

AN ACT

To amend sections 1707.01, 1707.02, 1707.11, 1707.15, 1707.151, 1707.16, 1707.17, 1707.20, 1707.23, and 1707.44; to enact sections 3916.01, 3916.02, 3916.03, 3916.04, 3916.05, 3916.06, 3916.07, 3916.08, 3916.09, 3916.10, 3916.11, 3916.12, 3916.13, 3916.14, 3916.15, 3916.16, 3916.17, 3916.18, 3916.19, 3916.20, 3916.21, and 3916.99; and to repeal sections 1707.432, 1707.433, 1707.434, 1707.435, 1707.436, 1707.437, 1707.438, and 1707.439 of the Revised Code to adopt the Viatical Settlements Model Act of the National Association of Insurance Commissioners, to make life settlement interests subject to the Ohio Securities Law, and to make other changes in the Securities Law, including changes relative to exempt securities, consent to service of process, application for a dealer's, investment adviser's, or salesperson's license, private civil actions seeking damages arising from the sale of a security, and expedited rulemaking authority.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 1707.01, 1707.02, 1707.11, 1707.15, 1707.151, 1707.16, 1707.17, 1707.20, 1707.23, and 1707.44 be amended and sections 3916.01, 3916.02, 3916.03, 3916.04, 3916.05, 3916.06, 3916.07, 3916.08, 3916.09, 3916.10, 3916.11, 3916.12, 3916.13, 3916.14, 3916.15, 3916.16, 3916.17, 3916.18, 3916.19, 3916.20, 3916.21, and 3916.99 of the Revised Code be enacted to read as follows:

Sec. 1707.01. As used in this chapter:

(A) Whenever the context requires it, "division" or "division of securities" may be read as "director of commerce" or as "commissioner of

securities."

(B) "Security" means any certificate or instrument that represents title to or interest in, or is secured by any lien or charge upon, the capital, assets, profits, property, or credit of any person or of any public or governmental body, subdivision, or agency. It includes shares of stock, certificates for shares of stock, membership interests in limited liability companies, voting-trust certificates, warrants and options to purchase securities, subscription rights, interim receipts, interim certificates, promissory notes, all forms of commercial paper, evidences of indebtedness, bonds, debentures, land trust certificates, fee certificates, leasehold certificates, syndicate certificates, endowment certificates, certificates or written instruments in or under profit-sharing or participation agreements or in or under oil, gas, or mining leases, or certificates or written instruments of any interest in or under the same, receipts evidencing preorganization or reorganization subscriptions, preorganization certificates, reorganization certificates, certificates evidencing an interest in any trust or pretended trust, any investment contract, any life settlement interest, any instrument evidencing a promise or an agreement to pay money, warehouse receipts for intoxicating liquor, and the currency of any government other than those of the United States and Canada, but sections 1707.01 to 1707.45 of the Revised Code do not apply to the sale of real estate.

(C)(1) "Sale" has the full meaning of "sale" as applied by or accepted in courts of law or equity, and includes every disposition, or attempt to dispose, of a security or of an interest in a security. "Sale" also includes a contract to sell, an exchange, an attempt to sell, an option of sale, a solicitation of a sale, a solicitation of an offer to buy, a subscription, or an offer to sell, directly or indirectly, by agent, circular, pamphlet, advertisement, or otherwise.

(2) "Sell" means any act by which a sale is made.

(3) The use of advertisements, circulars, or pamphlets in connection with the sale of securities in this state exclusively to the purchasers specified in division (D) of section 1707.03 of the Revised Code is not a sale when the advertisements, circulars, and pamphlets describing and offering those securities bear a readily legible legend in substance as follows: "This offer is made on behalf of dealers licensed under sections 1707.01 to 1707.45 of the Revised Code, and is confined in this state exclusively to institutional investors and licensed dealers."

(4) The offering of securities by any person in conjunction with a licensed dealer by use of advertisement, circular, or pamphlet is not a sale if that person does not otherwise attempt to sell securities in this state.

(5) Any security given with, or as a bonus on account of, any purchase of securities is conclusively presumed to constitute a part of the subject of that purchase and has been "sold."

(6) "Sale" by an owner, pledgee, or mortgagee, or by a person acting in a representative capacity, includes sale on behalf of such party by an agent, including a licensed dealer or salesperson.

(D) "Person," except as otherwise provided in this chapter, means a natural person, firm, partnership, limited partnership, partnership association, syndicate, joint-stock company, unincorporated association, trust or trustee except where the trust was created or the trustee designated by law or judicial authority or by a will, and a corporation or limited liability company organized under the laws of any state, any foreign government, or any political subdivision of a state or foreign government.

(E)(1) "Dealer," except as otherwise provided in this chapter, means every person, other than a salesperson, who engages or professes to engage, in this state, for either all or part of the person's time, directly or indirectly, either in the business of the sale of securities for the person's own account, or in the business of the purchase or sale of securities for the account of others in the reasonable expectation of receiving a commission, fee, or other remuneration as a result of engaging in the purchase and sale of securities. "Dealer" does not mean any of the following:

(a) Any issuer, including any officer, director, employee, or trustee of, or member or manager of, or partner in, or any general partner of, any issuer, that sells, offers for sale, or does any act in furtherance of the sale of a security that represents an economic interest in that issuer, provided no commission, fee, or other similar remuneration is paid to or received by the issuer for the sale;

(b) Any licensed attorney, public accountant, or firm of such attorneys or accountants, whose activities are incidental to the practice of the attorney's, accountant's, or firm's profession;

(c) Any person that, for the account of others, engages in the purchase or sale of securities that are issued and outstanding before such purchase and sale, if a majority or more of the equity interest of an issuer is sold in that transaction, and if, in the case of a corporation, the securities sold in that transaction represent a majority or more of the voting power of the corporation in the election of directors;

(d) Any person that brings an issuer together with a potential investor and whose compensation is not directly or indirectly based on the sale of any securities by the issuer to the investor;

(e) Any bank, savings and loan association, savings bank, or credit

union chartered under the laws of the United States or any state of the United States, provided that all transactions are consummated by or through a person licensed pursuant to section 1707.14 of the Revised Code;

(f) Any person that the division of securities by rule exempts from the definition of "dealer" under division (E)(1) of this section.

(2) "Licensed dealer" means a dealer licensed under this chapter.

(F)(1) "Salesman" or "salesperson" means every natural person, other than a dealer, who is employed, authorized, or appointed by a dealer to sell securities within this state.

(2) The general partners of a partnership, and the executive officers of a corporation or unincorporated association, licensed as a dealer are not salespersons within the meaning of this definition, nor are such clerical or other employees of an issuer or dealer as are employed for work to which the sale of securities is secondary and incidental; but the division of securities may require a license from any such partner, executive officer, or employee if it determines that protection of the public necessitates the licensing.

(3) "Licensed salesperson" means a salesperson licensed under this chapter.

(G) "Issuer" means every person who has issued, proposes to issue, or issues any security.

(H) "Director" means each director or trustee of a corporation, each trustee of a trust, each general partner of a partnership, except a partnership association, each manager of a partnership association, and any person vested with managerial or directory power over an issuer not having a board of directors or trustees.

(I) "Incorporator" means any incorporator of a corporation and any organizer of, or any person participating, other than in a representative or professional capacity, in the organization of an unincorporated issuer.

(J) "Fraud," "fraudulent," "fraudulent acts," "fraudulent practices," or "fraudulent transactions" means anything recognized on or after July 22, 1929, as such in courts of law or equity; any device, scheme, or artifice to defraud or to obtain money or property by means of any false pretense, representation, or promise; any fictitious or pretended purchase or sale of securities; and any act, practice, transaction, or course of business relating to the purchase or sale of securities that is fraudulent or that has operated or would operate as a fraud upon the seller or purchaser.

(K) Except as otherwise specifically provided, whenever any classification or computation is based upon "par value," as applied to securities without par value, the average of the aggregate consideration

received or to be received by the issuer for each class of those securities shall be used as the basis for that classification or computation.

(L)(1) "Intangible property" means patents, copyrights, secret processes, formulas, services, good will, promotion and organization fees and expenses, trademarks, trade brands, trade names, licenses, franchises, any other assets treated as intangible according to generally accepted accounting principles, and securities, accounts receivable, or contract rights having no readily determinable value.

(2) "Tangible property" means all property other than intangible property and includes securities, accounts receivable, and contract rights, when the securities, accounts receivable, or contract rights have a readily determinable value.

(M) "Public utilities" means those utilities defined in sections 4905.02, 4905.03, 4907.02, and 4907.03 of the Revised Code; in the case of a foreign corporation, it means those utilities defined as public utilities by the laws of its domicile; and in the case of any other foreign issuer, it means those utilities defined as public utilities by the laws of the situs of its principal place of business. The term always includes railroads whether or not they are so defined as public utilities.

(N) "State" means any state of the United States, any territory or possession of the United States, the District of Columbia, and any province of Canada.

(O) "Bank" means any bank, trust company, savings and loan association, savings bank, or credit union that is incorporated or organized under the laws of the United States, any state of the United States, Canada, or any province of Canada and that is subject to regulation or supervision by that country, state, or province.

(P) "Include," when used in a definition, does not exclude other things or persons otherwise within the meaning of the term defined.

(Q)(1) "Registration by description" means that the requirements of section 1707.08 of the Revised Code have been complied with.

(2) "Registration by qualification" means that the requirements of sections 1707.09 and 1707.11 of the Revised Code have been complied with.

(3) "Registration by coordination" means that there has been compliance with section 1707.091 of the Revised Code. Reference in this chapter to registration by qualification also shall be deemed to include registration by coordination unless the context otherwise indicates.

(R) "Intoxicating liquor" includes all liquids and compounds that contain more than three and two-tenths per cent of alcohol by weight and are

fit for use for beverage purposes.

(S) "Institutional investor" means any corporation, bank, insurance company, pension fund or pension fund trust, employees' profit-sharing fund or employees' profit-sharing trust, any association engaged, as a substantial part of its business or operations, in purchasing or holding securities, or any trust in respect of which a bank is trustee or cotrustee. "Institutional investor" does not include any business entity formed for the primary purpose of evading sections 1707.01 to 1707.45 of the Revised Code.

(T) "Securities Act of 1933," 48 Stat. 74, 15 U.S.C. 77a, "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78a, "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, "Investment Advisers Act of 1940," 54 Stat. 847, 15 U.S.C. 80b, and "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C. 80a mean the federal statutes of those names as amended before or after March 18, 1999.

(U) "Securities and exchange commission" means the securities and exchange commission established by the Securities Exchange Act of 1934.

(V)(1) "Control bid" means the purchase of or offer to purchase any equity security of a subject company from a resident of this state if either of the following applies:

(a) After the purchase of that security, the offeror would be directly or indirectly the beneficial owner of more than ten per cent of any class of the issued and outstanding equity securities of the issuer.

(b) The offeror is the subject company, there is a pending control bid by a person other than the issuer, and the number of the issued and outstanding shares of the subject company would be reduced by more than ten per cent.

(2) For purposes of division (V)(1) of this section, "control bid" does not include any of the following:

(a) A bid made by a dealer for the dealer's own account in the ordinary course of business of buying and selling securities;

(b) An offer to acquire any equity security solely in exchange for any other security, or the acquisition of any equity security pursuant to an offer, for the sole account of the offeror, in good faith and not for the purpose of avoiding the provisions of this chapter, and not involving any public offering of the other security within the meaning of Section 4 of Title I of the "Securities Act of 1933," 48 Stat. 77, 15 U.S.C.A. 77d(2), as amended;

(c) Any other offer to acquire any equity security, or the acquisition of any equity security pursuant to an offer, for the sole account of the offeror, from not more than fifty persons, in good faith and not for the purpose of avoiding the provisions of this chapter.

(W) "Offeror" means a person who makes, or in any way participates or

aids in making, a control bid and includes persons acting jointly or in concert, or who intend to exercise jointly or in concert any voting rights attached to the securities for which the control bid is made and also includes any subject company making a control bid for its own securities.

(X)(1) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of regular business, issues or promulgates analyses or reports concerning securities.

(2) "Investment adviser" does not mean any of the following:

(a) Any attorney, accountant, engineer, or teacher, whose performance of investment advisory services described in division (X)(1) of this section is solely incidental to the practice of the attorney's, accountant's, engineer's, or teacher's profession;

(b) A publisher of any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation;

(c) A person who acts solely as an investment adviser representative;

(d) A bank holding company, as defined in the "Bank Holding Company Act of 1956," 70 Stat. 133, 12 U.S.C. 1841, that is not an investment company;

(e) A bank, or any receiver, conservator, or other liquidating agent of a bank;

(f) Any licensed dealer or licensed salesperson whose performance of investment advisory services described in division (X)(1) of this section is solely incidental to the conduct of the dealer's or salesperson's business as a licensed dealer or licensed salesperson and who receives no special compensation for the services;

(g) Any person, the advice, analyses, or reports of which do not relate to securities other than securities that are direct obligations of, or obligations guaranteed as to principal or interest by, the United States, or securities issued or guaranteed by corporations in which the United States has a direct or indirect interest, and that have been designated by the secretary of the treasury as exempt securities as defined in the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78c;

(h) Any person that is excluded from the definition of investment adviser pursuant to section 202(a)(11)(A) to (E) of the "Investment Advisers Act of 1940," 15 U.S.C. 80b-2(a)(11), or that has received an order from the securities and exchange commission under section 202(a)(11)(F) of the "Investment Advisers Act of 1940," 15 U.S.C. 80b-2(a)(11)(F), declaring

that the person is not within the intent of section 202(a)(11) of the Investment Advisers Act of 1940.

(i) Any other person that the division designates by rule, if the division finds that the designation is necessary or appropriate in the public interest or for the protection of investors or clients and consistent with the purposes fairly intended by the policy and provisions of this chapter.

(Y)(1) "Subject company" means an issuer that satisfies both of the following:

(a) Its principal place of business or its principal executive office is located in this state, or it owns or controls assets located within this state that have a fair market value of at least one million dollars.

(b) More than ten per cent of its beneficial or record equity security holders are resident in this state, more than ten per cent of its equity securities are owned beneficially or of record by residents in this state, or more than one thousand of its beneficial or record equity security holders are resident in this state.

(2) The division of securities may adopt rules to establish more specific application of the provisions set forth in division (Y)(1) of this section. Notwithstanding the provisions set forth in division (Y)(1) of this section and any rules adopted under this division, the division, by rule or in an adjudicatory proceeding, may make a determination that an issuer does not constitute a "subject company" under division (Y)(1) of this section if appropriate review of control bids involving the issuer is to be made by any regulatory authority of another jurisdiction.

(Z) "Beneficial owner" includes any person who directly or indirectly through any contract, arrangement, understanding, or relationship has or shares, or otherwise has or shares, the power to vote or direct the voting of a security or the power to dispose of, or direct the disposition of, the security. "Beneficial ownership" includes the right, exercisable within sixty days, to acquire any security through the exercise of any option, warrant, or right, the conversion of any convertible security, or otherwise. Any security subject to any such option, warrant, right, or conversion privilege held by any person shall be deemed to be outstanding for the purpose of computing the percentage of outstanding securities of the class owned by that person, but shall not be deemed to be outstanding for the purpose of computing the percentage of the class owned by any other person. A person shall be deemed the beneficial owner of any security beneficially owned by any relative or spouse or relative of the spouse residing in the home of that person, any trust or estate in which that person owns ten per cent or more of the total beneficial interest or serves as trustee or executor, any corporation

or entity in which that person owns ten per cent or more of the equity, and any affiliate or associate of that person.

(AA) "Offeree" means the beneficial or record owner of any security that an offeror acquires or offers to acquire in connection with a control bid.

(BB) "Equity security" means any share or similar security, or any security convertible into any such security, or carrying any warrant or right to subscribe to or purchase any such security, or any such warrant or right, or any other security that, for the protection of security holders, is treated as an equity security pursuant to rules of the division of securities.

(CC) "Investment company" has the same meaning as in section 3(A) of the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C. 80a-1 to 80a-52.

(DD) "Penny stock" has the same meaning as in section 3(A)(51) of the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78a-78jj, and the rules, regulations, and orders issued pursuant to that section.

(EE) "Going concern transaction" has the same meaning given that term under the rules or regulations on the securities and exchange commission issued pursuant to section 13(c) of the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78a-78jj.

(FF) "Person acting on behalf of an issuer" means an officer, director, or employee of an issuer.

(GG) "Blank check company," "roll-up transaction," "executive officer of an entity," and "direct participation program" have the same meanings given those terms by rule or regulation of the securities and exchange commission.

(HH) "Forward-looking statement" means any of the following:

(1) A statement containing a projection of revenues, income including income loss, earnings per share including earnings loss per share, capital expenditures, dividends, capital structure, or other financial items;

(2) A statement of the plans and objectives of the management of the issuer for future operations, including plans or objectives relating to the products or services of the issuer;

(3) A statement of future economic performance, including any statement of that nature contained in a discussion and analysis of financial conditions by the management or in the results of operations included pursuant to the rules and regulations of the securities and exchange commission;

(4) Any disclosed statement of the assumptions underlying or relating to a statement described in division (B)(1), (2), or (3) of section 1707.437 of the Revised Code;

(5) Any report issued by an outside reviewer retained by an issuer to the extent that the report relates to a forward-looking statement made by the issuer;

(6) A statement containing a projection or estimate of any other items that may be specified by rule or regulation of the securities and exchange commission.

(II)(1) "Investment adviser representative" means a supervised person of an investment adviser, provided that the supervised person has more than five clients who are natural persons other than excepted persons defined in division (KK) of this section, and that more than ten per cent of the supervised person's clients are natural persons other than excepted persons defined in division (KK) of this section. "Investment adviser representative" does not mean any of the following:

(a) A supervised person that does not on a regular basis solicit, meet with, or otherwise communicate with clients of the investment adviser;

(b) A supervised person that provides only investment advisory services described in division (X)(1) of this section by means of written materials or oral statements that do not purport to meet the objectives or needs of specific individuals or accounts;

(c) Any other person that the division designates by rule, if the division finds that the designation is necessary or appropriate in the public interest or for the protection of investors or clients and is consistent with the provisions fairly intended by the policy and provisions of this chapter.

(2) For the purpose of the calculation of clients in division (II)(1) of this section, a natural person and the following persons are deemed a single client: Any minor child of the natural person; any relative, spouse, or relative of the spouse of the natural person who has the same principal residence as the natural person; all accounts of which the natural person or the persons referred to in division (II)(2) of this section are the only primary beneficiaries; and all trusts of which the natural person or persons referred to in division (II)(2) of this section are the only primary beneficiaries. Persons who are not residents of the United States need not be included in the calculation of clients under division (II)(1) of this section.

(3) If subsequent to March 18, 1999, amendments are enacted or adopted defining "investment adviser representative" for purposes of the Investment Advisers Act of 1940 or additional rules or regulations are promulgated by the securities and exchange commission regarding the definition of "investment adviser representative" for purposes of the Investment Advisers Act of 1940, the division of securities shall, by rule, adopt the substance of the amendments, rules, or regulations, unless the

division finds that the amendments, rules, or regulations are not necessary for the protection of investors or in the public interest.

(JJ) "Supervised person" means a natural person who is any of the following:

(1) A partner, officer, or director of an investment adviser, or other person occupying a similar status or performing similar functions with respect to an investment adviser;

(2) An employee of an investment adviser;

(3) A person who provides investment advisory services described in division (X)(1) of this section on behalf of the investment adviser and is subject to the supervision and control of the investment adviser.

(KK) "Excepted person" means a natural person to whom any of the following applies:

(1) Immediately after entering into the investment advisory contract with the investment adviser, the person has at least seven hundred fifty thousand dollars under the management of the investment adviser.

(2) The investment adviser reasonably believes either of the following at the time the investment advisory contract is entered into with the person:

(a) The person has a net worth, together with assets held jointly with a spouse, of more than one million five hundred thousand dollars.

(b) The person is a qualified purchaser as defined in division (LL) of this section.

(3) Immediately prior to entering into an investment advisory contract with the investment adviser, the person is either of the following:

(a) An executive officer, director, trustee, general partner, or person serving in a similar capacity, of the investment adviser;

(b) An employee of the investment adviser, other than an employee performing solely clerical, secretarial, or administrative functions or duties for the investment adviser, which employee, in connection with the employee's regular functions or duties, participates in the investment activities of the investment adviser, provided that, for at least twelve months, the employee has been performing such nonclerical, nonsecretarial, or nonadministrative functions or duties for or on behalf of the investment adviser or performing substantially similar functions or duties for or on behalf of another company.

If subsequent to March 18, 1999, amendments are enacted or adopted defining "excepted person" for purposes of the Investment Advisers Act of 1940 or additional rules or regulations are promulgated by the securities and exchange commission regarding the definition of "excepted person" for purposes of the Investment Advisers Act of 1940, the division of securities

shall, by rule, adopt the substance of the amendments, rules, or regulations, unless the division finds that the amendments, rules, or regulations are not necessary for the protection of investors or in the public interest.

(LL)(1) "Qualified purchaser" means either of the following:

(a) A natural person who owns not less than five million dollars in investments as defined by rule by the division of securities;

(b) A natural person, acting for the person's own account or accounts of other qualified purchasers, who in the aggregate owns and invests on a discretionary basis, not less than twenty-five million dollars in investments as defined by rule by the division of securities.

(2) If subsequent to March 18, 1999, amendments are enacted or adopted defining "qualified purchaser" for purposes of the Investment Advisers Act of 1940 or additional rules or regulations are promulgated by the securities and exchange commission regarding the definition of "qualified purchaser" for purposes of the Investment Advisers Act of 1940, the division of securities shall, by rule, adopt the amendments, rules, or regulations, unless the division finds that the amendments, rules, or regulations are not necessary for the protection of investors or in the public interest.

(MM)(1) "Purchase" has the full meaning of "purchase" as applied by or accepted in courts of law or equity and includes every acquisition of, or attempt to acquire, a security or an interest in a security. "Purchase" also includes a contract to purchase, an exchange, an attempt to purchase, an option to purchase, a solicitation of a purchase, a solicitation of an offer to sell, a subscription, or an offer to purchase, directly or indirectly, by agent, circular, pamphlet, advertisement, or otherwise.

(2) "Purchase" means any act by which a purchase is made.

(3) Any security given with, or as a bonus on account of, any purchase of securities is conclusively presumed to constitute a part of the subject of that purchase.

(NN) "Life settlement interest" means the entire interest or any fractional interest in an insurance policy or certificate of insurance, or in an insurance benefit under such a policy or certificate, that is the subject of a life settlement contract.

ction 3916.01 of the Revised Code, but does not include any of the following:

(1) A loan by an insurer under the terms of a life insurance policy, including, but not limited to, a loan secured by the cash value of the policy;

(2) An agreement with a bank that takes an assignment of a life insurance policy as collateral for a loan;

(3) The provision of accelerated benefits as defined in section 3915.21 of the Revised Code;

(4) Any agreement between an insurer and a reinsurer;

(5) An agreement by an individual to purchase an existing life insurance policy or contract from the original owner of the policy or contract, if the individual does not enter into more than one life settlement contract per calendar year;

(6) The initial purchase of an insurance policy or certificate of insurance from its owner by a viatical settlement provider, as defined in section 3916.01 of the Revised Code, that is licensed under Chapter 3916. of the Revised Code.

Sec. 1707.02. (A) "Exempt," as used in this section, means exempt from sections 1707.08 to 1707.11 and 1707.39 of the Revised Code.

(B)(1) Except as provided in division (B)(2) of this section, the following securities are exempt, if the issuer or guarantor has the power of taxation or assessment for the purpose of paying the obligation represented by the security, or is in specific terms empowered by the laws of the state of issuance to issue securities payable as to principal or interest, or as to both, out of revenues collected or administered by such issuer:

(a) Any security issued or guaranteed by the United States;

(b) Any security issued or guaranteed by, and recognized, at the time of sale, as its valid obligation by, any foreign government with which the United States is, at the time of sale, maintaining diplomatic relations;

(c) Any security issued or guaranteed, and recognized as its valid obligation, by any political subdivision or any governmental or other public body, corporation, or agency in or of the United States, any state, territory, or possession of the United States, or any foreign government with which the United States is, at the time of sale, maintaining diplomatic relations.

(2) If a security described in division (B)(1) of this section is not payable out of the proceeds of a general tax, the security is exempt only if, at the time of its first sale in this state, there is no default in the payment of any of the interest or principal of the security, and there are no adjudications or pending suits adversely affecting its validity.

(C) Any security issued by and representing an interest in or an

obligation of a state or nationally chartered bank, savings and loan association, savings bank, or credit union, or a governmental corporation or agency created by or under the laws of the United States or of Canada is exempt, if it is under the supervision of or subject to regulation by the government or state under whose laws it was organized.

(D) Any interim certificate is exempt, if the securities to be delivered therefor are themselves exempt, are the subject matter of an exempt transaction, have been registered by description or registered by qualification, or are the subject matter of a transaction which has been registered by description.

(E)(1) ~~Any A security, whether a preliminary or final security, is exempt, which, at the time of sale within this state, is listed, or listed upon notice of issuance, on the Cincinnati stock exchange, the Midwest stock exchange, the New York stock exchange, or the American stock exchange, or is designated, or approved for designation upon notice of issuance, as a national market system security on the national association of securities dealers automated quotation system, or is listed or designated on any other stock exchange or national quotation system approved by the division as having listing requirements substantially equivalent to those of any one of those exchanges or systems, and any security senior to any security so listed or designated is also exempt; but these exemptions shall apply only so long as such security remains so listed or designated pursuant to official action of such exchange or system and not under suspension, and only so long as such exchange or system remains approved under this section if it meets any of the following requirements:~~

(a) The security is listed, or authorized for listing, on the New York stock exchange, the American stock exchange, or the national market system of the NASDAQ stock market, or any successor to such entities.

(b) The security is listed, or authorized for listing, on a national securities exchange or system, or on a tier or segment of such exchange or system, designated by the securities and exchange commission in rule 146(b) promulgated under section 18(b)(1) of the Securities Act of 1933.

(c) The security is listed, or authorized for listing, on a national securities exchange or system, or on a tier or segment of such exchange or system, that has listing standards that the division of securities, on its own initiative or on the basis of an application, determines by rule are substantially similar to the listing standards applicable to securities described in division (E)(1)(a) of this section.

(d) The security is a security of the same issuer that is equal in seniority or that is a senior security to a security described in division (E)(1)(a), (b),

or (c) of this section.

(2) Application for approval of a stock exchange or system not approved in this section may be made by any organized stock exchange or system, or by any dealer who is a member of such exchange, in such manner and upon such forms as are prescribed by the division, accompanied by payment of an approval fee of two hundred dollars, and the division shall make such investigation and may hold such hearings as it deems necessary to determine the propriety of giving approval. The cost of such investigation shall be borne by the applicant. The division may enter an order of approval, and if it does so, it shall notify the applicant of such approval.

(3) The division may revoke the approval of an exchange or system ~~approved enumerated in division (E)(1) of this section or approved by it upon finding,~~ provided that the exchange or system is not listed in section 18(b)(1) of the Securities Act of 1933 or any rule promulgated thereunder. The division may effect a revocation after due notice, investigation, ~~and a~~ hearing, and a finding that the practices or requirements of such exchange or system have been so changed or modified, or are, in their actual operation, such that the contemplated protection is no longer afforded. The principles of res adjudicata ordinarily applicable in civil matters shall not be applicable to this matter, which is hereby declared to be administrative rather than judicial. Notice of the hearing may be given by certified mail at least ten days before such hearing.

(4) The division may suspend the exemption of any security described in division (E)(1) of this section, provided that the security is listed or authorized for listing on an exchange or system that is not listed in section 18(b)(1) of the Securities Act of 1933 or any rule promulgated thereunder. The division may effect a suspension by giving notice, by certified mail, to that effect to the exchange or system upon which such security is listed or designated and to the issuer of such security. After notice and hearing, the division may revoke such exemption if it appears to it that sales of such security have been fraudulent or that future sales of it would be fraudulent. The division shall set such hearing not later than ten days from the date of the order of suspension, but may for good cause continue such hearing upon application of the exchange or system upon which such security is listed or designated or upon application of the issuer of such security.

(F) Any security, issued or guaranteed as to principal, interest, or dividend or distribution by a corporation owning or operating any public utility, is exempt, if such corporation is, as to its rates and charges or as to the issuance and guaranteeing of securities, under the supervision of or regulated by a public commission, board, or officer of the United States, or

of Canada, or of any state, province, or municipal corporation in either of such countries. Equipment-trust securities based on chattel mortgages, leases, or agreements for conditional sale, of cars, locomotives, motor trucks, or other rolling stock or of motor vehicles mortgaged, leased, or sold to, or finished for the use of, a public utility, are exempt; and so are equipment securities where the ownership or title of such equipment is pledged or retained, in accordance with the laws of the United States or of any state, or of Canada or any province thereof, to secure the payment of such securities.

(G) Commercial paper and promissory notes are exempt when they are not offered directly or indirectly for sale to the public.

(H) Any security issued or guaranteed by an insurance company, except as provided in section 1707.32 of the Revised Code, is exempt if such company is under the supervision of, and the issuance or guaranty of such security is regulated by, a state.

(I) Any security, except notes, bonds, debentures, or other evidences of indebtedness or of promises or agreements to pay money, which is issued by a person, corporation, or association organized not for profit, including persons, corporations, and associations organized exclusively for conducting county fairs, or for religious, educational, social, recreational, athletic, benevolent, fraternal, charitable, or reformatory purposes, and agricultural cooperatives as defined in section 1729.01 of the Revised Code, is exempt, if no part of the net earnings of such issuer inures to the benefit of any shareholder or member of such issuer or of any individual, and if the total commission, remuneration, expense, or discount in connection with the sale of such securities does not exceed two per cent of the total sale price thereof plus five hundred dollars.

(J)(1) Any securities outstanding for a period of not less than five years, on which there has occurred no default in payment of principal, interest, or dividend or distribution for the five years immediately preceding the sale, are exempt.

(2) For the purpose of division (J) of this section, the dividend, distribution, or interest rate on securities in which no such rate is specified shall be at the rate of at least four per cent annually on the aggregate of the price at which such securities are to be sold.

(K) All bonds issued under authority of Chapter 165. or 761., or section 4582.06 or 4582.31 of the Revised Code are exempt.

~~Sec. 1707.11. For the purposes of this section, a "person," or an "applicant" for registration or claim of exemption, means every issuer.~~

~~Every applicant for registration or for claim of exemption pursuant to~~

~~division (Q), (W), (X), or (Y) of section 1707.03 of the Revised Code, and every (A) Each person submitting a notice filing pursuant to section 1707.092 of the Revised Code, for the sale of securities pursuant to this chapter, which that is an incorporated applicant or person not domiciled in organized under the laws of this state or, that is not licensed under section 1703.03 of the Revised Code, or is an unincorporated applicant or person having the situs of that does not have its principal place of business outside in this state, shall file with its application or notice filing its submit to the division of securities an irrevocable consent to service of process, as described in division (B) of this section, in connection with any of the following:~~

(1) Filings to claim any of the exemptions enumerated in division (Q), (W), (X), or (Y) of section 1707.03 of the Revised Code;

(2) Applications for registration by description, qualification, or coordination;

(3) Notice filings pursuant to section 1707.092 or 1707.141 of the Revised Code;

(4) Applications for licensure as a securities dealer under section 1707.15 of the Revised Code;

(5) Applications for licensure as an investment adviser under section 1707.151 of the Revised Code.

(B) The irrevocable written consent, shall be executed and acknowledged by an individual duly authorized to give the consent, and shall do all of the following:

(1) Designate the secretary of state as agent for service of process or pleadings;

(2) State that actions growing out of the sale of such securities, the giving of investment advice, or fraud committed by ~~an applicant in this state~~ a person on whose behalf the consent is submitted may be commenced against ~~the person~~, in the proper court of any county in this state in which a cause of action ~~for fraud~~ may arise or in which the plaintiff in the action may reside, by serving on the secretary of state any proper process or pleading authorized by the laws of this state. ~~Such consent shall stipulate;~~

(3) Stipulate that service of process or pleading on the secretary of state shall be taken in all courts to be as valid and binding as if service had been made upon the ~~applicant itself~~ person on whose behalf the consent is submitted.

(C) Service of any process or pleadings may be made on the secretary of state by duplicate copies, of which one shall be filed in the office of the secretary of state, and the other immediately forwarded by the secretary of

state by certified mail to the principal place of business of the ~~applicant,~~ person on whose behalf the consent is submitted or to the last known address as shown on the ~~application form filed~~ filing made with the division; or if it has a principal office in this state, then to the principal office; ~~but,~~ However, failure to mail such copy ~~shall~~ does not invalidate the service.

(D) Notwithstanding any provision of this chapter, or of any rule adopted by the division of securities under this chapter, that requires the submission of a consent to service of process, the division may provide by rule for the electronic filing or submission of a consent to service of process.

Sec. 1707.15. ~~An application to act as dealer~~ (A) Application for a dealer's license shall be made in writing accordance with this section and shall be filed by filing with the division of securities. It shall be in such form as the division prescribes, and verified by oath of the applicant, his agent, or his attorney, and it shall set forth the information, materials, and forms specified in rules adopted by the division, along with all of the following information:

~~(A)(1)~~ (1) The name and address of the applicant;

~~(B)(2)~~ (2) A description of the applicant, including, if the applicant is a partnership, unincorporated association, or any similar form of business organization, the names and the residence and business addresses of all partners, officers, directors, trustees, or managers of the organization, and the limitation of the liability of any partner or member; ~~and~~ if the applicant is a corporation, a list of its executive officers and directors, and the residence and business addresses of each; and if it is a foreign corporation, a copy of its articles of incorporation in addition thereto;

~~(C)(3)~~ (3) The location and addresses of the principal office and all other offices of the applicant;

~~(D)(4)~~ (4) A general description of the business of the applicant done prior to ~~such~~ the application, including a list of states in which the applicant is a licensed dealer;

~~(E)~~ The names and addresses of all salesmen of the applicant at the date of the application;

~~(F)~~ The nature of the applicant's business, and its places of business, for the period of ten years next preceding the date of application.

~~Every (B) Each applicant not a resident of this state shall name a person within this state upon whom process against such applicant may be served and shall give the complete residence and business address of the person designated.~~

~~Every applicant shall file an irrevocable consent to service of process on the secretary of state in the event that such applicant, if a resident of this~~

~~state, or the person designated by the nonresident applicant, cannot be found at the address given. Such consent shall be given and service thereunder shall be made as provided in section 1707.11 of the Revised Code.~~

~~(C)(1) The division may investigate any applicant for a license, and may require such additional information as it deems necessary to determine the applicant's business repute and qualifications to act as a dealer in securities.~~

~~(2) If the application for any license involves investigation outside of this state, the applicant may be required by the division to advance sufficient funds to pay any of the actual expenses of such examination. An itemized statement of any such expenses which ~~he~~ the applicant is required to pay shall be furnished the applicant by the division.~~

~~If the applicant is merely renewing his license for the previous year the application need contain only the information required by divisions (B), (C), and (E) of this section.~~

~~(D) The division shall by rule require an applicant one natural person who is a principal, officer, director, general partner, manager, or employee of a dealer to pass an examination which covers his knowledge of securities laws and practices designated by the division. Each dealer that is not a natural person shall notify the division of the name and relationship to the dealer of the natural person who has passed the examination on behalf of the dealer and who will serve as the designated principal on behalf of the dealer.~~

~~(E) Dealers shall employ as salespersons only those salespersons who are licensed under this chapter. If at any time a salesperson resigns or is discharged or a new salesperson is added, the dealer shall promptly notify the division.~~

~~(F) If the division finds that the applicant is of good business repute, appears qualified to act as a dealer in securities, and has fully complied with sections 1707.01 to 1707.45 of the Revised Code this chapter and rules adopted under this chapter by the division, the division ~~shall issue to such applicant a license to act as dealer, upon payment by the applicant of the fee fees prescribed by division (B) of section 1707.17 of the Revised Code.~~~~

~~The division may, after proper hearing, refuse, as provided in section 1707.19 of the Revised Code, shall issue to grant a license to the applicant.~~

~~Dealers shall employ as salesmen only those who are licensed under sections 1707.01 to 1707.45 of the Revised Code. If at any time such salesmen resign or are discharged or new salesmen are added, the dealer shall forthwith notify the division and shall file with the division the names and addresses of new salesmen a license authorizing the applicant to act as a dealer.~~

Sec. 1707.151. (A) Application for an investment adviser's license shall

be made in accordance with this section and by filing with the division of securities the information, materials, and forms specified in rules adopted by the division.

~~(B) Every applicant not a resident of this state shall name a person within this state upon whom process against such applicant may be served and shall give the complete residence and business address or addresses of the person designated.~~

~~(C) Every~~ Each applicant shall file an irrevocable consent to service of process naming the secretary of state for service of process in the event that the applicant, if a resident of this state, or the person designated pursuant to ~~division (B) of this section, cannot be found at the address given on the application. The consent shall be given and service of process shall be made as provided in section 1707.11 of the Revised Code.~~

~~(D)~~(C)(1) The division may investigate any applicant for a license and may require any additional information as it considers necessary to determine the applicant's business repute and qualifications to act as an investment adviser.

(2) If the application for any license involves investigation outside of this state, the applicant may be required by the division to advance sufficient funds to pay any of the actual expenses of the examination. The division shall furnish the applicant with an itemized statement of such expenses that the applicant is required to pay.

~~(E)~~(D) The division shall by rule require one natural person who is a principal, officer, director, general partner, manager, or employee of an investment adviser to pass an examination designated by the division or achieve a specified professional designation. ~~Every~~ Each investment adviser that is not a natural person shall notify the division of the name and relationship to the investment adviser of the natural person who has passed the examination or achieved the specified professional designation on behalf of the investment adviser and who will serve as the designated principal on behalf of the investment adviser.

~~(F)~~(E) An investment adviser licensed under section 1707.141 of the Revised Code shall employ only investment adviser representatives licensed, or exempted from licensure, under section 1707.161 of the Revised Code.

~~(G)~~(F) If the division finds that the applicant is of good business repute, appears to be qualified to act as an investment adviser, and has complied with ~~sections 1707.01 to 1707.45 of the Revised Code~~ this chapter and rules adopted under ~~those sections~~ this chapter by the division, the division, upon payment of the fees prescribed by division (B) of section 1707.17 of the

Revised Code, shall issue to the applicant a license authorizing the applicant to act as an investment adviser.

Sec. 1707.16. ~~(A)~~ Every ~~salesman~~ salesperson of securities must be licensed by the division of securities and shall be employed only by the licensed dealer specified in ~~his~~ the salesperson's license. If the salesperson severs the connection with that licensed dealer, the salesperson's license is void.

~~The application~~ (B) Application for a ~~salesman's~~ salesperson's license shall ~~set forth~~ be made in accordance with this section and by filing with the division the information, materials, and forms specified in rules adopted by the division, along with all of the following information:

~~(A)~~(1) The name and complete residence and business addresses of the applicant;

~~(B)~~(2) The name of the dealer who is employing the applicant or who intends to employ ~~him~~ the applicant;

~~(C)~~(3) The applicant's age and education, and ~~his~~ the applicant's experience in the sale of securities; whether ~~he~~ the applicant has ever been licensed by the division, and if so, when; whether ~~he~~ the applicant has ever been refused a license by the division; and whether ~~he~~ the applicant has ever been licensed or refused a license or any similar permit by any division or commissioner of securities, whatsoever name known or designated, anywhere;

(C) The division shall by rule require an applicant to pass an examination designated by the division.

~~(D) The nature of the employment, and the names and addresses of the employers, of the applicant for the period of ten years immediately preceding the date of the application.~~

If the division finds that the applicant is of good business repute, appears to be qualified to act as a ~~salesman~~ salesperson of securities, and has fully complied with ~~sections 1707.01 to 1707.45 of the Revised Code~~ this chapter, and that the dealer named in the application is a licensed dealer, the division shall, upon payment of the fees prescribed by section 1707.17 of the Revised Code, issue a license to the applicant authorizing ~~him~~ the applicant to act as ~~salesman~~ salesperson for the dealer named in the application.

~~If such salesman severs his connection with such dealer, the salesman's license is void.~~

~~The division shall by rule require an applicant to pass an examination which covers his knowledge of securities laws and practices.~~

~~If the applicant is merely renewing his license for the previous year or~~

~~renewing his license upon change of employment, only the information required under divisions (A) and (B) of this section need be given.~~

Sec. 1707.17. (A)(1) The license of every dealer in and salesperson of securities shall expire on the thirty-first day of December of each year, and may be renewed upon the filing with the division of securities of an application for renewal, and the payment of the fee prescribed in this section, between the first day of November and the fifteenth day of December of each year. The division may accept an application for renewal filed between the fifteenth and the thirty-first day of December of each year. The division also may accept an application for renewal received by the division not later than the tenth day of January of the subsequent calendar year, provided that the application for renewal is accompanied by the license renewal fee and the additional fee prescribed in division (B) of this section. The division shall give notice, without unreasonable delay, of its action on any application for renewal of a dealer's or salesperson's license.

(2) The license of every investment adviser and investment adviser representative licensed under section 1707.141 or 1707.161 of the Revised Code shall expire on the thirty-first day of December of each year. The licenses may be renewed upon the filing with the division of an application for renewal, and the payment of the fee prescribed in division (B) of this section, between the fifteenth day of October and the thirtieth day of November of each year. The division may accept an application for renewal filed between the first and thirty-first day of December of each year. The division also may accept an application for renewal received by the division not later than the tenth day of January of the subsequent ~~calendar~~ calendar year, provided that the application for renewal is accompanied by the license renewal fee and the additional fee prescribed in division (B) of this section. The division shall give notice, without unreasonable delay, of its action on any application for renewal.

(3) An investment adviser required to make a notice filing under division (B) of section 1707.141 of the Revised Code annually shall file with the division the notice filing and the fee prescribed in division (B) of this section, no later than the thirty-first day of December of each year. The division may accept a notice filing received by the division not later than the tenth day of January of the subsequent calendar year, provided that the notice filing is accompanied by the notice filing fee and the additional fee prescribed in division (B) of this section.

(B)(1) The fee for each dealer's license, and for each annual renewal thereof that is received by the division not later than the thirty-first day of December of each year, shall be thirty dollars per salesperson, but not less

than one hundred fifty nor more than five thousand dollars. Upon payment of an additional fee of one-half of the license renewal fee, the division may accept an application for renewal received by the division between the first and tenth day of January of the subsequent calendar year. The fee for the examination of applicant dealers, when administered by the division, shall be seventy-five dollars.

(2) The fee for each salesperson's license, and for each annual renewal thereof, shall be fifty dollars. The fee for the examination of an applicant salesperson, when administered by the division, shall be fifty dollars.

(3) The fee for each investment adviser's license, and for each annual renewal thereof that is received by the division not later than the thirty-first day of December of each year, shall be two hundred dollars. Upon the payment of an additional fee of one-half of the license fee, the division may accept a license renewal application received by the division between the first and tenth day of January of the subsequent calendar year. If the fee for an investment adviser license is paid to the division on or before October 1, 1999, that fee shall cover the issuance of the initial license and also shall cover any fee for renewal of the license for the period ending December 31, 2000.

(4) The fee for each investment adviser notice filing required by division (B) of section 1707.141 of the Revised Code and received by the division not later than the thirty-first day of December of each year shall be one hundred dollars. Upon the payment of an additional fee of one-half of the notice filing fee, the division may accept a notice filing received by the division between the first and tenth day of January of the subsequent calendar year. A notice filing may be made at any time during the calendar year. In that event, the notice filing fee shall not be reduced. If the fee for an investment adviser notice filing is paid to the division on or before October 1, 1999, that fee shall cover the initial notice filing and also shall cover any fee for the notice filing for the period ending December 31, 2000.

(5) The fee for each investment adviser representative's license, and for each annual renewal thereof that is received by the division not later than the thirty-first day of December of each year, shall be thirty-five dollars; however, the fee shall be waived for the investment adviser representative designated the principal of the investment adviser pursuant to division ~~(E)~~(D) of section 1707.151 of the Revised Code. Upon the payment of an additional fee of one-half of the license fee, the division may accept a license renewal application received by the division between the first and tenth day of January of the subsequent calendar year. If the fee for an investment adviser representative's license is paid to the division on or

before October 1, 1999, that fee shall cover the issuance of the initial license and also shall cover any fee for renewal of the license for the period ending December 31, 2000.

(C) A dealer's, salesperson's, investment adviser's, or investment adviser representative's license may be issued at any time for the remainder of the calendar year. In that event, the annual fee shall not be reduced.

Sec. 1707.20. (A) The division of securities may adopt, amend, and rescind such rules, forms, and orders as are necessary to carry out sections 1707.01 to 1707.45 of the Revised Code, including rules and forms governing registration statements, applications, and reports, and defining any terms, whether or not used in sections 1707.01 to 1707.45 of the Revised Code, insofar as the definitions are not inconsistent with these sections. For the purpose of rules and forms, the division may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

(B) No rule, form, or order may be made, amended, or rescinded unless the division finds that the action is necessary or appropriate in the public interest or for the protection of investors, clients, or prospective clients and consistent with the purposes fairly intended by the policy and provisions of sections 1707.01 to 1707.45 of the Revised Code. In prescribing rules and forms and in otherwise administering sections 1707.01 to 1707.45 of the Revised Code, the division may cooperate with the securities administrators of the other states and the securities and exchange commission with a view of effectuating the policy of this section to achieve maximum uniformity in the form and content of registration statements, applications, reports, and overall securities regulation wherever practicable.

(C) The division may by rule or order prescribe:

(1) The form and content of financial statements required under sections 1707.01 to 1707.45 of the Revised Code;

(2) The circumstances under which consolidated financial statements shall be filed;

(3) Whether any required financial statements shall be certified by independent or certified public accountants. All financial statements shall be prepared in accordance with generally accepted accounting practices.

(D) All rules and forms of the division shall be published; and in addition to fulfilling the requirements of Chapter 119. of the Revised Code, the division shall prescribe, and shall publish and make available its rules regarding the sale of securities, the administration of sections 1707.01 to 1707.45 of the Revised Code, and the procedure and practice before the division.-

(E) No provision of sections 1707.01 to 1707.45 of the Revised Code imposing any liability applies to any act done or omitted in good faith in conformity with any rule, form, or order of the division of securities, notwithstanding that the rule, form, or order may later be amended or rescinded or be determined by judicial or other authority to be invalid for any reason, except that the issuance of an order granting effectiveness to a registration under section 1707.09 or 1707.091 of the Revised Code for the purposes of this division shall not be deemed an order other than as the establishment of the fact of registration.

(F) Notwithstanding any provision of the Revised Code, if the "Securities Act of 1933," the "Securities Exchange Act of 1934," the "Investment Company Act of 1940," the "Investment Advisers Act of 1940," and any amendments to any of those federal acts, if any rule, regulation, release, statement, or position promulgated or adopted under the authority of any of those federal acts, and any amendments to those federal acts, or if any rule, regulation, or guideline of a self-regulatory organization registered under the "Securities and Exchange Act of 1934," and any amendments to that act, contains a provision that is not contained in this chapter or the rules adopted under this chapter and that affects any matter within the scope of this chapter, the division by rule may promulgate a similar provision.

A rule adopted under the authority granted in this division may delete, modify, or replace an existing rule of the division. a rule adopted under the authority granted in this division becomes effective on the later of the date on which the division issues the rule or the date on which the federal statute or the rule, regulation, release, statement, or position on which the division's rule is based becomes effective. The division, upon thirty days written notice, may revoke any rule adopted under the authority granted in this division. a rule adopted under the authority granted in this division, and not revoked by the commissioner, lapses and has no further force and effect thirty months after the rule's effective date.

Sec. 1707.23. Whenever it appears to the division of securities, from its files, upon complaint, or otherwise, that any person has engaged in, is engaged in, or is about to engage in any practice declared to be illegal or prohibited by ~~Chapter 1707. of the Revised Code~~ this chapter or rules adopted under ~~that~~ this chapter by the division, or defined as fraudulent in ~~that~~ this chapter or rules adopted under ~~that~~ this chapter by the division, or any other deceptive scheme or practice in connection with the sale of securities, or acting as an investment adviser or investment adviser representative, or when the division believes it to be in the best interests of the public and necessary for the protection of investors, the division may do

any of the following:

(A) Require any person to file with it, on such forms as it prescribes, an original or additional statement or report in writing, under oath or otherwise, as to any facts or circumstances concerning the issuance, sale, or offer for sale of securities within this state by the person, as to the person's acts or practices as an investment adviser or investment adviser representative within this state, and as to other information as it deems material or relevant thereto;

(B) Examine any investment adviser, investment adviser representative, or any seller, dealer, salesperson, or issuer of any securities, and any of their agents, employees, partners, officers, directors, members, or shareholders, wherever located, under oath; and examine records, books, documents, accounts, and papers as the division deems material or relevant to the inquiry;

(C) Require the attendance of witnesses, and the production of books, records, and papers, as are required either by the division or by any party to a hearing before the division, and for that purpose issue a subpoena for any witness, or a subpoena duces tecum to compel the production of any books, records, or papers. The subpoena shall be served by personal service or by certified mail, return receipt requested. If the subpoena is returned because of inability to deliver, or if no return is received within thirty days of the date of mailing, the subpoena may be served by ordinary mail. If no return of ordinary mail is received within thirty days after the date of mailing, service shall be deemed to have been made. If the subpoena is returned because of inability to deliver, the division may designate a person or persons to effect either personal or residence service upon the witness. The person designated to effect personal or residence service under this division may be the sheriff of the county in which the witness resides or may be found or any other duly designated person. The fees and mileage of the person serving the subpoena shall be the same as those allowed by the courts of common pleas in criminal cases, and shall be paid from the funds of the division. Fees and mileage for the witness shall be the same as those allowed for witnesses by the courts of common pleas in criminal cases, and shall be paid from the funds of the division upon request of the witness following the hearing.

(D) Proceed under section 1707.19 of the Revised Code to suspend the license of any licensed dealer, licensed salesperson, licensed investment adviser, or licensed investment adviser representative and ultimately, if the division determines, revoke such license under such sections;

(E) Initiate criminal proceedings under section 1707.042 or 1707.44 of

the Revised Code or rules adopted under those sections by the division by laying before the prosecuting attorney of the proper county any evidence of criminality which comes to its knowledge; and in the event of the neglect or refusal of the prosecuting attorney to prosecute such violations, or at the request of the prosecuting attorney, the division shall submit the evidence to the attorney general, who may proceed in the prosecution with all the rights, privileges, and powers conferred by law on prosecuting attorneys, including the power to appear before grand juries and to interrogate witnesses before such grand juries.

(F) Require any dealers forthwith to furnish to the division copies of prospectuses, circulars, or advertisements respecting securities that they publish or generally distribute, or require any investment advisers immediately to furnish to the division copies of brochures, advertisements, publications, analyses, reports, or other writings that they publish or distribute;

(G) Require any dealers to mail to the division, prior to sale, notices of intention to sell, in respect to all securities which are not exempt under section 1707.02 of the Revised Code, or which are sold in transactions not exempt under section 1707.03 or 1707.04 of the Revised Code;

(H) Issue and cause to be served by certified mail upon all persons affected an order requiring the person or persons to cease and desist from the acts or practices appearing to the division to constitute violations of ~~Chapter 1707. of the Revised Code~~ this chapter or rules adopted under ~~that~~ this chapter by the division. The order shall state specifically the section or sections of ~~Chapter 1707. of the Revised Code~~ this chapter or the rule or rules adopted under ~~that~~ this chapter by the division that appear to the division to have been violated and the facts constituting the violation. If after the issuance of the order it appears to the division that any person or persons affected by the order have engaged in any act or practice from which the person or persons shall have been required, by the order, to cease and desist, the director of commerce may apply to the court of common pleas of any county for, and upon proof of the validity of the order of the division, the delivery of the order to the person or persons affected, and of the illegality and the continuation of the acts or practices that are the subject of the order, the court may grant an injunction implementing the order of the division.

(I) Issue and initiate contempt proceedings in this state regarding subpoenas and subpoenas duces tecum at the request of the securities administrator of another state, if it appears to the division that the activities for which the information is sought would violate ~~Chapter 1707. of the~~

~~Revised Code~~ this chapter if the activities had occurred in this state.

Sec. 1707.44. (A)(1) No person shall engage in any act or practice that violates division (A), (B), or (C) of section 1707.14 of the Revised Code, and no salesperson shall sell securities in this state without being licensed pursuant to section 1707.16 of the Revised Code.

(2) No person shall engage in any act or practice that violates division (A) of section 1707.141 or section 1707.161 of the Revised Code.

(B) No person shall knowingly make or cause to be made any false representation concerning a material and relevant fact, in any oral statement or in any prospectus, circular, description, application, or written statement, for any of the following purposes:

(1) Complying with this chapter, in regard to registering securities by description;

(2) Securing the qualification of any securities under this chapter;

(3) Procuring the licensing of any dealer, salesperson, investment adviser, or investment adviser representative under this chapter;

(4) Selling any securities in this state;

(5) Advising for compensation, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities.

(C) No person shall knowingly and intentionally sell, cause to be sold, offer for sale, or cause to be offered for sale, any security which comes under any of the following descriptions:

(1) Is not exempt under section 1707.02 of the Revised Code, nor the subject matter of one of the transactions exempted in ~~sections~~ section 1707.03, 1707.04, ~~and~~ or 1707.34 of the Revised Code, has not been registered by description, coordination, or qualification, and is not the subject matter of a transaction that has been registered by description;

(2) The prescribed fees for registering by description, by coordination, or by qualification have not been paid in respect to such security;

(3) Such person has been notified by the division, or has knowledge of the notice, that the right to buy, sell, or deal in such security has been suspended or revoked, or that the registration by description, by coordination, or by qualification under which it may be sold has been suspended or revoked;

(4) The offer or sale is accompanied by a statement that the security offered or sold has been or is to be in any manner indorsed by the division.

(D) No person who is an officer, director, or trustee of, or a dealer for, any issuer, and who knows such issuer to be insolvent in that the liabilities of the issuer exceed its assets, shall sell any securities of or for any such issuer, without disclosing the fact of the insolvency to the purchaser.

(E) No person with intent to aid in the sale of any securities on behalf of the issuer, shall knowingly make any representation not authorized by such issuer or at material variance with statements and documents filed with the division by such issuer.

(F) No person, with intent to deceive, shall sell, cause to be sold, offer for sale, or cause to be offered for sale, any securities of an insolvent issuer, with knowledge that such issuer is insolvent in that the liabilities of the issuer exceed its assets, taken at their fair market value.

(G) No person in purchasing or selling securities shall knowingly engage in any act or practice that is, in this chapter, declared illegal, defined as fraudulent, or prohibited.

(H) No licensed dealer shall refuse to buy from, sell to, or trade with any person because the person appears on a blacklist issued by, or is being boycotted by, any foreign corporate or governmental entity, nor sell any securities of or for any issuer who is known in relation to the issuance or sale of such securities to have engaged in such practices.

(I) No dealer in securities, knowing that the dealer's liabilities exceed the reasonable value of the dealer's assets, shall accept money or securities, except in payment of or as security for an existing debt, from a customer who is ignorant of the dealer's insolvency, and thereby cause the customer to lose any part of the customer's securities or the value of those securities, by doing either of the following without the customer's consent:

(1) Pledging, selling, or otherwise disposing of such securities, when the dealer has no lien on or any special property in such securities;

(2) Pledging such securities for more than the amount due, or otherwise disposing of such securities for the dealer's own benefit, when the dealer has a lien or indebtedness on such securities.

It is an affirmative defense to a charge under this division that, at the time the securities involved were pledged, sold, or disposed of, the dealer had in the dealer's possession or control, and available for delivery, securities of the same kinds and in amounts sufficient to satisfy all customers entitled to the securities, upon demand and tender of any amount due on the securities.

(J) No person, with purpose to deceive, shall make, issue, publish, or cause to be made, issued, or published any statement or advertisement as to the value of securities, or as to alleged facts affecting the value of securities, or as to the financial condition of any issuer of securities, when the person knows that such statement or advertisement is false in any material respect.

(K) No person, with purpose to deceive, shall make, record, or publish or cause to be made, recorded, or published, a report of any transaction in

securities which is false in any material respect.

(L) No dealer shall engage in any act that violates the provisions of section 15(c) or 15(g) of the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C.A. 78o(c) or (g), or any rule or regulation promulgated by the securities and exchange commission thereunder. If, subsequent to October 11, 1994, additional amendments to section 15(c) or 15(g) are adopted, or additional rules or regulations are promulgated pursuant to such sections, the division of securities shall, by rule, adopt the amendments, rules, or regulations, unless the division finds that the amendments, rules, or regulations are not necessary for the protection of investors or in the public interest.

(M)(1) No investment adviser or investment adviser representative shall do any of the following:

(a) Employ any device, scheme, or artifice to defraud any person;

(b) Engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person;

(c) In acting as principal for the investment adviser's or investment adviser representative's own account, knowingly sell any security to or purchase any security from a client, or in acting as salesperson for a person other than such client, knowingly effect any sale or purchase of any security for the account of such client, without disclosing to the client in writing before the completion of the transaction the capacity in which the investment adviser or investment adviser representative is acting and obtaining the consent of the client to the transaction. Division (M)(1)(c) of this section does not apply to any investment adviser registered with the securities and exchange commission under section 203 of the "Investment Advisers Act of 1940," 15 U.S.C. 80b-3, or to any transaction with a customer of a licensed dealer or salesperson if the licensed dealer or salesperson is not acting as an investment adviser or investment adviser representative in relation to the transaction.

(d) Engage in any act, practice, or course of business that is fraudulent, deceptive, or manipulative. The division of securities may adopt rules reasonably designed to prevent such acts, practices, or courses of business as are fraudulent, deceptive, or manipulative.

(2) No investment adviser or investment adviser representative licensed or required to be licensed under this chapter shall take or have custody of any securities or funds of any person, except as provided in rules adopted by the division.

(3) In the solicitation of clients or prospective clients, no person shall make any untrue statement of a material fact or omit to state a material fact

necessary in order to make the statements made not misleading in light of the circumstances under which the statements were made.

Sec. 3916.01. As used in this chapter:

(A) "ADVERTISING" MEANS ANY WRITTEN, ELECTRONIC, OR PRINTED COMMUNICATION OR ANY COMMUNICATION BY MEANS OF RECORDED TELEPHONE MESSAGES OR TRANSMITTED ON RADIO, TELEVISION, THE INTERNET, OR SIMILAR COMMUNICATIONS MEDIA, INCLUDING, but not LIMITED to, FILM STRIPS, MOTION PICTURES, AND VIDEOS, that is DIRECTLY OR INDIRECTLY PUBLISHED, DISSEMINATED, CIRCULATED, OR PLACED BEFORE THE PUBLIC FOR THE PURPOSE OF CREATING AN INTEREST IN OR INDUCING A PERSON TO SELL A LIFE INSURANCE POLICY PURSUANT TO A VIATICAL SETTLEMENT CONTRACT.

(B) "BUSINESS OF VIATICAL SETTLEMENTS" MEANS AN ACTIVITY INVOLVED IN THE OFFERING, SOLICITATION, NEGOTIATION, PROCUREMENT, EFFECTUATION, PURCHASING, INVESTING, FINANCING, MONITORING, TRACKING, UNDERWRITING, SELLING, TRANSFERRING, ASSIGNING, PLEDGING, or HYPOTHECATING OF VIATICAL SETTLEMENT CONTRACTS OR PURCHASE AGREEMENTS or any similar activity related to viatical settlement contracts or purchase agreements.

(C) "CHRONICALLY ILL" MEANS any of the following:

(1) BEING UNABLE TO PERFORM AT LEAST TWO ACTIVITIES OF DAILY LIVING, including, but not limited to, EATING, TOILETING, TRANSFERRING, BATHING, DRESSING, or CONTINENCE;

(2) REQUIRING SUBSTANTIAL SUPERVISION TO PROTECT THE INDIVIDUAL FROM THREATS TO HEALTH AND SAFETY DUE TO SEVERE COGNITIVE IMPAIRMENT;

(3) HAVING A LEVEL OF DISABILITY SIMILAR TO THAT DESCRIBED IN division (c)(1) of this section, AS DETERMINED BY THE United States SECRETARY OF HEALTH AND HUMAN SERVICES;

(D)(1) "Financing entity" means an underwriter, placement agent, lender, purchaser of securities, purchaser of a policy or certificate from a viatical settlement provider, credit enhancer, or any other person that has a direct ownership interest in a policy or certificate that is the subject of a viatical settlement contract and to which both of the following apply:

(a) Its principal activity related to the transaction is providing funds to effect the viatical settlement or the purchase of one or more viaticated

policies.

(b) It HAS AN AGREEMENT IN WRITING WITH ONE OR MORE LICENSED VIATICAL SETTLEMENT PROVIDERS TO FINANCE THE ACQUISITION OF VIATICAL SETTLEMENT CONTRACTS.

(2) "FINANCING ENTITY" DOES NOT INCLUDE A NON-ACCREDITED INVESTOR OR VIATICAL SETTLEMENT PURCHASER.

(e) "FRAUDULENT VIATICAL SETTLEMENT ACT" MEANS AN ACT OR OMISSION COMMITTED BY ANY PERSON WHO, KNOWINGLY OR WITH INTENT TO DEFRAUD and FOR THE PURPOSE OF DEPRIVING ANOTHER OF PROPERTY OR FOR PECUNIARY GAIN, COMMITS, OR PERMITS any of ITS EMPLOYEES OR AGENTS TO COMMIT, ANY OF THE FOLLOWING ACTS:

(1) PRESENTING, CAUSING TO BE PRESENTED, OR PREPARING WITH KNOWLEDGE OR BELIEF THAT IT WILL BE PRESENTED TO OR BY A VIATICAL SETTLEMENT PROVIDER, VIATICAL SETTLEMENT BROKER, VIATICAL SETTLEMENT PURCHASER, FINANCING ENTITY, INSURER, INSURANCE BROKER, INSURANCE AGENT, OR ANY OTHER PERSON, any FALSE MATERIAL INFORMATION, OR CONCEALING any MATERIAL INFORMATION, AS PART OF, IN SUPPORT of, OR CONCERNING A FACT MATERIAL TO, ONE OR MORE OF THE FOLLOWING:

(a) AN APPLICATION FOR THE ISSUANCE OF A VIATICAL SETTLEMENT CONTRACT OR INSURANCE POLICY or certificate;

(b) THE UNDERWRITING OF A VIATICAL SETTLEMENT CONTRACT OR INSURANCE POLICY or certificate;

(c) A CLAIM FOR PAYMENT OR BENEFIT PURSUANT TO A VIATICAL SETTLEMENT CONTRACT OR INSURANCE POLICY or certificate;

(d) any PREMIUMS PAID ON AN INSURANCE POLICY or certificate;

(e) any PAYMENTS AND CHANGES IN OWNERSHIP OR BENEFICIARY MADE IN ACCORDANCE WITH THE TERMS OF A VIATICAL SETTLEMENT CONTRACT OR INSURANCE POLICY or certificate;

(f) THE REINSTATEMENT OR CONVERSION OF AN INSURANCE POLICY or certificate;

(g) THE SOLICITATION, OFFER, EFFECTUATION, OR SALE OF A VIATICAL SETTLEMENT CONTRACT or INSURANCE POLICY or

certificate:

(h) THE ISSUANCE OF WRITTEN EVIDENCE OF a VIATICAL SETTLEMENT CONTRACT OR INSURANCE policy or certificate;

(i) A FINANCING TRANSACTION.

(2) IN THE FURTHERANCE OF A FRAUD OR TO PREVENT THE DETECTION OF A FRAUD, doing any of the following:

(a) REMOVing, CONCEALing, ALTERing, DESTROYing, OR SEQUESTERing FROM THE SUPERINTENDENT THE ASSETS OR RECORDS OF A LICENSEE OR anOTHER PERSON ENGAGED IN THE BUSINESS OF vIATICAL SETTLEMENTS;

(b) MISREPRESENTing OR CONCEALing THE FINANCIAL CONDITION OF A LICENSEE, FINANCING ENTITY, INSURER, OR any OTHER PERSON;

(c) TRANSACTing THE BUSINESS OF viatical SETTLEMENTS IN VIOLATION OF any law of this state REQUIRING A LICENSE, CERTIFICATE OF AUTHORITY, OR OTHER LEGAL AUTHORITY FOR THE TRANSACTION OF THE BUSINESS OF VIATICAL SETTLEMENTS;

(d) Filing WITH THE SUPERINTENDENT of insurance OR THE CHIEF INSURANCE REGULATORY OFFICIAL OF ANOTHER JURISDICTION A DOCUMENT CONTAINING FALSE INFORMATION OR OTHERWISE CONCEALing FROM THE SUPERINTENDENT any INFORMATION ABOUT A MATERIAL FACT.

(3) PRESENTING, CAUSING TO BE PRESENTED, OR PREPARING WITH KNOWLEDGE OR REASON TO BELIEVE THAT IT WILL BE PRESENTED, TO OR BY A VIATICAL SETTLEMENT PROVIDER, VIATICAL SETTLEMENT BROKER, INSURER, INSURANCE AGENT, FINANCING ENTITY, VIATICAL SETTLEMENT PURCHASER, OR ANY OTHER PERSON, IN CONNECTION WITH A VIATICAL SETTLEMENT TRANSACTION OR INSURANCE TRANSACTION, AN INSURANCE POLICY or certificate that the actor knows was FRAUDULENTLY OBTAINED BY THE INSURED, the OWNER, OR ANY AGENT of the insured or owner;

(4) committing any EMBEZZLEMENT, THEFT, MISAPPROPRIATION, OR CONVERSION OF MONEYS, FUNDS, PREMIUMS, CREDITS OR OTHER PROPERTY OF A VIATICAL SETTLEMENT PROVIDER, INSURER, INSURED, VIATOR, INSURANCE POLICYOWNER, OR ANY OTHER PERSON ENGAGED IN THE BUSINESS OF VIATICAL SETTLEMENTS OR INSURANCE;

(5) ATTEMPTING TO COMMIT, ASSISTING, AIDING OR

ABETTING IN THE COMMISSION OF, OR CONSPIRACY TO COMMIT any ACT OR OMISSION SPECIFIED IN divisions (e)(1) to (4) of this section.

(F) notwithstanding section 1.59 of the Revised Code, "Person" means a natural person or a legal entity, including, but not limited to, an individual, partnership, limited liability company, association, trust, or corporation.

(G) "policy" means an individual or group policy, group certificate, contract, or arrangement of insurance affecting the rights of a resident of this state or bearing a reasonable relation to this state, regardless of whether delivered or issued for delivery in this state.

(H) "related provider trust" means a titling trust or any other trust established by a licensed viatical settlement provider or a financing entity for the sole purpose of holding ownership or beneficial interest in purchased policies in connection with a financing transaction, provided that the trust has a written agreement with the licensed viatical settlement provider under which the licensed VIATICal settlement provider is responsible for ensuring compliance with all statutory and regulatory requirements and under which the trust agrees to make all records and files related to viatical settlement transactions available to the SUPERINTENDENT as if those records and files were maintained directly by the licensed viatical settlement provider.

(I) "special purpose entity" means a corporation, partnership, trust, limited liability company or other SIMILAR entity formed solely to provide access, either directly or indirectly, to INSTITUTIONAL capital markets for a financing entity or licensed viatical settlement provider.

(J) "terminally ill" means having an illness or sickness that can reasonably be expected to result in death in twenty-four months or less.

(K) "Viatical settlement broker" means a person that, on behalf of a viator and for a fee, commission, or other valuable consideration, offers or attempts to negotiate viatical settlements between a viator and one or more viatical settlement providers. "Viatical settlement broker" does not include an attorney, a certified public accountant, or a financial planner accredited by a nationally recognized accreditation agency, who is retained to represent the viator and whose compensation is not paid directly or indirectly by the viatical settlement provider or purchaser.

(L) "Viatical settlement contract" means any of the following:

(1) A written agreement establishing the terms under which compensation or any thing of value, that is less than the expected death benefit of the insurance policy or certificate will be paid in return for the viator's assignment, transfer, sale, devise, or bequest of the death benefit or ownership of any portion of the insurance policy or certificate of insurance;

(2) A contract for a loan or any other financing transaction secured primarily by an individual or group life insurance policy or certificate, other than a loan by a life insurance company pursuant to the terms of the life insurance contract or a loan secured by the cash value of a policy or certificate;

(3) An agreement to transfer ownership or change the beneficiary designation of the policy or certificate at a later date, regardless of the date that compensation is paid to the viator.

(M)(1) "Viatical settlement provider" means a person, other than a viator, that enters into or effectuates a viatical settlement contract.

(2) "Viatical settlement provider" does not include any of the following:

(a) A bank, savings bank, savings and loan association, credit union, or other financial institution that takes an assignment of a life insurance policy or certificate as collateral for a loan;

(b) The issuer of a life insurance policy or certificate providing accelerated benefits as defined in section 3915.21 of the Revised Code and pursuant to the contract;

(c) An individual who enters into or effectuates not more than one agreement in any calendar year for the transfer of life insurance policies or certificates for any value less than the expected death benefit;

(d) an authorized or eligible insurer that provides stop loss coverage to a viatical settlement provider, PURCHASER, financing entity, special purpose entity, or related provider trust;

(e) a financing entity;

(f) special purpose entity;

(g) a related provider trust;

(h) a viatical settlement purchaser.

(N) "Viaticated policy" means a life insurance policy or certificate that has been acquired by a viatical settlement provider pursuant to a viatical settlement contract.

(O) "Viator" means the owner of a life insurance policy or a certificate holder under a group policy who, in return for compensation or any thing of value that is less than the expected death benefit of the policy or certificate, assigns, transfers, sells, devises, or bequests the death benefit or ownership of any portion of the insurance policy or certificate of insurance. for the purposes of this chapter, a "viator" is not limited to an owner of a life insurance policy or a certificate holder under a group policy insuring the life of an individual with a terminal or chronic illness or condition except where specifically addressed. "viator" does not include any of the following:

(1) a licensee under this chapter;

(2) an accredited investor or qualified institutional buyer as defined respectively in regulation d, rule 501 or rule 144a of the securities act of 1933, as amended;

(3) a financing entity;

(4) a special purpose entity;

(5) A related provider trust.

(P) "viatical settlement purchaser" means a person who gives a sum of money as consideration for a life insurance policy or an interest in the death benefits of a life insurance policy, or a person who owns, acquires, or is entitled to a beneficial interest in a trust that owns a VIATICAL settlement contract or is the beneficiary of a life insurance policy that has been or will be the subject of a viatical settlement contract, for the purpose of deriving an economic benefit. "viatical settlement purchaser" does not include any of the following:

(1) a licensee under this chapter;

(2) an accredited investor or qualified institutional buyer as defined respectively in regulation d, rule 501 or rule 144a of the securities act of 1933, as amended;

(3) a financing entity;

(4) a special purpose entity;

(5) a related provider trust.

(q) "licensee" means a person licensed under this chapter.

(r) "naic" means the national association of insurance commissioners.

(s) "securities act of 1933" has the same meaning as in section 1707.01 of the REVISED code.

Sec. 3916.02. No person shall operate in this state as a viatical settlement provider or viatical settlement broker without first having obtained a license from the superintendent of insurance and, if different from this state, from the comparable official of the state of residence of the viator. If there is more than one viator on a single policy or certificate and the viators are residents of different states, the viatical settlement shall be governed by the law of the state in which the viator having the largest percentage ownership of the policy or certificate resides or, if the viators hold equal ownership, the state of residence of one viator agreed upon in writing by all viators.

Sec. 3916.03. (A) An applicant for a license as a viatical settlement provider or viatical settlement broker shall submit an application for the license in a manner prescribed by the superintendent of insurance. The application shall be accompanied by a fee established by the superintendent by rule adopted in accordance with Chapter 119. of the Revised Code.

(B) A license issued under this chapter to a person other than an individual authorizeS aLL partnerS, officerS, memberS, OR DESIGNATED employeeS of the person to act as viatical settlement providerS OR viatical settlement brokerS, as applicable, AND ALL THOSE partnerS, officerS, memberS, OR DESIGNATED employeeS SHALL BE NAMED IN THE APPLICATION AND ANY SUPPLEMENTS TO THE APPLICATION.

(C) Upon the filing of an application under this section and the payment of the license fee, the superintendent shall make an investigation of the applicant and issue to the applicant a license that states in substance that the person is authorized to act as a viatical settlement provider or viatical settlement broker, as applicable, if all of the following apply:

(1) Regarding an application for a license as a viatical settlement provider, the applicant provides a detailed plan of operation.

(2) The superintendent finds all of the following:

(a) The applicant is competent and trustworthy and intends to act in good faith in the capacity of a viatical settlement provider or viatical settlement broker, as applicable.

(b) The applicant has a good business reputation and has had experience, training, or education so as to be qualified to act in the capacity of a viatical settlement provider or viatical settlement broker, as applicable.

(3) If THE APPLICANT IS a person other than an individual, THE APPLICANT provides a certificate of good standing from the state of its domicile.

(4) The applicant provides an antifraud plan that meets the requirements of division (g) of section 3916.18 of the Revised Code.

(D) An applicant shall provide all information requested by the superintendent. The superintendent may, at any time, require an applicant to fully disclose the identity of all stockholders, partners, officers, members, and employees, and may, in the exercise of the superintendent's discretion, refuse to issue a license to an applicant that is not an individual if the superintendent is not satisfied that each officer, employee, stockholder, partner, or member who may materially influence the applicant's conduct meets the standards set forth in this chapter.

(E) Except as otherwise provided in this division, a license as a viatical settlement provider or viatical settlement broker expires on the last day of March next after its issuance or continuance. A license as a viatical settlement provider or viatical settlement broker may, in the discretion of the superintendent and the payment of an annual renewal fee established by the superintendent by rule adopted in accordance with Chapter 119. of the Revised Code, be continued past the last day of March next after its issue

d after the last day of March in each succeeding year. Failure to pay the renewal fee by the required date results in the expiration of the license.

(F) The superintendent shall not issue a license to a nonresident applicant, unless either of the following applies:

(1) The applicant files and maintains a written designation of an agent for service of process with the superintendent.

(2) the applicant has filed with the superintendent the applicant's written irrevocable consent that any action against the applicant may be commenced against the applicant by service of process on the superintendent.

(G) A viatical settlement provider or viatical settlement broker shall provide to the superintendent new or revised information regarding any change in its officers, ten per cent or more of its stockholders, or its partners, directors, members, or designated employees within thirty days of the change.

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

Sec. 3916.04. Irrespective of the manner in which the viatical settlement broker is compensated, a viatical settlement broker is deemed to represent only the viator and owes a fiduciary duty to the viator to act according to the viator's instructions and in the best interest of the viator.

Sec. 3916.05. (A) A person shall not use a viatical settlement contract form or provide a disclosure statement form to a viator in this state unless the viatical settlement contract form or the disclosure statement form is filed with and approved by the superintendent of insurance. The superintendent shall disapprove a viatical settlement contract form or a disclosure statement form if, in the superintendent's opinion, the viatical settlement contract form, the disclosure statement form, or any provision contained therein is unreasonable, contrary to the interests of the public, or otherwise misleading or unfair to the viator. At the superintendent's discretion, the superintendent may require the submission of advertising material to which section 3916.17 of the Revised Code applies.

(B) The superintendent may adopt rules in accordance with Chapter 119. of the Revised Code to establish reasonable fees for any service or transaction performed by the department of insurance pursuant to division (A) of this section. Any fee collected pursuant to those rules shall be paid into the state treasury to the credit of the department of insurance operating fund created by section 3901.021 of the Revised Code.

Sec. 3916.06. (A)(1) With each application for a viatical settlement, a viatical settlement provider or viatical settlement broker shall disclose at

least the following to a viator no later than the time all parties sign the application for the viatical settlement contract:

(a) That there are possible alternatives to viatical settlement contracts, including any accelerated death benefits offered under the viator's life insurance policy or certificate;

(b) That some or all of the proceeds of the viatical settlement may be subject to federal income taxation and state franchise and income taxation, and that assistance should be sought from a professional tax advisor;

(c) That the proceeds of the viatical settlement could be subject to the claims of creditors;

(d) That receipt of the proceeds of the viatical settlement may adversely affect the viator's eligibility for medical assistance under Chapter 5111. of the Revised Code or other government benefits or entitlements, and that advice should be obtained from the appropriate government agencies;

(e) That the viator has a right to rescind the viatical settlement contract for at least fifteen calendar days after the viator receives the viatical settlement proceeds, as provided in section 3916.08 of the Revised Code, if the insured dies during the rescission period, the settlement contract shall be deemed to have been rescinded, subject to repayment of all viatical settlement proceeds to the viatical settlement company.

(f) That funds will be sent to the viator within three business days after the viatical settlement provider has received acknowledgment from the insurer or group administrator that ownership of the policy or interest in the certificate has been transferred and that the beneficiary has been designated pursuant to the viatical settlement contract;

(g) That entering into a viatical settlement contract may cause other rights or benefits, including conversion rights and waiver of premium benefits that may exist under the policy or certificate, to be forfeited by the viator and that assistance should be sought from a financial advisor.

(2) The viatical settlement provider or viatical settlement broker shall provide the disclosures under division (a)(1) of this section in a separate document that is signed by the viator and the viatical settlement provider or viatical settlement broker.

(3) Disclosure to a viator under division (a)(1) of this section shall include distribution of a brochure describing the process of viatical settlements. The viatical settlement provider or viatical settlement broker shall use The NAIC's form for the brochure unless one is developed by the superintendent.

(4) the disclosure document under division (a)(1) of this section shall contain the following language:

"All medical, financial, or personal information solicited or obtained by a viatical settlement provider or viatical settlement broker about an insured, including the insured's identity or the identity of family members, a spouse, or a significant other may be disclosed as necessary to effect the viatical settlement between the viator and the viatical settlement provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two years."

(B)(1) A viatical settlement provider shall disclose at least the following to a viator prior to the date the viatical settlement contract is signed by all the necessary parties:

(a) The affiliation, if any, between the viatical settlement provider and the issuer of the insurance policy or certificate to be viaticated;

(b) The name, address, and telephone number of the viatical settlement provider;

(c) regarding a viatical settlement broker, the amount and method of calculating the broker's compensation. as used in this division, "compensation" includes anything of value paid or given to a viatical settlement broker for the placement of a policy or certificate.

(d) If an insurance policy or certificate to be viaticated has been issued as a joint policy or certificate or involves family riders or any coverage of a life other than the insured under the policy or certificate to be viaticated, the possible loss of coverage on the other lives under the policy or certificate and that advice should be sought from the viator's insurance producer or the company issuing the policy or certificate;

(e) The dollar amount of the current death benefit payable to the viatical settlement provider under the policy or certificate, and, if known, the availability of any additional guaranteed insurance benefits, the dollar amount of any accidental death and dismemberment benefits under the policy or certificate, and the viatical settlement provider's interest in those benefits.

(f) the name, business address, and telephone number of the independent third-party escrow agent, and the fact that the viator or owner may inspect or receive copies of the relevant escrow or trust agreements or documents.

(2) the viatical settlement provider or viatical settlement broker shall conspicuously display The disclosures under division (b)(1) of this section in a separate document signed by the viator and the viatical settlement provider or viatical settlement broker.

(C) If the provider transfers ownership or changes the beneficiary of the insurance policy or certificate, the provider shall communicate the change in ownership or beneficiary to the insured within twenty days after the change.

Sec. 3916.07. (A) A viatical settlement provider entering into a viatical settlement contract shall first obtain all of the following:

(1) If the viator is the insured, a written statement from an attending physician that the viator is of sound mind and under no constraint or undue influence to enter into a viatical settlement contract. As used in this division, "physician" means a person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(2) A document in which the insured consents in writing, as required by division (E) of section 3916.13 of the Revised Code, to the release of the insured's medical records to a viatical settlement provider or viatical settlement broker and to the insurance company that issued the life insurance policy or certificate covering the life of the insured.

(B) Within twenty days after a viator executes documents necessary to transfer any rights under an insurance policy or certificate or within twenty days of entering any expressed or implied agreement, option, promise, or other form of understanding to viaticate the policy, the viatical settlement provider shall give written notice to the insurer that issued that insurance policy or certificate that the policy or certificate has or will become a viaticated policy or certificate. The notice shall be accompanied by the documents required by division (c) of this section.

(C) The viatical provider shall deliver a copy of the medical release required under division (a)(2) of this section, a copy of the viator's application for the viatical settlement contract, the notice required under division (b) of this section, and a request for verification of coverage to the insurer that issued the life insurance policy or certificate that is the subject of the viatical transaction. The viatical provider shall use the NAIC's form for verification unless standards for verification are developed by the superintendent.

(d) The insurer shall respond to a request for verification of coverage submitted on an approved form by a viatical settlement provider within thirty calendar days after the date the request is received and shall indicate whether, based on the medical evidence and documents provided, the insurer intends to pursue an investigation at that time regarding the validity of the life insurance contract or certificate that is the subject of the request.

(e) Prior to or at the time of execution of the viatical settlement contract, the viatical settlement provider shall obtain a witnessed document in which the viator consents to the viatical settlement contract, represents that the

viator has a full and complete understanding of the viatical settlement contract and a full and complete understanding of the benefits of the life insurance policy or certificate, and acknowledges that the viator is entering into the viatical settlement contract freely and voluntarily and, for persons with a terminal or chronic illness or condition, acknowledges that the insured has a terminal or chronic illness and that the terminal or chronic illness or condition was diagnosed after the life insurance policy or certificate was issued.

(f) If a viatical settlement broker performs any of the activities SPECIFIED in this section on behalf of the viatical settlement provider, the provider is deemed to have fulfilled the requirements of this section.

(g) All medical information solicited or obtained by any licensee shall be subject to the applicable provisions of state law relating to confidentiality of medical information.

Sec. 3916.08. Each viatical settlement contract entered into in this state shall provide the viator with an unconditional right to rescind the contract for at least fifteen calendar days after the receipt of the viatical settlement proceeds. If the insured dies during the rescission period, the viatical settlement contract is deemed to have been rescinded, subject to repayment of all viatical settlement proceeds to the viatical settlement provider. If a viatical settlement contract is rescinded by the viator pursuant to this section, ownership of the insurance policy or certificate reverts to the viator or to the viator's estate if the viator is deceased, irrespective of any transfer of ownership of the policy or certificate by the viator, viatical settlement provider, or any other person.

Sec. 3916.09. (A) The viatical settlement provider shall instruct the viator to send the executed documents required to effect the change in ownership, assignment, or change in beneficiary directly to the independent escrow agent. Within three business days after the date the escrow agent receives the documents, or from the date the viatical settlement provider receives the documents if the viator erroneously provides the documents directly to the provider, the provider shall pay or transfer the proceeds of the viatical settlement to an escrow or trust account in a state or federally chartered financial institution whose deposits are insured by the federal deposit insurance corporation. Upon payment of the settlement proceeds into the escrow or trust account, the escrow agent or trustee shall deliver the original change in ownership, assignment, or change in beneficiary forms to the viatical settlement provider or related provider trust. Upon the licensed provider's receipt of the acknowledgment of the properly completed transfer of ownership, assignment, or designation of beneficiary from the insurance

company, the licensed provider shall instruct the escrow agent to pay the settlement proceeds to the viator. the escrow agent shall make Payment within three business days of the date the provider received the acknowledged forms from the insurance company.

(B) Failure to transfer the proceeds to the viator within the period of time disclosed pursuant to division (A)(1)(f) of section 3916.06 of the Revised Code renders the viatical settlement contract voidable by the viator for lack of consideration until the time consideration is tendered to and accepted by the viator. If a viatical settlement contract is voided by the viator pursuant to this division, ownership of the insurance policy or certificate reverts to the viator or to the viator's estate if the viator is deceased, irrespective of any transfer of ownership of the policy or certificate by the viator, viatical settlement provider, or any other person.

Sec. 3916.10. After a viatical settlement has occurred, contact with the insured for the purpose of determining the health status of the INSURED BY the viatical settlement provider or viatical settlement broker shall be made only by the viatical settlement provider or broker licensed in this state. The viatical settlement provider or viatical settlement broker shall not contact the insured for the purpose of determining the insured's health status more than once every three months if the insured has a life expectancy of more than one year, or more than once per month if the insured has a life expectancy of one year or less. The viatical settlement provider or viatical settlement broker shall explain the procedure for making these contacts at the time the viatical settlement contract is entered into.

The limitations set forth in this section do not apply to contacts made with an insured under a viaticated policy for purposes other than to determine the insured's health status.

Viatical settlement providers and viatical settlement brokers are RESPONSIBLE for the actions of their authorized representatives, for the purposes of this SECTION.

Sec. 3916.11. (A)(1) A licensee under this chapter shall, for five years, retain copies of all of the following:

(a) all Proposed, offered, or executed contracts, purchase agreements, underwriting documents, policy forms, and applications from the date of the proposal, offer, or execution of the contract or purchase agreement, whichever is later;

(b) All checks, drafts, or other evidence and documentation related to the payment, transfer, deposit, or release of funds from the date of the transaction;

(c) All other records and documents related to the requirements of this

chapter.

(2) This section does not relieve a person of the obligation to produce the documents described in division (a)(1) of this section to the superintendent after the retention period specified in that division has expired if the person has retained the documents.

(3) Records required to be retained by this section must be legible and complete and may be retained in paper, photograph, microprocess, magnetic, mechanical, or electronic media, or by any process that accurately reproduces or forms a durable medium for the reproduction of a record.

(b)(1) Upon determining that an examination should be conducted, subject to division (e) of this section, the superintendent shall appoint one or more examiners to perform the examination and instruct them as to the scope of the examination. The superintendent may employ any guidelines or procedures for purposes of this division that the superintendent considers appropriate.

(2) Every licensee or person from whom information is sought, AND all officers, directors, employees, and agents of any licensee or person from whom information is sought, shall provide to the examiners timely, convenient, and free access at all reasonable hours at the licensee's or person's offices to all books, records, accounts, papers, documents, assets, and computer or other recordings relating to the property, assets, business, and affairs of the licensee being examined. The officers, directors, employees, and agents of the licensee or person shall facilitate the examination and aid in the examination so far as it is in their power to do so.

The refusal of a licensee, by its officers, directors, employees, or agents, to submit to examination or to comply with any reasonable written request of the superintendent shall be grounds for suspension, revocation, denial of issuance, or nonrenewal of any license or authority held by the licensee to engage in the viatical settlement business or other business subject to the superintendent's jurisdiction. Any proceedings for suspension, revocation, denial, or nonrenewal of any license or authority is subject to chapter 119. of the Revised Code.

(3) The superintendent has the power to issue subpoenas, to administer oaths, and to examine under oath any person as to any matter pertinent to the examination. Upon the failure or refusal of a person to obey a subpoena, the superintendent may petition a court of competent jurisdiction, and, upon proper showing, the Court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order shall be punishable as contempt of court.

(4) When making an examination under this chapter, the superintendent

may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners, and the licensee that is the subject of the examination shall bear the cost of those examiners. EXAMINERS WHO ARE APPOINTED BY THE SUPERINTENDENT, BUT who ARE NOT EMPLOYEES OF THE DEPARTMENT OF INSURANCE, SHALL BE COMPENSATED FOR THEIR WORK, TRAVEL, AND LIVING EXPENSES AT REASONABLE AND CUSTOMARY RATES.

(5) Nothing contained in this chapter limits the superintendent's authority to terminate or suspend an examination in order to pursue other legal or regulatory action pursuant to the insurance laws of this state. Findings of fact and conclusions made pursuant to any examination shall be prima-facie evidence in any legal or regulatory action.

(6) Nothing contained in this chapter limits the superintendent's authority to use and, if appropriate, to make public any final or preliminary examination report, any examiner or licensee working papers or other documents, or any other information discovered or developed during the course of any examination in the furtherance of any legal or regulatory action that the superintendent, in the superintendent's sole discretion, considers appropriate.

(c)(1) Examination reports shall be comprised of only facts appearing upon the books, records, or other documents of the licensee, its agents, or other persons examined, or as ascertained from the testimony of its officers, agents, or other persons examined concerning its affairs, and the conclusions and recommendations that the examiners find reasonably warranted from the facts.

(2) UPON completion of the examination, the examiner in charge shall file with the superintendent a verified written report of examination. Upon receipt of the verified report, the superintendent shall transmit the report to the licensee examined, together with a notice that shall afford the licensee examined a reasonable opportunity of not more than thirty days FROM RECEIPT OF THE REPORT to make a written submission or rebuttal with respect to any matters contained in the examination report.

(3) IF the superintendent determines that regulatory action is appropriate as a result of an examination, the superintendent may initiate any proceedings or actions provided by law.

(d)(1) Names and individual identification data for all viators shall be considered private and confidential information and shall not be disclosed by the superintendent, unless required by law.

(2) Except as otherwise provided in this chapter or in the law of another

state or jurisdiction that is substantially similar to this chapter, all examination reports, working papers, recorded information, documents, and copies of those reports, papers, information, documents, and copies produced by, obtained by, or disclosed to the superintendent or to any other person in the course of an examination made under this chapter or under the law of another state or jurisdiction that is substantially similar to this chapter, or in the course of the superintendent's analysis or investigation of the financial condition or market conduct of a licensee are confidential by law and privileged, are not a public record open for inspection under section 149.43 of the Revised Code, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action. The superintendent may use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as part of the superintendent's official duties.

(3) Documents, materials, or other information, including, but not limited to, all working papers, and copies of working papers, in the possession or control of the NAIC and its affiliates and subsidiaries are confidential by law and privileged, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action, if either of the following applies:

(a) they are Created, produced, or obtained by or disclosed to the NAIC and its affiliates and subsidiaries in the course of assisting an examination made under this chapter or assisting the superintendent or the comparable official in another state in the analysis or investigation of the financial condition or market conduct of a licensee.

(b) The superintendent or the comparable official in another state discloses them to the NAIC and its affiliates and subsidiaries under division (d)(5) of this section or under a comparable provision in the law of the other state.

(4) Neither the superintendent nor any person that received the documents, material, or other information while acting under the authority of the superintendent, including the NAIC and its affiliates and subsidiaries, shall be permitted to testify in any private civil action concerning any confidential documents, materials, or information subject to division (d)(1) of this section.

(5)(a) In order to assist in the performance of the superintendent's duties, the superintendent may do any of the following:

(i) share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to division (d)(1) of this section, with other state, federal, and international

regulatory agencies, with the NAIC and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, if the recipient agrees to maintain the confidentiality and privileged status of the document, material, communication, or other information:

(ii) receive documents, materials, communications, or information, including otherwise confidential and privileged documents, materials, or information, from the NAIC and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions;

(iii) enter into agreements governing sharing and use of information consistent with this section.

(b) the superintendent shall maintain as confidential or privileged any document, material, or information received under division (d)(5)(a)(ii) of this section with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.

(6) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the superintendent under this section or as a result of sharing as authorized in division (d)(5) of this section.

(7) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under division (d) of this section shall be available and enforced in any proceeding in, and in any court of, this state.

(8) Nothing contained in this chapter prevents or prohibits the superintendent from disclosing the content of an examination report, preliminary examination report or results, or any matter relating to those reports or results, to the official of any other state or country that is comparable to the superintendent, or to law enforcement officials of this or any other state or agency of the federal government at any time, or to the NAIC, if the agency or office receiving the report or matters relating to it agrees in writing to hold it confidential and in a manner consistent with this chapter.

(e)(1) the superintendent may not appoint An examiner if the examiner, either directly or indirectly, has a conflict of interest or is affiliated with the management of, or owns a pecuniary interest in, any person subject to examination under this chapter. This division does not automatically preclude any of the following from being an examiner:

(a) A viator;

(b) An insured in a viaticated insurance policy or certificate;

(c) A beneficiary in an insurance policy or certificate that is proposed to be viaticated.

(2) Notwithstanding the requirements of division (e) of this section, the superintendent may retain from time to time, on an individual basis, qualified actuaries, certified public accountants, or other similar individuals who are independently practicing their professions, even though these persons may from time to time be similarly employed or retained by persons subject to examination under this chapter.

(f)(1) As used in division (f) of this section, "expenses" include all of the following:

(a) Compensation of examiners for each day or portion of a day worked;

(b) Travel and living expenses of examiners;

(c) All other incidental expenses incurred by or on behalf of examiners;

(d) An allocated share of all expenses not described in division (f)(1), (2), or (3) of this section that are necessarily incurred in the performance of a market conduct examination, including the expenses of direct overhead and support staff for examiners.

(2) When a market conduct examination is made of an insurer, the insurer shall pay the expenses of the examination. The expenses of an examination include those incurred on or after the date on which the superintendent notifies the insurer of the examination through the issuance of the final examination report.

(3) upon an insurer's failure to comply with division (a) of this section, The superintendent may initiate proceedings in accordance with chapter 119. of the Revised Code to revoke, suspend, or refuse to renew the certificate of authority or license of the insurer. Additionally, the superintendent may request the attorney general to initiate a civil action in the court of common pleas of franklin County to obtain and enforce a judgment for expenses incurred in the performance of a market conduct examination.

(g)(1) No cause of action shall arise nor shall any liability be imposed against the superintendent, any authorized representative of the superintendent, or any examiner appointed by the superintendent for any statements made or conduct performed in good faith while carrying out the provisions of this chapter.

(2) No cause of action shall arise nor shall any liability be imposed against any person for the act of communicating or delivering information or data to the superintendent, any authorized representative of the superintendent, or any examiner appointed by the superintendent pursuant to an examination made under this chapter, if the act of communication or

delivery was performed in good faith and without fraudulent intent or the intent to deceive. division (g)(2) of this section does not abrogate or modify in any way any common law or statutory privilege or immunity previously enjoyed by any person identified in division (g)(1) of this section.

(3) A person identified in division (g)(1) or (2) of this section shall be entitled to an award of attorney's fees and costs if the person is the prevailing party in a civil action for libel, slander, or any other relevant tort arising out of activities in carrying out the provisions of this chapter and the party bringing the action was not substantially justified in bringing the action. For purposes of division (g)(3) of this section, a proceeding is "substantially justified" if it had a reasonable basis in law or fact at the time that it was initiated.

(H) the superintendent may investigate suspected fraudulent viatical settlement acts and persons engaged in the business of viatical settlements.

Sec. 3916.12. Each viatical settlement provider and viatical settlement broker licensed under this chapter shall file with the superintendent of insurance, on or before the first day of March of each year, an annual statement containing the information required by the superintendent by rule adopted in accordance with Chapter 119. of the Revised Code.

Sec. 3916.13. Except as otherwise permitted or required by law, a viatical settlement provider, viatical settlement broker, insurance company, insurance agent, insurance broker, information bureau, rating agency or company, or any other person with actual knowledge of an insured's identity, shall not disclose that identity as an insured, including the insured's name and individual identification data, or the insured's financial or medical information, unless any of the following apply:

(A) The disclosure is necessary to effect a viatical settlement between the viator and a viatical settlement provider, and the viator and insured have provided prior written consent to the disclosure.

(B) The disclosure is provided in response to an investigation or examination by the superintendent of insurance or by any other governmental officer or agency or pursuant to the requirements of division (C) of section 3916.18 of the Revised Code.

(C) The disclosure is a term of, or condition to, the transfer of a viaticated policy by one viatical settlement provider to another viatical settlement provider.

(d) the disclosure Is necessary to permit a financing entity, related provider trust, or special purpose entity to finance the purchase of policies or certificates by a viatical settlement provider, and the viator and insured have provided prior written consent to the disclosure.

(e) the disclosure is necessary to allow the viatical settlement provider or viatical settlement broker or their authorized representatives to make contacts for the purpose of determining health status.

(f) the disclosure is required to purchase stop-loss coverage.

Sec. 3916.14. (A)(1) The superintendent of insurance may conduct an examination UNDER this chapter of a licensee as often as the superintendent in the superintendent's sole DISCRETION considers appropriate.

(2) for the purposes of completing an examination of a licensee under this chapter, the superintendent may examine or INVESTIGATE any person, or the business of any person, insofar as the EXAMINATION or investigation, in the sole DISCRETION of the superintendent, is necessary or material to the EXAMINATION of the licensee.

(3) in lieu of an examination under this chapter of any foreign or alien licensee licensed under this chapter, the superintendent, at the superintendent's DISCRETION, may ACCEPT an examination report on the licensee as prepared by the official of the licensee's state of domicile or port-of-entry state who is comparable to the superintendent.

(B) The licensee or applicant shall pay to the superintendent all costs, assessments, forfeitures, or fines incurred in conducting an examination under this section. The superintendent shall deposit the money into the state treasury to the credit of the department of insurance operating fund created by section 3901.021 of the Revised Code.

Sec. 3916.15. (A) The superintendent of insurance may refuse to issue or may suspend, revoke, or refuse to renew the license of a viatical settlement provider or viatical settlement broker, if the superintendent finds that any of the following apply:

(1) There was a material misrepresentation in the application for the license.

(2) The applicant or licensee or any officer, partner, member, key management personnel, or designee of the applicant or licensee has been convicted of fraudulent or dishonest practices, is subject to a final administrative action in another state, or is otherwise shown to be untrustworthy or incompetent.

(3) The licensee is a viatical settlement provider that demonstrates a pattern of unreasonable payments to viators.

(4) The licensee or any officer, partner, member, key management personnel, or designee of the licensee has been convicted of or has pleaded guilty or no contest to a felony or to a misdemeanor involving fraud, moral turpitude, dishonesty, or breach of trust, regardless of whether a judgment of

conviction has been entered by the court.

(5) The licensee is a viatical settlement provider that has used a viatical settlement contract form that has not been approved under this chapter.

(6) The licensee is a viatical settlement provider that has failed to honor contractual obligations set out in a viatical settlement contract.

(7) The licensee no longer meets the requirements for initial licensure.

(8) The licensee is a viatical settlement provider that has assigned, transferred, or pledged a viaticated policy to a person that is not a viatical settlement provider licensed in this state, a financing entity, a special purpose entity, or a related provider trust.

(9) The licensee or any officer, partner, member, key management personnel, or designee of the licensee has violated any provision of this chapter or any rule adopted under this chapter.

(10) The licensee or any officer, partner, member, key management personnel, or designee of the licensee has committed any coercive, fraudulent, or dishonest act, or made any untrue, deceptive, or misleading statement, in connection with a viatical transaction or a proposed viatical transaction.

(B) Before the superintendent refuses to issue a license under this chapter, or suspends, revokes, or refuses to renew the license of a viatical settlement provider or viatical settlement broker, the superintendent shall provide the licensee or applicant with notice and an opportunity for hearing as provided in Chapter 119. of the Revised Code, except as follows:

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

For purposes of this section, the "last known address" is the address that appears in the licensing records of the department of insurance.

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

(c) If service by ordinary mail fails, the superintendent may cause a

summary of the substantive provisions of the notice to be published once a week for three consecutive weeks in a newspaper of general circulation in the county where the last known place of residence or business of the licensee or applicant is located. The notice is considered served on the date of the third publication.

(d) Any notice required to be served under Chapter 119. of the Revised Code shall also be served upon the attorney of the licensee or applicant by ordinary mail if the attorney has entered an appearance in the matter.

(e) The superintendent may, at any time, perfect service on a licensee or applicant by personal delivery of the notice by an employee of the department.

(f) Notices regarding the scheduling of hearings and all other matters not described in division (B)(1)(a) of this section shall be sent by ordinary mail to the licensee or applicant and to the attorney of the licensee or applicant.

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

Sec. 3916.16. (a) it is a violation of this chapter for any person to enter into a viatical settlement contract within a two-year period commencing with the date of issuance of the insurance policy or certificate unless the viator certifies to the viatical settlement provider that one or more of the following conditions have been met within that two-year period:

(1) The policy or certificate was issued upon the viator's exercise of conversion rights arising out of a group policy or certificate, provided the total of the time covered under the conversion policy or certificate plus the time covered under the group policy or certificate is at least twenty-four months. The time covered under the group policy or certificate shall be calculated without regard to any change in insurance carriers, provided the coverage has been continuous and under the same group sponsorship.

(2) The viator is a charitable organization exempt from taxation under 26 U.S.C. section 501(c)(3).

(3) The viator is not an individual.

(4) The viator submits independent evidence to the viatical settlement provider that one or more of the following conditions have been met within

that two-year period:

(a) The viator or insured is terminally or chronically ill.

(b) The viator's spouse dies.

(c) The viator divorces the viator's spouse.

(d) The viator retires from full-time employment.

(e) The viator becomes physically or mentally disabled, and a physician determines that the disability prevents the viator from maintaining full-time employment.

(f) The viator was the insured's employer at the time the policy or certificate was issued and the employment relationship terminated.

(g) a court of competent jurisdiction enters a final order, judgment, or decree on the application of a creditor of the viator and adjudicates the viator bankrupt or insolvent or approves a petition seeking reorganization of the viator or appointing a receiver, trustee, or liquidator to all or a substantial part of the viator's assets.

(h) The viator experiences a significant decrease in income that is unexpected and that impairs the viator's reasonable ability to pay the policy premium.

(i) The viator or insured disposes of the viator's or insured's ownership interests in a closely held corporation.

(B) Copies of the independent evidence described in DIVISION (A)(4) OF THIS SECTION and documents required by Section 3916.07 OF THE REVISED CODE shall be submitted to the insurer when the viatical settlement provider submits a request to the insurer for verification of coverage. The copies shall be accompanied by a letter of attestation from the viatical settlement provider that the copies are true and correct copies of the documents received by the viatical settlement provider.

(C) If the viatical settlement provider submits to the insurer a copy of the owner or insured's certification described in DIVISION (A)(4) OF THIS SECTION when the provider submits a request to the insurer to effect the transfer of the policy or certificate to the viatical settlement provider, the copy conclusively establishes that the viatical settlement contract satisfies the requirements of this section, and the insurer shall timely respond to the request.

Sec. 3916.17. (a) the general assembly hereby declares that the purpose of this section is to provide prospective viators with clear and unambiguous statements in the advertisement of viatical settlements and to assure the clear, truthful, and adequate disclosure of the benefits, risks, limitations, and exclusions of any viatical settlement contract. This purpose is intended to be accomplished by the establishment of guidelines and standards of

permissible and impermissible conduct in the advertising of viatical settlements to assure that product descriptions are presented in a manner that prevents unfair, deceptive, or misleading advertising and is conducive to accurate presentation and description of viatical settlements through the advertising media and material used by viatical settlement licensees.

divisions (b) to (p) of this section apply to any advertising of viatical settlement contracts, or any related products or services intended for dissemination in this state, including, but not limited to, Internet advertising viewed by persons located in this state. in cases in which disclosure requirements are established pursuant to federal regulation, this section shall be interpreted so as to minimize or eliminate conflict with federal regulation wherever possible.

(b) Every viatical settlement licensee shall establish and at all times shall maintain a system of control over the content, form, and method of dissemination of all advertisements of its contracts, products, and services. All advertisements, regardless of by whom they are written, created, designed, or presented, shall be the responsibility of the viatical settlement licensee and of the individual who created or presented the advertisement. A system of control shall include regular routine notification, at least once a year, to agents and others authorized by the viatical settlement licensee who disseminate advertisements of the requirements and procedures for approval prior to the use of any advertisements not furnished by the viatical settlement licensee.

(c) all Advertisements that are subject to this section shall be truthful and not misleading in fact or by implication. The form and content of an advertisement of a viatical settlement contract shall be sufficiently complete and clear so as to avoid deception and shall not have the capacity or tendency to mislead or deceive. the DETERMINATION of Whether an advertisement has the capacity or tendency to mislead or deceive shall be made by the SUPERINTENDENT of insurance, from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.

(d) viatical settlement advertisements containing any REPRESENTATION set forth in this division are deemed false and misleading on their face and are prohibited. False and misleading viatical settlement advertisements include, but are not limited to, those including any of the following representations:

(1) "Guaranteed," "fully secured," "100 percent secured," "fully insured," "secure," "safe," "backed by rated insurance companies," "backed

by federal law," "backed by state law," or "state guaranty funds," or similar representations;

(2) "No risk," "minimal risk," "low risk," "no speculation," "no fluctuation," or similar representations;

(3) "Qualified or approved for individual retirement accounts (iras), Roth IRAs, 401(k) plans, simplified employee pensions (SEPs), 403(b), Keogh plans, TSA, or other retirement account rollovers," "tax deferred," or similar representations;

(4) Utilization of the word "guaranteed" to describe the fixed return, annual return, principal, earnings, profits, investment, or similar representations;

(5) "No sales charges or fees" or similar representations;

(6) "High yield," "superior return," "excellent return," "high return," "quick profit," or similar representations;

(7) Purported favorable representations or testimonials about the benefits of viatical settlement contracts or viatical settlement purchase agreements as an investment, taken out of context from any newspaper, trade paper, journal, radio or television program, or any other form of print and electronic media.

(e)(1) the information required to be disclosed under this section shall not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the text of the advertisement so as to be confusing or misleading.

An advertisement shall not omit material information or use any words, phrases, statements, references, or illustrations if the omission or use has the capacity, tendency, or effect of misleading or deceiving viators, as to the nature or extent of any benefit, loss covered, premium payable, or state or federal tax consequence. The fact that the viatical settlement contract offered is made available for inspection prior to consummation of the sale, that an offer is made to refund the payment if the viator is not satisfied, or that the viatical settlement contract includes a "free look" period that satisfies or exceeds legal requirements, does not remedy any misleading statements.

(2) An advertisement shall not use the name or title of a life insurance company or a life insurance policy unless the advertisement has been approved by the insurer.

(3) An advertisement shall not represent that any premium payments will not be required to be paid on the life insurance policy that is the subject of a viatical settlement contract or viatical settlement purchase agreement in order to maintain that policy, unless that is the fact.

(4) An advertisement shall not state or imply that interest charged on an accelerated death benefit or a policy loan is unfair, inequitable, or in any manner an incorrect or improper practice.

(5) The words "free," "no cost," "without cost," "no additional cost," "at no extra cost," or words of similar import shall not be used with respect to any benefit or service unless true. An advertisement may specify the charge for a benefit or a service or may state that a charge is included in the payment or use other appropriate language.

(6)(a) Testimonials, appraisals, analyses, or endorsements used in advertisements must satisfy all of the following:

(i) they must be genuine.

(ii) they must represent the current opinion of the author.

(iii) they must be applicable to the viatical settlement contract product or service advertised, if any.

(iv) they must be accurately reproduced with sufficient completeness to avoid misleading or deceiving prospective viators as to the nature or scope of the testimonials, appraisals, analyses, or endorsements.

(b) In using testimonials, appraisals, analyses, or endorsements, the viatical settlement licensee makes as its own all the statements contained in the testimonials, appraisals, analyses, or endorsements, and the statements are subject to all the provisions of this section.

(c) If the individual making a testimonial, appraisal, analysis, or endorsement has a financial interest in the viatical settlement provider or related entity as a stockholder, director, officer, employee, or otherwise, or receives any benefit directly or indirectly other than required union scale wages, that fact shall be prominently disclosed in the advertisement.

(d) An advertisement shall not state or imply that a viatical settlement contract benefit or service has been approved or endorsed by a group of individuals, society, association, or other organization unless that is the fact and unless any relationship between the individual, society, association, or organization and the viatical settlement provider is disclosed. If the entity making the endorsement or testimonial is owned, controlled, or managed by the viatical settlement provider, or receives any payment or other consideration from the viatical settlement provider for making an endorsement or testimonial, that fact shall be disclosed in the advertisement.

(e) When an endorsement refers to benefits received under a viatical settlement contract, all pertinent information shall be retained for a period of at least five years after its use.

(f) An advertisement shall not contain statistical information unless the INFORMATION accurately reflects recent and relevant facts. The source of

all statistics used in an advertisement shall be identified.

(g) an advertisement shall not disparage any insurer, viatical settlement provider, viatical settlement broker, viatical settlement investment agent, insurance producer, policy, service, or method of marketing.

(h) all advertisements about a viatical settlement provider or its viatical settlement contract, products, or services shall clearly identify the viatical settlement provider's name. if any specific viatical settlement contract is advertised, the viatical settlement contract shall be identified either by form number or some other appropriate description. If an application is part of the advertisement, the name of the viatical settlement provider shall be shown on the application.

(i) An advertisement shall not use a trade name, group designation, name of the parent company of a viatical settlement licensee, name of a particular division of the viatical settlement licensee, service mark, slogan, symbol, or other device or reference without disclosing the name of the viatical settlement licensee, if either of the following applies regarding the advertisement:

(1) it would have the capacity or tendency to mislead or deceive as to the true identity of the viatical settlement licensee.

(2) it would have the capacity or tendency to create the impression that a company other than the viatical settlement licensee would have any responsibility for the financial obligation under a viatical settlement contract.

(j) An advertisement shall not use any combination of words, symbols, or physical materials that, by their content, phraseology, shape, color, or other characteristics, are so similar to a combination of words, symbols, or physical materials used by a government program or agency or otherwise appear to be of such a nature that they tend to mislead prospective viators into believing that the solicitation is in some manner connected with a government program or agency.

(k) an advertisement may state that a viatical settlement provider is licensed in the state in which the advertisement appears, provided it does not exaggerate that fact or suggest or imply that competing viatical settlement providers may not be so licensed. The advertisement may ask the audience to consult the licensee's web site or contact the department of insurance to find out if the state in which the advertisement appears requires licensing and, if it does, whether the viatical settlement provider or viatical settlement broker is licensed.

(l) An advertisement shall not create the impression that the viatical settlement provider, its financial condition or status, the payment of its

claims, or the merits, desirability, or advisability of its viatical settlement contracts are recommended or endorsed by any government entity.

(m) all advertisements of an actual licensee shall state The name of the actual licensee. An advertisement shall not use a trade name, any group designation, name of any affiliate or controlling entity of the licensee, service mark, slogan, symbol, or other device in a manner that would have the capacity or tendency to mislead or deceive as to the true identity of the actual licensee or create the false impression that an affiliate or controlling entity would have any responsibility for the financial obligation of the licensee.

(n) an advertisement shall not directly or indirectly create the impression that any division or agency of this state, any other state, or the United States government endorses, approves, or favors any of the following:

(1) Any viatical settlement licensee or its business practices or methods of operation;

(2) The merits, desirability, or advisability of any viatical settlement contract, or viatical settlement program;

(3) Any viatical settlement contract, or viatical settlement program;

(4) Any life insurance policy or certificate or life insurance company.

(o) If the advertiser emphasizes the speed with which the viatication will occur, the advertising must disclose the average time frame, from completed application to the date of offer and from acceptance of the offer to receipt of the funds by the viator.

(p) If the advertising emphasizes the dollar amounts available to viators, the advertising shall disclose the average purchase price as a per cent of face value obtained by viators contracting with the licensee during the past six months.

Sec. 3916.18. (a)(1) no person shall commit a fraudulent viatical settlement act.

(2) No person shall knowingly or intentionally interfere with the enforcement of the provisions of this chapter or investigations of suspected or actual violations of this chapter.

(3) No person in the business of viatical settlements shall knowingly or intentionally permit any person convicted of a felony involving dishonesty or breach of trust to participate in the business of viatical settlements.

(b)(1) each Viatical settlement contract and each application for a viatical settlement, regardless of the form of transmission, shall contain the following statement or a substantially similar statement:

"Any person who knowingly presents false information in an

application for insurance or viatical settlement contract is guilty of a crime and may be subject to fines and imprisonment."

(2) The lack of a statement as required in division (b)(1) of this section does not constitute a defense in any prosecution for a fraudulent viatical settlement act.

(c)(1) every person engaged in the business of viatical settlements having knowledge or a reasonable belief that a fraudulent viatical settlement act is being, will be, or has been committed shall provide to the superintendent of insurance the information required by the superintendent. the person shall provide the information in a manner prescribed by the superintendent.

(2) every person having knowledge or a reasonable belief that a fraudulent viatical settlement act is being, will be, or has been committed may provide to the superintendent the information required BY the superintendent. The person shall provide the information under this division in a manner prescribed by the superintendent.

(d)(1) No civil liability shall be imposed on, and no cause of action shall arise from, a person's furnishing information concerning suspected, anticipated, or completed fraudulent viatical settlement acts or suspected or completed fraudulent insurance acts, if the information is provided to or received from any of the following:

(a) The superintendent, or the superintendent's employees, agents, or representatives;

(b) law enforcement or regulatory officials of this state, another state, the united states, or a political SUBDIVISION of this state or another state, or any employee, agent, or representative of any of those officials;

(c) A person involved in the prevention and detection of fraudulent viatical settlement acts or any agent, employee, or representative of any person so involved;

(d) The NAIC, National Association of Securities Dealers (NASD), the North American Securities Administrators Association (NASAA), any employee, agent, or representative of any OF THOSE ASSOCIATIONS, or other regulatory body overseeing life insurance, viatical settlements, securities, or investment fraud;

(e) The life insurer that issued the life insurance policy OR CERTIFICATE covering the life of the insured.

bringing the action shall plead specifically any allegation that the immunity provided in division (d)(1) of this section does not apply because the person filing the report or furnishing the information did so with actual malice.

(3) if a person is the prevailing party in a civil action for libel, slander, or any other relevant tort arising out of activities in carrying out the provisions of this chapter, if the prevailing party is a person identified in division (d)(1) of this section and the immunity described in that division applies to the person, and if the party who brought the action was not substantially justified in doing so, the person who is the prevailing party is entitled to an award of attorney's fees and costs arising out of the ACTION. For purposes of this division, an action is "substantially justified" if it had a reasonable basis in law or fact at the time that it was initiated.

(4) This section does not abrogate or modify any common law or statutory privilege or immunity enjoyed by a person described in division (d)(1) of this section.

(e)(1) The documents and evidence provided pursuant to division (d) of this section or obtained by the superintendent in an investigation of any suspected or actual fraudulent viatical settlement act is privileged and confidential, is not a public record open for inspection under section 149.43 of the Revised Code, and is not subject to discovery or subpoena in a civil or criminal action.

(2) division (e)(1) of this SECTION does not prohibit release by the superintendent of any document or evidence obtained in an investigation of suspected or actual fraudulent viatical settlement acts, in any of the following manners or circumstances:

(a) In any administrative or judicial proceeding to enforce any laws administered by the superintendent;

(b) To any law enforcement or regulatory agency of this state, another state, the united states, or a political SUBDIVISION of this state or another state, to an organization established for the purpose of detecting and preventing fraudulent viatical settlement acts, or to the NAIC;

(c) At the discretion of the superintendent, to a person in the business of viatical settlements that is aggrieved by a fraudulent viatical settlement act.

(3) Release of documents and evidence under division (e)(2) of this SECTION does not abrogate or modify the privilege granted in division (e)(1) of this SECTION.

(f) the provisions of this chapter do not do any of the following:

(1) Preempt the authority or relieve the duty of any other law enforcement or regulatory agencies to investigate, examine, or prosecute

suspected violations of law:

(2) Prevent or prohibit a person from disclosing voluntarily any information concerning viatical settlement fraud to a law enforcement or regulatory agency other than the department of insurance;

(3) Limit any power granted elsewhere by the law of this state to the superintendent or an insurance fraud unit to investigate and examine possible violations of law and to take appropriate action against wrongdoers.

(g)(1) Viatical settlement providers and viatical settlement brokers shall adopt and have in place antifraud initiatives reasonably calculated to detect, prosecute, and prevent fraudulent viatical settlement acts. At the discretion of the superintendent, the superintendent may order, or a licensee may request and the superintendent may grant, ANY modifications of the following required initiatives described in divisions (g)(1)(a) and (b) of this section THAT are necessary to ensure an effective antifraud program. The modifications may be more or less restrictive than the required initiatives so long as the modifications may reasonably be expected to accomplish the purpose of this section. Antifraud initiatives under this division shall include all of the following:

(a) Fraud investigators, who may be viatical settlement provider or viatical settlement broker employees or independent contractors;

(b) An antifraud plan THAT includeS, but not is not limited to, all of the following:

(i) A description of the procedures for detecting and investigating possible fraudulent viatical settlement acts and procedures for resolving material inconsistencies between medical records and insurance applications;

(ii) A description of the procedures for reporting possible fraudulent viatical settlement acts to the superintendent;

(iii) a description of the plan for antifraud education and training of underwriters and other personnel;

(iv) A description or chart outlining the organizational arrangement of the antifraud personnel who are responsible for the investigation and reporting of possible fraudulent viatical settlement acts and investigating unresolved material inconsistencies between medical records and insurance applications.

NTENDENT, THE PLANS so submitted are privileged and confidential, are not a public record OPEN for inspection under section 149.43 of the Revised Code, and are not subject to discovery or subpoena in a civil or criminal action.

Sec. 3916.19. (a) In addition to the penalties and other enforcement provisions contained in this chapter, if any person violates any provision of this chapter or any rule or regulation implementing any provision of this chapter, the superintendent of insurance may seek an injunction in a court of competent jurisdiction and may apply for any temporary or permanent order that the superintendent determines is necessary to restrain the person from committing the violation.

(b) Any person damaged by any act of a person in violation of any provision of this chapter may bring a civil action against the person committing the violation in a court of competent jurisdiction, a CIVIL ACTION brought under this division DOES NOT PRECLUDE THE SUPERINTENDENT FROM EXERCISING ANY REGULATORY, ENFORCEMENT, OR OTHER AUTHORITY AVAILABLE TO THE SUPERINTENDENT UNDER THIS CHAPTER.

(c) In addition to the penalties and other enforcement provisions contained in this chapter, any person who violates any provision of this chapter is subject to a civil penalty of up to ten thousand dollars per violation. Imposition of civil penalties described in this division shall be pursuant to an order of the superintendent issued under CHAPTER 119. OF THE REVISED CODE. The superintendent'S order may require a person found to be in violation of this chapter to make restitution to persons aggrieved by violations of this chapter.

Sec. 3916.20. The superintendent of insurance may adopt rules in accordance with Chapter 119. of the Revised Code for purposes of implementing this chapter, including, but not limited to, rules that do the following:

(A) Govern the relationship and responsibilities of both insurers and viatical settlement providers and viatical settlement brokers during the viatication of a life insurance policy or certificate.

(B) Establish standards for evaluating the reasonableness of payments under viatical settlement contracts for persons with a terminal or chronic illness or condition. This authority includes, but is not limited to, the regulation of discount rates used to determine the amount paid in exchange for the assignment, transfer, sale, devise, or bequest of a benefit under a life insurance policy or certificate.

(C) Establish appropriate licensing requirements, fees, and standards for

continued licensure for viatical settlement providers and viatical settlement brokers:

(D) Require a bond or other mechanism for ensuring the financial accountability of viatical settlement providers and viatical settlement brokers.

Sec. 3916.21. (A) No person shall fail to comply with this chapter.

(B) Whoever violates division (A) of this section is deemed to have engaged in an unfair and deceptive act or practice in the business of insurance under sections 3901.19 to 3901.26 of the Revised Code.

Sec. 3916.99. (A) Whoever violates section 3916.02 of the Revised Code is guilty of a felony of the third degree.

(B) whoever violates division (a)(1) of section 3916.18 of the Revised Code is guilty of a violation of section 2913.02 of the REVISED code.

SECTION 2. That existing sections 1707.01, 1707.02, 1707.11, 1707.15, 1707.151, 1707.16, 1707.17, 1707.20, 1707.23, and 1707.44 and sections 1707.432, 1707.433, 1707.434, 1707.435, 1707.436, 1707.437, 1707.438, and 1707.439 of the Revised Code are hereby repealed.

SECTION 3. Sections 1 and 2 of this act shall take effect six months after the effective date of this act.

SECTION 4. Any person that, on the effective date of this act, transacts business in this state as a viatical settlement provider, viatical settlement representative, or viatical settlement broker may continue to do so pending approval of the person's application for a license, if the person applies for the license during the six-month period immediately following the effective date of this act.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____