As Introduced

133rd General Assembly
Regular Session **H. B. No. 339**
2019-2020

Representative Merrin

A BILL

To amend sections 167.03, 1751.32, 1751.53, 1
1751.69, 1751.74, 1751.84, 1753.31, 3901.045, 2
3901.13, 3901.25, 3901.41, 3901.45, 3901.811, 3
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3903.50, 3903.52, 3903.56, 3903.71, 3903.724, 5
3903.728, 3903.7211, 3903.74, 3904.01, 3904.02, 6
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3956.01, 3956.09, 3956.10, 3959.01, 3960.07, 21
3964.19, 3999.16, 3999.41, 4509.41, and 4509.67 22
and to repeal sections 3941.47, 3941.48, 23
3941.49, and 3941.52 of the Revised Code to 24

enact the "Insurance Code Correction Act" to make technical and corrective changes to the laws governing insurance. 25 26 27

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

Section 1. That sections 167.03, 1751.32, 1751.53, 1751.69, 1751.74, 1751.84, 1753.31, 3901.045, 3901.13, 3901.25, 3901.41, 3901.45, 3901.811, 3901.87, 3901.88, 3901.90, 3902.08, 3903.01, 3903.50, 3903.52, 3903.56, 3903.71, 3903.724, 3903.728, 3903.7211, 3903.74, 3904.01, 3904.02, 3904.16, 3905.051, 3905.062, 3905.063, 3905.14, 3905.84, 3905.85, 3906.11, 3907.03, 3907.07, 3909.04, 3911.09, 3911.20, 3911.24, 3913.11, 3913.22, 3913.40, 3915.05, 3915.053, 3915.073, 3915.13, 3916.01, 3916.171, 3916.18, 3919.14, 3921.13, 3921.191, 3922.11, 3922.14, 3922.17, 3923.01, 3923.021, 3923.04, 3923.19, 3923.38, 3923.39, 3923.53, 3923.55, 3923.56, 3923.60, 3923.65, 3923.82, 3923.85, 3925.09, 3927.08, 3929.011, 3929.04, 3930.10, 3931.02, 3931.03, 3931.99, 3933.01, 3933.02, 3935.06, 3935.10, 3935.12, 3935.13, 3935.14, 3935.99, 3937.10, 3937.182, 3941.46, 3951.04, 3951.06, 3951.10, 3951.99, 3953.01, 3953.07, 3953.14, 3953.29, 3956.01, 3956.09, 3956.10, 3959.01, 3960.07, 3964.19, 3999.16, 3999.41, 4509.41, and 4509.67 of the Revised Code be amended to read as follows: 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45

Sec. 167.03. (A) The council shall have the power to: 46

(1) Study such area governmental problems common to two or more members of the council as it deems appropriate, including but not limited to matters affecting health, safety, welfare, education, economic conditions, and regional development; 47 48 49 50

(2) Promote cooperative arrangements and coordinate action among its members, and between its members and other agencies of local or state governments, whether or not within Ohio, and the federal government; 51 52 53 54

(3) Make recommendations for review and action to the members and other public agencies that perform functions within the region; 55 56 57

(4) Promote cooperative agreements and contracts among its members or other governmental agencies and private persons, corporations, or agencies; 58 59 60

(5) Operate a public safety answering point in accordance with Chapter 128. of the Revised Code; 61 62

(6) Perform planning directly by personnel of the council, or under contracts between the council and other public or private planning agencies. 63 64 65

(B) The council may: 66

(1) Review, evaluate, comment upon, and make recommendations, relative to the planning and programming, and the location, financing, and scheduling of public facility projects within the region and affecting the development of the area; 67 68 69 70 71

(2) Act as an areawide agency to perform comprehensive planning for the programming, locating, financing, and scheduling of public facility projects within the region and affecting the development of the area and for other proposed land development or uses, which projects or uses have public metropolitan wide or interjurisdictional significance; 72 73 74 75 76 77

(3) Act as an agency for coordinating, based on 78

metropolitan wide comprehensive planning and programming, local public policies, and activities affecting the development of the region or area.

(C) The council may, by appropriate action of the governing bodies of the members, perform such other functions and duties as are performed or capable of performance by the members and necessary or desirable for dealing with problems of mutual concern.

(D) The authority granted to the council by this section or in any agreement by the members thereof shall not displace any existing municipal, county, regional, or other planning commission or planning agency in the exercise of its statutory powers.

(E) A council, with an educational service center as its fiscal agent, that is established to provide health care benefits to the council members' officers and employees and their dependents may contract to administer and coordinate a self-funded health benefit program of a nonprofit corporation organized under Chapter 1702. of the Revised Code. A council operating a program under this division that does not act as an administrator as defined in section 3959.01 of the Revised Code does not constitute engaging in the business of insurance and is not subject to the insurance laws of this state.

Sec. 1751.32. Each health insuring corporation, annually, on or before the first day of March, shall file a report with the superintendent of insurance, covering the preceding calendar year.

The report shall be verified by an officer of the health insuring corporation, shall be in the form the superintendent

prescribes, and shall include: 108

(A) A financial statement of the health insuring 109
corporation, including its balance sheet and receipts and 110
disbursements for the preceding year, which reflect, at a 111
minimum: 112

(1) All premium rate and other payments received for 113
health care services rendered; 114

(2) Expenditures with respect to all categories of 115
providers, facilities, insurance companies, and other persons 116
engaged to fulfill obligations of the health insuring 117
corporation arising out of its health care policies, contracts, 118
certificates, and agreements; 119

(3) Expenditures for capital improvements or additions 120
thereto, including, but not limited to, construction, 121
renovation, or purchase of facilities and equipment. 122

(B) A description of the enrollee population and 123
composition, group and nongroup; 124

(C) A summary of enrollee written complaints and their 125
disposition; 126

(D) A statement of the number of subscriber policies, 127
contracts, certificates, and agreements that have been 128
terminated by action of the health insuring corporation, 129
including the number of enrollees affected; 130

(E) A summary of the information compiled pursuant to 131
division ~~(B)~~ (A)(5) of section 1751.04 of the Revised Code; 132

(F) A current report of the names and addresses of the 133
persons responsible for the conduct of the affairs of the health 134
insuring corporation as required by section 1751.03 of the 135

Revised Code. Additionally, the report shall include the amount of wages, expense reimbursements, and other payments to these persons for services to the health insuring corporation, and shall include a full disclosure of the financial interests related to the operations of the health insuring corporation acquired by these persons during the preceding year. 136 137 138 139 140 141

(G) An actuarial opinion in the form prescribed by the superintendent by rule; 142 143

(H) Any other information relating to the performance of the health insuring corporation that is necessary to enable the superintendent to carry out the superintendent's duties under this chapter. 144 145 146 147

Sec. 1751.53. (A) As used in this section: 148

(1) "Group contract" means a group health insuring corporation contract covering employees that meets either of the following conditions: 149 150 151

(a) The contract was issued by an entity that, on June 4, 1997, holds a certificate of authority or license to operate under Chapter 1738. or 1742. of the Revised Code, and covers an employee at the time the employee's employment is terminated. 152 153 154 155

(b) The contract is delivered, issued for delivery, or renewed in this state after June 4, 1997, and covers an employee at the time the employee's employment is terminated. 156 157 158

(2) "Eligible employee" means an employee to whom all of the following apply: 159 160

(a) The employee has been continuously covered under a group contract or under the contract and any prior similar group coverage replaced by the contract, during the entire three-month 161 162 163

period preceding the termination of the employee's employment. 164

(b) The employee did not voluntarily terminate the employee's employment and the termination of employment is not a result of any gross misconduct on the part of the employee. 165 166 167

(c) The employee is not, and does not become, covered by or eligible for coverage by medicare. 168 169

(d) The employee is not, and does not become, covered by or eligible for coverage by any other insured or uninsured arrangement that provides hospital, surgical, or medical coverage for individuals in a group and under which the employee was not covered immediately prior to the termination of employment. A person eligible for continuation of coverage under this section, who is also eligible for coverage under section 3923.123 of the Revised Code, may elect either coverage, but not both. A person who elects continuation of coverage may elect any coverage available under section 3923.123 of the Revised Code upon the termination of the continuation of coverage. 170 171 172 173 174 175 176 177 178 179 180

(B) A group contract shall provide that any eligible employee may continue the coverage under the contract, for the employee and the employee's eligible dependents, for a period of twelve months after the date that the group coverage would otherwise terminate by reason of the termination of the employee's employment. Each certificate of coverage issued to employees under the contract shall include a notice of the employee's privilege of continuation. 181 182 183 184 185 186 187 188

(C) All of the following apply to the continuation of group coverage required under division (B) of this section: 189 190

(1) Continuation need not include any supplemental health care services benefits or specialty health care services 191 192

benefits provided by the group contract. 193

(2) The employer shall notify the employee of the right of continuation at the time the employer notifies the employee of the termination of employment. The notice shall inform the employee of the amount of contribution required by the employer under division (C)(4) of this section. 194 195 196 197 198

(3) The employee shall file a written election of continuation with the employer and pay the employer the first contribution required under division (C)(4) of this section. The request and payment must be received by the employer no later than the earlier of any of the following dates: 199 200 201 202 203

(a) Thirty-one days after the date on which the employee's coverage would otherwise terminate; 204 205

(b) Ten days after the date on which the employee's coverage would otherwise terminate, if the employer has notified the employee of the right of continuation prior to this date; 206 207 208

(c) Ten days after the employer notifies the employee of the right of continuation, if the notice is given after the date on which the employee's coverage would otherwise terminate. 209 210 211

(4) The employee must pay to the employer, on a monthly basis, in advance, the amount of contribution required by the employer. The amount required shall not exceed the group rate for the insurance being continued under the policy on the due date of each payment. 212 213 214 215 216

(5) The employee's privilege to continue coverage and the coverage under any continuation ceases if any of the following occurs: 217 218 219

(a) The employee ceases to be an eligible employee under 220

division (A)(2)(c) or (d) of this section; 221

(b) A period of twelve months expires after the date that the employee's coverage under the group contract would otherwise have terminated because of the termination of employment; 222 223 224

(c) The employee fails to make a timely payment of a required contribution, in which event the coverage shall cease at the end of the coverage for which contributions were made; 225 226 227

(d) The group contract is terminated, or the employer terminates participation under the contract, unless the employer replaces the coverage by similar coverage under another contract or other group health arrangement. If the employer replaces the contract with similar group health coverage, all of the following apply: 228 229 230 231 232 233

(i) The member shall be covered under the replacement coverage, for the balance of the period that the member would have remained covered under the terminated coverage if it had not been terminated. 234 235 236 237

(ii) The minimum level of benefits under the replacement coverage shall be the applicable level of benefits of the contract replaced reduced by any benefits payable under the contract replaced. 238 239 240 241

(iii) The contract replaced shall continue to provide benefits to the extent of its accrued liabilities and extensions of benefits as if the replacement had not occurred. 242 243 244

(D) This section does not apply to any group contract offering only supplemental health care services or specialty health care services. 245 246 247

(E) An employer shall notify the health insuring 248

corporation if the employee elects continuation of coverage under this section. The health insuring corporation may require the employer to provide documentation if the employee elects continuation of coverage and is seeking premium assistance for the continuation of coverage under the "American Recovery and Investment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115. The ~~director~~ superintendent of insurance shall publish guidance for employers and health insuring corporations regarding the contents of such documentation. 249 250 251 252 253 254 255 256 257

Sec. 1751.69. (A) As used in this section, "cost sharing" means the cost to an individual insured under an individual or group health insuring corporation policy, contract, or agreement according to any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirements imposed by the policy, contract, or agreement. 258 259 260 261 262 263

(B) Notwithstanding section 3901.71 of the Revised Code and subject to division (D) of this section, no individual or group health insuring corporation policy, contract, or agreement providing basic health care services or prescription drug services that is delivered, issued for delivery, or renewed in this state, if the policy, contract, or agreement provides coverage for cancer chemotherapy treatment, shall fail to comply with either of the following: 264 265 266 267 268 269 270 271

(1) The policy, contract, or agreement shall not provide coverage or impose cost sharing for a prescribed, orally administered cancer medication on a less favorable basis than the coverage it provides or cost sharing it imposes for intraveneously administered or injected cancer medications. 272 273 274 275 276

(2) The policy, contract, or agreement shall not comply with division (B)(1) of this section by imposing an increase in 277 278

cost sharing solely for orally administered, intravenously 279
administered, or injected cancer medications. 280

(C) Notwithstanding any provision of this section to the 281
contrary, an individual or group health insuring corporation 282
policy, contract, or agreement shall be deemed to be in 283
compliance with this section if the cost sharing imposed under 284
such a policy, contract, or agreement for orally administered 285
cancer treatments does not exceed one hundred dollars per 286
prescription fill. The cost -sharing limit of one hundred 287
dollars per prescription fill shall apply to a high deductible 288
plan, as defined in 26 U.S.C. 223, or a catastrophic plan, as 289
defined in 42 U.S.C. 18022, only after the deductible has been 290
met. 291

(D) The prohibitions in division (B) of this section do 292
not preclude an individual or group health insuring corporation 293
policy, contract, or agreement from requiring an enrollee to 294
obtain prior authorization before orally administered cancer 295
medication is dispensed to the enrollee. 296

(E) A health insuring corporation that offers coverage for 297
basic health care services is not required to comply with 298
division (B) of this section if all of the following apply: 299

(1) The health insuring corporation submits documentation 300
certified by an independent member of the American academy of 301
actuaries to the superintendent of insurance showing that 302
compliance with division (B)(1) of this section for a period of 303
at least six months independently caused the health insuring 304
corporation's costs for claims and administrative expenses for 305
the coverage of basic health care services to increase by more 306
than one per cent per year. 307

(2) The health insuring corporation submits a signed letter from an independent member of the American academy of actuaries to the superintendent of insurance opining that the increase in costs described in division (E)(1) of this section could reasonably justify an increase of more than one per cent in the annual premiums or rates charged by the health insuring corporation for the coverage of basic health care services. 308 309 310 311 312 313 314

(3)(a) The superintendent of insurance makes the following determinations from the documentation and opinion submitted pursuant to divisions (E)(1) and (2) of this section: 315 316 317

(i) Compliance with division (B)(1) of this section for a period of at least six months independently caused the health insuring corporation's costs for claims and administrative expenses for the coverage of basic health care services to increase more than one per cent per year. 318 319 320 321 322

(ii) The increase in costs reasonably justifies an increase of more than one per cent in the annual premiums or rates charged by the health insuring corporation for the coverage of basic health care services. 323 324 325 326

(b) Any determination made by the superintendent under division (E)(3) of this section is subject to Chapter 119. of the Revised Code. 327 328 329

Sec. 1751.74. (A) To implement a quality assurance program required by section ~~1715.73~~ 1751.73 of the Revised Code, a health insuring corporation shall do both of the following: 330 331 332

(1) Develop and maintain the appropriate infrastructure and disclosure systems necessary to measure and report, on a regular basis, the quality of health care services provided to enrollees, based on a systematic collection, analysis, and 333 334 335 336

reporting of relevant data. The health insuring corporation shall assure that a committee that includes participating physicians have the opportunity to participate in developing, implementing, and evaluating the quality assurance program and all other programs implemented by the health insuring corporation that relate to the utilization of health care services. A committee that includes participating physicians shall also have the opportunity to participate in the derivation of data assessments, statistical analyses, and outcome interpretations from programs monitoring the utilization of health care services. 337 338 339 340 341 342 343 344 345 346 347

(2) Develop and maintain an organizational program for designing, measuring, assessing, and improving the processes and outcomes of health care. 348 349 350

(B) A quality assurance program shall: 351

(1) Establish an internal system capable of identifying opportunities to improve health care, which system is structured to identify practices that result in improved health care outcomes, to identify problematic utilization patterns, and to identify those providers that may be responsible for either exemplary or problematic patterns. The quality assurance program shall use the findings generated by the system to work on a continuing basis with participating providers and other staff to improve the quality of health care services provided to enrollees. 352 353 354 355 356 357 358 359 360 361

(2) Develop a written statement of its objectives, lines of authority and accountability, evaluation tools, and performance improvement activities; 362 363 364

(3) Require an annual effectiveness review of the program; 365

(4) Provide a description of how the health insuring corporation intends to do all of the following: 366 367

(a) Analyze both processes and outcomes of health care, including focused review of individual cases as appropriate, to discern the causes of variation; 368 369 370

(b) Identify the targeted diagnoses and treatments to be reviewed by the quality assurance program each year, based on consideration of practices and diagnoses that affect a substantial number of the health insuring corporation's enrollees or that could place enrollees at serious risk; 371 372 373 374 375

(c) Use a range of appropriate methods to analyze quality of health care, including collection and analysis of information on over-utilization and under-utilization of health care services; evaluation of courses of treatment and outcomes based on current medical research, knowledge, standards, and practice guidelines; and collection and analysis of information specific to enrollees or providers; 376 377 378 379 380 381 382

(d) Compare quality assurance program findings with past performance, internal goals, and external standards; 383 384

(e) Measure the performance of participating providers and conduct peer review activities; 385 386

(f) Utilize treatment protocols and practice parameters developed with appropriate clinical input; 387 388

(g) Implement improvement strategies related to quality assurance program findings; 389 390

(h) Evaluate periodically, but not less than annually, the effectiveness of the improvement strategies. 391 392

Sec. 1751.84. (A) Notwithstanding section 3901.71 of the 393

Revised Code, each individual and group health insuring corporation policy, contract, or agreement providing basic health care services that is delivered, issued for delivery, or renewed in this state shall provide coverage for the screening, diagnosis, and treatment of autism spectrum disorder. A health insuring corporation shall not terminate an individual's coverage, or refuse to deliver, execute, issue, amend, adjust, or renew coverage to an individual solely because the individual is diagnosed with or has received treatment for an autism spectrum disorder. Nothing in this section shall be applied to nongrandfathered plans in the individual and small group markets or to medicare supplement, accident-only, specified disease, hospital indemnity, disability income, long-term care, or other limited benefit hospital insurance policies. Except as otherwise provided in division (B) of this section, coverage under this section shall not be subject to dollar limits, deductibles, or coinsurance provisions that are less favorable to an enrollee than the dollar limits, deductibles, or coinsurance provisions that apply to substantially all medical and surgical benefits under the policy, contract, or agreement. 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413

(B) Benefits provided under this section shall cover, at minimum, all of the following: 414 415

(1) For speech and language therapy or occupational therapy for an enrollee under the age of fourteen that is performed by a licensed therapist, twenty visits per year for each service; 416 417 418 419

(2) For clinical therapeutic intervention for an enrollee under the age of fourteen that is provided by or under the supervision of a professional who is licensed, certified, or registered by an appropriate agency of this state to perform 420 421 422 423

such services in accordance with a health treatment plan, twenty hours per week; 424 425

(3) For mental or behavioral health outpatient services for an enrollee under the age of fourteen that are performed by a licensed psychologist, psychiatrist, or physician providing consultation, assessment, development, or oversight of treatment plans, thirty visits per year. 426 427 428 429 430

(C)(1) Except as provided in division (C)(2) of this section, this section shall not be construed as limiting benefits that are otherwise available to an individual under a policy, contract, or agreement. 431 432 433 434

(2) A policy, contract, or agreement shall stipulate that coverage provided under this section be contingent upon both of the following: 435 436 437

(a) The covered individual receiving prior authorization for the services in question; 438 439

(b) The services in question being prescribed or ordered by either a developmental pediatrician or a psychologist trained in autism. 440 441 442

(D)(1) Except for inpatient services, if an enrollee is receiving treatment for an autism spectrum disorder, a health insuring corporation may review the treatment plan annually, unless the health insuring corporation and the enrollee's treating physician or psychologist agree that a more frequent review is necessary. 443 444 445 446 447 448

(2) Any such agreement as described in division (D)(1) of this section shall apply only to a particular enrollee being treated for an autism spectrum disorder and shall not apply to all individuals being treated for autism spectrum disorder by a 449 450 451 452

physician or psychologist. 453

(3) The health insuring corporation shall cover the cost of obtaining any review or treatment plan. 454 455

(E) This section shall not be construed as affecting any obligation to provide services to an enrollee under an individualized family service plan, an individualized education program, or an individualized service plan. 456 457 458 459

(F) As used in this section: 460

(1) "Applied behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior. 461 462 463 464 465 466

(2) "Autism spectrum disorder" means any of the pervasive developmental disorders or autism spectrum disorder as defined by the most recent edition of the diagnostic and statistical manual of mental disorders published by the American psychiatric association available at the time an individual is first evaluated for suspected developmental delay. 467 468 469 470 471 472

(3) "Clinical therapeutic intervention" means therapies supported by empirical evidence, which include, but are not limited to, applied behavioral analysis, that satisfy both of the following: 473 474 475 476

(a) Are necessary to develop, maintain, or restore, to the maximum extent practicable, the function of an individual; 477 478

(b) Are provided by or under the supervision of any of the following: 479 480

(i) A certified Ohio behavior analyst as defined in 481
section 4783.01 of the Revised Code; 482

(ii) An individual licensed under Chapter 4732. of the 483
Revised Code to practice psychology; 484

(iii) An individual licensed under Chapter 4757. of the 485
Revised Code to practice professional counseling, social work, 486
or marriage and family therapy. 487

(4) "Diagnosis of autism spectrum disorder" means 488
medically necessary ~~assessment~~ assessments, evaluations, or 489
tests to diagnose whether an individual has an autism spectrum 490
disorder. 491

(5) "Pharmacy care" means medications prescribed by a 492
licensed physician and any health-related services considered 493
medically necessary to determine the need or effectiveness of 494
the medications. 495

(6) "Psychiatric care" means direct or consultative 496
services provided by a psychiatrist licensed in the state in 497
which the psychiatrist practices. 498

(7) "Psychological care" means direct or consultative 499
services provided by a psychologist licensed in the state in 500
which the psychologist practices. 501

(8) "Therapeutic care" means services provided by a speech 502
therapist, occupational therapist, or physical therapist 503
licensed or certified in the state in which the person 504
practices. 505

(9) "Treatment for autism spectrum disorder" means 506
evidence-based care and related equipment prescribed or ordered 507
for an individual diagnosed with an autism spectrum disorder by 508

a licensed physician who is a developmental pediatrician or a 509
licensed psychologist trained in autism who determines the care 510
to be medically necessary, including any of the following: 511

(a) Clinical therapeutic intervention; 512

(b) Pharmacy care; 513

(c) Psychiatric care; 514

(d) Psychological care; 515

(e) Therapeutic care. 516

(G) If any provision of this section or the application 517
thereof to any person or circumstances is for any reason held to 518
be invalid, the remainder of the section and the application of 519
such remainder to other persons or circumstances shall not be 520
affected thereby. 521

Sec. 1753.31. As used in sections 1753.31 to 1753.43 of 522
the Revised Code: 523

(A) "Adjusted RBC report" means an RBC report that has 524
been adjusted by the superintendent of insurance in accordance 525
with division (C) of section 1753.32 of the Revised Code. 526

(B) "Authorized control level RBC" means the number 527
determined under the risk-based capital formula in accordance 528
with the RBC instructions. 529

~~(c)~~ (C) "Company action level RBC" means the product of 2.0 530
and a health insuring corporation's authorized control level 531
RBC. 532

(D) "Corrective order" means an order issued by the 533
superintendent of insurance specifying corrective actions that 534
the superintendent determines are required. 535

(E) "Domestic health insuring corporation" means a health insuring corporation domiciled in this state. 536 537

(F) "Foreign health insuring corporation" means a health insuring corporation holding a certificate of authority under chapter 1751. of the Revised Code that is domiciled outside of this state. 538 539 540 541

~~(g)~~ (G) "Mandatory control level RBC" means the product of .70 and a health insuring corporation's authorized control level RBC. 542 543 544

(H) "NAIC" means the national association of ~~!nslrance~~ insurance commissioners. 545 546

(I) "Net worth" means statutory capital and surplus. 547

(J) "RBC" means risk-based capital. 548

(K) "RBC ~~instruction~~ instructions" means the RBC report, including risk-based capital instructions, as adopted by the NAIC and as amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC. "RBC instructions" also includes any modifications adopted by the superintendent of insurance, as the superintendent considers to be necessary. 549 550 551 552 553 554

(L) "RBC level" means a health insuring corporation's action level RBC, regulatory action level RBC, authorized control level RBC, or mandatory control level RBC. 555 556 557

(M) "RBC plan" means a comprehensive financial plan containing the elements specified in division (B) of section 1753.33 of the Revised Code. 558 559 560

(N) "RBC report" means the report required by section 1753.32 of the Revised Code. 561 562

(O) "Regulatory action level RBC" means the product of 1.5 and a health insuring corporation's authorized control level RBC. 563 564 565

(P) "Revised RBC plan" means an RBC plan rejected by the superintendent of insurance and then revised by a health insuring corporation with or without incorporating the superintendent's recommendations. 566 567 568 569

(Q) "Total adjusted capital" means the sum of both of the following: 570 571

(1) A health insuring corporation's net worth as determined in accordance with the statutory accounting applicable to the annual financial statements required to be filed under section 1751.32 of the Revised Code; 572 573 574 575

(2) Such other items, if any, as the RBC instructions may provide. 576 577

Sec. 3901.045. (A) The superintendent of insurance may receive documents and information, including otherwise confidential or privileged documents and information, from local, state, federal, and international regulatory and law enforcement agencies, from local, state, and federal prosecutors, and from the national association of insurance commissioners and its affiliates and subsidiaries, provided that the superintendent maintains as confidential or privileged any document or information received with notice or the understanding that the document or information is confidential or privileged under the laws of the jurisdiction that is the source of the document or information. 578 579 580 581 582 583 584 585 586 587 588 589

(B) The superintendent may also receive documents and information, including otherwise confidential or privileged 590 591

documents and information, from the chief deputy rehabilitator, the chief deputy liquidator, other deputy rehabilitators and liquidators, and from any other person employed by, or acting on behalf of, the superintendent pursuant to Chapter 3901. or 3903. of the Revised Code, provided that the superintendent maintains as confidential or privileged any document or information received with the notice or understanding that the document or information is confidential or privileged, except that the superintendent may share and disclose such a document or information when authorized by other sections of the Revised Code.

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

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

Sec. 3901.13. Whenever the superintendent of insurance has reason to believe that there is a violation of section 3901.11 or 3901.12 of the Revised Code, ~~he~~ the superintendent shall serve upon the insurers and directors a notice of a hearing before the superintendent to be held not less than thirty days after the service of such notice, and requiring such insurers and directors to show cause why an order should not be made by the superintendent directing such insurers and directors to cease and desist from such violation. All such hearings shall be conducted in accordance with sections 119.01 to 119.13~~,~~

~~inclusive,~~ of the Revised Code. 622

If, upon such hearing, the superintendent finds that there 623
has been a violation of section 3901.11 or 3901.12 of the 624
Revised Code, ~~he~~ the superintendent shall issue and cause to be 625
served upon such insurers and directors an order reciting the 626
facts found by ~~him~~ the superintendent, setting forth the 627
respects in which there has been a violation, and directing such 628
insurers and directors to cease and desist from such violation. 629

Any such order of the superintendent shall be subject to 630
judicial review in accordance with sections 119.01 to 119.13~~,~~ 631
~~inclusive,~~ of the Revised Code. A violation of any such order 632
is, subject to said judicial review, deemed a violation as 633
contemplated by section 3901.16 or 3901.17 of the Revised Code. 634

Sec. 3901.25. If after thirty days following the giving of 635
the notice mentioned in section 3901.24 of the Revised Code such 636
insurer has failed to cease making, issuing, or circulating such 637
false misrepresentations or causing the same to be made, issued, 638
or circulated in this state, and if the superintendent of 639
insurance has reason to believe that a proceeding by ~~him~~ the 640
superintendent in respect to such matters would be to the 641
interest of the public, and that such insurer is issuing or 642
delivering contracts of insurance to residents of this state or 643
collecting premiums on such contracts or doing any of the acts 644
enumerated in section 3901.26 of the Revised Code, ~~he~~ the 645
superintendent shall take action against such insurer under 646
sections 3901.19 to 3901.26~~, inclusive,~~ of the Revised Code. 647

Sec. 3901.41. (A) As used in this section: 648

(1) "Automated transaction" has the same meaning as in 649
section 1306.01 of the Revised Code, and includes electronic 650

transactions between two or more persons conducting business pursuant to the laws of this state relating to insurance. 651 652

(2) "Contact point" means any electronic identification to which messages can be sent, including, but not limited to, any of the following: 653 654 655

(a) An electronic mail address; 656

(b) An instant message identity; 657

(c) A wireless telephone number, or any other personal electronic communication device; 658 659

(d) A facsimile number. 660

(3) "Insured" means a certificate holder, contract owner, customer, policyholder, or subscriber as those terms are used in the laws of this state relating to insurance. 661 662 663

(4) "Insurer" has the same meaning as in section 3901.32 of the Revised Code. 664 665

(5) "Laws of this state relating to insurance" has the same meaning as in section 3901.04 of the Revised Code. 666 667

(6) "Personally identifiable information" means any individually identifiable information gathered in connection with an insurance transaction, including a person's name, address, social security number, and banking information. 668 669 670 671

(7) "Secure web site" means a web site that meets both of the following criteria: 672 673

(a) The web site uses the hypertext transfer protocol secure communication protocol or other equally secure communication protocol. 674 675 676

(b) The web site requires a person to enter a unique user 677

credential to access personally identifiable information for which the person has the legal right to access. 678 679

(B) Notwithstanding any laws of this state relating to insurance, sections 1306.01 to 1306.23 of the Revised Code, the "Uniform Electronics Transactions Act," apply to the business of insurance in this state. 680 681 682 683

(C)(1) If an insured agrees to conduct the business of insurance via an automated transaction, any information issued or delivered in writing may be issued or delivered electronically to a contact point provided by the insured, as long as both of the following apply: 684 685 686 687 688

(a) The transmission of information is in compliance with sections 1306.07 and 1306.14 of the Revised Code. 689 690

(b) The details of the automated transaction are fully disclosed to the insured in the application, policy, certificate, contract of insurance, or by another method that ensures notice to the insured. An insurer's form used only to notify an insured of and obtain consent for an automated transaction does not need to be approved or accepted by the superintendent of insurance. 691 692 693 694 695 696 697

(2)(a) Except for notices of cancellation, nonrenewal, or termination, an insurer may deliver information via a secure web site if the insurer sends an electronic notice to a contact point and the electronic notice includes a hyperlink to the secure web site. 698 699 700 701 702

(b) If an insurer uses a secure web site to deliver changes in terms or conditions in an insured's policy, certificate, or contract of insurance, including any endorsements or amendments, the electronic notice to the 703 704 705 706

insured's contact point shall include all of the following: 707

(i) A list or summary of the changes; 708

(ii) A link to the complete document located on the insurer's secure web site; 709 710

(iii) The following or substantially similar statement displayed in a prominent manner: 711 712

"There are changes in the terms or conditions of your policy, certificate, or contract of insurance." 713 714

(3) At a minimum, the details of the automated transaction shall include all of the following: 715 716

(a) A clear and conspicuous statement informing the insured of any right or option of the insured to receive a record on paper; 717 718 719

(b) The right of the insured to withdraw the insured's consent, and any consequences or fees if the insured withdraws consent; 720 721 722

(c) A description of the procedures the insured must use to withdraw consent and to update the insured's contact point. 723 724

(4) Agreement to participate in a part of an automated transaction shall not be used to confirm the insured's consent to transact the entire business of insurance pursuant to this section. 725 726 727 728

(5) A withdrawal of consent by an insured shall be effective within a reasonable time period, not to exceed ten business days after the receipt of the withdrawal by the insurer. 729 730 731 732

(D) The insurer shall send all notices of cancellation, 733

nonrenewal, termination, or changes in the terms or conditions of the policy, certificate, or contract of insurance to the last known contact point supplied by the insured. If the insurer has knowledge that the insured's contact point is no longer valid, the insurer shall send the information via regular mail to the last known address furnished to the insurer by the insured. 734 735 736 737 738 739

(E) Any insurer conducting the business of insurance via an automated transaction shall allow the insurer's insureds who agree to participate in an automated transaction the option to withdraw consent from participating in the automated transaction. 740 741 742 743 744

(F) Notwithstanding any laws or regulations of this state relating to insurance, any policy, certificate, or contract of insurance, including any endorsements or amendments, that do not contain personally identifiable information may be posted to the insurer's web site in lieu of any other method of delivery. If the insurer elects to post any policy, certificate, or contract of insurance to the insurer's web site, all of the following shall apply: 745 746 747 748 749 750 751 752

(1) The policy, certificate, or contract of insurance is readily accessible by the insured and, once the policy, certificate, or contract of insurance is no longer used by the insurer in this state, it is stored in a readily accessible archive; 753 754 755 756 757

(2) The policy, certificate, or contract of insurance is posted in such a manner that the insured can easily identify the insured's applicable policy, certificate, or contract and print or download the insured's documents without charge and without the use of any special program or application that is not readily available to the public without charge; 758 759 760 761 762 763

(3) The insurer provides written notice at the time of issuance of the initial policy, certificate, contract, or any renewal forms of a method by which the insured may obtain upon request a paper or electronic copy of their policy, certificate, or contract without charge; 764 765 766 767 768

(4) The insurer clearly identifies the applicable policy, endorsements, amendments, certificate, or contract of insurance purchased by the insured on any declaration page, certificate of insurance, summary of benefits, or other evidence of coverage issued to the insured; 769 770 771 772 773

(5) The insurer gives notice, in the manner it customarily communicates with an insured, of any changes to the policy, certificate, or contract of insurance, including any endorsements or amendments, and of the insured's right to obtain upon request a paper or electronic copy of the policy, endorsements, or amendments without charge. 774 775 776 777 778 779

(G) Notwithstanding any other section of Title XXXIX or Chapters 1739. or 1751. of the Revised Code or rules adopted thereunder to the contrary, an insurer may deliver any notices, documents, or information to an insured via an automated transaction pursuant to this section. 780 781 782 783 784

(H) This section does not supersede any time periods, filing requirements, or content of notices, documents, notices to insureds' agents required pursuant to sections 3937.25, 3937.26, and 3937.27 of the Revised Code, or information otherwise required by a law other than this section relating to insurance. This section does not apply to disclosures through electronic media of certificates, explanation of benefit statements, and other mandated materials under the "Employee Retirement Income Security Act of 1974," 88 Stat. 829, 29 U.S.C. 785 786 787 788 789 790 791 792 793

1001, as amended, and any regulation adopted thereunder.

(I) If the consent of an insured to receive certain notices, documents, or information in an electronic form is on file with an insurer before ~~the effective date of this section~~ September 4, 2014, if the consent was not accompanied by the details of the automated transaction described in division (C)(3) of this section, and if, pursuant to this section, an insurer intends to deliver additional notices, documents, or information to that insured in an electronic form, then, prior to delivering or at the time of delivering such additional notice, documents, or information electronically, the insurer shall notify the insured of the details of the automated transaction in compliance with division (C)(3) of this section.

(J) The superintendent of insurance may adopt rules in accordance with Chapter 119. of the Revised Code as the superintendent considers necessary to carry out the purposes of this section.

Sec. 3901.45. (A) As used in sections 3901.45 and 3901.46 of the Revised Code:

(1) "AIDS," "HIV," "AIDS-related condition," and "HIV test" have the same meanings as in section 3701.24 of the Revised Code.

(2) "Insurer" means any person authorized to engage in the business of life or sickness and accident insurance under Title XXXIX of the Revised Code or any person or governmental entity providing health services coverage for individuals on a self-insurance basis.

(3) "Group policy" means, with respect to life insurance, a policy covering more than twenty-five individuals and issued

pursuant to section 3917.01 of the Revised Code, and with respect to sickness and accident insurance, a policy covering more than twenty-five individuals and issued pursuant to section 3923.11, 3923.12, or 3923.13 of the Revised Code. "Group policy" includes a certificate of life or sickness and accident insurance covering more than twenty-five individuals under a group policy issued to a multiple employer trust. 823 824 825 826 827 828 829

(4) "Individual policy" means, with respect to life insurance and sickness and accident insurance, a policy other than a group policy, except that "individual policy" also includes all of the following: 830 831 832 833

(a) The coverage under a group policy of an individual who seeks to become a member of an insured group after having declined a previous offer of coverage under the group policy; 834 835 836

(b) An individual who seeks life insurance coverage under a group policy in excess of the maximum coverage available under the policy without evidence of insurability; 837 838 839

(c) A certificate of life or sickness and accident insurance covering no more than twenty-five individuals under a group policy issued to a multiple employer trust. 840 841 842

(B) In processing an application for an individual policy of life or sickness and accident insurance or in determining insurability of an applicant, no insurer shall: 843 844 845

(1) Take into consideration an applicant's sexual orientation; 846 847

(2) Make any inquiry toward determining an applicant's sexual orientation or direct any person who provides services to the insurer to investigate an applicant's sexual orientation; 848 849 850

(3) Make a decision adverse to the applicant based on 851
entries in medical records or other reports that show that the 852
applicant has sought an HIV test, consultation regarding the 853
possibility of developing AIDS or an AIDS-related condition, or 854
counseling for concerns related to AIDS from health care 855
professionals unless there has been a diagnosis, confirmed by a 856
positive HIV test, of AIDS or an AIDS-related condition or the 857
applicant has been treated for either. 858

(C)(1) In developing and asking questions regarding 859
medical histories and lifestyles of applicants for life or 860
sickness and accident insurance and in assessing the answers, an 861
insurer shall not ask questions designed to ascertain the sexual 862
orientation of the applicant nor use factors such as marital 863
status, living arrangements, occupation, gender, medical 864
history, beneficiary designation, or zip code or other 865
geographic designation to aid in ascertaining the applicant's 866
sexual orientation. 867

(2) An insurer may ask the applicant if ~~he~~ the applicant 868
has ever been diagnosed as having AIDS or an AIDS-related 869
condition. 870

(3) An insurer may ask the applicant specifically whether 871
~~he~~ the applicant has ever had a positive result on an HIV test. 872
"Positive result" means a result interpreted as positive in 873
accordance with guidelines developed by the director of health 874
under division (B)(1)~~(a)~~ of section 3701.241 of the Revised 875
Code, even though the applicant may have been tested in another 876
state. "Positive result" does not mean an initial positive 877
result that further testing showed to be false. 878

(4) The insurer shall not ask the applicant whether ~~he~~ the 879
applicant has ever taken an HIV test. 880

(D)(1) Except as provided in division (D)(2) of this section, no insurer shall cancel a policy of life or sickness and accident insurance, or refuse to renew a policy of life or sickness and accident insurance other than a policy that is renewable at the option of the insurer, based solely on the fact that, after the effective date of the policy, the policyholder is diagnosed as having AIDS, an AIDS-related condition, or an HIV infection.

(2) If a policy of life or sickness and accident insurance provides for a contestability period, an insurer may cancel the policy during the contestability period if the applicant made a false statement in the application with regard to the question of whether ~~he~~ the applicant has been diagnosed as having AIDS, an AIDS-related condition, or an HIV infection.

(E) No insurer shall deliver, issue for delivery, or renew a policy of life or sickness and accident insurance that limits benefits or coverage in the event that, after the effective date of the policy, the insured develops AIDS or an AIDS-related condition or receives a positive result on an HIV test.

(F) An insurer is not required to offer coverage under a policy of life or sickness and accident insurance to an individual or group member, or a dependent of an individual or group member, who has AIDS or an AIDS-related condition, or who has had a positive result on an HIV test.

(G) An insurer is not required to continue to provide coverage under a policy of life or sickness and accident insurance to an individual or group member, or a dependent of an individual or group member, if the insurer determines the individual or group member or dependent of the individual or group member knew on the effective date of the policy that ~~he~~

the individual or group member or dependent of the individual or 911
group member had AIDS, an AIDS-related condition, or a positive 912
result of an HIV test. 913

(H) A violation of this section is an unfair insurance 914
practice under sections 3901.19 to 3901.26 of the Revised Code. 915

Sec. 3901.811. (A) Except as provided in division (B) of 916
this section, an auditing entity is subject to all of the 917
following conditions when performing a pharmacy audit in this 918
state: 919

(1) If it is necessary that the pharmacy audit be 920
performed on the premises of a pharmacy, the auditing entity 921
shall give the pharmacy that is the subject of the audit written 922
notice of the date or dates on which the audit will be performed 923
and the range of prescription numbers from which the auditing 924
entity will select pharmacy records to audit. Notice of the date 925
or dates on which the audit will be performed shall be given not 926
less than ten business days before the date the audit is to 927
commence. Notice of the range of prescription numbers from which 928
the auditing entity will select pharmacy records to audit shall 929
be received by the pharmacy not less than seven business days 930
before the date ~~of~~ the audit is to commence. 931

(2) The auditing entity shall not include in the pharmacy 932
audit a review of a claim for payment for the provision of 933
dangerous drugs or pharmacy services if the date of the 934
pharmacy's initial submission of the claim for payment occurred 935
more than twenty-four months before the date the audit 936
commences. 937

(3) Absent an indication that there was an error in the 938
dispensing of a drug, the auditing entity or payer shall not 939

seek to recoup from the pharmacy that is the subject of the audit any amount that the pharmacy audit identifies as being the result of clerical or recordkeeping errors in the absence of financial harm. For purposes of this provision, an error in the dispensing of a drug is any of the following: selecting an incorrect drug, issuing incorrect directions, or dispensing a drug to the incorrect patient. 940 941 942 943 944 945 946

(4) The auditing entity shall not use the accounting practice of extrapolation when calculating a monetary penalty to be imposed or amount to be recouped as the result of the pharmacy audit. 947 948 949 950

(B)(1) The condition in division (A)(1) of this section does not apply if, prior to the audit, the auditing entity has evidence, from its review of claims data, statements, or physical evidence or its use of other investigative methods, indicating that fraud or other intentional or willful misrepresentation exists. 951 952 953 954 955 956

(2) The condition in division (A)(3) of this section does not apply if the auditing entity has evidence, from its review of claims data, statements, or physical evidence or its use of other investigative methods, indicating that fraud or other intentional or willful misrepresentation exists. 957 958 959 960 961

(3) Division (A)(4) of this section does not apply when the accounting practice of extrapolation is required by state or federal law. 962 963 964

Sec. 3901.87. (A) No qualified health plan shall provide coverage for a nontherapeutic abortion. 965 966

(B) As used in this section: 967

(1) "Nontherapeutic abortion" has the same meaning as in 968

section ~~124.85~~ 9.04 of the Revised Code. 969

(2) "Qualified health plan" means any qualified health 970
plan as defined in section 1301 of the "Patient Protection and 971
Affordable Care Act," 42 U.S.C. 18021, offered in this state 972
through an exchange created under that act. 973

Sec. 3901.88. The superintendent of insurance shall 974
conduct an actuarial study on the costs of all health care 975
mandates under state law that apply to individual and group 976
health insurance plans that are not subject to the "Employee 977
Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq. 978
This study shall be delivered electronically to the governor, 979
the senate president, and the speaker of the house not later 980
than two years after ~~the effective date of this section~~ April 6, 981
2017. 982

Sec. 3901.90. The superintendent of insurance, in 983
consultation with the director of mental health and addiction 984
services, shall develop consumer and payer education on mental 985
health and addiction services insurance parity and establish and 986
promote a consumer hotline to collect information and help 987
consumers understand and access their insurance benefits. 988

The department of insurance and the department of mental 989
health and addiction services shall jointly report annually on 990
the department's efforts, which shall include information on 991
consumer and payer outreach activities and identification of 992
trends and barriers to access and coverage in this state. The 993
departments shall submit the report to the general assembly, the 994
joint medicaid oversight committee, and the governor~~,~~ not later 995
than the thirtieth day of January of each year. 996

Sec. 3902.08. (A) Except as provided in section 3902.03 of 997

the Revised Code, sections 3902.01 to 3902.08 of the Revised Code apply to all policy forms filed on or after ~~three years after the effective date of sections 3902.01 to 3902.08 of the Revised Code~~ January 9, 1983. No policy form shall be delivered or issued for delivery in this state on or after ~~five years after the effective date of sections 3902.01 to 3902.08 of the Revised Code~~ January 9, 1985 unless approved by the superintendent of insurance, or permitted to be issued, pursuant to sections 3902.01 to 3902.08 of the Revised Code. Any policy form that has been approved or permitted to be issued prior to ~~five years after the effective date of sections 3902.01 to 3902.08 of the Revised Code~~ January 9, 1985, and that meets the standards set by sections 3902.01 to 3902.08 of the Revised Code need not be refiled for approval, but may continue to be lawfully delivered or issued for delivery in this state upon the filing with the superintendent of a list of such forms identified by form number and accompanied by a certificate as to each such form in the manner provided in division (D) of section ~~3902.05~~ 3902.04 of the Revised Code.

(B) The superintendent may, in ~~his~~ the superintendent's discretion, extend the dates in division (A) of this section.

Sec. 3903.01. As used in sections 3903.01 to 3903.59 of the Revised Code:

(A) "Admitted assets" means investment in assets which will be admitted by the superintendent of insurance pursuant to the law of this state.

(B) "Affiliate" has the same meaning as "affiliate of" or "affiliated with," as defined in section 3901.32 of the Revised Code.

(C) "Assets" means all property, real and personal, of every nature and kind whatsoever or any interest therein. 1027 1028

(D) "Ancillary state" means any state other than a domiciliary state. 1029 1030

(E) "Commodity contract" means any of the following: 1031

(1) A contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a board of trade designated as a contract market by the commodity futures trading commission under the "Commodity Exchange Act," 7 U.S.C. 1 et seq., as amended, or a board of trade outside the United States; 1032 1033 1034 1035 1036

(2) An agreement that is subject to regulation under section 19 of the "Commodity Exchange Act," 7 U.S.C. 23, as amended, and that is commonly known to the commodities trade as a margin account, margin contract, leverage account, or leverage contract; 1037 1038 1039 1040 1041

(3) An agreement or transaction that is subject to regulation under section 4c(b) of the "Commodity Exchange Act," 7 U.S.C. 6c(b), as amended, and that is commonly known to the commodities trade as a commodity option; 1042 1043 1044 1045

(4) Any combination of agreements or transactions described in division (E) of this section; 1046 1047

(5) Any option to enter into an agreement or transaction described in division (E) of this section. 1048 1049

(F) "Creditor" means a person having any claim, whether matured or unmatured, liquidated or unliquidated, secured or unsecured, absolute, fixed, or contingent. 1050 1051 1052

(G) "Delinquency proceeding" means any proceeding commenced against an insurer for the purpose of liquidating, 1053 1054

rehabilitating, reorganizing, or conserving the insurer, and any summary proceeding under section 3903.09 or 3903.10 of the Revised Code. "Formal delinquency proceeding" means any liquidation or rehabilitation proceeding. 1055 1056 1057 1058

(H) "Doing business" includes any of the following acts, whether effected by mail or otherwise: 1059 1060

(1) The issuance or delivery of contracts of insurance to persons resident in this state; 1061 1062

(2) The solicitation of applications for such contracts, or other negotiations preliminary to the execution of such contracts; 1063 1064 1065

(3) The collection of premiums, membership fees, assessments, or other consideration for such contracts; 1066 1067

(4) The transaction of matters subsequent to execution of such contracts and arising out of them; 1068 1069

(5) Operating under a license or certificate of authority, as an insurer, issued by the department of insurance. 1070 1071

(I) "Domiciliary state" means the state in which an insurer is incorporated or organized, or, in the case of an alien insurer, its state of entry. 1072 1073 1074

(J) "Fair consideration" is given for property or obligation when either of the following apply: 1075 1076

(1) When in exchange for such property or obligation, as a fair equivalent therefor, and in good faith, property is conveyed, services are rendered, an obligation is incurred, or an antecedent debt is satisfied; 1077 1078 1079 1080

(2) When such property or obligation is received in good 1081

faith to secure a present advance or antecedent debt in an amount not disproportionately small as compared to the value of the property or obligation obtained. 1082 1083 1084

(K) "Federal home loan bank" means an institution chartered under the "Federal Home Loan Bank Act of 1932," 12 U.S.C. 1421, et seq. 1085 1086 1087

(L) "Foreign country" means any other jurisdiction not in any state. 1088 1089

(M) "Forward contract" has the same meaning as in the federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 1821(e)(8)(D), as now and hereafter amended. 1090 1091 1092

(N) "Guaranty association" means the Ohio insurance guaranty association created by section 3955.06 of the Revised Code and any other similar entity hereafter created by the general assembly for the payment of claims of insolvent insurers. "Foreign guaranty association" means any similar entities now in existence in or hereafter created by the legislature of any other state. 1093 1094 1095 1096 1097 1098 1099

(O) "Insolvency" or "insolvent" means: 1100

(1) For an insurer issuing only assessable fire insurance policies either of the following: 1101 1102

(a) The inability to pay any obligation within thirty days after it becomes payable; 1103 1104

(b) If an assessment is made within thirty days after such date, the inability to pay the obligation thirty days following the date specified in the first assessment notice issued after the date of loss. 1105 1106 1107 1108

(2) For any other insurer, that it is unable to pay its 1109

obligations when they are due, or when its admitted assets do not exceed its liabilities plus the greater of either of the following:

(a) Any capital and surplus required by law for its organization;

(b) The total par or stated value of its authorized and issued capital stock.

(3) As to any insurer licensed to do business in this state as of the effective date of sections 3903.01 to 3903.59 of the Revised Code that does not meet the standard established under division ~~(N)~~ (O)(2) of this section, the term "insolvency" or "insolvent" means, for a period not to exceed three years from the effective date of sections 3903.01 to 3903.59 of the Revised Code, that it is unable to pay its obligations when they are due or that its admitted assets do not exceed its liabilities plus any required capital contribution ordered by the superintendent under provisions of Title XXXIX of the Revised Code.

(4) For purposes of divisions ~~(N)~~ (O)(2) to (4) of this section, "liabilities" includes, but is not limited to, reserves required by statute or by rules of the superintendent or specific requirements imposed by the superintendent upon a subject company at the time of admission or subsequent thereto.

(P) "Insurer" means any person who has done, purports to do, is doing, or is licensed to do an insurance business, and is or has been subject to the authority of, or to liquidation, rehabilitation, reorganization, supervision, or conservation by, any insurance commissioner, superintendent, or equivalent official. For purposes of sections 3903.01 to 3903.59 of the

Revised Code, any other persons included under section 3903.03 of the Revised Code are deemed to be insurers. 1139-1140

(Q) "Netting agreement" means: 1141

(1) A contract or agreement, including a master agreement, and any terms and conditions incorporated by reference in such a contract or agreement, that provides for the netting, liquidation, setoff, termination, acceleration, or close out under or in connection with a qualified financial contract, or any present or future payment or delivery obligations or entitlements under a qualified financial contract, including liquidation or close-out values relating to those obligations or entitlements; 1142-1150

(2) A master agreement, together with all schedules, confirmations, definitions, and addenda to the agreement and transactions under the agreement, which shall be treated as one netting agreement, and any bridge agreement for one or more master agreements; 1151-1155

(3) Any security agreement or arrangement, credit support document, or guarantee or reimbursement obligation related to any contract or agreement described in division ~~(P)~~ (Q) of this section. 1156-1159

Any contract or agreement described in division ~~(P)~~ (Q) of this section relating to agreements or transactions that are not qualified financial contracts shall be deemed to be a netting agreement only with respect to those agreements or transactions that are qualified financial contracts. 1160-1164

(R) "Preferred claim" means any claim with respect to which the terms of sections 3903.01 to 3903.59 of the Revised Code accord priority of payment from the assets of the insurer. 1165-1167

(S) "Qualified financial contract" means any commodity contract, forward contract, repurchase agreement, securities contract, swap agreement, and any similar agreement that the superintendent may determine by rule or order to be a qualified financial contract for purposes of this chapter. 1168 1169 1170 1171 1172

(T) "Reciprocal state" means any state other than this state in which in substance and effect division (A) of section 3903.18, and sections 3903.52, 3903.53, and 3903.55 to 3903.57 of the Revised Code are in force, in which provisions are in force requiring that the superintendent or equivalent official be the receiver, liquidator, rehabilitator, or conservator of a delinquent insurer, and in which some provision exists for the avoidance of fraudulent conveyances and preferential transfers. 1173 1174 1175 1176 1177 1178 1179 1180

(U) "Repurchase agreement" has the same meaning as in the federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 1821(e)(8)(D), as now and hereafter amended. 1181 1182 1183

(V) "Secured claim" means any claim secured by mortgage, trust deed, security agreement, pledge, deposit as security, escrow, or otherwise, but not including special deposit claims or claims against assets. The term also includes claims which have become liens upon specific assets by reason of judicial process. 1184 1185 1186 1187 1188 1189

(W) "Securities contract" has the same meaning as in the federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 1821(e)(8)(D), as now and hereafter amended. 1190 1191 1192

(X) "Special deposit claim" means any claim secured by a deposit made pursuant to statute for the security or benefit of a limited class or classes of persons, but not including any claim secured by assets. 1193 1194 1195 1196

(Y) "State" has the meaning set forth in division (G) of section 1.59 of the Revised Code. 1197 1198

(Z) "Superintendent" or "superintendent of insurance" means the superintendent of insurance of this state, or, when the context requires, the superintendent or commissioner of insurance, or equivalent official, of another state. 1199 1200 1201 1202

(AA) "Swap agreement" has the same meaning as in the federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 1821(e)(8)(D), as now and hereafter amended. 1203 1204 1205

(BB) "Transfer" includes the sale and every other and different mode, direct or indirect, of disposing of or of parting with property or with an interest in property, or with the possession of property or of fixing a lien upon property or upon an interest in property, absolutely or conditionally, voluntarily, or by or without judicial proceedings. The retention of a security title to property delivered to a debtor shall be deemed a transfer suffered by the debtor. 1206 1207 1208 1209 1210 1211 1212 1213

Sec. 3903.50. (A) If a domiciliary liquidator has not been appointed, the superintendent of insurance may file a complaint in the court of common pleas for an order directing ~~him~~ the superintendent to act as conservator to conserve the property of an alien insurer not domiciled in this state or a foreign insurer on any one or more of the following grounds: 1214 1215 1216 1217 1218 1219

(1) Any of the grounds in section 3903.12 of the Revised Code; 1220 1221

(2) That any of its property has been sequestered by official action in its domiciliary state, or in any other state; 1222 1223

(3) That enough of its property has been sequestered in a foreign country to give reasonable cause to fear that the 1224 1225

insert is or may become insolvent; 1226

(4) That its certificate of authority to do business in this state has been revoked or none was ever issued and that there are residents of this state with outstanding claims or outstanding policies. 1227 1228 1229 1230

(B) When an order is sought under division (A) of this section, the court shall cause the insurer to be given such notice and time to respond thereto as is reasonable under the circumstances. 1231 1232 1233 1234

(C) The court may issue the order in whatever terms it considers appropriate. Persons dealing with the property of the insurer are charged with notice of a judgment ordering the ~~supervisor~~ superintendent to act as conservator under this section from the time when the judgment is filed under Civil Rule 58, or a certified copy of the judgment is filed under Civil Rule 3(F), with the clerk of the court of common pleas of the county in which the principal business of the company is located or the county in which its principal office or place of business is located. 1235 1236 1237 1238 1239 1240 1241 1242 1243 1244

(D) The conservator may at any time file a motion for and the court may grant an order under section 3903.51 of the Revised Code to liquidate assets of a foreign or alien insurer under conservation, or, if appropriate, for an order under section 3903.53 of the Revised Code to be appointed ancillary receiver. 1245 1246 1247 1248 1249 1250

(E) The conservator may at any time move the court for an order terminating conservation of an insurer. If the court finds that the conservation is no longer necessary, it shall order that the insurer be restored to possession of its property and 1251 1252 1253 1254

the control of its business. The court may also make such finding and issue such order at any time upon motion of any interested party, but if such motion is denied all costs shall be assessed against the party.

Sec. 3903.52. (A) The ~~domicilary~~ domiciliary liquidator of an insurer domiciled in a reciprocal state shall, except as to special deposits and security on secured claims under division (C) of section 3903.53 of the Revised Code, be vested by operation of law with the title to all of the assets, property, contracts, and rights of action, agents' balances, and all of the books, accounts, and other records of the insurer located in this state. The date of vesting shall be the date of the filing of the complaint or petition, if that date is specified by the domiciliary law for the vesting of property in the domiciliary state. Otherwise, the date of vesting shall be the date of entry of the order directing possession to be taken. The domiciliary liquidator shall have the immediate right to recover balances due from agents and to obtain possession of the books, accounts, and other records of the insurer located in this state. ~~He~~ The domiciliary liquidator also shall have the right to recover all other assets of the insurer located in this state, subject to section 3903.53 of the Revised Code.

(B) If a domiciliary liquidator is appointed for an insurer not domiciled in a reciprocal state, the superintendent of insurance shall be vested by operation of law with the title to all of the property, contracts, and rights of action, and all of the books, accounts, and other records of the insurer located in this state, at the same time that the domiciliary liquidator is vested with title in the domicile. The superintendent may file a complaint for a conservation or liquidation order under section 3903.50 or 3903.51 of the Revised Code, or for an

ancillary receivership under section 3903.53 of the Revised Code, or after approval by the court may transfer title to the domiciliary liquidator, as the interests of justice and the equitable distribution of the assets require.

(C) Claimants residing in this state may file claims with the liquidator or ancillary receiver, if any, in this state or with the domiciliary liquidator, if the domiciliary law permits. The claims must be filed on or before the last date fixed for the filing of claims in the domiciliary liquidation proceedings.

Sec. 3903.56. (A) In a liquidation proceeding in a reciprocal state against an insurer domiciled in that state, claimants against the insurer who reside within this state may file claims either with the ancillary receiver, if any, in this state, or with the domiciliary liquidator. Claims must be filed on or before the last dates fixed for the filing of claims in the domiciliary liquidation proceeding.

(B) Claims belonging to claimants residing in this state may be proved either in the domiciliary state under the law of that state, or in ancillary proceedings, if any, in this state. If a claimant elects to prove ~~his~~ the claimant's claim in this state, ~~he~~ the claimant shall file ~~his~~ the claim with the liquidator in the manner provided in sections 3903.35 and 3903.36 of the Revised Code. The ancillary receiver shall make ~~his~~ a recommendation to the court as under section ~~3939.43~~ 3903.43 of the Revised Code. ~~He~~ The ancillary receiver shall also arrange a date for hearing if necessary under section 3903.39 of the Revised Code and shall give notice to the liquidator in the domiciliary state, either by certified mail or by personal service at least forty days prior to the date set for hearing. If the domiciliary liquidator, within thirty days

after the giving of such notice, gives notice in writing to the ancillary receiver and to the claimant, either by certified mail or by personal service, of ~~his~~ the domiciliary liquidator's intention to contest the claim, ~~he~~ the domiciliary liquidator shall be entitled to appear or to be represented in any proceeding in this state involving the adjudication of the claim.

(C) The final allowance of the claim by the courts of this state shall be accepted as conclusive as to amount and as to priority against special deposits or other security located in this state.

Sec. 3903.71. If it appears to the superintendent of insurance upon satisfactory evidence that the affairs of an insurance company, partnership, association, or reciprocal insurance exchange, not organized under the laws of this state, are such that any of the following conditions exist, ~~he~~ the superintendent shall suspend the authority granted to such company to do business in this state:

(A) It cannot meet the current applicable requirements for incorporation and commencement of the business of insurance in this state;

(B) It has commenced, or has attempted to commence, any voluntary liquidation or dissolution proceeding, or any proceeding to procure the appointment of a ~~receivor~~ receiver, liquidator, rehabilitor, sequestrator, conservator, or similar officer for itself;

(C) It is the subject of liquidation or dissolution proceedings undertaken by another state, or any other proceeding undertaken by another state to procure the appointment of a

~~receivor~~ receiver, liquidator, rehabilitor, sequestrator, conservator, or similar officer; 1345 1346

(D) Its ratio of premium writings to surplus and capital are unreasonable as determined by the superintendent of insurance; 1347 1348 1349

(E) Its further transaction of business would be hazardous to its policyholders, contract holders, or the public as shown by the following conduct, but not necessarily limited to only the following: 1350 1351 1352 1353

(1) Its investments are made so as to make unavailable within a reasonable time sufficient moneys to meet promptly any demand which might in the ordinary course of business be properly made against it; 1354 1355 1356 1357

(2) Any of its officers or directors have embezzled, sequestered, or wrongfully diverted any of its assets; 1358 1359

(3) It has willfully violated its charter or any law of this state. 1360 1361

If no demand for a hearing is made by the suspended company within thirty days after suspension, such suspension shall become a revocation of the authority to transact the business of insurance in this state. Any such hearing shall be held in compliance with sections 119.01 to 119.13 of the Revised Code. If during such hearing, satisfactory evidence of any of the enumerated conditions of this section is found to exist, the superintendent shall revoke the authority to transact the business of insurance in this state. 1362 1363 1364 1365 1366 1367 1368 1369 1370

Sec. 3903.724. (A) This section shall determine the calendar year statutory valuation interest rates (VIR) used in determining the minimum standard for the valuation of all of the 1371 1372 1373

following: 1374

(1) Life insurance policies issued on or after January 1, 1375
1989; 1376

(2) Individual annuity and pure endowment contracts issued 1377
on or after January 1, 1989; 1378

(3) Annuities and pure endowments purchased on or after 1379
January 1, 1989, under group annuity and pure endowment 1380
contracts; 1381

(4) The net increase, if any, in amounts held under a 1382
guaranteed interest ~~contact~~contract in a calendar year after 1383
January 1, 1989. 1384

(B) The calendar year statutory valuation interest rates 1385
shall be calculated as follows and the results rounded to the 1386
nearest one-quarter of one per cent: 1387

(1)(a) For life insurance, by adding three per cent to the 1388
result of multiplying W (the applicable weighting factor) by 1389
R(sub-1) minus three per cent (where R(sub-1) is the lesser of 1390
the reference interest rate and nine per cent) and also adding 1391
the result of multiplying one-half of the weighting factor by 1392
R(sub-2) minus nine per cent (where R(sub-2) is the greater of 1393
the reference interest rate and nine per cent), expressed as 1394
follows: 1395

VIR = .03 + W (R(sub-1) - .03) + W/2(R(sub-2) - .09). 1396

(b) Provided that if the calendar year statutory valuation 1397
interest rate for a life insurance policy issued in any calendar 1398
year determined in accordance with this division does not differ 1399
from the calendar year valuation interest rate for similar 1400
policies issued in the preceding calendar year by at least one- 1401

half of one per cent, the calendar year valuation interest rate for the policy shall be equal to the calendar year valuation interest rate for the preceding calendar year. The calendar year statutory valuation interest rate shall be determined for 1980 and for each subsequent year prior to the operative date of the valuation manual. 1402 1403 1404 1405 1406 1407

(2) For all single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options by adding to three per cent the result of multiplying W (the applicable weighting factor) by R minus three per cent (where R is the reference interest rate), expressed as follows: 1408 1409 1410 1411 1412 1413 1414

$$VIR = .03 + W (R -.03).$$ 1415

(3) Except as provided in division (B)(2) of this section, for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, the life insurance formula stated in division (B)(1) of this section shall apply to all annuity and guaranteed interest contracts with guarantee durations in excess of ten years and the formula for single premium immediate annuities stated in division (B)(2) of this section shall apply to annuities and guaranteed interest contracts with guarantee duration of ten years or less. 1416 1417 1418 1419 1420 1421 1422 1423 1424 1425

(4) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in division (B)(2) of this section shall apply. 1426 1427 1428 1429

(5) For other annuities with cash settlement options and 1430

guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in division (B)(2) of this section shall apply. 1431 1432 1433 1434

(C) For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under an option to convert to a plan of life insurance with premium rates or nonforfeiture values, or both, guaranteed in the policy. 1435 1436 1437 1438 1439

(D) The weighting factors for the formulas prescribed in division (B) of this section are shown in the following table: 1440 1441

1442

	1	2
A	Weighting Factors for Life Insurance	
B	Guarantee Duration (Years)	Weighting Factors
C	10 or less	.50
D	More than 10, but not more than 20	.45
E	More than 20	.35

(E) The weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuity and guaranteed interest contracts with cash settlement options is .80. 1443 1444 1445 1446

(F) Weighting factors for all other annuity and guaranteed interest contracts vary with the type of plan and guarantee 1447 1448

duration. The types of plans are as follows: 1449

(1) A plan type A is one in which funds may not be withdrawn or may be withdrawn in only one of three ways: 1450 1451

(a) With an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the company; 1452 1453

(b) Without such adjustment but in installments over five or more years; 1454 1455

(c) As an immediate life annuity. 1456

(2) A plan type B is one in which the funds may not be withdrawn before the expiration of the interest rate guarantee unless an adjustment is made to reflect changes in interest rates or asset values since receipt of the funds by the company or unless they are withdrawn in installments over five or more years. At the end of the interest rate guarantee, funds may be withdrawn in a single sum or in installments over less than five years without adjustment. 1457 1458 1459 1460 1461 1462 1463 1464

(3) A plan type C is one in which the funds may be withdrawn before the end of the interest rate guarantee in a single sum or in installments over less than five years without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the company or subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund. 1465 1466 1467 1468 1469 1470 1471

(4) The guarantee duration for an annuity or guaranteed interest contract with cash settlement options is the number of years for which the contract guarantees interest rates in excess of the calendar year valuation interest rate for life insurance policies with guarantee duration in excess of twenty years. The guarantee duration for annuity and guaranteed interest contracts 1472 1473 1474 1475 1476 1477

without cash settlement options is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence. 1478 1479 1480

(5) Annuity and guaranteed interest contracts with cash settlement options may be valued on an issue year basis or on a change in fund basis. Annuity and guaranteed interest contracts without cash settlement options must be valued on an issue year basis. As used in this division, an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund. 1481 1482 1483 1484 1485 1486 1487 1488 1489 1490 1491 1492 1493 1494 1495 1496

(6) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in division (E) of this section, are specified below. 1497 1498 1499

(a) For annuity and guaranteed interest contracts valued on an issue year basis: 1500 1501

Weighting Factors for Annuities and Guaranteed Interest Contracts 1502 1503

1504

1	2	3	4

A		Weighting Factor for Plan Type		
B	Guarantee Duration (Years)	A	B	C
C	5 or less	.80	.60	.50
D	More than 5, but not more than 10	.75	.60	.50
E	More than 10, but not more than 20	.65	.50	.45
F	More than 20	.45	.35	.35

(b) For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in division (F)(6)(a) of this section increased by the following amounts: 1505 1506 1507

(i) For plan type A, .15; 1508

(ii) For plan type B, .25; 1509

(iii) For plan type C, .05. 1510

(c) For annuities and guaranteed interest contracts valued on an issue year basis, other than those with no cash settlement options, that do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis that do not guarantee interest rates on considerations received more than twelve months beyond the valuation date, the factors shown in item (F)(6)(a) or derived in item (F)(6)(b) increased by .05 for all plan types. 1511 1512 1513 1514 1515 1516 1517 1518 1519

(G) The reference interest rate is determined by comparing the monthly average of the composite yield of the monthly average on seasoned corporate bonds, as published by Moody's investors service, inc. for the applicable time period, as 1520 1521 1522 1523

prescribed below: 1524

(1) The reference interest rate for all life insurance is the lesser of such average over the thirty-six month period and such average over the twelve-month period ending on the thirtieth day of June of the calendar year preceding the year of issue. 1525 1526 1527 1528 1529

(2) The reference interest rate for annuity and guaranteed interest contracts with cash settlement options, except single premium immediate annuities and annuity benefits involving life contingencies arising from other annuity and guaranteed interest contracts with cash settlement options, valued on an issue year basis with guarantee durations in excess of ten years, is the lesser of such average over the thirty-six month period and such average over the twelve-month period ending on the thirtieth day of June of the calendar year of issue or purchase. 1530 1531 1532 1533 1534 1535 1536 1537 1538

(3) The reference interest rate for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in division (G)(6) of this section, with guarantee duration of ten years or less, such average over the twelve-month period ending on the thirtieth day of June of the calendar year of issue or purchase. 1539 1540 1541 1542 1543 1544 1545

(4) The reference interest rate for other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, such average over the twelve-month period ending on the thirtieth day of June of the calendar year of issue or purchase. 1546 1547 1548 1549 1550

(5) The reference interest rate for all other annuity and guaranteed interest contracts with cash settlement options 1551 1552

valued on a change in fund basis is such average over the twelve-month period ending on the thirtieth day of June of the calendar year in which a change in the fund occurs. 1553 1554 1555

(6) The reference interest rate for all single premium immediate annuities and annuity benefits involving life contingencies arising from other annuity and guaranteed interest contracts with cash settlement options is such average over the twelve-month period ending on the thirtieth day of June of the calendar year of issue or purchase. 1556 1557 1558 1559 1560 1561

(7) If such corporate bond rate average is no longer published or the national association of insurance commissioners determines that such average is no longer appropriate, the superintendent may by rule approve the use of any alternative method for the determination of the reference interest rate adopted by the commissioners. 1562 1563 1564 1565 1566 1567

Sec. 3903.728. (A) For policies issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under division (B) of section 3903.721 of the Revised Code, except as provided under divisions (E) and (G) of this section. 1568 1569 1570 1571 1572 1573

(B) The operative date of the valuation manual is January 1 of the first calendar year following the first July 1 as of which all of the following have occurred: 1574 1575 1576

(1) The valuation manual has been adopted by the national association of insurance commissioners by an affirmative vote of at least forty-two members, or three-fourths of the members voting, whichever is greater. 1577 1578 1579 1580

(2) The standard valuation law, as amended by the national 1581

association of insurance commissioners in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing greater than seventy-five per cent of the direct premiums written as reported in one or more of the following annual statements submitted for 2008: life, accident, and health annual statements; health annual statements; or fraternal annual statements.

(3) The standard valuation law, as amended by the national association of insurance commissioners in 2009, or legislation including substantially similar terms and provisions, has been enacted by at least forty-two of the following fifty-five jurisdictions: the fifty states of the United States, American Samoa, the American Virgin Islands, the District of Columbia, Guam, and Puerto Rico.

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

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

~~(a)~~ (1) At least three-fourths of the members of the national association of insurance commissioners voting, but not less than a majority of the total membership;

~~(b)~~ (2) Members of the national association of insurance commissioners representing jurisdictions totaling greater than seventy-five per cent of the direct premiums written as reported in one or more of the following annual statements most recently available prior to the vote in division (C)(1)~~(a)~~ of this

section: life, accident, and health annual statements; health annual statements; or fraternal annual statements. 1611 1612

(D) The valuation manual shall specify all of the following: 1613 1614

(1) Minimum valuation standards for and definitions of the policies or contracts subject to division (B) of section 3903.721 of the Revised Code. The minimum valuation standards shall be: 1615 1616 1617 1618

(a) The commissioners reserve valuation method for life insurance contracts, other than annuity contracts, subject to division (B) of section 3903.721 of the Revised Code; 1619 1620 1621

(b) The commissioners annuity reserve valuation method for annuity contracts subject to division (B) of section 3903.721 of the Revised Code; 1622 1623 1624

(c) Minimum reserves for all other policies or contracts subject to division (B) of section 3903.721 of the Revised Code. 1625 1626

(2) Which policies or contracts or types of policies or contracts are subject to the requirements of a principle-based valuation in division (A) of section 3903.729 of the Revised Code and the minimum valuation standards consistent with those requirements. 1627 1628 1629 1630 1631

(3) For policies and contracts subject to a principle-based valuation under section 3903.729 of the Revised Code: 1632 1633

(a) Requirements for the format of reports to the superintendent under division (B)(3) of section 3903.729 of the Revised Code that shall include information necessary to determine if the valuation is appropriate and in compliance with sections 3903.72 to 3903.7211 of the Revised Code. 1634 1635 1636 1637 1638

(b) Assumptions for risks over which the company does not have significant control or influence. 1639 1640

(c) Procedures for corporate governance and oversight of the actuarial function, and a process for appropriate waiver or modification of such procedures. 1641 1642 1643

(4) For policies not subject to a principle-based valuation under section 3903.729 of the Revised Code, the minimum valuation standard, which shall be or do either of the following: 1644 1645 1646 1647

(a) Be consistent with the minimum standard of valuation prior to the operative date of the valuation manual; 1648 1649

(b) Develop reserves that 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. 1650 1651 1652 1653 1654

(5) Other requirements, including those relating to reserve methods, models for measuring risk, generation of economic scenarios, assumptions, margins, use of company experience, risk measurement, disclosure, certifications, reports, actuarial opinions and memorandums, transition rules, and internal controls; 1655 1656 1657 1658 1659 1660

(6) The data and form of the data required under section 3903.7210 of the Revised Code, with whom the data must be submitted, and other requirements specified by the superintendent, which may include data analyses and reporting of analyses. 1661 1662 1663 1664 1665

(E) In the absence of a specific valuation requirement or if a specific valuation requirement in the valuation manual is 1666 1667

not, in the opinion of the superintendent, in compliance with sections 3903.72 to 3903.7211 of the Revised Code, then the company shall, with respect to such requirements, comply with minimum valuation standards prescribed in rules adopted by the superintendent. 1668 1669 1670 1671 1672

(F) The superintendent may engage a qualified actuary, at the expense of the company, to perform an actuarial examination of the company and opine on the appropriateness of any reserve assumption or method used by the company, or to review and opine on a company's compliance with any requirement set forth in sections 3903.72 to 3903.7211 of the Revised Code. The superintendent may rely upon the opinion, regarding provisions contained within sections 3903.72 to 3903.7211 of the Revised Code, of a qualified actuary engaged by the insurance commissioner of another state, district, or territory of the United States. As used in this division, the term "engage" includes employment and contracting. 1673 1674 1675 1676 1677 1678 1679 1680 1681 1682 1683 1684

(G) The superintendent may require a company to change any assumption or method that in the opinion of the superintendent is necessary in order to comply with the requirements of the valuation manual or sections 3903.72 to 3903.7211 of the Revised Code, and the company shall adjust the reserves as required by the superintendent. The superintendent may take other disciplinary action as permitted under applicable laws. 1685 1686 1687 1688 1689 1690 1691

Sec. 3903.7211. (A) As used in this section: 1692

(1) "Confidential information" means all of the following: 1693

(a) A memorandum in support of an opinion submitted under sections 3903.722 and 3903.726 of the Revised Code and any other documents, materials, and other information, including all 1694 1695 1696

working papers, and copies thereof, created, produced, or obtained by or disclosed to the superintendent or any other person in connection with such memorandum. 1697 1698 1699

(b)(i) Except as provided in division (A)(1)(b)(ii) of this section, all documents, materials, and other information, including all working papers, and copies thereof, created, produced, or obtained by or disclosed to the superintendent or any other person in the course of an examination made under division (F) of section 3903.728 of the Revised Code. 1700 1701 1702 1703 1704 1705

(ii) If an examination report or other material prepared in connection with an examination made under section 3901.07 of the Revised Code is not held as private and confidential information under that section, an examination report or other material prepared in connection with an examination made under division (F) of section 3903.728 of the Revised Code shall not be considered confidential information to the same extent as if such examination report or other material had been prepared under section 3901.07 of the Revised Code. 1706 1707 1708 1709 1710 1711 1712 1713 1714

(c) Any reports, documents, materials, and other information developed by a company in support of, or in connection with, an annual certification by the company under division (B)(2) of section 3903.729 of the Revised Code evaluating the effectiveness of the company's internal controls with respect to a principle-based valuation and any other documents, materials, and other information, including all working papers, and copies thereof, created, produced, or obtained by or disclosed to the superintendent or any other person in connection with such reports, documents, materials, and other information; 1715 1716 1717 1718 1719 1720 1721 1722 1723 1724 1725

(d) Any principle-based valuation report developed under 1726

division (B)(3) of section 3903.729 of the Revised Code and any other documents, materials, and other information, including all working papers, and copies thereof, created, produced, or obtained by or disclosed to the superintendent or any other person in connection with such report; 1727 1728 1729 1730 1731

(e) Any documents, materials, data, and other information submitted by a company under section 3903.7210 of the Revised Code, referred to collectively as "experience data," and any other documents, materials, data, and other information, including all working papers, and copies thereof, created or produced in connection with such experience data, in each case that include any potentially company-identifying or personally identifiable information, that is provided to or obtained by the superintendent, which when combined with any experience data is referred to as "experience materials," and any other documents, materials, data, and other information, including all working papers, and copies thereof, created, produced, or obtained by or disclosed to the superintendent or any other person in connection with such experience materials. 1732 1733 1734 1735 1736 1737 1738 1739 1740 1741 1742 1743 1744 1745

(2) "Regulatory agency," "law enforcement agency," and the "national association of insurance commissioners" includes their employees, agents, consultants, and contractors. 1746 1747 1748

(B)(1) Except as provided in division (B)(2) of this section and as otherwise provided in this section, a company's confidential information is confidential by law and privileged, is not a public record under section 149.43 of the Revised Code, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. Except as otherwise provided in this section, neither the superintendent nor any person who received confidential 1749 1750 1751 1752 1753 1754 1755 1756

information while acting under the superintendent's authority shall be permitted or required to testify in any private civil action concerning that confidential information. 1757 1758 1759

(2) The superintendent is authorized to use the confidential information in the furtherance of any regulatory or legal action brought against the company as a part of the superintendent's official duties. 1760 1761 1762 1763

(C)(1) In order to assist in the performance of the superintendent's duties, the superintendent may share confidential information with all of the following: 1764 1765 1766

(a) Other state, federal, and international regulatory agencies; 1767 1768

(b) The national association of insurance commissioners and its affiliates and subsidiaries; 1769 1770

(c) The actuarial board for counseling and discipline, or its successor, in the case of confidential information specified in divisions (A)(1)(a) and (d) of this section only, upon a request stating that the confidential information is required for the purpose of professional disciplinary proceedings; 1771 1772 1773 1774 1775

(d) State, federal, and international law enforcement officials. 1776 1777

(2) The superintendent may share confidential information as specified in divisions (C)(1)(a) through (d) of this section only if the recipient agrees, and has the legal authority to agree, to maintain the confidentiality and privileged status of such documents, materials, data, and other information in the same manner and to the same extent as required for the superintendent. 1778 1779 1780 1781 1782 1783 1784

(D) The superintendent may receive documents, materials, data, and other information, including otherwise confidential and privileged documents, materials, data, or information, from the national association of insurance commissioners and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions, and from the actuarial board for counseling and discipline or its successor. The superintendent shall maintain as confidential or privileged any document, material, data, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, data, or other information. 1785 1786 1787 1788 1789 1790 1791 1792 1793 1794 1795 1796 1797

(E) The superintendent may enter into agreements governing sharing and use of information consistent with this section. 1798 1799

(F) No waiver of any applicable privilege or claim of confidentiality in the confidential information shall occur as a result of disclosure to the superintendent under this section or as a result of sharing as authorized in division (C) of this section. 1800 1801 1802 1803 1804

(G) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this section shall be available and enforced in any proceeding in, and in any court of, this state. 1805 1806 1807 1808

(H) Notwithstanding divisions (B) to (G) of this section, any confidential information specified in divisions (A)(1)(a) and (d) of this section are subject to all of the following: 1809 1810 1811

(1) The confidential information may be subject to subpoena for the purpose of defending an action seeking damages 1812 1813

from the appointed actuary submitting the related memorandum in support of an opinion submitted under sections 3903.722 and 3903.726 of the Revised Code or principle-based valuation report developed under division (B)(3) of section 3903.729 of the Revised Code by reason of an action required by sections 3903.72 to 3903.7211 of the Revised Code or by rules adopted pursuant to those sections.

(2) The confidential information may otherwise be released by the superintendent with the written consent of the company.

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

Sec. 3903.74. If any company, corporation, or association required by law to make a deposit with the superintendent of insurance, or other state officer, to secure the contracts ~~or OF~~ of such company, corporation, or association, or for any other purpose, fails to pay any of its liabilities upon such contracts, or other obligations, according to the terms thereof after the liability thereon has been determined, or if such company, corporation, or association, having ceased to do business ~~with~~ within this state, leaves unpaid any such liability or has become insolvent, the attorney general, on behalf of the superintendent, or such other officer, and upon the application of any person entitled to participate in such

deposit, or the proceeds arising therefrom, shall commence a civil action in the court of common pleas of Franklin county, making the company, corporation, or association a party defendant, to determine the rights of all parties claiming any interest in such deposit, to subject the deposit to the payment or satisfaction of all liabilities, and to distribute such fund among the persons entitled thereto. 1844 1845 1846 1847 1848 1849 1850

Sec. 3904.01. As used in sections 3904.01 to 3904.22 of the Revised Code: 1851 1852

(A)(1) "Adverse underwriting decision" means any of the following actions with respect to insurance transactions involving life, health, or disability insurance coverage that is individually underwritten: 1853 1854 1855 1856

(a) A declination of insurance coverage; 1857

(b) A termination of insurance coverage; 1858

(c) Failure of an agent to apply for insurance coverage with a specific insurance institution that the agent represents and that is requested by an applicant; 1859 1860 1861

(d) An offer to insure at higher than standard rates. 1862

(2) Notwithstanding division (A)(1) of this section, none of the following actions is an adverse underwriting decision, but the insurance institution or agent responsible for their occurrence shall nevertheless provide the applicant or policyholder with the specific reason or reasons for their occurrence: 1863 1864 1865 1866 1867 1868

(a) The termination of an individual policy form on a class or statewide basis; 1869 1870

(b) A declination of insurance coverage solely because the 1871

coverage is not available on a class or statewide basis; 1872

(c) The rescission of a policy. 1873

(B) "Affiliate" or "affiliated" means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person. 1874 1875 1876 1877

(C) "Agent" means a person licensed under Chapter 3905. of the Revised Code to negotiate or solicit applications for a policy or contract of life, health, or disability insurance. 1878 1879 1880

(D) "Applicant" means any person that seeks to contract for life, health, or disability insurance coverage other than a person seeking group insurance that is not individually underwritten. 1881 1882 1883 1884

(E) "Consumer report" means any written, oral, or other communication of information bearing on a natural person's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living that is used or expected to be used in connection with a life, health, or disability insurance transaction. 1885 1886 1887 1888 1889 1890

(F) "Consumer reporting agency" means any person that does all of the following: 1891 1892

(1) Regularly engages, in whole or in part, in the practice of assembling or preparing consumer reports for a monetary fee; 1893 1894 1895

(2) Obtains information primarily from sources other than insurance institutions; 1896 1897

(3) Furnishes consumer reports to other persons. 1898

(G) "Control," including the terms "controlled by" or "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. 1899 1900 1901 1902 1903 1904 1905 1906

(H) "Declination of insurance coverage" means a denial, in whole or in part, by an insurance institution or agent of requested insurance coverage. 1907 1908 1909

(I) "Individual" means any natural person who in connection with life, health, or disability insurance: 1910 1911

(1) Is a past, present, or proposed principal insured or certificate holder; 1912 1913

(2) Is a past, present, or proposed policy owner; 1914

(3) Is a past or present applicant; 1915

(4) Is a past or present claimant; 1916

(5) Derived, derives, or is proposed to derive insurance coverage under an insurance policy or certificate subject to sections 3904.01 to 3904.22 of the Revised Code. 1917 1918 1919

(J) "Institutional source" means any person or governmental entity that provides information about an individual to an agent, insurance institution, or insurance support organization, other than any of the following: 1920 1921 1922 1923

(1) An agent; 1924

(2) The individual who is the subject of the information; 1925

(3) A natural person acting in a personal capacity rather than in a business or professional capacity. 1926 1927

(K) "Insurance institution" means any corporation, association, partnership, fraternal benefit society, or other person engaged in the business of life, health, or disability insurance, including health insuring corporations. "Insurance institution" does not include agents or insurance support organizations. 1928 1929 1930 1931 1932 1933

(L)(1) "Insurance support organization" means any person that regularly engages, in whole or in part, in the practice of assembling or collecting information about natural persons for the primary purpose of providing the information to an insurance institution or agent for insurance transactions, including both of the following: 1934 1935 1936 1937 1938 1939

(a) The furnishing of consumer reports or investigative consumer reports to an insurance institution or agent for use in connection with an insurance transaction; 1940 1941 1942

(b) The collection of personal information from insurance institutions, agents, or other insurance support organizations for the purpose of detecting or preventing fraud, material misrepresentation, or material nondisclosure in connection with insurance underwriting or insurance claim activity. 1943 1944 1945 1946 1947

(2) Notwithstanding division (L)(1) of this section, agents, government institutions, insurance institutions, medical care institutions, and medical professionals are not "insurance support organizations" for purposes of sections 3904.01 to 3904.22 of the Revised Code. 1948 1949 1950 1951 1952

(M) "Insurance transaction" means any transaction involving life, health, or disability insurance primarily for 1953 1954

personal, family, or household needs rather than business or 1955
professional needs and entailing either the determination of an 1956
individual's eligibility for a life, health, or disability 1957
insurance coverage, benefit, or payment, or the servicing of a 1958
life, health, or disability insurance application, policy, 1959
contract, or certificate. 1960

(N) "Investigative consumer report" means a consumer 1961
report or portion thereof in which information about a natural 1962
person's character, general reputation, personal 1963
characteristics, or mode of living is obtained through personal 1964
interviews with the person's neighbors, friends, associates, 1965
acquaintances, or others who may have knowledge concerning such 1966
items of information. 1967

(O) "Medical care institution" means any facility or 1968
institution that is licensed to provide health care services to 1969
natural persons, including home-health agencies, hospitals, 1970
medical clinics, public health agencies, rehabilitation 1971
agencies, and skilled nursing facilities. 1972

(P) "Medical professional" means any person licensed or 1973
certified to provide health care services to natural persons, 1974
including a chiropractor, clinical ~~dietician~~ dietitian, clinical 1975
psychologist, dentist, nurse, occupational therapist, 1976
optometrist, pharmacist, physical therapist, physician, 1977
podiatrist, psychiatric social worker, and speech therapist. 1978

(Q) "Medical record information" means personal 1979
information that relates to an individual's physical or mental 1980
condition, medical history, or medical treatment and that is 1981
obtained from a medical professional or medical care 1982
institution, from the individual, or from the individual's 1983
spouse, parent, or legal guardian. 1984

(R) "Personal information" means any individually identifiable information gathered in connection with an insurance transaction from which judgments can be made about an individual's character, habits, avocations, finances, occupation, general reputation, credit, health, or any other personal characteristics. "Personal information" includes an individual's name and address and medical record information but does not include privileged information. 1985 1986 1987 1988 1989 1990 1991 1992

(S) "Policyholder" means any person that is a present owner of individual life, health, or disability insurance, or a present certificate holder under group life, health, or disability insurance that is individually underwritten. 1993 1994 1995 1996

(T) "Pretext interview" means an interview whereby a person, in an attempt to obtain information about a natural person, performs one or more of the following acts: 1997 1998 1999

(1) Pretends to be someone the interviewer is not; 2000

(2) Pretends to represent a person the interviewer is not in fact representing; 2001 2002

(3) Misrepresents the true purpose of the interview; 2003

(4) Refuses to identify self upon request. 2004

(U) "Privileged information" means any individually identifiable information that relates to a claim for life, health, or disability insurance benefits or a civil or criminal proceeding involving an individual, and that is collected in connection with, or in reasonable anticipation of, a claim for life, health, or disability insurance benefits or civil or criminal proceeding involving an individual. However, information otherwise meeting the requirements of this division shall nevertheless be considered personal information if it is 2005 2006 2007 2008 2009 2010 2011 2012 2013

disclosed in violation of section 3904.13 of the Revised Code.

(V) "Termination of insurance coverage" or "termination of an insurance policy" means either a cancellation or nonrenewal of a life, health, or disability insurance policy, in whole or in part, for any reason other than the failure to pay a premium as required by the policy.

(W) "Unauthorized insurer" means an insurance institution that has not been granted a certificate of authority by the superintendent of insurance to transact the business of life, health, or disability insurance in this state.

Sec. 3904.02. (A) The obligations of sections 3904.01 to 3904.22 of the Revised Code apply to those insurance institutions, agents, or insurance support organizations that, on or after ~~the effective date of these sections~~ June 29, 1995, do either of the following:

(1) Collect, receive, or maintain information in connection with insurance transactions that pertains to natural persons who are residents of this state;

(2) Engage in insurance transactions with applicants, individuals, or policyholders who are residents of this state.

(B) The rights granted by sections 3904.01 to 3904.22 of the Revised Code extend to both of the following persons who are residents of this state:

(1) Natural persons who are the subject of information collected, received, or maintained in connection with insurance transactions;

(2) Applicants, individuals, or policyholders who engage in or seek to engage in insurance transactions.

(C) For purposes of this section, a person is considered a resident of this state if the person's last known mailing address, as shown in the records of the insurance institution, agent, or insurance support organization, is located in this state. 2042 2043 2044 2045 2046

Sec. 3904.16. (A) Whenever the superintendent of insurance has reason to believe that an insurance institution, agent, or insurance support organization has been or is engaged in conduct in this state that violates sections 3904.01 to 3904.22 of the Revised Code, or if the superintendent believes that an insurance support organization has been or is engaged in conduct outside this state that has an effect on a person residing in this state and that violates these sections, the superintendent shall issue and serve upon such insurance institution, agent, or insurance support organization a statement of charges and notice of hearing to be held at a time and place fixed in the notice. The date for such hearing shall be not less than thirty days after the date of service. 2047 2048 2049 2050 2051 2052 2053 2054 2055 2056 2057 2058 2059

(B) At the time and place fixed for such hearing, the insurance institution, agent, or insurance support organization charged shall have an opportunity to answer the charges against it and present evidence on its ~~behlaf~~ behalf. Upon good cause shown, the superintendent shall permit any adversely affected person to intervene, appear, and be heard at such hearing by counsel or in person. 2060 2061 2062 2063 2064 2065 2066

(C) At any hearing conducted pursuant to this section, the superintendent may administer oaths, examine, and cross-examine witnesses and receive oral and documentary evidence. The superintendent may subpoena witnesses, compel their attendance, and require the production of books, papers, records, 2067 2068 2069 2070 2071

correspondence and other documents that are relevant to the 2072
hearing. A stenographic record of the hearing shall be made upon 2073
the request of any party or at the discretion of the 2074
superintendent. If no stenographic record is made and if 2075
judicial review is sought, the superintendent shall prepare a 2076
statement of the evidence for use on the review. Hearings 2077
conducted under this section are governed by the same rules of 2078
evidence and procedure applicable to administrative proceedings 2079
conducted under Chapter 119. of the Revised Code. 2080

(D) Statements of charges, notices, orders, and other 2081
processes of the superintendent under sections 3904.01 to 2082
3904.22 of the Revised Code may be served by anyone authorized 2083
to act on behalf of the superintendent. Service of process may 2084
be completed in the manner provided by law for service of 2085
process in civil actions or by registered mail. A copy of the 2086
statement of charges, notice, order or other process shall be 2087
provided to the person or persons whose rights under these 2088
sections have been allegedly violated. A verified return setting 2089
forth the manner of service, or return postcard receipt in the 2090
case of registered mail, is sufficient proof of service. 2091

Sec. 3905.051. (A) As used in this section: 2092

~~(A)~~ (1) "Applicant" means a natural person applying for 2093
either of the following: 2094

~~(1)~~ (a) A resident license as an insurance agent or surety 2095
bail bond agent; 2096

~~(2)~~ (b) An additional line of authority under an existing 2097
resident insurance agent license if a criminal ~~record~~ records 2098
check has not been obtained within the last twelve months for 2099
insurance license purposes. 2100

~~(B)~~ (2) "Fingerprint" means an impression of the lines on the finger taken for the purpose of identification. The impression may be electronic or converted to an electronic format.

~~(C)~~ (B) Each applicant shall consent to a criminal record check in accordance with this section and shall submit a full set of fingerprints to the superintendent of insurance for that purpose.

~~(D)~~ (C) The superintendent of insurance shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check based on the applicant's fingerprints. The superintendent of insurance shall request that criminal record information from the federal bureau of investigation be obtained as part of the criminal records check.

~~(E)~~ (D) The superintendent of insurance may contract for the collection and transmission of fingerprints authorized under this section. The superintendent may order the fee for collecting and transmitting fingerprints to be payable directly to the contractor by the applicant. The superintendent may agree to a reasonable fingerprinting fee to be charged by the contractor. Any fee required under this section shall be paid by the applicant.

~~(F)~~ (E) The superintendent may receive criminal record information directly in lieu of the bureau of criminal identification and investigation that submitted the fingerprints to the federal bureau of investigation.

~~(G)~~ (F) The superintendent shall treat and maintain an applicant's fingerprints and any criminal record information

obtained under this section as confidential and shall apply 2130
security measures consistent with the criminal justice 2131
information services division of the federal bureau of 2132
investigation standards for the electronic storage of 2133
fingerprints and necessary identifying information and limit the 2134
use of records solely to the purposes authorized by this 2135
section. The fingerprints and any criminal record information 2136
are not subject to subpoena other than one issued pursuant to a 2137
criminal investigation, are confidential by law and privileged, 2138
are not subject to discovery, and are not admissible in any 2139
private civil action. 2140

~~(H)~~ (G) This section does not apply to an agent applying 2141
for renewal of an existing resident or nonresident license in 2142
this state. 2143

Sec. 3905.062. (A) As used in this section: 2144

(1) "Customer" means a person who purchases portable 2145
electronics or services. 2146

(2) "Enrolled customer" means a customer who elects 2147
coverage under a portable electronics insurance policy issued to 2148
a vendor of portable electronics by an insurer. 2149

(3) "Endorsee" means an employee or authorized 2150
representative of a vendor authorized to sell or offer portable 2151
electronics insurance. 2152

(4) "Location" means any physical location in this state 2153
or any web site, call center site, or similar location directed 2154
to residents of this state. 2155

(5) "Portable electronics" means a personal, self- 2156
contained, battery-operated electronic communication, viewing, 2157
listening, recording, gaming, computing, or global positioning 2158

device that is easily carried by an individual, including a cellular or satellite telephone; pager; personal global positioning satellite unit; portable computer; portable audio listening, video viewing or recording device; digital camera; video camcorder; portable gaming system; docking station; automatic answering device; and any other similar device, and any accessory related to the use of the device. 2159 2160 2161 2162 2163 2164 2165

(6) "Portable electronics insurance" means insurance providing coverage for the repair or replacement of portable electronics, which may be offered on a month-to-month or other periodic basis as a group or master commercial inland marine policy issued to a vendor by an insurer, and may cover portable electronics against loss, theft, inoperability due to mechanical failure, malfunction, damage, or other applicable perils. "Portable electronics insurance" does not mean any of the following: 2166 2167 2168 2169 2170 2171 2172 2173 2174

(a) A consumer goods service contract governed by section 3905.423 of the Revised Code; 2175 2176

(b) A policy of insurance covering a seller's or a manufacturer's obligations under a warranty; 2177 2178

(c) A homeowner's, renter's, private passenger automobile, commercial multi-peril, or similar insurance policy. 2179 2180

(7) "Portable electronics transaction" means the sale or lease of portable electronics by a vendor to a customer or the sale of a service related to the use of portable electronics by a vendor to a customer. 2181 2182 2183 2184

(8) "Supervising entity" means an insurer or a business entity licensed as an insurance agent under section 3905.06 of the Revised Code that is appointed by an insurer to supervise 2185 2186 2187

the administration of a portable electronics insurance program. 2188

(9) "Vendor" means a person in the business of engaging in portable electronics transactions directly or indirectly. 2189 2190

(B)(1) Except as provided in division (B)(2) of this section, no vendor or vendor's employee shall offer, sell, solicit, or place portable electronics insurance unless the vendor is licensed under section 3905.06 or 3905.07 of the Revised Code with a portable electronics insurance line of authority. 2191 2192 2193 2194 2195 2196

(2) Any vendor offering or selling portable electronics insurance on or before ~~the effective date of this section~~ <u>March 22, 2012,</u> that wishes to continue offering or selling that insurance shall apply for a license within ninety days after the superintendent of insurance makes the application available. 2197 2198 2199 2200 2201

(C)(1) The superintendent shall issue a resident business entity license to a vendor under section 3905.06 of the Revised Code if the vendor satisfies the requirements of sections 3905.05 and 3905.06 of the Revised Code, except that the application for a portable electronics insurance license shall satisfy the following additional requirements: 2202 2203 2204 2205 2206 2207

(a) The application shall include the location of the vendor's home office. 2208 2209

(b) If the application requires the vendor to designate an individual or entity as a responsible insurance agent, that agent shall not be required to be an employee of the applicant and may be the supervising entity or an individual agent who is an employee of the supervising entity. 2210 2211 2212 2213 2214

(c) If the vendor derives less than fifty per cent of the vendor's revenue from the sale of portable electronics 2215 2216

insurance, the application for a portable electronics insurance license may require the vendor to provide the name, residence address, and other information required by the superintendent for one employee or officer of the vendor who is designated by the vendor as the person responsible for the vendor's compliance with the requirements of this chapter. 2217 2218 2219 2220 2221 2222

(d) If the vendor derives fifty per cent or more of the vendor's revenue from the sale of portable electronics insurance, the application may require the information listed under division (C)(1)(c) of this section for all owners with at least ten per cent interest or voting interest, partners, officers, and directors of the vendor, or members or managers of a vendor that is a limited liability company. 2223 2224 2225 2226 2227 2228 2229

(2) The superintendent shall issue a nonresident business entity license to a vendor if the vendor satisfies the requirements of section 3905.07 of the Revised Code. However, if the nonresident vendor's home state does not issue a limited lines license for portable electronics insurance, the nonresident vendor may apply for a resident license under section 3905.06 of the Revised Code in the same manner and with the same rights and privileges as if the vendor were a resident of this state. 2230 2231 2232 2233 2234 2235 2236 2237 2238

(D) The holder of a limited lines license may not sell, solicit, or negotiate insurance on behalf of any insurer unless appointed to represent that insurer under section 3905.20 of the Revised Code. 2239 2240 2241 2242

(E) Division (B)(34) of section 3905.14 of the Revised Code shall not apply to portable electronics vendors or the vendors' endorsees. 2243 2244 2245

(F)(1) A vendor may authorize any endorsee of the vendor to sell or offer portable electronics insurance to a customer at any location at which the vendor engages in portable electronics transactions. 2246 2247 2248 2249

(2) An endorsee is not required to be licensed as an insurance agent under this chapter if the vendor is licensed under this section and the insurer issuing the portable electronics insurance either directly supervises or appoints a supervising entity to supervise the administration of the portable electronics insurance program including development of a training program for endorsees in accordance with division (G) of this section. 2250 2251 2252 2253 2254 2255 2256 2257

(3) No endorsee shall do any of the following: 2258

(a) Advertise, represent, or otherwise represent the endorsee's self as an insurance agent licensed under section 3905.06 of the Revised Code; 2259 2260 2261

(b) Offer, sell, or solicit the purchase of portable electronics insurance except in conjunction with and incidental to the sale or lease of portable electronics; 2262 2263 2264

(c) Make any statement or engage in any conduct, express or implied, that would lead a customer to believe any of the following: 2265 2266 2267

(i) That the insurance policies offered by the endorsee provide coverage not already provided by a customer's homeowner's insurance policy, renter's insurance policy, or by another source of coverage; 2268 2269 2270 2271

(ii) That the purchase by the customer of portable electronics insurance is required in order to purchase or lease portable electronics or services from the portable electronics 2272 2273 2274

vendor; 2275

(iii) That the portable electronics vendor or its endorsees are qualified to evaluate the adequacy of the customer's existing insurance coverage. 2276 2277 2278

(G) Each vendor, or the supervising entity to that vendor, shall provide a training and education program for all endorsees who sell or offer portable electronics insurance. The program may be provided as a web-based training module or in any other electronic or recorded video form. The training and education program shall meet all of the following minimum standards: 2279 2280 2281 2282 2283 2284

(1) The training shall be delivered to each endorsee of each vendor who sells or offers portable electronics insurance and the endorsee shall complete the training; 2285 2286 2287

(2) If the training is conducted in an electronic form, the supervising entity shall implement a supplemental education program regarding portable electronics insurance that is conducted and overseen by employees of the supervising entity who are licensed as insurance agents under section 3905.06 of the Revised Code; 2288 2289 2290 2291 2292 2293

(3) The training and education program shall include basic information about portable electronics insurance and information concerning all of the following prohibited actions of endorsees: 2294 2295 2296

(a) No endorsee shall advertise, represent, or otherwise represent the endorsee's self as a licensed insurance agent. 2297 2298

(b) No endorsee shall offer, sell, or solicit the purchase of portable electronics insurance except in conjunction with and incidental to the sale or lease of portable electronics. 2299 2300 2301

(c) No endorsee shall make any statement or engage in any 2302

conduct, express or implied, that would lead a customer to believe any of the following: 2303 2304

(i) That the insurance policies offered by the endorsee provide coverage not already provided by a customer's homeowner's insurance policy, renter's insurance policy, or by another source of coverage; 2305 2306 2307 2308

(ii) That the purchase by the customer of portable electronics insurance is required in order to purchase or lease portable electronics or services from the portable electronics vendor; 2309 2310 2311 2312

(iii) That the portable electronics vendor or its endorsees are qualified to evaluate the adequacy of the customer's existing insurance coverage. 2313 2314 2315

(H) A supervising entity appointed to supervise the administration of a portable electronics insurance program under division (F)(2) of this section shall maintain a registry of locations supervised by that entity that are authorized to sell or solicit portable electronics insurance in this state. The supervising entity shall make the registry available to the superintendent upon request by the superintendent if the superintendent provides ten days' notice to the vendor or supervising entity. 2316 2317 2318 2319 2320 2321 2322 2323 2324

(I) At every location where a vendor offers portable electronics insurance to customers, the vendor shall provide brochures or other written materials to prospective customers that include all of the following: 2325 2326 2327 2328

(1) A summary of the material terms of the insurance coverage, including all of the following: 2329 2330

(a) The identity of the insurer; 2331

(b) The identity of the supervising entity; 2332

(c) The amount of any applicable deductible and how it is to be paid; 2333 2334

(d) Benefits of the coverage; 2335

(e) Key terms and conditions of coverage such as whether portable electronics may be replaced with a similar make and model, replaced with a reconditioned device, or repaired with nonoriginal manufacturer parts or equipment. 2336 2337 2338 2339

(2) A summary of the process for filing a claim, including a description of how to return portable electronics equipment and the maximum fee applicable if a customer fails to comply with any equipment return requirements; 2340 2341 2342 2343

(3) A disclosure that portable electronics insurance may provide a duplication of coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy, or other source of coverage; 2344 2345 2346 2347

(4) A disclosure that the enrollment by the customer in a portable electronics insurance program is not required to purchase or lease portable electronics or services; 2348 2349 2350

(5) A disclosure that neither the endorsee nor the vendor is qualified to evaluate the adequacy of the customer's existing insurance coverage; 2351 2352 2353

(6) A disclosure that the customer may cancel enrollment for coverage under a portable electronics insurance policy at any time and receive a refund of any applicable premium. 2354 2355 2356

(J)(1) The charges for portable electronics insurance may be billed and collected by the vendor of portable electronics, and the vendor may receive compensation for performing billing 2357 2358 2359

and collection services, if either of the following conditions are met: 2360 2361

(a) If the charge to the customer for coverage is not included in the cost associated with the purchase or lease of portable electronics or related services, the charge for coverage is separately itemized on the customer's bill. 2362 2363 2364 2365

(b) If the charge to the customer for coverage is included in the cost associated with the purchase or lease of portable electronics or related services, the vendor clearly and conspicuously discloses to the customer that the charge for portable electronics insurance coverage is included with the charge for portable electronics or related services. 2366 2367 2368 2369 2370 2371

(2) All funds received by a vendor from a customer for the sale of portable electronics insurance shall be considered funds held in trust by the vendor in a fiduciary capacity for the benefit of the insurer. Vendors that bill and collect such charges are not required to maintain those funds in a segregated account if the vendor is authorized by the insurer to hold those funds in an alternate manner and the vendor remits the amount of the charges to the supervising entity within sixty days after receiving the charges. 2372 2373 2374 2375 2376 2377 2378 2379 2380

(K)(1) Except as otherwise provided in divisions (K)(2) and (3) of this section, an insurer may terminate or otherwise change the terms and conditions of a policy of portable electronics insurance only upon providing the vendor policyholder and enrolled customers with at least sixty days' prior notice. If the insurer changes the terms and conditions, the insurer shall promptly provide the vendor policyholder with a revised policy or endorsement and each enrolled customer with a revised certificate, endorsement, updated brochure, or other 2381 2382 2383 2384 2385 2386 2387 2388 2389

evidence indicating that a change in the terms and conditions has occurred and a summary of material changes. 2390 2391

(2) An insurer may terminate an enrolled customer's enrollment under a portable electronics insurance policy upon fifteen days' prior notice for discovery of fraud or material misrepresentation in obtaining coverage or in the presentation of a claim under the policy. 2392 2393 2394 2395 2396

(3) An insurer may immediately terminate an enrolled customer's enrollment under a portable electronics insurance policy for any of the following reasons: 2397 2398 2399

(a) The enrolled customer fails to pay the required premium; 2400 2401

(b) The enrolled customer ceases to have an active service plan, if applicable, with the vendor of portable electronics; 2402 2403

(c) The enrolled customer exhausts the aggregate limit of liability, if any, under the terms of the portable electronics insurance policy and the insurer sends notice of termination to the customer within thirty calendar days after exhaustion of the limit. However, if the insurer does not send the notice within the thirty-day time frame, enrollment shall continue notwithstanding the aggregate limit of liability until the insurer sends notice of termination to the enrolled customer. 2404 2405 2406 2407 2408 2409 2410 2411

(4) If a portable electronics insurance policy is terminated by a vendor policyholder, the vendor policyholder shall provide notice to each enrolled customer advising the customer of the termination of the policy and the effective date of the termination. The written notice shall be mailed or delivered to the customer at least thirty days prior to the termination. 2412 2413 2414 2415 2416 2417 2418

(5) Notice required pursuant to this section shall be provided in writing, either via mail or by electronic means. 2419 2420

(a) If notice is provided via mail, it shall be mailed or delivered to the vendor at the vendor's mailing address and to all affected enrolled customers at the last known mailing addresses of those customers on file with the insurer. The insurer or vendor of portable electronics shall maintain proof of mailing in a form authorized or accepted by the United States postal service or other commercial mail delivery service. 2421 2422 2423 2424 2425 2426 2427

(b) If notice is provided electronically, it shall be transmitted via facsimile or electronic mail to the vendor at the vendor's facsimile number or electronic mail address and to all affected enrolled customers at the last known facsimile numbers or electronic mail addresses of those customers on file with the insurer. The insurer or vendor shall maintain proof that the notice was sent. 2428 2429 2430 2431 2432 2433 2434

(L) An enrolled customer may cancel the enrolled customer's coverage under a portable electronics insurance policy at any time. Upon cancellation, the insurer shall refund any applicable unearned premium. 2435 2436 2437 2438

(M) A license issued pursuant to this section shall authorize the vendor and its endorsees to engage only in those activities that are expressly permitted by this section. 2439 2440 2441

(N)(1) If a vendor or a vendor's endorsee violates any provision of this section, the superintendent may revoke or suspend the license issued or impose any other sanctions provided under section 3905.14 of the Revised Code. 2442 2443 2444 2445

(2) If any provision of this section is violated by a vendor or a vendor's endorsee at a particular location, the 2446 2447

superintendent may issue a cease and desist order to a particular location, or take any other administrative action authorized in section 3901.22 and division (D) of section 3905.14 of the Revised Code. 2448 2449 2450 2451

(3) If any person violates division (B) or (F)(3) of this section, the superintendent may issue a cease and desist order in addition to taking any other administrative action provided for in sections 3901.22 and division (D) of section 3905.14 of the Revised Code. 2452 2453 2454 2455 2456

(4) If the superintendent determines that a violation of this section or section 3905.14 of the Revised Code has occurred, the superintendent may assess a civil penalty in amount not exceeding twenty-five thousand dollars per violation and an administrative fee to cover the expenses incurred by the department in the administrative action, including costs incurred in the investigation and hearing process. 2457 2458 2459 2460 2461 2462 2463

(O) The superintendent may adopt rules implementing this section. 2464 2465

Sec. 3905.063. (A) As used in this section: 2466

(1) "Customer" means a person who obtains the use of storage space from a self-service storage facility under the terms of a self-storage rental agreement. 2467 2468 2469

(2) "Endorsee" means an employee or authorized representative of a self-service storage facility authorized to sell or offer self-service storage insurance. 2470 2471 2472

(3) "Enrolled customer" means a customer who elects coverage under a self-service storage insurance policy issued to a self-service storage facility by an insurer or a policy issued directly to a customer from an insurer. 2473 2474 2475 2476

(4) "Location" means any physical location in this state or any web site, call center site, or similar location directed to residents of this state. 2477 2478 2479

(5) "Owner" means the owner, operator, property management company, lessor, or sublessor of a self-service storage facility. "Owner" does not mean an occupant. 2480 2481 2482

(6) "Personal property" means moveable property not affixed to land, and includes goods, merchandise, furniture, and household items. 2483 2484 2485

(7)(a) "Self-service storage insurance" means insurance providing coverage for the loss of, or damage to, tangible personal property that is contained in storage space or in transit during a self-service storage rental agreement period, which may be offered on a month-to-month or other periodic basis under an individual policy, or as a group, commercial, or master policy issued to a self-service storage facility to provide insurance for the self-service storage facility's customers. 2486 2487 2488 2489 2490 2491 2492 2493

(b) "Self-service storage insurance" does not mean any of the following: 2494 2495

(i) A consumer goods service contract governed by section 3905.423 of the Revised Code; 2496 2497

(ii) A policy of insurance covering a seller's or a manufacturer's obligations under a warranty; 2498 2499

(iii) A homeowner's, renter's, private passenger automobile, or similar insurance policy. 2500 2501

(8) "Self-service storage rental agreement" means a written agreement containing the terms and conditions governing the use of storage space provided by a self-service storage 2502 2503 2504

facility. 2505

(9) "Supervising entity" means an insurer or a business 2506
entity licensed as an insurance agent under section 3905.06 or 2507
3905.07 of the Revised Code that is appointed by an insurer to 2508
supervise the administration of self-service storage insurance. 2509

(B)(1) Except as provided in division (B)(2) of this 2510
section, no self-service storage facility or self-service 2511
storage facility's endorsee shall offer, sell, solicit, or place 2512
self-service storage insurance unless the self-service storage 2513
facility is licensed under section 3905.06 or 3905.07 of the 2514
Revised Code with a self-service storage insurance line of 2515
authority and the offer, sale, solicitation, or placement is 2516
incidental to the lease of self-service storage. 2517

(2) Any self-service storage facility offering or selling 2518
self-service storage insurance on or before ~~the effective date~~ 2519
~~of this section~~ March 23, 2015, that wishes to continue offering 2520
or selling that insurance shall apply for a license within 2521
ninety days after the superintendent of insurance makes the 2522
application available. 2523

(C)(1) The superintendent shall issue a resident insurance 2524
license to a self-service storage facility under section 3905.06 2525
of the Revised Code if the self-service storage facility 2526
satisfies the requirements of sections 3905.05 and 3905.06 of 2527
the Revised Code, except that the application for a self-service 2528
storage insurance license shall satisfy the following additional 2529
requirements: 2530

(a) The application shall include the location, including 2531
the address for each location, of the self-service storage 2532
facility's home office and any location at which the facility 2533

engages in self-service storage transactions. 2534

(b) If the application requires the self-service storage facility to designate an individual or entity as a responsible insurance agent, that agent shall not be required to be an employee of the applicant and may be an individual agent who is an employee of the supervising entity. 2535 2536 2537 2538 2539

(c) If the self-service storage facility derives less than fifty per cent of the self-service storage facility's revenue from the sale of self-service storage insurance, the application for a self-service storage insurance license may require the self-service storage facility to provide the name, residence address, and other information required by the superintendent for one employee or officer of the self-service storage facility who is designated by the self-service storage facility as the person responsible for the self-service storage facility's compliance with the requirements of this chapter. 2540 2541 2542 2543 2544 2545 2546 2547 2548 2549

(d) If the self-service storage facility derives fifty per cent or more of the self-service storage facility's revenue from the sale of self-service storage insurance, the application may require the information listed under division (C)(1)(c) of this section for all owners with at least ten per cent interest or voting interest, partners, officers, and directors of the self-service storage facility, or members or managers of a self-service storage facility that is a limited liability company. 2550 2551 2552 2553 2554 2555 2556 2557

(2) The superintendent shall issue a nonresident insurance agent license to a self-service storage facility if the self-service storage facility satisfies the requirements of section 3905.07 of the Revised Code. However, if the nonresident self-service storage facility's home state does not issue a limited lines license for self-service storage insurance, the 2558 2559 2560 2561 2562 2563

nonresident self-service storage facility may apply for a resident license under sections 3905.05 and 3905.06 of the Revised Code in the same manner and with the same rights and privileges as if the self-service storage facility were a resident of this state. 2564 2565 2566 2567 2568

(D) The holder of a limited lines license may not sell, solicit, or negotiate insurance on behalf of any insurer unless appointed to represent that insurer under section 3905.20 of the Revised Code. 2569 2570 2571 2572

(E) Division (B)(34) of section 3905.14 of the Revised Code shall not apply to the self-service storage facility or the self-service storage facility's endorsees. 2573 2574 2575

(F) If insurance is required as a condition of a self-service storage rental agreement, the requirement may be satisfied by the customer's purchase of self-service storage insurance that is sold, solicited, or negotiated by the self-service storage facility or presentation to the self-service storage facility of evidence of other applicable insurance coverage. 2576 2577 2578 2579 2580 2581 2582

Evidence of applicable insurance coverage includes a representation by a licensed Ohio insurance agent that the customer satisfies the requirements of this division. 2583 2584 2585

(G)(1) A self-service storage facility may authorize any endorsee of the self-service storage facility to sell or offer self-service storage insurance to a customer at any location at which the self-service storage facility engages in self-service storage transactions. 2586 2587 2588 2589 2590

(2) An endorsee is not required to be licensed as an insurance agent under this chapter if the self-service storage 2591 2592

facility is licensed under this section and the insurer issuing the self-service storage insurance either directly supervises or appoints a supervising entity to supervise the administration of the self-service storage insurance including development of a training program for endorsees in accordance with division (H) of this section. 2593 2594 2595 2596 2597 2598

(3) No endorsee shall do any of the following: 2599

(a) Advertise, represent, or otherwise represent the endorsee's self as an insurance agent licensed under section 3905.06 or 3905.07 of the Revised Code; 2600 2601 2602

(b) Offer, sell, or solicit the purchase of self-service storage insurance except in conjunction with and incidental to the sale or lease of self-service storage; 2603 2604 2605

(c) Make any statement or engage in any conduct, express or implied, that would lead a customer to believe either of the following: 2606 2607 2608

(i) That, if insurance is required as a condition of a self-service storage rental agreement, the purchase by the customer of self-service storage insurance offered by the self-service storage facility is the only method by which that condition may be met; 2609 2610 2611 2612 2613

(ii) That the self-service storage facility or its endorsees are qualified to evaluate the adequacy of the customer's existing insurance coverage. 2614 2615 2616

(4) An endorsee shall disclose that self-service storage insurance may duplicate coverage already provided under a customer's homeowner's insurance policy, renter's insurance policy, or other coverage. 2617 2618 2619 2620

(H) Each self-service storage facility, or the supervising entity to that self-service storage facility, shall provide a training and education program for all endorsees who sell or offer self-service storage insurance. The program may be provided as a web-based training module or in any other electronic or recorded video form. The training and education program shall meet all of the following minimum standards: 2621 2622 2623 2624 2625 2626 2627

(1) The training shall be delivered to each endorsee of each self-service storage facility who sells or offers self-service storage insurance and the endorsee shall complete the training. 2628 2629 2630 2631

(2) If the training is conducted in an electronic form, the supervising entity shall implement a supplemental education program regarding self-service storage insurance that is conducted and overseen by employees of the supervising entity who are licensed as insurance agents under section 3905.06 or 3905.07 of the Revised Code. 2632 2633 2634 2635 2636 2637

(3) The training and education program shall include basic information about self-service storage insurance and information concerning all of the following prohibited actions of endorsees: 2638 2639 2640

(a) No endorsee shall advertise, represent, or otherwise represent the endorsee's self as a licensed insurance agent. 2641 2642

(b) No endorsee shall offer, sell, or solicit the purchase of self-service storage insurance except in conjunction with and incidental to the rental of a storage space by the self-service storage facility. 2643 2644 2645 2646

(c) No endorsee shall make any statement or engage in any conduct, express or implied, that would lead a customer to believe any of the following: 2647 2648 2649

(i) That the insurance policies offered by the endorsee provide coverage not already provided by a customer's homeowner's insurance policy, renter's insurance policy, or by another source of coverage; 2650 2651 2652 2653

(ii) That, if insurance is required as a condition of a self-service storage rental agreement, the purchase by the customer of self-service storage insurance offered by the self-service storage facility is the only method by which that condition may be met; 2654 2655 2656 2657 2658

(iii) That the self-service storage facility or its endorsees are qualified to evaluate the adequacy of the customer's existing insurance coverage. 2659 2660 2661

(I) A supervising entity appointed to supervise the administration of self-service storage insurance under division (G)(2) of this section shall maintain a registry of locations supervised by that entity that are authorized to sell or solicit self-service storage insurance in this state and the endorsees at each location. The supervising entity shall make the registry available to the superintendent upon request. 2662 2663 2664 2665 2666 2667 2668

(J)(1) At every location where a self-service storage facility offers self-service storage insurance to customers, the self-service storage facility shall provide brochures or other written materials to prospective customers that include all of the following: 2669 2670 2671 2672 2673

(a) A summary of the material terms of the insurance coverage, including all of the following: 2674 2675

(i) The identity of the insurer; 2676

(ii) The identity of the supervising entity; 2677

(iii) The amount of any applicable deductible and how it is to be paid; 2678 2679

(iv) Benefits of the coverage; 2680

(v) Key terms and conditions of coverage. 2681

(b) A summary of the process for filing a claim; 2682

(c) A disclosure that self-service storage insurance may provide a duplication of coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy, or other source of coverage; 2683 2684 2685 2686

(d) A disclosure that, if insurance is required as a condition of a self-service storage rental agreement, the requirement may be satisfied by either of the following: 2687 2688 2689

(i) The customer's purchase of self-service storage insurance that is sold, solicited, or negotiated by the self-service storage facility; 2690 2691 2692

(ii) The customer's presentation to the self-service storage facility of evidence of other applicable insurance coverage such as a representation by a licensed Ohio insurance agent that the customer satisfies the coverage requirement~~;~~. 2693 2694 2695 2696

(e) A disclosure that neither the endorsee nor the self-service storage facility is qualified to evaluate the adequacy of the customer's existing insurance coverage; 2697 2698 2699

(f) A disclosure that the customer may cancel enrollment for coverage under a self-service storage insurance policy at any time and receive a refund of any applicable premium. 2700 2701 2702

(2) A self-service storage facility shall provide to every customer who purchases self-service storage insurance a 2703 2704

certificate that is evidence of the coverage. 2705

(K)(1) The charges for self-service storage insurance may be billed and collected by the self-service storage facility, and the self-service storage facility may receive compensation for performing billing and collection services, if either of the following conditions are met: 2706 2707 2708 2709 2710

(a) If the charge to the customer for coverage is not included in the cost associated with the purchase or lease of self-service storage or related services, the charge for coverage is separately itemized on the customer's bill. 2711 2712 2713 2714

(b) If the charge to the customer for coverage is included in the cost associated with the lease of self-service storage, the self-service storage facility clearly and conspicuously discloses to the customer that the charge for self-service storage insurance coverage is included with the lease for self-service storage. 2715 2716 2717 2718 2719 2720

(2) All funds received by a self-service storage facility from a customer for the sale of self-service storage insurance shall be considered funds held in trust by the self-service storage facility in a fiduciary capacity for the benefit of the insurer. Self-service storage facilities that bill and collect such charges are not required to maintain those funds in a segregated account if the self-service storage facility is authorized by the insurer to hold those funds in an alternate manner and the self-service storage facility remits the amount of the charges to the supervising entity within sixty days after receiving the charges. 2721 2722 2723 2724 2725 2726 2727 2728 2729 2730 2731

(L)(1) Except as otherwise provided in divisions (L)(2) and (3) of this section, an insurer may terminate or otherwise 2732 2733

change the terms and conditions of a policy of self-service storage insurance only upon providing the self-service storage facility policyholder and enrolled customers with at least sixty days' prior notice. If the insurer changes the terms and conditions, the insurer shall promptly provide the self-service storage facility policyholder with a revised policy or endorsement and each enrolled customer with a revised certificate, endorsement, updated brochure, or other evidence indicating that a change in the terms and conditions has occurred and a summary of material changes. 2734 2735 2736 2737 2738 2739 2740 2741 2742 2743

(2) An insurer may terminate an enrolled customer's enrollment under a self-service storage insurance policy upon fifteen days' prior notice for discovery of fraud or material misrepresentation in obtaining coverage or in the presentation of a claim under the policy. 2744 2745 2746 2747 2748

(3) An insurer may immediately terminate an enrolled customer's enrollment under a self-service storage insurance policy for any of the following reasons: 2749 2750 2751

(a) The enrolled customer fails to pay the required premium; 2752 2753

(b) The enrolled customer ceases to have an active lease at the self-service storage facility; 2754 2755

(c) The enrolled customer exhausts the aggregate limit of liability, if any, under the terms of the self-service storage insurance policy and the insurer sends notice of termination to the customer within thirty calendar days after exhaustion of the limit. However, if the insurer does not send the notice within the thirty-day time frame, enrollment shall continue notwithstanding the aggregate limit of liability until the 2756 2757 2758 2759 2760 2761 2762

insurer sends notice of termination to the enrolled customer. 2763

(4) If a self-service storage insurance policy is terminated by a self-service storage facility policyholder, the self-service storage facility policyholder shall provide notice to each enrolled customer advising the customer of the termination of the policy and the effective date of the termination. The written notice shall be sent by mail, electronic mail, or delivery to the customer at least thirty days prior to the termination. 2764 2765 2766 2767 2768 2769 2770 2771

(5) Notice required pursuant to this section may be sent by any of the following methods: 2772 2773

(a) Electronically, in accordance with section 3901.41 of the Revised Code; 2774 2775

(b) Via ordinary, registered, or certified mail, return receipt requested and postage prepaid; 2776 2777

(c) By overnight delivery using a nationally recognized carrier. 2778 2779

(M) An enrolled customer may cancel the enrolled customer's coverage under a self-service storage insurance policy at any time. Upon cancellation, the insurer shall refund any applicable unearned premium. 2780 2781 2782 2783

(N) A license issued pursuant to this section shall authorize the self-service storage facility and its endorsees to engage only in those activities that are expressly permitted by this section. 2784 2785 2786 2787

(O)(1) If a self-service storage facility or a self-service storage facility's endorsee violates any provision of this section, the superintendent may revoke or suspend the 2788 2789 2790

license issued or impose any other sanctions provided under section 3905.14 of the Revised Code. 2791 2792

(2) If any provision of this section is violated by a self-service storage facility, a self-service storage facility's endorsee at a particular location, a supervising entity, or an agent, the facility, endorsee, supervising entity, or agent is deemed to have engaged in an unfair and deceptive act or practice in the business of insurance under sections 3901.19 to 3901.26 of the Revised Code. 2793 2794 2795 2796 2797 2798 2799

(3) If the superintendent determines that a violation of this section or section 3905.14 of the Revised Code has occurred, the superintendent may assess a civil penalty in an amount not exceeding twenty-five thousand dollars per violation and an administrative fee to cover the expenses incurred by the department in the administrative action, including costs incurred in the investigation and hearing process. 2800 2801 2802 2803 2804 2805 2806

(P)(1) Notwithstanding any other provision of law, if a self-service storage facility's insurance-related activities, and those of its endorsees, employees, and authorized representatives, are limited to offering and disseminating self-service storage insurance on behalf of and under the direction of a limited lines self-service storage insurance agent that meets the requirements of this section, the facility is authorized to offer and disseminate insurance and receive related compensation for these services if the self-service storage facility is registered by the limited lines self-service storage insurance agent as described in division (I) of this section. Any compensation paid to a self-service storage facility's endorsee, employee, or authorized representative for the services described in this section shall be incidental to 2807 2808 2809 2810 2811 2812 2813 2814 2815 2816 2817 2818 2819 2820

the endorsee's, employee's, or authorized representative's overall compensation and not based primarily on the number of customers who purchase self-service storage insurance coverage. 2821 2822 2823

(2) Nothing in this section shall be construed to prohibit payment of compensation to a self-service storage facility or its employees, endorsees, or authorized representatives for activities under the limited lines self-service storage insurance agent's license that are incidental to the overall compensation of the self-service storage facility or the employees, endorsees, or authorized representatives of the facility. 2824 2825 2826 2827 2828 2829 2830 2831

(3) All costs paid or charged to a consumer for the purchase of self-service storage insurance or related services, including compensation to the self-service storage facility, shall be separately itemized on the customer's bill. 2832 2833 2834 2835

(Q) The superintendent may adopt rules implementing this section. 2836 2837

Sec. 3905.14. (A) As used in sections 3905.14 to 3905.16 of the Revised Code: 2838 2839

(1) "Insurance agent" includes a limited lines insurance agent, surety bail bond agent, and surplus line broker. 2840 2841

(2) "Refusal to issue or renew" means the decision of the superintendent of insurance not to process either the initial application for a license as an agent or the renewal of such a license. 2842 2843 2844 2845

(3) "Revocation" means the permanent termination of all authority to hold any license as an agent in this state. 2846 2847

(4) "Surrender for cause" means the voluntary termination 2848

of all authority to hold any license as an agent in this state, in lieu of a revocation or suspension order. 2849 2850

(5) "Suspension" means the termination of all authority to hold any license as an agent in this state, for either a specified period of time or an indefinite period of time and under any terms or conditions determined by the superintendent. 2851 2852 2853 2854

(B) The superintendent may suspend, revoke, or refuse to issue or renew any license of an insurance agent, assess a civil penalty, or impose any other sanction or sanctions authorized under this chapter, for one or more of the following reasons: 2855 2856 2857 2858

(1) Providing incorrect, misleading, incomplete, or materially untrue information in a license or appointment application; 2859 2860 2861

(2) Violating or failing to comply with any insurance law, rule, subpoena, consent agreement, or order of the superintendent or of the insurance authority of another state; 2862 2863 2864

(3) Obtaining, maintaining, or attempting to obtain or maintain a license through misrepresentation or fraud; 2865 2866

(4) Improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business; 2867 2868 2869

(5) Intentionally misrepresenting the terms, benefits, value, cost, or effective dates of any actual or proposed insurance contract or application for insurance; 2870 2871 2872

(6) Having been convicted of or pleaded guilty or no contest to a felony regardless of whether a judgment of conviction has been entered by the court; 2873 2874 2875

(7) Having been convicted of or pleaded guilty or no 2876

contest to a misdemeanor that involves the misuse or theft of money or property belonging to another, fraud, forgery, dishonest acts, or breach of a fiduciary duty, that is based on any act or omission relating to the business of insurance, securities, or financial services, or that involves moral turpitude regardless of whether a judgment has been entered by the court; 2877 2878 2879 2880 2881 2882 2883

(8) Having admitted to committing, or having been found to have committed, any insurance unfair trade act or practice or insurance fraud; 2884 2885 2886

(9) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility, in the conduct of business in this state or elsewhere; 2887 2888 2889 2890

(10) Having an insurance agent license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory; 2891 2892 2893

(11) Forging or causing the forgery of an application for insurance or any document related to or used in an insurance transaction; 2894 2895 2896

(12) Improperly using notes, any other reference material, equipment, or devices of any kind to complete an examination for an insurance agent license; 2897 2898 2899

(13) Knowingly accepting insurance business from an individual who is not licensed; 2900 2901

(14) Failing to comply with any official invoice, notice, assessment, or order directing payment of federal, state, or local income tax, state or local sales tax, or workers' compensation premiums; 2902 2903 2904 2905

(15) Failing to timely submit an application for insurance. For purposes of division (B)(15) of this section, a submission is considered timely if it occurs within the time period expressly provided for by the insurer, or within seven days after the insurance agent accepts a premium or an order to bind coverage from a policyholder or applicant for insurance, whichever is later. 2906 2907 2908 2909 2910 2911 2912

(16) Failing to disclose to an applicant for insurance or policyholder upon accepting a premium or an order to bind coverage from the applicant or policyholder, that the person has not been appointed by the insurer; 2913 2914 2915 2916

(17) Having any professional license or financial industry regulatory authority registration suspended or revoked or having been barred from participation in any industry; 2917 2918 2919

(18) Having been subject to a cease and desist order or permanent injunction related to mishandling of funds or breach of fiduciary responsibilities or for unlicensed or unregistered activities; 2920 2921 2922 2923

(19) Causing or permitting a policyholder or applicant for insurance to designate the insurance agent or the insurance agent's spouse, parent, child, or sibling as the beneficiary of a policy or annuity sold by the insurance agent or of a policy or annuity for which the agent, at any time, was designated as the agent of record, unless the insurance agent or a relative of the insurance agent is the insured or applicant; 2924 2925 2926 2927 2928 2929 2930

(20) Causing or permitting a policyholder or applicant for insurance to designate the insurance agent or the insurance agent's spouse, parent, child, or sibling as the owner or beneficiary of a trust funded, in whole or in part, by a policy 2931 2932 2933 2934

or annuity sold by the insurance agent or by a policy or annuity for which the agent, at any time, was designated as the agent of record, unless the insurance agent or a relative of the insurance agent is the insured or applicant; 2935 2936 2937 2938

(21) Failing to provide a written response to the department of insurance within twenty-one calendar days after receipt of any written inquiry from the department, unless a reasonable extension of time has been requested of, and granted by, the superintendent or the superintendent's designee; 2939 2940 2941 2942 2943

(22) Failing to appear to answer questions before the superintendent after being notified in writing by the superintendent of a scheduled interview, unless a reasonable extension of time has been requested of, and granted by, the superintendent or the superintendent's designee; 2944 2945 2946 2947 2948

(23) Transferring or placing insurance with an insurer other than the insurer expressly chosen by the applicant for insurance or policyholder without the consent of the applicant or policyholder or absent extenuating circumstances; 2949 2950 2951 2952

(24) Failing to inform a policyholder or applicant for insurance of the identity of the insurer or insurers, or the identity of any other insurance agent or licensee known to be involved in procuring, placing, or continuing the insurance for the policyholder or applicant, upon the binding of the coverage; 2953 2954 2955 2956 2957

(25) In the case of an agent that is a business entity, failing to report an individual licensee's violation to the department when the violation was known or should have been known by one or more of the partners, officers, managers, or members of the business entity; 2958 2959 2960 2961 2962

(26) Submitting or using a document in the conduct of the 2963

business of insurance when the person knew or should have known that the document contained a writing that was forged as defined in section 2913.01 of the Revised Code; 2964 2965 2966

(27) Misrepresenting the person's qualifications, status or relationship to another person, agency, or entity, or using in any way a professional designation that has not been conferred upon the person by the appropriate accrediting organization; 2967 2968 2969 2970 2971

(28) Obtaining a premium loan or policy surrender or causing a premium loan or policy surrender to be made to or in the name of an insured or policyholder without that person's knowledge and written authorization; 2972 2973 2974 2975

(29) Using paper, software, or any other materials of or provided by an insurer after the insurer has terminated the authority of the licensee, if the use of such materials would cause a reasonable person to believe that the licensee was acting on behalf of or otherwise representing the insurer; 2976 2977 2978 2979 2980

(30) Soliciting, procuring an application for, or placing, either directly or indirectly, any insurance policy when the person is not authorized under this chapter to engage in such activity; 2981 2982 2983 2984

(31) Soliciting, selling, or negotiating any product or service that offers benefits similar to insurance but is not regulated by the superintendent, without fully disclosing, orally and in writing, to the prospective purchaser that the product or service is not insurance and is not regulated by the superintendent; 2985 2986 2987 2988 2989 2990

(32) Failing to fulfill a refund obligation to a policyholder or applicant in a timely manner. For purposes of 2991 2992

division (B)(32) of this section, a rebuttable presumption exists that a refund obligation is not fulfilled in a timely manner unless it is fulfilled within one of the following time periods: 2993 2994 2995 2996

(a) Thirty days after the date the policyholder, applicant, or insurer takes or requests action resulting in a refund; 2997 2998 2999

(b) Thirty days after the date of the insurer's refund check, if the agent is expected to issue a portion of the total refund; 3000 3001 3002

(c) Forty-five days after the date of the agent's statement of account on which the refund first appears. 3003 3004

The presumption may be rebutted by proof that the policyholder or applicant consented to the delay or agreed to permit the agent to apply the refund to amounts due for other coverages. 3005 3006 3007 3008

(33) With respect to a surety bail bond agent license, rebating or offering to rebate, or unlawfully dividing or offering to divide, any commission, premium, or fee; 3009 3010 3011

(34) Using a license for the principal purpose of procuring, receiving, or forwarding applications for insurance of any kind, other than life, or soliciting, placing, or effecting such insurance directly or indirectly upon or in connection with the property of the licensee or that of relatives, employers, employees, or that for which they or the licensee is an agent, custodian, vendor, bailee, trustee, or payee; 3012 3013 3014 3015 3016 3017 3018 3019

(35) In the case of an insurance agent that is a business entity, using a life license for the principal purpose of 3020 3021

soliciting or placing insurance on the lives of the business entity's officers, employees, or shareholders, or on the lives of relatives of such officers, employees, or shareholders, or on the lives of persons for whom they, their relatives, or the business entity is agent, custodian, vendor, bailee, trustee, or payee; 3022 3023 3024 3025 3026 3027

(36) Offering, selling, soliciting, or negotiating policies, contracts, agreements, or applications for insurance, or annuities providing fixed, variable, or fixed and variable benefits, or contractual payments, for or on behalf of any insurer or multiple employer welfare arrangement not authorized to transact business in this state, or for or on behalf of any spurious, fictitious, nonexistent, dissolved, inactive, liquidated or liquidating, or bankrupt insurer or multiple employer welfare arrangement; 3028 3029 3030 3031 3032 3033 3034 3035 3036

(37) In the case of a resident business entity, failing to be qualified to do business in this state under Title XVII of the Revised Code, failing to be in good standing with the secretary of state, or failing to maintain a valid appointment of statutory agent with the secretary of state; 3037 3038 3039 3040 3041

(38) In the case of a nonresident agent, failing to maintain licensure as an insurance agent in the agent's home state for the lines of authority held in this state; 3042 3043 3044

(39) Knowingly aiding and abetting another person or entity in the violation of any insurance law of this state or the rules adopted under it. 3045 3046 3047

(C) Before denying, revoking, suspending, or refusing to issue any license or imposing any penalty under this section, the superintendent shall provide the licensee or applicant with 3048 3049 3050

notice and an opportunity for hearing as provided in Chapter 119. of the Revised Code, except as follows: 3051 3052

(1)(a) Any notice of opportunity for hearing, the hearing officer's findings and recommendations, or the superintendent's order shall be served by certified mail at the last known address of the licensee or applicant. Service shall be evidenced by return receipt signed by any person. 3053 3054 3055 3056 3057

For purposes of this section, the "last known address" is the residential address of a licensee or applicant, or the principal-place-of-business address of a business entity, that is contained in the licensing records of the department. 3058 3059 3060 3061

(b) If the certified mail envelope is returned with an endorsement showing that service was refused, or that the envelope was unclaimed, the notice and all subsequent notices required by Chapter 119. of the Revised Code may be served by ordinary mail to the last known address of the licensee or applicant. The mailing shall be evidenced by a certificate of mailing. Service is deemed complete as of the date of such certificate provided that the ordinary mail envelope is not returned by the postal authorities with an endorsement showing failure of delivery. The time period in which to request a hearing, as provided in Chapter 119. of the Revised Code, begins to run on the date of mailing. 3062 3063 3064 3065 3066 3067 3068 3069 3070 3071 3072 3073

(c) If service by ordinary mail fails, the superintendent may cause a summary of the substantive provisions of the notice to be published once a week for three consecutive weeks in a newspaper of general circulation in the county where the last known place of residence or business of the party is located. The notice is considered served on the date of the third publication. 3074 3075 3076 3077 3078 3079 3080

(d) Any notice required to be served under Chapter 119. of the Revised Code shall also be served upon the party's attorney by ordinary mail if the attorney has entered an appearance in the matter. 3081 3082 3083 3084

(e) The superintendent may, at any time, perfect service on a party by personal delivery of the notice by an employee of the department. 3085 3086 3087

(f) Notices regarding the scheduling of hearings and all other matters not described in division (C)(1)(a) of this section shall be sent by ordinary mail to the party and to the party's attorney. 3088 3089 3090 3091

(2) Any subpoena for the appearance of a witness or the production of documents or other evidence at a hearing, or for the purpose of taking testimony for use at a hearing, shall be served by certified mail, return receipt requested, by an attorney or by an employee of the department designated by the superintendent. Such subpoenas shall be enforced in the manner provided in section 119.09 of the Revised Code. Nothing in this section shall be construed as limiting the superintendent's other statutory powers to issue subpoenas. 3092 3093 3094 3095 3096 3097 3098 3099 3100

(D) If the superintendent determines that a violation described in this section has occurred, the superintendent may take one or more of the following actions: 3101 3102 3103

(1) Assess a civil penalty in an amount not exceeding twenty-five thousand dollars per violation; 3104 3105

(2) Assess administrative costs to cover the expenses incurred by the department in the administrative action, including costs incurred in the investigation and hearing processes. Any costs collected shall be paid into the state 3106 3107 3108 3109

treasury to the credit of the department of insurance operating fund created in section 3901.021 of the Revised Code. 3110 3111

(3) Suspend all of the person's licenses for all lines of insurance for either a specified period of time or an indefinite period of time and under such terms and conditions as the superintendent may determine; 3112 3113 3114 3115

(4) Permanently revoke all of the person's licenses for all lines of insurance; 3116 3117

(5) Refuse to issue a license; 3118

(6) Refuse to renew a license; 3119

(7) Prohibit the person from being employed in any capacity in the business of insurance and from having any financial interest in any insurance agency, company, surety bail bond business, or third-party administrator in this state. The superintendent may, in the superintendent's discretion, determine the nature, conditions, and duration of such restrictions. 3120 3121 3122 3123 3124 3125 3126

(8) Order corrective actions in lieu of or in addition to the other penalties listed in division (D) of this section. Such an order may provide for the suspension of civil penalties, license revocation, license suspension, or refusal to issue or renew a license if the licensee complies with the terms and conditions of the corrective action order. 3127 3128 3129 3130 3131 3132

(9) Accept a surrender for cause offered by the licensee, which shall be for at least five years and shall prohibit the licensee from seeking any license authorized under this chapter during that time period. A surrender for cause shall be in lieu of revocation or suspension and may include a corrective action order as provided in division (D)(8) of this section. 3133 3134 3135 3136 3137 3138

(E) The superintendent may consider the following factors in denying a license, imposing suspensions, revocations, fines, or other penalties, and issuing orders under this section: 3139 3140 3141

(1) Whether the person acted in good faith; 3142

(2) Whether the person made restitution for any pecuniary losses suffered by other persons as a result of the person's actions; 3143 3144 3145

(3) The actual harm or potential for harm to others; 3146

(4) The degree of trust placed in the person by, and the vulnerability of, persons who were or could have been adversely affected by the person's actions; 3147 3148 3149

(5) Whether the person was the subject of any previous administrative actions by the superintendent; 3150 3151

(6) The number of individuals adversely affected by the person's acts or omissions; 3152 3153

(7) Whether the person voluntarily reported the violation, and the extent of the person's cooperation and acceptance of responsibility; 3154 3155 3156

(8) Whether the person obstructed or impeded, or attempted to obstruct or impede, the superintendent's investigation; 3157 3158

(9) The person's efforts to conceal the misconduct; 3159

(10) Remedial efforts to prevent future violations; 3160

(11) If the person was convicted of a criminal offense, the nature of the offense, whether the conviction was based on acts or omissions taken under any professional license, whether the offense involved the breach of a fiduciary duty, the amount of time that has passed, and the person's activities subsequent 3161 3162 3163 3164 3165

to the conviction; 3166

(12) Such other factors as the superintendent determines 3167
to be appropriate under the circumstances. 3168

(F)(1) A violation described in division (B)(1), (2), (3), 3169
(4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), 3170
(16), (17), (18), (19), (20), (22), (23), (24), (25), (26), 3171
(27), (28), (29), (30), (31), (32), (33), (34), (35), ~~and~~ or 3172
(36) of this section is a class A offense for which the 3173
superintendent may impose any penalty set forth in division (D) 3174
of this section. 3175

(2) A violation described in division (B)(15) or (21) of 3176
this section, or a failure to comply with section 3905.061, 3177
3905.071, or 3905.22 of the Revised Code, is a class B offense 3178
for which the superintendent may impose any penalty set forth in 3179
division (D)(1), (2), (8), or (9) of this section. 3180

(3) If the superintendent determines that a violation 3181
described in division (B)(36) of this section has occurred, the 3182
superintendent shall impose a minimum of a two-year suspension 3183
on all of the person's licenses for all lines of insurance. 3184

(G) If a violation described in this section has caused, 3185
is causing, or is about to cause substantial and material harm, 3186
the superintendent may issue an order requiring that person to 3187
cease and desist from engaging in the violation. Notice of the 3188
order shall be mailed by certified mail, return receipt 3189
requested, or served in any other manner provided for in this 3190
section, immediately after its issuance to the person subject to 3191
the order and to all persons known to be involved in the 3192
violation. The superintendent may thereafter publicize or 3193
otherwise make known to all interested parties that the order 3194

has been issued. 3195

The notice shall specify the particular act, omission, practice, or transaction that is subject to the cease-and-desist order and shall set a date, not more than fifteen days after the date of the order, for a hearing on the continuation or revocation of the order. The person shall comply with the order immediately upon receipt of notice of the order. 3196 3197 3198 3199 3200 3201

The superintendent may, upon the application of a party and for good cause shown, continue the hearing. Chapter 119. of the Revised Code applies to such hearings to the extent that that chapter does not conflict with the procedures set forth in this section. The superintendent shall, within fifteen days after objections are submitted to the hearing officer's report and recommendation, issue a final order either confirming or revoking the cease-and-desist order. The final order may be appealed as provided under section 119.12 of the Revised Code. 3202 3203 3204 3205 3206 3207 3208 3209 3210

The remedy under this division is cumulative and concurrent with the other remedies available under this section. 3211 3212

(H) If the superintendent has reasonable cause to believe that an order issued under this section has been violated in whole or in part, the superintendent may request the attorney general to commence and prosecute any appropriate action or proceeding in the name of the state against such person. 3213 3214 3215 3216 3217

The court may, in an action brought pursuant to this division, impose any of the following: 3218 3219

(1) For each violation, a civil penalty of not more than twenty-five thousand dollars; 3220 3221

(2) Injunctive relief; 3222

(3) Restitution; 3223

(4) Any other appropriate relief. 3224

(I) With respect to a surety bail bond agent license: 3225

(1) Upon the suspension or revocation of a license, or the 3226
eligibility of a surety bail bond agent to hold a license, the 3227
superintendent likewise may suspend or revoke the license or 3228
eligibility of any surety bail bond agent who is employed by or 3229
associated with that agent and who knowingly was a party to the 3230
act that resulted in the suspension or revocation. 3231

(2) The superintendent may revoke a license as a surety 3232
bail bond agent if the licensee is adjudged bankrupt. 3233

(J) Nothing in this section shall be construed to create 3234
or imply a private cause of action against an agent or insurer. 3235

Sec. 3905.84. No person shall act in the capacity of a 3236
surety bail bond agent, or perform any of the functions, duties, 3237
or powers prescribed for surety bail bond agents under sections 3238
3905.83 to 3905.95 of the Revised Code, unless that person ~~i~~ is 3239
qualified, licensed, and appointed as provided in those 3240
sections. 3241

Sec. 3905.85. (A)(1) An individual who applies for a 3242
license as a surety bail bond agent shall submit an application 3243
for the license in a manner prescribed by the superintendent of 3244
insurance. The application shall be accompanied by a one- 3245
hundred-fifty-dollar fee and a statement that gives the 3246
applicant's name, age, residence, present occupation, occupation 3247
for the five years next preceding the date of the application, 3248
and such other information as the superintendent may require. 3249

(2) An applicant for an individual resident license shall 3250

also submit to a criminal records check pursuant to section 3905.051 of the Revised Code. 3251 3252

(B)(1) The superintendent shall issue to an applicant an individual resident license that states in substance that the person is authorized to do the business of a surety bail bond agent, if the superintendent is satisfied that all of the following apply: 3253 3254 3255 3256 3257

(a) The applicant is eighteen years of age or older. 3258

(b) The applicant's home state is Ohio. 3259

(c) The applicant is a person of high character and integrity. 3260 3261

(d) The applicant has not committed any act that is grounds for the refusal to issue, suspension of, or revocation of a license under section 3905.14 of the Revised Code. 3262 3263 3264

(e) The applicant is a United States citizen or has provided proof of having legal authorization to work in the United States. 3265 3266 3267

(f) The applicant has successfully completed the educational requirements set forth in section 3905.04 of the Revised Code and passed the examination required by that section. 3268 3269 3270 3271

(2) The superintendent shall issue to an applicant an individual nonresident license that states in substance that the person is authorized to do the business of a surety bail bond agent, if the superintendent is satisfied that all of the following apply: 3272 3273 3274 3275 3276

(a) The applicant is eighteen years of age or older. 3277

(b) The applicant is currently licensed as a resident in another state and is in good standing in the applicant's home state for surety bail bond or is qualified for the same authority. 3278 3279 3280 3281

(c) The applicant is a person of high character and integrity. 3282 3283

(d) The applicant has not committed any act that is grounds for the refusal to issue, suspension of, or revocation of a license under section 3905.14 of the Revised Code. 3284 3285 3286

(3) The superintendent shall issue an applicant a resident business entity license that states in substance that the person is authorized to do the business of a surety bail bond agent if the superintendent is satisfied that all of the following apply: 3287 3288 3289 3290

(a) The applicant has submitted an application for the license in a manner prescribed by the superintendent and the one-hundred-fifty-dollar application fee. 3291 3292 3293

(b) The applicant either is domiciled in this state or maintains its principal place of business in this state. 3294 3295

(c) The applicant has designated an individual licensed surety bail bond agent who will be responsible for the applicant's compliance with the insurance laws of this state. 3296 3297 3298

(d) The applicant has not committed any act that is grounds for the refusal to issue, suspension of, or revocation of a license under section 3905.14 of the Revised Code. 3299 3300 3301

(e) The applicant is authorized to do business in this state by the secretary of state if so required under the applicable provisions of Title XVII of the Revised Code. 3302 3303 3304

(f) The applicant has submitted any other documents 3305

requested by the superintendent. 3306

(4) The superintendent shall issue an applicant a nonresident business entity license that states in substance that the person is authorized to do the business of a surety bail bond agent if the superintendent is satisfied that all of the following apply: 3307 3308 3309 3310 3311

(a) The applicant has submitted an application for the license in a manner prescribed by the superintendent and the one-hundred-fifty-dollar application fee. 3312 3313 3314

(b) The applicant is currently licensed and is in good standing in the applicant's home state with surety bail bond authority. 3315 3316 3317

(c) The applicant has designated an individual licensed surety bail bond agent who will be responsible for the applicant's compliance with the insurance laws of this state. 3318 3319 3320

(d) The applicant has not committed any act that is grounds for the refusal to issue, suspension of, or revocation of a license under section 3905.14 of the Revised Code. 3321 3322 3323

(e) The applicant has submitted any other documents requested by the superintendent. 3324 3325

(C) A resident and nonresident surety bail bond agent license issued pursuant to this section authorizes the holder, when appointed by an insurer, to execute or countersign bail bonds in connection with judicial proceedings and to receive money or other things of value for those services. However, the holder shall not execute or deliver a bond during the first one hundred eighty days after the license is initially issued. This restriction does not apply with respect to license renewals or any license issued under divisions (B)(3) and (4) of this 3326 3327 3328 3329 3330 3331 3332 3333 3334

section. 3335

(D) The superintendent may refuse to renew a surety bail bond agent's license as provided in division (B) of section 3905.88 of the Revised Code, and may suspend, revoke, or refuse to issue or renew such a license as provided in section 3905.14 of the Revised Code. 3336 3337 3338 3339 3340

If the superintendent refuses to issue such a license based in whole or in part upon the written response to a criminal records check completed pursuant to division (A) of this section, the superintendent shall send a copy of the response that was transmitted to the superintendent to the applicant at the applicant's home address upon the applicant's submission of a written request to the superintendent. 3341 3342 3343 3344 3345 3346 3347

(E) Any person licensed as a surety bail bond agent may surrender the person's license in accordance with section 3905.16 of the Revised Code. 3348 3349 3350

(F)(1) A person seeking to renew a surety bail bond agent license shall apply annually for a renewal of the license on or before the last day of February. Applications shall be submitted to the superintendent on forms prescribed by the superintendent. Each application shall be accompanied by a one-hundred-fifty-dollar renewal fee. 3351 3352 3353 3354 3355 3356

(2) To be eligible for renewal, an individual applicant shall complete the continuing education requirements pursuant to section 3905.88 of the Revised Code prior to the renewal date. 3357 3358 3359

(3) If an applicant submits a completed renewal application, qualifies for renewal pursuant to divisions (F)(1) and (2) of this section, and has not committed any act that is a ground for the refusal to issue, suspension of, or revocation of 3360 3361 3362 3363

a license under section 3905.14 or sections 3905.83 to 3905.99 of the Revised Code, the superintendent shall renew the applicant's surety bail bond insurance agent license. 3364 3365 3366

(4) If an individual or business entity does not apply for the renewal of the individual or business entity's license on or before the license renewal date specified in division (F)(1) of this section, the individual or business entity may submit a late renewal application along with all applicable fees required under this chapter prior to the last day of March following the renewal date. The superintendent shall renew the license of an applicant that submits a late renewal application if the applicant satisfies all of the following conditions: 3367 3368 3369 3370 3371 3372 3373 3374 3375

(a) The applicant submits a completed renewal application. 3376

(b) The applicant pays the one-hundred-fifty-dollar renewal fee. 3377 3378

(c) The applicant pays the late renewal fee established by the superintendent. 3379 3380

(d) The applicant provides proof of compliance with the continuing education requirements pursuant to section 3905.88 of the Revised Code. 3381 3382 3383

(e) The applicant has not committed any act that is grounds for the refusal to issue, suspension of, or revocation of a license under section 3905.14 or sections 3905.83 to 3905.99 of the Revised Code. 3384 3385 3386 3387

(5) A license issued under this section that is not renewed on or before its late renewal date specified in division (F)(4) of this section is automatically suspended for nonrenewal effective the first day of April. 3388 3389 3390 3391

(6) If a license is suspended for nonrenewal pursuant to division (F)(5) of this section, the individual or business entity is eligible to apply for reinstatement of the license within the twelve-month period following the date by which the license should have been renewed by complying with the reinstatement procedure established by the superintendent and paying all applicable fees required under this chapter. 3392 3393 3394 3395 3396 3397 3398

(7) A license that is suspended for nonrenewal that is not reinstated pursuant to division (F)(6) of this section automatically is canceled unless the superintendent is investigating any allegations of wrongdoing by the agent or has initiated proceedings under Chapter 119. of the Revised Code. In that case, the license automatically is canceled after the completion of the investigation or proceedings unless the superintendent revokes the license. 3399 3400 3401 3402 3403 3404 3405 3406

(G) The superintendent may prescribe the forms to be used as evidence of the issuance of a license under this section. The superintendent shall require each licensee to acquire, from a source designated by the superintendent, a wallet identification card that includes the licensee's photograph and any other information required by the superintendent. The licensee shall keep the wallet identification card on the licensee's person while engaging in the bail bond business. 3407 3408 3409 3410 3411 3412 3413 3414

(H)(1) The superintendent of insurance shall not issue or renew the license of a business entity organized under the laws of this or any other state unless the business entity is qualified to do business in this state under the applicable provisions of Title XVII of the Revised Code. 3415 3416 3417 3418 3419

(2) The failure of a business entity to be in good standing with the secretary of state or to maintain a valid 3420 3421

appointment of statutory agent is grounds for suspending, revoking, or refusing to renew its license. 3422 3423

(3) By applying for a surety bail bond agent license under this section, an individual or business entity consents to the jurisdiction of the courts of this state. 3424 3425 3426

(I) A surety bail bond agent licensed pursuant to this section is an officer of the court. 3427 3428

(J) Any fee collected under this section shall be paid into the state treasury to the credit of the department of insurance operating fund created by section 3901.021 of the Revised Code. 3429 3430 3431 3432

Sec. 3906.11. (A) An insurer investing under this chapter shall maintain assets in an amount equivalent to the sum of its liabilities and its minimum financial security benchmark at all times. 3433 3434 3435 3436

(B) Assets invested under this chapter may be counted toward satisfaction of the minimum asset requirement only so far as they are invested in compliance with this chapter and any applicable rules adopted, or orders issued, by the superintendent pursuant to this chapter. 3437 3438 3439 3440 3441

(C) The amount of admitted assets used to calculate the minimum asset requirement shall be reduced by the amount of the liability recorded on an insurer's statutory balance sheet for all of the following: 3442 3443 3444 3445

(1) The return of acceptable collateral received in a reverse repurchase transaction or a securities lending transaction; 3446 3447 3448

(2) Cash received in a dollar roll transaction; 3449

(3) Other amounts reported as borrowed money.

(D) Assets other than invested assets may be counted toward satisfaction of the minimum asset requirement at admitted annual financial statement value. However, loans to officers or directors or their immediate families shall not be counted toward the satisfaction of the minimum asset requirement.

(E) An investment held as an admitted asset by an insurer on ~~the effective date of this section~~ September 4, 2014, that qualified under the applicable insurance investment law of this state shall remain qualified as an admitted asset under this chapter.

(F) Notwithstanding any provision of this chapter to the contrary, an asset acquired in the bona fide enforcement of creditors' rights or in bona fide workouts or settlements of disputed claims may be counted toward the minimum asset requirement for five years if the asset is real property and three years if the asset is not real property.

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

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

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

Sec. 3907.03. When the articles of incorporation are filed in the office of the secretary of state under section 3907.02 of the Revised Code, and the name assumed by the company is not so nearly similar to that of any other company organized in this

state as to lead to confusion or uncertainty on the part of the public, the secretary of state shall submit them to the attorney general for examination. If such articles are found by ~~him~~ the attorney general to be in accordance with sections 3907.01 to 3907.21~~, inclusive,~~ of the Revised Code, and not inconsistent with the constitution and laws of the United States and of this state, ~~he~~ the attorney general shall certify to and deliver them to the secretary of state, who shall cause them, together with the certificate of the attorney general, to be recorded in a book kept for that purpose. Upon application of the signers of such articles of incorporation, the secretary of state shall furnish to them a certified copy of such articles and certificates.

Sec. 3907.07. Any legal reserve life insurance company organized under the laws of this state may invest its capital in the stocks, bonds, or mortgages authorized by section 3907.05 of the Revised Code, and may change and invest it or any part thereof in like manner. No company shall commence business until it has deposited with the superintendent of insurance at least one hundred thousand dollars, in such stocks, bonds, or mortgages, made or assigned to the superintendent in trust for the purposes mentioned in sections 3907.01 to 3907.21~~, inclusive,~~ of the Revised Code. When a mortgage of real estate is assigned to the superintendent, the assignment shall be immediately entered in the records of the county in which the real estate is situated, and the fee for its recording shall be paid by the company.

The superintendent shall hold such securities as security for policyholders in the company. As long as any company depositing such securities remains solvent, ~~he~~ the superintendent shall permit it to collect the interest or

dividends on the securities, and from time to time to withdraw them, or a part thereof, on depositing with ~~him~~ the superintendent other securities of the kinds named in section 3907.05 of the Revised Code, and of equal value with those withdrawn.

In case a company making or maintaining such deposit with the superintendent, through inadvertence or by reason of not having securities in such denominations as to make the exact sum of one hundred thousand dollars, deposits securities in excess of the requirement, such excess shall be held in trust for the company and not for the benefit of policyholders, and shall be returned to the company making the deposit on its demand.

Sec. 3909.04. Every life insurance company organized by act of congress or under the laws of another state of the United States shall file with the superintendent of insurance a certified copy of its charter, or deed of settlement, together with a statement, under the oath of the president, vice-president, or other chief officer or manager, and the secretary of the company, stating the name of the company, the place where it is located, and the amount of its capital, with a detailed statement of all the facts required in the annual statement of companies organized under sections ~~3907.1~~ 3907.01 to 3907.21~~, inclusive,~~ of the Revised Code, except as to the statement required by division (N) of section 3907.19 of the Revised Code, which statement shall be filed by such company only when required by the superintendent for purposes of actual valuation, as provided by the insurance laws of this state. The statement also shall include a copy of its last annual report, if any was made.

Sec. 3911.09. (A) Any person may procure, authorize

procurement of, or effect an insurance on the person's life, for 3540
any definite period of time or for the term of the person's 3541
natural life, to inure to the benefit of the person's spouse and 3542
children, or either, or other persons dependent upon such 3543
person, or an institution or entity described in division (B)(1) 3544
of this section, or any creditor the person causes to be 3545
appointed and provided for in the policy. 3546

(B)(1) Any religious, charitable, scientific, literary, 3547
educational, or other institution or entity that is described in 3548
section 170, 501(c)(3), 2055, or 2522 of the "Internal Revenue 3549
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 170, 501, 2055, 2522, 3550
as amended, may be the owner of, or may be designated 3551
beneficiary in, any policy of life insurance issued upon the 3552
life or lives of one or more individuals. Any such institution 3553
or entity has an insurable interest in the life of each insured 3554
and is entitled to enforce all rights and collect all benefits 3555
to which it is entitled pursuant to the policy. 3556

(2) With respect to any policy of life insurance delivered 3557
or issued for delivery in this state before ~~the effective date~~ 3558
~~of this amendment~~ July 8, 1992, and in which any institution or 3559
entity described in division (B)(1) of this section has been 3560
designated owner of or beneficiary, the institution or entity 3561
has an insurable interest in the life of each insured and is 3562
entitled to enforce all rights and collect all benefits to which 3563
it is entitled pursuant to the policy. 3564

(3) With respect to any transfer of ownership or 3565
designation of beneficiary executed before ~~the effective date of~~ 3566
~~this amendment~~ July 8, 1992, and in which any institution or 3567
entity described in division (B)(1) of this section has been 3568
designated owner or beneficiary, the institution or entity has 3569

an insurable interest in the life of each insured and is entitled to enforce all rights and collect all benefits to which it is entitled pursuant to the policy under which the transfer or designation was executed. 3570 3571 3572 3573

Sec. 3911.20. No life insurance company doing business in this state, whether on the group insurance or any other plan, shall make or permit any distinction or discrimination in favor of individuals between insured persons of the same class and equal expectation of life in the amount or payment of premiums, or in rates charged for policies of insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes. No such company, or any agent thereof, shall make any contract of insurance or agreement as to such contract, other than as plainly expressed in the policy issued thereon. 3574 3575 3576 3577 3578 3579 3580 3581 3582 3583 3584

No life insurance company doing business in this state, or any officer, agent, employee, or representative thereof, nor any other person, shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to insurance, nor shall any person, partnership, or corporation knowingly receive as such inducement to insurance, any rebate of premium payable on the policy or any special favor or advantage in the dividends or other benefits to accrue thereon, or any special advantage in the date of a policy or date of the issue thereof, or any valuable consideration or inducement. Nor shall such company or person give, receive, sell, or purchase, or offer to give, receive, sell, or purchase, as inducements to insurance or in connection therewith, any stocks, bonds, or other obligations or securities of any insurance company or other corporation, association, partnership, or individual, or any dividends or profits to accrue thereon, or any paid employment or contract 3585 3586 3587 3588 3589 3590 3591 3592 3593 3594 3595 3596 3597 3598 3599 3600

for service of any kind, or anything of value; nor shall such 3601
company or person give or offer to give, or enter into any 3602
separate agreement promising to secure, as an inducement or 3603
consideration for insurance, the loan of any money, either 3604
directly or indirectly, or any contract for services; nor shall 3605
such company or person require as a condition of or in 3606
connection with the granting of a loan, that the applicant or 3607
borrower or any other person, either directly or indirectly, 3608
acquire a policy of life or accident and health insurance from 3609
any particular company, agent, or person. 3610

No person shall receive or accept from any company, agent, 3611
subagent, or any other person any such rebate of premium payable 3612
on the policy, or any special favor or advantage in the dividend 3613
or other benefits to accrue thereon, or any valuable 3614
consideration or inducement not specified in the policy of 3615
insurance. No person shall be excused from testifying or from 3616
producing any books, papers, contracts, agreements, or documents 3617
at the trial of any other person charged with violation of this 3618
section, upon the ground that such testimony or evidence may 3619
tend to incriminate, but no person shall be prosecuted or 3620
subjected to any penalty or forfeiture on account of any 3621
transaction, matter, or thing concerning which ~~he~~ the person so 3622
testifies or produces evidence, and no testimony so given or 3623
produced shall be received against ~~him~~ the person upon any 3624
criminal investigation or proceeding involving rebates or 3625
violation of insurance laws. 3626

This section does not prohibit any company issuing 3627
nonparticipating life insurance from paying bonuses to 3628
policyholders or otherwise abating their premiums out of surplus 3629
accumulated from nonparticipating insurance; nor does it 3630
prohibit any company which transacts industrial insurance on the 3631

weekly payment plan from returning to policyholders, who have made premium payments for a period of at least one year directly to the company at its home or district offices, a percentage of the premium which the company would have paid for the weekly collection of such payments.

In so far as it is adaptable to the conduct of such business, this section is also applicable to the sale and purchase of annuities by and from life insurance companies.

Sec. 3911.24. Upon the conviction of any person, firm, association, or life insurance company for violating section 3911.23 of the Revised Code, the superintendent of insurance shall revoke the license of such person, firm, association, or life insurance company for not less than one year.

The superintendent, when ~~he~~ the superintendent has good reason to believe that any company or association writing life insurance in this state, on any plan, is knowingly permitting any of its agents or representatives to violate section 3911.23 of the Revised Code, shall give such company or association notice of a hearing in accordance with ~~sections 119.01 to 119.13, inclusive,~~ Chapter 119. of the Revised Code, upon the charge of knowingly permitting said section to be violated, and, if ~~he~~ the superintendent finds said company or association guilty of the offense, ~~he~~ the superintendent shall revoke its license.

Sec. 3913.11. (A) A domestic mutual life insurance company may become a stock life insurance company, pursuant to sections 3913.11 to 3913.13 of the Revised Code, provided that the company have unassigned surplus at least equal to the capital and surplus required under section 3907.05 of the Revised Code for a life insurance company to commence business in this state,

that such conversion will benefit the company, that adequate provision for protection of the policyholders' interests is made, and that such conversion is not inequitable, unreasonable, or contrary to law. "Policyholder", as used in sections 3913.11 to 3913.13 of the Revised Code, means a policyholder as defined in section 3913.10 of the Revised Code and the qualifications for voting shall be as provided in that section. 3662 3663 3664 3665 3666 3667 3668

(B) The board of directors of a mutual life insurance company desiring to become a stock life insurance company shall, by a majority vote, adopt a resolution stating the reason it believes such conversion would be of benefit to the company and its policyholders, and setting forth a plan of conversion and explanation thereof, a schedule of the steps to be followed in effecting the conversion, and a statement of the organization of the new company and its capitalization, including the number of shares of capital stock and the price per share for which the stock is to be issued. Five certified copies of such resolution shall be filed with the superintendent of insurance, together with the following: 3669 3670 3671 3672 3673 3674 3675 3676 3677 3678 3679 3680

(1) A copy of the charter or articles of incorporation of the company, together with the proposed articles of incorporation of the new company; 3681 3682 3683

(2) Complete annual financial statements of the company for the five accounting periods immediately preceding the date of the resolution, based on generally recognized insurance accounting principles; 3684 3685 3686 3687

(3) A draft of the prospectus to be sent to the policyholders, which shall contain a full disclosure of the details of the proposed conversion; 3688 3689 3690

(4) Such other and further statements, affidavits, books, records, papers, information, and data, as the superintendent may require.

(C) Within thirty days of the filing of the resolution and supporting documents and information required by division (B) of this section, the superintendent shall review them, and if it appears on their face that such conversion meets the requirements contained in division (A) of this section, ~~he~~ the superintendent shall order an examination of the company. If ~~he~~ the superintendent finds that such conversion does not meet the requirements contained in division (A), ~~he~~ the superintendent shall issue a written order prohibiting the conversion, stating in detail the reasons therefor. The company may, within thirty days after issuance of such order of prohibition, submit modifications to the proposed conversion, and ~~if the superintendent finds~~ after finding that the conversion as so modified meets the requirements contained in division (A) ~~he~~ the superintendent shall rescind ~~his~~ the prior order and order an examination of the company. The examination conducted pursuant to this section shall be such as is necessary to verify that such conversion will meet the requirements contained in division (A). The expenses of such examination shall be paid by the company.

(D) Upon completion of the examination, the superintendent shall appoint an appraisal committee, consisting of a fellow of the society of actuaries, an attorney at law, and a person who by reason of knowledge and experience is specially qualified in the valuation of insurance companies. No member of such committee shall have any direct or indirect interest in the company's affairs, nor shall any member be an employee of the department of insurance. Each such appraiser shall receive

reasonable compensation for ~~his~~ the appraiser's services, plus reasonable expenses, as approved by the superintendent, which compensation and expenses shall be paid by the company. The appraisal committee shall determine the value of the company as of the date of the examination conducted pursuant to this section, taking into consideration the admitted and non-admitted assets, reserves, and other liabilities, equity in unearned premium reserves, the value of the agency plant, the value of insurance in force, and any other factor affecting the value of the company. 3722 3723 3724 3725 3726 3727 3728 3729 3730 3731

The appraisal committee shall confirm or modify the determination of the board of directors as to the consideration to be given to each policyholder, including, if applicable, the number of ~~shaes~~ shares of the new corporation and establish the priority rights for subscription to any additional shares that may be issued to each policyholder pursuant to section 3913.12 of the Revised Code. Certified copies of the report of the appraisers shall be filed with the superintendent and sent to the company. 3732 3733 3734 3735 3736 3737 3738 3739 3740

(E) Within sixty days after the appraisal committee files its report with the superintendent, the company shall call a meeting of policyholders. Notice of the time and place of such meeting shall be sent by mail to each policyholder at ~~his~~ the policyholder's post office address as it appears on the books of the company, and to the superintendent, at least thirty days prior to such meeting. Such notice shall include a copy of the prospectus required under division (B)(3) of this section as approved by the superintendent, a summary of the examination approved by the superintendent, a uniform ballot for voting on the question of conversion, together with a postage prepaid envelope for the return of such ballot, a copy or summary of the 3741 3742 3743 3744 3745 3746 3747 3748 3749 3750 3751 3752

report of the appraisal committee, a statement of the 3753
consideration to be given to the policyholder, including, if 3754
applicable, the number of shares of the new company to be issued 3755
to the policyholder and the priority rights of the policyholder 3756
for subscription to any additional shares that may be issued, 3757
and a statement that if the conversion is approved by the 3758
policyholders, the superintendent will fix a time and place for 3759
a public hearing on such conversion not more than sixty days 3760
after the date of such meeting. The superintendent shall appoint 3761
sufficient inspectors to conduct the voting at said meeting and 3762
to determine all questions concerning the verification of 3763
ballots, the qualifications of voters, and the canvass of the 3764
vote. The inspectors shall certify to the superintendent and to 3765
the company the result of such proceedings. Voting at such 3766
meeting may be in person, by proxy, or by mail as provided in 3767
this division. All necessary expenses incurred by the department 3768
in connection with such meeting, and certified by the 3769
superintendent, shall be paid by the company. 3770

(F) If such conversion is approved at such meeting by the 3771
affirmative vote of a majority of the policyholders of such 3772
company voting at the meeting, the superintendent shall fix the 3773
time and place for a public hearing not more than sixty days 3774
after the date of such meeting. Otherwise, ~~he~~ the superintendent 3775
shall issue an order prohibiting the conversion. Notice of the 3776
time and place of such hearing shall be published once each week 3777
for two consecutive weeks in a newspaper of general circulation 3778
in the county where the home office of the company is located, 3779
and in Franklin county, and the last such publication shall be 3780
at least fifteen days prior to the date of such hearing. The 3781
expenses of publication of notice shall be paid by the company. 3782
At such hearing, the superintendent shall hear any person 3783

adversely affected by the conversion, who may present ~~his~~ the person's position, arguments, or contentions, offer and examine witnesses, and present evidence tending to show that such conversion does not meet the requirements contained in division (A) of this section. If the superintendent finds that such conversion meets such requirements, ~~he~~ the superintendent shall issue ~~his~~ a written order accepting the report of the appraisal committee and authorizing the conversion. Otherwise, ~~he~~ the superintendent shall issue such order as is appropriate to ~~his~~ the superintendent's findings.

(G) At or after the issuance of the order authorizing the conversion, the articles of incorporation of the new company as approved by the superintendent shall be filed with the secretary of state. When such articles of incorporation of the new company are filed and accepted by the secretary of state, the mutual life insurance company shall become a stock life insurance company, and all property of every description and every interest therein, and all obligations of, belonging to, or due the mutual company shall thereafter be considered vested in the stock company without further act or deed. The stock insurance company shall be liable for all obligations of the mutual company and any claim existing or action or proceeding pending by or against the company may be prosecuted to judgment, with right of appeal as in other cases, as if such conversion had not taken place. All rights of creditors, and all liens upon the property of the mutual company shall be preserved unimpaired, limited in lien to the property affected by such liens immediately prior to the effective date of the conversion.

The directors and officers of the mutual company shall serve as the directors and officers of the new company, until new directors and officers have been duly elected and qualified

pursuant to the articles of incorporation and by-laws of the new company, and as otherwise provided by law. 3815 3816

(H) Upon the conversion becoming effective pursuant to division (G) of this section, the new company shall forthwith proceed with winding up the affairs of the mutual company, and with the issuance of stock and priority rights in accordance with section 3913.12 of the Revised Code. Within six months after such effective date of the conversion, the new company shall file with the superintendent a written report containing such information as the superintendent may require to fully apprise ~~him~~ the superintendent of the status of the conversion and whether it has been or is being carried out in accordance with its terms and according to law. 3817 3818 3819 3820 3821 3822 3823 3824 3825 3826 3827

Sec. 3913.22. (A) In effecting a conversion of a mutual insurance company into a stock insurance corporation pursuant to sections 3913.20 to 3913.23~~, inclusive,~~ of the Revised Code, each mutual policyholder is entitled to such shares of stock of the new corporation as ~~his~~ the policyholder's equitable share of the value of the mutual company will purchase. If such equitable share of the value of the mutual company entitles a policyholder to a fractional share of stock, ~~he~~ the policyholder shall have the option of receiving the value of such fractional share in cash or of purchasing such additional fraction as will entitle ~~him~~ the policyholder to a full share. If the initial issue of stock to the new corporation exceeds the number of shares to which the mutual policyholders are entitled in the aggregate, each mutual policyholder is also entitled to preemptive rights in subscribing to ~~his~~ the policyholder's proportionate number of shares of such excess. 3828 3829 3830 3831 3832 3833 3834 3835 3836 3837 3838 3839 3840 3841 3842 3843

(B) The value of the company is the value as determined by 3844

the appraisal committee pursuant to division (D) of section 3913.21 of the Revised Code, and approved by the superintendent of insurance. The equitable share of the value of the company held by each mutual policyholder shall be determined as follows:

(1) By the ratio which the total net premiums paid, in respect to ~~his~~ the policyholder's mutual policy or policies in force on the date of the examination conducted pursuant to division (C) of section 3913.21 of the Revised Code, within the period including the five accounting periods preceding the date of such examination and including the time from the end of the last such accounting period to the date of the examination, bears to the total net premiums paid in the same period in respect to all mutual policies of the company in force on the date of such examination; or

(2) If the company is a perpetual deposit insurance company, by the ratio which each mutual policyholder's premium deposit bears to the total premium deposits held by the company, provided that, if the company has held the premium deposit for less than five years, the equitable share of each mutual policyholder is ten per cent of such ratio for each full six month period said deposit has been held by the company. As used in this section, "net premium" means gross premium less return premium and dividends paid.

(C) Shares shall be issued to the owner or owners of a mutual policy in force on the date of the examination conducted pursuant to division (C) of section 3913.21 of the Revised Code, as such owner or owners appear on the face of the policy. If ownership of a policy has been assigned by a writing absolute on its face to an assignee other than the mutual company, and such assignment is in effect and on file at the principal office of

the new corporation on the date shares are issued the assignee 3875
shall be deemed the owner of the policy. 3876

(D) From and after the date of issuance of shares to a 3877
policyholder pursuant to sections 3913.20 to 3913.24~~, inclusive,~~ 3878
of the Revised Code,~~ his~~ the policyholder's ownership interest 3879
in the company as a mutual policyholder terminates, and such 3880
ownership interest shall thenceforth be represented solely by 3881
the shares of stock in the new corporation issued to~~ him~~ the 3882
policyholder, but no other rights or liabilities of the 3883
policyholder arising under~~ his~~ the policyholder's policy are 3884
affected by such issuance of stock. 3885

Sec. 3913.40. (A) Any insurer, including any fraternal 3886
benefit society, that is organized under the laws of another 3887
state and is admitted to transact the business of insurance in 3888
this state may become a domestic insurer by complying with all 3889
of the requirements of law relative to the organization and 3890
licensing of a domestic insurer of the same type and by 3891
designating its principal place of business at a place in this 3892
state. Such a domestic insurer shall be issued like certificates 3893
and licenses to transact business in this state, is subject to 3894
the jurisdiction of this state, and shall be recognized as an 3895
insurer formed under the laws of this state as of the date of 3896
its original incorporation in its original domiciliary state. 3897
The superintendent of insurance shall approve any proposed 3898
transfer of domicile under this division unless the 3899
superintendent determines that the transfer is not in the 3900
interest of policyholders of this state. 3901

(B) Any domestic insurer, upon the approval of the 3902
superintendent, may transfer its domicile to any other state in 3903
which it is admitted to transact the business of insurance. Upon 3904

such a transfer, the insurer shall cease to be a domestic 3905
insurer, and shall be admitted to this state if qualified as a 3906
foreign insurer. The superintendent shall approve any proposed 3907
transfer of domicile under this division unless the 3908
superintendent determines that the transfer is not in the 3909
interest of policyholders of this state. 3910

(C)(1) With respect to any insurer, including any 3911
fraternal benefit society, that is licensed to transact the 3912
business of insurance in this state and that transfers its 3913
domicile to this or any other state by merger, consolidation, or 3914
any other lawful method, both of the following apply: 3915

(a) The certificate of authority, ~~agents~~ agent 3916
appointments and licenses, rates, and other items as allowed by 3917
the superintendent that are in existence at the time of the 3918
transfer shall continue in effect upon the transfer if the 3919
insurer remains qualified to transact the business of insurance 3920
in this state. 3921

(b) All outstanding policies shall remain in effect and 3922
need not be endorsed as to the new name of the company or its 3923
new location unless so ordered by the superintendent. 3924

(2) Every transferring insurer as described in division 3925
(C)(1) of this section shall file new policy forms with the 3926
superintendent on or before the effective date of the transfer, 3927
but may use existing policy forms with appropriate endorsements 3928
if allowed by, and under such conditions as are approved by, the 3929
superintendent. Every such insurer shall notify the 3930
superintendent of the details of the proposed transfer, and 3931
shall file promptly any resulting amendments to corporate 3932
documents filed or required to be filed with the superintendent. 3933

(D) Nothing in this section or any other provision of the Revised Code prohibits an insurer from transferring its domicile to this state because its charter, bylaws, or any other organizational document contains characteristics of both a mutual insurance company and a stock insurance company. 3934 3935 3936 3937 3938

(E) The superintendent, in accordance with Chapter 119. of the Revised Code, may adopt rules to carry out the purposes of this section. 3939 3940 3941

Sec. 3915.05. No policy of life insurance shall be issued or delivered in this state or be issued by a life insurance company organized under the laws of this state unless such policy contains: 3942 3943 3944 3945

(A) A provision that all premiums shall be payable in advance, either at the home office of the company or to an agent of the company, upon delivery of a receipt signed by one or more of the officers named in the policy; 3946 3947 3948 3949

(B) A provision for a grace of one month for the payment of every premium after the first, which extension period may be subject to an interest charge and during which month the insurance shall continue in force, which provision may contain a stipulation that if the insured dies during the month of grace the overdue premium will be deducted in any settlement under the policy; 3950 3951 3952 3953 3954 3955 3956

(C) A provision that the policy and the application therefor, a copy of which application must be indorsed on the policy, shall constitute the entire contract between the parties and shall be incontestable after it has been in force during the lifetime of the insured for a period of not more than two years from its date, except for nonpayment of premiums, except for 3957 3958 3959 3960 3961 3962

violations of the conditions relating to naval or military service in time of war or to aeronautics, and except at the option of the company, with respect to provisions relative to benefits in the event of total and permanent disability and provisions which grant additional insurance specifically against death by accident or by accidental means; 3963 3964 3965 3966 3967 3968

(D) A provision that all statements made by the insured in the application shall, in the absence of fraud, be deemed representations and not warranties; 3969 3970 3971

(E) A provision that if the age of the insured has been understated the amount payable under the policy shall be such as the premium would have purchased at the correct age; 3972 3973 3974

(F) A provision that the policy shall participate in the surplus of the company and that, beginning not later than the end of the third policy year, the company will annually determine and account for the portion of the divisible surplus accruing on the policy, and that the owner of the policy has the right each year to have the current dividend arising from such participation paid in cash or applied to the purchase of paid-up additions, and if the policy provides other dividend options, it shall further provide that if the owner of the policy does not elect any such other option the dividend shall be applied to the purchase of paid-up additions. 3975 3976 3977 3978 3979 3980 3981 3982 3983 3984 3985

In lieu of such provision, the policy may contain a provision that: 3986 3987

(1) The policy shall participate in the surplus of the company; 3988 3989

(2) Beginning not later than the end of the fifth policy year, the company will determine and account for the portion of 3990 3991

the divisible surplus accruing on the policy; 3992

(3) The owner of the policy has the right to have the current dividend arising from such participation paid in cash; 3993 3994

(4) Such accounting and payment shall be had at periods of not more than five years, at the option of the policyholder. 3995 3996

Renewable term policies of ten years or less may provide that the surplus accruing to such policies shall be determined and apportioned each year after the second policy year and accumulated during each renewal period, and that at the end of any renewal period, on renewal of the policy by the insured, the company shall apply the accumulated surplus as an annuity for the next succeeding renewal term in the reduction of premiums. 3997 3998 3999 4000 4001 4002 4003

The provisions described in this division are not required in nonparticipating policies. 4004 4005

(G) A provision that after three full years' premiums have been paid, the company, at any time while the policy is in force, will advance, on proper assignment of the policy and on the sole security thereof, at a rate of interest calculated pursuant to section 3915.051 of the Revised Code, a sum equal to, or at the option of the owner of the policy, less than, the amount required by section 3915.08 of the Revised Code under the conditions specified in said section, and that the company will deduct from such loan value any indebtedness not already deducted in determining such value and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year. It shall be further stipulated in the policy that failure to repay any such advance or to pay interest does not ~~avoid~~ void the policy unless the total indebtedness thereon to the company 4006 4007 4008 4009 4010 4011 4012 4013 4014 4015 4016 4017 4018 4019 4020

equals or exceeds such loan value at the time of such failure nor until one month after notice has been mailed by the company to the last known address of insured and of the assignee. 4021 4022 4023

No conditions, other than as provided in this division or in section 3915.08 of the Revised Code, shall be exacted as a prerequisite to any such advance. 4024 4025 4026

This provision is not required in term insurance nor does it apply to any form of insurance granted as a nonforfeiture benefit. 4027 4028 4029

(H) A provision for nonforfeiture benefits and cash surrender values in accordance with the requirements of section 3915.06, 3915.07, or 3915.071 of the Revised Code; 4030 4031 4032

(I) Except for policies which guarantee unscheduled changes in benefits upon the happening of specified events or upon the exercise of an option without change to a new policy, a table showing in figures the loan values and the options available under the policies each year upon default in premium payments, during at least the first twenty years of the policy; 4033 4034 4035 4036 4037 4038

(J) A provision that if, in the event of default in premium payments, the value of the policy is applied to the purchase of other insurance, and if such insurance is in force and the original policy has not been surrendered to the company and canceled, the policy may be reinstated within three years from such default, upon evidence of insurability satisfactory to the company and payment of arrears of premiums with interest; 4039 4040 4041 4042 4043 4044 4045

(K) A provision that when a policy becomes a claim by the death of the insured, settlement shall be made upon receipt of due proof of death, or not later than two months after receipt of such proof; 4046 4047 4048 4049

(L) A table showing the amounts of installments in which the policy provides its proceeds may be payable;

(M) A title on its face and back, correctly describing such policy.

Any of the provisions described in this section or portions thereof, relating to premiums not applicable to single premium policies, shall to that extent not be incorporated in such policies.

Sec. 3915.053. (A)(1) Except as provided in division (A)(2) of this section, this section shall apply to any individual life insurance policy insuring the life of a reservist, as defined in section 3923.381 of the Revised Code, who is on active duty pursuant to an executive order of the president of the United States, an act of the congress of the United States, or section 5919.29 or 5923.21 of the Revised Code, if the life insurance policy meets both of the following conditions:

(a) The policy has been in force for at least one hundred eighty days.

(b) The policy has been brought within the "Servicemembers Civil Relief Act," 117 Stat. 2835 (2003), 50 U.S.C. App. 541, et seq.

(2) This section does not apply to any policy that was ~~cancelled~~ <u>canceled</u> or that had lapsed for the nonpayment of premiums prior to the commencement of the insured's period of military service.

(B) An individual life insurance policy described in division (A) of this section shall not lapse or be forfeited for the nonpayment of premiums during a reservist's period of military service or during the two-year period subsequent to the

end of the reservist's period of military service. 4079

(C) This section does not limit a life insurance company's enforcement of provisions in the insured's policy relating to naval or military service in time of war. 4080 4081 4082

Sec. 3915.073. (A) This section shall be known as the standard nonforfeiture law for individual deferred annuities. 4083 4084

(B) This section does not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code of 1954, 26 U.S.C.A. 408, as amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which is delivered outside this state through an agent or other representative of the company issuing the contract. 4085 4086 4087 4088 4089 4090 4091 4092 4093 4094 4095 4096 4097

(C) No contract of annuity, except as stated in division (B) of this section, shall be delivered or issued for delivery in this state unless the contract contains in substance the following provisions, or corresponding provisions that in the opinion of the superintendent of insurance are at least as favorable to the contract owners, relative to the cessation of payment of consideration under the contract: 4098 4099 4100 4101 4102 4103 4104

(1) That upon cessation of payment of considerations under a contract, or upon the written request of the contract owner, the company shall grant a paid-up annuity benefit on a plan 4105 4106 4107

stipulated in the contract of such value as is specified in 4108
divisions (E), (F), (G), (H), and (J) of this section; 4109

(2) If a contract provides for a lump sum settlement at 4110
maturity, or at any other time, that upon surrender of the 4111
contract at or prior to the commencement of any annuity 4112
payments, the company shall pay in lieu of any paid-up annuity 4113
benefit a cash surrender benefit of such amount as is specified 4114
in divisions (E), (F), (H), and (J) of this section. The company 4115
may reserve the right to defer the payment of such cash 4116
surrender benefit for a period not to exceed six months after 4117
demand therefor with surrender of the contract. The deferral is 4118
contingent upon the company's conveyance of a written request 4119
for the deferral to the superintendent and the company's receipt 4120
of written approval from the superintendent for the deferral. 4121
The request shall address the necessity and equitability to all 4122
contract owners of the deferral ~~;~~. 4123

(3) A statement of the mortality table, if any, and 4124
interest rates used in calculating any minimum paid-up annuity, 4125
cash surrender, or death benefits that are guaranteed under the 4126
contract, together with sufficient information to determine the 4127
amounts of such benefits; 4128

(4) A statement that any paid-up annuity, cash surrender, 4129
or death benefits that may be available under the contract are 4130
not less than the minimum benefits required by any statute of 4131
the state in which the contract is delivered and an explanation 4132
of the manner in which such benefits are altered by the 4133
existence of any additional amounts credited by the company to 4134
the contract, any indebtedness to the company on the contract, 4135
or any prior withdrawals from or partial surrenders of the 4136
contract. 4137

Notwithstanding the requirements of this section, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars monthly, the company may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract. 4138 4139 4140 4141 4142 4143 4144 4145 4146 4147 4148 4149 4150

(D) The minimum values as specified in divisions (E), (F), (G), (H), and (J) of this section of any paid-up annuity, cash surrender, or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this division. 4151 4152 4153 4154 4155

(1)(a) The minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at rates of interest determined in accordance with division (D)(2) of this section of the net considerations, determined in accordance with division (D)(1)(b) of this section, paid prior to such time, decreased by the sum of: 4156 4157 4158 4159 4160 4161 4162

(i) Any prior withdrawals from or partial surrenders of the contract, accumulated at rates of interest determined in accordance with division (D)(2) of this section; 4163 4164 4165

(ii) An annual contract charge of fifty dollars, accumulated at rates of interest determined in accordance with 4166 4167

division (D)(2) of this section; 4168

(iii) Any premium tax paid by the company for the contract, accumulated at rates of interest determined in accordance with division (D)(2) of this section; 4169 4170 4171

(iv) The amount of any indebtedness to the company on the contract, including interest due and accrued. 4172 4173

(b) The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount equal to eighty-seven and one-half per cent of the gross considerations credited to the contract during that contract year. 4174 4175 4176 4177 4178

(2)(a) The interest rate used in determining minimum nonforfeiture amounts under divisions (D)(1) to (4) of this section shall be an annual rate of interest determined as the lesser of three per cent per annum or the following, which shall be specified in the contract if the interest rate will be reset: 4179 4180 4181 4182 4183

(i) The five-year constant maturity treasury rate reported by the federal reserve as of a date or an average over a period, rounded to the nearest one-twentieth of one per cent, specified in the contract, no longer than fifteen months prior to the contract issue date or the redetermination date specified in division (D)(2)(b) of this section; 4184 4185 4186 4187 4188 4189

(ii) Reduced by one hundred twenty-five basis points; 4190

(iii) Where the resulting interest rate shall not be less than one per cent. 4191 4192

(b) The interest rate determined under division (D)(2)(a) of this section shall apply for an initial period and may be redetermined for additional periods. The redetermination date, 4193 4194 4195

basis and period, if any, shall be stated in the contract. The basis is the date or average over a specified period that produces the value of the five-year constant maturity treasury rate to be used at each redetermination date.

(3) During the period or term that a contract provides ~~substantative~~ substantive participation in an equity-indexed benefit, the contract may provide for an increase in the reduction described in division (D)(2)(a)(ii) of this section by a maximum of one hundred basis points to reflect the value of the equity-indexed benefit. The present value at the contract issue date, and at each redetermination date thereafter, of the additional reduction shall not exceed the market value of the benefit. The superintendent may require a demonstration that the present value of the additional reduction does not exceed the market value of the benefit. If the demonstration is not acceptable to the superintendent, the superintendent may disallow or limit the additional reduction.

(4) The superintendent may adopt rules to implement division (D)(3) of this section and to provide for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity-indexed benefit and for other contracts for which the superintendent determines adjustments are justified.

(E) Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

(F) For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit that would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than one per cent higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit. 4226 4227 4228 4229 4230 4231 4232 4233 4234 4235 4236 4237 4238 4239 4240 4241 4242 4243 4244

(G) For contracts that do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited 4245 4246 4247 4248 4249 4250 4251 4252 4253 4254 4255 4256

by the company to the contract. For contracts that do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time. 4257 4258 4259 4260 4261 4262 4263 4264

(H) For the purpose of determining the benefits calculated under divisions (F) and (G) of this section, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later. 4265 4266 4267 4268 4269 4270 4271 4272 4273

(I) Any contract that does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided. 4274 4275 4276 4277 4278

(J) Any paid-up annuity, cash surrender, or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs. 4279 4280 4281 4282 4283 4284 4285

(K) For any contract that provides, within the same 4286

contract by rider or supplemental contract provision, both 4287
annuity benefits and life insurance benefits that are in excess 4288
of the greater of cash surrender benefits or a return of the 4289
gross considerations with interest, the minimum nonforfeiture 4290
benefit shall be equal to the sum of the minimum nonforfeiture 4291
benefits for the annuity portion and the minimum nonforfeiture 4292
benefits, if any, for the life insurance portion computed as if 4293
each portion were a separate contract. Notwithstanding the 4294
provisions of divisions (E), (F), (G), (H), and (J) of this 4295
section, additional benefits payable: 4296

(1) In the event of total and permanent disability; 4297

(2) As reversionary annuity or deferred reversionary 4298
annuity benefits; or 4299

(3) As other policy benefits additional to life insurance, 4300
endowment and annuity benefits, and considerations for all such 4301
additional benefits shall be disregarded in ascertaining the 4302
minimum nonforfeiture amounts, paid-up annuity, cash surrender, 4303
and death benefits that may be required by this section. 4304

The inclusion of such additional benefits shall not be 4305
required in any paid-up benefits, unless such additional 4306
benefits separately would require minimum nonforfeiture amounts, 4307
paid-up annuity, cash surrender, and death benefits. 4308

(L) The superintendent may adopt rules in accordance with 4309
Chapter 119. of the Revised Code to implement this section. 4310

Sec. 3915.13. No life insurance company nor any of its 4311
agents shall knowingly make, issue, or deliver in this state any 4312
policy or contract of life insurance which purports to be issued 4313
or to take effect as of a date more than ~~three~~ six months before 4314
the application therefor was made, if thereby the premium on 4315

such policy or contract is reduced below the premium which would be payable thereon, as determined by the nearest birthday of the insured at the time when such application was made. In determining the date when an application was made, under this section the date of execution of the application or the date of medical examination, where such examination is required, whichever is later, shall govern. 4316 4317 4318 4319 4320 4321 4322

This section does not prohibit the exchange, alteration, or conversion of any policy of life or endowment insurance or any annuity in the manner provided by section 3915.12 of the Revised Code, nor does it invalidate any contract made in violation of this section. 4323 4324 4325 4326 4327

Sec. 3916.01. As used in this chapter: 4328

(A) "Advertising" means any written, electronic, or printed communication or any communication by means of recorded telephone messages or transmitted on radio, television, the internet, or similar communications media, including, but not limited to, film strips, motion pictures, and videos, that is published, disseminated, circulated, or placed directly or indirectly before the public in this state for the purpose of creating an interest in or inducing a person to purchase or sell, assign, devise, bequest, or transfer the death benefit or ownership of a policy pursuant to a viatical settlement contract. 4329 4330 4331 4332 4333 4334 4335 4336 4337 4338 4339

(B) "Business of viatical settlements" means an activity involved, but not limited to, in the offering, solicitation, negotiation, procurement, effectuation, purchasing, investing, financing, monitoring, tracking, underwriting, selling, transferring, assigning, pledging, or hypothecating or in any other manner acquiring an interest in a policy by means of 4340 4341 4342 4343 4344 4345

viatical settlement contracts. 4346

(C) "Chronically ill" means having been certified within the preceding twelve-month period by a licensed health professional as: 4347 4348 4349

(1) Being unable to perform, without substantial assistance from another individual, at least two activities of daily living, including, but not limited to, eating, toileting, transferring, bathing, dressing, or continence for at least ninety days due to a loss of functional capacity; or 4350 4351 4352 4353 4354

(2) Requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment; or 4355 4356 4357

(3) Having a level of disability similar to that described in division (C)(1) of this section, as determined under regulations prescribed by the United States secretary of the treasury in consultation with the United States secretary of health and human services. 4358 4359 4360 4361 4362

(D) "Escrow agent" means an independent third-party person who, pursuant to a written agreement signed by the viatical settlement provider and viator, provides escrow services related to the acquisition of a policy pursuant to a viatical settlement contract. "Escrow agent" does not include any person associated with, affiliated with, or under the control of a person licensed under this chapter or described in division (C) of section 3916.02 of the Revised Code. 4363 4364 4365 4366 4367 4368 4369 4370

(E)(1) "Financing entity" means an underwriter, placement agent, lender, purchaser of securities, purchaser of a policy from a viatical settlement provider, credit enhancer, or any other person that has a direct ownership interest in a policy 4371 4372 4373 4374

that is the subject of a viatical settlement contract and to which both of the following apply: 4375 4376

(a) Its principal activity related to the transaction is providing funds to effect the business of viatical settlements or the purchase of one or more viaticated policies. 4377 4378 4379

(b) It has an agreement in writing with one or more licensed viatical settlement providers to finance the acquisition of viatical settlement contracts. 4380 4381 4382

(2) "Financing entity" does not include a non-accredited investor or viatical settlement purchaser. 4383 4384

(F) "Recklessly" has the same meaning as in section 2901.22 of the Revised Code. 4385 4386

(G) "Defraud" has the same meaning as in section 2913.01 of the Revised Code. 4387 4388

(H) "Life expectancy" means an opinion or evaluation as to how long a particular person is going to live. 4389 4390

(I) Notwithstanding section 1.59 of the Revised Code, "person" means a natural person or a legal entity, including, but not limited to, an individual, partnership, limited liability company, limited liability partnership, association, trust, business trust, or corporation. 4391 4392 4393 4394 4395

(J) "Policy" means an individual or group policy, group certificate, or other contract or arrangement of life insurance affecting the rights of a resident of this state or bearing a reasonable relation to this state, regardless of whether delivered or issued for delivery in this state. 4396 4397 4398 4399 4400

(K) "Related provider trust" means a titling trust or any other trust established by a licensed viatical settlement 4401 4402

provider or a financing entity for the sole purpose of holding ownership or beneficial interest in purchased policies in connection with a financing transaction, provided that the trust has a written agreement with the licensed viatical settlement provider under which the licensed viatical settlement provider is responsible for ensuring compliance with all statutory and regulatory requirements and under which the trust agrees to make all records and files related to viatical settlement transactions available to the superintendent of insurance as if those records and files were maintained directly by the licensed viatical settlement provider. 4403 4404 4405 4406 4407 4408 4409 4410 4411 4412 4413

(L) "Special purpose entity" means a corporation, partnership, trust, limited liability company or other similar entity formed solely for one of the following purposes: 4414 4415 4416

(i) To provide access, either directly or indirectly, to institutional capital markets for a financing entity or licensed viatical settlement provider; 4417 4418 4419

(ii) In connection with a transaction in which the securities in the special purpose entity are acquired by qualified institutional buyers. 4420 4421 4422

(M) "Terminally ill" means certified by a physician as having an illness or physical condition that can reasonably be expected to result in death in twenty-four months or less. 4423 4424 4425

(N) "Viatical settlement broker" means a person that, on behalf of a viator and for a fee, commission, or other valuable consideration, offers or attempts to negotiate viatical settlements between a viator and one or more viatical settlement providers or viatical settlement brokers. "Viatical settlement broker" does not include an attorney, a certified public 4426 4427 4428 4429 4430 4431

accountant, or a financial planner accredited by a nationally recognized accreditation agency, who is retained to represent the viator, whose compensation is not paid directly or indirectly by the viatical settlement provider or purchaser. 4432 4433 4434 4435

(O)(1) "Viatical settlement contract" means any of the following: 4436 4437

(a) A written agreement between a viator and a viatical settlement provider that establishes the terms under which compensation or anything of value, that is less than the expected death benefit of the policy is or will be paid in return for the viator's present or future assignment, transfer, sale, release, devise, or bequest of the death benefit or ownership of any portion of the policy or any beneficial interest in the policy or its ownership; 4438 4439 4440 4441 4442 4443 4444 4445

(b) The transfer or acquisition for compensation or anything of value for ownership or beneficial interest in a trust or an interest in another person that owns such a policy if the trust or other person was formed or availed of for the principal purpose of acquiring one or more life insurance policies; 4446 4447 4448 4449 4450 4451

(c) A premium finance loan made for a policy by a lender to a viator on, before, or after the date of issuance of the policy in either of the following situations: 4452 4453 4454

(i) The viator or the insured receives a guarantee of the viatical settlement value of the policy. 4455 4456

(ii) The viator or the insured agrees on, before, or after the issuance of the policy to sell the policy or any portion of the policy's death benefit. 4457 4458 4459

(2) "Viatical settlement contracts" include but are not 4460

limited to contracts that are commonly termed "life settlement contracts" and "senior settlement contracts." 4461 4462

(3) "Viatical settlement contract" does not include any of the following unless part of a plan, scheme, device, or artifice to avoid the application of this chapter: 4463 4464 4465

(a) A policy loan or accelerated death benefit made by the insurer pursuant to the policy's terms whether issued with the original policy or a rider; 4466 4467 4468

(b) Loan proceeds that are used solely to pay premiums for the policy and the costs of the loan including interest, arrangement fees, utilization fees and similar fees, closing costs, legal fees and expenses, trustee fees and expenses, and third-party collateral provider fees and expenses, including fees payable to letter of credit issuers; 4469 4470 4471 4472 4473 4474

(c) A loan made by a regulated financial institution in which the lender takes an interest in a policy solely to secure repayment of a loan or, if there is a default on the loan and the policy is transferred, the transfer of such a policy by the lender, provided that neither the default itself nor the transfer is pursuant to an agreement or understanding with any other person for the purpose of evading regulation under this chapter; 4475 4476 4477 4478 4479 4480 4481 4482

(d) A premium finance loan made by a lender that does not violate sections 1321.71 to 1321.83 of the Revised Code, if the premium finance loan is not described in division (O)(1)(c) of this section; 4483 4484 4485 4486

(e) An agreement where all parties are closely related to the insured by blood or law or have a lawful substantial economic interest in the continued life, health, and bodily 4487 4488 4489

safety of the person insured, or are persons or trusts established primarily for the benefit of such parties; 4490 4491

(f) Any designation, consent, or agreement by an insured who is an employee of an employer in connection with the purchase by the employer, or trust established by the employer, of life insurance on the life of the employee as described in section 3911.091 of the Revised Code; 4492 4493 4494 4495 4496

(g) Any business succession planning arrangement including, but not limited to all of the following if the arrangements are bona fide arrangements: 4497 4498 4499

(i) An arrangement between one or more shareholders in a corporation or between a corporation and one or more of its shareholders or one or more persons or trusts established by its shareholders; 4500 4501 4502 4503

(ii) An arrangement between one or more partners in a partnership or between a partnership and one or more of its partners or one or more trusts established by its partners; 4504 4505 4506

(iii) An arrangement between one or more members in a limited liability company or between a limited liability company and one or more of its members or one or more trusts established by its members. 4507 4508 4509 4510

(h) An agreement entered into by a service recipient, a trust established by the service recipient and a service provider, or a trust established by the service provider who performs significant services for the service recipient's trade or business; 4511 4512 4513 4514 4515

(i) An arrangement or agreement with a special purpose entity; 4516 4517

(j) Any other contract, transaction, or arrangement exempted from the definition of viatical settlement contract by rule adopted by the superintendent based on the superintendent's determination that the contract, transaction, or arrangement is not of the type regulated by this chapter. 4518 4519 4520 4521 4522

(P)(1) "Viatical settlement provider" means a person, other than a viator, that enters into or effectuates a viatical settlement contract. 4523 4524 4525

(2) "Viatical settlement provider" does not include any of the following: 4526 4527

(a) A bank, savings bank, savings and loan association, credit union, or other regulated financial institution that takes an assignment of a policy solely as a collateral for a loan; 4528 4529 4530 4531

(b) A premium finance company exempted under section 1321.72 of the Revised Code from the licensure requirements of section 3921.73 of the Revised Code that takes an assignment of a policy solely as collateral for a premium finance loan; 4532 4533 4534 4535

(c) The issuer of a policy; 4536

(d) An individual who enters into or effectuates not more than one viatical settlement contract in any calendar year for the transfer of life insurance policies for any value less than the expected death benefit; 4537 4538 4539 4540

(e) An authorized or eligible insurer that provides stop loss coverage or financial guarantee insurance to a viatical settlement provider, purchaser, financing entity, special purpose entity, or related provider trust; 4541 4542 4543 4544

(f) A financing entity; 4545

(g) A special purpose entity; 4546

(h) A related provider trust; 4547

(i) A viatical settlement purchaser; 4548

(j) Any other person the superintendent determines is not consistent with the definition of viatical settlement provider. 4549 4550

(Q) "Viaticated policy" means a policy that has been acquired by a viatical settlement provider pursuant to a viatical settlement contract. 4551 4552 4553

(R) "Viator" means the owner of a policy or a certificate holder under a group policy that has not previously been viaticated who, in return for compensation or anything of value that is less than the expected death benefit of the policy or certificate, assigns, transfers, sells, releases, devises, or bequests the death benefit or ownership of any portion of the policy or certificate of insurance. For the purposes of this chapter, a "viator" is not limited to an owner of a policy or a certificate holder under a group policy insuring the life of an individual who is terminally or chronically ill except where specifically addressed. "Viator" does not include any of the following: 4554 4555 4556 4557 4558 4559 4560 4561 4562 4563 4564 4565

(1) A licensee under this chapter; 4566

(2) A qualified institutional buyer; 4567

(3) A financing entity; 4568

(4) A special purpose entity; 4569

(5) A related provider trust. 4570

(S) "Viatical settlement purchaser" means a person who provides a sum of money as consideration for a policy or an 4571 4572

interest in the death benefits of a policy from a viatical settlement provider that is the subject of a viatical settlement contract, or a person who owns, acquires, or is entitled to a beneficial interest in a trust or person that owns a viatical settlement contract or is the beneficiary of a policy that is the subject of a viatical settlement contract, for the purpose of deriving an economic benefit. "Viatical settlement purchaser" does not include any of the following:

(1) A licensee under this chapter;

(2) A qualified institutional buyer;

(3) A financing entity;

(4) A special purpose entity;

(5) A related provider trust.

(T) "Qualified institutional buyer" has the same meaning as in 17 C.F.R. 230.144A as that regulation exists on ~~the effective date of this amendment~~ September 11, 2008.

(U) "Licensee" means a person licensed as a viatical settlement provider or viatical settlement broker under this chapter.

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

(X) "Regulated financial institution" means a bank, a savings association, or credit union operating under authority granted by the superintendent of financial institutions, the regulatory authority of any other state of the United States, the office of thrift supervision, the national credit union administration, or the office of the comptroller of the currency.

(W)(1) "Stranger-originated life insurance," or "STOLI," means a practice, arrangement, or agreement initiated at or prior to the issuance of a policy that includes both of the following: 4601 4602 4603 4604

(a) The purchase or acquisition of a policy primarily benefiting one or more persons who, at the time of issuance of the policy, lack insurable interest in the person insured under the policy; 4605 4606 4607 4608

(b) The transfer at any time of the legal or beneficial ownership of the policy or benefits of the policy or both, in whole or in part, including through an assumption or forgiveness of a loan to fund premiums. 4609 4610 4611 4612

(2) "Stranger-originated life insurance" also includes trusts or other persons that are created to give the appearance of insurable interest and are used to initiate one or more policies for investors but violate insurable interest laws and the prohibition against wagering on life. 4613 4614 4615 4616 4617

(3) "Stranger-originated life insurance" does not include viatical settlement transactions specifically described in division (O)(3) of this section. 4618 4619 4620

Sec. 3916.171. (A) No person shall commit a fraudulent viatical settlement act. 4621 4622

(B) All of the following acts are fraudulent viatical settlement acts when committed by any person who, knowingly and with intent to defraud and for the purpose of depriving another of property or for pecuniary gain, commits, or permits any of its employees or its agents to commit them: 4623 4624 4625 4626 4627

(1) Presenting, causing to be presented, or preparing with knowledge or belief that it will be presented to or by a 4628 4629

viatical settlement provider, viatical settlement broker, life expectancy provider, viatical settlement purchaser, financing entity, insurer, insurance broker, insurance agent, or any other person, any false material information, or concealing any material information, as part of, in support of, or concerning a fact material to, one or more of the following: 4630 4631 4632 4633 4634 4635

(a) An application for the issuance of a viatical settlement contract or a policy; 4636 4637

(b) The underwriting of a viatical settlement contract or a policy; 4638 4639

(c) A claim for payment or benefit pursuant to a viatical settlement contract or a policy; 4640 4641

(d) Any premiums paid on a policy; 4642

(e) Any payments and changes in ownership or beneficiary made in accordance with the terms of a viatical settlement contract or a policy; 4643 4644 4645

(f) The reinstatement or conversion of a policy; 4646

(g) The solicitation, offer, effectuation, or sale of a viatical settlement contract or a policy; 4647 4648

(h) The issuance of written evidence of a viatical settlement contract or a policy; 4649 4650

(i) A financing transaction; 4651

(j) Any application for or the existence of or any payments related to a loan secured directly or indirectly by any interest in a policy. 4652 4653 4654

(2) Failing to disclose to the insurer, where the insurer has requested such disclosure, that the prospective insured has 4655 4656

undergone a life expectancy evaluation by any person or entity other than the insurer or its authorized representatives in connection with the application, underwriting, and issuance of the policy. 4657 4658 4659 4660

(3) In the furtherance of a fraud or to prevent the detection of a fraud, doing any of the following: 4661 4662

(a) Removing, concealing, altering, destroying, or sequestering from the superintendent of insurance the assets or records of a licensee or another person engaged in the business of viatical settlements; 4663 4664 4665 4666

(b) Misrepresenting or concealing the financial condition of a licensee, financing entity, insurer, or any other person; 4667 4668

(c) Transacting the business of viatical settlements in violation of any law of this state requiring a license, certificate of authority, or other legal authority for the transaction of the business of viatical settlements; 4669 4670 4671 4672

(d) Filing with the superintendent of insurance or the chief insurance regulatory official of another jurisdiction a document containing false information or otherwise concealing from the superintendent any information about a material fact. 4673 4674 4675 4676

(4) Recklessly entering into, negotiating, brokering, or otherwise dealing in a viatical settlement contract involving a policy that was obtained by presenting false, deceptive, or misleading information of any fact material to the policy, or by concealing information concerning any fact material to the policy, for the purpose of misleading and with the intent to defraud the issuer of the policy, the viatical settlement provider, or the viator; 4677 4678 4679 4680 4681 4682 4683 4684

(5) Committing any embezzlement, theft, misappropriation, 4685

or conversion of moneys, funds, premiums, credits, or other property of a viatical settlement provider, insurer, insured, viator, policyowner, or any other person engaged in the business of viatical settlements or insurance; 4686 4687 4688 4689

(6) Employing any plan, financial structure, device, scheme, or artifice to defraud in the business of viatical settlements; 4690 4691 4692

(7) Misrepresenting the state of residence or facilitating the change of the state in which a person owns a policy or the state of residency of a viator to a state or jurisdiction that does not have laws similar to this chapter for the express purposes of evading or avoiding the provisions of this chapter; 4693 4694 4695 4696 4697

(8) In the solicitation, application, or issuance of a policy, employing any device, scheme, or artifice in violation of ~~sections~~ section 3911.09 or 3911.091 of the Revised Code; 4698 4699 4700

(9) Engaging in any conduct related to a viatical settlement contract if the person knows or should have known that the intent of the transaction was to avoid the disclosure and notice requirements of section 3916.06 of the Revised Code; 4701 4702 4703 4704

(10) Entering into a premium finance agreement with any person pursuant to which the person will receive, directly or indirectly, any proceeds, fees, or other considerations from the policy, the owner of the policy, the issuer of the policy, or from any other person with respect to the premium finance agreement or any viatical settlement contract, or from any transaction related to the policy, that are in addition to the amount required to pay the principal, interest, costs, and expenses related to the policy premiums pursuant to the premium finance agreement or subsequent sale of the agreement. Any 4705 4706 4707 4708 4709 4710 4711 4712 4713 4714

payments, charges, fees, or other amounts in addition to the amounts required to pay the principal, interest, costs, and expenses related to policy premiums paid under the premium finance agreement shall be remitted to the original owner of the policy or, if the owner is not living at the time of the determination of the overpayment, to the estate of the owner. 4715 4716 4717 4718 4719 4720

(11) With respect to any viatical settlement contract or a policy, for a viatical settlement broker or an agent registered under this chapter as operating as a viatical settlement broker to knowingly solicit an offer from, effectuate a viatical settlement with, or make a sale to any viatical settlement provider, viatical settlement purchaser, financing entity, or related provider trust that is controlling, controlled by, or under common control with such viatical settlement broker or registered agent unless both of the following are true: 4721 4722 4723 4724 4725 4726 4727 4728 4729

(a) The viatical settlement broker or agent disclosed that affiliation to the viator. 4730 4731

(b) The viatical settlement broker or agent is controlled by or under common control with a person that is regulated under the "Securities Act of 1933" or the "Securities Act of 1934," 15 U.S.C. 77a et seq., as amended. 4732 4733 4734 4735

(12) With respect to any viatical settlement contract or a policy, for a viatical settlement provider to knowingly enter into a viatical settlement contract with a viator if, in connection with such viatical settlement contract, anything of value will be paid to a viatical settlement broker or an agent registered under this chapter as operating as a viatical settlement broker that is controlling, controlled by, or under common control with such viatical settlement provider or the viatical settlement purchaser, financing entity, or related 4736 4737 4738 4739 4740 4741 4742 4743 4744

provider trust that is involved in such viatical settlement contract unless both of the following are true: 4745 4746

(a) The viatical settlement broker or agent disclosed that affiliation to the viator. 4747 4748

(b) The viatical settlement broker or agent is controlled by or under common control with a person that is regulated under the "Securities Act of 1933" or the "Securities Act of 1934," 15 U.S.C. 77a et seq., as amended. 4749 4750 4751 4752

(13) Issuing, soliciting, marketing, or otherwise promoting the purchase of a policy for the purpose of or with emphasis on settling the policy; 4753 4754 4755

(14) Issuing or using a pattern of false, misleading, or deceptive life expectancies; 4756 4757

(15) Issuing, soliciting, marketing, or otherwise promoting stranger-originated life insurance; 4758 4759

(16) Attempting to commit, assisting, aiding or abetting in the commission of, or conspiracy to commit any act or omission specified in divisions (B)(1) to (15) of this section. 4760 4761 4762

Sec. 3916.18. (A)(1) No person shall knowingly or intentionally interfere with the enforcement of the provisions of this chapter or investigations of suspected or actual violations of this chapter. 4763 4764 4765 4766

(2) No person in the business of viatical settlements shall knowingly or intentionally permit any person convicted of a felony involving dishonesty or breach of trust to participate in the business of viatical settlements. 4767 4768 4769 4770

(B)(1) Each viatical settlement contract and each application for a viatical settlement, regardless of the form of 4771 4772

transmission, shall contain the following statement or a 4773
substantially similar statement: 4774

"Any person who knowingly presents false information in an 4775
application for insurance or viatical settlement contract is 4776
guilty of a crime and may be subject to fines and imprisonment." 4777

(2) The lack of a statement as required in division (B)(1) 4778
of this section does not constitute a defense in any prosecution 4779
for a fraudulent viatical settlement act. 4780

(C)(1) Every person engaged in the business of viatical 4781
settlements having knowledge or a reasonable belief that a 4782
fraudulent viatical settlement act is being, will be, or has 4783
been committed shall provide to the superintendent of insurance 4784
the information required by the superintendent. The person shall 4785
provide the information in a manner prescribed by the 4786
superintendent. 4787

(2) Every person having knowledge or a reason to believe 4788
that a fraudulent viatical settlement act is being, will be, or 4789
has been committed may provide to the superintendent the 4790
information required by the superintendent. The person shall 4791
provide the information under this division in a manner 4792
prescribed by the superintendent. 4793

(3) Any life insurer that has a good faith belief that a 4794
person is participating or has participated in a stranger- 4795
originated life insurance transaction shall report the person to 4796
the superintendent in a form and manner prescribed by the 4797
superintendent. Upon receipt of the insurer's report, the 4798
~~superintendant~~ superintendent shall conduct an investigation to 4799
determine whether there is probable cause, based on the totality 4800
of the facts and circumstances that the person has or had 4801

engaged in a stranger-originated life insurance transaction. If the superintendent finds probable cause, the superintendent shall do one of the following: 4802 4803 4804

(a) If the person is licensed or regulated by the department of insurance, the superintendent shall provide the person an opportunity for notice and hearing pursuant to Chapter 119. of the Revised Code. If the person waives or does not request a hearing pursuant to Chapter 119. of the Revised Code, or a hearing is held and the person is found to have participated in one or more stranger-originated life insurance transactions, the superintendent shall publish the order on the department's web site, and shall notify each insurance company licensed in this state that the person has been adjudicated as having participated in one or more stranger-originated life insurance transactions. 4805 4806 4807 4808 4809 4810 4811 4812 4813 4814 4815 4816

(b) If the person is not licensed or regulated by the department, the superintendent shall provide the superintendent's findings to the appropriate licensing or regulatory authority. 4817 4818 4819 4820

(D)(1) No civil liability shall be imposed on, and no cause of action shall arise from, a person's furnishing information concerning suspected, anticipated, or completed fraudulent viatical settlement acts or suspected or completed fraudulent insurance acts, if the information is provided to or received from any of the following: 4821 4822 4823 4824 4825 4826

(a) The superintendent, or the superintendent's employees, agents, or representatives; 4827 4828

(b) Law enforcement or regulatory officials of this state, another state, the United States, or a political subdivision of 4829 4830

this state or another state, or any employee, agent, or representative of any of those officials; 4831 4832

(c) A person involved in the prevention and detection of fraudulent viatical settlement acts or any agent, employee, or representative of any person so involved; 4833 4834 4835

(d) The NAIC, financial industry regulatory authority (FINRA), the north American securities administrators association (NASAA), any employee, agent, or representative of any of those associations, or other regulatory body overseeing life insurance, viatical settlements, securities, or investment fraud; 4836 4837 4838 4839 4840 4841

(e) The life insurer that issued the policy covering the life of the insured. 4842 4843

(2) The immunity provided in division (D)(1) of this section shall not apply to any statement made with actual malice. In an action brought against a person for filing a report or furnishing other information concerning a fraudulent viatical settlement act, the party bringing the action shall plead specifically any allegation that the immunity provided in division (D)(1) of this section does not apply because the person filing the report or furnishing the information did so with actual malice. 4844 4845 4846 4847 4848 4849 4850 4851 4852

(3) If a person is the prevailing party in a civil action for libel, slander, or any other relevant tort arising out of activities in carrying out the provisions of this chapter, if the prevailing party is a person identified in division (D)(1) of this section and the immunity described in that division applies to the person, and if the party who brought the action was not substantially justified in doing so, the person who is 4853 4854 4855 4856 4857 4858 4859

the prevailing party is entitled to an award of attorney's fees and costs arising out of the action. However, the person is not entitled to an award of attorney's fees if the person provided information about the person's own fraudulent viatical settlement acts. For purposes of this division, an action is "substantially justified" if it had a reasonable basis in law or fact at the time that it was initiated. 4860 4861 4862 4863 4864 4865 4866

(4) This section does not abrogate or modify any common law or statutory privilege or immunity enjoyed by a person described in division (D)(1) of this section. 4867 4868 4869

(E)(1) The documents and evidence provided pursuant to division (D) of this section or obtained by the superintendent in an investigation of any suspected or actual fraudulent viatical settlement act is privileged and confidential, is not a public record open for inspection under section 149.43 of the Revised Code, and is not subject to discovery or subpoena in a civil or criminal action. 4870 4871 4872 4873 4874 4875 4876

(2) Division (E)(1) of this section does not prohibit release by the superintendent of any document or evidence obtained in an investigation of suspected or actual fraudulent viatical settlement acts, in any of the following manners or circumstances: 4877 4878 4879 4880 4881

(a) In any administrative or judicial proceeding to enforce any laws administered by the superintendent; 4882 4883

(b) To any law enforcement or regulatory agency of this state, another state, the United States, or a political subdivision of this state or another state, to an organization established for the purpose of detecting and preventing fraudulent viatical settlement acts, or to the NAIC; 4884 4885 4886 4887 4888

(c) At the discretion of the superintendent, to a person in the business of viatical settlements that is aggrieved by a fraudulent viatical settlement act. 4889 4890 4891

(3) Release of documents and evidence under division (E)(2) of this section does not abrogate or modify the privilege granted in division (E)(1) of this section. 4892 4893 4894

(F) The provisions of this chapter do not do any of the following: 4895 4896

(1) Preempt the authority or relieve the duty of any other law enforcement or regulatory agencies to investigate, examine, or prosecute suspected violations of law; 4897 4898 4899

(2) Prevent or prohibit a person from disclosing voluntarily any information concerning fraudulent viatical settlement acts to a law enforcement or regulatory agency other than the department of insurance; 4900 4901 4902 4903

(3) Limit any power granted elsewhere by the law of this state to the superintendent or an insurance fraud unit to investigate and examine possible violations of law and to take appropriate action against wrongdoers. 4904 4905 4906 4907

(G)(1) Viatical settlement providers and viatical settlement brokers shall adopt and have in place antifraud initiatives reasonably calculated to detect, prosecute, and prevent fraudulent viatical settlement acts. At the discretion of the superintendent, the superintendent may order, or a viatical settlement provider or viatical settlement broker may request and the superintendent may grant, any modifications of the following required initiatives described in divisions (G)(1)(a) and (b) of this section that are necessary to ensure an effective antifraud program. The modifications may be more or 4908 4909 4910 4911 4912 4913 4914 4915 4916 4917

less restrictive than the required initiatives so long as the modifications may reasonably be expected to accomplish the purpose of this section. Antifraud initiatives under this division shall include all of the following: 4918 4919 4920 4921

(a) Fraud investigators, who may be licensed viatical settlement provider or licensed viatical settlement broker employees or independent contractors; 4922 4923 4924

(b) An antifraud plan that includes, but is not limited to, all of the following: 4925 4926

(i) A description of the procedures for detecting and investigating possible fraudulent viatical settlement acts and procedures for resolving material inconsistencies between medical records and insurance applications; 4927 4928 4929 4930

(ii) A description of the procedures for reporting possible fraudulent viatical settlement acts to the superintendent; 4931 4932 4933

(iii) A description of the plan for antifraud education and training of underwriters and other personnel; 4934 4935

(iv) A description or chart outlining the organizational arrangement of the antifraud personnel who are responsible for the investigation and reporting of possible fraudulent viatical settlement acts and investigating unresolved material inconsistencies between medical records and insurance applications; 4936 4937 4938 4939 4940 4941

(v) A description of the procedures used to perform initial and continuing review of the accuracy of life expectancies used in connection with a viatical settlement contract. 4942 4943 4944 4945

(2) The superintendent, by rule adopted in accordance with 4946
Chapter 119. of the Revised Code, may require that antifraud 4947
plans required under division (G)(1) of this section be 4948
submitted to the superintendent. If the superintendent requires 4949
that antifraud plans be submitted to the superintendent, the 4950
plans so submitted are privileged and confidential, are not a 4951
public record open for inspection under section 149.43 of the 4952
Revised Code, and are not subject to discovery or subpoena in a 4953
civil or criminal action. 4954

(H) No insurer that issued a policy being viaticated shall 4955
be responsible, under this chapter, for any act or omission of a 4956
viatical settlement broker or viatical settlement provider 4957
arising out of or in connection with the viatical settlement 4958
transaction unless the insurer receives compensation for the 4959
placement of a viatical settlement contract from the viatical 4960
settlement provider or viatical settlement broker in connection 4961
with the viatical settlement contract. 4962

Sec. 3919.14. A company or association organized under 4963
section 3919.01 of the Revised Code amending its articles of 4964
incorporation and its constitution and bylaws is subject to 4965
sections 3919.11 and 3919.12 of the Revised Code as to its 4966
organization and government, and it shall make separate annual 4967
statements to the superintendent of insurance of the business 4968
transacted by it under the assessment plan, as required by 4969
section ~~3919.01 to 3919.15, inclusive,~~ 3919.16 of the Revised 4970
Code, ~~or for the purpose of~~ and of the business transacted by it 4971
under the level premium or legal reserve plan, as required by 4972
section 3907.19 of the Revised Code. 4973

Sec. 3921.13. (A) A domestic fraternal benefit society 4974
may, by a reinsurance agreement, cede any individual risk or 4975

risks in whole or in part to an insurer, other than another fraternal benefit society, having the power to make such reinsurance and authorized to do business in this state, or if not so authorized, one which is approved by the superintendent of insurance; however, no society may reinsure substantially all of its insurance in force without the written permission of the superintendent. It may take credit for the reserves on the ceded risks to the extent reinsured, but no credit shall be allowed as an admitted asset or as a deduction from liability, to a ceding society for reinsurance made, ceded, renewed, or otherwise becoming effective after January 1, 1997, unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding society under the contract or contracts reinsured without diminution because of the insolvency of the ceding society. 4976 4977 4978 4979 4980 4981 4982 4983 4984 4985 4986 4987 4988 4989 4990

(B) Notwithstanding division (A) of this section, a society may reinsure the risks of another society in a consolidation or merger approved by the superintendent under section 3921.14 of the Revised Code. 4991 4992 4993 4994

(C) A society with assets of less than five billion dollars that provides contract benefits of major medical, medicare supplemental, or long-term care pursuant to division (A)(5) of section 3921.16 of the Revised Code shall reinsure not less than fifty per cent of the risk arising from those contracts if the society's risk -based capital is less than three hundred per cent. 4995 4996 4997 4998 4999 5000 5001

Sec. 3921.191. (A) A fraternal benefit society shall provide an applicant for contractual benefits a disclosure statement at the time of sale substantially as follows: 5002 5003 5004

"......... (Name of the fraternal benefit society) IS 5005

LICENSED TO DO BUSINESS IN THE STATE OF OHIO. AS A 5006
(not-for-profit, tax-exempt, self-governing, or membership 5007
organization), FRATERNAL BENEFIT SOCIETIES ARE NOT INCLUDED IN 5008
THE OHIO GUARANTY ASSOCIATION. THIS MEANS THAT FRATERNAL BENEFIT 5009
SOCIETIES CANNOT BE ASSESSED FOR THE INSOLVENCY OF OTHER LIFE 5010
INSURERS OR OTHER FRATERNAL BENEFIT SOCIETIES. BY LAW, A 5011
FRATERNAL BENEFIT SOCIETY IS RESPONSIBLE FOR ITS OWN SOLVENCY. 5012
IF THERE IS AN IMPAIRMENT OF RESERVES, A CERTIFICATE HOLDER MAY 5013
BE ASSESSED A PROPORTIONATE SHARE OF THE IMPAIRMENT. THIS 5014
PROCESS IS DESCRIBED IN THE CERTIFICATE ISSUED BY THE SOCIETY." 5015

(B) The statement must be signed by the applicant and 5016
maintained in the certificate or contract file by the fraternal 5017
benefit society. The statement may be part of the society's 5018
membership application or certificate or policy application. 5019

(C) This section is applicable only to new business 5020
written by a fraternal benefit society after ~~the effective date~~ 5021
~~of this section~~ September 6, 2012. 5022

Sec. 3922.11. (A) The superintendent of insurance shall 5023
establish and maintain a system for receiving and reviewing 5024
requests for external review for adverse benefit determinations 5025
where the determination by the health plan issuer was based on a 5026
contractual issue and did not involve a medical judgment or a 5027
determination based on any medical information, except for 5028
emergency services, as specified in division (C) of section 5029
3922.05 of the Revised Code. 5030

(B) A health plan issuer shall submit a request for 5031
external review pursuant to division (B) or (C) of section 5032
3922.05 of the Revised Code to the superintendent, in accordance 5033
with any associated rules, policies, or procedures adopted by 5034
the superintendent of insurance. 5035

(C) On receipt of a request from a health plan issuer, the superintendent shall consider whether the health care service is a service covered under the terms of the covered person's policy, contract, certificate, or agreement, except that the superintendent shall not conduct a review under this section unless the covered person has exhausted the health plan issuer's internal appeal process, pursuant to sections 3922.03 and 3922.04 of the Revised Code. The health plan issuer and covered person shall provide the superintendent with any information required by the superintendent that is in their possession and is germane to the review.

(D) Unless the superintendent is not able to do so because making the determination requires a medical ~~judgement~~ judgment or a determination based on medical information, the superintendent shall determine whether the health care service at issue is a service covered under the terms of the covered person's contract, policy, certificate, or agreement. The superintendent shall notify the covered person and the health plan issuer of the superintendent's determination.

(E) If the superintendent notifies the health plan issuer that making the determination requires a medical ~~judgement~~ judgment or a determination based on medical information, the health plan issuer shall initiate an external review under this chapter.

(F) If the superintendent determines that the health service is a covered service, the health plan issuer shall cover the service.

(G) If the superintendent determines that the health care service is not a covered service, the health plan issuer is not required to cover the service or afford the covered person an

external review by an independent review organization. 5066

Sec. 3922.14. (A) To be accredited by the superintendent of insurance to conduct external reviews under section 3922.13 of the Revised Code, in addition to the requirements provided in section 3922.13 of the Revised Code and any associated rules adopted by the superintendent, an independent review organization shall do all of the following: 5067 5068 5069 5070 5071 5072

(1) Develop and maintain written policies and procedures that govern all aspects of both the standard external review process and the expedited external review process set forth in this chapter, including a quality assurance mechanism that does all of the following: 5073 5074 5075 5076 5077

(a) Ensures that external reviews are conducted within the time frames prescribed under this chapter and that the required notices are provided in a timely manner; 5078 5079 5080

(b) Ensures the selection of qualified and impartial clinical reviewers to conduct external reviews on behalf of the independent review organization; 5081 5082 5083

(c) Ensures that chosen clinical reviewers are suitably matched according to their area of expertise to specific cases and that the independent review organization employs or contracts with an adequate number of clinical reviewers to meet this requirement; 5084 5085 5086 5087 5088

(d) Ensures the confidentiality of medical and treatment records and clinical review criteria; 5089 5090

(e) Ensures that any person employed by, or who is under contract with, the independent review organization adheres to the requirements of this chapter. 5091 5092 5093

(2) Maintain a toll-free telephone service to receive information on a twenty-four-hour-a-day, seven-days-a-week basis related to external reviews that is capable of accepting, recording, and providing appropriate instruction to incoming telephone callers during other than normal business hours; 5094 5095 5096 5097 5098

(3) Agree to maintain and provide to the superintendent, upon request and in accordance with any associated rules, policies, or procedures adopted by the superintendent of insurance, the information prescribed in section 3922.17 of the Revised Code. 5099 5100 5101 5102 5103

(B) An independent review organization may not own or control, be a subsidiary of or in any way be owned or controlled by, or exercise control with a health plan issuer, a national, state, or local trade association of health plan issuers, or a national, state, or local trade association of health care providers. 5104 5105 5106 5107 5108 5109

(C)(1) Neither the independent review organization selected to conduct the external review nor any clinical reviewer assigned by the independent organization to conduct the external review may have a material, professional, familial, or financial affiliation with any of the following: 5110 5111 5112 5113 5114

(a) The health plan issuer that is the subject of the external review, or any officer, director, or management employee of the health plan issuer; 5115 5116 5117

(b) The covered person whose treatment is the subject of the external review; 5118 5119

(c) The health care provider, or the health care provider's medical group or independent practice association, recommending the health care service or treatment that is the 5120 5121 5122

subject of the external review; 5123

(d) The facility at which the recommended health care service would be provided; 5124 5125

(e) The developer or manufacturer of the principal drug, device, procedure, or other therapy being recommended for the covered person whose treatment is the subject of the external review. 5126 5127 5128 5129

(2) The superintendent may make a determination as to whether an independent review organization or a clinical reviewer of the independent review organization has a material professional, familial, or financial conflict of interest for purposes of division (C)(1) of this section. In making this determination, the superintendent may take into consideration situations where an independent review organization, or a clinical reviewer, may have an apparent conflict of interest, but that the characteristics of the relationship or connection in question are such that they do not fall under the definition of conflict of interest provided under division (D)(1) of this section. If the superintendent determines that a conflict of interest exists, the superintendent shall disallow an independent review organization or a clinical reviewer from conducting the external review in question. Such determinations related to conflicts of interest are the sole discretion of the superintendent of insurance. 5130 5131 5132 5133 5134 5135 5136 5137 5138 5139 5140 5141 5142 5143 5144 5145 5146

(D)(1) An independent review organization that is accredited by a nationally recognized private accrediting entity that has independent review accreditation standards that the superintendent has determined are equivalent to or exceed the minimum qualifications of this section shall be presumed in compliance with this section to be eligible for accreditation by 5147 5148 5149 5150 5151 5152

the superintendent under section ~~3922.14~~ 3922.13 of the Revised Code. 5153 5154

(2) The superintendent shall initially review and periodically review the independent review organization accreditation standards of a nationally recognized private accrediting entity to determine whether the entity's standards are, and continue to be, equivalent to or exceed the minimum qualifications established under this section. The superintendent may accept a review conducted by the national association of insurance commissioners for the purpose of the determination under this division. 5155 5156 5157 5158 5159 5160 5161 5162 5163

(3) Upon request, a nationally recognized, private accrediting entity shall make its current independent review organization accreditation standards available to the superintendent or the national association of insurance commissioners in order for the superintendent to determine if the entity's standards are equivalent to or exceed the minimum qualifications established under this section. The superintendent may exclude any private accrediting entity that is not reviewed by the national association of insurance commissioners. 5164 5165 5166 5167 5168 5169 5170 5171 5172 5173

(E) An independent review organization shall be unbiased in its review of adverse benefit determinations and shall establish and maintain written procedures to ensure that it is unbiased. 5174 5175 5176 5177

Sec. 3922.17. (A)(1) An independent review organization assigned pursuant to ~~sections~~ section 3922.08, 3922.09, or 3922.10 of the Revised Code to conduct an external review shall maintain written records in accordance with the associated rules established by the superintendent, in the aggregate by state, 5178 5179 5180 5181 5182

and by the health plan issuer, on all external reviews requested and conducted during a calendar year. 5183 5184

Each independent review organization shall submit this information to the superintendent, upon request, in a report in the format specified by the superintendent that shall include, in the aggregate by state and for each health plan issuer, all of the following: 5185 5186 5187 5188 5189

(a) The total number of requests for external review; 5190

(b) The number of requests for external review resolved and, of those resolved, the number upholding and the number reversing an adverse benefit determination; 5191 5192 5193

(c) The average length of time for a resolution; 5194

(d) A summary of the types of requested health care services or cases for which an external review was sought; 5195 5196

(e) The number of external reviews that were terminated as the result of a reconsideration by the health plan issuer of an adverse benefit determination after the receipt of additional information from the covered person under section 3922.05 of the Revised Code; 5197 5198 5199 5200 5201

(f) The costs associated with external reviews, including the amounts charged by the independent review organization to conduct the reviews; 5202 5203 5204

(g) The medical specialty, or the type, of clinical reviewer used to conduct each external review, as related to the specific medical condition of the covered person; 5205 5206 5207

(h) Any other information the superintendent may request or require. 5208 5209

(2) The independent review organization shall retain the written records required under division (A)(1) of this section for at least three years. 5210 5211 5212

(B) A health plan issuer shall maintain written records on all requests made for an external review under this chapter and shall provide all such information as required by any associated rules, policies, or procedures adopted by the superintendent of insurance. A health plan issuer shall maintain written records on all requests for external review for at least three years. 5213 5214 5215 5216 5217 5218

(C) The superintendent shall compile and annually publish the information collected under this section and report the information to the governor, the speaker and minority leader of the house of representatives, the president and minority leader of the senate, and the chairs and ranking minority members of the house and senate committees with jurisdiction over health and insurance issues. 5219 5220 5221 5222 5223 5224 5225

Sec. 3923.01. As used in this chapter, "policy of sickness and accident insurance" includes any policy, contract, or certificate of insurance against loss or expense resulting from the sickness of the insured, or from the bodily injury or death of the insured by accident, or both, that is delivered, issued for delivery, renewed, or used in this state on or after the date occurring six months after ~~the effective date of this amendment~~ November 24, 1995. 5226 5227 5228 5229 5230 5231 5232 5233

Sec. 3923.021. (A) As used in this section: 5234

(1) "Benefits provided are not unreasonable in relation to the premium charged" means the rates were calculated in accordance with sound actuarial principles. 5235 5236 5237

(2) "Individual policy of sickness and accident insurance" 5238

includes sickness and accident insurance made available by insurers in the individual market to individuals, with or without family members or dependents, through group policies issued to one or more associations or entities. 5239 5240 5241 5242

(B) With respect to any filing, made pursuant to section 3923.02 of the Revised Code, of any premium rates for any individual policy of sickness and accident insurance or certificates made available by an insurer to individuals in the individual market through a group policy or for any indorsement or rider pertaining thereto, the superintendent of insurance may, within thirty days after filing: 5243 5244 5245 5246 5247 5248 5249

(1) Disapprove such filing after finding that the benefits provided are unreasonable in relation to the premium charged. Such disapproval shall be effected by written order of the superintendent, a copy of which shall be mailed to the insurer that has made the filing. In the order, the superintendent shall specify the reasons for the disapproval and state that a hearing will be held within fifteen days after requested in writing by the insurer. If a hearing is so requested, the superintendent shall also give such public notice as the superintendent considers appropriate. The superintendent, within fifteen days after the commencement of any hearing, shall issue a written order, a copy of which shall be mailed to the insurer that has made the filing, either affirming the prior disapproval or approving such filing after finding that the benefits provided are not unreasonable in relation to the premium charged. 5250 5251 5252 5253 5254 5255 5256 5257 5258 5259 5260 5261 5262 5263 5264

(2) Set a date for a public hearing to commence no later than forty days after the filing. The superintendent shall give the insurer making the filing twenty days' written notice of the hearing and shall give such public notice as the superintendent 5265 5266 5267 5268

considers appropriate. The superintendent, within twenty days after the commencement of a hearing, shall issue a written order, a copy of which shall be mailed to the insurer that has made the filing, either approving such filing if the superintendent finds that the benefits provided are not unreasonable in relation to the premium charged, or disapproving such filing if the superintendent finds that the benefits provided are unreasonable in relation to the premium charged. This division does not apply to any insurer organized or transacting the business of insurance under Chapter 3907. or 3909. of the Revised Code. 5269 5270 5271 5272 5273 5274 5275 5276 5277 5278 5279

(3) Take no action, in which case such filing shall be deemed to be approved and shall become effective upon the thirty-first day after such filing, unless the superintendent has previously given to the insurer a written approval. 5280 5281 5282 5283

(C) At any time after any filing has been approved pursuant to this section, the superintendent may, after a hearing of which at least twenty days' written notice has been given to the insurer that has made such filing and for which such public notice as the superintendent considers appropriate has been given, withdraw approval of such filing after finding that the benefits provided are unreasonable in relation to the premium charged. Such withdrawal of approval shall be effected by written order of the superintendent, a copy of which shall be mailed to the insurer that has made the filing, which shall state the ground for such withdrawal and the date, not less than forty days after the date of such order, when the withdrawal ~~or~~ of approval shall become effective. 5284 5285 5286 5287 5288 5289 5290 5291 5292 5293 5294 5295 5296

(D) The superintendent may retain at the insurer's expense such attorneys, actuaries, accountants, and other experts not 5297 5298

otherwise a part of the superintendent's staff as shall be reasonably necessary to assist in the preparation for and conduct of any public hearing under this section. The expense for retaining such experts and the expenses of the department of insurance incurred in connection with such public hearing shall be assessed against the insurer in an amount not to exceed one one-hundredth of one per cent of the sum of premiums earned plus net realized investment gain or loss of such insurer as reflected in the most current annual statement on file with the superintendent. Any person retained shall be under the direction and control of the superintendent and shall act in a purely advisory capacity. 5299 5300 5301 5302 5303 5304 5305 5306 5307 5308 5309 5310

Sec. 3923.04. Except as provided in section 3923.07 of the Revised Code, every policy of sickness and accident insurance delivered, issued for delivery, or used in this state shall contain the standard provisions specified in this section in the words in which the same appear in this section. Such standard provisions shall be preceded individually by the caption appearing in this section or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the superintendent of insurance may approve. 5311 5312 5313 5314 5315 5316 5317 5318 5319

(A) A provision as follows: Entire contract; changes. This policy, including the indorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be indorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions. 5320 5321 5322 5323 5324 5325 5326

No statement made by an applicant for a policy of sickness and accident insurance not included therein shall avoid the 5327 5328

policy or be used to deny any claim thereunder or be used in any legal proceeding thereunder. 5329 5330

(B) A provision in two parts as follows: Time limit on certain defenses. 5331 5332

(1) After two years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for this policy shall be used to void this policy or to deny a claim for loss incurred or disability (as defined in this policy) commencing after the expiration of such two -year period. 5333 5334 5335 5336 5337 5338

The policy provision in division (B)(1) of this section shall not be so construed as to affect any legal requirements for avoidance of a policy or denial of a claim during such initial two-year period, nor to limit the application of divisions (A), (B), (C), (D), and (E) of section 3923.05 of the Revised Code in the event of misstatement with respect to age, occupation, or other insurance. 5339 5340 5341 5342 5343 5344 5345

A policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums until at least age fifty, or a policy issued after the insured has attained age forty-four and which the insured has the right to continue in force subject to its terms by the timely payment of premiums for at least five years from its date of issue, may contain, in lieu of the foregoing policy provision in division (B)(1) of this section, a provision, from which the clause in parentheses may be omitted at the insurer's option, under the caption Incontestable, as follows: After this policy has been in force for a period of two years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements 5346 5347 5348 5349 5350 5351 5352 5353 5354 5355 5356 5357 5358

contained in the application. 5359

(2) No claim for loss incurred or disability (as defined in this policy) commencing after two years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy. 5360 5361 5362 5363 5364 5365 5366

No chronic disease or chronic physical condition may be excluded from the coverage of a policy of sickness insurance or from the sickness insurance coverage of a policy of sickness and accident insurance except by name or specific description. 5367 5368 5369 5370

(C) A provision as follows: Grace period. A grace period of .... days will be granted for the payment of each premium falling due after the first premium, during which grace period this policy shall continue in force. 5371 5372 5373 5374

The insurer shall insert in the blank space in the policy provision in division (C) of this section a number not smaller than seven for weekly premium policies or ten for monthly premium policies or thirty-one for all other policies. 5375 5376 5377 5378

A policy in which the insurer reserves the right to refuse any renewal shall contain a provision, at the beginning of the policy provision in division (C) of this section, as follows: Unless not less than five days prior to the premium due date the insurer has delivered to the insured or has mailed to ~~his~~ <u>the insured's</u> last address as shown by the records of the insurer written notice of its intention not to renew this policy beyond the period for which the premium has been accepted. Each such policy, other than an accident insurance only policy, shall 5379 5380 5381 5382 5383 5384 5385 5386 5387

provide in substance, in a provision thereof or in an indorsement thereon or in a rider attached thereto, that the insurer may not refuse renewal of the policy before the first anniversary, or between anniversaries, of its date of issue, and that any non-renewal of the policy by the insurer or insured shall be without prejudice to any claim originating prior to the effective date of non-renewal. 5388 5389 5390 5391 5392 5393 5394

(D) A provision as follows: Reinstatement. If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate this policy. If the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, this policy will be reinstated upon approval of such application by the insurer or, lacking such approval, upon the forty-fifth day following the date of such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than ten days after such date. In all other respects the insured and insurer shall have the same rights thereunder as they had under this policy immediately before the due date of the defaulted premium, subject to any provisions indorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than sixty days prior to the date of reinstatement. 5395 5396 5397 5398 5399 5400 5401 5402 5403 5404 5405 5406 5407 5408 5409 5410 5411 5412 5413 5414 5415 5416 5417 5418

The last sentence of the policy provision in division (D) of this section may be omitted from any policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums until at least age fifty or from any policy issued after the insured has attained age forty-four and which the insured has the right to continue in force subject to its terms by the timely payment of premiums for at least five years from its date of issue.

(E) A provision as follows: Notice of claim. Written notice of claim must be given to the insurer within twenty days after the occurrence or commencement of any loss covered by this policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at .... or to any authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer.

The insurer shall insert in the blank space in the policy provision in division (E) of this section the location of such office as it may desire to designate for the purpose of notice.

In a policy providing a loss of time benefit which may be payable for at least two years, an insurer may insert, between the first and second sentences of the policy provision in division (E) of this section, a provision as follows:

Subject to the qualifications set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two years, ~~he~~ the insured shall, at least once in every six months after having given notice of claim, give to the insurer notice of continuance of said disability, except in the event of legal incapacity. The period of six months following any filing of proof by the

insured or any payment by the insurer on account of such claim or any denial of liability in whole or in part by the insurer shall be excluded in applying this provision. Delay in giving of such notice shall not impair the insured's right to any indemnity which would otherwise have accrued during the period of six months preceding the date on which such notice is actually given. 5449 5450 5451 5452 5453 5454 5455

(F) A provision as follows: Claim forms. The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within fifteen days after the giving of such notice the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting, within the time fixed in this policy for filing proofs of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made. 5456 5457 5458 5459 5460 5461 5462 5463 5464 5465

(G) A provision as follows: Proofs of loss. Written proof of loss must be furnished to the insurer at its office in case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss within ninety days after the termination of the period for which the insurer is liable and in case of claim for any other loss within ninety days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required. 5466 5467 5468 5469 5470 5471 5472 5473 5474 5475 5476 5477

(H) A provision as follows: Time of payment of claims. 5478

Indemnities payable under this policy for any loss, other than loss for which this policy provides any periodic payment, will be paid immediately upon, or within thirty days after, receipt of due written proof of such loss. Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment will be paid .... and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof. 5479 5480 5481 5482 5483 5484 5485 5486

The insurer shall insert in the blank space in the provision in division (H) of this section a period for payment which must not be less frequently than monthly. The insurer may at its option omit from the provision in division (H) of this section ", or within thirty days after,". 5487 5488 5489 5490 5491

(I) A provision as follows: Payment of claims. Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured. 5492 5493 5494 5495 5496 5497 5498 5499 5500 5501

The insurer may at its option add at the end of the provision in division (I) of this section, the following provisions or either of the following provisions: 5502 5503 5504

(1) If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not 5505 5506 5507 5508

exceeding .... dollars, to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of such payment. 5509 5510 5511 5512 5513 5514

(2) Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical, or surgical services may, at the insurer's option and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services; but it is not required that the services be rendered by a particular hospital or person. 5515 5516 5517 5518 5519 5520 5521 5522 5523

The insurer shall insert in the blank space in the policy provision in division (I)(1) of this section an amount which shall not exceed one thousand dollars. 5524 5525 5526

(J) A provision as follows: Physical examination and autopsy. The insurer at its own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law. 5527 5528 5529 5530 5531 5532

(K) A provision as follows: Legal actions. No action at law or in equity shall be brought to recover on this policy prior to the expiration of sixty days after written proof of loss has been furnished in accordance with the requirements of this policy. No such action shall be brought after the expiration of three years after the time written proof of loss 5533 5534 5535 5536 5537 5538

is required to be furnished. 5539

(L) A provision as follows: Change of beneficiary. Unless the insured makes an irrevocable designation of beneficiary, the right to change of beneficiary is reserved to the insured and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy or to any change of beneficiary or beneficiaries, or to any other changes in this policy. 5540 5541 5542 5543 5544 5545 5546

The insurer may at its option omit from the provision in division (L) of this section the following: Unless the insured makes an irrevocable designation of beneficiary. 5547 5548 5549

(M) A provision, which shall be contained in the policy or in an indorsement thereon or in a rider attached thereto, as follows: Cancellation by the insured. Non-cancellation by the insurer. The insured may cancel this policy at any time by written notice delivered or mailed to the insurer, effective upon receipt or on such later date as may be specified in such notice. In the event of cancellation, the insurer will return promptly the unearned portion of any premium paid. The earned premium shall be computed by the use of the short-rate table last filed with the state official having supervision of insurance in the state where the insured resided when this policy was issued. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation. The insurer may not cancel this policy. This provision nullifies any other provision, contained in this policy or in any indorsement hereon or in any rider attached hereto, which provides for cancellation of this policy by the insurer or by the insured. 5550 5551 5552 5553 5554 5555 5556 5557 5558 5559 5560 5561 5562 5563 5564 5565 5566 5567

Sec. 3923.19. (A) Benefits under all policies of sickness 5568

and accident insurance are not liable to attachment or other 5569
process, or to be taken, appropriated, or applied by any legal 5570
or equitable process or by operation of law, either before or 5571
after payment of the benefits, to pay any liabilities of the 5572
person insured under any such policy to the extent that the 5573
benefits are reasonably necessary for the support of the debtor 5574
and any dependents of the debtor. 5575

When a policy provides for a lump sum payment because of a 5576
dismemberment or other loss insured, the payment is exempt from 5577
execution by the insured's creditors. 5578

(B)(1) A payment under a stock bonus, pension, 5579
~~profitsharing~~ profit-sharing, annuity, or similar plan or 5580
contract on account of illness, disability, death, age, or 5581
length of service, to the extent reasonably necessary for the 5582
support of the person who is the beneficiary of the plan or 5583
party to the contract and any dependents of the person, is not 5584
liable to attachment or other process, or to be taken, 5585
appropriated, or applied by any legal or equitable process or by 5586
operation of law, either before or after payment of the 5587
benefits, to pay any liabilities of the person unless all of the 5588
following apply: 5589

(a) The plan or contract was established by or under the 5590
auspices of an insider that employed the person at the time the 5591
person's rights under the plan or contract arose. 5592

(b) The payment is on account of age or length of service. 5593

(c) The plan or contract does not qualify under section 5594
401(a), 403(a), 403(b), or 408 of the Internal Revenue Code of 5595
1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. 5596

(2) When a plan or contract provides for a lump sum 5597

payment because of a dismemberment or other loss covered by the plan or contract, the payment is exempt from execution by the person's creditors. 5598 5599 5600

Sec. 3923.38. (A) As used in this section: 5601

(1) "Group policy" includes any group sickness and accident policy or contract delivered, issued for delivery, or renewed in this state on or after June 28, 1984, and any private or public employer self-insurance plan or other plan that provides, or provides payment for, health care benefits for employees resident in this state other than through an insurer or health insuring corporation, to which both of the following apply: 5602 5603 5604 5605 5606 5607 5608 5609

(a) The policy insures employees for hospital, surgical, or major medical insurance on an expense incurred or service basis, other than for specified diseases or for accidental injuries only. 5610 5611 5612 5613

(b) The policy is in effect and covers an eligible employee at the time the employee's employment is terminated. 5614 5615

(2) "Eligible employee" includes only an employee to whom all of the following apply: 5616 5617

(a) The employee has been continuously insured under a group policy or under the policy and any prior similar group coverage replaced by the policy, during the entire three-month period preceding the termination of the employee's employment. 5618 5619 5620 5621

(b) The employee did not voluntarily terminate the employee's employment and the termination of employment is not a result of any gross misconduct on the part of the employee. 5622 5623 5624

(c) The employee is not, and does not become, covered by 5625

or eligible for coverage by medicare under Title XVIII of the Social Security Act, as amended. 5626 5627

(d) The employee is not, and does not become, covered by or eligible for coverage by any other insured or uninsured arrangement that provides hospital, surgical, or medical coverage for individuals in a group and under which the person was not covered immediately prior to such termination. A person eligible for continuation of coverage under this section, who is also eligible for coverage under section 3923.123 of the Revised Code, may elect either coverage, but not both. A person who elects continuation of coverage may elect any coverage available under section 3923.123 of the Revised Code upon the termination of the continuation of coverage. 5628 5629 5630 5631 5632 5633 5634 5635 5636 5637 5638

(3) "Group rate" means, in the case of an employer self-insurance or other health benefits plan, the average monthly cost per employee, over a period of at least twelve months, of the operation of the plan that would represent a group insurance rate if the same coverage had been provided under a group sickness and accident insurance policy. 5639 5640 5641 5642 5643 5644

(B) A group policy shall provide that any eligible employee may continue the employee's hospital, surgical, and medical insurance under the policy, for the employee and the employee's eligible dependents, for a period of twelve months after the date that the insurance coverage would otherwise terminate by reason of the termination of the employee's employment. Each certificate of coverage, or other notice of coverage, issued to employees under the policy shall include a notice of the employee's privilege of continuation. 5645 5646 5647 5648 5649 5650 5651 5652 5653

(C) All of the following apply to the continuation of coverage required under division (B) of this section: 5654 5655

(1) Continuation need not include dental, vision care, or any other benefits provided under the policy in addition to its hospital, surgical, or major medical benefits. 5656 5657 5658

(2) The employer shall notify the employee of the right of continuation at the time the employer notifies the employee of the termination of employment. The notice shall inform the employee of the amount of contribution required by the employer under division (C)(4) of this section. 5659 5660 5661 5662 5663

(3) The employee shall file a written election of continuation with the employer and pay the employer the first contribution required under division (C)(4) of this section. The request and payment must be received by the employer no later than the earlier of any of the following dates: 5664 5665 5666 5667 5668

(a) Thirty-one days after the date on which the employee's coverage would otherwise terminate; 5669 5670

(b) Ten days after the date on which the employee's coverage would otherwise terminate, if the employer has notified the employee of the right of continuation prior to such date; 5671 5672 5673

(c) Ten days after the employer notifies the employee of the right of continuation, if the notice is given after the date on which the employee's coverage would otherwise terminate. 5674 5675 5676

(4) The employee must pay to the employer, on a monthly basis, in advance, the amount of contribution required by the employer. The amount required shall not exceed the group rate for the insurance being continued under the policy on the due date of each payment. 5677 5678 5679 5680 5681

(5) The employee's privilege to continue coverage and the coverage under any continuation ceases if any of the following occurs: 5682 5683 5684

(a) The employee ceases to be an eligible employee under division (A)(2)(c) or (d) of this section; 5685 5686

(b) A period of twelve months expires after the date that the employee's insurance under the policy would otherwise have terminated because of the termination of employment; 5687 5688 5689

(c) The employee fails to make a timely payment of a required contribution, in which event the coverage shall cease at the end of the coverage for which contributions were made; 5690 5691 5692

(d) The policy is terminated, or the employer terminates participation under the policy, unless the employer replaces the coverage by similar coverage under another group policy or other group health arrangement. 5693 5694 5695 5696

If the employer replaces the policy with similar group health coverage, all of the following apply: 5697 5698

(i) The member shall be covered under the replacement coverage, for the balance of the period that the member would have remained covered under the terminated coverage if it had not been terminated. 5699 5700 5701 5702

(ii) The minimum level of benefits under the replacement coverage shall be the applicable level of benefits of the policy replaced reduced by any benefits payable under the policy replaced. 5703 5704 5705 5706

(iii) The policy replaced shall continue to provide benefits to the extent of its accrued liabilities and extensions of benefits as if the replacement had not occurred. 5707 5708 5709

(D) This section does not apply to an employer's self-insurance plan if federal law supersedes, preempts, prohibits, or otherwise precludes its application to such plans. 5710 5711 5712

(E) An employer shall notify the insurer if the employee elects continuation of coverage under this section. The insurer may require the employer to provide documentation if the employee elects continuation of coverage and is seeking premium assistance for the continuation of coverage under the "American Recovery and Investment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115. The ~~director~~ superintendent of insurance shall publish guidance for employers and insurers regarding the contents of such documentation. 5713 5714 5715 5716 5717 5718 5719 5720 5721

Sec. 3923.39. (A) As used in this section: 5722

(1) "Consolidated corporation" means any mutual insurance company that merged or consolidated with a hospital service association. 5723 5724 5725

(2) "Individual policy" means a policy other than a policy issued pursuant to section 3923.11, 3923.12, or 3923.13 of the Revised Code. 5726 5727 5728

(3) "Individual policyholder" means a person who is an insured under an individual policy. 5729 5730

(4) "Cancel" means any cancellation, denial of renewal, lapse, or other termination of coverage of an individual policyholder of a consolidated corporation on the ground of nonpayment of a policy payment. 5731 5732 5733 5734

(5) "Notice of cancellation" means a notice by a consolidated corporation of an intention to cancel an individual policy on the ground of nonpayment of a policy payment. 5735 5736 5737

(6) "Extenuating circumstances" means circumstances that excuse an individual policyholder's failure to pay a policy payment after the mailing of a notice of cancellation under this section and include, but are not limited to, any of the 5738 5739 5740 5741

following: 5742

(a) Hospitalization; 5743

(b) Incapacity or incompetency; 5744

(c) Continuous absence from the address to which the notice was addressed for a period of time, including the date on which the notice was delivered to the address, of not more than sixty days from the date on which the notice was mailed. 5745 5746 5747 5748

(7) "Medicare supplement policy" has the same meaning as in section 3923.33 of the Revised Code. 5749 5750

(B) If a consolidated corporation does not receive a policy payment due from a policyholder on an individual policy on or before the due date shown on a billing mailed to the policyholder, the consolidated corporation may cancel the policyholder's coverage by mailing a notice of cancellation to the policyholder at his last known address. 5751 5752 5753 5754 5755 5756

No cancellation for nonpayment of a policy payment shall take effect until not less than fifteen days have passed since the date of mailing of a notice of cancellation. 5757 5758 5759

An individual policyholder whose coverage is terminated for nonpayment may apply for reinstatement of coverage within sixty days after the date the notice of cancellation is mailed. The consolidated corporation shall reinstate the coverage, continuous from the date of cancellation, if it determines that the policyholder's failure to pay was due to extenuating circumstances, and the policyholder pays the payment required for reinstatement of coverage. A consolidated corporation shall establish an appeals procedure that will enable the policyholder to present the reasons why the consolidated corporation should reconsider the cancellation and reinstate the coverage. 5760 5761 5762 5763 5764 5765 5766 5767 5768 5769 5770

The notice of cancellation shall advise the policyholder of the policyholder's rights to appeal the cancellation of coverage and of the amount of payment that will be required to reinstate the coverage. 5771 5772 5773 5774

(C) No individual policyholder of a consolidated corporation shall be billed either by a hospital or the consolidated corporation for rendered health care services adjudged unnecessary by a utilization review mechanism recognized by the consolidated corporation or the hospital, provided such individual policyholder has acted in good faith. The contract between the consolidated corporation and the hospital may specify the conditions under which the consolidated corporation or the hospital shall sustain the loss of revenue. 5775 5776 5777 5778 5779 5780 5781 5782 5783

(D) ~~Notwithstanding the provisions of section 3941.47 of the Revised Code, a~~ A medicare supplement policy issued or renewed by a consolidated corporation to an individual policyholder may not provide for the denial or reduction of benefits under such policy when services are provided at or by a hospital which does not have a contractual relationship with such consolidated corporation. 5784 5785 5786 5787 5788 5789 5790

Sec. 3923.53. (A) Every public employee benefit plan that is established or modified in this state shall provide benefits for the expenses of both of the following: 5791 5792 5793

(1) Screening mammography to detect the presence of breast cancer in adult women; 5794 5795

(2) Cytologic screening for the presence of cervical cancer. 5796 5797

(B) The benefits provided under division (A)(1) of this section shall cover expenses in accordance with all of the 5798 5799

following: 5800

(1) If a woman is at least thirty-five years of age but 5801
under forty years of age, one screening mammography; 5802

(2) If a woman is at least forty years of age but under 5803
fifty years of age, either of the following: 5804

(a) One screening mammography every two years; 5805

(b) If a licensed physician has determined that the woman 5806
has risk factors to breast cancer, one screening mammography 5807
every year. 5808

(3) If a woman is at least fifty years of age but under 5809
sixty-five years of age, one screening mammography every year. 5810

(C) As used in this division, "medicare reimbursement 5811
rate" means the reimbursement rate paid in this state under the 5812
medicare program for screening mammography that does not include 5813
digitization or computer-aided detection, regardless of whether 5814
the actual benefit includes digitization or computer-aided 5815
detection. 5816

(1) Subject to divisions (C)(2) and (3) of this section, 5817
if a provider, hospital, or other health care facility provides 5818
a service that is a component of the screening mammography 5819
benefit in division ~~(B)~~ (A)(1) of this section and submits a 5820
separate claim for that component, a separate payment shall be 5821
made to the provider, hospital, or other health care facility in 5822
an amount that corresponds to the ratio paid by medicare in this 5823
state for that component. 5824

(2) Regardless of whether separate payments are made for 5825
the benefit provided under division (A)(1) of this section, the 5826
total benefit for a screening mammography shall not exceed one 5827

hundred thirty per cent of the medicare reimbursement rate in this state for screening mammography. If there is more than one medicare reimbursement rate in this state for screening mammography or a component of a screening mammography, the reimbursement limit shall be one hundred thirty per cent of the lowest medicare reimbursement rate in this state. 5828 5829 5830 5831 5832 5833

(3) The benefit paid in accordance with division (C)(1) of this section shall constitute full payment. No provider, hospital, or other health care facility shall seek or receive compensation in excess of the payment made in accordance with division (C)(1) of this section, except for approved deductibles and copayments. 5834 5835 5836 5837 5838 5839

(D) The benefits provided under division (A)(1) of this section shall be provided only for screening mammographies that are performed in a facility or mobile mammography screening unit that is accredited under the American college of radiology mammography accreditation program or in a hospital as defined in section 3727.01 of the Revised Code. 5840 5841 5842 5843 5844 5845

(E) The benefits provided under division (A)(2) of this section shall be provided only for cytologic screenings that are processed and interpreted in a laboratory certified by the college of American pathologists or in a hospital as defined in section 3727.01 of the Revised Code. 5846 5847 5848 5849 5850

Sec. 3923.55. (A) As used in this section and section 3923.56 of the Revised Code: 5851 5852

(1) "Child health supervision services" means periodic review of a child's physical and emotional status performed by a physician, by a health care professional under the supervision of a physician, or, in the case of hearing screening, by an 5853 5854 5855 5856

individual acting in accordance with section 3701.505 of the Revised Code.

(2) "Periodic review" means a review performed in accordance with the recommendations of the American academy of pediatrics and includes a history, complete physical examination, developmental assessment, anticipatory guidance, appropriate immunizations, and laboratory tests.

(3) "Physician" means a person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(B) Notwithstanding section 3901.71 of the Revised Code, each policy of individual or group sickness and accident insurance delivered, issued for delivery, or renewed in this state on or after ~~the effective date of this amendment~~ November 24, 1995, that provides coverage for family members of the insured shall provide, with respect to that coverage, that any benefits applicable for children shall include benefits for child health supervision services from the moment of birth until age nine.

(C) A policy that provides the benefits described in division (B) of this section may limit the benefits to cover only the expenses of child health supervision services that are performed by one physician or by a health care professional under the supervision of one physician during the course of any one visit.

(D) Copayments and deductibles shall be reasonable and shall not be a barrier to the necessary utilization of child health supervision services by covered persons.

(E) Benefits for child health supervision services that

are provided to a child during the period from birth to age one shall not exceed a maximum limit of five hundred dollars, including benefits for the hearing screening required by the program established under section 3701.504 of the Revised Code. The benefits for the hearing screening shall not exceed a maximum limit of seventy-five dollars. Benefits for child health supervision services that are provided to a child during any year thereafter shall not exceed a maximum limit of one hundred fifty dollars per year. 5886 5887 5888 5889 5890 5891 5892 5893 5894

(F) This section does not apply to any policy that provides coverage for specific diseases or accidents only, or to any hospital indemnity, medicare supplement, or other policy that offers only supplemental benefits. 5895 5896 5897 5898

Sec. 3923.56. (A) Notwithstanding section 3901.71 of the Revised Code, each employee benefit plan established or maintained in this state on or after ~~the effective date of this amendment~~ November 24, 1995, that provides coverage for family members of the employee shall provide, with respect to that coverage, that any benefits applicable for children shall include benefits for child health supervision services from the moment of birth until age nine. 5899 5900 5901 5902 5903 5904 5905 5906

(B) A plan that provides the benefits described in division (A) of this section may limit the benefits to cover only the expenses of child health supervision services that are performed by one physician or by a health care professional under the supervision of one physician during the course of any one visit. 5907 5908 5909 5910 5911 5912

(C) Copayments and deductibles shall be reasonable and shall not be a barrier to the necessary utilization of child health supervision services by covered persons. 5913 5914 5915

(D) Benefits for child health supervision services that are provided to a child during the period from birth to age one shall not exceed a maximum limit of five hundred dollars, including benefits for the hearing screening required by the program established under section 3701.504 of the Revised Code. The benefits for the hearing screening shall not exceed a maximum limit of seventy-five dollars. Benefits for child health supervision services that are provided to a child during any year thereafter shall not exceed a maximum limit of one hundred fifty dollars per year. 5916 5917 5918 5919 5920 5921 5922 5923 5924 5925

Sec. 3923.60. (A) Notwithstanding section 3901.71 of the Revised Code, no group or individual policy of sickness and accident insurance that provides coverage for prescription drugs shall limit or exclude coverage for any drug approved by the United States food and drug administration on the basis that the drug has not been approved by the United States food and drug administration for the treatment of the particular indication for which the drug has been prescribed, provided the drug has been recognized as safe and effective for treatment of that indication in one or more of the standard medical reference compendia adopted by the United States department of health and human services under 42 U.S.C. 1395x(t)(2), as amended, or in medical literature that meets the criteria specified in division (B) of this section. 5926 5927 5928 5929 5930 5931 5932 5933 5934 5935 5936 5937 5938 5939

(B) Medical literature may be accepted for purposes of division (A) of this section only if all of the following apply: 5940 5941

(1) Two articles from major peer-reviewed professional medical journals have recognized, based on scientific or medical criteria, the drug's safety and effectiveness for treatment of the indication for which it has been prescribed; 5942 5943 5944 5945

(2) No article from a major peer-reviewed professional medical journal has concluded, based on scientific or medical criteria, that the drug is unsafe or ineffective or that the drug's safety and effectiveness cannot be determined for the treatment of the indication for which it has been prescribed; 5946 5947 5948 5949 5950

(3) Each article meets the uniform requirements for manuscripts submitted to biomedical journals established by the international committee of medical journal editors or is published in a journal specified by the United States department of health and human services pursuant to section 1861(t)(2)(B) of the "Social Security Act," 107 Stat. 591 (1993), 42 U.S.C. 1395x(t)(2)(B), as amended, as acceptable peer-reviewed medical literature. 5951 5952 5953 5954 5955 5956 5957 5958

(C) Coverage of a drug required by division (A) of this section includes medically necessary services associated with the administration of the drug. 5959 5960 5961

(D) Division (A) of this section shall not be construed to do any of the following: 5962 5963

(1) Require coverage for any drug if the United States food and drug administration has determined its use to be contraindicated for the treatment of the particular indication for which the drug has been prescribed; 5964 5965 5966 5967

(2) Require coverage for experimental drugs not approved for any indication by the United States food and drug administration; 5968 5969 5970

(3) Alter any law with regard to provisions limiting the coverage of drugs that have not been approved by the United States food and drug administration; 5971 5972 5973

(4) Require reimbursement or coverage for any drug not 5974

included in the drug formulary or list of covered drugs specified in a policy of sickness and accident insurance; 5975 5976

(5) Prohibit a policy of sickness and accident insurance from limiting or excluding coverage of a drug, provided that the decision to limit or exclude coverage of the drug is not based primarily on the coverage of drugs required by this section. 5977 5978 5979 5980

(E) This section, as amended, applies only to policies of sickness and accident insurance that are described in division (A) of this section and that are delivered, issued for delivery, or renewed in this state on or after ~~the effective date of this amendment~~ December 26, 2011. 5981 5982 5983 5984 5985

Sec. 3923.65. (A) As used in this section: 5986

(1) "Emergency medical condition" means a medical condition that manifests itself by such acute symptoms of sufficient severity, including severe pain, that a prudent layperson with average knowledge of health and medicine could reasonably expect the absence of immediate medical attention to result in any of the following: 5987 5988 5989 5990 5991 5992

(a) Placing the health of the individual or, with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy; 5993 5994 5995

(b) Serious impairment to bodily functions; 5996

(c) Serious dysfunction of any bodily organ or part. 5997

(2) "Emergency services" means the following: 5998

(a) A medical screening examination, as required by federal law, that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department, to evaluate an emergency 5999 6000 6001 6002

medical condition; 6003

(b) Such further medical examination and treatment that are required by federal law to stabilize an emergency medical condition and are within the capabilities of the staff and facilities available at the hospital, including any trauma and burn center of the hospital. 6004 6005 6006 6007 6008

(B) Every individual or group policy of sickness and accident insurance that provides hospital, surgical, or medical expense coverage shall cover emergency services without regard to the day or time the emergency services are rendered or to whether the policyholder, the hospital's emergency department where the services are rendered, or an emergency physician treating the policyholder, obtained prior authorization for the emergency services. 6009 6010 6011 6012 6013 6014 6015 6016

(C) Every individual policy or certificate furnished by an insurer in connection with any sickness and accident insurance policy shall provide information regarding the following: 6017 6018 6019

(1) The scope of coverage for emergency services; 6020

(2) The appropriate use of emergency services, including the use of the 9-1-1 system and any other telephone access systems utilized to access prehospital emergency services; 6021 6022 6023

(3) Any copayments for emergency services. 6024

(D) This section does not apply to any individual or group policy of sickness and accident insurance covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, medicare, tricare, specified disease, or vision care; coverage under a one-time-limited-duration policy that is less than twelve months; coverage issued as a supplement to liability insurance; 6025 6026 6027 6028 6029 6030 6031

insurance arising out of workers' compensation or similar law; automobile medical payment insurance; or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

Sec. 3923.82. (A) As used in this section, "health benefit plan" has the same meaning as in section 3924.01 of the Revised Code.

(B) Notwithstanding section 3901.71 of the Revised Code, no health benefit plan or public employee benefit plan shall contain a provision that limits or excludes an insured's coverage under the plan for a loss or expense the insured sustains that is the result of the insured's use of alcohol or other drugs or both and the loss or expense is otherwise covered under the plan.

(C) Nothing in this section shall be construed as doing either of the following:

(1) Requiring coverage for the treatment of alcohol or substance abuse except as otherwise required by law;

(2) Prohibiting the enforcement of an exclusion based on injuries sustained by an insured during the commission of an offense by the insured in which the insured is convicted of or pleads guilty or no contest to a felony.

(D) Not later than four years after ~~the effective date of this section~~ April 7, 2009, the department of insurance shall conduct an analysis of the impact of the requirements of this section on the cost of and coverage provided by health benefit plans in this state and prepare a written report of its findings from the analysis. The department shall submit the report to the

governor and, in accordance with section 101.68 of the Revised Code, to the general assembly. 6061 6062

Sec. 3923.85. (A) As used in this section, "cost sharing" means the cost to an individual insured under an individual or group policy of sickness and accident insurance or a public employee benefit plan according to any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirements imposed by the policy or plan. 6063 6064 6065 6066 6067 6068

(B) Notwithstanding section 3901.71 of the Revised Code and subject to division (D) of this section, no individual or group policy of sickness and accident insurance that is delivered, issued for delivery, or renewed in this state and no public employee benefit plan that is established or modified in this state shall fail to comply with either of the following: 6069 6070 6071 6072 6073 6074

(1) The policy or plan shall not provide coverage or impose cost sharing for a prescribed, orally administered cancer medication on a less favorable basis than the coverage it provides or cost sharing it imposes for intraveneously administered or injected cancer medications. 6075 6076 6077 6078 6079

(2) The policy or plan shall not comply with division (B)(1) of this section by imposing an increase in cost sharing solely for orally administered, intravenously administered, or injected cancer medications. 6080 6081 6082 6083

(C) Notwithstanding any provision of this section to the contrary, a policy or plan shall be deemed to be in compliance with this section if the cost sharing imposed under such a policy or plan for orally administered cancer treatments does not exceed one hundred dollars per prescription fill. The cost - sharing limit of one hundred dollars per prescription fill shall 6084 6085 6086 6087 6088 6089

apply to a high deductible plan, as defined in 26 U.S.C. 223, or a catastrophic plan, as defined in 42 U.S.C. 18022, only after the deductible has been met. 6090 6091 6092

(D)(1) The prohibitions in division (B) of this section do not preclude an individual or group policy of sickness and accident insurance or public employee benefit plan from requiring an insured or plan member to obtain prior authorization before orally administered cancer medication is dispensed to the insured or plan member. 6093 6094 6095 6096 6097 6098

(2) Division (B) of this section does not apply to the offer or renewal of any individual or group policy of sickness and accident insurance that provides coverage for specific diseases or accidents only, or to any hospital indemnity, medicare supplement, disability income, or other policy that offers only supplemental benefits. 6099 6100 6101 6102 6103 6104

(E) An insurer that offers any sickness and accident insurance or any public employee benefit plan that offers coverage for basic health care services is not required to comply with division (B) of this section if all of the following apply: 6105 6106 6107 6108 6109

(1) The insurer or plan submits documentation certified by an independent member of the American academy of actuaries to the superintendent of insurance showing that compliance with division (B)(1) of this section for a period of at least six months independently caused the insurer or plan's costs for claims and administrative expenses for the coverage of basic health care services to increase by more than one per cent per year. 6110 6111 6112 6113 6114 6115 6116 6117

(2) The insurer or plan submits a signed letter from an 6118

independent member of the American academy of actuaries to the superintendent of insurance opining that the increase in costs described in division (E)(1) of this section could reasonably justify an increase of more than one per cent in the annual premiums or rates charged by the insurer or plan for the coverage of basic health care services. 6119 6120 6121 6122 6123 6124

(3)(a) The superintendent of insurance makes the following determinations from the documentation and opinion submitted pursuant to divisions (E)(1) and (2) of this section: 6125 6126 6127

(i) Compliance with division (B)(1) of this section for a period of at least six months independently caused the insurer or plan's costs for claims and administrative expenses for the coverage of basic health care services to increase more than one per cent per year. 6128 6129 6130 6131 6132

(ii) The increase in costs reasonably justifies an increase of more than one per cent in the annual premiums or rates charged by the insurer or plan for the coverage of basic health care services. 6133 6134 6135 6136

(b) Any determination made by the superintendent under division (E)(3) of this section is subject to Chapter 119. of the Revised Code. 6137 6138 6139

Sec. 3925.09. No insurance company shall own more than one fourth of the capital stock of a national bank, nor invest in or loan on the stocks and bonds, both included, of any railroad company, to an extent exceeding one fifth of its own capital and surplus, nor in the aggregate shall the investment in and loan on all railroad property exceed one fourth of its own capital and surplus. Not more than one half of its capital and surplus shall be loaned on mortgages of real estate, as provided in 6140 6141 6142 6143 6144 6145 6146 6147

~~sections~~ section 3925.05 of the Revised Code for the investment 6148
thereof, and not more than one tenth of the capital and surplus 6149
actually existing of such a company shall be invested in a 6150
single mortgage. The current market value of the evidences of 6151
indebtedness mentioned in this section, in which the 6152
accumulations or surplus money above the capital stock of an 6153
insurance company may be loaned or invested, must be at all 6154
times during the continuance of the loans at least twenty per 6155
cent more than the sum loaned thereon. 6156

Sec. 3927.08. Every insurance company other than a life 6157
insurance company, organized by act of congress or under the 6158
laws of another state or government, annually, at the time and 6159
in the form and manner required of similar companies organized 6160
under the laws of this state, shall file a statement of its 6161
condition and affairs in the office of the superintendent of 6162
insurance. A company organized under or incorporated by a 6163
foreign government shall also furnish a supplementary statement 6164
for the year ending on the preceding thirty-first day of 6165
December, verified by the oath of the manager of such company 6166
residing in the United States, which shall comprise a report of 6167
its business and affairs in the United States, as required from 6168
companies organized in this state, together with any other 6169
information that may be required by the superintendent. If such 6170
annual statement is satisfactory evidence to the superintendent 6171
of the solvency and ability of the company to meet all its 6172
engagements at maturity, and that the deposit is maintained as 6173
provided by section 3927.06 of the Revised Code, the 6174
superintendent shall issue, during the month of January in each 6175
year or within sixty days thereafter, renewal certificates of 6176
authority to the ~~agent~~ agents of the company, certified copies 6177
of which shall be filed in the county recorder's office of each 6178

county in which an agency is located and retained therewith for a minimum of two years from the date of filing. Such certificates shall be the authority for such agents to issue new policies in this state for the ensuing year. 6179 6180 6181 6182

Sec. 3929.011. (A)(1) As a condition of the issuance of a certificate of authority to transact in this state any of the kinds of insurance set forth in divisions (A)(1) to (4), (6), (7), (10) to (13), (16), (17), (18), and (21) to (24) of section 3929.01 of the Revised Code, each stock insurance company shall have and maintain capital and surplus in the aggregate amount of not less than two million five hundred thousand dollars, which amount shall include paid-in-capital of not less than one million dollars and contributed surplus of not less than one million dollars. 6183 6184 6185 6186 6187 6188 6189 6190 6191 6192

(2) As a condition of the issuance of a certificate of authority to transact in this state any of the kinds of insurance set forth in divisions (A)(1) to (4), (6), (7), (10) to (13), (16), (17), (18), and (21) to (24) of section 3929.01 of the Revised Code, each insurance company other than a stock insurance company shall have and maintain surplus in the total amount of not less than two million five hundred thousand dollars. 6193 6194 6195 6196 6197 6198 6199 6200

(B)(1) As a condition of the issuance of a certificate of authority to transact in this state any of the kinds of insurance set forth in divisions (A)(5), (8), (9), (14), (15), (19), (20), and (26) of section 3929.01 of the Revised Code, each stock insurance company shall have and maintain capital and surplus in the aggregate amount of not less than five million dollars, which amount shall include paid-in-capital of not less than one million dollars and contributed surplus of not less 6201 6202 6203 6204 6205 6206 6207 6208

than one million dollars. 6209

(2) As a condition of the issuance of a certificate of authority to transact in this state any of the kinds of insurance set forth in divisions (A)(5), (8), (9), (14), (15), (19), (20), and (26) of section 3929.01 of the Revised Code, each insurance company other than a stock insurance company shall have and maintain surplus in the total amount of not less than five million dollars. 6210 6211 6212 6213 6214 6215 6216

(C)(1) As a condition of the issuance of a certificate of authority to transact in this state the kind of insurance described in division (A)(25) of section 3929.01 of the Revised Code, each stock insurance company shall have and maintain capital and surplus in the aggregate amount of not less than ten million dollars, which amount shall include paid-in-capital of not less than one million dollars and contributed surplus of not less than one million dollars. 6217 6218 6219 6220 6221 6222 6223 6224

(2) As a condition of the issuance of a certificate of authority to transact in this state the kind of insurance described in division (A)(25) of section 3929.01 of the Revised Code, each insurance company other than a stock insurance company shall have and maintain surplus in the total amount of not less than ten million dollars. 6225 6226 6227 6228 6229 6230

(D)(1) As a condition of the issuance of a certificate of authority to transact the business of insurance in this state, each stock insurance company that assumes reinsurance and transacts any of the kinds of insurance set forth in division (A) of section 3929.01 of the Revised Code shall have and maintain capital and surplus in the aggregate amount of not less than ten million dollars, which amount shall include paid-in-capital of not less than one million dollars and contributed 6231 6232 6233 6234 6235 6236 6237 6238

surplus of not less than one million dollars. 6239

(2) As a condition of the issuance of a certificate of 6240
authority to transact the business of insurance in this state, 6241
each insurance company other than a stock insurance company that 6242
assumes reinsurance and transacts any of the kinds of insurance 6243
set forth in division (A) of section 3929.01 of the Revised Code 6244
shall have and maintain surplus in the total amount of not less 6245
than ten million dollars. 6246

(3) Divisions (D)(1) and (2) of this section do not apply 6247
to any insurance company that transacts any of the kinds of 6248
insurance set forth in division (A) of section 3929.01 of the 6249
Revised Code and that assumes reinsurance only under any of the 6250
following circumstances: 6251

(a) Pursuant to a pooling arrangement among members of the 6252
same insurance holding company system; 6253

(b) Pursuant to a requirement of any law, rule, or 6254
regulation; 6255

(c) If, as of the immediately preceding thirty-first day 6256
of December, the aggregate amount of assumed premiums, except 6257
those with respect to reinsurance assumed under division (D)(3) 6258
(a) or (b) of this section, for that calendar year is less than 6259
five hundred thousand dollars. 6260

(E)(1) Except as provided in divisions (E)(2) and (3) of 6261
this section, as a condition of the renewal of its certificate 6262
of authority to transact in this state any of the kinds of 6263
insurance set forth in division (A) of section 3929.01 of the 6264
Revised Code, each mutual fire insurance association that, prior 6265
to ~~the effective date of this section~~ August 8, 1991, 6266
reorganized as a mutual fire insurance company pursuant to 6267

section 3939.10 of the Revised Code shall have and maintain surplus in the total amount of not less than two million five hundred thousand dollars.

(2) If such a company attains the applicable total surplus required under division (B)(2), (C)(2), or (D)(2) of this section, the company, as a condition of the renewal of its certificate of authority to transact that kind of insurance in this state, shall continue to have and maintain the total surplus set forth in that division.

(3) If, as a result of any of the actions described in division (B)(1) of section 3901.321 of the Revised Code, control of such a company is obtained by another person, the company, as a condition of the renewal of its certificate of authority under division (B)(2), (C)(2), or (D)(2) of this section, shall have and maintain the total surplus set forth in that division of this section.

(F) This section applies only to the issuance or renewal of certificates of authority to transact the business of insurance in this state on or after ~~the effective date of this section~~ August 8, 1991.

Sec. 3929.04. In case of the death of any employee by reason of the wrongful or negligent acts of ~~his~~ the employee's employer, or negligence or wrongful acts for which said employer is liable, the personal representative of the deceased employee has all the rights and remedies that the employee would have had under ~~setion~~ section 3929.03 of the Revised Code had death not resulted.

Sec. 3930.10. There shall be no liability imposed on the part of and no cause of action of any nature arises against the

Ohio commercial insurance joint underwriting association, its members, board of governors, agents, or employees, an insurer or its employees, any licensed agent or broker, or the superintendent of insurance ~~of his~~ or the superintendent's authorized representatives, their members or employees, for any action taken by them in the performance of their powers and duties under sections 3930.03 to 3930.17 of the Revised Code. Any reports and communications in connection therewith are not public records. 6297 6298 6299 6300 6301 6302 6303 6304 6305

Sec. 3931.02. Every attorney under section 3931.01 of the Revised Code shall pay to the superintendent of insurance for the use of the state the following fees: 6306 6307 6308

(A) For filing declaration, twenty-five dollars; 6309

(B) For filing each financial statement required by sections 3931.01 to 3931.13~~, inclusive, 3931.12~~ of the Revised Code, twenty dollars; 6310 6311 6312

(C) For filing each certificate of license, and certified copy thereof, two dollars; 6313 6314

(D) For each copy of a paper filed in the superintendent's office, twenty cents per folio; 6315 6316

(E) For affixing the seal of office and certifying any paper, one dollar. 6317 6318

Sec. 3931.03. The attorney under section 3931.01 of the Revised Code shall file with the superintendent of insurance a declaration, verified by ~~his~~ the attorney's oath, or, when the attorney is a corporation, by the oath of its authorized officers, setting forth: 6319 6320 6321 6322 6323

(A) The name of the attorney and the name or designation 6324

under which such contracts are issued, which name or designation shall not be so similar to any other name or designation previously adopted by an attorney, or by any insurance organization in the United States, prior to the adoption of such name or designation by the attorney, as to confuse or deceive, unless such other attorney or organization consents thereto in writing; 6325 6326 6327 6328 6329 6330 6331

(B) The location of the principal office; 6332

(C) The kind of insurance to be effected; 6333

(D) A copy of each form of policy, contract, or agreement under or by which such insurance is to be effected; 6334 6335

(E) A copy of the form of power of attorney under which such insurance is to be effected; 6336 6337

(F) The fact that applications have been made for indemnity upon at least seventy-five separate risks, aggregating not less than one and one-half million dollars, represented by executed contracts or bona fide applications to become concurrently effective; 6338 6339 6340 6341 6342

(G) The fact that there is in the ~~possesison~~ possession of such attorney net assets of not less than three hundred thousand dollars, available for the payment of losses; 6343 6344 6345

(H) A financial statement in the form prescribed for the annual statement; 6346 6347

(I) The instrument authorizing service of process as provided for in section 3931.04 of the Revised Code; 6348 6349

(J) A certificate showing compliance with the deposit requirements, if any, applicable to a mutual insurance company authorized to do the kind or kinds of insurance to be effected; 6350 6351 6352

(K) A copy of all bylaws, codes of regulations, any other document wherein the relationships between the subscribers and between the subscribers and the attorney are set forth, and any amendments to any of the foregoing. Any filing made pursuant to this division shall become effective thirty days from the date of filing, unless disapproved by the superintendent. Any action taken by the superintendent under this division may be appealed pursuant to Chapter 119. of the ~~Reviesd~~ Revised Code.

This division does not apply to filings required pursuant to Chapters 3935. and 3937. of the Revised Code.

Sec. 3931.99. ~~(A)~~ Whoever violates sections 3931.01 to 3931.12, inclusive, of the Revised Code, or fails to comply with any duty imposed ~~upon him~~ by such sections, for which violation or failure no penalty is otherwise provided by law, shall be fined not more than five hundred dollars.

Sec. 3933.01. No corporation, association, or partnership engaged in this state in the guaranty, bonding, surety, or insurance business, other than life insurance, nor any officer, agent, solicitor, employee, or representative thereof, shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as inducements to insurance, and no person shall knowingly receive as an inducement to insurance, any rebate or premium payable on the policy, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any paid employment or contract for services of any kind, or any special advantage in the date of the policy or date of its issue, or any valuable consideration or inducement not plainly specified in the policy or contract of insurance or agreement of indemnity, or give, receive, sell, or purchase, or offer to give, receive, sell, or purchase, as inducements to insurance or

in connection therewith, any stock, bonds, or other obligations of an insurance company or other corporation, association, partnership, or individual.

Sections 3933.01 to 3933.03~~, inclusive,~~ of the Revised Code do not prevent the payment to an authorized officer, agent, or solicitor of such company, association, or partnership of commissions at customary rates on policies or contracts of insurance effected through ~~him~~ the officer, agent, or solicitor by which ~~he himself~~ the officer, agent, or solicitor is insured, provided such officer, agent, or solicitor holds ~~himself~~ self out as such and has been engaged in such business in good faith for a period of six months prior to any such payment. Such sections do not prohibit a mutual fire insurance company from paying dividends to policyholders at any time after such dividends have been earned.

Sec. 3933.02. No person shall be excused from attending, testifying, or producing any books, papers, or other documents before any court or magistrate having jurisdiction, upon any investigation, proceeding, or trial for a violation of any of sections 3933.01 to 3933.03~~, inclusive,~~ of the Revised Code, upon the ground that the testimony of evidence, documentary or otherwise, required of ~~him~~ the person may tend to incriminate or degrade ~~him~~ the person. No person shall be prosecuted or subject to any penalty or forfeiture on account of any transaction, matter, or thing concerning which ~~he~~ the person may so testify or produce evidence, documentary or otherwise, except for perjury committed in so testifying.

Sec. 3935.06. A corporation, an unincorporated association, a partnership, or an individual, whether located within or outside this state, may make application to the

superintendent of insurance for license as a rating bureau for such kinds of insurance, or subdivision or class of risk or a part or combination thereof, as are specified in its application and shall file the following therewith:

(A) A copy of its constitution, of its articles of agreement or association or its certificate of incorporation, and of its bylaws, rules, and regulations governing the conduct of its business;

(B) A list of its members and subscribers;

(C) The name and address of a resident of this state upon whom notices or orders of the superintendent, or process affecting such rating bureau, may be served;

(D) A statement of its qualifications as a rating bureau.

If the superintendent finds that the applicant is competent, trustworthy, and otherwise qualified to act as a rating bureau and that its constitution, its articles of agreement or association or certificate of conduct of its business conform to the law, ~~he~~ the superintendent shall issue a license specifying the kinds of insurance, or subdivision or class of risk or part or combination thereof, for which the applicant is authorized to act as a rating bureau. Every such application shall be granted or denied in whole or in part by the superintendent within sixty days of the date of its filing with ~~him~~ the superintendent. Licenses issued pursuant to this section shall remain in effect for three years unless sooner suspended or revoked by the superintendent. The fee for said license shall be twenty-five dollars. Licenses issued pursuant to this section may be suspended or revoked by the superintendent, after hearing upon notice, in the event the

rating bureau ceases to comply with this division. Every rating 6442
bureau shall notify the superintendent promptly of every change 6443
in any of the items described in divisions (A), (B), and (C) of 6444
this section. 6445

Subject to rules and regulations which have been approved 6446
by the superintendent as reasonable, each rating bureau shall 6447
permit any insurer, not a member, to be a subscriber to its 6448
rating services for any kind of insurance, or subdivision or 6449
class of risk or a part or combination thereof, for which it is 6450
authorized to act as a rating bureau. Notice of proposed changes 6451
in such rules and regulations shall be given to subscribers. 6452
Each rating bureau shall furnish its rating services without 6453
discrimination to its members and subscribers. The 6454
reasonableness of any rule or regulation in its application to 6455
subscribers, or the refusal of any rating bureau to admit an 6456
insurer as a subscriber, shall at the request of any subscriber 6457
or any such insurer, be reviewed by the superintendent at a 6458
hearing held upon at least ten days' written notice to such 6459
rating bureau and to such subscriber or insurer. If the 6460
superintendent finds that such rule or regulation is 6461
unreasonable in its application to subscribers, ~~he~~ the 6462
superintendent shall order that such rule or regulation is not 6463
applicable to subscribers. If the rating bureau fails to grant 6464
or reject an insurer's application for subscribership within 6465
thirty days after it was made, the insurer may request a review 6466
by the superintendent as if the application had been rejected. 6467
If the superintendent finds that the insurer has been refused 6468
admittance to the rating bureau as a subscriber without 6469
justification, ~~he~~ the superintendent shall order the rating 6470
bureau to admit the insurer as a subscriber. If ~~he~~ the 6471
superintendent finds that the action of the rating bureau was 6472

justified, ~~he~~ the superintendent shall make an order affirming its action. 6473 6474

No rating bureau shall adopt any rule which would prohibit or regulate the payment of dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers. 6475 6476 6477 6478

Co-operation among rating bureaus, or among rating bureaus and insurers, in rate making or in other matters covered by sections 3935.01 to 3935.17~~, inclusive,~~ of the Revised Code, is authorized, provided the filings resulting from such co-operation are subject to all such sections which are applicable to filings generally. The superintendent may review such co-operative activities and practices and if, after a hearing, ~~he~~ the superintendent finds that any such activity or practice is unfair, unreasonable, or otherwise inconsistent with such sections, ~~he~~ the superintendent may issue a written order specifying in what respects such activity or practice is unfair, unreasonable, or otherwise inconsistent, and requiring the discontinuance of such activity or practice. 6479 6480 6481 6482 6483 6484 6485 6486 6487 6488 6489 6490 6491

Any rating bureau may provide for the examination of policies, daily reports, binders, renewal certificates, indorsements, or other evidences of insurance, or the cancellation thereof, and may make reasonable rules governing their submission. Such rules shall contain a provision that, in the event any insurer does not within sixty days furnish satisfactory evidence to the rating bureau of the correction of any error or omission previously called to its attention by such rating bureau, the rating bureau shall notify the superintendent thereof. All information submitted for such examination shall be confidential. 6492 6493 6494 6495 6496 6497 6498 6499 6500 6501 6502

Any rating bureau may subscribe for or purchase actuarial, technical, or other services, and such services shall be available to all members and subscribers without discrimination.

Sec. 3935.10. The superintendent of insurance shall promulgate rules and statistical plans, reasonably adopted to each of the rating systems on file with ~~him~~ the superintendent, which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss and country-wide expense experience, in order that the experience of all insurers may be made available at least annually in such form and detail as is necessary to aid the superintendent in determining whether rating systems comply with the standards set forth in section 3935.03 of the Revised Code. Such rules and plans may also provide for the recording and reporting of expense experience items which are specially applicable to this state and which are not susceptible of determination by a prorating of country-wide expense experience. In promulgating such rules and plans, the superintendent shall give due consideration to the rating systems on file with ~~him~~ the superintendent and, in order that such rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of the plans used for such rating systems in other states. No insurer need record or report its loss experience on a classification basis that is inconsistent with the rating system filed by it. The superintendent may designate one or more rating bureaus or other agencies to assist ~~him~~ the superintendent in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the superintendent, to insurers and rating bureaus.

Reasonable rules and plans may be promulgated by the

superintendent for the interchange of data necessary for the application of rating plans. 6534 6535

In order to further uniform administration of rate regulatory laws, the superintendent and every insurer and rating bureau may exchange information and experience data with insurance supervisory officials, insurers, and rating bureaus in other states and may consult with them with respect to rate making and the application of rating systems. 6536 6537 6538 6539 6540 6541

The superintendent may make reasonable rules and regulations necessary to effectuate sections 3935.01 to 3935.17~~, inclusive,~~ of the Revised Code. 6542 6543 6544

Sections 119.01 to 119.13~~, inclusive,~~ of the Revised Code are applicable to the rule-making functions of the superintendent under sections 3935.01 to 3935.17~~, inclusive,~~ of the Revised Code, including appeals from the order of the superintendent in adopting, amending, or rescinding rules. 6545 6546 6547 6548 6549

Sec. 3935.12. (A) Every group, association, or other organization of insurers, whether located within or outside this state, which assists insurers which make their own filings or rating bureaus in rate making, by the collection and furnishing of loss or expense statistics, or by the submission of recommendations, but which does not make filings under sections 3935.01 to 3935.17~~, inclusive,~~ of the Revised Code, shall be known as an advisory organization. 6550 6551 6552 6553 6554 6555 6556 6557

(B) Every advisory organization shall file the following items with the superintendent of insurance: 6558 6559

(1) A copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its bylaws, rules, and regulations governing its activities; 6560 6561 6562

(2) A list of its members; 6563

(3) The name and address of a resident of this state upon whom notices or orders of the superintendent or process issued at ~~his~~ the superintendent's direction may be served; 6564 6565 6566

(4) An agreement that the superintendent may examine such advisory organization in accordance with section 3935.11 of the Revised Code. 6567 6568 6569

(C) If, after a hearing, the superintendent finds that the furnishing of information or assistance to insurers by such advisory organization involves any act or practice which is unfair, unreasonable, or otherwise inconsistent with sections 3935.01 to 3935.17~~, inclusive,~~ of the Revised Code, ~~he~~ the superintendent may issue a written order specifying in what respects such act or practice is unfair, unreasonable, or otherwise inconsistent with said sections, and requiring the discontinuance of such act or practice. 6570 6571 6572 6573 6574 6575 6576 6577 6578

(D) No insurer which makes its own filings, nor any rating bureau, shall support its filings by statistics or adopt rate-making recommendations furnished to it by an advisory organization which has not complied with this section or with an order of the superintendent involving such statistics or recommendations issued under division (C) of this section. If the superintendent finds such insurer or rating bureau to be in violation of this division, ~~he~~ the superintendent may issue an order requiring the discontinuance of such violation. 6579 6580 6581 6582 6583 6584 6585 6586 6587

Sec. 3935.13. Every group, association, or other organization of insurers which engages in joint underwriting or joint reinsurance shall be subject to regulation with respect to such underwriting or reinsurance as provided in this section, 6588 6589 6590 6591

subject, with respect to joint underwriting, to sections 3935.01 to 3935.17~~, inclusive,~~ of the Revised Code, and, with respect to joint reinsurance, to sections 3935.11, 3935.14, 3935.16, and 3935.17 of the Revised Code.

If, after a hearing, the superintendent of insurance finds that any activity or practice of any such group, association, or other organization is unfair, unreasonable, or otherwise inconsistent with sections 3935.01 to 3935.17~~, inclusive,~~ of the Revised Code, ~~he~~ the superintendent may issue a written order specifying in what respects such activity or practice is unfair, unreasonable, or otherwise inconsistent with said sections and requiring the discontinuance of such activity or practice.

Sec. 3935.14. After ~~the superintendent of insurance makes~~ making an order, ~~he~~ the superintendent shall, not later than the day following the issuance thereof, serve a certified copy of such order upon the parties, together with a statement of the time and method by which an appeal may be perfected. A copy of such order shall be mailed to attorneys of record representing the parties.

Any insurer, advisory organization, or rating bureau, aggrieved by any order or decision of the superintendent made without a hearing, may, within thirty days after notice of the order to the insurer or bureau, make written request to the superintendent for a hearing thereon. The superintendent shall hear such party within twenty days after receipt of such request and shall give not less than ten days' written notice of the time and place of the hearing. Within fifteen days after such hearing the superintendent shall affirm, reverse, or modify ~~his~~ the superintendent's previous action, specifying ~~his~~ the reasons therefor. Pending such hearing and decision thereon, the

superintendent may suspend or postpone the effective date of ~~his~~ 6622
the previous action. 6623

The superintendent may postpone or continue any hearing 6624
upon the application of any party or upon ~~his~~ the 6625
superintendent's own motion. 6626

Where the record of a hearing may be the basis of an 6627
appeal to court, a full and complete stenographic record of the 6628
hearing shall be made. 6629

All orders of the superintendent issued pursuant to 6630
sections 3935.01 to 3935.17~~, inclusive,~~ of the Revised Code, 6631
other than in adopting, amending, or rescinding rules, shall be 6632
governed entirely by said sections. 6633

Any party adversely affected by an order of the 6634
superintendent issued pursuant to an adjudication may appeal to 6635
the court of common pleas of Franklin county. 6636

Any party desiring to appeal shall file a notice of appeal 6637
with the superintendent, setting forth the order appealed from 6638
and the grounds of ~~his~~ the party's appeal. A copy of such 6639
notice of appeal shall also be filed by the appellant with the 6640
court. Such notices of appeal shall be filed within fifteen days 6641
after the mailing of the notice of the superintendent's order as 6642
provided in this section. 6643

The filing of a notice of appeal shall not automatically 6644
operate as a suspension of the order of the superintendent. If 6645
it appears to the court that an unusual hardship to the 6646
appellant will result from the execution of the superintendent's 6647
order pending determination of the appeal, the court may grant a 6648
suspension and fix its terms. 6649

Within ten days after receipt of notice of appeal from an 6650

order in any case in which a hearing is required by sections 3935.01 to 3935.17~~, inclusive,~~ of the Revised Code, the superintendent shall prepare and certify to the court a complete record of the proceedings in said case. Such record shall be prepared and transcribed, and the expense thereof shall be taxed as a part of the costs on the appeal. The appellant must provide security for costs satisfactory to the court of common pleas. Upon demand by any interested party, the superintendent shall furnish, at the cost of the party requesting same, a copy of the stenographic report of testimony offered and evidence submitted at any hearing and a copy of the complete record.

In the hearing of the appeal the court shall be confined to the record as certified to it by the superintendent, provided that the court may grant a request for the admission of additional evidence when satisfied that such additional evidence is newly discovered and could not with reasonable diligence have been ascertained prior to the hearing before the superintendent.

The court shall conduct a hearing on such appeal and shall give preference to all proceedings under sections 3935.01 to 3935.17~~, inclusive,~~ of the Revised Code, over all other civil cases, irrespective of the position of any such proceedings on the calendar of the court. The hearing in the court of common pleas shall proceed as in the trial of a civil action, and the court shall determine the rights of the parties in accordance with the law applicable to such action. At such hearing counsel may be heard on oral argument, briefs may be submitted, and evidence introduced if the court has granted a request for the presentation of additional evidence.

The court may affirm, reverse, vacate, or modify the order of the superintendent complained of in the appeal, and its order

shall be final and conclusive unless reversed, vacated, or 6681
modified on appeal. 6682

The court shall certify its judgment to the superintendent 6683
or take such other action in connection therewith as may be 6684
required to give its judgment effect. 6685

Sec. 3935.99. ~~(A)~~ Whoever violates sections 3935.01 to 6686
3935.17, inclusive, of the Revised Code, shall be fined not less 6687
than fifty nor more than five hundred dollars. 6688

Sec. 3937.10. (A) Every group, association, or other 6689
organization of insurers which engages in joint underwriting or 6690
joint reinsurance is subject to regulation with respect thereto 6691
as provided in this section, subject, with respect to joint 6692
underwriting, to sections 3937.01 to 3937.17~~, inclusive,~~ of the 6693
Revised Code, and, with respect to joint reinsurance, to 6694
sections 3937.11 and 3937.15 to 3937.17, inclusive, of the 6695
Revised Code. 6696

(B) If, after a hearing, the superintendent of insurance 6697
finds that any activity or practice of any such group, 6698
association, or other organization is unfair, unreasonable, or 6699
otherwise inconsistent with sections 3937.01 to 3937.17~~,~~ 6700
~~inclusive,~~ of the Revised Code,~~ he~~ the superintendent may issue 6701
a written order specifying in what respects such activity or 6702
practice is unfair, unreasonable, or otherwise inconsistent with 6703
such sections and requiring the discontinuance of such activity 6704
or practice. 6705

Sec. 3937.182. (A) As used in this section, "policy" 6706
includes an endorsement. 6707

(B) No policy of automobile or motor vehicle insurance 6708
that is covered by sections 3937.01 to 3937.17 of the Revised 6709

Code, including, but not limited to, the uninsured motorist 6710
coverage, underinsured motorist coverage, or both uninsured and 6711
underinsured motorist coverages included in such a policy as 6712
authorized by section 3937.18 of the Revised Code, and that is 6713
issued by an insurance company licensed to do business in this 6714
state, and no other policy of casualty or liability insurance 6715
that is covered by sections 3937.01 to 3937.17 of the Revised 6716
Code and that is so issued, shall provide coverage for judgments 6717
or claims against an insured for punitive or exemplary damages. 6718

(C) This section applies only to policies of automobile, 6719
motor vehicle, or other casualty or liability insurance as 6720
described in division (B) of this section that are issued or 6721
renewed on or after ~~the effective date of this section~~ January 6722
5, 1988. 6723

Sec. 3941.46. Any foreign or alien mutual company licensed 6724
in this state which is a party to a merger or consolidation 6725
shall on or before the effective date thereof file with the 6726
superintendent a copy of the agreement. If the surviving company 6727
is, at the effective date of the merger or consolidation, 6728
licensed as an insurer in this state its license shall continue 6729
in effect as though no merger or consolidation had taken place, 6730
and on request the superintendent shall transfer to it any 6731
additional licenses issued by this state and then held by any 6732
nonsurviving insurer which is a party to the merger or 6733
consolidation. Revocation or suspension of any of such licenses 6734
shall be made only pursuant to the procedures and on the grounds 6735
provided in this code, provided, that an additional ground for 6736
revocation or suspension of license shall be that the merger or 6737
consolidation may ~~save~~ have the effect of substantially 6738
lessening competition or tending to create a monopoly as to any 6739
line of insurance in this state. On receipt of a copy of the 6740

agreement of merger or consolidation to which this section applies, the superintendent shall determine whether such revocation or suspension proceedings should be commenced. In making such determination the superintendent may consider any information on file with any agency, division or department of this or any other state, together with any additional relevant information which shall be furnished by the company or companies, pursuant to ~~his~~ the superintendent's request. A determination that the merger or consolidation does not violate the additional ground provided in this section shall be conclusively established by the lapse of three months after the effective date of the merger or consolidation without commencement of proceedings to revoke or suspend the license or licenses on that ground. 6741 6742 6743 6744 6745 6746 6747 6748 6749 6750 6751 6752 6753 6754

Sec. 3951.04. The superintendent of insurance shall issue certificates of authority to any person, firm, association, partnership, or corporation making application therefor who is trustworthy and competent to act as a public insurance adjuster in such manner as to safeguard the interest of the public and who ~~have~~ has complied with the prerequisites herein described. A certificate of authority issued to a firm, association, partnership, or corporation shall authorize only the members of the firm, association, or partnership or the officers and directors of the corporation, specified in the certificate of authority to act as a public insurance adjuster. 6755 6756 6757 6758 6759 6760 6761 6762 6763 6764 6765

The superintendent shall not issue any certificate of authority to any applicant who is convicted of a felony, or any crime or offense involving fraudulent or dishonest practice or who, within three years preceding the date of filing such application, has been guilty of any practice which would be grounds for suspension or revocation of a certificate of 6766 6767 6768 6769 6770 6771

authority as a public insurance adjuster.

Sec. 3951.06. (A) A fee of one hundred dollars shall be paid to the superintendent by the applicant for a public insurance adjuster's certificate of authority before the initial application is granted. If the applicant is a firm, association, partnership, or corporation, the fee shall be paid for each person specified in the application.

(B) A firm, association, partnership, or corporation to which a certificate of authority has been issued by the superintendent may at any time make an application to the superintendent for the issuance of a supplemental certificate of authority authorizing additional officers or directors of the corporation or members of the firm, association, or partnership to act as a public insurance adjuster, and the superintendent may thereupon issue to such firm, association, partnership, or corporation a supplemental certificate accordingly upon the payment of a fee of fifty dollars for each member or officer or director thereby authorized to act as a public insurance adjuster.

(C) Every public insurance adjuster's certificate of authority shall expire on the thirty-first day of December of the calendar year in which it was issued, and shall be renewed according to the standard renewal procedure of sections 4745.01 to 4745.03~~, inclusive,~~ of the Revised Code. Every public insurance adjuster's certificate of authority with a payment of a fifty-dollar fee can be renewed for the ensuing year without examination, but if an application for the renewal of such certificate has been filed with the superintendent before January first of any year the certificate of authority sought to be renewed shall continue in full force and effect until the

issuance by the superintendent of the new certificate applied for or until five days after the superintendent has refused to issue a new certificate and has served notice of such refusal on the applicant therefor. Service of such notice shall be made by registered or certified mail directed to the applicant at the place of business specified in the application. 6802 6803 6804 6805 6806 6807

(D) No certificate of authority shall be issued or renewed unless, the applicant is a resident of the state, a lending institution, or a bona fide employee of a lending institution who is authorized to act as a public insurance adjuster in another state on behalf of the lending institution, and there is on file with the superintendent a bond, executed by such applicant and by approved sureties, in the penal sum of one thousand dollars for each person designated in the application, conditioned for the faithful performance by such applicant and by all persons designated in such application, of their duties as public insurance adjusters. Such bond shall be approved as to form by the attorney general and as to sufficiency by the superintendent. Such bond shall be made payable to the state and shall specifically authorize recovery for and on behalf of an injured party of the sum provided therein in case the adjuster has been guilty of fraudulent or dishonest practices in connection with the transaction of business as an adjuster. 6808 6809 6810 6811 6812 6813 6814 6815 6816 6817 6818 6819 6820 6821 6822 6823 6824

Sec. 3951.10. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the superintendent of insurance shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a certificate issued ~~issued~~ pursuant to this chapter. 6825 6826 6827 6828 6829 6830

Sec. 3951.99. (A) Any person, firm, association, 6831

partnership, or corporation required by sections 3951.01 to 3951.09~~, inclusive,~~ of the Revised Code~~,~~ to obtain a certificate of authority to act as a public insurance adjuster, who adjusts any insurance losses without previously having obtained the required certificate of authority or who adjusts any insurance loss after ~~his~~ the person's, or ~~its~~ the firm's, association's, partnership's, or corporation's, certificate of authority has been revoked, shall be fined not less than one hundred nor more than five hundred dollars for each loss adjusted without such certificate of authority. 6832 6833 6834 6835 6836 6837 6838 6839 6840 6841

(B) The penalties in division (A) of this section shall not limit the authority of the superintendent of insurance to suspend, revoke, or refuse to issue a certificate of authority for the causes set forth in section 3951.07 of the Revised Code. 6842 6843 6844 6845

Sec. 3953.01. As used in this chapter: 6846

(A) "Title insurance" means insuring, guaranteeing, or indemnifying owners of real property or others interested in real property against loss or damage suffered by reason of liens or encumbrances upon, defect in, or the unmarketability of the title to the real property, guaranteeing, warranting, or otherwise insuring by a title insurance company the correctness of searches relating to the title to real property, or doing any business in substance equivalent to any of the foregoing. 6847 6848 6849 6850 6851 6852 6853 6854

(B) "The business of title insurance" means the following: 6855

(1) The making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor, or surety, any contract or policy of title insurance; 6856 6857 6858

(2) The transacting, or proposing to transact, any phase of title insurance, including solicitation, negotiation 6859 6860

preliminary to execution, execution of a contract of title insurance, insuring, and transacting matters subsequent to the execution of the contract and arising out of it, including reinsurance; 6861 6862 6863 6864

(3) The doing or proposing to do any business in substance equivalent to any of the foregoing. 6865 6866

(C) "Title insurance company" means any of the following: 6867

(1) Any domestic title guaranty company and domestic title guarantee and trust company to the extent that they are engaged in the business of title insurance; 6868 6869 6870

(2) Any domestic company organized under this chapter for the purpose of insuring titles to real property; 6871 6872

(3) Any title insurance company organized under the laws of another state or foreign government; 6873 6874

(4) Any domestic or foreign company that has the powers and is authorized to insure titles to real estate within this state on December 12, 1967, and that meets the requirements of this chapter. 6875 6876 6877 6878

(D) "Applicants for insurance" includes all those, whether or not a prospective insured, who from time to time apply to a title insurance company or to its agent for title insurance and who at the time of that application are not agents for a title insurance company. 6879 6880 6881 6882 6883

(E) "Risk premium" for title insurance means that portion of the fee charged by a title insurance company, agent of a title insurance company, or approved attorney of a title insurance company to an insured or an applicant for insurance for the assumption by the title insurance company of the risk 6884 6885 6886 6887 6888

created by the issuance of the title insurance policy. 6889

(F) "Fee" for title insurance means the risk premium, abstracting or searching charge, examination charge, and every other charge, exclusive of settlement, closing, or escrow charges, whether denominated premium or otherwise, made by a title insurance company, agent of a title insurance company, or an approved attorney of a title insurance company to an insured or an applicant for insurance for any policy or contract for the issuance of title insurance. "Fee" does not include any charges paid to and retained by an attorney at law or abstractor acting as an independent contractor whether or not the attorney or abstractor is acting as an agent of a title insurance company or an approved attorney and does not include any charges made for special services not constituting title insurance, even though performed in connection with a title insurance policy or contract. 6890 6891 6892 6893 6894 6895 6896 6897 6898 6899 6900 6901 6902 6903 6904

(G) "Approved attorney" means an attorney at law who is not an employee of a title insurance company or a title insurance agent and upon whose examination of title and report on the examination a title insurance company may issue a policy of title insurance. 6905 6906 6907 6908 6909

(H) "Title insurance agent" means a person, partnership, or corporation authorized in writing by a title insurance company to solicit insurance and collect premiums and to issue or countersign policies on its behalf. "Title insurance agent" does not include officers and salaried employees of any title insurance company authorized to do a title insurance business within this state. 6910 6911 6912 6913 6914 6915 6916

(I) "Single insurance risk" means the insured amount of any policy or contract of title insurance issued by a title 6917 6918

insurance company. 6919

(J) "Foreign title insurance company" means a title insurance company organized under the laws of any state or territory of the United States or the District of Columbia. 6920 6921 6922

(K) "Alien title insurance company" means a title insurance company that is incorporated or organized under the laws of any foreign nation or any province or territory of a foreign nation and that is not a foreign title insurance company. 6923 6924 6925 6926 6927

(L) "Non-directed escrow funds" means any funds delivered to a title insurance agent or title insurance company with instructions to hold or disburse the funds pursuant to a transaction in which a title insurance policy will be issued, but without written instructions to either deposit the funds in an account for the benefit of a specific person or to pay the interest earned on the funds to a specific person. 6928 6929 6930 6931 6932 6933 6934

(M) "Business day" means any day, other than a Saturday or Sunday, or a legal holiday, on which a bank, savings and loan association, credit union, or savings bank is open to the public for carrying on substantially all of its functions. 6935 6936 6937 6938

(N) "Housing accommodations" and "restrictive covenant" have the same meanings as in section 4112.01 of the ~~revised code~~ Revised Code. 6939 6940 6941

Sec. 3953.07. No policy or contract of title insurance shall be written unless it is based upon a reasonable examination of the title unless a determination of insurability of title has been made in accordance with sound underwriting practices for title insurance companies and unless, on and after ~~the effective date of this amendment~~ March 30, 1999, section 6942 6943 6944 6945 6946 6947

3953.29 of the Revised Code is complied with in connection with 6948
registered land. Evidence that a reasonable examination of a 6949
title has been made shall be preserved and retained in the files 6950
of the title insurance company or its agents for a period of not 6951
less than ten years after the policy or contract of title 6952
insurance has been issued. This section does not apply to a 6953
company assuming no primary liability in a contract of 6954
reinsurance and does not apply to a company acting as a 6955
coinsurer if one of the other coinsuring companies has complied 6956
with this section. 6957

Sec. 3953.14. (A) Except as provided in Chapter 3953. of 6958
the Revised Code the investments of a title insurance company 6959
shall be governed by sections 3925.05 to 3925.21~~, inclusive,~~ of 6960
the Revised Code. 6961

(B) Provided it shall at all times keep at least one 6962
hundred thousand dollars invested in the classes of securities 6963
authorized for the investment of capital other than title plant 6964
and real estate as provided in division (C) of this section, a 6965
title insurance company may invest not more than ten per cent of 6966
its admitted assets in a title plant without the prior approval 6967
of the superintendent. The title plant shall be considered an 6968
admitted asset at the fair value thereof. In determining the 6969
fair value of a title plant, no value shall be attributed to 6970
furniture and fixtures, and the real estate in which the title 6971
plant is housed shall be carried as real estate. The value of 6972
title abstracts, title briefs, copies of conveyances or other 6973
documents, indices, and other records comprising the title 6974
plant, shall be determined by considering the expenses incurred 6975
in obtaining them, the age thereof, the cost of replacements 6976
less depreciation, and all other relevant factors. Once the 6977
value of a title plant has been determined, such value may be 6978

increased only by the acquisition of another title plant by purchase, consolidation, or merger; in no event shall the value of the title ~~plan~~ <u>plant</u> be increased by additions made thereto as part of the normal course of abstracting and insuring titles to real estate. Subject to the above limitations and with the approval of the superintendent of insurance, a title insurance company may enter into agreements with one or more other title insurance companies authorized to do business in this state, whereby such companies shall participate in the ownership, management, and control of a title plant to service the needs of all such companies or such companies may hold stock of a corporation owning and operating a title plant for such purposes; provided that each of the companies participating in the ownership, management, and control of such jointly owned title plant shall keep the sum of one hundred thousand dollars invested as above set forth. 6979 6980 6981 6982 6983 6984 6985 6986 6987 6988 6989 6990 6991 6992 6993 6994

(C) Any title insurance company may purchase, receive, hold, and convey real estate or any interest therein: 6995 6996

(1) Required for its convenient accommodation in the transaction of its business with reasonable regard to future needs; 6997 6998 6999

(2) Acquired in connection with a claim under a policy of title insurance; 7000 7001

(3) Acquired in satisfaction or on account of loans, mortgages, liens, judgments, or decrees, previously owing to it in the course of its business; 7002 7003 7004

(4) Acquired in part payment of the consideration of the sale of real property owned by it if the transaction results in a net reduction in the company's investment in real estate; 7005 7006 7007

(5) Reasonably necessary for the purpose of maintaining or enhancing the sale value of real property previously acquired or held by it under ~~subdivisions~~ division (C)(1), (2), (3), or (4) of this ~~division~~ section.

Sec. 3953.29. On and after ~~the effective date of this section~~ March 30, 1999, in connection with any transfer of registered land that occurs on or after that date in accordance with Chapters 5309. and 5310. of the Revised Code, no title insurance company shall write a policy or contract of title insurance that includes any specific reference to any restrictive covenant that appears to apply to the transferred registered land, if any inclusion of the restrictive covenant in a transfer, rental, or lease of housing accommodations, any honoring or exercising of the restrictive covenant, or any attempt to honor or exercise the restrictive covenant constitutes an unlawful discriminatory practice under division (H)(9) of section 4112.02 of the Revised Code. On and after ~~the effective date of this section~~ March 30, 1999, if a policy or contract of title insurance written by a title insurance company in connection with any transfer of registered land that occurs on or after that date in accordance with Chapters 5309. and 5310. of the Revised Code includes a general or catch-all reference to easements, estates, liens, encumbrances, charges, rights, or restrictions of record, the general or catch-all reference shall be regarded by the parties to the transfer of the registered land and their successors in interest and shall be deemed for all legal purposes to refer to and incorporate by reference easements, estates, liens, encumbrances, charges, rights, and restrictions of record other than a restrictive covenant the inclusion of which in a transfer, rental, or lease of housing accommodations, the honoring or exercising of which,

or the attempt to honor or exercise of which constitutes an unlawful discriminatory practice under division (H)(9) of section 4112.02 of the Revised Code. 7039 7040 7041

Sec. 3956.01. As used in this chapter: 7042

(A) "Account" means either of the two accounts created under section 3956.06 of the Revised Code. 7043 7044

(B) "Contractual obligation" means any obligation under a policy, contract, or certificate under a group policy or contract, or portion of the policy or contract, for which coverage is provided under section 3956.04 of the Revised Code. 7045 7046 7047 7048

(C) "Covered policy or contract" means any policy, contract, or group certificate within the scope of section 3956.04 of the Revised Code. 7049 7050 7051

(D) "Impaired insurer" means a member insurer that, after November 20, 1989, is not an insolvent insurer and is placed under an order of rehabilitation or conservation by a court of competent jurisdiction. 7052 7053 7054 7055

(E) "Insolvent insurer" means a member insurer that, after November 20, 1989, is placed under an order of liquidation by a court of competent jurisdiction with a finding of insolvency. 7056 7057 7058

(F)(1) "Member insurer" means any insurer that holds a certificate of authority or is licensed to transact in this state any kind of insurance for which coverage is provided under section 3956.04 of the Revised Code, and includes any insurer whose certificate of authority or license in this state may have been suspended, revoked, not renewed, or voluntarily withdrawn after November 20, 1989. 7059 7060 7061 7062 7063 7064 7065

(2) "Member insurer" does not include any of the 7066

following: 7067

(a) A health insuring corporation; 7068

(b) A fraternal benefit society; 7069

(c) A self-insurance or joint self-insurance pool or plan of the state or any political subdivision of the state; 7070 7071

(d) A mutual protective association; 7072

(e) An insurance exchange; 7073

(f) Any person who qualifies as a "member insurer" under section 3955.01 of the Revised Code and who does not receive premiums on covered policies or contracts; 7074 7075 7076

(g) Any entity similar to any of those described in divisions (F)(2)(a) to (f) of this section. 7077 7078

(3) "Member insurer" includes any insurer that operates any of the entities described in division (F)(2) of this section as a line of business, and not as a separate, affiliated legal entity, and otherwise qualifies as a member insurer. 7079 7080 7081 7082

(G) "Premiums" means amounts received on covered policies or contracts, less premiums, considerations, and deposits returned on the policies or contracts, and less dividends and experience credits on the policies and contracts. "Premiums" does not include either of the following: 7083 7084 7085 7086 7087

(1) Any amounts in excess of one million dollars received on any unallocated annuity contract not issued under a governmental retirement plan established under Section 401, 403(b), or 457 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended; 7088 7089 7090 7091 7092

(2) Any amounts received for any policies or contracts or 7093

for the portions of any policies or contracts for which coverage is not provided under section 3956.04 of the Revised Code. Division (G)(2) of this section shall not be construed to require the exclusion, from assessable premiums, of premiums paid for coverages in excess of the interest limitations specified in division (B)(2)(c) of section 3956.04 of the Revised Code or of premiums paid for coverages in excess of the limitations with respect to any one individual, any one participant, or any one contract holder specified in division (C)(2) of section 3956.04 of the Revised Code. 7094 7095 7096 7097 7098 7099 7100 7101 7102 7103

(H) "Resident" means any person who resides in this state at the time a member insurer is determined to be an impaired or insolvent insurer and to whom a contractual obligation is owed. A person may be a resident of only one state, which, in the case of a person other than a natural person, shall be its principal place of business. Citizens of the United States who are either residents of a foreign country or residents of a United States possession, territory, or protectorate that does not have an association similar to the association created by this chapter shall be considered residents of the state of domicile of the insurer that issued the policy or contract. 7104 7105 7106 7107 7108 7109 7110 7111 7112 7113 7114

(I) "Structured settlement annuity" means an annuity purchased in order to fund periodic payments for a plaintiff or other claimant in payment for or with respect to personal injury suffered by the plaintiff or other claimant. 7115 7116 7117 7118

(J) "Subaccount" means any of the three subaccounts created under division (A) of section 3956.06 of the Revised Code. 7119 7120 7121

(K) "Supplemental contract" means any agreement entered into for the distribution of policy or contract proceeds. 7122 7123

~~(K)~~(L) "Unallocated annuity contract" means any annuity contract or group annuity certificate that is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed to an individual by an insurer under that contract or certificate.

Sec. 3956.09. (A) For the purpose of providing the funds necessary to carry out the powers and duties of the Ohio life and health insurance guaranty association, the board of directors shall assess the member insurers, separately for each subaccount or account, at such time and for such amounts as the board finds necessary. Assessments shall be due not less than thirty days after prior written notice to the member insurers and shall accrue interest at ten per cent per year on and after the due date.

(B) There shall be two classes of assessments, as follows:

(1) Class A assessments shall be made for the purpose of meeting administrative and legal costs and other expenses, and the cost of examinations conducted under division (E) of section 3956.12 of the Revised Code. Class A assessments may be made whether or not related to a particular impaired or insolvent insurer.

(2) Class B assessments shall be made to the extent necessary to carry out the powers and duties of the association under section 3956.08 of the Revised Code with regard to an impaired or an insolvent insurer.

(C)(1) The amount of any class A assessment shall be determined by the board and may be made on a pro rata or non-pro rata basis. If pro rata, the board may provide that it be credited against future class B assessments. A non-pro rata

assessment shall not exceed two hundred dollars per member insurer in any one calendar year. The amount of any class B assessment shall be allocated for assessment purposes among the subaccounts and accounts pursuant to an allocation formula which may be based on the premiums or reserves of the impaired or insolvent insurer or on any other standard considered by the board in its sole discretion as being fair and reasonable under the circumstances. 7153 7154 7155 7156 7157 7158 7159 7160

(2) Class B assessments against member insurers for each subaccount or account shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies or contracts covered by each subaccount or account for the most recent three calendar years for which information is available preceding the year in which the insurer became impaired or insolvent, as the case may be, bears to such premiums received on business in this state for such calendar years by all assessed member insurers. 7161 7162 7163 7164 7165 7166 7167 7168 7169

(3) Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer shall not be made until necessary to implement the purposes of this chapter. Classification of assessments under division (B) of this section and computation of assessments under this division shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible. 7170 7171 7172 7173 7174 7175 7176 7177

(D) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. If an assessment against a member insurer is abated, or deferred in 7178 7179 7180 7181 7182

whole or in part, the amount by which the assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. In determining whether the payment of an assessment would endanger the ability of a member insurer to fulfill its contractual obligations, the board shall consider the adequacy of the capital and surplus of the member insurer in relation to the premiums written, the assets, and the reserve liabilities of that member insurer. 7183 7184 7185 7186 7187 7188 7189 7190 7191

(E)(1) The total of all assessments upon a member insurer for the life insurance and annuity account, which includes the life insurance subaccount, the annuity subaccount, and the unallocated annuity subaccount, shall not in any one calendar year exceed two per cent of the insurer's average premiums received per year in this state on the policies and contracts covered by each such subaccount, and for the health insurance account, shall not in any one calendar year exceed two per cent of the insurer's average premiums received per year in this state on the policies and contracts covered by such account, during the three calendar years preceding the year in which the impaired or insolvent insurer or insurers became impaired or insolvent. If the maximum assessment for a subaccount or account, together with the other assets of the association in the subaccount or account, does not provide in any one year in the subaccount or account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed for the subaccount or account as soon thereafter in succeeding years as permitted by division (E) of this section. 7192 7193 7194 7195 7196 7197 7198 7199 7200 7201 7202 7203 7204 7205 7206 7207 7208 7209 7210 7211

(2) If the maximum assessment under division (E)(1) of this section for any subaccount of the life insurance and 7212 7213

annuity account in any succeeding year does not provide an amount sufficient to carry out the responsibilities of the association, then pursuant to division (C)(2) of this section, the board shall allocate the necessary additional amount among the other subaccounts of the life and annuity account in the manner set forth in division (E)(1) of this section, but the maximum assessment for a subaccount shall not exceed one per cent in any one calendar year. 7214 7215 7216 7217 7218 7219 7220 7221

(3) Where assessments for two or more impaired or insolvent insurers have been made within the same calendar year, and the sum of those assessments exceeds the two per cent calendar year assessment limitation under division (E)(1) of this section, the board, with the approval of the superintendent of insurance, may allocate among the accounts of such insurers the sums assessed within the two per cent limitation. 7222 7223 7224 7225 7226 7227 7228

(F) The board, by an equitable method as established in the plan of operation, may refund to member insurers, in proportion to the contribution of each insurer to that subaccount or account, the amount by which the assets of the subaccount or account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that subaccount or account, including assets accruing from assignment, subrogation, net realized gains, and income from investments. A reasonable amount may be retained in any subaccount or account to provide funds for the continuing expenses of the association and for future losses. 7229 7230 7231 7232 7233 7234 7235 7236 7237 7238 7239 7240

(G) A member insurer, in determining its premium rates and policyowner dividends as to any kind of insurance within the scope of this chapter, may consider the amount reasonably 7241 7242 7243

necessary to meet its assessment obligations under this section. 7244

(H) The association, upon request, shall issue to an 7245
insurer paying an assessment under this section, other than a 7246
class A assessment, a certificate of contribution, in a form 7247
approved by the superintendent, for the amount of the assessment 7248
so paid. All outstanding certificates shall be of equal dignity 7249
and priority without reference to amounts or dates of issue. A 7250
certificate of contribution may be shown by the insurer in its 7251
financial statement as an asset in the form and for the amount, 7252
net of any amounts recovered through a tax offset, and for the 7253
period of time the superintendent may approve. 7254

(I) Any member insurer that has contributed funds to pay 7255
claims of an impaired or insolvent insurer, pursuant to an 7256
agreement entered into with the superintendent and approved by 7257
the Franklin county court of common pleas during the five years 7258
preceding ~~the effective date of this section~~ November 20, 1989, 7259
or at any time following ~~the effective date of this section~~ 7260
November 20, 1989, shall receive a credit against any 7261
assessments levied pursuant to this section, whether the 7262
assessments are class A assessments or class B assessments, in 7263
the amount of the contribution. 7264

If the amount of the credit exceeds the amount of 7265
assessments levied upon a member insurer in any one year, the 7266
balance of that credit shall be carried forward to subsequent 7267
years and will reduce the amount of future assessments until the 7268
total amount of the credit has been applied to the future 7269
assessments. 7270

For the purposes of this division, an impaired or 7271
insolvent insurer is an insurer that meets the definitions set 7272
forth in section 3956.01 of the Revised Code, and any insurer 7273

that would have met these definitions, if it had been in effect at the time of such contribution.

(J) Division (I) of this section does not apply if an insurer has contributed funds pursuant to that division and has offset those contributions against its premium or franchise tax liability pursuant to any provision of the Revised Code authorizing the establishment of a plan for the distribution of voluntary contributions to pay the life, sickness and accident, or annuity claims of residents of this state that are unpaid due to the insolvency of an insolvent insurer.

Sec. 3956.10. (A)(1) The Ohio life and health insurance guaranty association shall submit to the superintendent of insurance a plan of operation and any amendments to the plan necessary or suitable to ensure the fair, reasonable, and equitable administration of the association. The plan of operation and any amendments shall become effective upon the written approval of the superintendent, or unless the superintendent has not disapproved it within thirty days.

(2) If the association fails to submit a suitable plan of operation within six months following ~~the effective date of this section~~ November 20, 1989, or if at any time after that date the association fails to submit suitable amendments to the plan, the superintendent, after notice and hearing, shall adopt reasonable rules that are necessary or advisable to effectuate the provisions of this chapter. The rules shall continue in force until modified by the superintendent or superseded by a plan submitted by the association and approved by the superintendent.

(B) All member insurers shall comply with the plan of operation.

(C) In addition to requirements enumerated elsewhere in this chapter, the plan of operation shall do the following: 7303 7304

(1) Establish procedures for handling the assets of the association; 7305 7306

(2) Establish the amount and method of reimbursing members of the board of directors under section 3956.07 of the Revised Code; 7307 7308 7309

(3) Establish regular places and times for meetings, including but not limited to telephone conference calls, of the board of directors; 7310 7311 7312

(4) Establish procedures for records to be kept of all financial transactions of the association, its agents, and the board of directors; 7313 7314 7315

(5) Establish the procedures whereby selections for the board of directors will be made and submitted to the superintendent; 7316 7317 7318

(6) Establish any additional procedures for assessments under section 3956.09 of the Revised Code, including, but not limited to, allocating sums raised by assessments when two or more insolvencies occur in the same calendar year that are subject to the two per cent calendar year assessment limitation; 7319 7320 7321 7322 7323

(7) Contain additional provisions necessary or proper for the execution of the powers and duties of the association. 7324 7325

(D) The plan of operation may provide that any or all powers and duties of the association, except those under division (O)(3) of section 3956.08 and section 3956.09 of the Revised Code, are delegated to a corporation, association, or other organization that performs or will perform functions 7326 7327 7328 7329 7330

similar to those of the association, or its equivalent, in two or more states. The corporation, association, or organization shall be reimbursed for any payments made on behalf of the association, and shall be paid for its performance of any function of the association. A delegation under this division shall take effect only with the approval of both the board of directors and the superintendent, and may be made only to a corporation, association, or organization that extends protection not substantially less favorable and effective than that provided by this chapter. 7331 7332 7333 7334 7335 7336 7337 7338 7339 7340

Sec. 3959.01. As used in this chapter: 7341

(A) "Administration fees" means any amount charged a covered person for services rendered. "Administration fees" includes commissions earned or paid by any person relative to services performed by an administrator. 7342 7343 7344 7345

(B) "Administrator" means any person who adjusts or settles claims on, residents of this state in connection with life, dental, health, prescription drugs, or disability insurance or self-insurance programs. "Administrator" includes a pharmacy benefit manager. "Administrator" does not include any of the following: 7346 7347 7348 7349 7350 7351

(1) An insurance agent or solicitor licensed in this state whose activities are limited exclusively to the sale of insurance and who does not provide any administrative services; 7352 7353 7354

(2) Any person who administers or operates the workers' compensation program of a self-insuring employer under Chapter 4123. of the Revised Code; 7355 7356 7357

(3) Any person who administers pension plans for the benefit of the person's own members or employees or administers 7358 7359

pension plans for the benefit of the members or employees of any other person; 7360 7361

(4) Any person that administers an insured plan or a self-insured plan that provides life, dental, health, or disability benefits exclusively for the person's own members or employees; 7362 7363 7364

(5) Any health insuring corporation holding a certificate of authority under Chapter 1751. of the Revised Code or an insurance company that is authorized to write life or sickness and accident insurance in this state. 7365 7366 7367 7368

(C) "Aggregate excess insurance" means that type of coverage whereby the insurer agrees to reimburse the insured employer or trust for all benefits or claims paid during an agreement period on behalf of all covered persons under the plan or trust which exceed a stated deductible amount and subject to a stated maximum. 7369 7370 7371 7372 7373 7374

(D) "Contracted pharmacy" or "pharmacy" means a pharmacy located in this state participating in either the network of a pharmacy benefit manager or in a health care or pharmacy benefit plan through a direct contract or through a contract with a pharmacy services administration organization, group purchasing organization, or another contracting agent. 7375 7376 7377 7378 7379 7380

(E) "Contributions" means any amount collected from a covered person to fund the self-insured portion of any plan in accordance with the plan's provisions, summary plan descriptions, and contracts of insurance. 7381 7382 7383 7384

(F) "Drug product reimbursement" means the amount paid by a pharmacy benefit manager to a contracted pharmacy for the cost of the drug dispensed to a patient and does not include a dispensing or professional fee. 7385 7386 7387 7388

(G) "Fiduciary" has the meaning set forth in section 1002(21)(A) of the "Employee Retirement Income Security Act of 1974," 88 Stat. 829, 29 U.S.C. 1001, as amended. 7389 7390 7391

(H) "Fiscal year" means the twelve-month accounting period commencing on the date the plan is established and ending twelve months following that date, and each corresponding twelve-month accounting period thereafter as provided for in the summary plan description. 7392 7393 7394 7395 7396

(I) "Insurer" means an entity authorized to do the business of insurance in this state or, for the purposes of this section, a health insuring corporation authorized to issue health care plans in this state. 7397 7398 7399 7400

(J) "Managed care organization" means an entity that provides medical management and cost containment services and includes a medicaid managed care organization, as defined in section 5167.01 of the Revised Code. 7401 7402 7403 7404

(K) "Maximum allowable cost" means a maximum drug product reimbursement for an individual drug or for a group of therapeutically and pharmaceutically equivalent multiple source drugs that are listed in the United States food and drug administration's approved drug products with therapeutic equivalence evaluations, commonly referred to as the orange book. 7405 7406 7407 7408 7409 7410 7411

(L) "Maximum allowable cost list" means a list of the drugs for which a pharmacy benefit manager imposes a maximum allowable cost. 7412 7413 7414

(M) "Multiple employer welfare arrangement" has the same meaning as in section 1739.01 of the Revised Code. 7415 7416

(N) "Pharmacy benefit manager" means an entity that 7417

contracts with pharmacies on behalf of an employer, a multiple employer welfare arrangement, public employee benefit plan, state agency, insurer, managed care organization, or other third-party payer to provide pharmacy health benefit services or administration. "Pharmacy benefit manager" includes the state pharmacy benefit manager selected under section 5167.24 of the Revised Code. 7418 7419 7420 7421 7422 7423 7424

(O) "Plan" means any arrangement in written form for the payment of life, dental, health, or disability benefits to covered persons defined by the summary plan description and includes a drug benefit plan administered by a pharmacy benefit manager. 7425 7426 7427 7428 7429

(P) "Plan sponsor" means the person who establishes the plan. 7430 7431

(Q) "Self-insurance program" means a program whereby an employer provides a plan of benefits for its employees without involving an intermediate insurance carrier to assume risk or pay claims. "Self-insurance program" includes but is not limited to employer programs that pay claims up to a prearranged limit beyond which they purchase insurance coverage to protect against unpredictable or catastrophic losses. 7432 7433 7434 7435 7436 7437 7438

(R) "Specific excess insurance" means that type of coverage whereby the insurer agrees to reimburse the insured employer or trust for all benefits or claims paid during an agreement period on behalf of a covered person in excess of a stated deductible amount and subject to a stated maximum. 7439 7440 7441 7442 7443

(S) "Summary plan description" means the written document adopted by the plan sponsor which outlines the plan of benefits, conditions, limitations, exclusions, and other pertinent details 7444 7445 7446

relative to the benefits provided to covered persons thereunder. 7447

(T) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code. 7448 7449

Sec. 3960.07. (A) No purchasing group shall conduct business in this state unless it has done both of the following: 7450 7451

(1) Issued a notice to the superintendent of insurance that does all of the following: 7452 7453

(a) Identifies the state in which the purchasing group is domiciled and all other states in which the group intends to do business; 7454 7455 7456

(b) Specifies the lines and classifications of liability insurance that the purchasing group intends to purchase and specifies the method by which and the person or persons, if any, through whom insurance will be offered to its members whose risks are resident or located in this state; 7457 7458 7459 7460 7461

(c) Identifies the name and domicile of the insurance company from which the purchasing group intends to purchase its insurance; 7462 7463 7464

(d) Identifies the principal place of business of the purchasing group; 7465 7466

(e) Provides any other information that the superintendent may require to verify that the purchasing group is qualified under division (I) of section 3960.01 of the Revised Code. 7467 7468 7469

A purchasing group, within ten days, shall notify the superintendent of any changes in any of the items set forth in division (A)(1) this section. 7470 7471 7472

(2) Registered with the superintendent, paid a filing fee 7473

as determined by the superintendent, and consented to the 7474
exercise of jurisdiction over it by the superintendent and the 7475
courts of this state. The fee shall be paid into the state 7476
treasury to the credit of the department of insurance operating 7477
fund pursuant to section 3901.021 of the Revised Code. 7478

Division (A)(2) of this section does not apply to a 7479
purchasing group to which all of the following apply: 7480

(a) It was domiciled in any state before April 1, 1986, 7481
and on and after October 27, 1986; 7482

(b) It purchased insurance from an insurance carrier 7483
licensed in any state before and after October 27, 1986; 7484

(c) It was a purchasing group meeting the requirements of 7485
the federal "Product Liability Risk Retention Act of 1981," 95 7486
Stat. 949, 15 U.S.C.A. 3901, before October 27, 1986; 7487

(d) It does not purchase insurance that was not authorized 7488
for purposes of an exemption under that act, as in effect before 7489
October 27, 1986. 7490

(B) Each purchasing group that is required to give notice 7491
pursuant to division (A)(1) of this section also shall furnish 7492
any information that may be required by the superintendent to do 7493
both of the following: 7494

(1) Determine where the purchasing group is located; 7495

(2) Determine appropriate tax treatment. 7496

(C) ~~Within thirty days after the effective date of this~~ 7497
~~section, any purchasing group that was doing business in this~~ 7498
~~state prior to the enactment of this section shall furnish~~ 7499
~~notice to the superintendent pursuant to division (A)(1) of this~~ 7500
~~section and furnish any information that may be required~~ 7501

~~pursuant to division (B) of this section.~~ 7502

~~(D)~~ Sections 3937.01 to 3937.17 of the Revised Code apply to admitted insurers that provide insurance to purchasing groups. 7503 7504 7505

Sec. 3964.19. (A) As used in sections 3964.19 to 3964.194 of the Revised Code: 7506 7507

(1) "Counterparty" means a special purpose financial captive insurance company's parent or an affiliated entity that is an insurer domiciled in this state that cedes life insurance risks to the special purpose financial captive insurance company pursuant to a special purpose financial captive insurance company contract. 7508 7509 7510 7511 7512 7513

(2) "Insolvency" or "insolvent" means that the special purpose financial captive insurance company is unable to pay its obligations when they are due, unless those obligations are the subject of a bona fide dispute. 7514 7515 7516 7517

(3) "Insurance securitization" means a package of related risk transfer instruments, capital market offerings, and facilitating administrative agreements, for which a special purpose financial captive insurance company obtains proceeds, either directly or indirectly, through the issuance of securities, where the investment risk to the holders of the securities is contingent upon the obligations of the special purpose financial captive insurance company to the counterparty under the special purpose financial captive insurance company contract, in accordance with the transaction terms, and pursuant to this section. This includes situations where the securitization proceeds are held in trust to secure the obligations of the special purpose financial captive insurance 7518 7519 7520 7521 7522 7523 7524 7525 7526 7527 7528 7529 7530

company under one or more special purpose financial captive insurance company contracts. 7531 7532

(4) "Organizational document" means the special purpose financial captive insurance company's articles of incorporation, bylaws, code of regulations, operating agreement, or other foundational documents that establish the special purpose financial captive insurance company as a legal entity. 7533 7534 7535 7536 7537

(5) "Securities" means debt obligations, equity investments, surplus certificates, surplus notes, funding agreements, derivatives, and other legal forms of financial instruments. 7538 7539 7540 7541

(6) "Special purpose financial captive insurance company contract" means a contract between a special purpose financial captive insurance company and a counterparty pursuant to which the special purpose financial captive insurance company agrees to provide insurance or reinsurance protection to the counterparty for risks associated with the counterparty's insurance or reinsurance business, and includes a contract entered into under division (F) of this section. 7542 7543 7544 7545 7546 7547 7548 7549

(7) "Special purpose financial captive insurance company securities" means the securities issued by a special purpose financial captive insurance company. 7550 7551 7552

(B) The requirements of this section shall not apply to a specific special purpose financial captive insurance company if the superintendent finds a specific requirement is inappropriate due to the nature of the risks to be insured by the special purpose financial captive insurance company and if the special purpose financial captive insurance company meets the criteria established by rules and regulations adopted and promulgated by 7553 7554 7555 7556 7557 7558 7559

the superintendent. 7560

(C)(1) A special purpose financial captive insurance company may not issue a contract for assumption of risk or indemnification of loss other than a special purpose financial captive insurance company contract. However, the special purpose financial captive insurance company may cede a risk assumed through a special purpose financial captive insurance company contract to a third-party reinsurer through the purchase of reinsurance or retrocession protection if approved by the superintendent. 7561 7562 7563 7564 7565 7566 7567 7568 7569

(2) A special purpose financial captive insurance company may enter into contracts and conduct other commercial activities related or incidental to and necessary to fulfill the purposes of special purpose financial captive insurance company contracts, insurance securitization, and this section. Those activities may include: 7570 7571 7572 7573 7574 7575

(a) Entering into special purpose financial captive insurance company contracts; 7576 7577

(b) Issuing securities of the special purpose financial captive insurance company in accordance with applicable securities law; 7578 7579 7580

(c) Complying with the terms of special purpose financial captive insurance company contracts or securities; 7581 7582

(d) Entering into trust, swap, tax, administration, reimbursement, or fiscal agent transactions; 7583 7584

(e) Complying with trust indenture, reinsurance, retrocession, and other agreements necessary or incidental to effectuate an insurance securitization in compliance with this section and in the plan of operation considered by the 7585 7586 7587 7588

superintendent under division (F)(5) of section 3964.03 of the Revised Code. 7589 7590

(D)(1) A special purpose financial captive insurance company may issue securities, subject to and in accordance with applicable law, its plan of operation considered by the superintendent under division (E) of section 3964.03 of the Revised Code, and its organizational documents. 7591 7592 7593 7594 7595

(2) A special purpose financial captive insurance company, in connection with the issuance of securities, may enter into and perform all of its obligations under any required contracts to facilitate the issuance of these securities. 7596 7597 7598 7599

(3) The obligation to repay principal or interest, or both, on the securities issued by the special purpose financial captive insurance company shall reflect the risk associated with the obligations of the special purpose financial captive insurance company to the counterparty under the special purpose financial captive insurance company contract. 7600 7601 7602 7603 7604 7605

(E)(1)(a) A special purpose financial captive insurance company may enter into asset the following types of transactions for the purposes described in division (E)(1)(b) of this section: 7606 7607 7608 7609

(i) Asset management agreements, including swap agreements, guaranteed; 7610 7611

(ii) Guaranteed investment contracts, or other; 7612

(iii) Other transactions with the objective of reducing timing differences in the funding of upfront, or ongoing, transaction expenses, or managing asset, credit, prepayment, or interest rate risk of the investments of the special purpose financial captive insurance company to . 7613 7614 7615 7616 7617

(b) The purpose of the transactions described in division (E)(1)(a) of this section shall be any of the following: 7618 7619

(i) To ensure that the investments are sufficient to assure payment or repayment of the securities, and related interest or principal payments, issued pursuant to a special purpose financial captive insurance company insurance securitization transaction or the; 7620 7621 7622 7623 7624

(ii) To ensure that the investments are sufficient to assure payment or repayment of the obligations required under a special purpose financial captive insurance company contract or for any; 7625 7626 7627 7628

(iii) Any other purpose approved by the superintendent. 7629

(2) An asset management agreement shall not be entered into under this section by a special purpose financial captive insurance company unless it has been approved by the superintendent. 7630 7631 7632 7633

(F)(1) If a special purpose financial captive insurance company has entered into a special purpose financial captive insurance company contract with a counterparty and the special purpose financial captive insurance company has conducted an insurance securitization that is made up, in part or in whole, of the risks of that contract, then the special purpose financial captive insurance company may enter into a second contract with the counterparty under which the counterparty is held liable for those losses or other obligations that were securitized. 7634 7635 7636 7637 7638 7639 7640 7641 7642 7643

(2) Such obligations may be funded and secured with assets held in trust for the benefit of the counterparty pursuant to agreements contemplated by this section and invested in a manner 7644 7645 7646

that meet the criteria in sections 3907.14 and 3907.141 of the Revised Code. 7647 7648

(G)(1) A special purpose financial captive insurance company may enter into agreements with affiliated companies and third parties and conduct business necessary to fulfill its obligations and administrative duties incidental to an insurance securitization and a special purpose financial captive insurance company contract entered into under division (F) of this section. 7649 7650 7651 7652 7653 7654 7655

(2) The agreements may include management and administrative services agreements and other allocation and cost sharing agreements, or swap and asset management agreements, or both, or agreements for other contemplated types of transactions provided in this section. 7656 7657 7658 7659 7660

(H) A special purpose financial captive insurance company contract entered into under division (F) of this section shall contain all of the following: 7661 7662 7663

(1) A requirement that the special purpose financial captive insurance company do either of the following: 7664 7665

(a) Enter into a trust agreement specifying what recoverables or reserves, or both, the agreement is to cover and to establish a trust account for the benefit of the counterparty and the security holders; 7666 7667 7668 7669

(b) Establish such other methods of security acceptable to the superintendent. 7670 7671

(2) A stipulation that assets deposited in the trust account shall be valued in accordance with their current fair-market value and shall consist only of investments permitted by sections 3907.14 and 3907.141 of the Revised Code; 7672 7673 7674 7675

(3) A requirement that, if a trust arrangement is used, the special purpose financial captive insurance company, before depositing assets with the trustee, execute assignments, execute endorsements in blank, or take such actions as are necessary to transfer legal title to the trustee of all assets requiring assignment, in order that the counterparty, or the trustee upon the direction of the counterparty, may negotiate whenever necessary the assets without consent or signature from the special purpose financial captive insurance company or another entity; 7676 7677 7678 7679 7680 7681 7682 7683 7684 7685

(4) A stipulation that, if a trust arrangement is used, the special purpose financial captive insurance company and the counterparty agree that the assets in the trust account established pursuant to the contract: 7686 7687 7688 7689

(a) May be withdrawn by the counterparty, or the trustee on its behalf, at any time, but only in accordance with the terms of the contract; 7690 7691 7692

(b) Shall be utilized and applied by the counterparty, without diminution because of insolvency on the part of the counterparty or the special purpose financial captive insurance company, only for the purposes set forth in the credit for reinsurance laws and rules of this state. As used in this division, "counterparty" includes any successor of the counterparty by operation of law, including, subject to the provisions of this section, but without further limitation, any liquidator, rehabilitator, or receiver of the counterparty. 7693 7694 7695 7696 7697 7698 7699 7700 7701

(I) A special purpose financial captive insurance company contract entered into under division (F) of this section may contain provisions that give the special purpose financial captive insurance company the right to seek approval from the 7702 7703 7704 7705

counterparty to withdraw from the trust all or part of the assets, or income from them, contained in the trust and to transfer the assets to the special purpose financial captive insurance company if such provisions comply with the credit for reinsurance laws and rules of this state. 7706 7707 7708 7709 7710

(J)(1) A special purpose financial captive insurance company contract entered into under division (F) of this section, meeting the requirements of this section, shall be granted credit for reinsurance treatment or otherwise qualify as an asset or a reduction from liability for reinsurance ceded by a domestic insurer to a special purpose financial captive insurance company as an assuming insurer for the benefit of the counterparty if both of the following apply: 7711 7712 7713 7714 7715 7716 7717 7718

(a) The assets are held or invested in one or more of the forms allowed in sections 3907.14 and 3907.141 of the Revised Code. 7719 7720 7721

(b) The agreement is in compliance with section 3901.64 of the Revised Code. 7722 7723

(2) The contract shall be granted credit or otherwise qualify as an asset or reduction from liability only to the extent of the value of the assets held in trust for, or letters of credit, that meet the requirements set forth in division (C) of section 3964.05 of the Revised Code, or as approved by the superintendent, for the benefit of the counterparty under the special purpose financial captive insurance company contract. 7724 7725 7726 7727 7728 7729 7730

(K) A special purpose financial captive insurance company may make investments that meet the qualifications set forth in sections 3907.14 and 3907.141 of the Revised Code, however these investments shall not be subject to any limitations contained in 7731 7732 7733 7734

such sections as to invested amounts. The superintendent may 7735
prohibit or limit any investment that threatens the solvency or 7736
liquidity of a special purpose financial captive insurance 7737
company or that is not made in accordance with the approved plan 7738
of operation. 7739

Sec. 3999.16. No officer, director, trustee, agent, or 7740
employee of any insurance company, corporation, or association 7741
authorized to transact business in this state shall knowingly 7742
use underwriting standards or rates that result in unfair 7743
discrimination against any handicapped person. This section does 7744
not prevent reasonable classifications of handicapped ~~person~~ 7745
persons for determining insurance rates. 7746

As used in this section, "handicapped" means a medically 7747
diagnosable, abnormal condition which is expected to continue 7748
for a considerable length of time, whether correctable or 7749
uncorrectable by good medical practice, which can reasonably be 7750
expected to limit the person's functional ability, including but 7751
not limited to seeing, hearing, thinking, ambulating, climbing, 7752
descending, lifting, grasping, sitting, rising, any related 7753
function, or any limitation due to weakness or significantly 7754
decreased endurance, so that ~~he~~ the person cannot perform ~~his~~ 7755
the person's everyday routine living and working without 7756
significantly increased hardship and vulnerability to what are 7757
considered the everyday obstacles and hazards encountered by the 7758
nonhandicapped. 7759

Sec. 3999.41. (A) Except as provided in division (D) of 7760
this section, every insurer, as defined in division (A) of 7761
section 3999.36 of the Revised Code, shall adopt an antifraud 7762
program and shall specify in a written plan the procedures it 7763
will follow when instances of insurance fraud or suspected 7764

insurance fraud are brought to its attention. The insurer shall identify in the written plan the person or persons responsible for the insurer's antifraud program.

(B)(1) An insurer shall develop a written plan required by division (A) of this section within ninety days after obtaining its license to transact business within this state or within ninety days after beginning to engage in the business of insurance within this state and shall thereafter maintain such a written plan.

(2) An insurer engaged in the business of insurance within this state on ~~the effective date of this section~~ March 17, 1998, shall develop a written plan required by division (A) of this section within ninety days after ~~the effective date of this section~~ March 17, 1998, and shall thereafter maintain such a written plan.

(C) If an insurer modifies the procedures it follows for instances of insurance fraud or suspected insurance fraud, or if there is a change in the person or persons responsible for the insurer's antifraud program, the insurer shall modify the written plan it maintains pursuant to this section.

(D) The requirements of this section are not applicable to any insurer identified in division (A) of this section that is not engaged in writing direct insurance in this state.

Sec. 4509.41. (A) Judgments are satisfied for the purpose of sections 4509.01 to 4509.78~~, inclusive,~~ of the Revised Code, in each of the following cases:

(1) When twenty-five thousand dollars has been credited upon any judgments in excess of that amount because of bodily injury to or death of one person as a result of any one

accident; 7794

(2) When the sum of fifty thousand dollars has been credited upon any judgments in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident; 7795 7796 7797 7798

(3) When twenty-five thousand dollars has been credited upon any judgments rendered in excess of that amount because of injury to property of others as a result of any one accident. 7799 7800 7801

(B) Payments made in settlements of any claims because of bodily injury, death, or property damage arising from such accident shall be credited in reduction of the amounts provided for in this section. 7802 7803 7804 7805

Sec. 4509.67. (A) The registrar of motor vehicles shall, upon request, consent to the immediate cancellation of any bond or certificate of insurance, or shall direct and the treasurer of state shall return to the person entitled any money or securities deposited under sections 4509.01 to 4509.78 of the Revised Code, as proof of financial responsibility, or the registrar shall waive the requirement of filing proof, in any of the following events: 7806 7807 7808 7809 7810 7811 7812 7813

(1) At any time after three years from the date such proof was required when, during the three years preceding the request, the registrar has not received record of a conviction or bail forfeiture which would require or permit the suspension or revocation of the license, registration or nonresident's operating privilege of the person by or for whom such proof was furnished and the person's motor vehicle registration has not been suspended for a violation of section 4509.101 of the Revised Code; 7814 7815 7816 7817 7818 7819 7820 7821 7822

(2) In the event of the death of the person on whose behalf such proof was filed or the permanent incapacity of such person to operate a motor vehicle;

(3) In the event the person who has given proof surrenders ~~his~~ the person's license and registration to the registrar.

(B) The registrar shall not consent to the cancellation of any bond or the return of any money or securities if any action for damages upon a liability covered by such proof is pending, or any judgment upon any such liability is unsatisfied, or in the event the person who has filed such bond or deposited such money or securities has within two years immediately preceding such request been involved as a driver or owner in any ~~motor vehicle~~ motor vehicle accident resulting in injury to the person or property of others. An affidavit of the applicant as to the nonexistence of such facts, or that ~~he~~ the applicant has been released from all liability, or has been finally adjudicated not liable, for such injury may be accepted as evidence thereof in the absence of evidence to the contrary in the records of the registrar.

(C) Whenever any person whose proof has been canceled or returned under division (A)(3) of this section applies for a license or registration within a period of three years from the date proof was originally required, any such application shall be refused unless the applicant re-establishes proof of financial responsibility for the remainder of the three-year period.

Section 2. That existing sections 167.03, 1751.32, 1751.53, 1751.69, 1751.74, 1751.84, 1753.31, 3901.045, 3901.13, 3901.25, 3901.41, 3901.45, 3901.811, 3901.87, 3901.88, 3901.90, 3902.08, 3903.01, 3903.50, 3903.52, 3903.56, 3903.71, 3903.724,

3903.728, 3903.7211, 3903.74, 3904.01, 3904.02, 3904.16, 7853
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3935.13, 3935.14, 3935.99, 3937.10, 3937.182, 3941.46, 3951.04, 7862
3951.06, 3951.10, 3951.99, 3953.01, 3953.07, 3953.14, 3953.29, 7863
3956.01, 3956.09, 3956.10, 3959.01, 3960.07, 3964.19, 3999.16, 7864
3999.41, 4509.41, and 4509.67 of the Revised Code are hereby 7865
repealed. 7866

Section 3. That sections 3941.47, 3941.48, 3941.49, and 7867
3941.52 of the Revised Code are hereby repealed. 7868