

**As Recommended to the Senate Insurance and Financial Institutions
Committee**

133rd General Assembly

**Regular Session
2019-2020**

Sub. H. B. No. 339

Representative Merrin

**Cosponsors: Representatives Baldrige, Carruthers, Ghanbari, Jones, Lanese,
McClain, Roemer, Rogers, Seitz, Stein, Wiggam**

Senators Brenner, Hackett, Hottinger, Huffman, S.

A BILL

To amend sections 167.03, 1317.04, 1317.05, 1
1751.32, 1751.74, 1751.84, 1753.31, 3901.045, 2
3901.45, 3901.811, 3901.87, 3902.08, 3903.01, 3
3903.52, 3903.56, 3903.71, 3903.724, 3903.728, 4
3903.7211, 3903.74, 3904.01, 3904.16, 3905.051, 5
3905.14, 3905.84, 3905.85, 3905.87, 3907.15, 6
3909.04, 3911.24, 3913.11, 3913.40, 3915.05, 7
3915.053, 3915.073, 3915.13, 3916.171, 3919.14, 8
3922.11, 3922.14, 3923.021, 3923.04, 3923.53, 9
3925.09, 3927.08, 3929.04, 3930.10, 3931.03, 10
3931.99, 3941.46, 3951.04, 3951.06, 3951.10, 11
3953.14, 3956.01, 3959.01, 3960.07, 3964.19, 12
3999.16, 4505.11, and 4509.70 and to enact 13
section 1.301 of the Revised Code to enact the 14
"Insurance Code Correction Act" to make 15
technical, corrective, and other changes to the 16
laws governing insurance. 17

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

Section 1. That sections 167.03, 1317.04, 1317.05, 18
1751.32, 1751.74, 1751.84, 1753.31, 3901.045, 3901.45, 3901.811, 19
3901.87, 3902.08, 3903.01, 3903.52, 3903.56, 3903.71, 3903.724, 20
3903.728, 3903.7211, 3903.74, 3904.01, 3904.16, 3905.051, 21
3905.14, 3905.84, 3905.85, 3905.87, 3907.15, 3909.04, 3911.24, 22
3913.11, 3913.40, 3915.05, 3915.053, 3915.073, 3915.13, 23
3916.171, 3919.14, 3922.11, 3922.14, 3923.021, 3923.04, 3923.53, 24
3925.09, 3927.08, 3929.04, 3930.10, 3931.03, 3931.99, 3941.46, 25
3951.04, 3951.06, 3951.10, 3953.14, 3956.01, 3959.01, 3960.07, 26
3964.19, 3999.16, 4505.11, and 4509.70 be amended and section 27
1.301 of the Revised Code be enacted to read as follows: 28

Sec. 1.301. In enacting H.B. 339 of the 133rd general 29
assembly with the stated purpose of correcting nonsubstantive 30
errors in the Revised Code, it is the intent of the general 31
assembly not to make substantive changes in the law in effect on 32
the date of such enactment, except for the changes to sections 33
167.03, 1317.04, 1317.05, 3905.85, 3905.87, 3907.15, 3915.13, 34
3951.06, 4505.11, and 4509.70 of the Revised Code. Other than 35
sections 167.03, 1317.04, 1317.05, 3905.85, 3905.87, 3907.15, 36
3915.13, 3951.06, 4505.11, and 4509.70 of the Revised Code, a 37
section of the Revised Code affected by H.B. 339 of the 133rd 38
general assembly shall be construed as a restatement and 39
correction of, and substituted in a continuing way for, the 40
corresponding statutory provision existing on its date of 41
enactment. 42

Sec. 167.03. (A) The council shall have the power to: 43

(1) Study such area governmental problems common to two or 44
more members of the council as it deems appropriate, including 45
but not limited to matters affecting health, safety, welfare, 46
education, economic conditions, and regional development; 47

(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;

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

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

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

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

(B) The council may:

(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;

(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;

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

metropolitan wide comprehensive planning and programming, local 76
public policies, and activities affecting the development of the 77
region or area. 78

(C) The council may, by appropriate action of the 79
governing bodies of the members, perform such other functions 80
and duties as are performed or capable of performance by the 81
members and necessary or desirable for dealing with problems of 82
mutual concern. 83

(D) The authority granted to the council by this section 84
or in any agreement by the members thereof shall not displace 85
any existing municipal, county, regional, or other planning 86
commission or planning agency in the exercise of its statutory 87
powers. 88

(E) A council, with an educational service center as its 89
fiscal agent, that is established to provide health care 90
benefits to the council members' officers and employees and 91
their dependents may contract to administer and coordinate a 92
self-funded health benefit program of a nonprofit corporation 93
organized under Chapter 1702. of the Revised Code. A council 94
operating a program under this division that does not act as an 95
administrator as defined in section 3959.01 of the Revised Code 96
does not constitute engaging in the business of insurance and is 97
not subject to the insurance laws of this state. 98

Sec. 1317.04. The written instrument evidencing a retail 99
installment sale and required by section 1317.02 of the Revised 100
Code shall recite the following: 101

(A) The cash price of the specific goods. 102

(B) The amount in cash of the retail buyer's down payment, 103
if any, whether made in money or goods or partly in money or 104

partly in goods. 105

(C) The unpaid balance of the cash price payable by the 106
retail buyer to the retail seller which is the difference 107
between divisions (A) and (B). 108

(D) ~~The cost to the retail buyer of amount included for~~ 109
~~any insurance and the retail buyer has agreed to procure, if the~~ 110
~~retail seller has agreed to purchase the insurance and extend~~ 111
~~credit to the retail buyer for the price thereof~~ types of 112
insurance and terms of coverage. 113

(E) The principal balance owed on the retail installment 114
contract which is the sum total of divisions (C) and (D). 115

(F) The amount of the finance charge. 116

(G) The time balance or indebtedness owed by the retail 117
buyer to the retail seller and the number of installment 118
payments required and the amount and date of each payment 119
necessary finally to pay the time balance which is the sum total 120
of divisions (E) and (F). 121

Divisions (D) and (F) may be added together and stated as 122
one sum in the written instrument and if so stated division (E) 123
may be omitted, but in such event the retail seller or ~~his~~ the 124
retail seller's successor in interest shall, within twenty-five 125
days after the making of the retail installment contract, 126
deliver personally, send by mail, or cause to be sent by mail, 127
to the retail buyer at ~~his~~ the retail buyer's address as shown 128
on the retail installment contract, a statement reciting the 129
separate amounts of divisions (D), (E), and (F). Division (F) 130
may be stated as a rate, if said rate does not exceed eight per 131
cent per annum straight interest, in which event the time 132
balance provided in division (G) need not be stated. 133

The amount and date of each payment need not be separately 134
listed if the payments are specified in terms of a series of 135
payments of specified amounts, which amounts may state the 136
principal amount plus the finance charge in terms of a rate at 137
specified intervals of time from an initial date. 138

The initial date for the payment of the first installment 139
may be a calendar date or may refer to the time of delivery or 140
installation. 141

As used in this section "down payment" means that part of 142
the payment of the cash price required by the retail seller as a 143
condition to the delivery of the specific goods sold or to be 144
sold or to the extension of credit to the retail buyer for any 145
portion of the cash price. 146

Sec. 1317.05. (A) Any retail seller who, in any retail 147
installment contract, has agreed to purchase insurance for the 148
retail buyer and to extend credit for the price thereof, 149
excluding single interest insurance, shall, prior to the due 150
date of the first installment of the retail installment 151
contract, deliver to the retail buyer personally, or mail or 152
cause to be mailed to the retail buyer at the retail buyer's 153
address as shown on the retail installment contract, the policy 154
of insurance, or in lieu thereof a certificate of insurance, or 155
the retail buyer is not liable on the retail buyer's retail 156
installment contract until the policy, or certificate of 157
insurance, is received, or full refund is made of the insurance 158
premium. 159

If the premium for insurance of like kind and amount, as 160
fixed in the published manual of a recognized standard rating 161
bureau designated by the retail seller, is less than the amount 162
charged the retail buyer as fixed in the written instrument in 163

compliance with division (D) of section 1317.04 of the Revised Code, the retail buyer may deduct an amount equal to three times the difference from the amount owed the retail seller, or the retail seller's successor in interest. Sections 1317.01 to 1317.11, ~~inclusive,~~ of the Revised Code do not impair the authority of the superintendent of insurance to grant, renew, or revoke licenses, nor do said sections authorize anyone other than a licensee of the division of insurance to directly or indirectly receive any part of the amount charged for insurance in connection with any retail installment sale.

(B) As used in this division, "debt cancellation or debt suspension product" means a contractual agreement in which a retail seller, or its assignee, agrees for a separate charge to cancel or waive all or a part of amounts due on a retail buyer's retail installment contract in the event of a total physical damage loss or unrecovered theft of the motor vehicle that is the subject of the contract. "Debt cancellation or debt suspension product" includes a guaranteed asset protection waiver, guaranteed auto protection waiver, or other similarly named agreement.

A debt cancellation or debt suspension product, and an addendum to a retail installment contract containing a debt cancellation or debt suspension product, shall be considered a part of the retail installment contract and shall remain a part of that contract upon the assignment, sale, or transfer of that contract. The charge for any debt cancellation or debt suspension product shall be listed as a specific good. The purchase price and the terms of the debt cancellation or debt suspension product shall be disclosed in writing to the buyer. The extension of credit, terms of the credit, or the terms of the related motor vehicle sale or lease shall not be conditioned

on the purchase of the debt cancellation or debt suspension 195
product. Notwithstanding any other provision of law, a debt 196
cancellation or debt suspension product shall not be considered 197
insurance. 198

(C) Single interest insurance shall be listed as a 199
specific good in a retail installment contract. 200

(D) As used in this section, "single interest insurance" 201
means insurance that covers only the interest of the holder of 202
the retail installment contract. 203

Sec. 1751.32. Each health insuring corporation, annually, 204
on or before the first day of March, shall file a report with 205
the superintendent of insurance, covering the preceding calendar 206
year. 207

The report shall be verified by an officer of the health 208
insuring corporation, shall be in the form the superintendent 209
prescribes, and shall include: 210

(A) A financial statement of the health insuring 211
corporation, including its balance sheet and receipts and 212
disbursements for the preceding year, which reflect, at a 213
minimum: 214

(1) All premium rate and other payments received for 215
health care services rendered; 216

(2) Expenditures with respect to all categories of 217
providers, facilities, insurance companies, and other persons 218
engaged to fulfill obligations of the health insuring 219
corporation arising out of its health care policies, contracts, 220
certificates, and agreements; 221

(3) Expenditures for capital improvements or additions 222

thereto, including, but not limited to, construction,	223
renovation, or purchase of facilities and equipment.	224
(B) A description of the enrollee population and	225
composition, group and nongroup;	226
(C) A summary of enrollee written complaints and their	227
disposition;	228
(D) A statement of the number of subscriber policies,	229
contracts, certificates, and agreements that have been	230
terminated by action of the health insuring corporation,	231
including the number of enrollees affected;	232
(E) A summary of the information compiled pursuant to	233
division (B) <u>(A)</u> (5) of section 1751.04 of the Revised Code;	234
(F) A current report of the names and addresses of the	235
persons responsible for the conduct of the affairs of the health	236
insuring corporation as required by section 1751.03 of the	237
Revised Code. Additionally, the report shall include the amount	238
of wages, expense reimbursements, and other payments to these	239
persons for services to the health insuring corporation, and	240
shall include a full disclosure of the financial interests	241
related to the operations of the health insuring corporation	242
acquired by these persons during the preceding year.	243
(G) An actuarial opinion in the form prescribed by the	244
superintendent by rule;	245
(H) Any other information relating to the performance of	246
the health insuring corporation that is necessary to enable the	247
superintendent to carry out the superintendent's duties under	248
this chapter.	249
Sec. 1751.74. (A) To implement a quality assurance program	250

required by section ~~1715.73~~ 1751.73 of the Revised Code, a 251
health insuring corporation shall do both of the following: 252

(1) Develop and maintain the appropriate infrastructure 253
and disclosure systems necessary to measure and report, on a 254
regular basis, the quality of health care services provided to 255
enrollees, based on a systematic collection, analysis, and 256
reporting of relevant data. The health insuring corporation 257
shall assure that a committee that includes participating 258
physicians have the opportunity to participate in developing, 259
implementing, and evaluating the quality assurance program and 260
all other programs implemented by the health insuring 261
corporation that relate to the utilization of health care 262
services. A committee that includes participating physicians 263
shall also have the opportunity to participate in the derivation 264
of data assessments, statistical analyses, and outcome 265
interpretations from programs monitoring the utilization of 266
health care services. 267

(2) Develop and maintain an organizational program for 268
designing, measuring, assessing, and improving the processes and 269
outcomes of health care. 270

(B) A quality assurance program shall: 271

(1) Establish an internal system capable of identifying 272
opportunities to improve health care, which system is structured 273
to identify practices that result in improved health care 274
outcomes, to identify problematic utilization patterns, and to 275
identify those providers that may be responsible for either 276
exemplary or problematic patterns. The quality assurance program 277
shall use the findings generated by the system to work on a 278
continuing basis with participating providers and other staff to 279
improve the quality of health care services provided to 280

enrollees.	281
(2) Develop a written statement of its objectives, lines of authority and accountability, evaluation tools, and performance improvement activities;	282 283 284
(3) Require an annual effectiveness review of the program;	285
(4) Provide a description of how the health insuring corporation intends to do all of the following:	286 287
(a) Analyze both processes and outcomes of health care, including focused review of individual cases as appropriate, to discern the causes of variation;	288 289 290
(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;	291 292 293 294 295
(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;	296 297 298 299 300 301 302
(d) Compare quality assurance program findings with past performance, internal goals, and external standards;	303 304
(e) Measure the performance of participating providers and conduct peer review activities;	305 306
(f) Utilize treatment protocols and practice parameters developed with appropriate clinical input;	307 308

(g) Implement improvement strategies related to quality assurance program findings; 309
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(h) Evaluate periodically, but not less than annually, the effectiveness of the improvement strategies. 311
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Sec. 1751.84. (A) Notwithstanding section 3901.71 of the 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. 313
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(B) Benefits provided under this section shall cover, at minimum, all of the following: 334
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(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 336
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each service; 339

(2) For clinical therapeutic intervention for an enrollee 340
under the age of fourteen that is provided by or under the 341
supervision of a professional who is licensed, certified, or 342
registered by an appropriate agency of this state to perform 343
such services in accordance with a health treatment plan, twenty 344
hours per week; 345

(3) For mental or behavioral health outpatient services 346
for an enrollee under the age of fourteen that are performed by 347
a licensed psychologist, psychiatrist, or physician providing 348
consultation, assessment, development, or oversight of treatment 349
plans, thirty visits per year. 350

(C) (1) Except as provided in division (C) (2) of this 351
section, this section shall not be construed as limiting 352
benefits that are otherwise available to an individual under a 353
policy, contract, or agreement. 354

(2) A policy, contract, or agreement shall stipulate that 355
coverage provided under this section be contingent upon both of 356
the following: 357

(a) The covered individual receiving prior authorization 358
for the services in question; 359

(b) The services in question being prescribed or ordered 360
by either a developmental pediatrician or a psychologist trained 361
in autism. 362

(D) (1) Except for inpatient services, if an enrollee is 363
receiving treatment for an autism spectrum disorder, a health 364
insuring corporation may review the treatment plan annually, 365
unless the health insuring corporation and the enrollee's 366
treating physician or psychologist agree that a more frequent 367

review is necessary. 368

(2) Any such agreement as described in division (D) (1) of 369
this section shall apply only to a particular enrollee being 370
treated for an autism spectrum disorder and shall not apply to 371
all individuals being treated for autism spectrum disorder by a 372
physician or psychologist. 373

(3) The health insuring corporation shall cover the cost 374
of obtaining any review or treatment plan. 375

(E) This section shall not be construed as affecting any 376
obligation to provide services to an enrollee under an 377
individualized family service plan, an individualized education 378
program, or an individualized service plan. 379

(F) As used in this section: 380

(1) "Applied behavior analysis" means the design, 381
implementation, and evaluation of environmental modifications, 382
using behavioral stimuli and consequences, to produce socially 383
significant improvement in human behavior, including the use of 384
direct observation, measurement, and functional analysis of the 385
relationship between environment and behavior. 386

(2) "Autism spectrum disorder" means any of the pervasive 387
developmental disorders or autism spectrum disorder as defined 388
by the most recent edition of the diagnostic and statistical 389
manual of mental disorders published by the American psychiatric 390
association available at the time an individual is first 391
evaluated for suspected developmental delay. 392

(3) "Clinical therapeutic intervention" means therapies 393
supported by empirical evidence, which include, but are not 394
limited to, applied behavioral analysis, that satisfy both of 395
the following: 396

(a) Are necessary to develop, maintain, or restore, to the maximum extent practicable, the function of an individual;	397 398
(b) Are provided by or under the supervision of any of the following:	399 400
(i) A certified Ohio behavior analyst as defined in section 4783.01 of the Revised Code;	401 402
(ii) An individual licensed under Chapter 4732. of the Revised Code to practice psychology;	403 404
(iii) An individual licensed under Chapter 4757. of the Revised Code to practice professional counseling, social work, or marriage and family therapy.	405 406 407
(4) "Diagnosis of autism spectrum disorder" means medically necessary assessment <u>assessments</u> , evaluations, or tests to diagnose whether an individual has an autism spectrum disorder.	408 409 410 411
(5) "Pharmacy care" means medications prescribed by a licensed physician and any health-related services considered medically necessary to determine the need or effectiveness of the medications.	412 413 414 415
(6) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.	416 417 418
(7) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.	419 420 421
(8) "Therapeutic care" means services provided by a speech therapist, occupational therapist, or physical therapist licensed or certified in the state in which the person	422 423 424

practices.	425
(9) "Treatment for autism spectrum disorder" means	426
evidence-based care and related equipment prescribed or ordered	427
for an individual diagnosed with an autism spectrum disorder by	428
a licensed physician who is a developmental pediatrician or a	429
licensed psychologist trained in autism who determines the care	430
to be medically necessary, including any of the following:	431
(a) Clinical therapeutic intervention;	432
(b) Pharmacy care;	433
(c) Psychiatric care;	434
(d) Psychological care;	435
(e) Therapeutic care.	436
(G) If any provision of this section or the application	437
thereof to any person or circumstances is for any reason held to	438
be invalid, the remainder of the section and the application of	439
such remainder to other persons or circumstances shall not be	440
affected thereby.	441
Sec. 1753.31. As used in sections 1753.31 to 1753.43 of	442
the Revised Code:	443
(A) "Adjusted RBC report" means an RBC report that has	444
been adjusted by the superintendent of insurance in accordance	445
with division (C) of section 1753.32 of the Revised Code.	446
(B) "Authorized control level RBC" means the number	447
determined under the risk-based capital formula in accordance	448
with the RBC instructions.	449
(e) <u>(C)</u> "Company action level RBC" means the product of 2.0	450
and a health insuring corporation's authorized control level	451

RBC.	452
(D) "Corrective order" means an order issued by the superintendent of insurance specifying corrective actions that the superintendent determines are required.	453 454 455
(E) "Domestic health insuring corporation" means a health insuring corporation domiciled in this state.	456 457
(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.	458 459 460 461
(G) (G) "Mandatory control level RBC" means the product of .70 and a health insuring corporation's authorized control level RBC.	462 463 464
(H) "NAIC" means the national association of insurance <u>insurance</u> commissioners.	465 466
(I) "Net worth" means statutory capital and surplus.	467
(J) "RBC" means risk-based capital.	468
(K) "RBC instruction <u>instructions</u> " 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.	469 470 471 472 473 474
(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.	475 476 477
(M) "RBC plan" means a comprehensive financial plan	478

containing the elements specified in division (B) of section 479
1753.33 of the Revised Code. 480

(N) "RBC report" means the report required by section 481
1753.32 of the Revised Code. 482

(O) "Regulatory action level RBC" means the product of 1.5 483
and a health insuring corporation's authorized control level 484
RBC. 485

(P) "Revised RBC plan" means an RBC plan rejected by the 486
superintendent of insurance and then revised by a health 487
insuring corporation with or without incorporating the 488
superintendent's recommendations. 489

(Q) "Total adjusted capital" means the sum of both of the 490
following: 491

(1) A health insuring corporation's net worth as 492
determined in accordance with the statutory accounting 493
applicable to the annual financial statements required to be 494
filed under section 1751.32 of the Revised Code; 495

(2) Such other items, if any, as the RBC instructions may 496
provide. 497

Sec. 3901.045. (A) The superintendent of insurance may 498
receive documents and information, including otherwise 499
confidential or privileged documents and information, from 500
local, state, federal, and international regulatory and law 501
enforcement agencies, from local, state, and federal 502
prosecutors, and from the national association of insurance 503
commissioners and its affiliates and subsidiaries, provided that 504
the superintendent maintains as confidential or privileged any 505
document or information received with notice or the 506
understanding that the document or information is confidential 507

or privileged under the laws of the jurisdiction that is the 508
source of the document or information. 509

(B) The superintendent may also receive documents and 510
information, including otherwise confidential or privileged 511
documents and information, from the chief deputy rehabilitator, 512
the chief deputy liquidator, other deputy rehabilitators and 513
liquidators, and from any other person employed by, or acting on 514
behalf of, the superintendent pursuant to Chapter 3901. or 3903. 515
of the Revised Code, provided that the superintendent maintains 516
as confidential or privileged any document or information 517
received with the notice or understanding that the document or 518
information is confidential or privileged, except that the 519
superintendent may share and disclose such a document or 520
information when authorized by other sections of the Revised 521
Code. 522

(C) The superintendent has the authority to maintain as 523
confidential or privileged the documents and information 524
received pursuant to this section. 525

(D) The superintendent's authority to receive documents 526
and information under this section, from the persons and subject 527
to the conditions listed in this section, is not limited in any 528
way by section 1751.19, 3901.36, 3901.44, 3901.48, 3901.70, 529
3903.11, 3903.722, 3903.7211, 3903.88, ~~3905.492~~, 3905.50, 530
3922.21, or 3999.36 of the Revised Code. 531

Sec. 3901.45. (A) As used in sections 3901.45 and 3901.46 532
of the Revised Code: 533

(1) "AIDS," "HIV," "AIDS-related condition," and "HIV 534
test" have the same meanings as in section 3701.24 of the 535
Revised Code. 536

(2) "Insurer" means any person authorized to engage in the 537
business of life or sickness and accident insurance under Title 538
XXXIX of the Revised Code or any person or governmental entity 539
providing health services coverage for individuals on a self- 540
insurance basis. 541

(3) "Group policy" means, with respect to life insurance, 542
a policy covering more than twenty-five individuals and issued 543
pursuant to section 3917.01 of the Revised Code, and with 544
respect to sickness and accident insurance, a policy covering 545
more than twenty-five individuals and issued pursuant to section 546
3923.11, 3923.12, or 3923.13 of the Revised Code. "Group policy" 547
includes a certificate of life or sickness and accident 548
insurance covering more than twenty-five individuals under a 549
group policy issued to a multiple employer trust. 550

(4) "Individual policy" means, with respect to life 551
insurance and sickness and accident insurance, a policy other 552
than a group policy, except that "individual policy" also 553
includes all of the following: 554

(a) The coverage under a group policy of an individual who 555
seeks to become a member of an insured group after having 556
declined a previous offer of coverage under the group policy; 557

(b) An individual who seeks life insurance coverage under 558
a group policy in excess of the maximum coverage available under 559
the policy without evidence of insurability; 560

(c) A certificate of life or sickness and accident 561
insurance covering no more than twenty-five individuals under a 562
group policy issued to a multiple employer trust. 563

(B) In processing an application for an individual policy 564
of life or sickness and accident insurance or in determining 565

insurability of an applicant, no insurer shall: 566

(1) Take into consideration an applicant's sexual 567
orientation; 568

(2) Make any inquiry toward determining an applicant's 569
sexual orientation or direct any person who provides services to 570
the insurer to investigate an applicant's sexual orientation; 571

(3) Make a decision adverse to the applicant based on 572
entries in medical records or other reports that show that the 573
applicant has sought an HIV test, consultation regarding the 574
possibility of developing AIDS or an AIDS-related condition, or 575
counseling for concerns related to AIDS from health care 576
professionals unless there has been a diagnosis, confirmed by a 577
positive HIV test, of AIDS or an AIDS-related condition or the 578
applicant has been treated for either. 579

(C) (1) In developing and asking questions regarding 580
medical histories and lifestyles of applicants for life or 581
sickness and accident insurance and in assessing the answers, an 582
insurer shall not ask questions designed to ascertain the sexual 583
orientation of the applicant nor use factors such as marital 584
status, living arrangements, occupation, gender, medical 585
history, beneficiary designation, or zip code or other 586
geographic designation to aid in ascertaining the applicant's 587
sexual orientation. 588

(2) An insurer may ask the applicant if ~~he~~ the applicant 589
has ever been diagnosed as having AIDS or an AIDS-related 590
condition. 591

(3) An insurer may ask the applicant specifically whether 592
~~he~~ the applicant has ever had a positive result on an HIV test. 593
"Positive result" means a result interpreted as positive in 594

accordance with guidelines developed by the director of health 595
under division (B) (1) ~~(a)~~ of section 3701.241 of the Revised 596
Code, even though the applicant may have been tested in another 597
state. "Positive result" does not mean an initial positive 598
result that further testing showed to be false. 599

(4) The insurer shall not ask the applicant whether ~~he~~ the 600
applicant has ever taken an HIV test. 601

(D) (1) Except as provided in division (D) (2) of this 602
section, no insurer shall cancel a policy of life or sickness 603
and accident insurance, or refuse to renew a policy of life or 604
sickness and accident insurance other than a policy that is 605
renewable at the option of the insurer, based solely on the fact 606
that, after the effective date of the policy, the policyholder 607
is diagnosed as having AIDS, an AIDS-related condition, or an 608
HIV infection. 609

(2) If a policy of life or sickness and accident insurance 610
provides for a contestability period, an insurer may cancel the 611
policy during the contestability period if the applicant made a 612
false statement in the application with regard to the question 613
of whether ~~he~~ the applicant has been diagnosed as having AIDS, 614
an AIDS-related condition, or an HIV infection. 615

(E) No insurer shall deliver, issue for delivery, or renew 616
a policy of life or sickness and accident insurance that limits 617
benefits or coverage in the event that, after the effective date 618
of the policy, the insured develops AIDS or an AIDS-related 619
condition or receives a positive result on an HIV test. 620

(F) An insurer is not required to offer coverage under a 621
policy of life or sickness and accident insurance to an 622
individual or group member, or a dependent of an individual or 623

group member, who has AIDS or an AIDS-related condition, or who 624
has had a positive result on an HIV test. 625

(G) An insurer is not required to continue to provide 626
coverage under a policy of life or sickness and accident 627
insurance to an individual or group member, or a dependent of an 628
individual or group member, if the insurer determines the 629
individual or group member or dependent of the individual or 630
group member knew on the effective date of the policy that ~~he~~ 631
the individual or group member or dependent of the individual or 632
group member had AIDS, an AIDS-related condition, or a positive 633
result of an HIV test. 634

(H) A violation of this section is an unfair insurance 635
practice under sections 3901.19 to 3901.26 of the Revised Code. 636

Sec. 3901.811. (A) Except as provided in division (B) of 637
this section, an auditing entity is subject to all of the 638
following conditions when performing a pharmacy audit in this 639
state: 640

(1) If it is necessary that the pharmacy audit be 641
performed on the premises of a pharmacy, the auditing entity 642
shall give the pharmacy that is the subject of the audit written 643
notice of the date or dates on which the audit will be performed 644
and the range of prescription numbers from which the auditing 645
entity will select pharmacy records to audit. Notice of the date 646
or dates on which the audit will be performed shall be given not 647
less than ten business days before the date the audit is to 648
commence. Notice of the range of prescription numbers from which 649
the auditing entity will select pharmacy records to audit shall 650
be received by the pharmacy not less than seven business days 651
before the date ~~of~~ the audit is to commence. 652

(2) The auditing entity shall not include in the pharmacy 653
audit a review of a claim for payment for the provision of 654
dangerous drugs or pharmacy services if the date of the 655
pharmacy's initial submission of the claim for payment occurred 656
more than twenty-four months before the date the audit 657
commences. 658

(3) Absent an indication that there was an error in the 659
dispensing of a drug, the auditing entity or payer shall not 660
seek to recoup from the pharmacy that is the subject of the 661
audit any amount that the pharmacy audit identifies as being the 662
result of clerical or recordkeeping errors in the absence of 663
financial harm. For purposes of this provision, an error in the 664
dispensing of a drug is any of the following: selecting an 665
incorrect drug, issuing incorrect directions, or dispensing a 666
drug to the incorrect patient. 667

(4) The auditing entity shall not use the accounting 668
practice of extrapolation when calculating a monetary penalty to 669
be imposed or amount to be recouped as the result of the 670
pharmacy audit. 671

(B) (1) The condition in division (A) (1) of this section 672
does not apply if, prior to the audit, the auditing entity has 673
evidence, from its review of claims data, statements, or 674
physical evidence or its use of other investigative methods, 675
indicating that fraud or other intentional or willful 676
misrepresentation exists. 677

(2) The condition in division (A) (3) of this section does 678
not apply if the auditing entity has evidence, from its review 679
of claims data, statements, or physical evidence or its use of 680
other investigative methods, indicating that fraud or other 681
intentional or willful misrepresentation exists. 682

(3) Division (A)(4) of this section does not apply when 683
the accounting practice of extrapolation is required by state or 684
federal law. 685

Sec. 3901.87. (A) No qualified health plan shall provide 686
coverage for a nontherapeutic abortion. 687

(B) As used in this section: 688

(1) "Nontherapeutic abortion" has the same meaning as in 689
section ~~124.85-9.04~~ 9.04 of the Revised Code. 690

(2) "Qualified health plan" means any qualified health 691
plan as defined in section 1301 of the "Patient Protection and 692
Affordable Care Act," 42 U.S.C. 18021, offered in this state 693
through an exchange created under that act. 694

Sec. 3902.08. (A) Except as provided in section 3902.03 of 695
the Revised Code, sections 3902.01 to 3902.08 of the Revised 696
Code apply to all policy forms filed on or after ~~three years~~ 697
~~after the effective date of sections 3902.01 to 3902.08 of the~~ 698
~~Revised Code January 9, 1983.~~ No policy form shall be delivered 699
or issued for delivery in this state on or after ~~five years~~ 700
~~after the effective date of sections 3902.01 to 3902.08 of the~~ 701
~~Revised Code January 9, 1985~~ unless approved by the 702
superintendent of insurance, or permitted to be issued, pursuant 703
to sections 3902.01 to 3902.08 of the Revised Code. Any policy 704
form that has been approved or permitted to be issued prior to 705
~~five years after the effective date of sections 3902.01 to~~ 706
~~3902.08 of the Revised Code January 9, 1985,~~ and that meets the 707
standards set by sections 3902.01 to 3902.08 of the Revised Code 708
need not be refiled for approval, but may continue to be 709
lawfully delivered or issued for delivery in this state upon the 710
filing with the superintendent of a list of such forms 711

identified by form number and accompanied by a certificate as to 712
each such form in the manner provided in division (D) of section 713
~~3902.05~~ 3902.04 of the Revised Code. 714

(B) The superintendent may, in ~~his~~ the superintendent's 715
discretion, extend the dates in division (A) of this section. 716

Sec. 3903.01. As used in sections 3903.01 to 3903.59 of 717
the Revised Code: 718

(A) "Admitted assets" means investment in assets which 719
will be admitted by the superintendent of insurance pursuant to 720
the law of this state. 721

(B) "Affiliate" has the same meaning as "affiliate of" or 722
"affiliated with," as defined in section 3901.32 of the Revised 723
Code. 724

(C) "Assets" means all property, real and personal, of 725
every nature and kind whatsoever or any interest therein. 726

(D) "Ancillary state" means any state other than a 727
domiciliary state. 728

(E) "Commodity contract" means any of the following: 729

(1) A contract for the purchase or sale of a commodity for 730
future delivery on, or subject to the rules of, a board of trade 731
designated as a contract market by the commodity futures trading 732
commission under the "Commodity Exchange Act," 7 U.S.C. 1 et 733
seq., as amended, or a board of trade outside the United States; 734

(2) An agreement that is subject to regulation under 735
section 19 of the "Commodity Exchange Act," 7 U.S.C. 23, as 736
amended, and that is commonly known to the commodities trade as 737
a margin account, margin contract, leverage account, or leverage 738
contract; 739

(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;

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

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

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

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

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

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

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

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

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

(5) Operating under a license or certificate of authority,	768
as an insurer, issued by the department of insurance.	769
(I) "Domiciliary state" means the state in which an	770
insurer is incorporated or organized, or, in the case of an	771
alien insurer, its state of entry.	772
(J) "Fair consideration" is given for property or	773
obligation when either of the following apply:	774
(1) When in exchange for such property or obligation, as a	775
fair equivalent therefor, and in good faith, property is	776
conveyed, services are rendered, an obligation is incurred, or	777
an antecedent debt is satisfied;	778
(2) When such property or obligation is received in good	779
faith to secure a present advance or antecedent debt in an	780
amount not disproportionately small as compared to the value of	781
the property or obligation obtained.	782
(K) "Federal home loan bank" means an institution	783
chartered under the "Federal Home Loan Bank Act of 1932," 12	784
U.S.C. 1421, et seq.	785
(L) "Foreign country" means any other jurisdiction not in	786
any state.	787
(M) "Forward contract" has the same meaning as in the	788
federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 1821(e)	789
(8) (D), as now and hereafter amended.	790
(N) "Guaranty association" means the Ohio insurance	791
guaranty association created by section 3955.06 of the Revised	792
Code and any other similar entity hereafter created by the	793
general assembly for the payment of claims of insolvent	794
insurers. "Foreign guaranty association" means any similar	795

entities now in existence in or hereafter created by the	796
legislature of any other state.	797
(O) "Insolvency" or "insolvent" means:	798
(1) For an insurer issuing only assessable fire insurance	799
policies either of the following:	800
(a) The inability to pay any obligation within thirty days	801
after it becomes payable;	802
(b) If an assessment is made within thirty days after such	803
date, the inability to pay the obligation thirty days following	804
the date specified in the first assessment notice issued after	805
the date of loss.	806
(2) For any other insurer, that it is unable to pay its	807
obligations when they are due, or when its admitted assets do	808
not exceed its liabilities plus the greater of either of the	809
following:	810
(a) Any capital and surplus required by law for its	811
organization;	812
(b) The total par or stated value of its authorized and	813
issued capital stock.	814
(3) As to any insurer licensed to do business in this	815
state as of the effective date of sections 3903.01 to 3903.59 of	816
the Revised Code that does not meet the standard established	817
under division (N) (O) (2) of this section, the term "insolvency"	818
or "insolvent" means, for a period not to exceed three years	819
from the effective date of sections 3903.01 to 3903.59 of the	820
Revised Code, that it is unable to pay its obligations when they	821
are due or that its admitted assets do not exceed its	822
liabilities plus any required capital contribution ordered by	823

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.

(Q) "Netting agreement" means:

(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;

(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; 853

(3) Any security agreement or arrangement, credit support 854
document, or guarantee or reimbursement obligation related to 855
any contract or agreement described in division ~~(P)~~(Q) of this 856
section. 857

Any contract or agreement described in division ~~(P)~~(Q) of 858
this section relating to agreements or transactions that are not 859
qualified financial contracts shall be deemed to be a netting 860
agreement only with respect to those agreements or transactions 861
that are qualified financial contracts. 862

(R) "Preferred claim" means any claim with respect to 863
which the terms of sections 3903.01 to 3903.59 of the Revised 864
Code accord priority of payment from the assets of the insurer. 865

(S) "Qualified financial contract" means any commodity 866
contract, forward contract, repurchase agreement, securities 867
contract, swap agreement, and any similar agreement that the 868
superintendent may determine by rule or order to be a qualified 869
financial contract for purposes of this chapter. 870

(T) "Reciprocal state" means any state other than this 871
state in which in substance and effect division (A) of section 872
3903.18, and sections 3903.52, 3903.53, and 3903.55 to 3903.57 873
of the Revised Code are in force, in which provisions are in 874
force requiring that the superintendent or equivalent official 875
be the receiver, liquidator, rehabilitator, or conservator of a 876
delinquent insurer, and in which some provision exists for the 877
avoidance of fraudulent conveyances and preferential transfers. 878

(U) "Repurchase agreement" has the same meaning as in the 879
federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 1821(e) 880
(8) (D), as now and hereafter amended. 881

(V) "Secured claim" means any claim secured by mortgage, 882
trust deed, security agreement, pledge, deposit as security, 883
escrow, or otherwise, but not including special deposit claims 884
or claims against assets. The term also includes claims which 885
have become liens upon specific assets by reason of judicial 886
process. 887

(W) "Securities contract" has the same meaning as in the 888
federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 1821(e) 889
(8) (D), as now and hereafter amended. 890

(X) "Special deposit claim" means any claim secured by a 891
deposit made pursuant to statute for the security or benefit of 892
a limited class or classes of persons, but not including any 893
claim secured by assets. 894

(Y) "State" has the meaning set forth in division (G) of 895
section 1.59 of the Revised Code. 896

(Z) "Superintendent" or "superintendent of insurance" 897
means the superintendent of insurance of this state, or, when 898
the context requires, the superintendent or commissioner of 899
insurance, or equivalent official, of another state. 900

(AA) "Swap agreement" has the same meaning as in the 901
federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 1821(e) 902
(8) (D), as now and hereafter amended. 903

(BB) "Transfer" includes the sale and every other and 904
different mode, direct or indirect, of disposing of or of 905
parting with property or with an interest in property, or with 906
the possession of property or of fixing a lien upon property or 907
upon an interest in property, absolutely or conditionally, 908
voluntarily, or by or without judicial proceedings. The 909
retention of a security title to property delivered to a debtor 910

shall be deemed a transfer suffered by the debtor. 911

Sec. 3903.52. (A) ~~The domiciliary~~ domiciliary liquidator of 912
an insurer domiciled in a reciprocal state shall, except as to 913
special deposits and security on secured claims under division 914
(C) of section 3903.53 of the Revised Code, be vested by 915
operation of law with the title to all of the assets, property, 916
contracts, and rights of action, agents' balances, and all of 917
the books, accounts, and other records of the insurer located in 918
this state. The date of vesting shall be the date of the filing 919
of the complaint or petition, if that date is specified by the 920
domiciliary law for the vesting of property in the domiciliary 921
state. Otherwise, the date of vesting shall be the date of entry 922
of the order directing possession to be taken. The domiciliary 923
liquidator shall have the immediate right to recover balances 924
due from agents and to obtain possession of the books, accounts, 925
and other records of the insurer located in this state. ~~He~~ The 926
domiciliary liquidator also shall have the right to recover all 927
other assets of the insurer located in this state, subject to 928
section 3903.53 of the Revised Code. 929

(B) If a domiciliary liquidator is appointed for an 930
insurer not domiciled in a reciprocal state, the superintendent 931
of insurance shall be vested by operation of law with the title 932
to all of the property, contracts, and rights of action, and all 933
of the books, accounts, and other records of the insurer located 934
in this state, at the same time that the domiciliary liquidator 935
is vested with title in the domicile. The superintendent may 936
file a complaint for a conservation or liquidation order under 937
section 3903.50 or 3903.51 of the Revised Code, or for an 938
ancillary receivership under section 3903.53 of the Revised 939
Code, or after approval by the court may transfer title to the 940
domiciliary liquidator, as the interests of justice and the 941

equitable distribution of the assets require. 942

(C) Claimants residing in this state may file claims with 943
the liquidator or ancillary receiver, if any, in this state or 944
with the domiciliary liquidator, if the domiciliary law permits. 945
The claims must be filed on or before the last date fixed for 946
the filing of claims in the domiciliary liquidation proceedings. 947

Sec. 3903.56. (A) In a liquidation proceeding in a 948
reciprocal state against an insurer domiciled in that state, 949
claimants against the insurer who reside within this state may 950
file claims either with the ancillary receiver, if any, in this 951
state, or with the domiciliary liquidator. Claims must be filed 952
on or before the last dates fixed for the filing of claims in 953
the domiciliary liquidation proceeding. 954

(B) Claims belonging to claimants residing in this state 955
may be proved either in the domiciliary state under the law of 956
that state, or in ancillary proceedings, if any, in this state. 957
If a claimant elects to prove ~~his~~ the claimant's claim in this 958
state, ~~he~~ the claimant shall file ~~his~~ the claim with the 959
liquidator in the manner provided in sections 3903.35 and 960
3903.36 of the Revised Code. The ancillary receiver shall make 961
~~his~~ a recommendation to the court as under section ~~3939.43~~ 962
3903.43 of the Revised Code. ~~He~~ The ancillary receiver shall 963
also arrange a date for hearing if necessary under section 964
3903.39 of the Revised Code and shall give notice to the 965
liquidator in the domiciliary state, either by certified mail or 966
by personal service at least forty days prior to the date set 967
for hearing. If the domiciliary liquidator, within thirty days 968
after the giving of such notice, gives notice in writing to the 969
ancillary receiver and to the claimant, either by certified mail 970
or by personal service, of ~~his~~ the domiciliary liquidator's 971

intention to contest the claim, ~~he~~ the domiciliary liquidator 972
shall be entitled to appear or to be represented in any 973
proceeding in this state involving the adjudication of the 974
claim. 975

(C) The final allowance of the claim by the courts of this 976
state shall be accepted as conclusive as to amount and as to 977
priority against special deposits or other security located in 978
this state. 979

Sec. 3903.71. If it appears to the superintendent of 980
insurance upon satisfactory evidence that the affairs of an 981
insurance company, partnership, association, or reciprocal 982
insurance exchange, not organized under the laws of this state, 983
are such that any of the following conditions exist, ~~he~~ the 984
superintendent shall suspend the authority granted to such 985
company to do business in this state: 986

(A) It cannot meet the current applicable requirements for 987
incorporation and commencement of the business of insurance in 988
this state; 989

(B) It has commenced, or has attempted to commence, any 990
voluntary liquidation or dissolution proceeding, or any 991
proceeding to procure the appointment of a ~~receiver~~ receiver, 992
liquidator, rehabilitator, sequestrator, conservator, or similar 993
officer for itself; 994

(C) It is the subject of liquidation or dissolution 995
proceedings undertaken by another state, or any other proceeding 996
undertaken by another state to procure the appointment of a 997
~~receiver~~ receiver, liquidator, rehabilitator, sequestrator, 998
conservator, or similar officer; 999

(D) Its ratio of premium writings to surplus and capital 1000

are unreasonable as determined by the superintendent of 1001
insurance; 1002

(E) Its further transaction of business would be hazardous 1003
to its policyholders, contract holders, or the public as shown 1004
by the following conduct, but not necessarily limited to only 1005
the following: 1006

(1) Its investments are made so as to make unavailable 1007
within a reasonable time sufficient moneys to meet promptly any 1008
demand which might in the ordinary course of business be 1009
properly made against it; 1010

(2) Any of its officers or directors have embezzled, 1011
sequestered, or wrongfully diverted any of its assets; 1012

(3) It has willfully violated its charter or any law of 1013
this state. 1014

If no demand for a hearing is made by the suspended 1015
company within thirty days after suspension, such suspension 1016
shall become a revocation of the authority to transact the 1017
business of insurance in this state. Any such hearing shall be 1018
held in compliance with sections 119.01 to 119.13 of the Revised 1019
Code. If during such hearing, satisfactory evidence of any of 1020
the enumerated conditions of this section is found to exist, the 1021
superintendent shall revoke the authority to transact the 1022
business of insurance in this state. 1023

Sec. 3903.724. (A) This section shall determine the 1024
calendar year statutory valuation interest rates (VIR) used in 1025
determining the minimum standard for the valuation of all of the 1026
following: 1027

(1) Life insurance policies issued on or after January 1, 1028
1989; 1029

(2) Individual annuity and pure endowment contracts issued	1030
on or after January 1, 1989;	1031
(3) Annuities and pure endowments purchased on or after	1032
January 1, 1989, under group annuity and pure endowment	1033
contracts;	1034
(4) The net increase, if any, in amounts held under a	1035
guaranteed interest contract <u>contract</u> in a calendar year after	1036
January 1, 1989.	1037
(B) The calendar year statutory valuation interest rates	1038
shall be calculated as follows and the results rounded to the	1039
nearest one-quarter of one per cent:	1040
(1) (a) For life insurance, by adding three per cent to the	1041
result of multiplying W (the applicable weighting factor) by	1042
R(sub-1) minus three per cent (where R(sub-1) is the lesser of	1043
the reference interest rate and nine per cent) and also adding	1044
the result of multiplying one-half of the weighting factor by	1045
R(sub-2) minus nine per cent (where R(sub-2) is the greater of	1046
the reference interest rate and nine per cent), expressed as	1047
follows:	1048
$\text{VIR} = .03 + W (R(\text{sub-1}) - .03) + W/2(R(\text{sub-2}) - .09).$	1049
(b) Provided that if the calendar year statutory valuation	1050
interest rate for a life insurance policy issued in any calendar	1051
year determined in accordance with this division does not differ	1052
from the calendar year valuation interest rate for similar	1053
policies issued in the preceding calendar year by at least one-	1054
half of one per cent, the calendar year valuation interest rate	1055
for the policy shall be equal to the calendar year valuation	1056
interest rate for the preceding calendar year. The calendar year	1057
statutory valuation interest rate shall be determined for 1980	1058

and for each subsequent year prior to the operative date of the 1059
valuation manual. 1060

(2) For all single premium immediate annuities and for 1061
annuity benefits involving life contingencies arising from other 1062
annuities with cash settlement options and from guaranteed 1063
interest contracts with cash settlement options by adding to 1064
three per cent the result of multiplying W (the applicable 1065
weighting factor) by R minus three per cent (where R is the 1066
reference interest rate), expressed as follows: 1067

$$\text{VIR} = .03 + W (R - .03). \quad 1068$$

(3) Except as provided in division (B) (2) of this section, 1069
for other annuities with cash settlement options and guaranteed 1070
interest contracts with cash settlement options, valued on an 1071
issue year basis, the life insurance formula stated in division 1072
(B) (1) of this section shall apply to all annuity and guaranteed 1073
interest contracts with guarantee durations in excess of ten 1074
years and the formula for single premium immediate annuities 1075
stated in division (B) (2) of this section shall apply to 1076
annuities and guaranteed interest contracts with guarantee 1077
duration of ten years or less. 1078

(4) For other annuities with no cash settlement options 1079
and for guaranteed interest contracts with no cash settlement 1080
options, the formula for single premium immediate annuities 1081
stated in division (B) (2) of this section shall apply. 1082

(5) For other annuities with cash settlement options and 1083
guaranteed interest contracts with cash settlement options, 1084
valued on a change in fund basis, the formula for single premium 1085
immediate annuities stated in division (B) (2) of this section 1086
shall apply. 1087

(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.

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

	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.

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

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

(a) With an adjustment to reflect changes in interest

rates or asset values since receipt of the funds by the company; 1106

(b) Without such adjustment but in installments over five 1107
or more years; 1108

(c) As an immediate life annuity. 1109

(2) A plan type B is one in which the funds may not be 1110
withdrawn before the expiration of the interest rate guarantee 1111
unless an adjustment is made to reflect changes in interest 1112
rates or asset values since receipt of the funds by the company 1113
or unless they are withdrawn in installments over five or more 1114
years. At the end of the interest rate guarantee, funds may be 1115
withdrawn in a single sum or in installments over less than five 1116
years without adjustment. 1117

(3) A plan type C is one in which the funds may be 1118
withdrawn before the end of the interest rate guarantee in a 1119
single sum or in installments over less than five years without 1120
adjustment to reflect changes in interest rates or asset values 1121
since receipt of the funds by the company or subject only to a 1122
fixed surrender charge stipulated in the contract as a 1123
percentage of the fund. 1124

(4) The guarantee duration for an annuity or guaranteed 1125
interest contract with cash settlement options is the number of 1126
years for which the contract guarantees interest rates in excess 1127
of the calendar year valuation interest rate for life insurance 1128
policies with guarantee duration in excess of twenty years. The 1129
guarantee duration for annuity and guaranteed interest contracts 1130
without cash settlement options is the number of years from the 1131
date of issue or date of purchase to the date annuity benefits 1132
are scheduled to commence. 1133

(5) Annuity and guaranteed interest contracts with cash 1134

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.

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

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

Weighting Factors for Annuities and Guaranteed Interest Contracts

	1	2	3	4
A	Weighting Factor for Plan Type			
B	Guarantee Duration (Years)	A	B	C

1157

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 1158
on a change in fund basis, the factors shown in division (F) (6) 1159

(a) of this section increased by the following amounts: 1160

(i) For plan type A, .15; 1161

(ii) For plan type B, .25; 1162

(iii) For plan type C, .05. 1163

(c) For annuities and guaranteed interest contracts valued 1164

on an issue year basis, other than those with no cash settlement 1165

options, that do not guarantee interest on considerations 1166

received more than one year after issue or purchase and for 1167

annuities and guaranteed interest contracts valued on a change 1168

in fund basis that do not guarantee interest rates on 1169

considerations received more than twelve months beyond the 1170

valuation date, the factors shown in item (F) (6) (a) or derived 1171

in item (F) (6) (b) increased by .05 for all plan types. 1172

(G) The reference interest rate is determined by comparing 1173

the monthly average of the composite yield of the monthly 1174

average on seasoned corporate bonds, as published by Moody's 1175

investors service, inc. for the applicable time period, as 1176

prescribed below: 1177

(1) The reference interest rate for all life insurance is 1178

the lesser of such average over the thirty-six month period and 1179

such average over the twelve-month period ending on the 1180
thirtieth day of June of the calendar year preceding the year of 1181
issue. 1182

(2) The reference interest rate for annuity and guaranteed 1183
interest contracts with cash settlement options, except single 1184
premium immediate annuities and annuity benefits involving life 1185
contingencies arising from other annuity and guaranteed interest 1186
contracts with cash settlement options, valued on an issue year 1187
basis with guarantee durations in excess of ten years, is the 1188
lesser of such average over the thirty-six month period and such 1189
average over the twelve-month period ending on the thirtieth day 1190
of June of the calendar year of issue or purchase. 1191

(3) The reference interest rate for other annuities with 1192
cash settlement options and guaranteed interest contracts with 1193
cash settlement options, valued on a year of issue basis, except 1194
as stated in division (G) (6) of this section, with guarantee 1195
duration of ten years or less, such average over the twelve- 1196
month period ending on the thirtieth day of June of the calendar 1197
year of issue or purchase. 1198

(4) The reference interest rate for other annuities with 1199
no cash settlement options and for guaranteed interest contracts 1200
with no cash settlement options, such average over the twelve- 1201
month period ending on the thirtieth day of June of the calendar 1202
year of issue or purchase. 1203

(5) The reference interest rate for all other annuity and 1204
guaranteed interest contracts with cash settlement options 1205
valued on a change in fund basis is such average over the 1206
twelve-month period ending on the thirtieth day of June of the 1207
calendar year in which a change in the fund occurs. 1208

(6) The reference interest rate for all single premium 1209
immediate annuities and annuity benefits involving life 1210
contingencies arising from other annuity and guaranteed interest 1211
contracts with cash settlement options is such average over the 1212
twelve-month period ending on the thirtieth day of June of the 1213
calendar year of issue or purchase. 1214

(7) If such corporate bond rate average is no longer 1215
published or the national association of insurance commissioners 1216
determines that such average is no longer appropriate, the 1217
superintendent may by rule approve the use of any alternative 1218
method for the determination of the reference interest rate 1219
adopted by the commissioners. 1220

Sec. 3903.728. (A) For policies issued on or after the 1221
operative date of the valuation manual, the standard prescribed 1222
in the valuation manual is the minimum standard of valuation 1223
required under division (B) of section 3903.721 of the Revised 1224
Code, except as provided under divisions (E) and (G) of this 1225
section. 1226

(B) The operative date of the valuation manual is January 1227
1 of the first calendar year following the first July 1 as of 1228
which all of the following have occurred: 1229

(1) The valuation manual has been adopted by the national 1230
association of insurance commissioners by an affirmative vote of 1231
at least forty-two members, or three-fourths of the members 1232
voting, whichever is greater. 1233

(2) The standard valuation law, as amended by the national 1234
association of insurance commissioners in 2009, or legislation 1235
including substantially similar terms and provisions, has been 1236
enacted by states representing greater than seventy-five per 1237

cent of the direct premiums written as reported in one or more 1238
of the following annual statements submitted for 2008: life, 1239
accident, and health annual statements; health annual 1240
statements; or fraternal annual statements. 1241

(3) The standard valuation law, as amended by the national 1242
association of insurance commissioners in 2009, or legislation 1243
including substantially similar terms and provisions, has been 1244
enacted by at least forty-two of the following fifty-five 1245
jurisdictions: the fifty states of the United States, American 1246
Samoa, the American Virgin Islands, the District of Columbia, 1247
Guam, and Puerto Rico. 1248

(C) Unless a change in the valuation manual specifies a 1249
later effective date, ~~changes a change~~ to the valuation manual 1250
shall be effective on January 1 following the date ~~when all of~~ 1251
~~the following have occurred.~~ 1252

~~(1) The~~ the change to the valuation manual has been 1253
adopted by the national association of insurance commissioners 1254
by an affirmative vote representing both of the following: 1255

~~(a) (1)~~ (1) At least three-fourths of the members of the 1256
national association of insurance commissioners voting, but not 1257
less than a majority of the total membership; 1258

~~(b) (2)~~ (2) Members of the national association of insurance 1259
commissioners representing jurisdictions totaling greater than 1260
seventy-five per cent of the direct premiums written as reported 1261
in one or more of the following annual statements most recently 1262
available prior to the vote in division (C) (1) ~~(a)~~ of this 1263
section: life, accident, and health annual statements; health 1264
annual statements; or fraternal annual statements. 1265

(D) The valuation manual shall specify all of the 1266

following:	1267
(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:	1268 1269 1270 1271
(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;	1272 1273 1274
(b) The commissioners annuity reserve valuation method for annuity contracts subject to division (B) of section 3903.721 of the Revised Code;	1275 1276 1277
(c) Minimum reserves for all other policies or contracts subject to division (B) of section 3903.721 of the Revised Code.	1278 1279
(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.	1280 1281 1282 1283 1284
(3) For policies and contracts subject to a principle-based valuation under section 3903.729 of the Revised Code:	1285 1286
(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.	1287 1288 1289 1290 1291
(b) Assumptions for risks over which the company does not have significant control or influence.	1292 1293
(c) Procedures for corporate governance and oversight of	1294

the actuarial function, and a process for appropriate waiver or 1295
modification of such procedures. 1296

(4) For policies not subject to a principle-based 1297
valuation under section 3903.729 of the Revised Code, the 1298
minimum valuation standard, which shall be or do either of the 1299
following: 1300

(a) Be consistent with the minimum standard of valuation 1301
prior to the operative date of the valuation manual; 1302

(b) Develop reserves that quantify the benefits and 1303
guarantees, and the funding, associated with the contracts and 1304
their risks at a level of conservatism that reflects conditions 1305
that include unfavorable events that have a reasonable 1306
probability of occurring. 1307

(5) Other requirements, including those relating to 1308
reserve methods, models for measuring risk, generation of 1309
economic scenarios, assumptions, margins, use of company 1310
experience, risk measurement, disclosure, certifications, 1311
reports, actuarial opinions and memorandums, transition rules, 1312
and internal controls; 1313

(6) The data and form of the data required under section 1314
3903.7210 of the Revised Code, with whom the data must be 1315
submitted, and other requirements specified by the 1316
superintendent, which may include data analyses and reporting of 1317
analyses. 1318

(E) In the absence of a specific valuation requirement or 1319
if a specific valuation requirement in the valuation manual is 1320
not, in the opinion of the superintendent, in compliance with 1321
sections 3903.72 to 3903.7211 of the Revised Code, then the 1322
company shall, with respect to such requirements, comply with 1323

minimum valuation standards prescribed in rules adopted by the 1324
superintendent. 1325

(F) The superintendent may engage a qualified actuary, at 1326
the expense of the company, to perform an actuarial examination 1327
of the company and opine on the appropriateness of any reserve 1328
assumption or method used by the company, or to review and opine 1329
on a company's compliance with any requirement set forth in 1330
sections 3903.72 to 3903.7211 of the Revised Code. The 1331
superintendent may rely upon the opinion, regarding provisions 1332
contained within sections 3903.72 to 3903.7211 of the Revised 1333
Code, of a qualified actuary engaged by the insurance 1334
commissioner of another state, district, or territory of the 1335
United States. As used in this division, the term "engage" 1336
includes employment and contracting. 1337

(G) The superintendent may require a company to change any 1338
assumption or method that in the opinion of the superintendent 1339
is necessary in order to comply with the requirements of the 1340
valuation manual or sections 3903.72 to 3903.7211 of the Revised 1341
Code, and the company shall adjust the reserves as required by 1342
the superintendent. The superintendent may take other 1343
disciplinary action as permitted under applicable laws. 1344

Sec. 3903.7211. (A) As used in this section: 1345

(1) "Confidential information" means all of the following: 1346

(a) A memorandum in support of an opinion submitted under 1347
sections 3903.722 and 3903.726 of the Revised Code and any other 1348
documents, materials, and other information, including all 1349
working papers, and copies thereof, created, produced, or 1350
obtained by or disclosed to the superintendent or any other 1351
person in connection with such memorandum. 1352

(b) (i) Except as provided in division (A) (1) (b) (ii) of 1353
this section, all documents, materials, and other information, 1354
including all working papers, and copies thereof, created, 1355
produced, or obtained by or disclosed to the superintendent or 1356
any other person in the course of an examination made under 1357
division (F) of section 3903.728 of the Revised Code. 1358

(ii) If an examination report or other material prepared 1359
in connection with an examination made under section 3901.07 of 1360
the Revised Code is not held as private and confidential 1361
information under that section, an examination report or other 1362
material prepared in connection with an examination made under 1363
division (F) of section 3903.728 of the Revised Code shall not 1364
be considered confidential information to the same extent as if 1365
such examination report or other material had been prepared 1366
under section 3901.07 of the Revised Code. 1367

(c) Any reports, documents, materials, and other 1368
information developed by a company in support of, or in 1369
connection with, an annual certification by the company under 1370
division (B) (2) of section 3903.729 of the Revised Code 1371
evaluating the effectiveness of the company's internal controls 1372
with respect to a principle-based valuation and any other 1373
documents, materials, and other information, including all 1374
working papers, and copies thereof, created, produced, or 1375
obtained by or disclosed to the superintendent or any other 1376
person in connection with such reports, documents, materials, 1377
and other information; 1378

(d) Any principle-based valuation report developed under 1379
division (B) (3) of section 3903.729 of the Revised Code and any 1380
other documents, materials, and other information, including all 1381
working papers, and copies thereof, created, produced, or 1382

obtained by or disclosed to the superintendent or any other 1383
person in connection with such report; 1384

(e) Any documents, materials, data, and other information 1385
submitted by a company under section 3903.7210 of the Revised 1386
Code, referred to collectively as "experience data," and any 1387
other documents, materials, data, and other information, 1388
including all working papers, and copies thereof, created or 1389
produced in connection with such experience data, in each case 1390
that include any potentially company-identifying or personally 1391
identifiable information, that is provided to or obtained by the 1392
superintendent, which when combined with any experience data is 1393
referred to as "experience materials," and any other documents, 1394
materials, data, and other information, including all working 1395
papers, and copies thereof, created, produced, or obtained by or 1396
disclosed to the superintendent or any other person in 1397
connection with such experience materials. 1398

(2) "Regulatory agency," "law enforcement agency," and the 1399
"national association of insurance commissioners" includes their 1400
employees, agents, consultants, and contractors. 1401

(B) (1) Except as provided in division (B) (2) of this 1402
section and as otherwise provided in this section, a company's 1403
confidential information is confidential by law and privileged, 1404
is not a public record under section 149.43 of the Revised Code, 1405
shall not be subject to subpoena, and shall not be subject to 1406
discovery or admissible in evidence in any private civil action. 1407
Except as otherwise provided in this section, neither the 1408
superintendent nor any person who received confidential 1409
information while acting under the superintendent's authority 1410
shall be permitted or required to testify in any private civil 1411
action concerning that confidential information. 1412

(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.

(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:

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

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

(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;

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

(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.

(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 1442
officials of other foreign or domestic jurisdictions, and from 1443
the actuarial board for counseling and discipline or its 1444
successor. The superintendent shall maintain as confidential or 1445
privileged any document, material, data, or other information 1446
received with notice or the understanding that it is 1447
confidential or privileged under the laws of the jurisdiction 1448
that is the source of the document, material, data, or other 1449
information. 1450

(E) The superintendent may enter into agreements governing 1451
sharing and use of information consistent with this section. 1452

(F) No waiver of any applicable privilege or claim of 1453
confidentiality in the confidential information shall occur as a 1454
result of disclosure to the superintendent under this section or 1455
as a result of sharing as authorized in division (C) of this 1456
section. 1457

(G) A privilege established under the law of any state or 1458
jurisdiction that is substantially similar to the privilege 1459
established under this section shall be available and enforced 1460
in any proceeding in, and in any court of, this state. 1461

(H) Notwithstanding divisions (B) to (G) of this section, 1462
any confidential information specified in divisions (A) (1) (a) 1463
and (d) of this section are subject to all of the following: 1464

(1) The confidential information may be subject to 1465
subpoena for the purpose of defending an action seeking damages 1466
from the appointed actuary submitting the related memorandum in 1467
support of an opinion submitted under sections 3903.722 and 1468
3903.726 of the Revised Code or principle-based valuation report 1469
developed under division (B) (3) of section 3903.729 of the 1470

Revised Code by reason of an action required by sections 3903.72 1471
to 3903.7211 of the Revised Code or by rules adopted pursuant to 1472
those sections. 1473

(2) The confidential information may otherwise be released 1474
by the superintendent with the written consent of the company. 1475

(3) Once any portion of a memorandum in support of an 1476
opinion submitted under section 3903.722~~and or~~ 3903.726 of the 1477
Revised Code or a principle-based valuation report developed 1478
under division (B) (3) of section 3903.729 of the Revised Code is 1479
cited by the company in its marketing or is publicly volunteered 1480
to or before a governmental agency other than a state insurance 1481
department or is released by the company to the news media, all 1482
portions of that memorandum or report shall no longer be 1483
confidential. 1484

Sec. 3903.74. If any company, corporation, or association 1485
required by law to make a deposit with the superintendent of 1486
insurance, or other state officer, to secure the contracts ~~or of~~ 1487
of such company, corporation, or association, or for any other 1488
purpose, fails to pay any of its liabilities upon such 1489
contracts, or other obligations, according to the terms thereof 1490
after the liability thereon has been determined, or if such 1491
company, corporation, or association, having ceased to do 1492
business~~with~~ within this state, leaves unpaid any such 1493
liability or has become insolvent, the attorney general, on 1494
behalf of the superintendent, or such other officer, and upon 1495
the application of any person entitled to participate in such 1496
deposit, or the proceeds arising therefrom, shall commence a 1497
civil action in the court of common pleas of Franklin county, 1498
making the company, corporation, or association a party 1499
defendant, to determine the rights of all parties claiming any 1500

interest in such deposit, to subject the deposit to the payment 1501
or satisfaction of all liabilities, and to distribute such fund 1502
among the persons entitled thereto. 1503

Sec. 3904.01. As used in sections 3904.01 to 3904.22 of 1504
the Revised Code: 1505

(A) (1) "Adverse underwriting decision" means any of the 1506
following actions with respect to insurance transactions 1507
involving life, health, or disability insurance coverage that is 1508
individually underwritten: 1509

(a) A declination of insurance coverage; 1510

(b) A termination of insurance coverage; 1511

(c) Failure of an agent to apply for insurance coverage 1512
with a specific insurance institution that the agent represents 1513
and that is requested by an applicant; 1514

(d) An offer to insure at higher than standard rates. 1515

(2) Notwithstanding division (A) (1) of this section, none 1516
of the following actions is an adverse underwriting decision, 1517
but the insurance institution or agent responsible for their 1518
occurrence shall nevertheless provide the applicant or 1519
policyholder with the specific reason or reasons for their 1520
occurrence: 1521

(a) The termination of an individual policy form on a 1522
class or statewide basis; 1523

(b) A declination of insurance coverage solely because the 1524
coverage is not available on a class or statewide basis; 1525

(c) The rescission of a policy. 1526

(B) "Affiliate" or "affiliated" means a person that 1527

directly, or indirectly through one or more intermediaries, 1528
controls, is controlled by, or is under common control with 1529
another person. 1530

(C) "Agent" means a person licensed under Chapter 3905. of 1531
the Revised Code to negotiate or solicit applications for a 1532
policy or contract of life, health, or disability insurance. 1533

(D) "Applicant" means any person that seeks to contract 1534
for life, health, or disability insurance coverage other than a 1535
person seeking group insurance that is not individually 1536
underwritten. 1537

(E) "Consumer report" means any written, oral, or other 1538
communication of information bearing on a natural person's 1539
credit worthiness, credit standing, credit capacity, character, 1540
general reputation, personal characteristics, or mode of living 1541
that is used or expected to be used in connection with a life, 1542
health, or disability insurance transaction. 1543

(F) "Consumer reporting agency" means any person that does 1544
all of the following: 1545

(1) Regularly engages, in whole or in part, in the 1546
practice of assembling or preparing consumer reports for a 1547
monetary fee; 1548

(2) Obtains information primarily from sources other than 1549
insurance institutions; 1550

(3) Furnishes consumer reports to other persons. 1551

(G) "Control," including the terms "controlled by" or 1552
"under common control with," means the possession, direct or 1553
indirect, of the power to direct or cause the direction of the 1554
management and policies of a person, whether through the 1555

ownership of voting securities, by contract other than a 1556
commercial contract for goods or nonmanagement services, or 1557
otherwise, unless the power is the result of an official 1558
position with or corporate office held by the person. 1559

(H) "Declination of insurance coverage" means a denial, in 1560
whole or in part, by an insurance institution or agent of 1561
requested insurance coverage. 1562

(I) "Individual" means any natural person who in 1563
connection with life, health, or disability insurance: 1564

(1) Is a past, present, or proposed principal insured or 1565
certificate holder; 1566

(2) Is a past, present, or proposed policy owner; 1567

(3) Is a past or present applicant; 1568

(4) Is a past or present claimant; 1569

(5) Derived, derives, or is proposed to derive insurance 1570
coverage under an insurance policy or certificate subject to 1571
sections 3904.01 to 3904.22 of the Revised Code. 1572

(J) "Institutional source" means any person or 1573
governmental entity that provides information about an 1574
individual to an agent, insurance institution, or insurance 1575
support organization, other than any of the following: 1576

(1) An agent; 1577

(2) The individual who is the subject of the information; 1578

(3) A natural person acting in a personal capacity rather 1579
than in a business or professional capacity. 1580

(K) "Insurance institution" means any corporation, 1581
association, partnership, fraternal benefit society, or other 1582

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.

(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:

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

(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.

(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.

(M) "Insurance transaction" means any transaction involving life, health, or disability insurance primarily for personal, family, or household needs rather than business or professional needs and entailing either the determination of an individual's eligibility for a life, health, or disability insurance coverage, benefit, or payment, or the servicing of a

life, health, or disability insurance application, policy, 1612
contract, or certificate. 1613

(N) "Investigative consumer report" means a consumer 1614
report or portion thereof in which information about a natural 1615
person's character, general reputation, personal 1616
characteristics, or mode of living is obtained through personal 1617
interviews with the person's neighbors, friends, associates, 1618
acquaintances, or others who may have knowledge concerning such 1619
items of information. 1620

(O) "Medical care institution" means any facility or 1621
institution that is licensed to provide health care services to 1622
natural persons, including home-health agencies, hospitals, 1623
medical clinics, public health agencies, rehabilitation 1624
agencies, and skilled nursing facilities. 1625

(P) "Medical professional" means any person licensed or 1626
certified to provide health care services to natural persons, 1627
including a chiropractor, clinical ~~dietician~~ dietitian, clinical 1628
psychologist, dentist, nurse, occupational therapist, 1629
optometrist, pharmacist, physical therapist, physician, 1630
podiatrist, psychiatric social worker, and speech therapist. 1631

(Q) "Medical record information" means personal 1632
information that relates to an individual's physical or mental 1633
condition, medical history, or medical treatment and that is 1634
obtained from a medical professional or medical care 1635
institution, from the individual, or from the individual's 1636
spouse, parent, or legal guardian. 1637

(R) "Personal information" means any individually 1638
identifiable information gathered in connection with an 1639
insurance transaction from which judgments can be made about an 1640

individual's character, habits, avocations, finances, 1641
occupation, general reputation, credit, health, or any other 1642
personal characteristics. "Personal information" includes an 1643
individual's name and address and medical record information but 1644
does not include privileged information. 1645

(S) "Policyholder" means any person that is a present 1646
owner of individual life, health, or disability insurance, or a 1647
present certificate holder under group life, health, or 1648
disability insurance that is individually underwritten. 1649

(T) "Pretext interview" means an interview whereby a 1650
person, in an attempt to obtain information about a natural 1651
person, performs one or more of the following acts: 1652

(1) Pretends to be someone the interviewer is not; 1653

(2) Pretends to represent a person the interviewer is not 1654
in fact representing; 1655

(3) Misrepresents the true purpose of the interview; 1656

(4) Refuses to identify self upon request. 1657

(U) "Privileged information" means any individually 1658
identifiable information that relates to a claim for life, 1659
health, or disability insurance benefits or a civil or criminal 1660
proceeding involving an individual, and that is collected in 1661
connection with, or in reasonable anticipation of, a claim for 1662
life, health, or disability insurance benefits or civil or 1663
criminal proceeding involving an individual. However, 1664
information otherwise meeting the requirements of this division 1665
shall nevertheless be considered personal information if it is 1666
disclosed in violation of section 3904.13 of the Revised Code. 1667

(V) "Termination of insurance coverage" or "termination of 1668

an insurance policy" means either a cancellation or nonrenewal 1669
of a life, health, or disability insurance policy, in whole or 1670
in part, for any reason other than the failure to pay a premium 1671
as required by the policy. 1672

(W) "Unauthorized insurer" means an insurance institution 1673
that has not been granted a certificate of authority by the 1674
superintendent of insurance to transact the business of life, 1675
health, or disability insurance in this state. 1676

Sec. 3904.16. (A) Whenever the superintendent of insurance 1677
has reason to believe that an insurance institution, agent, or 1678
insurance support organization has been or is engaged in conduct 1679
in this state that violates sections 3904.01 to 3904.22 of the 1680
Revised Code, or if the superintendent believes that an 1681
insurance support organization has been or is engaged in conduct 1682
outside this state that has an effect on a person residing in 1683
this state and that violates these sections, the superintendent 1684
shall issue and serve upon such insurance institution, agent, or 1685
insurance support organization a statement of charges and notice 1686
of hearing to be held at a time and place fixed in the notice. 1687
The date for such hearing shall be not less than thirty days 1688
after the date of service. 1689

(B) At the time and place fixed for such hearing, the 1690
insurance institution, agent, or insurance support organization 1691
charged shall have an opportunity to answer the charges against 1692
it and present evidence on its ~~behalf~~ behalf. Upon good cause 1693
shown, the superintendent shall permit any adversely affected 1694
person to intervene, appear, and be heard at such hearing by 1695
counsel or in person. 1696

(C) At any hearing conducted pursuant to this section, the 1697
superintendent may administer oaths, examine, and cross-examine 1698

witnesses and receive oral and documentary evidence. The 1699
superintendent may subpoena witnesses, compel their attendance, 1700
and require the production of books, papers, records, 1701
correspondence and other documents that are relevant to the 1702
hearing. A stenographic record of the hearing shall be made upon 1703
the request of any party or at the discretion of the 1704
superintendent. If no stenographic record is made and if 1705
judicial review is sought, the superintendent shall prepare a 1706
statement of the evidence for use on the review. Hearings 1707
conducted under this section are governed by the same rules of 1708
evidence and procedure applicable to administrative proceedings 1709
conducted under Chapter 119. of the Revised Code. 1710

(D) Statements of charges, notices, orders, and other 1711
processes of the superintendent under sections 3904.01 to 1712
3904.22 of the Revised Code may be served by anyone authorized 1713
to act on behalf of the superintendent. Service of process may 1714
be completed in the manner provided by law for service of 1715
process in civil actions or by registered mail. A copy of the 1716
statement of charges, notice, order or other process shall be 1717
provided to the person or persons whose rights under these 1718
sections have been allegedly violated. A verified return setting 1719
forth the manner of service, or return postcard receipt in the 1720
case of registered mail, is sufficient proof of service. 1721

Sec. 3905.051. (A) As used in this section: 1722

~~(A)~~ ~~(1)~~ "Applicant" means a natural person applying for 1723
either of the following: 1724

~~(1)~~ ~~(a)~~ A resident license as an insurance agent or surety 1725
bail bond agent; 1726

~~(2)~~ ~~(b)~~ An additional line of authority under an existing 1727

resident insurance agent license if a criminal ~~record~~ records 1728
check has not been obtained within the last twelve months for 1729
insurance license purposes. 1730

~~(B)~~ (2) "Fingerprint" means an impression of the lines on 1731
the finger taken for the purpose of identification. The 1732
impression may be electronic or converted to an electronic 1733
format. 1734

~~(C)~~ (B) Each applicant shall consent to a criminal record 1735
check in accordance with this section and shall submit a full 1736
set of fingerprints to the superintendent of insurance for that 1737
purpose. 1738

~~(D)~~ (C) The superintendent of insurance shall request the 1739
superintendent of the bureau of criminal identification and 1740
investigation to conduct a criminal records check based on the 1741
applicant's fingerprints. The superintendent of insurance shall 1742
request that criminal record information from the federal bureau 1743
of investigation be obtained as part of the criminal records 1744
check. 1745

~~(E)~~ (D) The superintendent of insurance may contract for 1746
the collection and transmission of fingerprints authorized under 1747
this section. The superintendent may order the fee for 1748
collecting and transmitting fingerprints to be payable directly 1749
to the contractor by the applicant. The superintendent may agree 1750
to a reasonable fingerprinting fee to be charged by the 1751
contractor. Any fee required under this section shall be paid by 1752
the applicant. 1753

~~(F)~~ (E) The superintendent may receive criminal record 1754
information directly in lieu of the bureau of criminal 1755
identification and investigation that submitted the fingerprints 1756

to the federal bureau of investigation. 1757

~~(G)~~ (F) The superintendent shall treat and maintain an 1758
applicant's fingerprints and any criminal record information 1759
obtained under this section as confidential and shall apply 1760
security measures consistent with the criminal justice 1761
information services division of the federal bureau of 1762
investigation standards for the electronic storage of 1763
fingerprints and necessary identifying information and limit the 1764
use of records solely to the purposes authorized by this 1765
section. The fingerprints and any criminal record information 1766
are not subject to subpoena other than one issued pursuant to a 1767
criminal investigation, are confidential by law and privileged, 1768
are not subject to discovery, and are not admissible in any 1769
private civil action. 1770

~~(H)~~ (G) This section does not apply to an agent applying 1771
for renewal of an existing resident or nonresident license in 1772
this state. 1773

Sec. 3905.14. (A) As used in sections 3905.14 to 3905.16 1774
of the Revised Code: 1775

(1) "Insurance agent" includes a limited lines insurance 1776
agent, surety bail bond agent, and surplus line broker. 1777

(2) "Refusal to issue or renew" means the decision of the 1778
superintendent of insurance not to process either the initial 1779
application for a license as an agent or the renewal of such a 1780
license. 1781

(3) "Revocation" means the permanent termination of all 1782
authority to hold any license as an agent in this state. 1783

(4) "Surrender for cause" means the voluntary termination 1784
of all authority to hold any license as an agent in this state, 1785

in lieu of a revocation or suspension order. 1786

(5) "Suspension" means the termination of all authority to 1787
hold any license as an agent in this state, for either a 1788
specified period of time or an indefinite period of time and 1789
under any terms or conditions determined by the superintendent. 1790

(B) The superintendent may suspend, revoke, or refuse to 1791
issue or renew any license of an insurance agent, assess a civil 1792
penalty, or impose any other sanction or sanctions authorized 1793
under this chapter, for one or more of the following reasons: 1794

(1) Providing incorrect, misleading, incomplete, or 1795
materially untrue information in a license or appointment 1796
application; 1797

(2) Violating or failing to comply with any insurance law, 1798
rule, subpoena, consent agreement, or order of the 1799
superintendent or of the insurance authority of another state; 1800

(3) Obtaining, maintaining, or attempting to obtain or 1801
maintain a license through misrepresentation or fraud; 1802

(4) Improperly withholding, misappropriating, or 1803
converting any money or property received in the course of doing 1804
insurance business; 1805

(5) Intentionally misrepresenting the terms, benefits, 1806
value, cost, or effective dates of any actual or proposed 1807
insurance contract or application for insurance; 1808

(6) Having been convicted of or pleaded guilty or no 1809
contest to a felony regardless of whether a judgment of 1810
conviction has been entered by the court; 1811

(7) Having been convicted of or pleaded guilty or no 1812
contest to a misdemeanor that involves the misuse or theft of 1813

money or property belonging to another, fraud, forgery, 1814
dishonest acts, or breach of a fiduciary duty, that is based on 1815
any act or omission relating to the business of insurance, 1816
securities, or financial services, or that involves moral 1817
turpitude regardless of whether a judgment has been entered by 1818
the court; 1819

(8) Having admitted to committing, or having been found to 1820
have committed, any insurance unfair trade act or practice or 1821
insurance fraud; 1822

(9) Using fraudulent, coercive, or dishonest practices, or 1823
demonstrating incompetence, untrustworthiness, or financial 1824
irresponsibility, in the conduct of business in this state or 1825
elsewhere; 1826

(10) Having an insurance agent license, or its equivalent, 1827
denied, suspended, or revoked in any other state, province, 1828
district, or territory; 1829

(11) Forging or causing the forgery of an application for 1830
insurance or any document related to or used in an insurance 1831
transaction; 1832

(12) Improperly using notes, any other reference material, 1833
equipment, or devices of any kind to complete an examination for 1834
an insurance agent license; 1835

(13) Knowingly accepting insurance business from an 1836
individual who is not licensed; 1837

(14) Failing to comply with any official invoice, notice, 1838
assessment, or order directing payment of federal, state, or 1839
local income tax, state or local sales tax, or workers' 1840
compensation premiums; 1841

(15) Failing to timely submit an application for 1842
insurance. For purposes of division (B) (15) of this section, a 1843
submission is considered timely if it occurs within the time 1844
period expressly provided for by the insurer, or within seven 1845
days after the insurance agent accepts a premium or an order to 1846
bind coverage from a policyholder or applicant for insurance, 1847
whichever is later. 1848

(16) Failing to disclose to an applicant for insurance or 1849
policyholder upon accepting a premium or an order to bind 1850
coverage from the applicant or policyholder, that the person has 1851
not been appointed by the insurer; 1852

(17) Having any professional license or financial industry 1853
regulatory authority registration suspended or revoked or having 1854
been barred from participation in any industry; 1855

(18) Having been subject to a cease and desist order or 1856
permanent injunction related to mishandling of funds or breach 1857
of fiduciary responsibilities or for unlicensed or unregistered 1858
activities; 1859

(19) Causing or permitting a policyholder or applicant for 1860
insurance to designate the insurance agent or the insurance 1861
agent's spouse, parent, child, or sibling as the beneficiary of 1862
a policy or annuity sold by the insurance agent or of a policy 1863
or annuity for which the agent, at any time, was designated as 1864
the agent of record, unless the insurance agent or a relative of 1865
the insurance agent is the insured or applicant; 1866

(20) Causing or permitting a policyholder or applicant for 1867
insurance to designate the insurance agent or the insurance 1868
agent's spouse, parent, child, or sibling as the owner or 1869
beneficiary of a trust funded, in whole or in part, by a policy 1870

or annuity sold by the insurance agent or by a policy or annuity 1871
for which the agent, at any time, was designated as the agent of 1872
record, unless the insurance agent or a relative of the 1873
insurance agent is the insured or applicant; 1874

(21) Failing to provide a written response to the 1875
department of insurance within twenty-one calendar days after 1876
receipt of any written inquiry from the department, unless a 1877
reasonable extension of time has been requested of, and granted 1878
by, the superintendent or the superintendent's designee; 1879

(22) Failing to appear to answer questions before the 1880
superintendent after being notified in writing by the 1881
superintendent of a scheduled interview, unless a reasonable 1882
extension of time has been requested of, and granted by, the 1883
superintendent or the superintendent's designee; 1884

(23) Transferring or placing insurance with an insurer 1885
other than the insurer expressly chosen by the applicant for 1886
insurance or policyholder without the consent of the applicant 1887
or policyholder or absent extenuating circumstances; 1888

(24) Failing to inform a policyholder or applicant for 1889
insurance of the identity of the insurer or insurers, or the 1890
identity of any other insurance agent or licensee known to be 1891
involved in procuring, placing, or continuing the insurance for 1892
the policyholder or applicant, upon the binding of the coverage; 1893

(25) In the case of an agent that is a business entity, 1894
failing to report an individual licensee's violation to the 1895
department when the violation was known or should have been 1896
known by one or more of the partners, officers, managers, or 1897
members of the business entity; 1898

(26) Submitting or using a document in the conduct of the 1899

business of insurance when the person knew or should have known 1900
that the document contained a writing that was forged as defined 1901
in section 2913.01 of the Revised Code; 1902

(27) Misrepresenting the person's qualifications, status 1903
or relationship to another person, agency, or entity, or using 1904
in any way a professional designation that has not been 1905
conferred upon the person by the appropriate accrediting 1906
organization; 1907

(28) Obtaining a premium loan or policy surrender or 1908
causing a premium loan or policy surrender to be made to or in 1909
the name of an insured or policyholder without that person's 1910
knowledge and written authorization; 1911

(29) Using paper, software, or any other materials of or 1912
provided by an insurer after the insurer has terminated the 1913
authority of the licensee, if the use of such materials would 1914
cause a reasonable person to believe that the licensee was 1915
acting on behalf of or otherwise representing the insurer; 1916

(30) Soliciting, procuring an application for, or placing, 1917
either directly or indirectly, any insurance policy when the 1918
person is not authorized under this chapter to engage in such 1919
activity; 1920

(31) Soliciting, selling, or negotiating any product or 1921
service that offers benefits similar to insurance but is not 1922
regulated by the superintendent, without fully disclosing, 1923
orally and in writing, to the prospective purchaser that the 1924
product or service is not insurance and is not regulated by the 1925
superintendent; 1926

(32) Failing to fulfill a refund obligation to a 1927
policyholder or applicant in a timely manner. For purposes of 1928

division (B) (32) of this section, a rebuttable presumption 1929
exists that a refund obligation is not fulfilled in a timely 1930
manner unless it is fulfilled within one of the following time 1931
periods: 1932

(a) Thirty days after the date the policyholder, 1933
applicant, or insurer takes or requests action resulting in a 1934
refund; 1935

(b) Thirty days after the date of the insurer's refund 1936
check, if the agent is expected to issue a portion of the total 1937
refund; 1938

(c) Forty-five days after the date of the agent's 1939
statement of account on which the refund first appears. 1940

The presumption may be rebutted by proof that the 1941
policyholder or applicant consented to the delay or agreed to 1942
permit the agent to apply the refund to amounts due for other 1943
coverages. 1944

(33) With respect to a surety bail bond agent license, 1945
rebating or offering to rebate, or unlawfully dividing or 1946
offering to divide, any commission, premium, or fee; 1947

(34) Using a license for the principal purpose of 1948
procuring, receiving, or forwarding applications for insurance 1949
of any kind, other than life, or soliciting, placing, or 1950
effecting such insurance directly or indirectly upon or in 1951
connection with the property of the licensee or that of 1952
relatives, employers, employees, or that for which they or the 1953
licensee is an agent, custodian, vendor, bailee, trustee, or 1954
payee; 1955

(35) In the case of an insurance agent that is a business 1956
entity, using a life license for the principal purpose of 1957

soliciting or placing insurance on the lives of the business 1958
entity's officers, employees, or shareholders, or on the lives 1959
of relatives of such officers, employees, or shareholders, or on 1960
the lives of persons for whom they, their relatives, or the 1961
business entity is agent, custodian, vendor, bailee, trustee, or 1962
payee; 1963

(36) Offering, selling, soliciting, or negotiating 1964
policies, contracts, agreements, or applications for insurance, 1965
or annuities providing fixed, variable, or fixed and variable 1966
benefits, or contractual payments, for or on behalf of any 1967
insurer or multiple employer welfare arrangement not authorized 1968
to transact business in this state, or for or on behalf of any 1969
spurious, fictitious, nonexistent, dissolved, inactive, 1970
liquidated or liquidating, or bankrupt insurer or multiple 1971
employer welfare arrangement; 1972

(37) In the case of a resident business entity, failing to 1973
be qualified to do business in this state under Title XVII of 1974
the Revised Code, failing to be in good standing with the 1975
secretary of state, or failing to maintain a valid appointment 1976
of statutory agent with the secretary of state; 1977

(38) In the case of a nonresident agent, failing to 1978
maintain licensure as an insurance agent in the agent's home 1979
state for the lines of authority held in this state; 1980

(39) Knowingly aiding and abetting another person or 1981
entity in the violation of any insurance law of this state or 1982
the rules adopted under it. 1983

(C) Before denying, revoking, suspending, or refusing to 1984
issue any license or imposing any penalty under this section, 1985
the superintendent shall provide the licensee or applicant with 1986

notice and an opportunity for hearing as provided in Chapter 1987
119. of the Revised Code, except as follows: 1988

(1) (a) Any notice of opportunity for hearing, the hearing 1989
officer's findings and recommendations, or the superintendent's 1990
order shall be served by certified mail at the last known 1991
address of the licensee or applicant. Service shall be evidenced 1992
by return receipt signed by any person. 1993

For purposes of this section, the "last known address" is 1994
the residential address of a licensee or applicant, or the 1995
principal-place-of-business address of a business entity, that 1996
is contained in the licensing records of the department. 1997

(b) If the certified mail envelope is returned with an 1998
endorsement showing that service was refused, or that the 1999
envelope was unclaimed, the notice and all subsequent notices 2000
required by Chapter 119. of the Revised Code may be served by 2001
ordinary mail to the last known address of the licensee or 2002
applicant. The mailing shall be evidenced by a certificate of 2003
mailing. Service is deemed complete as of the date of such 2004
certificate provided that the ordinary mail envelope is not 2005
returned by the postal authorities with an endorsement showing 2006
failure of delivery. The time period in which to request a 2007
hearing, as provided in Chapter 119. of the Revised Code, begins 2008
to run on the date of mailing. 2009

(c) If service by ordinary mail fails, the superintendent 2010
may cause a summary of the substantive provisions of the notice 2011
to be published once a week for three consecutive weeks in a 2012
newspaper of general circulation in the county where the last 2013
known place of residence or business of the party is located. 2014
The notice is considered served on the date of the third 2015
publication. 2016

(d) Any notice required to be served under Chapter 119. of 2017
the Revised Code shall also be served upon the party's attorney 2018
by ordinary mail if the attorney has entered an appearance in 2019
the matter. 2020

(e) The superintendent may, at any time, perfect service 2021
on a party by personal delivery of the notice by an employee of 2022
the department. 2023

(f) Notices regarding the scheduling of hearings and all 2024
other matters not described in division (C)(1)(a) of this 2025
section shall be sent by ordinary mail to the party and to the 2026
party's attorney. 2027

(2) Any subpoena for the appearance of a witness or the 2028
production of documents or other evidence at a hearing, or for 2029
the purpose of taking testimony for use at a hearing, shall be 2030
served by certified mail, return receipt requested, by an 2031
attorney or by an employee of the department designated by the 2032
superintendent. Such subpoenas shall be enforced in the manner 2033
provided in section 119.09 of the Revised Code. Nothing in this 2034
section shall be construed as limiting the superintendent's 2035
other statutory powers to issue subpoenas. 2036

(D) If the superintendent determines that a violation 2037
described in this section has occurred, the superintendent may 2038
take one or more of the following actions: 2039

(1) Assess a civil penalty in an amount not exceeding 2040
twenty-five thousand dollars per violation; 2041

(2) Assess administrative costs to cover the expenses 2042
incurred by the department in the administrative action, 2043
including costs incurred in the investigation and hearing 2044
processes. Any costs collected shall be paid into the state 2045

treasury to the credit of the department of insurance operating 2046
fund created in section 3901.021 of the Revised Code. 2047

(3) Suspend all of the person's licenses for all lines of 2048
insurance for either a specified period of time or an indefinite 2049
period of time and under such terms and conditions as the 2050
superintendent may determine; 2051

(4) Permanently revoke all of the person's licenses for 2052
all lines of insurance; 2053

(5) Refuse to issue a license; 2054

(6) Refuse to renew a license; 2055

(7) Prohibit the person from being employed in any 2056
capacity in the business of insurance and from having any 2057
financial interest in any insurance agency, company, surety bail 2058
bond business, or third-party administrator in this state. The 2059
superintendent may, in the superintendent's discretion, 2060
determine the nature, conditions, and duration of such 2061
restrictions. 2062

(8) Order corrective actions in lieu of or in addition to 2063
the other penalties listed in division (D) of this section. Such 2064
an order may provide for the suspension of civil penalties, 2065
license revocation, license suspension, or refusal to issue or 2066
renew a license if the licensee complies with the terms and 2067
conditions of the corrective action order. 2068

(9) Accept a surrender for cause offered by the licensee, 2069
which shall be for at least five years and shall prohibit the 2070
licensee from seeking any license authorized under this chapter 2071
during that time period. A surrender for cause shall be in lieu 2072
of revocation or suspension and may include a corrective action 2073
order as provided in division (D) (8) of this section. 2074

(E) The superintendent may consider the following factors	2075
in denying a license, imposing suspensions, revocations, fines,	2076
or other penalties, and issuing orders under this section:	2077
(1) Whether the person acted in good faith;	2078
(2) Whether the person made restitution for any pecuniary	2079
losses suffered by other persons as a result of the person's	2080
actions;	2081
(3) The actual harm or potential for harm to others;	2082
(4) The degree of trust placed in the person by, and the	2083
vulnerability of, persons who were or could have been adversely	2084
affected by the person's actions;	2085
(5) Whether the person was the subject of any previous	2086
administrative actions by the superintendent;	2087
(6) The number of individuals adversely affected by the	2088
person's acts or omissions;	2089
(7) Whether the person voluntarily reported the violation,	2090
and the extent of the person's cooperation and acceptance of	2091
responsibility;	2092
(8) Whether the person obstructed or impeded, or attempted	2093
to obstruct or impede, the superintendent's investigation;	2094
(9) The person's efforts to conceal the misconduct;	2095
(10) Remedial efforts to prevent future violations;	2096
(11) If the person was convicted of a criminal offense,	2097
the nature of the offense, whether the conviction was based on	2098
acts or omissions taken under any professional license, whether	2099
the offense involved the breach of a fiduciary duty, the amount	2100
of time that has passed, and the person's activities subsequent	2101

to the conviction; 2102

(12) Such other factors as the superintendent determines 2103
to be appropriate under the circumstances. 2104

(F) (1) A violation described in division (B) (1), (2), (3), 2105
(4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), 2106
(16), (17), (18), (19), (20), (22), (23), (24), (25), (26), 2107
(27), (28), (29), (30), (31), (32), (33), (34), (35), ~~and or~~ 2108
(36) of this section is a class A offense for which the 2109
superintendent may impose any penalty set forth in division (D) 2110
of this section. 2111

(2) A violation described in division (B) (15) or (21) of 2112
this section, or a failure to comply with section 3905.061, 2113
3905.071, or 3905.22 of the Revised Code, is a class B offense 2114
for which the superintendent may impose any penalty set forth in 2115
division (D) (1), (2), (8), or (9) of this section. 2116

(3) If the superintendent determines that a violation 2117
described in division (B) (36) of this section has occurred, the 2118
superintendent shall impose a minimum of a two-year suspension 2119
on all of the person's licenses for all lines of insurance. 2120

(G) If a violation described in this section has caused, 2121
is causing, or is about to cause substantial and material harm, 2122
the superintendent may issue an order requiring that person to 2123
cease and desist from engaging in the violation. Notice of the 2124
order shall be mailed by certified mail, return receipt 2125
requested, or served in any other manner provided for in this 2126
section, immediately after its issuance to the person subject to 2127
the order and to all persons known to be involved in the 2128
violation. The superintendent may thereafter publicize or 2129
otherwise make known to all interested parties that the order 2130

has been issued. 2131

The notice shall specify the particular act, omission, 2132
practice, or transaction that is subject to the cease-and-desist 2133
order and shall set a date, not more than fifteen days after the 2134
date of the order, for a hearing on the continuation or 2135
revocation of the order. The person shall comply with the order 2136
immediately upon receipt of notice of the order. 2137

The superintendent may, upon the application of a party 2138
and for good cause shown, continue the hearing. Chapter 119. of 2139
the Revised Code applies to such hearings to the extent that 2140
that chapter does not conflict with the procedures set forth in 2141
this section. The superintendent shall, within fifteen days 2142
after objections are submitted to the hearing officer's report 2143
and recommendation, issue a final order either confirming or 2144
revoking the cease-and-desist order. The final order may be 2145
appealed as provided under section 119.12 of the Revised Code. 2146

The remedy under this division is cumulative and 2147
concurrent with the other remedies available under this section. 2148

(H) If the superintendent has reasonable cause to believe 2149
that an order issued under this section has been violated in 2150
whole or in part, the superintendent may request the attorney 2151
general to commence and prosecute any appropriate action or 2152
proceeding in the name of the state against such person. 2153

The court may, in an action brought pursuant to this 2154
division, impose any of the following: 2155

(1) For each violation, a civil penalty of not more than 2156
twenty-five thousand dollars; 2157

(2) Injunctive relief; 2158

(3) Restitution;	2159
(4) Any other appropriate relief.	2160
(I) With respect to a surety bail bond agent license:	2161
(1) Upon the suspension or revocation of a license, or the eligibility of a surety bail bond agent to hold a license, the superintendent likewise may suspend or revoke the license or eligibility of any surety bail bond agent who is employed by or associated with that agent and who knowingly was a party to the act that resulted in the suspension or revocation.	2162 2163 2164 2165 2166 2167
(2) The superintendent may revoke a license as a surety bail bond agent if the licensee is adjudged bankrupt.	2168 2169
(J) Nothing in this section shall be construed to create or imply a private cause of action against an agent or insurer.	2170 2171
Sec. 3905.84. No person shall act in the capacity of a surety bail bond agent, or perform any of the functions, duties, or powers prescribed for surety bail bond agents under sections 3905.83 to 3905.95 of the Revised Code, unless that person is <u>is</u> qualified, licensed, and appointed as provided in those sections.	2172 2173 2174 2175 2176 2177
Sec. 3905.85. (A) (1) An individual who applies for a license as a surety bail bond agent shall submit an application for the license in a manner prescribed by the superintendent of insurance. The application shall be accompanied by a one_ <u> </u> hundred_ <u> </u> fifty_ <u> </u> dollar fee and a statement that gives the applicant's name, age, residence, present occupation, occupation for the five years next preceding the date of the application, and such other information as the superintendent may require.	2178 2179 2180 2181 2182 2183 2184 2185
(2) An applicant for an individual resident license shall	2186

also submit to a criminal records check pursuant to section	2187
3905.051 of the Revised Code.	2188
(B) (1) The superintendent shall issue to an applicant an	2189
individual resident license that states in substance that the	2190
person is authorized to do the business of a surety bail bond	2191
agent, if the superintendent is satisfied that all of the	2192
following apply:	2193
(a) The applicant is eighteen years of age or older.	2194
(b) The applicant's home state is Ohio.	2195
(c) The applicant is a person of high character and	2196
integrity.	2197
(d) The applicant has not committed any act that is	2198
grounds for the refusal to issue, suspension of, or revocation	2199
of a license under section 3905.14 of the Revised Code.	2200
(e) The applicant is a United States citizen or has	2201
provided proof of having legal authorization to work in the	2202
United States.	2203
(f) The applicant has successfully completed the	2204
educational requirements set forth in section 3905.04 of the	2205
Revised Code and passed the examination required by that	2206
section.	2207
(2) The superintendent shall issue to an applicant an	2208
individual nonresident license that states in substance that the	2209
person is authorized to do the business of a surety bail bond	2210
agent, if the superintendent is satisfied that all of the	2211
following apply:	2212
(a) The applicant is eighteen years of age or older.	2213

(b) The applicant is currently licensed as a resident in 2214
another state and is in good standing in the applicant's home 2215
state for surety bail bond or is qualified for the same 2216
authority. 2217

(c) The applicant is a person of high character and 2218
integrity. 2219

(d) The applicant has not committed any act that is 2220
grounds for the refusal to issue, suspension of, or revocation 2221
of a license under section 3905.14 of the Revised Code. 2222

(3) The superintendent shall issue an applicant a resident 2223
business entity license that states in substance that the person 2224
is authorized to do the business of a surety bail bond agent if 2225
the superintendent is satisfied that all of the following apply: 2226

(a) The applicant has submitted an application for the 2227
license in a manner prescribed by the superintendent and the 2228
one-hundred-fifty-dollar application fee. 2229

(b) The applicant either is domiciled in this state or 2230
maintains its principal place of business in this state. 2231

(c) The applicant has designated an individual licensed 2232
surety bail bond agent who will be responsible for the 2233
applicant's compliance with the insurance laws of this state. 2234

(d) The applicant has not committed any act that is 2235
grounds for the refusal to issue, suspension of, or revocation 2236
of a license under section 3905.14 of the Revised Code. 2237

(e) The applicant is authorized to do business in this 2238
state by the secretary of state if so required under the 2239
applicable provisions of Title XVII of the Revised Code. 2240

(f) The applicant has submitted any other documents 2241

requested by the superintendent. 2242

(4) The superintendent shall issue an applicant a 2243
nonresident business entity license that states in substance 2244
that the person is authorized to do the business of a surety 2245
bail bond agent if the superintendent is satisfied that all of 2246
the following apply: 2247

(a) The applicant has submitted an application for the 2248
license in a manner prescribed by the superintendent and the 2249
one-hundred-fifty-dollar application fee. 2250

(b) The applicant is currently licensed and is in good 2251
standing in the applicant's home state with surety bail bond 2252
authority. 2253

(c) The applicant has designated an individual licensed 2254
surety bail bond agent who will be responsible for the 2255
applicant's compliance with the insurance laws of this state. 2256

(d) The applicant has not committed any act that is 2257
grounds for the refusal to issue, suspension of, or revocation 2258
of a license under section 3905.14 of the Revised Code. 2259

(e) The applicant has submitted any other documents 2260
requested by the superintendent. 2261

(C) A resident and nonresident surety bail bond agent 2262
license issued pursuant to this section authorizes the holder, 2263
when appointed by an insurer, to execute or countersign bail 2264
bonds in connection with judicial proceedings and to receive 2265
money or other things of value for those services. However, the 2266
holder shall not execute or deliver a bond during the first one 2267
hundred eighty days after the license is initially issued. This 2268
restriction does not apply with respect to license renewals or 2269
any license issued under divisions (B) (3) and (4) of this 2270

section. 2271

(D) The superintendent may refuse to renew a surety bail 2272
bond agent's license as provided in division (B) of section 2273
3905.88 of the Revised Code, and may suspend, revoke, or refuse 2274
to issue or renew such a license as provided in section 3905.14 2275
of the Revised Code. 2276

If the superintendent refuses to issue such a license 2277
based in whole or in part upon the written response to a 2278
criminal records check completed pursuant to division (A) of 2279
this section, the superintendent shall send a copy of the 2280
response that was transmitted to the superintendent to the 2281
applicant at the applicant's home address upon the applicant's 2282
submission of a written request to the superintendent. 2283

(E) Any person licensed as a surety bail bond agent may 2284
surrender the person's license in accordance with section 2285
3905.16 of the Revised Code. 2286

(F) (1) A person seeking to renew a surety bail bond agent 2287
license shall apply annually for a renewal of the license on or 2288
before the ~~last-first~~ day of ~~February~~April. Applications shall 2289
be submitted to the superintendent on forms prescribed by the 2290
superintendent. Each application shall be accompanied by a one- 2291
hundred-fifty-dollar renewal fee. 2292

(2) To be eligible for renewal, an individual applicant 2293
shall complete the continuing education requirements pursuant to 2294
section 3905.88 of the Revised Code prior to the renewal date. 2295

(3) If an applicant submits a completed renewal 2296
application, qualifies for renewal pursuant to divisions (F) (1) 2297
and (2) of this section, and has not committed any act that is a 2298
ground for the refusal to issue, suspension of, or revocation of 2299

a license under section 3905.14 or sections 3905.83 to 3905.99 2300
of the Revised Code, the superintendent shall renew the 2301
applicant's surety bail bond insurance agent license. 2302

(4) If an individual or business entity does not apply for 2303
the renewal of the individual or business entity's license on or 2304
before the license renewal date specified in division (F)(1) of 2305
this section, the individual or business entity may submit a 2306
late renewal application along with all applicable fees required 2307
under this chapter prior to the ~~last~~first day of ~~March~~May 2308
following the renewal date. The superintendent shall renew the 2309
license of an applicant that submits a late renewal application 2310
if the applicant satisfies all of the following conditions: 2311

(a) The applicant submits a completed renewal application. 2312

(b) The applicant pays the one-hundred-fifty-dollar 2313
renewal fee. 2314

(c) The applicant pays the late renewal fee established by 2315
the superintendent. 2316

(d) The applicant provides proof of compliance with the 2317
continuing education requirements pursuant to section 3905.88 of 2318
the Revised Code. 2319

(e) The applicant has not committed any act that is 2320
grounds for the refusal to issue, suspension of, or revocation 2321
of a license under section 3905.14 or sections 3905.83 to 2322
3905.99 of the Revised Code. 2323

(5) A license issued under this section that is not 2324
renewed on or before its late renewal date specified in division 2325
(F)(4) of this section is automatically suspended for nonrenewal 2326
effective the ~~first~~second day of ~~April~~May. 2327

(6) If a license is suspended for nonrenewal pursuant to 2328
division (F) (5) of this section, the individual or business 2329
entity is eligible to apply for reinstatement of the license 2330
within the twelve-month period following the date by which the 2331
license should have been renewed by complying with the 2332
reinstatement procedure established by the superintendent and 2333
paying all applicable fees required under this chapter. 2334

(7) A license that is suspended for nonrenewal that is not 2335
reinstated pursuant to division (F) (6) of this section 2336
automatically is canceled unless the superintendent is 2337
investigating any allegations of wrongdoing by the agent or has 2338
initiated proceedings under Chapter 119. of the Revised Code. In 2339
that case, the license automatically is canceled after the 2340
completion of the investigation or proceedings unless the 2341
superintendent revokes the license. 2342

(G) The superintendent may prescribe the forms to be used 2343
as evidence of the issuance of a license under this section. The 2344
superintendent shall require each licensee to acquire, from a 2345
source designated by the superintendent, a wallet identification 2346
card that includes the licensee's photograph and any other 2347
information required by the superintendent. The licensee shall 2348
keep the wallet identification card on the licensee's person 2349
while engaging in the bail bond business. 2350

(H) (1) The superintendent of insurance shall not issue or 2351
renew the license of a business entity organized under the laws 2352
of this or any other state unless the business entity is 2353
qualified to do business in this state under the applicable 2354
provisions of Title XVII of the Revised Code. 2355

(2) The failure of a business entity to be in good 2356
standing with the secretary of state or to maintain a valid 2357

appointment of statutory agent is grounds for suspending, 2358
revoking, or refusing to renew its license. 2359

(3) By applying for a surety bail bond agent license under 2360
this section, an individual or business entity consents to the 2361
jurisdiction of the courts of this state. 2362

(I) A surety bail bond agent licensed pursuant to this 2363
section is an officer of the court. 2364

(J) Any fee collected under this section shall be paid 2365
into the state treasury to the credit of the department of 2366
insurance operating fund created by section 3901.021 of the 2367
Revised Code. 2368

Sec. 3905.87. (A) A surety bail bond agent shall not file 2369
a bond in any court of this state unless the agent is licensed 2370
and appointed under sections 3905.83 to 3905.95 of the Revised 2371
Code and has registered with the clerk of that court pursuant to 2372
division (B) of this section, if registration is required by the 2373
court. 2374

(B) To register with a court, a surety bail bond agent 2375
shall file, with the clerk of the court, a copy of the agent's 2376
surety bail bond license, a copy of the agent's driver's license 2377
or state identification card, and a certified copy of the surety 2378
bail bond agent's appointment by power of attorney from each 2379
insurer that the surety bail bond agent represents. An agent 2380
shall renew the agent's registration biennially by the first day 2381
of ~~August~~ April of each odd-numbered year. 2382

(C) The clerk of the court shall make available a list of 2383
court-registered surety bail bond agents to the appropriate 2384
holding facility, jail, correction facility, or other similar 2385
entity within the court's jurisdiction annually not later than 2386

the first day of ~~September~~May. If an agent registers with a 2387
court after the last day of ~~August~~April, the court shall add 2388
that agent to the list and make the updated list available to 2389
the appropriate holding facility, jail, correction facility, or 2390
other similar entity within the court's jurisdiction within 2391
twenty-four hours of the court's approval of that registration. 2392

Sec. 3907.15. (A) A domestic life insurance company may, 2393
subject to section 3911.011 of the Revised Code, issue policies, 2394
annuities, or other contracts, whether on an individual or group 2395
basis, providing benefits or other contractual payments payable 2396
in fixed or variable dollar amounts, or both, and allocate to 2397
one or more separate accounts any amounts which are to be 2398
applied to provide such benefits and contractual payments. The 2399
income, if any, and any gains or losses, realized or unrealized, 2400
on each separate account shall be credited to or charged against 2401
the amounts allocated to the separate account without regard to 2402
other income, gains, or losses of the company. The amounts 2403
allocated to the separate accounts and the accumulations thereon 2404
remain the property of the company, but that portion of the 2405
assets of the separate accounts equal to the reserves and other 2406
contractual liabilities under all policies, annuities, and other 2407
contracts identified with the separate accounts shall not be 2408
chargeable with liabilities arising out of any other business of 2409
the company. The company shall not be, or hold itself out to be, 2410
a trustee in respect of such amounts. 2411

(B) (1) Not more than ten per cent of the amounts allocated 2412
to any separate account and the accumulations thereon shall be 2413
invested in the stocks, notes, debentures, bonds, or other 2414
securities of any one corporation or issuer and not more than 2415
ten per cent of the issued and outstanding voting securities of 2416
any one corporation or issuer may be acquired by all separate 2417

accounts. The superintendent of insurance may waive this 2418
limitation if, in the opinion of the superintendent, the waiver 2419
will not render the operation of the separate account hazardous 2420
to the public or policyholders in this state; 2421

(2) Division (B)(1) of this section does not apply to any 2422
of the following: 2423

(a) Securities of investment companies registered under 2424
the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C.A. 2425
80a-1, as amended; 2426

(b) Annuities or funding agreements issued by a life 2427
insurance company authorized to do business in this state from 2428
its general account; 2429

(c) The transfer of any investment or other asset in any 2430
separate account to any other account or to the general assets 2431
of the company or any investment among the general assets of the 2432
company transferred to any separate account; 2433

(d) Securities issued or guaranteed as to principal or 2434
interest by the United States. 2435

(C) No security of any corporation which is a subsidiary 2436
of, or which is affiliated through stock ownership with, such 2437
insurance company shall be allocated to any separate account. No 2438
investment or other asset in any separate account shall be 2439
transferred to any other account or to the general assets of the 2440
company and no investment among the general assets of the 2441
company shall be transferred to any separate account unless such 2442
transfer is made solely: 2443

(1) To establish a separate account or support the 2444
guarantees of the policies, annuities, or other contracts 2445
identified with such account; 2446

(2) To withdraw amounts previously allocated to any separate account which are no longer needed to support the guarantees of the policies, annuities, or other contracts identified therewith; and such transfer is of cash or securities having a readily determinable market value or unless such transfer is approved by the superintendent. If a company withdraws all or part of its participation in a separate account, it shall be entitled to receive its proportionate share of the value of the assets of the separate account at the time of withdrawal.

(D) The assets of a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then in accordance with the terms of the contracts or the rules or other written agreement applicable to such separate account.

(E) Notwithstanding division (D) of this section, assets supporting fund accumulation contracts, which do not participate in the underlying portfolio experience, with a fixed interest rate guarantee, purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer, may be recorded as if the assets were held in the general account.

(F) The amounts allocated to any separate account under this section and the accumulations thereon may be invested and reinvested by the company without regard to the requirements and limitations of section 3907.14 of the Revised Code.

~~(F)~~ (G) The assets of a separate account shall not be taken into account in applying the investment requirements and limitations of section 3907.14 of the Revised Code to other investments of the company.

~~(G)~~ (H) Any such domestic life insurance company may do 2477
all things necessary under any state or federal law in order 2478
that such policies, annuities, or other contracts may be 2479
lawfully offered for sale and sold, including, but not limited 2480
to, the granting of voting rights to such policyholders, 2481
annuitants, and other contract holders with respect to the 2482
management of such separate accounts and investment of the 2483
assets thereof and the establishment of committees, boards, or 2484
other similar designated bodies with respect to such separate 2485
accounts as may be required by such laws, notwithstanding 2486
Chapter 3907. or section 3913.06 of the Revised Code, or the 2487
articles of incorporation, charter, bylaws, or code of 2488
regulations of such company. 2489

Sec. 3909.04. Every life insurance company organized by 2490
act of congress or under the laws of another state of the United 2491
States shall file with the superintendent of insurance a 2492
certified copy of its charter, or deed of settlement, together 2493
with a statement, under the oath of the president, vice- 2494
president, or other chief officer or manager, and the secretary 2495
of the company, stating the name of the company, the place where 2496
it is located, and the amount of its capital, with a detailed 2497
statement of all the facts required in the annual statement of 2498
companies organized under sections ~~3907.1~~ 3907.01 to 3907.21, ~~—~~ 2499
~~inclusive,~~ of the Revised Code, except as to the statement 2500
required by division (N) of section 3907.19 of the Revised Code, 2501
which statement shall be filed by such company only when 2502
required by the superintendent for purposes of actual valuation, 2503
as provided by the insurance laws of this state. The statement 2504
also shall include a copy of its last annual report, if any was 2505
made. 2506

Sec. 3911.24. Upon the conviction of any person, firm, 2507

association, or life insurance company for violating section 2508
3911.23 of the Revised Code, the superintendent of insurance 2509
shall revoke the license of such person, firm, association, or 2510
life insurance company for not less than one year. 2511

The superintendent, when ~~he~~ the superintendent has good 2512
reason to believe that any company or association writing life 2513
insurance in this state, on any plan, is knowingly permitting 2514
any of its agents or representatives to violate section 3911.23 2515
of the Revised Code, shall give such company or association 2516
notice of a hearing in accordance with ~~sections 119.01 to~~ 2517
~~119.13, inclusive,~~ Chapter 119. of the Revised Code, upon the 2518
charge of knowingly permitting said section to be violated, and, 2519
if ~~he~~ the superintendent finds said company or association 2520
guilty of the offense, ~~he~~ the superintendent shall revoke its 2521
license. 2522

Sec. 3913.11. (A) A domestic mutual life insurance company 2523
may become a stock life insurance company, pursuant to sections 2524
3913.11 to 3913.13 of the Revised Code, provided that the 2525
company have unassigned surplus at least equal to the capital 2526
and surplus required under section 3907.05 of the Revised Code 2527
for a life insurance company to commence business in this state, 2528
that such conversion will benefit the company, that adequate 2529
provision for protection of the policyholders' interests is 2530
made, and that such conversion is not inequitable, unreasonable, 2531
or contrary to law. "Policyholder", as used in sections 3913.11 2532
to 3913.13 of the Revised Code, means a policyholder as defined 2533
in section 3913.10 of the Revised Code and the qualifications 2534
for voting shall be as provided in that section. 2535

(B) The board of directors of a mutual life insurance 2536
company desiring to become a stock life insurance company shall, 2537

by a majority vote, adopt a resolution stating the reason it 2538
believes such conversion would be of benefit to the company and 2539
its policyholders, and setting forth a plan of conversion and 2540
explanation thereof, a schedule of the steps to be followed in 2541
effecting the conversion, and a statement of the organization of 2542
the new company and its capitalization, including the number of 2543
shares of capital stock and the price per share for which the 2544
stock is to be issued. Five certified copies of such resolution 2545
shall be filed with the superintendent of insurance, together 2546
with the following: 2547

(1) A copy of the charter or articles of incorporation of 2548
the company, together with the proposed articles of 2549
incorporation of the new company; 2550

(2) Complete annual financial statements of the company 2551
for the five accounting periods immediately preceding the date 2552
of the resolution, based on generally recognized insurance 2553
accounting principles; 2554

(3) A draft of the prospectus to be sent to the 2555
policyholders, which shall contain a full disclosure of the 2556
details of the proposed conversion; 2557

(4) Such other and further statements, affidavits, books, 2558
records, papers, information, and data, as the superintendent 2559
may require. 2560

(C) Within thirty days of the filing of the resolution and 2561
supporting documents and information required by division (B) of 2562
this section, the superintendent shall review them, and if it 2563
appears on their face that such conversion meets the 2564
requirements contained in division (A) of this section, ~~he the~~ 2565
superintendent shall order an examination of the company. If ~~he~~ 2566

the superintendent finds that such conversion does not meet the 2567
requirements contained in division (A), ~~he~~ the superintendent 2568
shall issue a written order prohibiting the conversion, stating 2569
in detail the reasons therefor. The company may, within thirty 2570
days after issuance of such order of prohibition, submit 2571
modifications to the proposed conversion, and ~~if the~~ 2572
~~superintendent finds~~ after finding that the conversion as so 2573
modified meets the requirements contained in division (A) ~~he~~ the 2574
superintendent shall rescind ~~his~~ the prior order and order an 2575
examination of the company. The examination conducted pursuant 2576
to this section shall be such as is necessary to verify that 2577
such conversion will meet the requirements contained in division 2578
(A). The expenses of such examination shall be paid by the 2579
company. 2580

(D) Upon completion of the examination, the superintendent 2581
shall appoint an appraisal committee, consisting of a fellow of 2582
the society of actuaries, an attorney at law, and a person who 2583
by reason of knowledge and experience is specially qualified in 2584
the valuation of insurance companies. No member of such 2585
committee shall have any direct or indirect interest in the 2586
company's affairs, nor shall any member be an employee of the 2587
department of insurance. Each such appraiser shall receive 2588
reasonable compensation for ~~his~~ the appraiser's services, plus 2589
reasonable expenses, as approved by the superintendent, which 2590
compensation and expenses shall be paid by the company. The 2591
appraisal committee shall determine the value of the company as 2592
of the date of the examination conducted pursuant to this 2593
section, taking into consideration the admitted and non-admitted 2594
assets, reserves, and other liabilities, equity in unearned 2595
premium reserves, the value of the agency plant, the value of 2596
insurance in force, and any other factor affecting the value of 2597

the company. 2598

The appraisal committee shall confirm or modify the 2599
determination of the board of directors as to the consideration 2600
to be given to each policyholder, including, if applicable, the 2601
number of ~~shaes~~ shares of the new corporation and establish the 2602
priority rights for subscription to any additional shares that 2603
may be issued to each policyholder pursuant to section 3913.12 2604
of the Revised Code. Certified copies of the report of the 2605
appraisers shall be filed with the superintendent and sent to 2606
the company. 2607

(E) Within sixty days after the appraisal committee files 2608
its report with the superintendent, the company shall call a 2609
meeting of policyholders. Notice of the time and place of such 2610
meeting shall be sent by mail to each policyholder at ~~his~~ the 2611
policyholder's post office address as it appears on the books of 2612
the company, and to the superintendent, at least thirty days 2613
prior to such meeting. Such notice shall include a copy of the 2614
prospectus required under division (B) (3) of this section as 2615
approved by the superintendent, a summary of the examination 2616
approved by the superintendent, a uniform ballot for voting on 2617
the question of conversion, together with a postage prepaid 2618
envelope for the return of such ballot, a copy or summary of the 2619
report of the appraisal committee, a statement of the 2620
consideration to be given to the policyholder, including, if 2621
applicable, the number of shares of the new company to be issued 2622
to the policyholder and the priority rights of the policyholder 2623
for subscription to any additional shares that may be issued, 2624
and a statement that if the conversion is approved by the 2625
policyholders, the superintendent will fix a time and place for 2626
a public hearing on such conversion not more than sixty days 2627
after the date of such meeting. The superintendent shall appoint 2628

sufficient inspectors to conduct the voting at said meeting and 2629
to determine all questions concerning the verification of 2630
ballots, the qualifications of voters, and the canvass of the 2631
vote. The inspectors shall certify to the superintendent and to 2632
the company the result of such proceedings. Voting at such 2633
meeting may be in person, by proxy, or by mail as provided in 2634
this division. All necessary expenses incurred by the department 2635
in connection with such meeting, and certified by the 2636
superintendent, shall be paid by the company. 2637

(F) If such conversion is approved at such meeting by the 2638
affirmative vote of a majority of the policyholders of such 2639
company voting at the meeting, the superintendent shall fix the 2640
time and place for a public hearing not more than sixty days 2641
after the date of such meeting. Otherwise, ~~he~~ the superintendent 2642
shall issue an order prohibiting the conversion. Notice of the 2643
time and place of such hearing shall be published once each week 2644
for two consecutive weeks in a newspaper of general circulation 2645
in the county where the home office of the company is located, 2646
and in Franklin county, and the last such publication shall be 2647
at least fifteen days prior to the date of such hearing. The 2648
expenses of publication of notice shall be paid by the company. 2649
At such hearing, the superintendent shall hear any person 2650
adversely affected by the conversion, who may present ~~his~~ the 2651
person's position, arguments, or contentions, offer and examine 2652
witnesses, and present evidence tending to show that such 2653
conversion does not meet the requirements contained in division 2654
(A) of this section. If the superintendent finds that such 2655
conversion meets such requirements, ~~he~~ the superintendent shall 2656
issue ~~his~~ a written order accepting the report of the appraisal 2657
committee and authorizing the conversion. Otherwise, ~~he~~ the 2658
superintendent shall issue such order as is appropriate to ~~his~~ 2659

the superintendent's findings. 2660

(G) At or after the issuance of the order authorizing the 2661
conversion, the articles of incorporation of the new company as 2662
approved by the superintendent shall be filed with the secretary 2663
of state. When such articles of incorporation of the new company 2664
are filed and accepted by the secretary of state, the mutual 2665
life insurance company shall become a stock life insurance 2666
company, and all property of every description and every 2667
interest therein, and all obligations of, belonging to, or due 2668
the mutual company shall thereafter be considered vested in the 2669
stock company without further act or deed. The stock insurance 2670
company shall be liable for all obligations of the mutual 2671
company and any claim existing or action or proceeding pending 2672
by or against the company may be prosecuted to judgment, with 2673
right of appeal as in other cases, as if such conversion had not 2674
taken place. All rights of creditors, and all liens upon the 2675
property of the mutual company shall be preserved unimpaired, 2676
limited in lien to the property affected by such liens 2677
immediately prior to the effective date of the conversion. 2678

The directors and officers of the mutual company shall 2679
serve as the directors and officers of the new company, until 2680
new directors and officers have been duly elected and qualified 2681
pursuant to the articles of incorporation and by-laws of the new 2682
company, and as otherwise provided by law. 2683

(H) Upon the conversion becoming effective pursuant to 2684
division (G) of this section, the new company shall forthwith 2685
proceed with winding up the affairs of the mutual company, and 2686
with the issuance of stock and priority rights in accordance 2687
with section 3913.12 of the Revised Code. Within six months 2688
after such effective date of the conversion, the new company 2689

shall file with the superintendent a written report containing 2690
such information as the superintendent may require to fully 2691
apprise ~~him~~ the superintendent of the status of the conversion 2692
and whether it has been or is being carried out in accordance 2693
with its terms and according to law. 2694

Sec. 3913.40. (A) Any insurer, including any fraternal 2695
benefit society, that is organized under the laws of another 2696
state and is admitted to transact the business of insurance in 2697
this state may become a domestic insurer by complying with all 2698
of the requirements of law relative to the organization and 2699
licensing of a domestic insurer of the same type and by 2700
designating its principal place of business at a place in this 2701
state. Such a domestic insurer shall be issued like certificates 2702
and licenses to transact business in this state, is subject to 2703
the jurisdiction of this state, and shall be recognized as an 2704
insurer formed under the laws of this state as of the date of 2705
its original incorporation in its original domiciliary state. 2706
The superintendent of insurance shall approve any proposed 2707
transfer of domicile under this division unless the 2708
superintendent determines that the transfer is not in the 2709
interest of policyholders of this state. 2710

(B) Any domestic insurer, upon the approval of the 2711
superintendent, may transfer its domicile to any other state in 2712
which it is admitted to transact the business of insurance. Upon 2713
such a transfer, the insurer shall cease to be a domestic 2714
insurer, and shall be admitted to this state if qualified as a 2715
foreign insurer. The superintendent shall approve any proposed 2716
transfer of domicile under this division unless the 2717
superintendent determines that the transfer is not in the 2718
interest of policyholders of this state. 2719

(C) (1) With respect to any insurer, including any fraternal benefit society, that is licensed to transact the business of insurance in this state and that transfers its domicile to this or any other state by merger, consolidation, or any other lawful method, both of the following apply:

(a) The certificate of authority, ~~agents~~agent appointments and licenses, rates, and other items as allowed by the superintendent that are in existence at the time of the transfer shall continue in effect upon the transfer if the insurer remains qualified to transact the business of insurance in this state.

(b) All outstanding policies shall remain in effect and need not be endorsed as to the new name of the company or its new location unless so ordered by the superintendent.

(2) Every transferring insurer as described in division (C) (1) of this section shall file new policy forms with the superintendent on or before the effective date of the transfer, but may use existing policy forms with appropriate endorsements if allowed by, and under such conditions as are approved by, the superintendent. Every such insurer shall notify the superintendent of the details of the proposed transfer, and shall file promptly any resulting amendments to corporate documents filed or required to be filed with the superintendent.

(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.

(E) The superintendent, in accordance with Chapter 119. of

the Revised Code, may adopt rules to carry out the purposes of 2749
this section. 2750

Sec. 3915.05. No policy of life insurance shall be issued 2751
or delivered in this state or be issued by a life insurance 2752
company organized under the laws of this state unless such 2753
policy contains: 2754

(A) A provision that all premiums shall be payable in 2755
advance, either at the home office of the company or to an agent 2756
of the company, upon delivery of a receipt signed by one or more 2757
of the officers named in the policy; 2758

(B) A provision for a grace of one month for the payment 2759
of every premium after the first, which extension period may be 2760
subject to an interest charge and during which month the 2761
insurance shall continue in force, which provision may contain a 2762
stipulation that if the insured dies during the month of grace 2763
the overdue premium will be deducted in any settlement under the 2764
policy; 2765

(C) A provision that the policy and the application 2766
therefor, a copy of which application must be indorsed on the 2767
policy, shall constitute the entire contract between the parties 2768
and shall be incontestable after it has been in force during the 2769
lifetime of the insured for a period of not more than two years 2770
from its date, except for nonpayment of premiums, except for 2771
violations of the conditions relating to naval or military 2772
service in time of war or to aeronautics, and except at the 2773
option of the company, with respect to provisions relative to 2774
benefits in the event of total and permanent disability and 2775
provisions which grant additional insurance specifically against 2776
death by accident or by accidental means; 2777

(D) A provision that all statements made by the insured in 2778
the application shall, in the absence of fraud, be deemed 2779
representations and not warranties; 2780

(E) A provision that if the age of the insured has been 2781
understated the amount payable under the policy shall be such as 2782
the premium would have purchased at the correct age; 2783

(F) A provision that the policy shall participate in the 2784
surplus of the company and that, beginning not later than the 2785
end of the third policy year, the company will annually 2786
determine and account for the portion of the divisible surplus 2787
accruing on the policy, and that the owner of the policy has the 2788
right each year to have the current dividend arising from such 2789
participation paid in cash or applied to the purchase of paid-up 2790
additions, and if the policy provides other dividend options, it 2791
shall further provide that if the owner of the policy does not 2792
elect any such other option the dividend shall be applied to the 2793
purchase of paid-up additions. 2794

In lieu of such provision, the policy may contain a 2795
provision that: 2796

(1) The policy shall participate in the surplus of the 2797
company; 2798

(2) Beginning not later than the end of the fifth policy 2799
year, the company will determine and account for the portion of 2800
the divisible surplus accruing on the policy; 2801

(3) The owner of the policy has the right to have the 2802
current dividend arising from such participation paid in cash; 2803

(4) Such accounting and payment shall be had at periods of 2804
not more than five years, at the option of the policyholder. 2805

Renewable term policies of ten years or less may provide 2806
that the surplus accruing to such policies shall be determined 2807
and apportioned each year after the second policy year and 2808
accumulated during each renewal period, and that at the end of 2809
any renewal period, on renewal of the policy by the insured, the 2810
company shall apply the accumulated surplus as an annuity for 2811
the next succeeding renewal term in the reduction of premiums. 2812

The provisions described in this division are not required 2813
in nonparticipating policies. 2814

(G) A provision that after three full years' premiums have 2815
been paid, the company, at any time while the policy is in 2816
force, will advance, on proper assignment of the policy and on 2817
the sole security thereof, at a rate of interest calculated 2818
pursuant to section 3915.051 of the Revised Code, a sum equal 2819
to, or at the option of the owner of the policy, less than, the 2820
amount required by section 3915.08 of the Revised Code under the 2821
conditions specified in said section, and that the company will 2822
deduct from such loan value any indebtedness not already 2823
deducted in determining such value and any unpaid balance of the 2824
premium for the current policy year, and may collect interest in 2825
advance on the loan to the end of the current policy year. It 2826
shall be further stipulated in the policy that failure to repay 2827
any such advance or to pay interest does not ~~avoid~~ void the 2828
policy unless the total indebtedness thereon to the company 2829
equals or exceeds such loan value at the time of such failure 2830
nor until one month after notice has been mailed by the company 2831
to the last known address of insured and of the assignee. 2832

No conditions, other than as provided in this division or 2833
in section 3915.08 of the Revised Code, shall be exacted as a 2834
prerequisite to any such advance. 2835

This provision is not required in term insurance nor does 2836
it apply to any form of insurance granted as a nonforfeiture 2837
benefit. 2838

(H) A provision for nonforfeiture benefits and cash 2839
surrender values in accordance with the requirements of section 2840
3915.06, 3915.07, or 3915.071 of the Revised Code; 2841

(I) Except for policies which guarantee unscheduled 2842
changes in benefits upon the happening of specified events or 2843
upon the exercise of an option without change to a new policy, a 2844
table showing in figures the loan values and the options 2845
available under the policies each year upon default in premium 2846
payments, during at least the first twenty years of the policy; 2847

(J) A provision that if, in the event of default in 2848
premium payments, the value of the policy is applied to the 2849
purchase of other insurance, and if such insurance is in force 2850
and the original policy has not been surrendered to the company 2851
and canceled, the policy may be reinstated within three years 2852
from such default, upon evidence of insurability satisfactory to 2853
the company and payment of arrears of premiums with interest; 2854

(K) A provision that when a policy becomes a claim by the 2855
death of the insured, settlement shall be made upon receipt of 2856
due proof of death, or not later than two months after receipt 2857
of such proof; 2858

(L) A table showing the amounts of installments in which 2859
the policy provides its proceeds may be payable; 2860

(M) A title on its face and back, correctly describing 2861
such policy. 2862

Any of the provisions described in this section or 2863
portions thereof, relating to premiums not applicable to single 2864

premium policies, shall to that extent not be incorporated in 2865
such policies. 2866

Sec. 3915.053. (A) (1) Except as provided in division (A) 2867
(2) of this section, this section shall apply to any individual 2868
life insurance policy insuring the life of a reservist, as 2869
defined in section 3923.381 of the Revised Code, who is on 2870
active duty pursuant to an executive order of the president of 2871
the United States, an act of the congress of the United States, 2872
or section 5919.29 or 5923.21 of the Revised Code, if the life 2873
insurance policy meets both of the following conditions: 2874

(a) The policy has been in force for at least one hundred 2875
eighty days. 2876

(b) The policy has been brought within the "Servicemembers 2877
Civil Relief Act," 117 Stat. 2835 (2003), 50 U.S.C. App. 541, et 2878
seq. 2879

(2) This section does not apply to any policy that was 2880
~~cancelled~~ canceled or that had lapsed for the nonpayment of 2881
premiums prior to the commencement of the insured's period of 2882
military service. 2883

(B) An individual life insurance policy described in 2884
division (A) of this section shall not lapse or be forfeited for 2885
the nonpayment of premiums during a reservist's period of 2886
military service or during the two-year period subsequent to the 2887
end of the reservist's period of military service. 2888

(C) This section does not limit a life insurance company's 2889
enforcement of provisions in the insured's policy relating to 2890
naval or military service in time of war. 2891

Sec. 3915.073. (A) This section shall be known as the 2892
standard nonforfeiture law for individual deferred annuities. 2893

(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.

(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:

(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 stipulated in the contract of such value as is specified in divisions (E), (F), (G), (H), and (J) of this section;

(2) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company shall pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified

in divisions (E), (F), (H), and (J) of this section. The company 2924
may reserve the right to defer the payment of such cash 2925
surrender benefit for a period not to exceed six months after 2926
demand therefor with surrender of the contract. The deferral is 2927
contingent upon the company's conveyance of a written request 2928
for the deferral to the superintendent and the company's receipt 2929
of written approval from the superintendent for the deferral. 2930
The request shall address the necessity and equitability to all 2931
contract owners of the deferral⁺. 2932

(3) A statement of the mortality table, if any, and 2933
interest rates used in calculating any minimum paid-up annuity, 2934
cash surrender, or death benefits that are guaranteed under the 2935
contract, together with sufficient information to determine the 2936
amounts of such benefits; 2937

(4) A statement that any paid-up annuity, cash surrender, 2938
or death benefits that may be available under the contract are 2939
not less than the minimum benefits required by any statute of 2940
the state in which the contract is delivered and an explanation 2941
of the manner in which such benefits are altered by the 2942
existence of any additional amounts credited by the company to 2943
the contract, any indebtedness to the company on the contract, 2944
or any prior withdrawals from or partial surrenders of the 2945
contract. 2946

Notwithstanding the requirements of this section, any 2947
deferred annuity contract may provide that if no considerations 2948
have been received under a contract for a period of two full 2949
years and the portion of the paid-up annuity benefit at maturity 2950
on the plan stipulated in the contract arising from 2951
considerations paid prior to such period would be less than 2952
twenty dollars monthly, the company may at its option terminate 2953

such contract by payment in cash of the then present value of 2954
such portion of the paid-up annuity benefit, calculated on the 2955
basis of the mortality table, if any, and interest rate 2956
specified in the contract for determining the paid-up annuity 2957
benefit, and by such payment shall be relieved of any further 2958
obligation under such contract. 2959

(D) The minimum values as specified in divisions (E), (F), 2960
(G), (H), and (J) of this section of any paid-up annuity, cash 2961
surrender, or death benefits available under an annuity contract 2962
shall be based upon minimum nonforfeiture amounts as defined in 2963
this division. 2964

(1) (a) The minimum nonforfeiture amount at any time at or 2965
prior to the commencement of any annuity payments shall be equal 2966
to an accumulation up to such time at rates of interest 2967
determined in accordance with division (D) (2) of this section of 2968
the net considerations, determined in accordance with division 2969
(D) (1) (b) of this section, paid prior to such time, decreased by 2970
the sum of: 2971

(i) Any prior withdrawals from or partial surrenders of 2972
the contract, accumulated at rates of interest determined in 2973
accordance with division (D) (2) of this section; 2974

(ii) An annual contract charge of fifty dollars, 2975
accumulated at rates of interest determined in accordance with 2976
division (D) (2) of this section; 2977

(iii) Any premium tax paid by the company for the 2978
contract, accumulated at rates of interest determined in 2979
accordance with division (D) (2) of this section; 2980

(iv) The amount of any indebtedness to the company on the 2981
contract, including interest due and accrued. 2982

(b) The net considerations for a given contract year used 2983
to define the minimum nonforfeiture amount shall be an amount 2984
equal to eighty-seven and one-half per cent of the gross 2985
considerations credited to the contract during that contract 2986
year. 2987

(2) (a) The interest rate used in determining minimum 2988
nonforfeiture amounts under divisions (D) (1) to (4) of this 2989
section shall be an annual rate of interest determined as the 2990
lesser of three per cent per annum or the following, which shall 2991
be specified in the contract if the interest rate will be reset: 2992

(i) The five-year constant maturity treasury rate reported 2993
by the federal reserve as of a date or an average over a period, 2994
rounded to the nearest one-twentieth of one per cent, specified 2995
in the contract, no longer than fifteen months prior to the 2996
contract issue date or the redetermination date specified in 2997
division (D) (2) (b) of this section; 2998

(ii) Reduced by one hundred twenty-five basis points; 2999

(iii) Where the resulting interest rate shall not be less 3000
than one per cent. 3001

(b) The interest rate determined under division (D) (2) (a) 3002
of this section shall apply for an initial period and may be 3003
redetermined for additional periods. The redetermination date, 3004
basis and period, if any, shall be stated in the contract. The 3005
basis is the date or average over a specified period that 3006
produces the value of the five-year constant maturity treasury 3007
rate to be used at each redetermination date. 3008

(3) During the period or term that a contract provides 3009
~~substantive~~ substantive participation in an equity-indexed 3010
benefit, the contract may provide for an increase in the 3011

reduction described in division (D) (2) (a) (ii) of this section by 3012
a maximum of one hundred basis points to reflect the value of 3013
the equity-indexed benefit. The present value at the contract 3014
issue date, and at each redetermination date thereafter, of the 3015
additional reduction shall not exceed the market value of the 3016
benefit. The superintendent may require a demonstration that the 3017
present value of the additional reduction does not exceed the 3018
market value of the benefit. If the demonstration is not 3019
acceptable to the superintendent, the superintendent may 3020
disallow or limit the additional reduction. 3021

(4) The superintendent may adopt rules to implement 3022
division (D) (3) of this section and to provide for further 3023
adjustments to the calculation of minimum nonforfeiture amounts 3024
for contracts that provide substantive participation in an 3025
equity-indexed benefit and for other contracts for which the 3026
superintendent determines adjustments are justified. 3027

(E) Any paid-up annuity benefit available under a contract 3028
shall be such that its present value on the date annuity 3029
payments are to commence is at least equal to the minimum 3030
nonforfeiture amount on that date. Such present value shall be 3031
computed using the mortality table, if any, and the interest 3032
rate specified in the contract for determining the minimum paid- 3033
up annuity benefits guaranteed in the contract. 3034

(F) For contracts which provide cash surrender benefits, 3035
such cash surrender benefits available prior to maturity shall 3036
not be less than the present value as of the date of surrender 3037
of that portion of the maturity value of the paid-up annuity 3038
benefit that would be provided under the contract at maturity 3039
arising from considerations paid prior to the time of cash 3040
surrender reduced by the amount appropriate to reflect any prior 3041

withdrawals from or partial surrenders of the contract, such 3042
present value being calculated on the basis of an interest rate 3043
not more than one per cent higher than the interest rate 3044
specified in the contract for accumulating the net 3045
considerations to determine such maturity value, decreased by 3046
the amount of any indebtedness to the company on the contract, 3047
including interest due and accrued, and increased by any 3048
existing additional amounts credited by the company to the 3049
contract. In no event shall any cash surrender benefit be less 3050
than the minimum nonforfeiture amount at that time. The death 3051
benefit under such contracts shall be at least equal to the cash 3052
surrender benefit. 3053

(G) For contracts that do not provide cash surrender 3054
benefits, the present value of any paid-up annuity benefit 3055
available as a nonforfeiture option at any time prior to 3056
maturity shall not be less than the present value of that 3057
portion of the maturity value of the paid-up annuity benefit 3058
provided under the contract arising from considerations paid 3059
prior to the time the contract is surrendered in exchange for, 3060
or changed to, a deferred paid-up annuity, such present value 3061
being calculated for the period prior to the maturity date on 3062
the basis of the interest rate specified in the contract for 3063
accumulating the net considerations to determine such maturity 3064
value, and increased by any existing additional amounts credited 3065
by the company to the contract. For contracts that do not 3066
provide any death benefits prior to the commencement of any 3067
annuity payments, such present values shall be calculated on the 3068
basis of such interest rate and the mortality table specified in 3069
the contract for determining the maturity value of the paid-up 3070
annuity benefit. However, in no event shall the present value of 3071
a paid-up annuity benefit be less than the minimum nonforfeiture 3072

amount at that time. 3073

(H) For the purpose of determining the benefits calculated 3074
under divisions (F) and (G) of this section, in the case of 3075
annuity contracts under which an election may be made to have 3076
annuity payments commence at optional maturity dates, the 3077
maturity date shall be deemed to be the latest date for which 3078
election shall be permitted by the contract, but shall not be 3079
deemed to be later than the anniversary of the contract next 3080
following the annuitant's seventieth birthday or the tenth 3081
anniversary of the contract, whichever is later. 3082

(I) Any contract that does not provide cash surrender 3083
benefits or does not provide death benefits at least equal to 3084
the minimum nonforfeiture amount prior to the commencement of 3085
any annuity payments shall include a statement in a prominent 3086
place in the contract that such benefits are not provided. 3087

(J) Any paid-up annuity, cash surrender, or death benefits 3088
available at any time, other than on the contract anniversary 3089
under any contract with fixed scheduled considerations, shall be 3090
calculated with allowance for the lapse of time and the payment 3091
of any scheduled considerations beyond the beginning of the 3092
contract year in which cessation of payment of considerations 3093
under the contract occurs. 3094

(K) For any contract that provides, within the same 3095
contract by rider or supplemental contract provision, both 3096
annuity benefits and life insurance benefits that are in excess 3097
of the greater of cash surrender benefits or a return of the 3098
gross considerations with interest, the minimum nonforfeiture 3099
benefit shall be equal to the sum of the minimum nonforfeiture 3100
benefits for the annuity portion and the minimum nonforfeiture 3101
benefits, if any, for the life insurance portion computed as if 3102

each portion were a separate contract. Notwithstanding the 3103
provisions of divisions (E), (F), (G), (H), and (J) of this 3104
section, additional benefits payable: 3105

(1) In the event of total and permanent disability; 3106

(2) As reversionary annuity or deferred reversionary 3107
annuity benefits; or 3108

(3) As other policy benefits additional to life insurance, 3109
endowment and annuity benefits, and considerations for all such 3110
additional benefits shall be disregarded in ascertaining the 3111
minimum nonforfeiture amounts, paid-up annuity, cash surrender, 3112
and death benefits that may be required by this section. 3113

The inclusion of such additional benefits shall not be 3114
required in any paid-up benefits, unless such additional 3115
benefits separately would require minimum nonforfeiture amounts, 3116
paid-up annuity, cash surrender, and death benefits. 3117

(L) The superintendent may adopt rules in accordance with 3118
Chapter 119. of the Revised Code to implement this section. 3119

Sec. 3915.13. No life insurance company nor any of its 3120
agents shall knowingly make, issue, or deliver in this state any 3121
policy or contract of life insurance which purports to be issued 3122
or to take effect as of a date more than ~~three~~six months before 3123
the application therefor was made, if thereby the premium on 3124
such policy or contract is reduced below the premium which would 3125
be payable thereon, as determined by the nearest birthday of the 3126
insured at the time when such application was made. In 3127
determining the date when an application was made, under this 3128
section the date of execution of the application or the date of 3129
medical examination, where such examination is required, 3130
whichever is later, shall govern. 3131

This section does not prohibit the exchange, alteration, 3132
or conversion of any policy of life or endowment insurance or 3133
any annuity in the manner provided by section 3915.12 of the 3134
Revised Code, nor does it invalidate any contract made in 3135
violation of this section. 3136

Sec. 3916.171. (A) No person shall commit a fraudulent 3137
viatical settlement act. 3138

(B) All of the following acts are fraudulent viatical 3139
settlement acts when committed by any person who, knowingly and 3140
with intent to defraud and for the purpose of depriving another 3141
of property or for pecuniary gain, commits, or permits any of 3142
its employees or its agents to commit them: 3143

(1) Presenting, causing to be presented, or preparing with 3144
knowledge or belief that it will be presented to or by a 3145
viatical settlement provider, viatical settlement broker, life 3146
expectancy provider, viatical settlement purchaser, financing 3147
entity, insurer, insurance broker, insurance agent, or any other 3148
person, any false material information, or concealing any 3149
material information, as part of, in support of, or concerning a 3150
fact material to, one or more of the following: 3151

(a) An application for the issuance of a viatical 3152
settlement contract or a policy; 3153

(b) The underwriting of a viatical settlement contract or 3154
a policy; 3155

(c) A claim for payment or benefit pursuant to a viatical 3156
settlement contract or a policy; 3157

(d) Any premiums paid on a policy; 3158

(e) Any payments and changes in ownership or beneficiary 3159

made in accordance with the terms of a viatical settlement	3160
contract or a policy;	3161
(f) The reinstatement or conversion of a policy;	3162
(g) The solicitation, offer, effectuation, or sale of a	3163
viatical settlement contract or a policy;	3164
(h) The issuance of written evidence of a viatical	3165
settlement contract or a policy;	3166
(i) A financing transaction;	3167
(j) Any application for or the existence of or any	3168
payments related to a loan secured directly or indirectly by any	3169
interest in a policy.	3170
(2) Failing to disclose to the insurer, where the insurer	3171
has requested such disclosure, that the prospective insured has	3172
undergone a life expectancy evaluation by any person or entity	3173
other than the insurer or its authorized representatives in	3174
connection with the application, underwriting, and issuance of	3175
the policy.	3176
(3) In the furtherance of a fraud or to prevent the	3177
detection of a fraud, doing any of the following:	3178
(a) Removing, concealing, altering, destroying, or	3179
sequestering from the superintendent of insurance the assets or	3180
records of a licensee or another person engaged in the business	3181
of viatical settlements;	3182
(b) Misrepresenting or concealing the financial condition	3183
of a licensee, financing entity, insurer, or any other person;	3184
(c) Transacting the business of viatical settlements in	3185
violation of any law of this state requiring a license,	3186

certificate of authority, or other legal authority for the	3187
transaction of the business of viatical settlements;	3188
(d) Filing with the superintendent of insurance or the	3189
chief insurance regulatory official of another jurisdiction a	3190
document containing false information or otherwise concealing	3191
from the superintendent any information about a material fact.	3192
(4) Recklessly entering into, negotiating, brokering, or	3193
otherwise dealing in a viatical settlement contract involving a	3194
policy that was obtained by presenting false, deceptive, or	3195
misleading information of any fact material to the policy, or by	3196
concealing information concerning any fact material to the	3197
policy, for the purpose of misleading and with the intent to	3198
defraud the issuer of the policy, the viatical settlement	3199
provider, or the viator;	3200
(5) Committing any embezzlement, theft, misappropriation,	3201
or conversion of moneys, funds, premiums, credits, or other	3202
property of a viatical settlement provider, insurer, insured,	3203
viator, policyowner, or any other person engaged in the business	3204
of viatical settlements or insurance;	3205
(6) Employing any plan, financial structure, device,	3206
scheme, or artifice to defraud in the business of viatical	3207
settlements;	3208
(7) Misrepresenting the state of residence or facilitating	3209
the change of the state in which a person owns a policy or the	3210
state of residency of a viator to a state or jurisdiction that	3211
does not have laws similar to this chapter for the express	3212
purposes of evading or avoiding the provisions of this chapter;	3213
(8) In the solicitation, application, or issuance of a	3214
policy, employing any device, scheme, or artifice in violation	3215

of ~~sections~~ section 3911.09 or 3911.091 of the Revised Code; 3216

(9) Engaging in any conduct related to a viatical 3217
settlement contract if the person knows or should have known 3218
that the intent of the transaction was to avoid the disclosure 3219
and notice requirements of section 3916.06 of the Revised Code; 3220

(10) Entering into a premium finance agreement with any 3221
person pursuant to which the person will receive, directly or 3222
indirectly, any proceeds, fees, or other considerations from the 3223
policy, the owner of the policy, the issuer of the policy, or 3224
from any other person with respect to the premium finance 3225
agreement or any viatical settlement contract, or from any 3226
transaction related to the policy, that are in addition to the 3227
amount required to pay the principal, interest, costs, and 3228
expenses related to the policy premiums pursuant to the premium 3229
finance agreement or subsequent sale of the agreement. Any 3230
payments, charges, fees, or other amounts in addition to the 3231
amounts required to pay the principal, interest, costs, and 3232
expenses related to policy premiums paid under the premium 3233
finance agreement shall be remitted to the original owner of the 3234
policy or, if the owner is not living at the time of the 3235
determination of the overpayment, to the estate of the owner. 3236

(11) With respect to any viatical settlement contract or a 3237
policy, for a viatical settlement broker or an agent registered 3238
under this chapter as operating as a viatical settlement broker 3239
to knowingly solicit an offer from, effectuate a viatical 3240
settlement with, or make a sale to any viatical settlement 3241
provider, viatical settlement purchaser, financing entity, or 3242
related provider trust that is controlling, controlled by, or 3243
under common control with such viatical settlement broker or 3244
registered agent unless both of the following are true: 3245

(a) The viatical settlement broker or agent disclosed that 3246
affiliation to the viator. 3247

(b) The viatical settlement broker or agent is controlled 3248
by or under common control with a person that is regulated under 3249
the "Securities Act of 1933" or the "Securities Act of 1934," 15 3250
U.S.C. 77a et seq., as amended. 3251

(12) With respect to any viatical settlement contract or a 3252
policy, for a viatical settlement provider to knowingly enter 3253
into a viatical settlement contract with a viator if, in 3254
connection with such viatical settlement contract, anything of 3255
value will be paid to a viatical settlement broker or an agent 3256
registered under this chapter as operating as a viatical 3257
settlement broker that is controlling, controlled by, or under 3258
common control with such viatical settlement provider or the 3259
viatical settlement purchaser, financing entity, or related 3260
provider trust that is involved in such viatical settlement 3261
contract unless both of the following are true: 3262

(a) The viatical settlement broker or agent disclosed that 3263
affiliation to the viator. 3264

(b) The viatical settlement broker or agent is controlled 3265
by or under common control with a person that is regulated under 3266
the "Securities Act of 1933" or the "Securities Act of 1934," 15 3267
U.S.C. 77a et seq., as amended. 3268

(13) Issuing, soliciting, marketing, or otherwise 3269
promoting the purchase of a policy for the purpose of or with 3270
emphasis on settling the policy; 3271

(14) Issuing or using a pattern of false, misleading, or 3272
deceptive life expectancies; 3273

(15) Issuing, soliciting, marketing, or otherwise 3274

promoting stranger-originated life insurance; 3275

(16) Attempting to commit, assisting, aiding or abetting 3276
in the commission of, or conspiracy to commit any act or 3277
omission specified in divisions (B)(1) to (15) of this section. 3278

Sec. 3919.14. A company or association organized under 3279
section 3919.01 of the Revised Code amending its articles of 3280
incorporation and its constitution and bylaws is subject to 3281
sections 3919.11 and 3919.12 of the Revised Code as to its 3282
organization and government, and it shall make separate annual 3283
statements to the superintendent of insurance of the business 3284
transacted by it under the assessment plan, as required by 3285
section ~~3919.01 to 3919.15, inclusive,~~ 3919.16 of the Revised 3286
Code, ~~or for the purpose of and of the business transacted by it~~ 3287
under the level premium or legal reserve plan, as required by 3288
section 3907.19 of the Revised Code. 3289

Sec. 3922.11. (A) The superintendent of insurance shall 3290
establish and maintain a system for receiving and reviewing 3291
requests for external review for adverse benefit determinations 3292
where the determination by the health plan issuer was based on a 3293
contractual issue and did not involve a medical judgment or a 3294
determination based on any medical information, except for 3295
emergency services, as specified in division (C) of section 3296
3922.05 of the Revised Code. 3297

(B) A health plan issuer shall submit a request for 3298
external review pursuant to division (B) or (C) of section 3299
3922.05 of the Revised Code to the superintendent, in accordance 3300
with any associated rules, policies, or procedures adopted by 3301
the superintendent of insurance. 3302

(C) On receipt of a request from a health plan issuer, the 3303

superintendent shall consider whether the health care service is 3304
a service covered under the terms of the covered person's 3305
policy, contract, certificate, or agreement, except that the 3306
superintendent shall not conduct a review under this section 3307
unless the covered person has exhausted the health plan issuer's 3308
internal appeal process, pursuant to sections 3922.03 and 3309
3922.04 of the Revised Code. The health plan issuer and covered 3310
person shall provide the superintendent with any information 3311
required by the superintendent that is in their possession and 3312
is germane to the review. 3313

(D) Unless the superintendent is not able to do so because 3314
making the determination requires a medical-~~judgement~~ judgment 3315
or a determination based on medical information, the 3316
superintendent shall determine whether the health care service 3317
at issue is a service covered under the terms of the covered 3318
person's contract, policy, certificate, or agreement. The 3319
superintendent shall notify the covered person and the health 3320
plan issuer of the superintendent's determination. 3321

(E) If the superintendent notifies the health plan issuer 3322
that making the determination requires a medical-~~judgement~~- 3323
judgment or a determination based on medical information, the 3324
health plan issuer shall initiate an external review under this 3325
chapter. 3326

(F) If the superintendent determines that the health 3327
service is a covered service, the health plan issuer shall cover 3328
the service. 3329

(G) If the superintendent determines that the health care 3330
service is not a covered service, the health plan issuer is not 3331
required to cover the service or afford the covered person an 3332
external review by an independent review organization. 3333

Sec. 3922.14. (A) To be accredited by the superintendent 3334
of insurance to conduct external reviews under section 3922.13 3335
of the Revised Code, in addition to the requirements provided in 3336
section 3922.13 of the Revised Code and any associated rules 3337
adopted by the superintendent, an independent review 3338
organization shall do all of the following: 3339

(1) Develop and maintain written policies and procedures 3340
that govern all aspects of both the standard external review 3341
process and the expedited external review process set forth in 3342
this chapter, including a quality assurance mechanism that does 3343
all of the following: 3344

(a) Ensures that external reviews are conducted within the 3345
time frames prescribed under this chapter and that the required 3346
notices are provided in a timely manner; 3347

(b) Ensures the selection of qualified and impartial 3348
clinical reviewers to conduct external reviews on behalf of the 3349
independent review organization; 3350

(c) Ensures that chosen clinical reviewers are suitably 3351
matched according to their area of expertise to specific cases 3352
and that the independent review organization employs or 3353
contracts with an adequate number of clinical reviewers to meet 3354
this requirement; 3355

(d) Ensures the confidentiality of medical and treatment 3356
records and clinical review criteria; 3357

(e) Ensures that any person employed by, or who is under 3358
contract with, the independent review organization adheres to 3359
the requirements of this chapter. 3360

(2) Maintain a toll-free telephone service to receive 3361
information on a twenty-four-hour-a-day, seven-days-a-week basis 3362

related to external reviews that is capable of accepting, 3363
recording, and providing appropriate instruction to incoming 3364
telephone callers during other than normal business hours; 3365

(3) Agree to maintain and provide to the superintendent, 3366
upon request and in accordance with any associated rules, 3367
policies, or procedures adopted by the superintendent of 3368
insurance, the information prescribed in section 3922.17 of the 3369
Revised Code. 3370

(B) An independent review organization may not own or 3371
control, be a subsidiary of or in any way be owned or controlled 3372
by, or exercise control with a health plan issuer, a national, 3373
state, or local trade association of health plan issuers, or a 3374
national, state, or local trade association of health care 3375
providers. 3376

(C) (1) Neither the independent review organization 3377
selected to conduct the external review nor any clinical 3378
reviewer assigned by the independent organization to conduct the 3379
external review may have a material, professional, familial, or 3380
financial affiliation with any of the following: 3381

(a) The health plan issuer that is the subject of the 3382
external review, or any officer, director, or management 3383
employee of the health plan issuer; 3384

(b) The covered person whose treatment is the subject of 3385
the external review; 3386

(c) The health care provider, or the health care 3387
provider's medical group or independent practice association, 3388
recommending the health care service or treatment that is the 3389
subject of the external review; 3390

(d) The facility at which the recommended health care 3391

service would be provided; 3392

(e) The developer or manufacturer of the principal drug, 3393
device, procedure, or other therapy being recommended for the 3394
covered person whose treatment is the subject of the external 3395
review. 3396

(2) The superintendent may make a determination as to 3397
whether an independent review organization or a clinical 3398
reviewer of the independent review organization has a material 3399
professional, familial, or financial conflict of interest for 3400
purposes of division (C) (1) of this section. In making this 3401
determination, the superintendent may take into consideration 3402
situations where an independent review organization, or a 3403
clinical reviewer, may have an apparent conflict of interest, 3404
but that the characteristics of the relationship or connection 3405
in question are such that they do not fall under the definition 3406
of conflict of interest provided under division (D) (1) of this 3407
section. If the superintendent determines that a conflict of 3408
interest exists, the superintendent shall disallow an 3409
independent review organization or a clinical reviewer from 3410
conducting the external review in question. Such determinations 3411
related to conflicts of interest are the sole discretion of the 3412
superintendent of insurance. 3413

(D) (1) An independent review organization that is 3414
accredited by a nationally recognized private accrediting entity 3415
that has independent review accreditation standards that the 3416
superintendent has determined are equivalent to or exceed the 3417
minimum qualifications of this section shall be presumed in 3418
compliance with this section to be eligible for accreditation by 3419
the superintendent under section ~~3922.14~~ 3922.13 of the Revised 3420
Code. 3421

(2) The superintendent shall initially review and 3422
periodically review the independent review organization 3423
accreditation standards of a nationally recognized private 3424
accrediting entity to determine whether the entity's standards 3425
are, and continue to be, equivalent to or exceed the minimum 3426
qualifications established under this section. The 3427
superintendent may accept a review conducted by the national 3428
association of insurance commissioners for the purpose of the 3429
determination under this division. 3430

(3) Upon request, a nationally recognized, private 3431
accrediting entity shall make its current independent review 3432
organization accreditation standards available to the 3433
superintendent or the national association of insurance 3434
commissioners in order for the superintendent to determine if 3435
the entity's standards are equivalent to or exceed the minimum 3436
qualifications established under this section. The 3437
superintendent may exclude any private accrediting entity that 3438
is not reviewed by the national association of insurance 3439
commissioners. 3440

(E) An independent review organization shall be unbiased 3441
in its review of adverse benefit determinations and shall 3442
establish and maintain written procedures to ensure that it is 3443
unbiased. 3444

Sec. 3923.021. (A) As used in this section: 3445

(1) "Benefits provided are not unreasonable in relation to 3446
the premium charged" means the rates were calculated in 3447
accordance with sound actuarial principles. 3448

(2) "Individual policy of sickness and accident insurance" 3449
includes sickness and accident insurance made available by 3450

insurers in the individual market to individuals, with or 3451
without family members or dependents, through group policies 3452
issued to one or more associations or entities. 3453

(B) With respect to any filing, made pursuant to section 3454
3923.02 of the Revised Code, of any premium rates for any 3455
individual policy of sickness and accident insurance or 3456
certificates made available by an insurer to individuals in the 3457
individual market through a group policy or for any indorsement 3458
or rider pertaining thereto, the superintendent of insurance 3459
may, within thirty days after filing: 3460

(1) Disapprove such filing after finding that the benefits 3461
provided are unreasonable in relation to the premium charged. 3462
Such disapproval shall be effected by written order of the 3463
superintendent, a copy of which shall be mailed to the insurer 3464
that has made the filing. In the order, the superintendent shall 3465
specify the reasons for the disapproval and state that a hearing 3466
will be held within fifteen days after requested in writing by 3467
the insurer. If a hearing is so requested, the superintendent 3468
shall also give such public notice as the superintendent 3469
considers appropriate. The superintendent, within fifteen days 3470
after the commencement of any hearing, shall issue a written 3471
order, a copy of which shall be mailed to the insurer that has 3472
made the filing, either affirming the prior disapproval or 3473
approving such filing after finding that the benefits provided 3474
are not unreasonable in relation to the premium charged. 3475

(2) Set a date for a public hearing to commence no later 3476
than forty days after the filing. The superintendent shall give 3477
the insurer making the filing twenty days' written notice of the 3478
hearing and shall give such public notice as the superintendent 3479
considers appropriate. The superintendent, within twenty days 3480

after the commencement of a hearing, shall issue a written 3481
order, a copy of which shall be mailed to the insurer that has 3482
made the filing, either approving such filing if the 3483
superintendent finds that the benefits provided are not 3484
unreasonable in relation to the premium charged, or disapproving 3485
such filing if the superintendent finds that the benefits 3486
provided are unreasonable in relation to the premium charged. 3487
This division does not apply to any insurer organized or 3488
transacting the business of insurance under Chapter 3907. or 3489
3909. of the Revised Code. 3490

(3) Take no action, in which case such filing shall be 3491
deemed to be approved and shall become effective upon the 3492
thirty-first day after such filing, unless the superintendent 3493
has previously given to the insurer a written approval. 3494

(C) At any time after any filing has been approved 3495
pursuant to this section, the superintendent may, after a 3496
hearing of which at least twenty days' written notice has been 3497
given to the insurer that has made such filing and for which 3498
such public notice as the superintendent considers appropriate 3499
has been given, withdraw approval of such filing after finding 3500
that the benefits provided are unreasonable in relation to the 3501
premium charged. Such withdrawal of approval shall be effected 3502
by written order of the superintendent, a copy of which shall be 3503
mailed to the insurer that has made the filing, which shall 3504
state the ground for such withdrawal and the date, not less than 3505
forty days after the date of such order, when the withdrawal ~~or~~ 3506
of approval shall become effective. 3507

(D) The superintendent may retain at the insurer's expense 3508
such attorneys, actuaries, accountants, and other experts not 3509
otherwise a part of the superintendent's staff as shall be 3510

reasonably necessary to assist in the preparation for and 3511
conduct of any public hearing under this section. The expense 3512
for retaining such experts and the expenses of the department of 3513
insurance incurred in connection with such public hearing shall 3514
be assessed against the insurer in an amount not to exceed one 3515
one-hundredth of one per cent of the sum of premiums earned plus 3516
net realized investment gain or loss of such insurer as 3517
reflected in the most current annual statement on file with the 3518
superintendent. Any person retained shall be under the direction 3519
and control of the superintendent and shall act in a purely 3520
advisory capacity. 3521

Sec. 3923.04. Except as provided in section 3923.07 of the 3522
Revised Code, every policy of sickness and accident insurance 3523
delivered, issued for delivery, or used in this state shall 3524
contain the standard provisions specified in this section in the 3525
words in which the same appear in this section. Such standard 3526
provisions shall be preceded individually by the caption 3527
appearing in this section or, at the option of the insurer, by 3528
such appropriate individual or group captions or subcaptions as 3529
the superintendent of insurance may approve. 3530

(A) A provision as follows: Entire contract; changes. This 3531
policy, including the indorsements and the attached papers, if 3532
any, constitutes the entire contract of insurance. No change in 3533
this policy shall be valid until approved by an executive 3534
officer of the insurer and unless such approval be indorsed 3535
hereon or attached hereto. No agent has authority to change this 3536
policy or to waive any of its provisions. 3537

No statement made by an applicant for a policy of sickness 3538
and accident insurance not included therein shall avoid the 3539
policy or be used to deny any claim thereunder or be used in any 3540

legal proceeding thereunder. 3541

(B) A provision in two parts as follows: Time limit on 3542
certain defenses. 3543

(1) After two years from the date of issue of this policy 3544
no misstatements, except fraudulent misstatements, made by the 3545
applicant in the application for this policy shall be used to 3546
void this policy or to deny a claim for loss incurred or 3547
disability (as defined in this policy) commencing after the 3548
expiration of such two year period. 3549

The policy provision in division (B) (1) of this section 3550
shall not be so construed as to affect any legal requirements 3551
for avoidance of a policy or denial of a claim during such 3552
initial two-year period, nor to limit the application of 3553
divisions (A), (B), (C), (D), and (E) of section 3923.05 of the 3554
Revised Code in the event of misstatement with respect to age, 3555
occupation, or other insurance. 3556

A policy which the insured has the right to continue in 3557
force subject to its terms by the timely payment of premiums 3558
until at least age fifty, or a policy issued after the insured 3559
has attained age forty-four and which the insured has the right 3560
to continue in force subject to its terms by the timely payment 3561
of premiums for at least five years from its date of issue, may 3562
contain, in lieu of the foregoing policy provision in division 3563
(B) (1) of this section, a provision, from which the clause in 3564
parentheses may be omitted at the insurer's option, under the 3565
caption Incontestable, as follows: After this policy has been in 3566
force for a period of two years during the lifetime of the 3567
insured (excluding any period during which the insured is 3568
disabled), it shall become incontestable as to the statements 3569
contained in the application. 3570

(2) No claim for loss incurred or disability (as defined 3571
in this policy) commencing after two years from the date of 3572
issue of this policy shall be reduced or denied on the ground 3573
that a disease or physical condition not excluded from coverage 3574
by name or specific description effective on the date of loss 3575
had existed prior to the effective date of coverage of this 3576
policy. 3577

No chronic disease or chronic physical condition may be 3578
excluded from the coverage of a policy of sickness insurance or 3579
from the sickness insurance coverage of a policy of sickness and 3580
accident insurance except by name or specific description. 3581

(C) A provision as follows: Grace period. A grace period 3582
of _____ days will be granted for the payment of each 3583
premium falling due after the first premium, during which grace 3584
period this policy shall continue in force. 3585

The insurer shall insert in the blank space in the policy 3586
provision in division (C) of this section a number not smaller 3587
than seven for weekly premium policies or ten for monthly 3588
premium policies or thirty-one for all other policies. 3589

A policy in which the insurer reserves the right to refuse 3590
any renewal shall contain a provision, at the beginning of the 3591
policy provision in division (C) of this section, as follows: 3592
Unless not less than five days prior to the premium due date the 3593
insurer has delivered to the insured or has mailed to ~~his~~ the 3594
insured's last address as shown by the records of the insurer 3595
written notice of its intention not to renew this policy beyond 3596
the period for which the premium has been accepted. Each such 3597
policy, other than an accident insurance only policy, shall 3598
provide in substance, in a provision thereof or in an 3599
indorsement thereon or in a rider attached thereto, that the 3600

insurer may not refuse renewal of the policy before the first 3601
anniversary, or between anniversaries, of its date of issue, and 3602
that any non-renewal of the policy by the insurer or insured 3603
shall be without prejudice to any claim originating prior to the 3604
effective date of non-renewal. 3605

(D) A provision as follows: Reinstatement. If any renewal 3606
premium be not paid within the time granted the insured for 3607
payment, a subsequent acceptance of premium by the insurer or by 3608
any agent duly authorized by the insurer to accept such premium, 3609
without requiring in connection therewith an application for 3610
reinstatement, shall reinstate this policy. If the insurer or 3611
such agent requires an application for reinstatement and issues 3612
a conditional receipt for the premium tendered, this policy will 3613
be reinstated upon approval of such application by the insurer 3614
or, lacking such approval, upon the forty-fifth day following 3615
the date of such conditional receipt unless the insurer has 3616
previously notified the insured in writing of its disapproval of 3617
such application. The reinstated policy shall cover only loss 3618
resulting from such accidental injury as may be sustained after 3619
the date of reinstatement and loss due to such sickness as may 3620
begin more than ten days after such date. In all other respects 3621
the insured and insurer shall have the same rights thereunder as 3622
they had under this policy immediately before the due date of 3623
the defaulted premium, subject to any provisions indorsed hereon 3624
or attached hereto in connection with the reinstatement. Any 3625
premium accepted in connection with a reinstatement shall be 3626
applied to a period for which premium has not been previously 3627
paid, but not to any period more than sixty days prior to the 3628
date of reinstatement. 3629

The last sentence of the policy provision in division (D) 3630
of this section may be omitted from any policy which the insured 3631

has the right to continue in force subject to its terms by the 3632
timely payment of premiums until at least age fifty or from any 3633
policy issued after the insured has attained age forty-four and 3634
which the insured has the right to continue in force subject to 3635
its terms by the timely payment of premiums for at least five 3636
years from its date of issue. 3637

(E) A provision as follows: Notice of claim. Written 3638
notice of claim must be given to the insurer within twenty days 3639
after the occurrence or commencement of any loss covered by this 3640
policy, or as soon thereafter as is reasonably possible. Notice 3641
given by or on behalf of the insured or the beneficiary to the 3642
insurer at _____ or to any authorized agent of the insurer, 3643
with information sufficient to identify the insured, shall be 3644
deemed notice to the insurer. 3645

The insurer shall insert in the blank space in the policy 3646
provision in division (E) of this section the location of such 3647
office as it may desire to designate for the purpose of notice. 3648

In a policy providing a loss of time benefit which may be 3649
payable for at least two years, an insurer may insert, between 3650
the first and second sentences of the policy provision in 3651
division (E) of this section, a provision as follows: 3652

Subject to the qualifications set forth below, if the 3653
insured suffers loss of time on account of disability for which 3654
indemnity may be payable for at least two years, ~~he~~ the insured 3655
shall, at least once in every six months after having given 3656
notice of claim, give to the insurer notice of continuance of 3657
said disability, except in the event of legal incapacity. The 3658
period of six months following any filing of proof by the 3659
insured or any payment by the insurer on account of such claim 3660
or any denial of liability in whole or in part by the insurer 3661

shall be excluded in applying this provision. Delay in giving of 3662
such notice shall not impair the insured's right to any 3663
indemnity which would otherwise have accrued during the period 3664
of six months preceding the date on which such notice is 3665
actually given. 3666

(F) A provision as follows: Claim forms. The insurer, upon 3667
receipt of a notice of claim, will furnish to the claimant such 3668
forms as are usually furnished by it for filing proofs of loss. 3669
If such forms are not furnished within fifteen days after the 3670
giving of such notice the claimant shall be deemed to have 3671
complied with the requirements of this policy as to proof of 3672
loss upon submitting, within the time fixed in this policy for 3673
filing proofs of loss, written proof covering the occurrence, 3674
the character and the extent of the loss for which claim is 3675
made. 3676

(G) A provision as follows: Proofs of loss. Written proof 3677
of loss must be furnished to the insurer at its office in case 3678
of claim for loss for which this policy provides any periodic 3679
payment contingent upon continuing loss within ninety days after 3680
the termination of the period for which the insurer is liable 3681
and in case of claim for any other loss within ninety days after 3682
the date of such loss. Failure to furnish such proof within the 3683
time required shall not invalidate nor reduce any claim if it 3684
was not reasonably possible to give proof within such time, 3685
provided such proof is furnished as soon as reasonably possible 3686
and in no event, except in the absence of legal capacity, later 3687
than one year from the time proof is otherwise required. 3688

(H) A provision as follows: Time of payment of claims. 3689
Indemnities payable under this policy for any loss, other than 3690
loss for which this policy provides any periodic payment, will 3691

be paid immediately upon, or within thirty days after, receipt 3692
of due written proof of such loss. Subject to due written proof 3693
of loss, all accrued indemnities for loss for which this policy 3694
provides periodic payment will be paid _____ and any balance 3695
remaining unpaid upon the termination of liability will be paid 3696
immediately upon receipt of due written proof. 3697

The insurer shall insert in the blank space in the 3698
provision in division (H) of this section a period for payment 3699
which must not be less frequently than monthly. The insurer may 3700
at its option omit from the provision in division (H) of this 3701
section ", or within thirty days after,". 3702

(I) A provision as follows: Payment of claims. Indemnity 3703
for loss of life will be payable in accordance with the 3704
beneficiary designation and the provisions respecting such 3705
payment which may be prescribed herein and effective at the time 3706
of payment. If no such designation or provision is then 3707
effective, such indemnity shall be payable to the estate of the 3708
insured. Any other accrued indemnities unpaid at the insured's 3709
death may, at the option of the insurer, be paid either to such 3710
beneficiary or to such estate. All other indemnities will be 3711
payable to the insured. 3712

The insurer may at its option add at the end of the 3713
provision in division (I) of this section, the following 3714
provisions or either of the following provisions: 3715

(1) If any indemnity of this policy shall be payable to 3716
the estate of the insured, or to an insured or beneficiary who 3717
is a minor or otherwise not competent to give a valid release, 3718
the insurer may pay such indemnity, up to an amount not 3719
exceeding _____ dollars, to any relative by blood or 3720
connection by marriage of the insured or beneficiary who is 3721

deemed by the insurer to be equitably entitled thereto. Any 3722
payment made by the insurer in good faith pursuant to this 3723
provision shall fully discharge the insurer to the extent of 3724
such payment. 3725

(2) Subject to any written direction of the insured in the 3726
application or otherwise all or a portion of any indemnities 3727
provided by this policy on account of hospital, nursing, 3728
medical, or surgical services may, at the insurer's option and 3729
unless the insured requests otherwise in writing not later than 3730
the time of filing proofs of such loss, be paid directly to the 3731
hospital or person rendering such services; but it is not 3732
required that the services be rendered by a particular hospital 3733
or person. 3734

The insurer shall insert in the blank space in the policy 3735
provision in division I(1) of this section an amount which 3736
shall not exceed one thousand dollars. 3737

(J) A provision as follows: Physical examination and 3738
autopsy. The insurer at its own expense shall have the right and 3739
opportunity to examine the person of the insured when and as 3740
often as it may reasonably require during the pendency of a 3741
claim hereunder and to make an autopsy in case of death where it 3742
is not forbidden by law. 3743

(K) A provision as follows: Legal actions. No action at 3744
law or in equity shall be brought to recover on this policy 3745
prior to the expiration of sixty days after written proof of 3746
loss has been furnished in accordance with the requirements of 3747
this policy. No such action shall be brought after the 3748
expiration of three years after the time written proof of loss 3749
is required to be furnished. 3750

(L) A provision as follows: Change of beneficiary. Unless 3751
the insured makes an irrevocable designation of beneficiary, the 3752
right to change of beneficiary is reserved to the insured and 3753
the consent of the beneficiary or beneficiaries shall not be 3754
requisite to surrender or assignment of this policy or to any 3755
change of beneficiary or beneficiaries, or to any other changes 3756
in this policy. 3757

The insurer may at its option omit from the provision in 3758
division (L) of this section the following: Unless the insured 3759
makes an irrevocable designation of beneficiary. 3760

(M) A provision, which shall be contained in the policy or 3761
in an indorsement thereon or in a rider attached thereto, as 3762
follows: Cancellation by the insured. Non-cancellation by the 3763
insurer. The insured may cancel this policy at any time by 3764
written notice delivered or mailed to the insurer, effective 3765
upon receipt or on such later date as may be specified in such 3766
notice. In the event of cancellation, the insurer will return 3767
promptly the unearned portion of any premium paid. The earned 3768
premium shall be computed by the use of the short-rate table 3769
last filed with the state official having supervision of 3770
insurance in the state where the insured resided when this 3771
policy was issued. Cancellation shall be without prejudice to 3772
any claim originating prior to the effective date of 3773
cancellation. The insurer may not cancel this policy. This 3774
provision nullifies any other provision, contained in this 3775
policy or in any indorsement hereon or in any rider attached 3776
hereto, which provides for cancellation of this policy by the 3777
insurer or by the insured. 3778

Sec. 3923.53. (A) Every public employee benefit plan that 3779
is established or modified in this state shall provide benefits 3780

for the expenses of both of the following:	3781
(1) Screening mammography to detect the presence of breast cancer in adult women;	3782 3783
(2) Cytologic screening for the presence of cervical cancer.	3784 3785
(B) The benefits provided under division (A) (1) of this section shall cover expenses in accordance with all of the following:	3786 3787 3788
(1) If a woman is at least thirty-five years of age but under forty years of age, one screening mammography;	3789 3790
(2) If a woman is at least forty years of age but under fifty years of age, either of the following:	3791 3792
(a) One screening mammography every two years;	3793
(b) If a licensed physician has determined that the woman has risk factors to breast cancer, one screening mammography every year.	3794 3795 3796
(3) If a woman is at least fifty years of age but under sixty-five years of age, one screening mammography every year.	3797 3798
(C) As used in this division, "medicare reimbursement rate" means the reimbursement rate paid in this state under the medicare program for screening mammography that does not include digitization or computer-aided detection, regardless of whether the actual benefit includes digitization or computer-aided detection.	3799 3800 3801 3802 3803 3804
(1) Subject to divisions (C) (2) and (3) of this section, if a provider, hospital, or other health care facility provides a service that is a component of the screening mammography	3805 3806 3807

benefit in division ~~(B)~~(A)(1) of this section and submits a 3808
separate claim for that component, a separate payment shall be 3809
made to the provider, hospital, or other health care facility in 3810
an amount that corresponds to the ratio paid by medicare in this 3811
state for that component. 3812

(2) Regardless of whether separate payments are made for 3813
the benefit provided under division (A)(1) of this section, the 3814
total benefit for a screening mammography shall not exceed one 3815
hundred thirty per cent of the medicare reimbursement rate in 3816
this state for screening mammography. If there is more than one 3817
medicare reimbursement rate in this state for screening 3818
mammography or a component of a screening mammography, the 3819
reimbursement limit shall be one hundred thirty per cent of the 3820
lowest medicare reimbursement rate in this state. 3821

(3) The benefit paid in accordance with division (C)(1) of 3822
this section shall constitute full payment. No provider, 3823
hospital, or other health care facility shall seek or receive 3824
compensation in excess of the payment made in accordance with 3825
division (C)(1) of this section, except for approved deductibles 3826
and copayments. 3827

(D) The benefits provided under division (A)(1) of this 3828
section shall be provided only for screening mammographies that 3829
are performed in a facility or mobile mammography screening unit 3830
that is accredited under the American college of radiology 3831
mammography accreditation program or in a hospital as defined in 3832
section 3727.01 of the Revised Code. 3833

(E) The benefits provided under division (A)(2) of this 3834
section shall be provided only for cytologic screenings that are 3835
processed and interpreted in a laboratory certified by the 3836
college of American pathologists or in a hospital as defined in 3837

section 3727.01 of the Revised Code. 3838

Sec. 3925.09. No insurance company shall own more than one 3839
fourth of the capital stock of a national bank, nor invest in or 3840
loan on the stocks and bonds, both included, of any railroad 3841
company, to an extent exceeding one fifth of its own capital and 3842
surplus, nor in the aggregate shall the investment in and loan 3843
on all railroad property exceed one fourth of its own capital 3844
and surplus. Not more than one half of its capital and surplus 3845
shall be loaned on mortgages of real estate, as provided in 3846
~~sections~~ section 3925.05 of the Revised Code for the investment 3847
thereof, and not more than one tenth of the capital and surplus 3848
actually existing of such a company shall be invested in a 3849
single mortgage. The current market value of the evidences of 3850
indebtedness mentioned in this section, in which the 3851
accumulations or surplus money above the capital stock of an 3852
insurance company may be loaned or invested, must be at all 3853
times during the continuance of the loans at least twenty per 3854
cent more than the sum loaned thereon. 3855

Sec. 3927.08. Every insurance company other than a life 3856
insurance company, organized by act of congress or under the 3857
laws of another state or government, annually, at the time and 3858
in the form and manner required of similar companies organized 3859
under the laws of this state, shall file a statement of its 3860
condition and affairs in the office of the superintendent of 3861
insurance. A company organized under or incorporated by a 3862
foreign government shall also furnish a supplementary statement 3863
for the year ending on the preceding thirty-first day of 3864
December, verified by the oath of the manager of such company 3865
residing in the United States, which shall comprise a report of 3866
its business and affairs in the United States, as required from 3867
companies organized in this state, together with any other 3868

information that may be required by the superintendent. If such 3869
annual statement is satisfactory evidence to the superintendent 3870
of the solvency and ability of the company to meet all its 3871
engagements at maturity, and that the deposit is maintained as 3872
provided by section 3927.06 of the Revised Code, the 3873
superintendent shall issue, during the month of January in each 3874
year or within sixty days thereafter, renewal certificates of 3875
authority to the ~~agent~~ agents of the company, certified copies 3876
of which shall be filed in the county recorder's office of each 3877
county in which an agency is located and retained therewith for 3878
a minimum of two years from the date of filing. Such 3879
certificates shall be the authority for such agents to issue new 3880
policies in this state for the ensuing year. 3881

Sec. 3929.04. In case of the death of any employee by 3882
reason of the wrongful or negligent acts of ~~his~~ the employee's 3883
employer, or negligence or wrongful acts for which said employer 3884
is liable, the personal representative of the deceased employee 3885
has all the rights and remedies that the employee would have had 3886
under ~~section~~ section 3929.03 of the Revised Code had death not 3887
resulted. 3888

Sec. 3930.10. There shall be no liability imposed on the 3889
part of and no cause of action of any nature arises against the 3890
Ohio commercial insurance joint underwriting association, its 3891
members, board of governors, agents, or employees, an insurer or 3892
its employees, any licensed agent or broker, or the 3893
superintendent of insurance ~~of his~~ or the superintendent's 3894
authorized representatives, their members or employees, for any 3895
action taken by them in the performance of their powers and 3896
duties under sections 3930.03 to 3930.17 of the Revised Code. 3897
Any reports and communications in connection therewith are not 3898
public records. 3899

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:

(A) The name of the attorney and the name or designation 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;

(B) The location of the principal office;

(C) The kind of insurance to be effected;

(D) A copy of each form of policy, contract, or agreement under or by which such insurance is to be effected;

(E) A copy of the form of power of attorney under which such insurance is to be effected;

(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;

(G) The fact that there is in the ~~possession~~ possession of such attorney net assets of not less than three hundred thousand dollars, available for the payment of losses;

(H) A financial statement in the form prescribed for the

annual statement; 3928

(I) The instrument authorizing service of process as 3929
provided for in section 3931.04 of the Revised Code; 3930

(J) A certificate showing compliance with the deposit 3931
requirements, if any, applicable to a mutual insurance company 3932
authorized to do the kind or kinds of insurance to be effected; 3933

(K) A copy of all bylaws, codes of regulations, any other 3934
document wherein the relationships between the subscribers and 3935
between the subscribers and the attorney are set forth, and any 3936
amendments to any of the foregoing. Any filing made pursuant to 3937
this division shall become effective thirty days from the date 3938
of filing, unless disapproved by the superintendent. Any action 3939
taken by the superintendent under this division may be appealed 3940
pursuant to Chapter 119. of the ~~Revised~~ Revised Code. 3941

This division does not apply to filings required pursuant 3942
to Chapters 3935. and 3937. of the Revised Code. 3943

Sec. 3931.99. ~~(A)~~ Whoever violates sections 3931.01 to 3944
3931.12, inclusive, of the Revised Code, or fails to comply with 3945
any duty imposed upon him by such sections, for which violation 3946
or failure no penalty is otherwise provided by law, shall be 3947
fined not more than five hundred dollars. 3948

Sec. 3941.46. Any foreign or alien mutual company licensed 3949
in this state which is a party to a merger or consolidation 3950
shall on or before the effective date thereof file with the 3951
superintendent a copy of the agreement. If the surviving company 3952
is, at the effective date of the merger or consolidation, 3953
licensed as an insurer in this state its license shall continue 3954
in effect as though no merger or consolidation had taken place, 3955
and on request the superintendent shall transfer to it any 3956

additional licenses issued by this state and then held by any 3957
nonsurviving insurer which is a party to the merger or 3958
consolidation. Revocation or suspension of any of such licenses 3959
shall be made only pursuant to the procedures and on the grounds 3960
provided in this code, provided, that an additional ground for 3961
revocation or suspension of license shall be that the merger or 3962
consolidation may ~~save~~ have the effect of substantially 3963
lessening competition or tending to create a monopoly as to any 3964
line of insurance in this state. On receipt of a copy of the 3965
agreement of merger or consolidation to which this section 3966
applies, the superintendent shall determine whether such 3967
revocation or suspension proceedings should be commenced. In 3968
making such determination the superintendent may consider any 3969
information on file with any agency, division or department of 3970
this or any other state, together with any additional relevant 3971
information which shall be furnished by the company or 3972
companies, pursuant to ~~his~~ the superintendent's request. A 3973
determination that the merger or consolidation does not violate 3974
the additional ground provided in this section shall be 3975
conclusively established by the lapse of three months after the 3976
effective date of the merger or consolidation without 3977
commencement of proceedings to revoke or suspend the license or 3978
licenses on that ground. 3979

Sec. 3951.04. The superintendent of insurance shall issue 3980
certificates of authority to any person, firm, association, 3981
partnership, or corporation making application therefor who is 3982
trustworthy and competent to act as a public insurance adjuster 3983
in such manner as to safeguard the interest of the public and 3984
who ~~have~~ has complied with the prerequisites herein described. 3985
A certificate of authority issued to a firm, association, 3986
partnership, or corporation shall authorize only the members of 3987

the firm, association, or partnership or the officers and 3988
directors of the corporation, specified in the certificate of 3989
authority to act as a public insurance adjuster. 3990

The superintendent shall not issue any certificate of 3991
authority to any applicant who is convicted of a felony, or any 3992
crime or offense involving fraudulent or dishonest practice or 3993
who, within three years preceding the date of filing such 3994
application, has been guilty of any practice which would be 3995
grounds for suspension or revocation of a certificate of 3996
authority as a public insurance adjuster. 3997

Sec. 3951.06. (A) A fee of one hundred dollars shall be 3998
paid to the superintendent by the applicant for a public 3999
insurance adjuster's certificate of authority before the initial 4000
application is granted. If the applicant is a firm, association, 4001
partnership, or corporation, the fee shall be paid for each 4002
person specified in the application. 4003

(B) A firm, association, partnership, or corporation to 4004
which a certificate of authority has been issued by the 4005
superintendent may at any time make an application to the 4006
superintendent for the issuance of a supplemental certificate of 4007
authority authorizing additional officers or directors of the 4008
corporation or members of the firm, association, or partnership 4009
to act as a public insurance adjuster, and the superintendent 4010
may thereupon issue to such firm, association, partnership, or 4011
corporation a supplemental certificate accordingly upon the 4012
payment of a fee of fifty dollars for each member or officer or 4013
director thereby authorized to act as a public insurance 4014
adjuster. 4015

(C) Every public insurance adjuster's certificate of 4016
authority shall expire on the thirty-first day of December of 4017

the calendar year in which it was issued, and shall be renewed 4018
according to the standard renewal procedure of sections 4745.01 4019
to 4745.03, ~~inclusive~~, of the Revised Code. Every public 4020
insurance adjuster's certificate of authority with a payment of 4021
a fifty-dollar fee can be renewed for the ensuing year without 4022
examination, but if an application for the renewal of such 4023
certificate has been filed with the superintendent before 4024
January first of any year the certificate of authority sought to 4025
be renewed shall continue in full force and effect until the 4026
issuance by the superintendent of the new certificate applied 4027
for or until five days after the superintendent has refused to 4028
issue a new certificate and has served notice of such refusal on 4029
the applicant therefor. Service of such notice shall be made by 4030
registered or certified mail directed to the applicant at the 4031
place of business specified in the application. 4032

(D) No certificate of authority shall be issued or renewed 4033
unless, the applicant is a resident of the state, a lending 4034
institution, ~~or~~ a bona fide employee of a lending institution 4035
who is authorized to act as a public insurance adjuster in 4036
another state on behalf of the lending institution, or a 4037
nonresident that is licensed as a public insurance adjuster and 4038
is in good standing in the applicant's home state, and there is 4039
on file with the superintendent a bond, executed by such 4040
applicant and by approved sureties, in the penal sum of one 4041
thousand dollars for each person designated in the application, 4042
conditioned for the faithful performance by such applicant and 4043
by all persons designated in such application, of their duties 4044
as public insurance adjusters. Such bond shall be approved as to 4045
form by the attorney general and as to sufficiency by the 4046
superintendent. Such bond shall be made payable to the state and 4047
shall specifically authorize recovery for and on behalf of an 4048

injured party of the sum provided therein in case the adjuster 4049
has been guilty of fraudulent or dishonest practices in 4050
connection with the transaction of business as an adjuster. 4051

Sec. 3951.10. On receipt of a notice pursuant to section 4052
3123.43 of the Revised Code, the superintendent of insurance 4053
shall comply with sections 3123.41 to 3123.50 of the Revised 4054
Code and any applicable rules adopted under section 3123.63 of 4055
the Revised Code with respect to a certificate issued ~~issued~~ 4056
pursuant to this chapter. 4057

Sec. 3953.14. (A) Except as provided in Chapter 3953. of 4058
the Revised Code the investments of a title insurance company 4059
shall be governed by sections 3925.05 to 3925.21, ~~inclusive,~~ of 4060
the Revised Code. 4061

(B) Provided it shall at all times keep at least one 4062
hundred thousand dollars invested in the classes of securities 4063
authorized for the investment of capital other than title plant 4064
and real estate as provided in division (C) of this section, a 4065
title insurance company may invest not more than ten per cent of 4066
its admitted assets in a title plant without the prior approval 4067
of the superintendent. The title plant shall be considered an 4068
admitted asset at the fair value thereof. In determining the 4069
fair value of a title plant, no value shall be attributed to 4070
furniture and fixtures, and the real estate in which the title 4071
plant is housed shall be carried as real estate. The value of 4072
title abstracts, title briefs, copies of conveyances or other 4073
documents, indices, and other records comprising the title 4074
plant, shall be determined by considering the expenses incurred 4075
in obtaining them, the age thereof, the cost of replacements 4076
less depreciation, and all other relevant factors. Once the 4077
value of a title plant has been determined, such value may be 4078

increased only by the acquisition of another title plant by 4079
purchase, consolidation, or merger; in no event shall the value 4080
of the title—~~plan~~ plant be increased by additions made thereto 4081
as part of the normal course of abstracting and insuring titles 4082
to real estate. Subject to the above limitations and with the 4083
approval of the superintendent of insurance, a title insurance 4084
company may enter into agreements with one or more other title 4085
insurance companies authorized to do business in this state, 4086
whereby such companies shall participate in the ownership, 4087
management, and control of a title plant to service the needs of 4088
all such companies or such companies may hold stock of a 4089
corporation owning and operating a title plant for such 4090
purposes; provided that each of the companies participating in 4091
the ownership, management, and control of such jointly owned 4092
title plant shall keep the sum of one hundred thousand dollars 4093
invested as above set forth. 4094

(C) Any title insurance company may purchase, receive, 4095
hold, and convey real estate or any interest therein: 4096

(1) Required for its convenient accommodation in the 4097
transaction of its business with reasonable regard to future 4098
needs; 4099

(2) Acquired in connection with a claim under a policy of 4100
title insurance; 4101

(3) Acquired in satisfaction or on account of loans, 4102
mortgages, liens, judgments, or decrees, previously owing to it 4103
in the course of its business; 4104

(4) Acquired in part payment of the consideration of the 4105
sale of real property owned by it if the transaction results in 4106
a net reduction in the company's investment in real estate; 4107

(5) Reasonably necessary for the purpose of maintaining or 4108
enhancing the sale value of real property previously acquired or 4109
held by it under ~~subdivisions~~ division (C) (1), (2), (3), or (4) 4110
of this ~~division~~ section. 4111

Sec. 3956.01. As used in this chapter: 4112

(A) "Account" means either of the two accounts created 4113
under section 3956.06 of the Revised Code. 4114

(B) "Contractual obligation" means any obligation under a 4115
policy, contract, or certificate under a group policy or 4116
contract, or portion of the policy or contract, for which 4117
coverage is provided under section 3956.04 of the Revised Code. 4118

(C) "Covered policy or contract" means any policy, 4119
contract, or group certificate within the scope of section 4120
3956.04 of the Revised Code. 4121

(D) "Impaired insurer" means a member insurer that, after 4122
November 20, 1989, is not an insolvent insurer and is placed 4123
under an order of rehabilitation or conservation by a court of 4124
competent jurisdiction. 4125

(E) "Insolvent insurer" means a member insurer that, after 4126
November 20, 1989, is placed under an order of liquidation by a 4127
court of competent jurisdiction with a finding of insolvency. 4128

(F) (1) "Member insurer" means any insurer that holds a 4129
certificate of authority or is licensed to transact in this 4130
state any kind of insurance for which coverage is provided under 4131
section 3956.04 of the Revised Code, and includes any insurer 4132
whose certificate of authority or license in this state may have 4133
been suspended, revoked, not renewed, or voluntarily withdrawn 4134
after November 20, 1989. 4135

(2) "Member insurer" does not include any of the	4136
following:	4137
(a) A health insuring corporation;	4138
(b) A fraternal benefit society;	4139
(c) A self-insurance or joint self-insurance pool or plan	4140
of the state or any political subdivision of the state;	4141
(d) A mutual protective association;	4142
(e) An insurance exchange;	4143
(f) Any person who qualifies as a "member insurer" under	4144
section 3955.01 of the Revised Code and who does not receive	4145
premiums on covered policies or contracts;	4146
(g) Any entity similar to any of those described in	4147
divisions (F) (2) (a) to (f) of this section.	4148
(3) "Member insurer" includes any insurer that operates	4149
any of the entities described in division (F) (2) of this section	4150
as a line of business, and not as a separate, affiliated legal	4151
entity, and otherwise qualifies as a member insurer.	4152
(G) "Premiums" means amounts received on covered policies	4153
or contracts, less premiums, considerations, and deposits	4154
returned on the policies or contracts, and less dividends and	4155
experience credits on the policies and contracts. "Premiums"	4156
does not include either of the following:	4157
(1) Any amounts in excess of one million dollars received	4158
on any unallocated annuity contract not issued under a	4159
governmental retirement plan established under Section 401,	4160
403(b), or 457 of the "Internal Revenue Code of 1986," 100 Stat.	4161
2085, 26 U.S.C.A. 1, as amended;	4162

(2) Any amounts received for any policies or contracts or 4163
for the portions of any policies or contracts for which coverage 4164
is not provided under section 3956.04 of the Revised Code. 4165
Division (G) (2) of this section shall not be construed to 4166
require the exclusion, from assessable premiums, of premiums 4167
paid for coverages in excess of the interest limitations 4168
specified in division (B) (2) (c) of section 3956.04 of the 4169
Revised Code or of premiums paid for coverages in excess of the 4170
limitations with respect to any one individual, any one 4171
participant, or any one contract holder specified in division 4172
(C) (2) of section 3956.04 of the Revised Code. 4173

(H) "Resident" means any person who resides in this state 4174
at the time a member insurer is determined to be an impaired or 4175
insolvent insurer and to whom a contractual obligation is owed. 4176
A person may be a resident of only one state, which, in the case 4177
of a person other than a natural person, shall be its principal 4178
place of business. Citizens of the United States who are either 4179
residents of a foreign country or residents of a United States 4180
possession, territory, or protectorate that does not have an 4181
association similar to the association created by this chapter 4182
shall be considered residents of the state of domicile of the 4183
insurer that issued the policy or contract. 4184

(I) "Structured settlement annuity" means an annuity 4185
purchased in order to fund periodic payments for a plaintiff or 4186
other claimant in payment for or with respect to personal injury 4187
suffered by the plaintiff or other claimant. 4188

(J) "Subaccount" means any of the three subaccounts 4189
created under division (A) of section 3956.06 of the Revised 4190
Code. 4191

(K) "Supplemental contract" means any agreement entered 4192

into for the distribution of policy or contract proceeds. 4193

~~(K)~~(L) "Unallocated annuity contract" means any annuity 4194
contract or group annuity certificate that is not issued to and 4195
owned by an individual, except to the extent of any annuity 4196
benefits guaranteed to an individual by an insurer under that 4197
contract or certificate. 4198

Sec. 3959.01. As used in this chapter: 4199

(A) "Administration fees" means any amount charged a 4200
covered person for services rendered. "Administration fees" 4201
includes commissions earned or paid by any person relative to 4202
services performed by an administrator. 4203

(B) "Administrator" means any person who adjusts or 4204
settles claims on, residents of this state in connection with 4205
life, dental, health, prescription drugs, or disability 4206
insurance or self-insurance programs. "Administrator" includes a 4207
pharmacy benefit manager. "Administrator" does not include any 4208
of the following: 4209

(1) An insurance agent or solicitor licensed in this state 4210
whose activities are limited exclusively to the sale of 4211
insurance and who does not provide any administrative services; 4212

(2) Any person who administers or operates the workers' 4213
compensation program of a self-insuring employer under Chapter 4214
4123. of the Revised Code; 4215

(3) Any person who administers pension plans for the 4216
benefit of the person's own members or employees or administers 4217
pension plans for the benefit of the members or employees of any 4218
other person; 4219

(4) Any person that administers an insured plan or a self- 4220

insured plan that provides life, dental, health, or disability 4221
benefits exclusively for the person's own members or employees; 4222

(5) Any health insuring corporation holding a certificate 4223
of authority under Chapter 1751. of the Revised Code or an 4224
insurance company that is authorized to write life or sickness 4225
and accident insurance in this state. 4226

(C) "Aggregate excess insurance" means that type of 4227
coverage whereby the insurer agrees to reimburse the insured 4228
employer or trust for all benefits or claims paid during an 4229
agreement period on behalf of all covered persons under the plan 4230
or trust which exceed a stated deductible amount and subject to 4231
a stated maximum. 4232

(D) "Contracted pharmacy" or "pharmacy" means a pharmacy 4233
located in this state participating in either the network of a 4234
pharmacy benefit manager or in a health care or pharmacy benefit 4235
plan through a direct contract or through a contract with a 4236
pharmacy services administration organization, group purchasing 4237
organization, or another contracting agent. 4238

(E) "Contributions" means any amount collected from a 4239
covered person to fund the self-insured portion of any plan in 4240
accordance with the plan's provisions, summary plan 4241
descriptions, and contracts of insurance. 4242

(F) "Drug product reimbursement" means the amount paid by 4243
a pharmacy benefit manager to a contracted pharmacy for the cost 4244
of the drug dispensed to a patient and does not include a 4245
dispensing or professional fee. 4246

(G) "Fiduciary" has the meaning set forth in section 4247
1002(21)(A) of the "Employee Retirement Income Security Act of 4248
1974," 88 Stat. 829, 29 U.S.C. 1001, as amended. 4249

(H) "Fiscal year" means the twelve-month accounting period 4250
commencing on the date the plan is established and ending twelve 4251
months following that date, and each corresponding twelve-month 4252
accounting period thereafter as provided for in the summary plan 4253
description. 4254

(I) "Insurer" means an entity authorized to do the 4255
business of insurance in this state or, for the purposes of this 4256
section, a health insuring corporation authorized to issue 4257
health care plans in this state. 4258

(J) "Managed care organization" means an entity that 4259
provides medical management and cost containment services and 4260
includes a medicaid managed care organization, as defined in 4261
section 5167.01 of the Revised Code. 4262

(K) "Maximum allowable cost" means a maximum drug product 4263
reimbursement for an individual drug or for a group of 4264
therapeutically and pharmaceutically equivalent multiple source 4265
drugs that are listed in the United States food and drug 4266
administration's approved drug products with therapeutic 4267
equivalence evaluations, commonly referred to as the orange 4268
book. 4269

(L) "Maximum allowable cost list" means a list of the 4270
drugs for which a pharmacy benefit manager imposes a maximum 4271
allowable cost. 4272

(M) "Multiple employer welfare arrangement" has the same 4273
meaning as in section 1739.01 of the Revised Code. 4274

(N) "Pharmacy benefit manager" means an entity that 4275
contracts with pharmacies on behalf of an employer, a multiple 4276
employer welfare arrangement, public employee benefit plan, 4277
state agency, insurer, managed care organization, or other 4278

third-party payer to provide pharmacy health benefit services or 4279
administration. "Pharmacy benefit manager" includes the state 4280
pharmacy benefit manager selected under section 5167.24 of the 4281
Revised Code. 4282

(O) "Plan" means any arrangement in written form for the 4283
payment of life, dental, health, or disability benefits to 4284
covered persons defined by the summary plan description and 4285
includes a drug benefit plan administered by a pharmacy benefit 4286
manager. 4287

(P) "Plan sponsor" means the person who establishes the 4288
plan. 4289

(Q) "Self-insurance program" means a program whereby an 4290
employer provides a plan of benefits for its employees without 4291
involving an intermediate insurance carrier to assume risk or 4292
pay claims. "Self-insurance program" includes but is not limited 4293
to employer programs that pay claims up to a prearranged limit 4294
beyond which they purchase insurance coverage to protect against 4295
unpredictable or catastrophic losses. 4296

(R) "Specific excess insurance" means that type of 4297
coverage whereby the insurer agrees to reimburse the insured 4298
employer or trust for all benefits or claims paid during an 4299
agreement period on behalf of a covered person in excess of a 4300
stated deductible amount and subject to a stated maximum. 4301

(S) "Summary plan description" means the written document 4302
adopted by the plan sponsor which outlines the plan of benefits, 4303
conditions, limitations, exclusions, and other pertinent details 4304
relative to the benefits provided to covered persons thereunder. 4305

(T) "Third-party payer" has the same meaning as in section 4306
3901.38 of the Revised Code. 4307

Sec. 3960.07. (A) No purchasing group shall conduct 4308
business in this state unless it has done both of the following: 4309

(1) Issued a notice to the superintendent of insurance 4310
that does all of the following: 4311

(a) Identifies the state in which the purchasing group is 4312
domiciled and all other states in which the group intends to do 4313
business; 4314

(b) Specifies the lines and classifications of liability 4315
insurance that the purchasing group intends to purchase and 4316
specifies the method by which and the person or persons, if any, 4317
through whom insurance will be offered to its members whose 4318
risks are resident or located in this state; 4319

(c) Identifies the name and domicile of the insurance 4320
company from which the purchasing group intends to purchase its 4321
insurance; 4322

(d) Identifies the principal place of business of the 4323
purchasing group; 4324

(e) Provides any other information that the superintendent 4325
may require to verify that the purchasing group is qualified 4326
under division (I) of section 3960.01 of the Revised Code. 4327

A purchasing group, within ten days, shall notify the 4328
superintendent of any changes in any of the items set forth in 4329
division (A)(1) this section. 4330

(2) Registered with the superintendent, paid a filing fee 4331
as determined by the superintendent, and consented to the 4332
exercise of jurisdiction over it by the superintendent and the 4333
courts of this state. The fee shall be paid into the state 4334
treasury to the credit of the department of insurance operating 4335

fund pursuant to section 3901.021 of the Revised Code. 4336

Division (A) (2) of this section does not apply to a 4337
purchasing group to which all of the following apply: 4338

(a) It was domiciled in any state before April 1, 1986, 4339
and on and after October 27, 1986; 4340

(b) It purchased insurance from an insurance carrier 4341
licensed in any state before and after October 27, 1986; 4342

(c) It was a purchasing group meeting the requirements of 4343
the federal "Product Liability Risk Retention Act of 1981," 95 4344
Stat. 949, 15 U.S.C.A. 3901, before October 27, 1986; 4345

(d) It does not purchase insurance that was not authorized 4346
for purposes of an exemption under that act, as in effect before 4347
October 27, 1986. 4348

(B) Each purchasing group that is required to give notice 4349
pursuant to division (A) (1) of this section also shall furnish 4350
any information that may be required by the superintendent to do 4351
both of the following: 4352

(1) Determine where the purchasing group is located; 4353

(2) Determine appropriate tax treatment. 4354

~~(C) Within thirty days after the effective date of this~~ 4355
~~section, any purchasing group that was doing business in this~~ 4356
~~state prior to the enactment of this section shall furnish~~ 4357
~~notice to the superintendent pursuant to division (A) (1) of this~~ 4358
~~section and furnish any information that may be required~~ 4359
~~pursuant to division (B) of this section.~~ 4360

~~(D)~~ Sections 3937.01 to 3937.17 of the Revised Code apply 4361
to admitted insurers that provide insurance to purchasing 4362

groups. 4363

Sec. 3964.19. (A) As used in sections 3964.19 to 3964.194 4364
of the Revised Code: 4365

(1) "Counterparty" means a special purpose financial 4366
captive insurance company's parent or an affiliated entity that 4367
is an insurer domiciled in this state that cedes life insurance 4368
risks to the special purpose financial captive insurance company 4369
pursuant to a special purpose financial captive insurance 4370
company contract. 4371

(2) "Insolvency" or "insolvent" means that the special 4372
purpose financial captive insurance company is unable to pay its 4373
obligations when they are due, unless those obligations are the 4374
subject of a bona fide dispute. 4375

(3) "Insurance securitization" means a package of related 4376
risk transfer instruments, capital market offerings, and 4377
facilitating administrative agreements, for which a special 4378
purpose financial captive insurance company obtains proceeds, 4379
either directly or indirectly, through the issuance of 4380
securities, where the investment risk to the holders of the 4381
securities is contingent upon the obligations of the special 4382
purpose financial captive insurance company to the counterparty 4383
under the special purpose financial captive insurance company 4384
contract, in accordance with the transaction terms, and pursuant 4385
to this section. This includes situations where the 4386
securitization proceeds are held in trust to secure the 4387
obligations of the special purpose financial captive insurance 4388
company under one or more special purpose financial captive 4389
insurance company contracts. 4390

(4) "Organizational document" means the special purpose 4391

financial captive insurance company's articles of incorporation, 4392
bylaws, code of regulations, operating agreement, or other 4393
foundational documents that establish the special purpose 4394
financial captive insurance company as a legal entity. 4395

(5) "Securities" means debt obligations, equity 4396
investments, surplus certificates, surplus notes, funding 4397
agreements, derivatives, and other legal forms of financial 4398
instruments. 4399

(6) "Special purpose financial captive insurance company 4400
contract" means a contract between a special purpose financial 4401
captive insurance company and a counterparty pursuant to which 4402
the special purpose financial captive insurance company agrees 4403
to provide insurance or reinsurance protection to the 4404
counterparty for risks associated with the counterparty's 4405
insurance or reinsurance business, and includes a contract 4406
entered into under division (F) of this section. 4407

(7) "Special purpose financial captive insurance company 4408
securities" means the securities issued by a special purpose 4409
financial captive insurance company. 4410

(B) The requirements of this section shall not apply to a 4411
specific special purpose financial captive insurance company if 4412
the superintendent finds a specific requirement is inappropriate 4413
due to the nature of the risks to be insured by the special 4414
purpose financial captive insurance company and if the special 4415
purpose financial captive insurance company meets the criteria 4416
established by rules and regulations adopted and promulgated by 4417
the superintendent. 4418

(C) (1) A special purpose financial captive insurance 4419
company may not issue a contract for assumption of risk or 4420

indemnification of loss other than a special purpose financial 4421
captive insurance company contract. However, the special purpose 4422
financial captive insurance company may cede a risk assumed 4423
through a special purpose financial captive insurance company 4424
contract to a third-party reinsurer through the purchase of 4425
reinsurance or retrocession protection if approved by the 4426
superintendent. 4427

(2) A special purpose financial captive insurance company 4428
may enter into contracts and conduct other commercial activities 4429
related or incidental to and necessary to fulfill the purposes 4430
of special purpose financial captive insurance company 4431
contracts, insurance securitization, and this section. Those 4432
activities may include: 4433

(a) Entering into special purpose financial captive 4434
insurance company contracts; 4435

(b) Issuing securities of the special purpose financial 4436
captive insurance company in accordance with applicable 4437
securities law; 4438

(c) Complying with the terms of special purpose financial 4439
captive insurance company contracts or securities; 4440

(d) Entering into trust, swap, tax, administration, 4441
reimbursement, or fiscal agent transactions; 4442

(e) Complying with trust indenture, reinsurance, 4443
retrocession, and other agreements necessary or incidental to 4444
effectuate an insurance securitization in compliance with this 4445
section and in the plan of operation considered by the 4446
superintendent under division (F) (5) of section 3964.03 of the 4447
Revised Code. 4448

(D) (1) A special purpose financial captive insurance 4449

company may issue securities, subject to and in accordance with 4450
applicable law, its plan of operation considered by the 4451
superintendent under division (E) of section 3964.03 of the 4452
Revised Code, and its organizational documents. 4453

(2) A special purpose financial captive insurance company, 4454
in connection with the issuance of securities, may enter into 4455
and perform all of its obligations under any required contracts 4456
to facilitate the issuance of these securities. 4457

(3) The obligation to repay principal or interest, or 4458
both, on the securities issued by the special purpose financial 4459
captive insurance company shall reflect the risk associated with 4460
the obligations of the special purpose financial captive 4461
insurance company to the counterparty under the special purpose 4462
financial captive insurance company contract. 4463

(E) (1) (a) A special purpose financial captive insurance 4464
company may enter into ~~asset the following types of transactions~~ 4465
~~for the purposes described in division (E) (1) (b) of this~~ 4466
section: 4467

(i) Asset management agreements, including swap 4468
~~agreements, guaranteed;~~ 4469

(ii) Guaranteed investment contracts, ~~or other;~~ 4470

(iii) Other transactions with the objective of reducing 4471
timing differences in the funding of upfront, or ongoing, 4472
transaction expenses, or managing asset, credit, prepayment, or 4473
interest rate risk of the investments of the special purpose 4474
financial captive insurance company ~~to~~. 4475

(b) The purpose of the transactions described in division 4476
(E) (1) (a) of this section shall be any of the following: 4477

(i) To ensure that the investments are sufficient to 4478
assure payment or repayment of the securities, and related 4479
interest or principal payments, issued pursuant to a special 4480
purpose financial captive insurance company insurance 4481
securitization transaction ~~or the;~~ 4482

(ii) To ensure that the investments are sufficient to 4483
assure payment or repayment of the obligations required under a 4484
special purpose financial captive insurance company contract ~~or~~ 4485
~~for any;~~ 4486

(iii) Any other purpose approved by the superintendent. 4487

(2) An asset management agreement shall not be entered 4488
into under this section by a special purpose financial captive 4489
insurance company unless it has been approved by the 4490
superintendent. 4491

(F) (1) If a special purpose financial captive insurance 4492
company has entered into a special purpose financial captive 4493
insurance company contract with a counterparty and the special 4494
purpose financial captive insurance company has conducted an 4495
insurance securitization that is made up, in part or in whole, 4496
of the risks of that contract, then the special purpose 4497
financial captive insurance company may enter into a second 4498
contract with the counterparty under which the counterparty is 4499
held liable for those losses or other obligations that were 4500
securitized. 4501

(2) Such obligations may be funded and secured with assets 4502
held in trust for the benefit of the counterparty pursuant to 4503
agreements contemplated by this section and invested in a manner 4504
that meet the criteria in sections 3907.14 and 3907.141 of the 4505
Revised Code. 4506

(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.

(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.

(H) A special purpose financial captive insurance company contract entered into under division (F) of this section shall contain all of the following:

(1) A requirement that the special purpose financial captive insurance company do either of the following:

(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;

(b) Establish such other methods of security acceptable to the superintendent.

(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;

(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 4536
endorsements in blank, or take such actions as are necessary to 4537
transfer legal title to the trustee of all assets requiring 4538
assignment, in order that the counterparty, or the trustee upon 4539
the direction of the counterparty, may negotiate whenever 4540
necessary the assets without consent or signature from the 4541
special purpose financial captive insurance company or another 4542
entity; 4543

(4) A stipulation that, if a trust arrangement is used, 4544
the special purpose financial captive insurance company and the 4545
counterparty agree that the assets in the trust account 4546
established pursuant to the contract: 4547

(a) May be withdrawn by the counterparty, or the trustee 4548
on its behalf, at any time, but only in accordance with the 4549
terms of the contract; 4550

(b) Shall be utilized and applied by the counterparty, 4551
without diminution because of insolvency on the part of the 4552
counterparty or the special purpose financial captive insurance 4553
company, only for the purposes set forth in the credit for 4554
reinsurance laws and rules of this state. As used in this 4555
division, "counterparty" includes any successor of the 4556
counterparty by operation of law, including, subject to the 4557
provisions of this section, but without further limitation, any 4558
liquidator, rehabilitator, or receiver of the counterparty. 4559

(I) A special purpose financial captive insurance company 4560
contract entered into under division (F) of this section may 4561
contain provisions that give the special purpose financial 4562
captive insurance company the right to seek approval from the 4563
counterparty to withdraw from the trust all or part of the 4564
assets, or income from them, contained in the trust and to 4565

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.

(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:

(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.

(b) The agreement is in compliance with section 3901.64 of the Revised Code.

(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.

(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 such sections as to invested amounts. The superintendent may prohibit or limit any investment that threatens the solvency or

liquidity of a special purpose financial captive insurance 4595
company or that is not made in accordance with the approved plan 4596
of operation. 4597

Sec. 3999.16. No officer, director, trustee, agent, or 4598
employee of any insurance company, corporation, or association 4599
authorized to transact business in this state shall knowingly 4600
use underwriting standards or rates that result in unfair 4601
discrimination against any handicapped person. This section does 4602
not prevent reasonable classifications of handicapped ~~person~~ 4603
persons for determining insurance rates. 4604

As used in this section, "handicapped" means a medically 4605
diagnosable, abnormal condition which is expected to continue 4606
for a considerable length of time, whether correctable or 4607
uncorrectable by good medical practice, which can reasonably be 4608
expected to limit the person's functional ability, including but 4609
not limited to seeing, hearing, thinking, ambulating, climbing, 4610
descending, lifting, grasping, sitting, rising, any related 4611
function, or any limitation due to weakness or significantly 4612
decreased endurance, so that ~~he~~ the person cannot perform ~~his~~ 4613
the person's everyday routine living and working without 4614
significantly increased hardship and vulnerability to what are 4615
considered the everyday obstacles and hazards encountered by the 4616
nonhandicapped. 4617

Sec. 4505.11. This section shall also apply to all-purpose 4618
vehicles and off-highway motorcycles as defined in section 4619
4519.01 of the Revised Code. 4620

(A) Each owner of a motor vehicle and each person 4621
mentioned as owner in the last certificate of title, when the 4622
motor vehicle is dismantled, destroyed, or changed in such 4623
manner that it loses its character as a motor vehicle, or 4624

changed in such manner that it is not the motor vehicle 4625
described in the certificate of title, shall surrender the 4626
certificate of title to that motor vehicle to a clerk of a court 4627
of common pleas, and the clerk, with the consent of any holders 4628
of any liens noted on the certificate of title, then shall enter 4629
a cancellation upon the clerk's records and shall notify the 4630
registrar of motor vehicles of the cancellation. 4631

Upon the cancellation of a certificate of title in the 4632
manner prescribed by this section, any clerk and the registrar 4633
of motor vehicles may cancel and destroy all certificates and 4634
all memorandum certificates in that chain of title. 4635

(B) (1) If an Ohio certificate of title or salvage 4636
certificate of title to a motor vehicle is assigned to a salvage 4637
dealer, the dealer is not required to obtain an Ohio certificate 4638
of title or a salvage certificate of title to the motor vehicle 4639
in the dealer's own name if the dealer dismantles or destroys 4640
the motor vehicle, indicates the number of the dealer's motor 4641
vehicle salvage dealer's license on it, marks "FOR DESTRUCTION" 4642
across the face of the certificate of title or salvage 4643
certificate of title, and surrenders the certificate of title or 4644
salvage certificate of title to a clerk of a court of common 4645
pleas as provided in division (A) of this section. If the 4646
salvage dealer retains the motor vehicle for resale, the dealer 4647
shall make application for a salvage certificate of title to the 4648
motor vehicle in the dealer's own name as provided in division 4649
(C) (1) of this section. 4650

(2) At the time any salvage motor vehicle is sold at 4651
auction or through a pool, the salvage motor vehicle auction or 4652
salvage motor vehicle pool shall give a copy of the salvage 4653
certificate of title or a copy of the certificate of title 4654

marked "FOR DESTRUCTION" to the purchaser. 4655

(C) (1) When an insurance company declares it economically 4656
impractical to repair such a motor vehicle and has paid an 4657
agreed price for the purchase of the motor vehicle to any 4658
insured or claimant owner, the insurance company shall proceed 4659
as follows: 4660

(a) If an insurance company receives the certificate of 4661
title and the motor vehicle, within thirty business days, the 4662
insurance company shall deliver the certificate of title to a 4663
clerk of a court of common pleas and shall make application for 4664
a salvage certificate of title. This certificate of title, any 4665
supporting power of attorney, or application for a salvage 4666
certificate of title shall be exempt from the requirements of 4667
notarization and verification as described in this chapter and 4668
in section 1337.25 of the Revised Code, and may be signed 4669
electronically. 4670

(b) If an insurance company obtains possession of the 4671
motor vehicle and a physical certificate of title was issued for 4672
the vehicle but the insurance company is unable to obtain the 4673
properly endorsed certificate of title for the motor vehicle 4674
within thirty business days following the vehicle's owner or 4675
lienholder's acceptance of the insurance company's payment for 4676
the vehicle, the insurance company may apply to the clerk of a 4677
court of common pleas for a salvage certificate of title without 4678
delivering the certificate of title for the motor vehicle. The 4679
application, which may be signed electronically, shall be 4680
accompanied by evidence that the insurance company has paid a 4681
total loss claim on the vehicle, a copy of the written request 4682
for the certificate of title from the insurance company or its 4683
designee, and proof that the request was delivered by a 4684

nationally recognized courier service to the last known address 4685
of the owner of the vehicle and any known lienholder, to obtain 4686
the certificate of title. 4687

(c) If an insurance company obtains possession of the 4688
motor vehicle and a physical certificate of title was not issued 4689
for the vehicle, the insurance company may apply to the clerk of 4690
a court of common pleas for a salvage certificate of title 4691
without delivering a certificate of title for the motor vehicle. 4692
The application shall be accompanied by the electronic 4693
certificate of title control number and a properly executed 4694
power of attorney, or other appropriate document, from the owner 4695
of the motor vehicle authorizing the insurance company to apply 4696
for a salvage certificate of title. The application for a 4697
salvage certificate of title, any supporting power of attorney, 4698
and any other appropriate document shall be exempt from the 4699
requirements of notarization and verification as described in 4700
this chapter and in section 1337.25 of the Revised Code, and may 4701
be signed electronically. 4702

(d) Upon receipt of a properly completed application for a 4703
salvage certificate of title as described in division (C)(1)(a), 4704
(b), or (c) or (C)(2) of this section, the clerk shall issue the 4705
salvage certificate of title on a form, prescribed by the 4706
registrar, that shall be easily distinguishable from the 4707
original certificate of title and shall bear the same 4708
information as the original certificate of title except that it 4709
may bear a different number than that of the original 4710
certificate of title. The salvage certificate of title shall 4711
include the following notice in bold lettering: 4712

"SALVAGE MOTOR VEHICLE - PURSUANT TO R.C. 4738.01." 4713

Except as provided in division (C)(3) of this section, the 4714

salvage certificate of title shall be assigned by the insurance 4715
company to a salvage dealer or any other person for use as 4716
evidence of ownership upon the sale or other disposition of the 4717
motor vehicle, and the salvage certificate of title shall be 4718
transferable to any other person. The clerk shall charge a fee 4719
of four dollars for the cost of processing each salvage 4720
certificate of title. 4721

(2) If an insurance company requests that a salvage motor 4722
vehicle auction take possession of a motor vehicle that is the 4723
subject of an insurance claim, and subsequently the insurance 4724
company denies coverage with respect to the motor vehicle or 4725
does not otherwise take ownership of the motor vehicle, the 4726
salvage motor vehicle auction may proceed as follows. After the 4727
salvage motor vehicle auction has possession of the motor 4728
vehicle for forty-five days, it may apply to the clerk of a 4729
court of common pleas for a salvage certificate of title without 4730
delivering the certificate of title for the motor vehicle. The 4731
application shall be accompanied by a copy of the written 4732
request that the vehicle be removed from the facility on the 4733
salvage motor vehicle auction's letterhead, and proof that the 4734
request was delivered by a nationally recognized courier service 4735
to the last known address of the owner of the vehicle and any 4736
known lienholder, requesting that the vehicle be removed from 4737
the facility of the salvage motor vehicle auction. Upon receipt 4738
of a properly completed application, the clerk shall follow the 4739
process as described in division (C) (1) (d) of this section. The 4740
salvage certificate of title so issued shall be free and clear 4741
of all liens. 4742

(3) If an insurance company considers a motor vehicle as 4743
described in division (C) (1) (a), (b), or (c) of this section to 4744
be impossible to restore for highway operation, the insurance 4745

company may assign the certificate of title to the motor vehicle 4746
to a salvage dealer or scrap metal processing facility and send 4747
the assigned certificate of title to the clerk of the court of 4748
common pleas of any county. The insurance company shall mark the 4749
face of the certificate of title "FOR DESTRUCTION" and shall 4750
deliver a photocopy of the certificate of title to the salvage 4751
dealer or scrap metal processing facility for its records. 4752

(4) If an insurance company declares it economically 4753
impractical to repair a motor vehicle, agrees to pay to the 4754
insured or claimant owner an amount in settlement of a claim 4755
against a policy of motor vehicle insurance covering the motor 4756
vehicle, and agrees to permit the insured or claimant owner to 4757
retain possession of the motor vehicle, the insurance company 4758
shall not pay the insured or claimant owner any amount in 4759
settlement of the insurance claim until the owner obtains a 4760
salvage certificate of title to the vehicle and furnishes a copy 4761
of the salvage certificate of title to the insurance company. 4762

(D) When a self-insured organization, rental or leasing 4763
company, or secured creditor becomes the owner of a motor 4764
vehicle that is burned, damaged, or dismantled and is determined 4765
to be economically impractical to repair, the self-insured 4766
organization, rental or leasing company, or secured creditor 4767
shall do one of the following: 4768

(1) Mark the face of the certificate of title to the motor 4769
vehicle "FOR DESTRUCTION" and surrender the certificate of title 4770
to a clerk of a court of common pleas for cancellation as 4771
described in division (A) of this section. The self-insured 4772
organization, rental or leasing company, or secured creditor 4773
then shall deliver the motor vehicle, together with a photocopy 4774
of the certificate of title, to a salvage dealer or scrap metal 4775

processing facility and shall cause the motor vehicle to be 4776
dismantled, flattened, crushed, or destroyed. 4777

(2) Obtain a salvage certificate of title to the motor 4778
vehicle in the name of the self-insured organization, rental or 4779
leasing company, or secured creditor, as provided in division 4780
(C) (1) of this section, and then sell or otherwise dispose of 4781
the motor vehicle. If the motor vehicle is sold, the self- 4782
insured organization, rental or leasing company, or secured 4783
creditor shall obtain a salvage certificate of title to the 4784
motor vehicle in the name of the purchaser from a clerk of a 4785
court of common pleas. 4786

(E) If a motor vehicle titled with a salvage certificate 4787
of title is restored for operation upon the highways, 4788
application shall be made to a clerk of a court of common pleas 4789
for a certificate of title. Upon inspection by the state highway 4790
patrol, which shall include establishing proof of ownership and 4791
an inspection of the motor number and vehicle identification 4792
number of the motor vehicle and of documentation or receipts for 4793
the materials used in restoration by the owner of the motor 4794
vehicle being inspected, which documentation or receipts shall 4795
be presented at the time of inspection, the clerk, upon 4796
surrender of the salvage certificate of title, shall issue a 4797
certificate of title for a fee prescribed by the registrar. The 4798
certificate of title shall be in the same form as the original 4799
certificate of title and shall bear the words "REBUILT SALVAGE" 4800
in black boldface letters on its face. Every subsequent 4801
certificate of title, memorandum certificate of title, or 4802
duplicate certificate of title issued for the motor vehicle also 4803
shall bear the words "REBUILT SALVAGE" in black boldface letters 4804
on its face. The exact location on the face of the certificate 4805
of title of the words "REBUILT SALVAGE" shall be determined by 4806

the registrar, who shall develop an automated procedure within 4807
the automated title processing system to comply with this 4808
division. The clerk shall use reasonable care in performing the 4809
duties imposed on the clerk by this division in issuing a 4810
certificate of title pursuant to this division, but the clerk is 4811
not liable for any of the clerk's errors or omissions or those 4812
of the clerk's deputies, or the automated title processing 4813
system in the performance of those duties. A fee of fifty 4814
dollars shall be assessed by the state highway patrol for each 4815
inspection made pursuant to this division and shall be deposited 4816
into the public safety - highway purposes fund established by 4817
section 4501.06 of the Revised Code. 4818

(F) No person shall operate upon the highways in this 4819
state a motor vehicle, title to which is evidenced by a salvage 4820
certificate of title, except to deliver the motor vehicle 4821
pursuant to an appointment for an inspection under this section. 4822

(G) No motor vehicle the certificate of title to which has 4823
been marked "FOR DESTRUCTION" and surrendered to a clerk of a 4824
court of common pleas shall be used for anything except parts 4825
and scrap metal. 4826

(H) (1) Except as otherwise provided in this division, an 4827
owner of a manufactured or mobile home that will be taxed as 4828
real property pursuant to division (B) of section 4503.06 of the 4829
Revised Code shall surrender the certificate of title to the 4830
auditor of the county containing the taxing district in which 4831
the home is located. An owner whose home qualifies for real 4832
property taxation under divisions (B) (1) (a) and (b) of section 4833
4503.06 of the Revised Code shall surrender the certificate 4834
within fifteen days after the home meets the conditions 4835
specified in those divisions. The auditor shall deliver the 4836

certificate of title to the clerk of the court of common pleas 4837
who issued it. 4838

(2) If the certificate of title for a manufactured or 4839
mobile home that is to be taxed as real property is held by a 4840
lienholder, the lienholder shall surrender the certificate of 4841
title to the auditor of the county containing the taxing 4842
district in which the home is located, and the auditor shall 4843
deliver the certificate of title to the clerk of the court of 4844
common pleas who issued it. The lienholder shall surrender the 4845
certificate within thirty days after both of the following have 4846
occurred: 4847

(a) The homeowner has provided written notice to the 4848
lienholder requesting that the certificate of title be 4849
surrendered to the auditor of the county containing the taxing 4850
district in which the home is located. 4851

(b) The homeowner has either paid the lienholder the 4852
remaining balance owed to the lienholder, or, with the 4853
lienholder's consent, executed and delivered to the lienholder a 4854
mortgage on the home and land on which the home is sited in the 4855
amount of the remaining balance owed to the lienholder. 4856

(3) Upon the delivery of a certificate of title by the 4857
county auditor to the clerk, the clerk shall inactivate it and 4858
maintain it in the automated title processing system for a 4859
period of thirty years. 4860

(4) Upon application by the owner of a manufactured or 4861
mobile home that is taxed as real property pursuant to division 4862
(B) of section 4503.06 of the Revised Code and that no longer 4863
satisfies divisions (B)(1)(a) and (b) or divisions (B)(2)(a) and 4864
(b) of that section, the clerk shall reactivate the record of 4865

the certificate of title that was inactivated under division (H) 4866
(3) of this section and shall issue a new certificate of title, 4867
but only if the application contains or has attached to it all 4868
of the following: 4869

(a) An endorsement of the county treasurer that all real 4870
property taxes charged against the home under Title LVII of the 4871
Revised Code and division (B) of section 4503.06 of the Revised 4872
Code for all preceding tax years have been paid; 4873

(b) An endorsement of the county auditor that the home 4874
will be removed from the real property tax list; 4875

(c) Proof that there are no outstanding mortgages or other 4876
liens on the home or, if there are such mortgages or other 4877
liens, that the mortgagee or lienholder has consented to the 4878
reactivation of the certificate of title. 4879

(I) (1) Whoever violates division (F) of this section shall 4880
be fined not more than two thousand dollars, imprisoned not more 4881
than one year, or both. 4882

(2) Whoever violates division (G) of this section shall be 4883
fined not more than one thousand dollars, imprisoned not more 4884
than six months, or both. 4885

Sec. 4509.70. (A) After consultation with the insurance 4886
companies authorized to issue automobile liability or physical 4887
damage policies, or both, in this state, the superintendent of 4888
insurance shall approve a reasonable plan, fair and equitable to 4889
the insurers and to their policyholders, for the apportionment 4890
among such companies of applicants for such policies and for 4891
motor-vehicle liability policies who are in good faith entitled 4892
to but are unable to procure such policies through ordinary 4893
methods. When any such plan has been approved by the 4894

superintendent, all such insurance companies shall subscribe and 4895
participate. Any applicant for such policy, any person insured 4896
under such plan of operation, and any insurance company 4897
affected, may appeal to the superintendent of insurance from any 4898
ruling or decision of the manager or committee designated in the 4899
plan to operate the assigned risk insurance plan. Any order or 4900
act of the superintendent under this section is subject to 4901
review as provided in sections 119.01 to 119.13 of the Revised 4902
Code, at the instance of any party in interest. 4903

(B) The plan described in division (A) of this section may 4904
permit the assigned risk insurance plan to directly issue and 4905
process claims arising from such policies described in division 4906
(A) of this section to applicants of ~~private passenger~~ 4907
automobile insurance policies who are in good faith entitled to 4908
but are unable to procure such policies through ordinary 4909
methods. 4910

(C) Every form of a policy, endorsement, rider, manual of 4911
classifications, rules, and rates, every rating plan, and every 4912
modification of any of them proposed to be used by the assigned 4913
risk insurance plan shall be filed, or the plan may satisfy its 4914
obligation to make such filings, as described in section 3937.03 4915
of the Revised Code. 4916

(D) Any ~~private passenger~~ automobile insurance policy 4917
issued by the assigned risk insurance plan under division (B) of 4918
this section: 4919

(1) Shall be recognized as if issued by an insurance 4920
company authorized to do business in this state; 4921

(2) Shall meet all requirements of proof of financial 4922
responsibility as described in division (K) of section 4509.01 4923

of the Revised Code. 4924

(E) Proof of financial responsibility provided by the 4925
assigned risk insurance plan to ~~a private passenger~~ an 4926
automobile insurance policyholder that meets the requirements 4927
described in division (G) (1) (a) or (b) of section 4509.101 of 4928
the Revised Code shall be recognized as if issued by an 4929
insurance company authorized to do business in this state to 4930
demonstrate proof of financial responsibility under section 4931
4509.101 of the Revised Code. 4932

(F) The assigned risk insurance plan designated in 4933
division (A) of this section shall do both of the following: 4934

(1) Make annual audited financial reports available to the 4935
superintendent of insurance promptly upon the completion of such 4936
audit; 4937

(2) Upon reasonable notice, make available to the 4938
superintendent of insurance all books and records relating to 4939
the insurance transactions of the assigned risk insurance plan. 4940

Section 2. That existing sections 167.03, 1317.04, 4941
1317.05, 1751.32, 1751.74, 1751.84, 1753.31, 3901.045, 3901.45, 4942
3901.811, 3901.87, 3902.08, 3903.01, 3903.52, 3903.56, 3903.71, 4943
3903.724, 3903.728, 3903.7211, 3903.74, 3904.01, 3904.16, 4944
3905.051, 3905.14, 3905.84, 3905.85, 3905.87, 3907.15, 3909.04, 4945
3911.24, 3913.11, 3913.40, 3915.05, 3915.053, 3915.073, 3915.13, 4946
3916.171, 3919.14, 3922.11, 3922.14, 3923.021, 3923.04, 3923.53, 4947
3925.09, 3927.08, 3929.04, 3930.10, 3931.03, 3931.99, 3941.46, 4948
3951.04, 3951.06, 3951.10, 3953.14, 3956.01, 3959.01, 3960.07, 4949
3964.19, 3999.16, 4505.11, and 4509.70 of the Revised Code are 4950
hereby repealed. 4951

Section 3. With the exception of amendments made to 4952

sections 167.03, 1317.04, 1317.05, 3905.85, 3905.87, 3907.15, 4953
3915.13, 3951.06, 4505.11, and 4509.70 of the Revised Code, it 4954
is the intent of the General Assembly for the amendments made in 4955
this act to be nonsubstantive as provided in section 1.301 of 4956
the Revised Code. 4957