As Re-Referred by the House Rules and Reference Committee

136th General Assembly
Regular Session
2025-2026

Sub. S. B. No. 306

Senator Lang
Cosponsors: Senators Craig, DeMora, Hicks-Hudson, Johnson, Patton, Reineke
Representatives Lampton, Craig

To amend sections 1345.02, 3901.046, 3905.01, 3906.01, 3906.08, 3907.14, 3925.08, 3964.03, 3964.194, 4509.70, 4513.70, and 4513.71 and to enact sections 1345.82 and 3905.0612 of the Revised Code regarding changes to Ohio insurance laws and certain towed vehicles and repair shop activities.

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

Section 1. That sections 1345.02, 3901.046, 3905.01, 3906.01, 3906.08, 3907.14, 3925.08, 3964.03, 3964.194, 4509.70, 4513.70, and 4513.71 be amended and sections 1345.82 and 3905.0612 of the Revised Code be enacted to read as follows:

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

(B) Without limiting the scope of division (A) of this section, the act or practice of a supplier in representing any

of the following is deceptive:

(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 federal courts' interpretations of subsection 45 (a)(1) of the "Federal Trade Commission Act," 38 Stat. 717 (1914), 15 U.S.C.A. 41, as amended.

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

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

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

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

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

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

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

(G) Without limiting the scope of division (A) of this

section, the failure of a supplier to obtain or maintain any registration, license, bond, or insurance required by state law or local ordinance for the supplier to engage in the supplier's trade or profession is an unfair or deceptive act or practice.

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

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

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

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

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

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

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

(E) No repair facility, or third party acting on behalf of a repair facility, shall represent, negotiate, obtain, or attempt to obtain an assignment of claims, rights, benefits, power of attorney, or proceeds from a consumer.

(F)(1) A repair facility shall cease assessing or accruing any and all charges for any fee reasonably related to storage, regardless of how the fee is listed on a bill or list of charges, once either of the following is met:

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

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

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

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

(H) A violation of this section constitutes a deceptive act or practice in connection with a consumer transaction in

violation of section 1345.02 of the Revised Code and is subject to any applicable penalties prescribed under Chapter 1345. of the Revised Code.

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

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

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

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

Sec. 3905.01. As used in this chapter:

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

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

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

(D) "In-person assister" means any person, other than a navigator, who receives any funding from, or who is selected or designated by, an exchange, the state, or the federal government to perform any of the activities and duties identified in

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

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

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

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

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

(I) "Limited line credit insurance" means credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection insurance, or any other form of insurance offered in connection with an

extension of credit that is limited to partially or wholly extinguishing that credit obligation and that is designated by the superintendent as limited line credit insurance.

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

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

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

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

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

(O) "Negotiate" means to confer directly with, or offer advice directly to, a purchaser or prospective purchaser of a particular contract of insurance with respect to the substantive benefits, terms, or conditions of the contract, provided the

person that is conferring or offering advice either sells insurance or obtains insurance from insurers for purchasers.

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

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

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

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

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

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

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

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

(X) "Exchange" means a health benefit exchange established by the state government of Ohio or an exchange established by

the United States department of health and human services in accordance with the "Patient Protection and Affordable Care Act," 124 Stat. 119, 42 U.S.C. 18031 (2011).

(Y) "Investment adviser insurance agent" means a person licensed by the superintendent under section 3905.0612 of the Revised Code.

Sec. 3905.0612. (A)(1) The superintendent of insurance may adopt rules as necessary to provide for an investment adviser insurance agent license.

(2) If adopted, such rules may address all of the following:

(a) Examination of applicants administered by the department of insurance;

(b) Product training;

(c) Supervision by the insurer issuing the product;

(d) Any other topics deemed necessary by the superintendent.

(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:

(1) The applicant meets all requirements prescribed by the superintendent.

(2) The applicant seeks to provide advice for a fee

established in advance by written contract in the business of any of the following:

(a) Analyzing or abstracting insurance policies;

(b) Providing insurance advice or counseling;

(c) Making specific recommendations or comparisons of insurance products.

(3) The applicant is either of the following:

(a) An investment adviser, as defined in section 1707.01 of the Revised Code, registered and in good standing in this state or under the "Investment Advisers Act of 1940," 15 U.S.C. 80b-2, et seq.;

(b) An investment adviser representative, as defined in section 1707.01 of the Revised Code, licensed in this state or acting as a supervised person of an investment adviser registered under the "Investment Advisers Act of 1940," 15 U.S.C, 80b-1, et seq.

(4) The applicant meets all requirements prescribed by division (A)(1) of section 3905.06 of the Revised Code.

(C) Notwithstanding division (A)(1)(e) of section 3905.06 of the Revised Code or any other provision of the Revised Code to the contrary, an applicant applying for a variable life-variable annuity line of authority who otherwise meets all the requirements prescribed in this section is not required to be registered with the financial industry regulatory authority as a registered representative in order to obtain an investment adviser insurance agent license.

(D)(1) Before an investment adviser insurance agent may sell, solicit, or negotiate an insurance product or undertake

any of the advice activities described in division (B)(2) of this section, the investment adviser insurance agent and the insurer issuing such product shall enter into a written contract governing their relationship and their respective obligations with respect to all of the following:

(a) Supervision;

(b) Monitoring;

(c) Product-specific training;

(d) Review of recommendations;

(e) Responding to insurance examinations and investigations;

(f) Termination of the relationship;

(g) Compliance with all applicable laws and regulations.

(2) Notwithstanding division (D)(1) of this section, the superintendent of insurance may adopt rules prescribing additional requirements for such contracts, including requirements related to registration with and notification to the department of insurance.

(E) Notwithstanding any provision of the Revised Code to the contrary, an investment adviser insurance agent who meets all requirements of this section and any related rules, based solely on the sale, solicitation, or negotiation of any product of an insurer, the receipt of compensation from the insurer, or both, shall not be deemed as acting as an agent of such an insurer for purposes of division (A) of section 3905.20 of the Revised Code and is not required to be appointed by such insurer.

Sec. 3906.01. As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

(I) "Lower-grade investment" means a rated credit instrument or debt-like preferred stock ~~rated~~ designated 4, 5, or 6 by the securities valuation office.

(J) "Medium-grade investment" means a rated credit instrument or debt-like preferred stock ~~rated~~ designated 3 by the securities valuation office.

(K) "Minimum asset requirement" is the requirement that an insurer maintain assets in an amount equal to the sum of the insurer's liabilities and its minimum financial security

benchmark, as required by division (A) of section 3906.11 of the Revised Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Investments authorized by division (C) of section 3906.07 of the Revised Code shall be not more than forty-five

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.

(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.

(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.

(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.

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

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

(8) Investments authorized by division (J) of section 3906.07 of the Revised Code shall be not more than ten per cent of an insurer's admitted assets in the case of life insurers and not more than three per cent of an insurer's admitted assets in the case of insurers that are not life insurers. An insurer may exceed the limits described in division (A)(8) of this section with investments in a wholly owned domestic insurer, or in a

corporation, or similar business entity organized under the laws of the United States, any state thereof, or any other jurisdiction approved by the superintendent, that is formed and maintained to acquire or hold shares of an insurer, with the prior written consent of the superintendent.

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

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

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

procedures manual.

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

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

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

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

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

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

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

acquired in its operations;

(4) Which it has purchased at sales under mortgages and on any legal process in connection with its investments or under decrees obtained or made for such debts;

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

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

(B) A domestic company may acquire, hold, and convey tangible personal property or interests therein for the

production of income, provided no domestic company shall invest in excess of two per cent of its admitted assets as of the preceding thirty-first day of December under this division.

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

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

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

(F) In bonds issued by or for federal land banks and any debentures issued by or for federal intermediate credit banks

under the "Federal Farm Loan Act of 1916," 39 Stat. 360, 12 U.S.C.A. 641 as amended; any debentures issued by or for banks for cooperatives under the "Farm Credit Act of 1933," 48 Stat. 257, 12 U.S.C.A. 131 as amended;

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

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

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

(b) In bonds or other obligations issued by or for account of any such governmental unit having a population of five thousand or more by the latest official federal or state census, which are payable as to both principal and interest from revenues or earnings from the whole or any part of a publicly owned utility supplying water, gas, sewage disposal facility, or electricity, or any or all of them, provided that by statute or other applicable legal requirements, rates from the service or operation of such utility must be fixed, maintained, and

collected at all times so as to produce sufficient revenues or earnings to pay both principal and interest of such bonds or obligations as they become due;

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

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

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

unit.

(J)(1) In mortgage bonds which are the direct obligation of a railroad, and which are the first lien on a substantial portion of its property, situated wholly in the United States or partly in the United States and partly in Canada, the average net yearly earnings of which, after deducting proper charges for maintenance of way and equipment, for the five fiscal years preceding such investments, have been at least one and one-half times the average yearly interest for the same period on its mortgages, bonds, and funded debts, and in the junior mortgage bond issues of such railroad corporations of the same character and under the same conditions where the average net yearly earnings for the five fiscal years preceding such investment, after deducting proper charges for maintenance of way and equipment, have been at least three times the average yearly interest charges on such issues and all prior liens; or in the mortgage bonds of any incorporated railroad company which have been assumed or guaranteed, both as to principal and interest, by any incorporated railroad company whose bonds constitute a legal investment under division (J)(1) of this section. In applying the earnings test to any issuing, assuming, or guaranteeing company, whether or not in legal existence during the whole of such five years next preceding the date of investment by such insurer, which has at any time during such five-year period acquired the assets of any other company by purchase, merger, consolidation, or otherwise, substantially as an entirety, or has been reorganized pursuant to the bankruptcy law, the earnings of such other predecessor or constituent companies, or of the company so reorganized, available for interest for such portion of such period that has preceded such acquisition, or such reorganization, may be included in the

earnings of such issuing, assuming, or guaranteeing company for such portion of such period as is determined in accordance with adjusted or pro forma consolidated earnings statements covering such portion of such period. In such cases the requirements as to earnings shall be based upon the mortgages, bonds, and funded debts as they exist immediately after such acquisitions or such reorganizations.

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

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

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

mortgages, bonds, and funded debts;

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

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

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

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

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

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

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

land appraiser; if the amount loaned exceeds seventy-five per cent of the value of that portion of the leasehold estate represented by the value of the land, exclusive of improvements on the land, such improvements shall be insured against fire for the benefit of the mortgagee in an amount not less than the difference between seventy-five per cent of the value of such land, exclusive of buildings, and the amount loaned; the policies for such amount shall be payable to and held by the mortgagee or a trustee named in the lease who shall be required by the terms of said lease to use and apply the proceeds of such insurance for repairing, restoring, or rebuilding such buildings;

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

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

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

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

so leased shall be obtained as additional security for the indebtedness;

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

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

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

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

(N)(1) In certificates of deposit or other evidence of

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

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

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

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

seventy per cent of the total capitalization of such company, including mortgages, bonds, debentures, funded debts, and preferred and common stocks;

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

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

(4) In the bonds, notes, debentures, or other evidences of indebtedness of a solvent corporation, trust, partnership, or similar business entity existing under the laws of the United

States, of any state thereof, the Commonwealth of Puerto Rico, or Canada or any province of Canada, provided that ~~either~~any of the following apply:

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

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

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

(i) The aggregate of all such bonds, notes, debentures, or other evidences of indebtedness that are designated 3, 4, 5, and

6 does not exceed twenty per cent of the insurer's admitted assets;

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

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

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

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

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

(6) In the stocks, limited liability company membership interests, limited partnership interests, or limited liability partnership interests of insurance, financial, investment, and investment management companies, which investment management companies are registered with the securities and exchange commission under the "Investment Company Act of 1940," 54 Stat. 789, 15 80a-1, as amended, or the stocks, limited liability company membership interests, limited partnership interests, or limited liability partnership interests in an entity wholly owned by a domestic company or by a domestic company and its affiliates, that is formed and maintained to acquire or hold specific assets or liabilities for bankruptcy remoteness or limitation of liability purposes, except its own stock, but no domestic life insurance company shall invest in such stocks, limited liability company membership interests, or limited liability partnership interests under division (P)(6) of this section, exclusive of its investments in stocks or limited liability company membership interests of insurance company subsidiaries or subsidiaries engaged exclusively in the ownership of insurance company subsidiaries, a sum exceeding the lesser of fifty per cent of its policyholder surplus or ten per cent of its admitted assets as of the preceding thirty-first day of December unless the approval of the superintendent of insurance is first obtained. Whenever the superintendent has reason to believe that the retention, investment, or acquisition of the stock, limited liability company membership interest, limited partnership interest, or limited liability partnership interest of any such company substantially lessens competition generally in the business of insurance or creates a monopoly therein the superintendent shall proceed under section 3901.13 of the Revised Code to cause such domestic insurance company to divest itself of such stock, limited liability company

membership interest, limited partnership interest, or limited liability partnership interest.

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

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

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

(b) An insurer may acquire investments denominated in

foreign currency whether or not they are foreign investments.

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

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

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

(Q) In loans upon the pledge of any securities in which such companies are authorized by this section to invest, provided that any loan upon such a pledge shall not exceed eighty per cent of the cash market value of the collateral at

the time of the making of such loan and at the end of each twelve-month period thereafter, and such company, through the collateral pledged to it, shall not exceed the amounts which it may, under this section, invest in one corporation so that, in the stocks and securities which may be owned and those which are pledged to it, the limitations in this section might be indirectly evaded;

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

As used in division (R) of this section:

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

as amended, and rules of the small business administration.

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

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

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

(S)(1) No domestic life insurance company shall subscribe to or participate in any underwriting for the purchase or sale of securities or property, nor shall it enter into any such transaction for purchase or sale on account of said company jointly with any other person, nor shall any such company enter into any agreement to withhold from sale any of its property, but the disposition of its property shall be at all times within the control of its board of directors. Nothing contained in division (S)(1) of this section shall be construed to invalidate or prohibit an agreement by an insurance company for the purchase for its own account of an entire issue of the securities of a corporation or to invalidate or prohibit an

agreement by an insurance company and one or more other investors to join and share in the purchase of investments for their individual accounts and for bona fide investment purposes.

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

(3) As used in this section:

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

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

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

(4) Except as provided in a plan of mutualization adopted

pursuant to the provisions of sections 3913.01 to 3913.10 of the Revised Code, no domestic life insurance company may invest in or loan upon its own stock, either directly or indirectly.

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

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

(7) No domestic life insurance company shall at any time have invested in or loaned upon the security of the obligations, property, or securities of a particular corporation, trust, partnership, or similar business entity a sum exceeding the greater of two per cent of its admitted assets as of the preceding thirty-first day of December or twenty-five per cent of that portion of its capital and surplus, or its surplus in the case of a mutual company, that exceeds the minimum required capital and surplus under section 3907.05 of the Revised Code unless the approval of the superintendent of insurance is first obtained. The restrictions of division (S)(7) of this section do not apply to divisions (C), (F), (G), (H), (P)(6), and (R) of this section or to any valid obligation issued, assumed, or guaranteed by the United States, or any state thereof, the Commonwealth of Puerto Rico, the District of Columbia, or Canada

or any province of Canada. For purposes of division (S)(7) of this section, such company may, at its option, consider either the lessor or the lessee under division (L) of this section to be the person to whom any such investment or loan is made.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3925.06 of the Revised Code, or in the following:

(A)(1) Bonds and mortgages on unencumbered real estate within this or any other state worth twenty-five per cent more than the sum loaned thereon, exclusive of buildings, unless such buildings are insured in some company authorized to do business in this state, and the policy is transferred to the company making the investment; or, in lieu of transferring such policies, the mortgagee may purchase a policy or policies of mortgage protection insurance, payable to the mortgagee or a trustee in its behalf, insuring the mortgagee against loss resulting from the failure of the mortgagor to acquire and maintain, from such an authorized insurance company, insurance in the amount required by this section;

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

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

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

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

(C) Bonds or other evidences of indebtedness, not in default as to principal or interest, which are valid obligations issued, assumed, or guaranteed by the United States, by any state thereof, the Commonwealth of Puerto Rico, by any territory or insular possession of the United States, or by the District of Columbia, or which are valid obligations issued, assumed, or guaranteed by any county, municipal corporation, district, or political subdivision, or by any civil division or public instrumentality of such governmental units, if by statutory or other legal requirements such obligations are payable, as to both principal and interest, from taxes levied upon all taxable property within the jurisdiction of such governmental unit, or in bonds or other obligations issued by or for account of any such governmental unit having a population of five thousand or more by the latest official federal or state census, which are payable as to both principal and interest from revenues or earnings from the whole or any part of a publicly owned utility, provided that by statute or other applicable legal requirements, rates from the service or operation of such utility must be fixed, maintained, and collected at all times so as to produce sufficient revenues or earnings to pay both principal and interest of such bonds or obligations as they become due, and in any bonds or obligations issued or guaranteed by the United States, any state, the District of Columbia, the Commonwealth of

Puerto Rico, any county, municipal corporation, district, political subdivision, civil division, commission, board, authority, agency, or other instrumentality of one or more of them, provided there is a specific pledge of revenues, earnings, or other adequate security and provided that no prior or parity obligation of the same issuer, payable from revenues or earnings from the same source, has been in default as to principal or interest during the five years next preceding the date of such investment, but such issuer need not have been in existence for that period, and obligations acquired under this section may be newly issued, and further provided that there is adequate provision for payment of expenses of operation and maintenance and the principal and interest on all obligations when due;

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

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

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

(c) The bonds, notes, debentures, or other evidences of

indebtedness of such corporation, trust, partnership, or similar business entity are designated 3, 4, 5, or 6 by the securities valuation office of the national association of insurance commissioners, subject to the following limits:

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

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

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

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

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

(2) Stocks, limited liability company membership interests, limited partnership interests, or limited liability partnership interests of any insurance, financial, investment, or investment management companies, which investment management companies are registered with the securities and exchange commission under the "Investment Company Act of 1940," 54 Stat.

789, 15 U.S.C. 80a-1, as amended, or the stocks, limited liability company membership interests, limited partnership interests, or limited liability partnership interests in an entity wholly owned by a domestic company or by a domestic company and its affiliates, that is formed and maintained to acquire or hold specific assets or liabilities for bankruptcy remoteness or limitation of liability purposes, except its own stock, and stocks, limited liability company membership interests, limited partnership interests, limited liability partnership interests, bonds, notes, and debentures of any company which is organized for, and limited in its operations to, the financing of insurance premiums, upon approval of such investments by the superintendent of insurance; except that approval shall not be required for the purchase of the outstanding stocks, limited liability company membership interests, limited partnership interests, or limited liability partnership interests of any such company, if investment in each such company does not exceed in the aggregate two and one-half per cent of the total admitted assets of the company making the investment as of the preceding thirty-first day of December. Whenever the superintendent has reason to believe that the retention, investment, or acquisition of the stock, limited liability company membership interest, limited partnership interest, or limited liability partnership interest of any such company substantially lessens competition generally in the business of insurance or creates a monopoly therein the superintendent shall proceed under section 3901.13 of the Revised Code to cause such domestic insurance company to divest itself of such stock, limited liability company membership interest, limited partnership interest, or limited liability partnership interest.

(3) Other stocks, limited liability company membership interests, or limited partnership interests, or limited liability partnership interests of any solvent corporation organized under the laws of this or any other state, or of the United States, or of the District of Columbia, or of Canada or any province of Canada, provided that a dividend or distribution has been paid by the business entity in the preceding twelve months upon the stock, membership interest, or partnership interest to be purchased or such business entity, together with its predecessor entity or entities, has been in existence for a period of at least five years.

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

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

(6) An insurer may invest without limitation in investments of government money market funds. As used in division (D)(6) of this section, "government money market fund" means a fund that at all times invests in obligations issued,

guaranteed, or insured by the federal government of the United States or collateralized repurchase agreements comprised of such obligations, and that qualifies for investment without a reserve pursuant to the purposes and procedures of the securities valuation office of the national association of insurance commissioners.

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

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

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

(3) Bankers' acceptances and bills of exchange of the kinds and maturities made eligible by law for rediscount with

the federal reserve banks, provided that the same are accepted by a bank or trust company incorporated under the laws of the United States or of this state or any other bank or trust company which is a member of the federal reserve system.

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

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

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

As used in division (H)(1) of this section, "foreign

jurisdiction" means a jurisdiction outside the United States, Puerto Rico, or Canada whose bonds are ~~rated~~ designated 1 or 2 by the securities valuation office of the national association of insurance commissioners.

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

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

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

(I)(1) Any securities or other property not permitted under section 3925.05, 3925.06, 3925.08, or 3925.20 of the Revised Code to an extent not exceeding in the aggregate ~~six~~ ten per cent of the total admitted assets of such company on the preceding thirty-first day of December, within the limitations prescribed in division (J) of this section. Any such company may also invest up to an additional five per cent of the total admitted assets of such company on the preceding thirty-first day of December, within the limitations prescribed in division

(J) of this section, in loans or investments in small businesses having more than half of their assets or employees in this state and in venture capital firms having an office within this state, provided that, as a condition of a company making an investment in a venture capital firm, the firm must agree to use its best efforts to make investments, in an aggregate amount at least equal to the investment to be made by the company in that venture capital firm, in small businesses having their principal offices within this state and having either more than one-half of their assets within this state or more than one-half of their employees employed within this state.

As used in division (I) of this section:

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

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

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

(2) In the event that, subsequent to being made under this

division, a loan or investment is determined to have become qualified as a loan or investment under any of the divisions (A) to (F) of this section or under section 3925.05, 3925.06, or 3925.20 of the Revised Code, the company may consider such loan or investment as held under such other statutory provision and such loan or investment shall no longer be considered as having been made under this division.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Prior to entering into derivative transactions, an insurer shall file with the superintendent a copy of its derivative use plan and internal controls, for informational purposes. The insurer shall keep current the copy of its derivative use plan and internal controls filed with the

superintendent. The insurer shall not enter into derivative transactions until thirty calendar days after the date on which the derivative use plan and internal controls is filed with the superintendent. This thirty-calendar-day period is to begin on the date that the superintendent receives the derivative use plan and internal controls.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Incorporate assumptions, risk analysis methods, and

financial models and management techniques that are consistent with, but not necessarily identical to, those utilized within the company's overall risk assessment process, while recognizing potential differences in financial reporting structures and any prescribed assumptions or methods;

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

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

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

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

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

(c) All assumptions utilized within the proposed alternative method, together with the source of the assumptions,

as well as information, satisfactory to the superintendent, supporting the appropriateness of the assumptions and analysis and identifying the assumptions that result in the greatest variability in the reserve and how that analysis was used in setting those assumptions;

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

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

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

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

(6)(a) The superintendent shall establish an acceptable total capital and surplus requirement for each insurance company

that will cede risks and obligations to a special purpose financial captive insurance company. The total capital and 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;

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

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

(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.

(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.

(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.

(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 disapprove the revised rates or rating plans.

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

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

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

(2) The superintendent may, at the superintendent's sole discretion, share documents required under this section with the chief deputy rehabilitator, the chief deputy liquidator, other deputy rehabilitators and liquidators, and any other person employed by, or acting on behalf of the superintendent pursuant to Chapter 3901. or 3903. of the Revised Code, with other local, state, federal, and international regulatory and law enforcement agencies, with local, state, and federal prosecutors, and with

the national association of insurance commissioners and its affiliates and subsidiaries provided that the recipient agrees to maintain the confidential or privileged status of the documents and has authority to do so.

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

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

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

~~company~~.

(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 Stated 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 ruling or decision of the manager or committee designated in the plan to operate the assigned risk insurance plan. Any order or act of the superintendent under this section is subject to review as provided in sections 119.01 to 119.13 of the Revised Code, at the instance of any party in interest.

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

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

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

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

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

(E) Proof of financial responsibility provided by the assigned risk insurance plan to an automobile insurance policyholder that meets the requirements described in division

(G)(1)(a) or (b) of section 4509.101 of the Revised Code shall be recognized as if issued by an insurance company authorized to do business in this state to demonstrate proof of financial responsibility under section 4509.101 of the Revised Code.

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

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

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

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

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

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

(2) Provided that the assigned risk insurance plan establishes registration procedures for insurance agents under division (H)(3) of this section, the plan shall not accept an application for an automobile insurance policy issued under division (B) of this section unless that application is

submitted through an insurance agent registered in accordance with those procedures.

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

(a) Establish procedures to register insurance agents;

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

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

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

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

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

(b) For the purposes of this section, due diligence requires an insurance agent to contact at least five of the authorized insurers the agent represents or, if the agent does not represent five authorized insurers that customarily write

automobile insurance coverage, as many of such insurers as the agent represents.

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

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

(i) Receiving notice from the insurer declining coverage;

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

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

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

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

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

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

(b) The prevention of fraud against the plan;

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

(2)(a) The manager of the plan may request any information necessary to determine an applicant's eligibility for the plan.

(b) An applicant has the burden of proof to establish that the applicant is eligible for insurance under the plan.

(c) The determination of whether an applicant has adequately demonstrated eligibility for the plan is at the discretion of the manager of the plan.

(3) The plan may employ any form of technology necessary to review applications for eligibility, determine any conditions required for the issuance of coverage under this section, or to find and prevent fraudulent activities.

(4)(a) Consistent with the principle of the plan being a market of last resort, the plan may seek to place an applicant with any insurer admitted or authorized in this state, regardless of whether the agent submitting the application is appointed with the insurer.

(b) An agent whose applicant is placed with such an insurer is not eligible for compensation from that insurer unless the agent is appointed by the receiving insurer under Ohio law.

(5)(a) The manager of the plan may refuse to accept applications from any agent that the manager of the plan

suspects has submitted applications that contain, or that are supported by, inaccurate or fraudulent information.

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

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

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

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

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

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

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

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

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

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

(C) The court shall make a determination as to whether the amount charged by the towing service or storage facility is

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

(D) As used in this section:

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

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

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

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

Sec. 4513.71. (A) As used in this section:

(1) "Towing service" and "storage facility" have the same meanings as in section 4513.70 of the Revised Code.

(2) "Motor vehicle owner" means any person that holds a certificate of title to or is a lessee of a towed commercial motor vehicle. "Motor vehicle owner" does not include a lienholder or leasing company.

(B)(1) A motor vehicle owner may commence a civil action against a towing service or storage facility for either of the following reasons after the motor vehicle was removed, towed, or stored pursuant to division (A)(2) of section 4513.66 of the Revised Code:

(a) The recovery of the motor vehicle, cargo, or personal property that was removed, towed, or stored;

(b) Objecting to the amount billed by the towing service or storage facility for the removal, towing, or storage.

(2) The motor vehicle owner may commence the civil action on behalf of that owner or on behalf of a third party for whom the owner commercially transports the cargo that is the subject of the civil action.

(C) A towing service or storage facility may commence a civil action against a motor vehicle owner for payment of the amount billed by the towing service or storage facility in accordance with this section if all of the following apply:

(1) The motor vehicle, cargo, or personal property was removed, towed, or stored pursuant to division (A)(2) of section 4513.66 of the Revised Code;

(2) The motor vehicle owner has not paid the amount billed or commenced a civil action in accordance with division (B) of this section within forty-five days after the motor vehicle owner received the bill sent by the towing service or storage facility;

(3) The towing service or storage facility is not seeking title to the motor vehicle, if applicable, in accordance with section 4505.104 of the Revised Code, until judgment is entered in any civil action filed under this section.

(D)(1) The motor vehicle owner, towing service, or storage facility may file the action in the court of common pleas, municipal court, or county court with territorial jurisdiction over the location from which the motor vehicle, cargo, or personal property was removed, towed, or stored.

(2) The motor vehicle owner, towing service, or storage facility, as applicable, shall send a copy of the filing to any lienholder, if known, of the subject motor vehicle, cargo, or personal property.

(E) If the motor vehicle owner objects to the amount billed by the towing service or storage facility, the motor vehicle owner shall include in the owner's complaint, answer, or objection to the action, as applicable, the amount of the bill that is undisputed and the reasons the owner objects to the remainder of the bill. The motor vehicle owner shall file a copy of the bill and any evidence supporting the assertion that the billed amount is unreasonable. The motor vehicle owner shall pay the undisputed amount to the towing service or service facility and post a bond equal to the disputed amount of the bill.

(F) Not later than two business days after receipt of payment of the undisputed amount of the bill and service of the motor vehicle owner's complaint or answer to the civil action, as applicable, the towing service or storage facility shall release the motor vehicle, cargo, or personal property that is the subject of the complaint to the motor vehicle owner.

(G) When an action filed under this section involves a dispute over the amount of the bill, the court shall make a determination as to whether the amount charged by the towing service or facility is unreasonable. If the court determines that the amount is reasonable, the court shall order the motor vehicle owner to pay the amount billed minus the undisputed amount that the owner previously paid to the towing service or storage facility. If the court determines that the amount charged was unreasonable, the court shall determine a reasonable amount and order the motor vehicle owner to pay that amount minus the undisputed amount that the owner previously paid to the towing service or storage facility. The court may also require either party to pay or refund any additional amount and may impose any monetary penalties that the court determines to be appropriate.

(H) Any money owed by the motor vehicle owner shall be paid from the bond posted by the owner. If any amount of the bond remains after payment, the remainder shall be returned to the motor vehicle owner.

(I) Nothing in this section creates, implies, or otherwise grants insurance coverage for the amount billed by the towing service or storage facility that is not within the owner's motor-vehicle liability policy, proof of financial responsibility, or other policy of insurance.

Section 2. That existing sections 1345.02, 3901.046, 3905.01, 3906.01, 3906.08, 3907.14, 3925.08, 3964.03, 3964.194, 4509.70, 4513.70, and 4513.71 of the Revised Code are hereby repealed.