  
interest to be purchased or such business entity, together with 1496  
its predecessor entity or entities, has been in existence for a 1497  
period of at least five years. 1498

(4) A domestic company may acquire, hold, and convey 1499  
tangible personal property or interests therein for the 1500  
production of income, provided no domestic company shall invest 1501  
in excess of two per cent of its admitted assets as of the 1502  
preceding thirty-first day of December under this division. 1503

(5) In equipment trust obligations or certificates, 1504  
security agreements, or other evidences of indebtedness entered 1505  
into directly or guaranteed by any company operating wholly or 1506  
partly within the United States or Canada, provided that such 1507  
debt obligation is secured by a first lien on tangible personal 1508  
property which is purchased or secured for payment thereof and 1509  
such debt obligation is repayable within twenty years from the 1510  
date of issue in annual, semiannual, or more frequent 1511  
installments beginning not later than the first year after such 1512  
date. 1513

(6) An insurer may invest without limitation in 1514  
investments of government money market funds. As used in 1515  
division (D)(6) of this section, "government money market fund" 1516  
means a fund that at all times invests in obligations issued, 1517  
guaranteed, or insured by the federal government of the United 1518  
States or collateralized repurchase agreements comprised of such 1519  
obligations, and that qualifies for investment without a reserve 1520

pursuant to the purposes and procedures of the securities 1521  
valuation office of the national association of insurance 1522  
commissioners. 1523

(E) Negotiable promissory notes maturing in not more than 1524  
six months from the date thereof, secured by collateral security 1525  
through the transfer of any of the classes of securities 1526  
described in this section or in sections 3925.05 and 3925.06 of 1527  
the Revised Code, with absolute power of sale within twenty days 1528  
after default in payment at maturity; 1529

(F) (1) Repurchase agreements with, and interest-bearing 1530  
obligations, including savings accounts and time certificates of 1531  
deposit of, a national bank of the United States, a commonwealth 1532  
bank of Puerto Rico, a chartered bank of Canada, or a state 1533  
bank, provided such bank is either a member of the federal 1534  
deposit insurance corporation created pursuant to the "Banking 1535  
Act of 1933," as amended, or the Canada deposit insurance 1536  
corporation created pursuant to the act of parliament known as 1537  
the "Canada Deposit Insurance Corporation Act," as amended. 1538

(2) Certificates of deposit, savings share accounts, 1539  
investment share accounts, stock deposits, stock certificates, 1540  
or other evidences of indebtedness of a savings and loan 1541  
association, provided all such evidences of indebtedness are 1542  
insured pursuant to the "Financial Institutions Reform, 1543  
Recovery, and Enforcement Act of 1989," 103 Stat. 183, 12 1544  
U.S.C.A. 1811, as amended; 1545

(3) Bankers' acceptances and bills of exchange of the 1546  
kinds and maturities made eligible by law for rediscount with 1547  
the federal reserve banks, provided that the same are accepted 1548  
by a bank or trust company incorporated under the laws of the 1549  
United States or of this state or any other bank or trust 1550

company which is a member of the federal reserve system. 1551

(G) Any securities issued as a result of any 1552  
reorganization, or capital or debt adjustment, in whole or in 1553  
part, in exchange for securities acquired by it prior to such 1554  
reorganization, or capital or debt adjustment; 1555

(H) (1) In bonds, notes, debentures, or other evidences of 1556  
indebtedness issued, assumed, or guaranteed by a solvent 1557  
corporation, trust, or partnership formed or existing under the 1558  
laws of a foreign jurisdiction, provided each such foreign 1559  
investment is of the same kind and quality as United States 1560  
investments authorized under this section; or in common or 1561  
preferred stock, shares, membership interests, or partnership 1562  
interests of any solvent business entity formed or existing 1563  
under the laws of a foreign jurisdiction, provided each such 1564  
foreign investment is of the same kind and quality as United 1565  
States investments authorized under this section; or in bonds or 1566  
other evidences of indebtedness issued, assumed, or guaranteed 1567  
by a foreign jurisdiction. 1568

An insurer shall not invest in foreign investments under 1569  
division (H) of this section, including investments denominated 1570  
in foreign currency, a sum exceeding in the aggregate ~~fifteen-~~ 1571  
twenty per cent of its admitted assets as of the preceding 1572  
thirty-first day of December. The aggregate amount of 1573  
investments held by an insurer in a single foreign jurisdiction 1574  
shall not exceed ~~three-~~seven per cent of its admitted assets as 1575  
of the preceding thirty-first day of December. 1576

As used in division (H) (1) of this section, "foreign 1577  
jurisdiction" means a jurisdiction outside the United States, 1578  
Puerto Rico, or Canada whose bonds are ~~rated-~~designated 1 or 2 1579  
by the securities valuation office of the national association 1580

of insurance commissioners. 1581

(2) An insurer may acquire investments denominated in 1582  
foreign currency whether or not they are foreign investments. 1583

An insurer shall not invest in investments denominated in 1584  
foreign currency a sum exceeding in the aggregate ~~fifteen~~twenty 1585  
per cent of its admitted assets as of the preceding thirty-first 1586  
day of December provided the foreign currency is appropriately 1587  
hedged. Such foreign currency is limited to ten per cent of its 1588  
admitted assets as of the preceding thirty-first day of December 1589  
if not hedged. The aggregate amount of investments denominated 1590  
in a single foreign currency held by an insurer shall not exceed 1591  
~~three~~seven per cent of an insurer's admitted assets as of the 1592  
preceding thirty-first day of December provided the foreign 1593  
currency is appropriately hedged. Such single foreign currency 1594  
is limited to three per cent of its admitted assets as of the 1595  
preceding thirty-first day of December if not hedged. 1596

(3) As used in division (H) of this section, "foreign 1597  
currency" means a currency other than that of the United States. 1598

(I) (1) Any securities or other property not permitted 1599  
under section 3925.05, 3925.06, 3925.08, or 3925.20 of the 1600  
Revised Code to an extent not exceeding in the aggregate ~~six~~ten 1601  
per cent of the total admitted assets of such company on the 1602  
preceding thirty-first day of December, within the limitations 1603  
prescribed in division (J) of this section. Any such company may 1604  
also invest up to an additional five per cent of the total 1605  
admitted assets of such company on the preceding thirty-first 1606  
day of December, within the limitations prescribed in division 1607  
(J) of this section, in loans or investments in small businesses 1608  
having more than half of their assets or employees in this state 1609  
and in venture capital firms having an office within this state, 1610

provided that, as a condition of a company making an investment 1611  
in a venture capital firm, the firm must agree to use its best 1612  
efforts to make investments, in an aggregate amount at least 1613  
equal to the investment to be made by the company in that 1614  
venture capital firm, in small businesses having their principal 1615  
offices within this state and having either more than one-half 1616  
of their assets within this state or more than one-half of their 1617  
employees employed within this state. 1618

As used in division (I) of this section: 1619

(a) "Small businesses" means any corporation, partnership, 1620  
proprietorship, or other entity that either does not have more 1621  
than four hundred employees, or would qualify as a small 1622  
business for the purpose of receiving financial assistance from 1623  
small business investment companies licensed under the "Small 1624  
Business Investment Act of 1958," 72 Stat. 689, 15 U.S.C.A. 661, 1625  
as amended, and rules of the small business administration. 1626

(b) "Venture capital firms" means any corporation, 1627  
partnership, proprietorship, or other entity, the principal 1628  
business of which is or will be the making of investments in 1629  
small businesses. 1630

(c) "Investments" means any equity investment, including 1631  
limited partnership interests and other equity interests in 1632  
which liability is limited to the amount of the investment, but 1633  
does not include general partnership interests or other 1634  
interests involving general liability. 1635

(2) In the event that, subsequent to being made under this 1636  
division, a loan or investment is determined to have become 1637  
qualified as a loan or investment under any of the divisions (A) 1638  
to (F) of this section or under section 3925.05, 3925.06, or 1639

3925.20 of the Revised Code, the company may consider such loan 1640  
or investment as held under such other statutory provision and 1641  
such loan or investment shall no longer be considered as having 1642  
been made under this division. 1643

(J) No domestic insurance company shall at any time have 1644  
invested a sum exceeding five per cent of its admitted assets as 1645  
of the preceding thirty-first day of December in the bonds, 1646  
notes, debentures, other evidences of indebtedness, and stocks 1647  
of a particular corporation, trust, partnership, or similar 1648  
business entity, except for investments authorized under 1649  
divisions (A) and (D)(2) of this section, and no domestic 1650  
insurance company together with its subsidiary, if any, shall at 1651  
any time own directly or indirectly more than twenty-five per 1652  
cent of the outstanding bonds, notes, debentures, other 1653  
evidences of indebtedness, and stocks of any corporation, except 1654  
for investments authorized under divisions (A) and (D)(2) of 1655  
this section. 1656

This section does not affect the propriety or legality of 1657  
an investment made by such domestic insurance company which was 1658  
in accordance with the laws in force at the time of the making 1659  
of the investment. 1660

A business entity organized for the purpose provided in 1661  
section 3925.01 of the Revised Code may seek permission from the 1662  
superintendent of insurance to invest funds under Chapter 3906. 1663  
of the Revised Code and may invest funds under that chapter if 1664  
such permission is granted. 1665

(K) As used in divisions (K) and (L) of this section: 1666

(1) "Covered" means that an insurer owns, or can 1667  
immediately acquire through the exercise of options, warrants, 1668

or conversion rights already owned, the underlying interest in 1669  
order to fulfill or secure its obligation under the option, cap, 1670  
or floor it has written. 1671

(2) (a) "Derivative instrument" means an agreement, option, 1672  
instrument, or a series or combination thereof of either of the 1673  
following types: 1674

(i) To make or take delivery of, or assume or relinquish, 1675  
a specified amount of one or more underlying interest, or to 1676  
make a cash settlement in lieu thereof; 1677

(ii) That has a price, performance, value, or cash flow 1678  
based primarily upon the actual or expected price, level, 1679  
performance, value, or cash flow of one or more underlying 1680  
interests. 1681

(b) Derivative instruments include options, warrants, 1682  
caps, floors, collars, swaps, forwards, futures, and any other 1683  
agreements, options, or instruments substantially similar 1684  
thereto or any series or combination thereof. 1685

(3) "Derivative transaction" means a transaction involving 1686  
the use of one or more derivative instruments. 1687

(4) "Hedging transaction" means a derivative transaction 1688  
that is entered into and maintained to reduce either of the 1689  
following: 1690

(a) The risk of economic loss due to a change in the 1691  
value, yield, price, cash flow, or quantity of assets or 1692  
liabilities that the insurer has acquired or incurred or 1693  
anticipates acquiring or incurring; 1694

(b) The currency exchange rate risk or the degree of 1695  
exposure as to assets or liabilities that an insurer has 1696

acquired or incurred or anticipates acquiring or incurring. 1697

(5) "Income generation" means a derivative transaction 1698  
involving the writing of covered options, caps, or floors that 1699  
is intended to generate income or enhance return. 1700

(6) "Replication transaction" means a derivative 1701  
transaction that is intended to replicate the performance of one 1702  
or more assets that an insurer is authorized to acquire under 1703  
this chapter. "Replication transaction" does not include a 1704  
derivative transaction that is entered into as a hedging 1705  
transaction. 1706

(L) (1) Prior to an insurer entering into derivative 1707  
transactions, the board of directors of the insurer shall 1708  
approve a derivative use plan. 1709

(2) An insurer shall notify the superintendent of 1710  
insurance in writing within three days after identifying either 1711  
of the following: 1712

(a) Any event or occurrence related to an insurer's 1713  
derivatives use that may lead to a material change to the 1714  
insurer's policyholder surplus; 1715

(b) Any event or occurrence related to an insurer's 1716  
derivatives use that, with the passage of time, may lead to a 1717  
material change to the insurer's policyholder surplus. 1718

(3) Prior to entering into derivative transactions, an 1719  
insurer shall file with the superintendent a copy of its 1720  
derivative use plan and internal controls, for informational 1721  
purposes. The insurer shall keep current the copy of its 1722  
derivative use plan and internal controls filed with the 1723  
superintendent. The insurer shall not enter into derivative 1724  
transactions until thirty calendar days after the date on which 1725

the derivative use plan and internal controls is filed with the 1726  
superintendent. This thirty-calendar-day period is to begin on 1727  
the date that the superintendent receives the derivative use 1728  
plan and internal controls. 1729

(4) The superintendent may adopt rules prescribing the 1730  
form and content of derivative use plans, as well as any 1731  
internal controls the superintendent considers necessary. 1732

(5) An insurer that engages in hedging transactions or 1733  
replication transactions shall do both of the following: 1734

(a) Maintain its position in any outstanding derivative 1735  
instrument used as part of a hedging transaction or replication 1736  
transaction for as long as the hedging transaction or 1737  
replication transaction continues to be effective; 1738

(b) Demonstrate to the superintendent, upon request, that 1739  
any derivative transaction entered into and involving hedging 1740  
transaction or replication transaction is an effective hedging 1741  
transaction or replication transaction. The insurer must be able 1742  
to demonstrate this at the time the derivative transaction is 1743  
entered into, and for as long as the transaction continues to be 1744  
in place. 1745

(6) An insurer may not invest in, or use, a derivative 1746  
instrument for any purpose other than a hedging transaction, 1747  
income generation, or replication. 1748

(7) An insurer shall not invest in, or use a derivative 1749  
instrument for purposes of income generation a sum exceeding in 1750  
the aggregate five per cent of its admitted assets, as of the 1751  
preceding thirty-first day of December. 1752

(8) All documents provided to the superintendent under 1753  
division (L) of this section shall be deemed trade secrets and 1754

shall be provided with trade secret protection. Such documents 1755  
shall also be considered work papers of the superintendent that 1756  
are subject to section 3901.48 of the Revised Code and are 1757  
confidential and privileged and shall not be considered a public 1758  
record, as defined in section 149.43 of the Revised Code. The 1759  
original documents and any copies of them shall not be subject 1760  
to subpoena and shall not be made public by the superintendent 1761  
or any other person, except as otherwise provided in section 1762  
3901.48 of the Revised Code. 1763

**Sec. 3964.03.** (A) A captive insurance company shall be 1764  
organized under Chapter 1701., 1702., 1705., or 1706. of the 1765  
Revised Code. 1766

(B) A captive insurance company shall not operate in this 1767  
state unless all of the following are met: 1768

(1) The captive insurance company obtains from the 1769  
superintendent a license to do the business of captive insurance 1770  
in this state. 1771

(2) The captive insurance company's board of directors 1772  
holds at least one meeting each year in this state. 1773

(3) The captive insurance company maintains its principal 1774  
place of business in this state. 1775

(4) The person managing the captive insurance company is a 1776  
resident of this state. 1777

(5) The captive insurance company appoints a registered 1778  
agent to accept service of process and act on its behalf in this 1779  
state. 1780

(C) Whenever an agent required under division (B) (5) of 1781  
this section cannot, with reasonable diligence, be found at the 1782

registered office of the captive insurance company, the 1783  
superintendent shall be an agent of such a captive insurance 1784  
company upon whom any process, notice, or demand may be served. 1785

(D) A captive insurance company seeking a license to be a 1786  
captive insurance company in this state shall file an 1787  
application with the superintendent and shall submit all of the 1788  
following along with the application: 1789

(1) A certified copy of its articles of incorporation, 1790  
bylaws, or other organizational document and code of 1791  
regulations; 1792

(2) A statement, made under oath by the president and 1793  
secretary, in a form prescribed by the superintendent, showing 1794  
the captive insurance company's financial condition; 1795

(3) A statement of the captive insurance company's assets 1796  
relative to its risks, detailing the amount of assets and their 1797  
liquidity; 1798

(4) An account of the adequacy of the expertise, 1799  
experience, and character of the person or persons who will 1800  
manage the captive insurance company; 1801

(5) An account of the loss prevention programs of the 1802  
persons that the captive insurance company insures; 1803

(6) Actuarial assumptions and methodologies that will be 1804  
utilized in calculating reserves; 1805

(7) Any other information considered necessary by the 1806  
superintendent to determine whether the proposed captive 1807  
insurance company will be able to meet its obligations. 1808

(E) (1) A special purpose financial captive insurance 1809  
company shall follow the national association of insurance 1810

commissioner's accounting practices and procedures manual. 1811

(2) (a) Upon request, the superintendent may allow a 1812  
special purpose financial captive insurance company to ~~use~~do 1813  
either of the following: 1814

(i) Use a reserve basis other than that found in the 1815  
national association of insurance commissioner's accounting 1816  
practices and procedures manual; 1817

(ii) Admit an unimpaired asset held by the special purpose 1818  
financial captive insurance company or any affiliate entity, 1819  
which is intended to secure the reinsurance obligations of such 1820  
parties, or which is not recognized as such in the national 1821  
association of insurance commissioner's accounting practices and 1822  
procedures manual. 1823

(b) The superintendent, in accordance with Chapter 119. of 1824  
the Revised Code, shall adopt rules that define acceptable 1825  
alternative reserve bases. 1826

(c) Such rules shall be adopted prior to availability for 1827  
use of any such alternative reserve basis and shall ensure that 1828  
the resulting reserves meet all of the following conditions: 1829

(i) Quantify the benefits and guarantees, and the funding, 1830  
associated with the contracts and their risks at a level of 1831  
conservatism that reflects conditions that include unfavorable 1832  
events that have a reasonable probability of occurring during 1833  
the lifetime of the contracts. For policies or contracts with 1834  
significant tail risk, reflects conditions appropriately adverse 1835  
to quantify the tail risk. 1836

(ii) Incorporate assumptions, risk analysis methods, and 1837  
financial models and management techniques that are consistent 1838  
with, but not necessarily identical to, those utilized within 1839

the company's overall risk assessment process, while recognizing 1840  
potential differences in financial reporting structures and any 1841  
prescribed assumptions or methods; 1842

(iii) Provide margins for uncertainty including adverse 1843  
deviation and estimation error, such that the greater the 1844  
uncertainty the larger the margin and resulting reserve. 1845

(d) An alternative basis for calculating a reserve or an 1846  
admitted asset approved by the superintendent shall be treated 1847  
as a public document after the date the alternative basis for 1848  
calculating the reserve or admitted asset has been approved, 1849  
regardless of the application of the uniform trade secrets act 1850  
set forth in sections 1333.61 to 1333.69 of the Revised Code. 1851

(3) The special purpose financial captive insurance 1852  
company shall submit a request for an alternative reserve basis 1853  
in writing, and affirmed by the company's appointed actuary, 1854  
that includes, at a minimum, the following information for the 1855  
superintendent to consider in evaluating the request: 1856

(a) The reserves based on the national association of 1857  
insurance commissioner's accounting practices and procedures 1858  
manual and the reserves based on the proposed alternative method 1859  
for calculation and the difference between these two 1860  
calculations; 1861

(b) A detailed analysis of the proposed alternative method 1862  
explaining why the use of an alternative basis for calculating 1863  
the reserve is appropriate; 1864

(c) All assumptions utilized within the proposed 1865  
alternative method, together with the source of the assumptions, 1866  
as well as information, satisfactory to the superintendent, 1867  
supporting the appropriateness of the assumptions and analysis 1868

and identifying the assumptions that result in the greatest 1869  
variability in the reserve and how that analysis was used in 1870  
setting those assumptions; 1871

(d) A detailed overview of the corporate governance and 1872  
oversight of the actuarial valuation function; 1873

(e) Any other information the superintendent may require 1874  
to assess the proposed alternative method for approval or 1875  
disapproval. 1876

(4) At the expense of the special purpose financial 1877  
captive insurance company, the superintendent may require the 1878  
company to secure the affirmation of an independent qualified 1879  
actuary in support of any alternative basis for calculating the 1880  
reserve that is requested pursuant to this section or to assist 1881  
the superintendent in the review of said request. 1882

(5) If the superintendent approves the use of an 1883  
alternative basis for calculating a reserve, the special purpose 1884  
financial captive insurance company, and the ceding insurer 1885  
shall each include a note in its financial statements disclosing 1886  
the use of a basis other than the national association of 1887  
insurance commissioner's accounting practices and procedures 1888  
manual and the difference between the reserve amount determined 1889  
under the alternative basis and the reserve amount that would 1890  
have been determined had the company utilized the national 1891  
association of insurance commissioner's accounting practices and 1892  
procedures manual. 1893

(6) (a) The superintendent shall establish an acceptable 1894  
total capital and surplus requirement for each insurance company 1895  
that will cede risks and obligations to a special purpose 1896  
financial captive insurance company. The total capital and 1897

surplus requirement must be met at the time the special purpose  
financial captive insurance company applies for a license to do  
the business of captive insurance. The total capital and surplus  
requirement shall be determined in accordance with a minimum  
required total capital and surplus methodology that meets both  
of the following requirements:

(i) Is consistent with current risk-based capital  
principles;

(ii) Takes into account all material risks and  
obligations, as well as the assets, of the insurance company.

(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.

(F) In determining whether to approve an application for a  
license, the superintendent shall consider all of the following:

(1) The character, reputation, financial standing, and  
purposes of the incorporators, or other founders, of the captive  
insurance company;

(2) The character, reputation, financial responsibility,  
experience relating to insurance, and business qualifications of  
the officers and directors of the captive insurance company;

(3) The amount of liquidity and assets of the captive  
insurance company relative to the risks to be assumed;

(4) The adequacy of the expertise, experience, and

character of the person or persons who will manage the captive insurance company; 1926  
1927

(5) The overall soundness of the plan of operation; 1928

(6) The adequacy of the loss prevention programs of the persons that the captive insurance company insures. 1929  
1930

(G) (1) Each captive insurance company that offers direct insurance to its parent shall submit to the superintendent for approval a detailed description of the coverages, deductibles, coverage limits, proposed rates or rating plans, documentation from a qualified actuary that demonstrates the actuarial soundness of the proposed rates or rating plans, and other such additional information as the superintendent may require. 1931  
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(2) (a) Any captive insurance company licensed under the provisions of this chapter that seeks to make any material change to any item described in division (G) (1) of this section shall submit to the superintendent for approval a detailed description of the revision, documentation from a qualified actuary that demonstrates the actuarial soundness of the revised rates or rating plans, and other such additional information as the superintendent may require. 1938  
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(b) Each filing under division (G) (2) (a) of this section is deemed approved thirty days after the filing is received by the superintendent of insurance, unless the filing is disapproved by the superintendent during that thirty-day period. 1946  
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(c) If at any time subsequent to the thirty-day review period the superintendent finds that a filing does not demonstrate actuarial soundness, the superintendent shall hold a hearing requiring the captive insurance company to show cause why an order should not be made by the superintendent to 1950  
1951  
1952  
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disapprove the revised rates or rating plans. 1955

(d) If, upon such a hearing, the superintendent finds that 1956  
the captive insurance company failed to demonstrate the 1957  
actuarial soundness of the rates or rating plans, the 1958  
superintendent shall issue an order directing the captive 1959  
insurance company to cease and desist from using the revised 1960  
rates or rating plans and to use rates or rating plans as 1961  
determined appropriate by the superintendent. 1962

(H) Except as otherwise provided in this division, 1963  
documents and information submitted by a captive insurance 1964  
company pursuant to this section are not subject to section 1965  
149.43 of the Revised Code, and are confidential, and may not be 1966  
disclosed by the superintendent or any employee of the 1967  
department of insurance without the written consent of the 1968  
company. 1969

(1) Such documents and information may be discoverable in 1970  
a civil action in which the captive insurance company filing the 1971  
material is a party upon a finding by a court of competent 1972  
jurisdiction that the information sought is relevant and 1973  
necessary to the case and the information sought is unavailable 1974  
from other, nonconfidential sources. 1975

(2) The superintendent may, at the superintendent's sole 1976  
discretion, share documents required under this section with the 1977  
chief deputy rehabilitator, the chief deputy liquidator, other 1978  
deputy rehabilitators and liquidators, and any other person 1979  
employed by, or acting on behalf of the superintendent pursuant 1980  
to Chapter 3901. or 3903. of the Revised Code, with other local, 1981  
state, federal, and international regulatory and law enforcement 1982  
agencies, with local, state, and federal prosecutors, and with 1983  
the national association of insurance commissioners and its 1984

affiliates and subsidiaries provided that the recipient agrees 1985  
to maintain the confidential or privileged status of the 1986  
documents and has authority to do so. 1987

(I) (1) Each applicant for a license to do the business of 1988  
a captive insurance company in this state shall pay to the 1989  
superintendent a nonrefundable fee of five hundred dollars for 1990  
processing its application for a license. The superintendent is 1991  
authorized to retain legal, financial, and examination services 1992  
from outside the department, at the expense of the applicant. 1993  
Each captive insurance company shall annually pay a license 1994  
renewal fee of five hundred dollars. 1995

(2) The fees collected pursuant to division (I) (1) of this 1996  
section shall be deposited into the state treasury to the credit 1997  
of the department of insurance operating fund. 1998

**Sec. 3964.194.** (A) Notwithstanding any other section of 1999  
the Revised Code, a counterparty may take credit for reinsurance 2000  
ceded to a special purpose financial captive insurance company 2001  
that is a subsidiary or affiliate of the counterparty, if assets 2002  
valued using the basis of accounting applicable to the special 2003  
purpose financial captive insurance company under division (E) 2004  
of section 3964.03 of the Revised Code at least equal to the 2005  
reserves as determined under the basis elected under division 2006  
(E) of section 3964.03 of the Revised Code for the reinsurance 2007  
are, notwithstanding section 3901.63 of the Revised Code, held 2008  
directly by the ceding counterparty or in trust on behalf of the 2009  
ceding counterparty, as security for payment of the special 2010  
purpose financial captive insurance company for the purpose of 2011  
supporting the obligations under the reinsurance contract with 2012  
the reinsuring special purpose financial captive insurance 2013  
company. 2014

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

(C) An Ohio domiciled counterparty in recording its investment in a special purpose financial captive insurance company domiciled in this state, shall value the investment using the special purpose financial captive insurance company's underlying audited statutory equity reflecting the reserves established pursuant to division (E) of section 3964.03 of the Revised Code.

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

**Sec. 4509.70.** (A) After consultation with the insurance companies authorized to issue automobile liability or physical damage policies, or both, in this state, the superintendent of insurance shall approve a reasonable plan, fair and equitable to the insurers and to their policyholders, for the apportionment among such companies of applicants for such policies and for motor-vehicle liability policies who are in good faith entitled to but are unable to procure such policies through ordinary methods. When any such plan has been approved by the superintendent, all such insurance companies shall subscribe and participate. Any applicant for such policy, any person insured under such plan of operation, and any insurance company

affected, may appeal to the superintendent of insurance from any 2045  
ruling or decision of the manager or committee designated in the 2046  
plan to operate the assigned risk insurance plan. Any order or 2047  
act of the superintendent under this section is subject to 2048  
review as provided in sections 119.01 to 119.13 of the Revised 2049  
Code, at the instance of any party in interest. 2050

(B) The plan described in division (A) of this section may 2051  
permit the assigned risk insurance plan to directly issue and 2052  
process claims arising from such policies described in division 2053  
(A) of this section to applicants of automobile insurance 2054  
policies who are in good faith entitled to but are unable to 2055  
procure such policies through ordinary methods. 2056

(C) Every form of a policy, endorsement, rider, manual of 2057  
classifications, rules, and rates, every rating plan, and every 2058  
modification of any of them proposed to be used by the assigned 2059  
risk insurance plan shall be filed, or the plan may satisfy its 2060  
obligation to make such filings, as described in section 3937.03 2061  
of the Revised Code. 2062

(D) Any automobile insurance policy issued by the assigned 2063  
risk insurance plan under division (B) of this section: 2064

(1) Shall be recognized as if issued by an insurance 2065  
company authorized to do business in this state; 2066

(2) Shall meet all requirements of proof of financial 2067  
responsibility as described in division (K) of section 4509.01 2068  
of the Revised Code. 2069

(E) Proof of financial responsibility provided by the 2070  
assigned risk insurance plan to an automobile insurance 2071  
policyholder that meets the requirements described in division 2072  
(G) (1) (a) or (b) of section 4509.101 of the Revised Code shall 2073

be recognized as if issued by an insurance company authorized to 2074  
do business in this state to demonstrate proof of financial 2075  
responsibility under section 4509.101 of the Revised Code. 2076

(F) The assigned risk insurance plan designated in 2077  
division (A) of this section shall do both of the following: 2078

(1) Make annual audited financial reports available to the 2079  
superintendent of insurance promptly upon the completion of such 2080  
audit; 2081

(2) Upon reasonable notice, make available to the 2082  
superintendent of insurance all books and records relating to 2083  
the insurance transactions of the assigned risk insurance plan. 2084

(G) (1) Except as provided in division (G) (2) of this 2085  
section, records created, held by, or pertaining to the assigned 2086  
risk insurance plan are not public records under section 149.43 2087  
of the Revised Code, are confidential, and are not subject to 2088  
inspection or disclosure. 2089

(2) Division (G) (1) of this section does not apply to the 2090  
plan of operation and other information required to be filed 2091  
under this section with the superintendent unless otherwise 2092  
prohibited from release by law. 2093

(H) (1) For the purposes of division (H) of this section, 2094  
"insurance agent" has the same meaning as in section 3905.01 of 2095  
the Revised Code. 2096

(2) Provided that the assigned risk insurance plan 2097  
establishes registration procedures for insurance agents under 2098  
division (H) (3) of this section, the plan shall not accept an 2099  
application for an automobile insurance policy issued under 2100  
division (B) of this section unless that application is 2101  
submitted through an insurance agent registered in accordance 2102

with those procedures. 2103

(3) The plan may do all of the following: 2104

(a) Establish procedures to register insurance agents; 2105

(b) Establish separate registrations for commercial and 2106  
personal insurance agents, or one registration for both; 2107

(c) Empower the manager of the plan to make determinations 2108  
on registration status, including by revoking an insurance 2109  
agent's registration. 2110

(4) If an insurance agent is denied registration with the 2111  
plan, or the insurance agent's registration is revoked, the plan 2112  
may notify the superintendent of the plan's decision. The plan 2113  
and manager are immune from civil liability for any decision to 2114  
deny or revoke registration and from any decision to report 2115  
denials or revocations to the superintendent. 2116

(5) All insurance agents submitting applications to the 2117  
plan for automobile insurance coverage have an affirmative duty 2118  
to ensure that all information included in the application and 2119  
any supporting materials is true and accurate. 2120

(6) (a) An insurance agent shall not submit an application 2121  
to the plan for automobile insurance coverage unless the agent 2122  
exercises due diligence in confirming that the person seeking 2123  
insurance is unable to obtain coverage through an insurer 2124  
authorized to do business in this state. 2125

(b) For the purposes of this section, due diligence 2126  
requires an insurance agent to contact at least five of the 2127  
authorized insurers the agent represents or, if the agent does 2128  
not represent five authorized insurers that customarily write 2129  
automobile insurance coverage, as many of such insurers as the 2130

agent represents. 2131

(c) An insurance agent may assume that insurance coverage 2132  
cannot be procured for the applicant through ordinary methods 2133  
after each insurer contacted under division (H) (6) (b) of this 2134  
section declines to provide coverage. 2135

(d) An insurance agent may assume that an authorized 2136  
insurer declines to provide coverage to the applicant seeking 2137  
insurance upon either of the following: 2138

(i) Receiving notice from the insurer declining coverage; 2139

(ii) Receiving no response from the insurer within ten 2140  
days after the date the insurance agent initially makes contact 2141  
with the insurer. 2142

(e) The determination of whether an insurance agent has 2143  
adequately complied with the due diligence requirements is at 2144  
the discretion of the manager of the plan. 2145

(f) An agent shall not submit an application on behalf of 2146  
an applicant to the plan for any automobile insurance policy if 2147  
any insurer admitted, authorized, or otherwise eligible to do 2148  
business in this state has in any way communicated a willingness 2149  
to insure the applicant, even if coverage provided by the plan 2150  
costs less than other insurers. 2151

~~(g)~~ (7) The manager of the plan may revoke the registration 2152  
of an insurance agent who fails to comply with either division 2153  
~~(H) (6)~~ (H) (5) or (6) of this section. 2154

(I) (1) The manager of the plan may, as a condition of 2155  
granting insurance under this section, require an applicant to 2156  
take any action necessary to accomplish any of following: 2157

(a) The promotion of vehicle safety, public safety, or 2158

<u>increased ability of the plan to underwrite applicant risk;</u>	2159
<u>(b) The prevention of fraud against the plan;</u>	2160
<u>(c) The acquisition of any information the manager of the</u> <u>plan deems necessary to determine an applicant's current and</u> <u>continued eligibility for the plan.</u>	2161 2162 2163
<u>(2) (a) The manager of the plan may request any information</u> <u>necessary to determine an applicant's eligibility for the plan.</u>	2164 2165
<u>(b) An applicant has the burden of proof to establish that</u> <u>the applicant is eligible for insurance under the plan.</u>	2166 2167
<u>(c) The determination of whether an applicant has</u> <u>adequately demonstrated eligibility for the plan is at the</u> <u>discretion of the manager of the plan.</u>	2168 2169 2170
<u>(3) The plan may employ any form of technology necessary</u> <u>to review applications for eligibility, determine any conditions</u> <u>required for the issuance of coverage under this section, or to</u> <u>find and prevent fraudulent activities.</u>	2171 2172 2173 2174
<u>(4) (a) Consistent with the principle of the plan being a</u> <u>market of last resort, the plan may seek to place an applicant</u> <u>with any insurer admitted or authorized in this state,</u> <u>regardless of whether the agent submitting the application is</u> <u>appointed with the insurer.</u>	2175 2176 2177 2178 2179
<u>(b) An agent whose applicant is placed with such an</u> <u>insurer is not eligible for compensation from that insurer</u> <u>unless the agent is appointed by the receiving insurer under</u> <u>Ohio law.</u>	2180 2181 2182 2183
<u>(5) (a) The manager of the plan may refuse to accept</u> <u>applications from any agent that the manager of the plan</u> <u>suspects has submitted applications that contain, or that are</u>	2184 2185 2186

supported by, inaccurate or fraudulent information. 2187

(b) The manager of the plan shall communicate any 2188  
suspicion of fraudulent activity to the superintendent of 2189  
insurance. 2190

(c) The manager of the plan may resume accepting 2191  
applications from an agent once the manager has determined that 2192  
the fraudulent activity did not occur or has ceased. 2193

(6) Knowingly submitting, or submitting with the purpose 2194  
to defraud, false, manufactured, manipulated, or inaccurate 2195  
information to the plan is insurance fraud and a violation of 2196  
section 2913.47 of the Revised Code. 2197

**Sec. 4513.70.** (A) (1) An insurance company may commence a 2198  
civil action against a towing service or storage facility on its 2199  
own behalf, on behalf of the holder of a policy of automobile 2200  
insurance, or on behalf of a motor vehicle owner for either or 2201  
both of the following reasons: 2202

(a) The recovery of a motor vehicle that has been towed or 2203  
stored and for which a claim has been filed with the insurance 2204  
company; 2205

(b) Objecting to the amount billed by the towing service 2206  
or storage facility. 2207

(2) The insurance company shall file the action in the 2208  
municipal or county court with territorial jurisdiction over the 2209  
location from which the vehicle was towed or stored within 2210  
~~thirty~~ forty-five days of receipt of the bill for services from 2211  
the towing service or storage facility. If the insurance company 2212  
objects to the amount billed by the towing service or storage 2213  
facility, the complaint shall include the amount of the bill 2214  
that is undisputed and the reasons the insurance company objects 2215

to the remainder of the bill. The insurance company shall file, 2216  
along with the complaint, a copy of the bill and any evidence 2217  
supporting the assertion that the billed amount is unreasonable. 2218  
If the insurance company seeks the recovery of the vehicle, the 2219  
insurance company shall pay to the towing service or storage 2220  
facility the undisputed amount of the bill. 2221

(3) A towing service or storage facility shall not add any 2222  
additional storage fees or similar fees related to the towing 2223  
and storage of the vehicle to the disputed bill after an 2224  
insurance company retrieves the vehicle in accordance with this 2225  
section. 2226

(B) Upon receipt of payment of the undisputed amount of 2227  
the bill and not later than two business days after receiving 2228  
service of a complaint filed under division (A) of this section\_ 2229  
or a written notice from the insurance company that includes a 2230  
copy of the filed complaint, the towing service or storage 2231  
facility shall release the vehicle that is the subject of the 2232  
complaint to the owner of the vehicle or to a representative of 2233  
the insurance company that filed the complaint. If For purposes 2234  
of encouraging the quick return of a vehicle to its owner, if 2235  
the towing service or storage facility fails to release the 2236  
vehicle as required under this division, the court may issue an 2237  
order that imposes a penalty of up to one hundred dollars per 2238  
day against a towing service or storage facility for each day 2239  
the towing service or storage facility violates that division. 2240  
The towing service or storage facility shall pay any fines 2241  
assessed under this section to the clerk of courts. 2242

(C) The court shall make a determination as to whether the 2243  
amount charged by the towing service or storage facility is 2244  
unreasonable. If the court determines that the amount is 2245

reasonable, the court shall order the insurance company to pay 2246  
the amount billed minus the undisputed amount that the insurance 2247  
company paid to the towing service or storage facility under 2248  
division (B) of this section if a payment was made under that 2249  
division. If the court determines that the amount charged was 2250  
unreasonable, the court shall determine a reasonable amount and 2251  
order the insurance company to pay that amount minus the 2252  
undisputed amount that the insurance company paid to the towing 2253  
service or storage facility under division (B) of this section 2254  
if a payment was made under that division. The court also may 2255  
require either party to pay any additional amount and may impose 2256  
any monetary penalties the court determines to be appropriate. 2257

(D) As used in this section: 2258

(1) "Storage facility" means any place to which a for-hire 2259  
motor carrier delivers a towed motor vehicle for storage or any 2260  
place that charges fees for storing a motor vehicle regardless 2261  
of what person or entity towed or delivered the motor vehicle. 2262  
"Storage facility" does not include either of the following: 2263

(a) A place owned or operated by a motor vehicle dealer, 2264  
as defined in section 4517.01 of the Revised Code; 2265

(b) A salvage motor vehicle auction or a salvage motor 2266  
vehicle pool as defined in section 4738.01 of the Revised Code. 2267

(2) "Towing service" means any for-hire motor carrier that 2268  
tows motor vehicles. 2269

**Section 2.** That existing sections 1345.02, 3901.046, 2270  
3905.01, 3906.01, 3906.08, 3907.14, 3925.08, 3964.03, 3964.194, 2271  
4509.70, and 4513.70 of the Revised Code are hereby repealed. 2272