

**As Reported by the House Insurance Committee**

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**Sub. H. B. No. 212**

**REPRESENTATIVES Wolpert, G. Smith, Seitz, Willamowski, Kearns, Faber,  
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Husted**

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**A B I L L**

To amend sections 3901.64, 3903.32, 3907.14, and 1  
3925.08 of the Revised Code to permit assuming 2  
insurers, in the event of the insolvency of a 3  
ceding insurer, to make reinsurance payments 4  
directly to an insured or beneficiary when this is 5  
provided for in a reinsurance agreement; to permit 6  
assuming insurers to introduce defenses in an 7  
insolvency proceeding that it deems to be available 8  
to the ceding insurer; and to permit insurers to 9  
invest in limited liability company membership 10  
interests of insurance, financial, investment, and 11  
investment management companies. 12

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

**Section 1.** That sections 3901.64, 3903.32, 3907.14, and 13  
3925.08 of the Revised Code be amended to read as follows: 14

**Sec. 3901.64.** (A) A domestic ceding insurer may take credit 15  
for any reinsurance ceded as provided in sections 3901.61 to 16  
3901.63 of the Revised Code only if the reinsurance agreement 17  
contained in the reinsurance contract, and any agreement that 18

provides security for the payment of the obligations under the 19  
reinsurance agreement, including any trust agreement, provide, in 20  
substance, for the following: 21

(1) The In the event of the insolvency of the ceding insurer, 22  
the reinsurance, whether paid directly or from trust assets 23  
securing the reinsurance agreement, shall be payable by the 24  
assuming insurer on the basis of the liability of the ~~domestic~~ 25  
ceding insurer under the policy or contract reinsured, without any 26  
diminution because the ~~domestic~~ ceding insurer is insolvent or 27  
because the liquidator or statutory receiver has failed to pay all 28  
or any portion of any claims; 29

(2) The reinsurance payments, whether paid directly or from 30  
trust assets securing the reinsurance agreement, shall be made by 31  
the assuming insurer directly to the ~~domestic~~ ceding insurer, or 32  
in the event of its insolvency or liquidation, to its liquidator 33  
or statutory receiver except where the reinsurance contract or 34  
other written agreement specifically provides for direct payment 35  
of the reinsurance to the insured or beneficiary of the insurance 36  
policy in the event of the insolvency of the ceding insurer. 37

(B)(1) The reinsurance agreement may provide that the 38  
domiciliary liquidator or statutory receiver shall give written 39  
notice to the assuming insurer that a claim is pending against the 40  
~~domestic~~ ceding insurer on the policy or contract reinsured. The 41  
notice shall be given within a reasonable amount of time after the 42  
claim is filed with the liquidator or statutory receiver. During 43  
the pendency of the claim, any assuming insurer may investigate 44  
the claim and interpose, at its own expense, in the proceeding 45  
where the claim is to be adjudicated any defenses which it deems 46  
to be available to the ceding insurer or its liquidator. 47

(2) The expense may be filed as a claim against the insolvent 48  
ceding insurer to the extent of a proportionate share of the 49  
benefit that may accrue to the ceding insurer solely as a result 50

of the defense undertaken by the assuming insurer. Where two or more assuming insurers are involved in the same claim and a majority in interest elect to interpose a defense to the claim, the expense shall be apportioned in accordance with the terms of the reinsurance agreement as though the expense had been incurred by the ceding insurer.

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**Sec. 3903.32.** The amount recoverable by the liquidator from reinsurers shall not be reduced as a result of delinquency proceedings, regardless of any provision in the reinsurance contract or other agreement. Payment made by a reinsurer directly to an insured or other creditor does not diminish the reinsurer's obligation to the insurer's estate except when the reinsurance contract, ~~and any or other written agreement that provides security for the payment of the obligations under the contract, provides for direct coverage of a named insured and the payment is made in discharge of that obligation and the contract or agreement has been approved pursuant to division (A)(3) of section 3901.341 or section 3907.12 or 3925.33 of the Revised Code~~ for direct payment of the reinsurance to the insured or beneficiary of the insurance policy in the event of the insolvency of the ceding insurer.

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

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

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

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(2) Which has been mortgaged to it in good faith by way of security for loans previously contracted or for money due; 81  
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(3) Which has been conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or which it may receive in or on account of an exchange for real estate acquired in its operations; 83  
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(4) Which it has purchased at sales under mortgages and on any legal process in connection with its investments or under decrees obtained or made for such debts; 87  
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(5) Which is acquired, owned, or held for the purpose of developing, improving, or otherwise utilizing such real estate for the production of income, without restriction or limitation as to time, and may acquire, lease, hold, and manage personal property used in connection therewith. No investments in real estate to be used primarily for recreational, agricultural, or mining purposes shall be made under authority of division (A)(5) of this section and except for investments authorized under divisions (A)(1), (2), (3), and (4) of this section, no domestic life insurance company shall invest in real estate under divisions (A)(5) and (R) of this section a sum exceeding in the aggregate ten per cent of its admitted assets on the preceding thirty-first day of December. 90  
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All real estate specified in divisions (A)(3) and (4) of this section, which is not necessary for its accommodation in the convenient transaction of its business, shall be sold by the company and disposed of within five years after it has acquired the title to such real estate or within five years after such real estate has ceased to be necessary for the accommodation of its business, unless the company procures the certificate of the superintendent of insurance that its interests will suffer materially by a forced sale of the real estate, in which event the time for the sale may be extended to such time as the superintendent directs in such certificate. 102  
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(B) A domestic company may acquire, hold, and convey tangible personal property or interests therein for the production of income, provided no domestic company shall invest in excess of two per cent of its admitted assets as of the preceding thirty-first day of December under this division.

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

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

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

(F) In bonds issued by or for federal land banks and any debentures issued by or for federal intermediate credit banks under the "Federal Farm Loan Act of 1916," 39 Stat. 360, 12

U.S.C.A. 641 as amended; any debentures issued by or for banks for 145  
cooperatives under the "Farm Credit Act of 1933," 48 Stat. 257, 12 146  
U.S.C.A. 131 as amended; 147

(G) In bonds issued under the "Home Owners' Loan Act of 148  
1933," 48 Stat. 128, 12 U.S.C.A. 1461; 149

(H) In notes, bonds, debentures, or other such obligations 150  
issued by the federal housing administrator; 151

(I)(1)(a) In bonds or other evidences of indebtedness, not in 152  
default as to principal or interest, which are valid obligations 153  
issued, assumed or guaranteed by the United States, by any state 154  
thereof, by the Commonwealth of Puerto Rico, by any territory or 155  
insular possession of the United States, or by the District of 156  
Columbia, or which are valid obligations issued, assumed, or 157  
guaranteed by any county, municipal corporation, district, or 158  
political subdivision, or by any civil division or public 159  
instrumentality of such governmental units, if by statutory or 160  
other legal requirements such obligations are payable, as to both 161  
principal and interest, from taxes levied upon all taxable 162  
property within the jurisdiction of such governmental unit; 163

(b) In bonds or other obligations issued by or for account of 164  
any such governmental unit having a population of five thousand or 165  
more by the latest official federal or state census, which are 166  
payable as to both principal and interest from revenues or 167  
earnings from the whole or any part of a publicly owned utility 168  
supplying water, gas, sewage disposal facility, or electricity, or 169  
any or all of them, provided that by statute or other applicable 170  
legal requirements, rates from the service or operation of such 171  
utility must be fixed, maintained, and collected at all times so 172  
as to produce sufficient revenues or earnings to pay both 173  
principal and interest of such bonds or obligations as they become 174  
due; 175

(c) In any bonds or obligations payable from and secured by 176  
revenues of the United States, the Commonwealth of Puerto Rico, or 177  
any state or instrumentality of any of them, or of the District of 178  
Columbia or of any commission, board, or other instrumentality of 179  
one or more of them, provided there is a specific pledge of 180  
revenues, and provided that there is adequate provision for 181  
payment of interest prior to completion of construction and that 182  
rates, fees, tolls, or charges fixed are, after completion of 183  
construction, sufficient to pay all expenses of operation and 184  
maintenance and the principal and interest when due. 185

(2) In legally authorized and executed bonds, notes, 186  
warrants, and securities which are the direct obligation of or are 187  
guaranteed by Canada, or which are the direct obligation of or are 188  
guaranteed as to both principal and interest by any province of 189  
Canada, or which are the direct obligation of or are guaranteed as 190  
to both principal and interest by any municipality of Canada 191  
having a population of fifty thousand or more by the latest 192  
official census, and which are not in default as to principal or 193  
interest; 194

(3) In bonds or other evidence of indebtedness, not in 195  
default as to principal or interest, which are valid obligations 196  
issued, assumed, or guaranteed by the United States, by any state 197  
thereof, the Commonwealth of Puerto Rico, or by the District of 198  
Columbia, if by statutory or other legal requirements such 199  
obligations are payable, as to both principal and interest, from 200  
selective taxes levied by such governmental unit. 201

(J)(1) In mortgage bonds which are the direct obligation of a 202  
railroad, and which are the first lien on a substantial portion of 203  
its property, situated wholly in the United States or partly in 204  
the United States and partly in Canada, the average net yearly 205  
earnings of which, after deducting proper charges for maintenance 206  
of way and equipment, for the five fiscal years preceding such 207

investments, have been at least one and one-half times the average 208  
yearly interest for the same period on its mortgages, bonds, and 209  
funded debts, and in the junior mortgage bond issues of such 210  
railroad corporations of the same character and under the same 211  
conditions where the average net yearly earnings for the five 212  
fiscal years preceding such investment, after deducting proper 213  
charges for maintenance of way and equipment, have been at least 214  
three times the average yearly interest charges on such issues and 215  
all prior liens; or in the mortgage bonds of any incorporated 216  
railroad company which have been assumed or guaranteed, both as to 217  
principal and interest, by any incorporated railroad company whose 218  
bonds constitute a legal investment under division (J)(1) of this 219  
section. In applying the earnings test to any issuing, assuming, 220  
or guaranteeing company, whether or not in legal existence during 221  
the whole of such five years next preceding the date of investment 222  
by such insurer, which has at any time during such five-year 223  
period acquired the assets of any other company by purchase, 224  
merger, consolidation, or otherwise, substantially as an entirety, 225  
or has been reorganized pursuant to the bankruptcy law, the 226  
earnings of such other predecessor or constituent companies, or of 227  
the company so reorganized, available for interest for such 228  
portion of such period that has preceded such acquisition, or such 229  
reorganization, may be included in the earnings of such issuing, 230  
assuming, or guaranteeing company for such portion of such period 231  
as is determined in accordance with adjusted or pro forma 232  
consolidated earnings statements covering such portion of such 233  
period. In such cases the requirements as to earnings shall be 234  
based upon the mortgages, bonds, and funded debts as they exist 235  
immediately after such acquisitions or such reorganizations. 236

(2) In mortgage bonds or other interest-bearing obligations 237  
of terminal companies organized under the laws of the United 238  
States or any state thereof, provided such bonds or obligations 239

have been assumed or guaranteed jointly or severally by two or 240  
more railroad corporations whose bonds constitute legal 241  
investments under division (J)(1) of this section; 242

(3) In loans to veterans guaranteed in whole or in part by 243  
the United States pursuant to Title III of the "Servicemen's 244  
Readjustment Act of 1944," 58 Stat. 284, 38 U.S.C.A. 693, as 245  
amended, provided such guaranteed loans are liens upon real 246  
estate; 247

(4) In mortgage bonds which are the direct obligation of and 248  
first lien upon the property of a corporation engaged directly and 249  
primarily in the production and sale of, or in the purchase and 250  
sale of electricity or gas, or in the operation of telephone or 251  
telegraph systems or waterworks, or in some combination of them, 252  
and situated wholly in the United States, or the Commonwealth of 253  
Puerto Rico, or partly in the United States and partly in Canada, 254  
the average net yearly earnings of which, after deducting proper 255  
charges for replacements, depreciation, and obsolescence, for the 256  
five fiscal years preceding such investment, have been at least 257  
one and one-half times the average yearly interest for the same 258  
period on its mortgages, bonds, and funded debts; 259

(5) Any such corporation, or any of its predecessors, 260  
constituent, or successor corporations, must have been in business 261  
not less than ten years prior to the date of the purchase of such 262  
bonds, and must not have defaulted on the interest or principal of 263  
any of its bonds or funded debts outstanding during the five years 264  
immediately preceding the date of purchase, provided that division 265  
(J)(5) of this section does not preclude investments in mortgage 266  
bonds of railroads reorganized through purchase of assets, merger, 267  
consolidation, bankruptcy proceedings, or otherwise if such bonds 268  
are eligible for investment under division (J)(1) of this section; 269

(6) No investment shall be made under division (J)(1), (2), 270  
(4), or (5) of this section if such railroad or other utility 271

corporation and its business, and its issue of bonds, funded 272  
debts, and stocks are not under the supervision and control of an 273  
authorized state or federal official or commission, provided that 274  
division (J)(6) of this section does not apply to the mortgage 275  
bonds or other interest-bearing obligations of companies engaged 276  
in the operation of telephone or telegraph systems. 277

(K)(1) In bonds or notes secured by mortgages or deeds of 278  
trust which are a first lien upon unencumbered fee simple real 279  
estate in any state, the Commonwealth of Puerto Rico, the District 280  
of Columbia, or Canada, provided the amount loaned does not exceed 281  
eighty per cent of the actual market value of such property. 282

The actual market value of any such property shall be shown 283  
by a valuation and appraisal in writing by a qualified land 284  
appraiser. 285

In the event the amount loaned under division (K)(1) of this 286  
section exceeds eighty per cent of the actual market value of the 287  
land, the structures on the land must be insured by an authorized 288  
fire insurance company or covered by other comparable 289  
indemnification, and the policies or indemnifications shall be 290  
payable or assigned to the mortgagee or to a trustee in its behalf 291  
and shall be held by the mortgagee or an agent of the mortgagee or 292  
by such trustee; or in lieu of holding such policies or 293  
indemnifications, the mortgagee may purchase a policy or policies 294  
of mortgage protection insurance, payable to the mortgagee or a 295  
trustee in its behalf, insuring the mortgagee against loss 296  
resulting from the failure of the mortgagor to acquire and 297  
maintain, from such an authorized fire insurance company or other 298  
comparable source, insurance or indemnification. 299

(2) In bonds or notes secured by mortgages insured by the 300  
federal housing administrator; 301

(3) In bonds or notes secured by mortgages or deeds of trust 302

which are a first lien on leasehold estates in wholly or partly 303  
improved real property, unencumbered, except rentals accruing from 304  
the property to the owner of the fee, provided that any loan 305  
secured by a leasehold estate must provide for amortization by 306  
repayment of principal at least once in each year in amounts 307  
sufficient to repay the loan within a period of four-fifths of the 308  
unexpired term of the leasehold but within a period of not more 309  
than thirty years, and further provided that the amount loaned on 310  
the leasehold estate does not exceed seventy-five per cent of 311  
total market value of the leasehold estate determined by 312  
appraisements in writing made under oath by two real estate 313  
owners, residents of the county or local district in which the 314  
real estate is located, or by a qualified land appraiser; if the 315  
amount loaned exceeds seventy-five per cent of the value of that 316  
portion of the leasehold estate represented by the value of the 317  
land, exclusive of improvements on the land, such improvements 318  
shall be insured against fire for the benefit of the mortgagee in 319  
an amount not less than the difference between seventy-five per 320  
cent of the value of such land, exclusive of buildings, and the 321  
amount loaned; the policies for such amount shall be payable to 322  
and held by the mortgagee or a trustee named in the lease who 323  
shall be required by the terms of said lease to use and apply the 324  
proceeds of such insurance for repairing, restoring, or rebuilding 325  
such buildings; 326

(4) The following shall not be considered as prior liens or 327  
encumbrances in the construction and application of this section: 328  
leasehold estates of any duration, rights-of-way, servitudes, 329  
joint driveways, easements, party wall agreements, current taxes 330  
and assessments not delinquent, and restrictions as to building, 331  
use, and occupancy. 332

(5) This section does not prohibit a domestic life insurance 333  
company from renewing or extending a loan for the original or a 334

lesser amount nor does it prohibit a company from accepting as  
part payment for real estate sold by it a mortgage on the real  
estate for a greater percentage of the purchase price of the real  
estate than is otherwise permitted by this section.

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

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and during either of the last two years of such period, the net  
earnings available for fixed charges shall have been not less than  
one and one-half times fixed charges for such year, except that  
railroad companies and utility companies may qualify as lessees  
herein by application of the earnings test provided for railroads  
under division (J)(1) of this section and for utilities under  
division (J)(4) of this section; and (c) a first lien on the  
interest of the lessor in the unencumbered property so leased  
shall be obtained as additional security for the indebtedness;

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

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

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

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

distributable rental, for the benefit of the holders of 399  
outstanding certificates. 400

(N)(1) In certificates of deposit or other evidence of 401  
indebtedness of a savings and loan association provided the 402  
certificates or other evidence of deposit are insured pursuant to 403  
the "Financial Institutions Reform, Recovery, and Enforcement Act 404  
of 1989," 103 Stat. 183, 12 U.S.C.A. 1811, as amended; 405

(2) In interest-bearing obligations, including savings 406  
accounts and time certificates of deposit of a national bank or 407  
state bank provided such bank is a member of the federal deposit 408  
insurance corporation created pursuant to the "Banking Act of 409  
1933," 92 Stat. 624, 12 U.S.C.A. 624, as amended. 410

(O) In obligations issued, assumed, or guaranteed by the 411  
international finance corporation or by the international bank for 412  
reconstruction and development, the Asian development bank, the 413  
inter-American development bank, the African development bank, or 414  
other similar development bank in which the president, as 415  
authorized by congress and on behalf of the United States, has 416  
accepted membership; 417

(P)(1) In the preferred stocks of any company organized under 418  
the laws of the United States or of any state thereof engaged 419  
directly and primarily in the production and sale of, or in the 420  
purchase and sale of electricity or gas, or in the operation of 421  
telephone or telegraph systems or water works, or in some 422  
combination of them, if the average annual net earnings of such 423  
company, for not less than five fiscal years preceding purchase 424  
thereof, after deduction of interest on all mortgages, bonds, 425  
debentures, and funded debts and after deduction of the proper 426  
charges for replacements, depreciation, and obsolescence, have 427  
been at least two times the average yearly amount which is 428  
required to pay the dividends or distributions on all preferred 429  
stocks; and in which the mortgages, bonds, debentures, funded 430

debts, and preferred stocks shall not in the aggregate exceed 431  
seventy per cent of the total capitalization of such company, 432  
including mortgages, bonds, debentures, funded debts, and 433  
preferred and common stocks; 434

(2) In the preferred stocks of any other company organized 435  
under the laws of the United States, or of any state thereof if 436  
the average annual net earnings of such company for a period of 437  
not less than five fiscal years preceding purchase thereof, after 438  
deduction of interest on all mortgages, bonds, debentures, and 439  
funded debts and after deduction of the proper charges for 440  
replacements, depreciation, and obsolescence, have been at least 441  
four times the amount which is required to pay the dividends or 442  
distributions on all preferred stocks, and in which the mortgages, 443  
bonds, debentures, funded debts, and preferred stocks shall not in 444  
the aggregate exceed sixty per cent of the total capitalization of 445  
such company, including mortgages, bonds, debentures, funded 446  
debts, and preferred and common stocks; 447

(3) A domestic life insurance company shall not purchase any 448  
preferred stocks when the total market values of such stocks then 449  
owned with those purchased exceed in the aggregate of book values 450  
and purchase price the capital, surplus, and contingency funds, 451  
excluding all reserves required by law, of such company on the 452  
thirty-first day of December preceding the date of such purchase, 453  
or contemplated purchase, provided that in case of appreciations 454  
in values of stocks owned the cost rather than the market values 455  
shall be used in arriving at such aggregate; the purpose being to 456  
restrict the investments of such company in all preferred stocks 457  
to capital, surplus, and contingency funds. 458

(4) In the bonds, notes, debentures, or other evidences of 459  
indebtedness of a solvent corporation, trust, partnership, or 460  
similar business entity existing under the laws of the United 461  
States, of any state thereof, the Commonwealth of Puerto Rico, or 462

Canada or any province of Canada, provided that either: 463

(a) The bonds, notes, debentures, or other evidences of 464  
indebtedness of such corporation, trust, partnership, or similar 465  
business entity are rated 1 or 2 by the securities valuation 466  
office of the national association of insurance commissioners; 467

(b) The corporation, trust, partnership, or similar business 468  
entity has not defaulted in payment of interest or principal on 469  
any of its bonds, notes, debentures, or other evidences of 470  
indebtedness during the five years immediately preceding the date 471  
of purchase, and the average annual net earnings of such 472  
corporation, trust, partnership, or similar business entity that 473  
are available for fixed charges for not less than five fiscal 474  
years preceding such purchase have been at least one and one-half 475  
times the average fixed charges of such corporation, trust, 476  
partnership, or similar business entity for that period and during 477  
either of the last two years of such period, the net earnings 478  
available for fixed charges shall have been not less than one and 479  
one-half times the fixed charges of such corporation, trust, 480  
partnership, or similar business entity for such year. 481

(5) In common stocks or shares of any solvent incorporated 482  
company organized under the laws of the United States, or of any 483  
state, district, or territory thereof, or the Commonwealth of 484  
Puerto Rico, provided that a dividend or distribution has been 485  
paid by the corporation in the preceding twelve months upon such 486  
stock to be purchased, or that such corporation, together with its 487  
predecessor corporation or corporations, has been in existence for 488  
a period of at least five years. No domestic company shall invest 489  
in common stock or shares under divisions (P)(5) and (R) of this 490  
section a sum exceeding in the aggregate ten per cent of its 491  
admitted assets on the preceding thirty-first day of December. 492

(6) In the stocks or limited liability company membership 493  
interests of insurance corporations, financial corporations, 494

investment ~~corporations~~, and investment management companies, 495  
which investment management companies are registered with the 496  
securities and exchange commission under the "Investment Company 497  
Act of 1940," 54 Stat. 789, 15 80a-1, as amended, except its own 498  
stock, but no domestic life insurance company shall invest in such 499  
stocks or limited liability company membership interests under 500  
division (P)(6) of this section, exclusive of its investments in 501  
stocks or limited liability company membership interests of 502  
insurance company subsidiaries or subsidiaries engaged exclusively 503  
in the ownership of insurance company subsidiaries, a sum 504  
exceeding the lesser of fifty per cent of its policyholder surplus 505  
or ten per cent of its admitted assets as of the preceding 506  
thirty-first day of December unless the approval of the 507  
superintendent of insurance is first obtained. Whenever the 508  
superintendent has reason to believe that the retention, 509  
investment, or acquisition of the stock or limited liability 510  
company membership interest of any such ~~corporation~~ company 511  
substantially lessens competition generally in the business of 512  
insurance or creates a monopoly therein the superintendent shall 513  
proceed under section 3901.13 of the Revised Code to cause such 514  
domestic insurance company to divest itself of such stock or 515  
limited liability company membership interest. 516

(7)(a) In bonds, notes, debentures, or other evidences of 517  
indebtedness issued, assumed, or guaranteed by a solvent 518  
corporation, trust, or partnership formed or existing under the 519  
laws of a foreign jurisdiction, provided each such foreign 520  
investment is of the same kind and quality as United States 521  
investments authorized under this section; or in common or 522  
preferred stock or shares of any solvent corporation formed or 523  
existing under the laws of a foreign jurisdiction provided each 524  
such foreign investment is of the same kind and quality as United 525  
States investments authorized under this section; or in bonds or 526  
other evidences of indebtedness issued, assumed, or guaranteed by 527

a foreign jurisdiction. 528

An insurer shall not invest in foreign investments under 529  
division (P)(7) of this section, including investments denominated 530  
in foreign currency, a sum exceeding in the aggregate fifteen per 531  
cent of its admitted assets as of the preceding thirty-first day 532  
of December. The aggregate amount of investments held by an 533  
insurer in a single foreign jurisdiction shall not exceed three 534  
per cent of its admitted assets as of the preceding thirty-first 535  
day of December. 536

As used in division (P)(7)(a) of this section, "foreign 537  
jurisdiction" means a jurisdiction outside the United States, 538  
Puerto Rico, or Canada, whose bonds are rated 1 by the securities 539  
valuation office of the national association of insurance 540  
commissioners. 541

(b) An insurer may acquire investments denominated in foreign 542  
currency whether or not they are foreign investments. 543

An insurer shall not invest in investments denominated in 544  
foreign currency a sum exceeding in the aggregate ten per cent of 545  
its admitted assets as of the preceding thirty-first day of 546  
December. The aggregate amount of investments denominated in a 547  
single foreign currency held by an insurer shall not exceed three 548  
per cent of an insurer's admitted assets as of the preceding 549  
thirty-first day of December. 550

(c) As used in division (P)(7) of this section, "foreign 551  
currency" means a currency other than that of the United States. 552

(8) An insurer may invest without limitation in investments 553  
of government money market funds. As used in division (P)(8) of 554  
this section, "government money market fund" means a mutual fund 555  
that at all times invests in obligations issued, guaranteed, or 556  
insured by the federal government of the United States, or 557  
collateralized repurchase agreements comprised of these 558

obligations, and that qualifies for investment without a reserve 559  
pursuant to the purposes and procedures of the securities 560  
valuation office of the national association of insurance 561  
commissioners. 562

(Q) In loans upon the pledge of any securities in which such 563  
companies are authorized by this section to invest, provided that 564  
any loan upon such a pledge shall not exceed eighty per cent of 565  
the cash market value of the collateral at the time of the making 566  
of such loan and at the end of each twelve-month period 567  
thereafter, and such company, through the collateral pledged to 568  
it, shall not exceed the amounts which it may, under this section, 569  
invest in one corporation so that, in the stocks and securities 570  
which may be owned and those which are pledged to it, the 571  
limitations in this section might be indirectly evaded; 572

(R)(1) Any domestic legal reserve life insurance company may 573  
loan or invest its funds, to an extent not exceeding in the 574  
aggregate five per cent of its total admitted assets, in loans or 575  
investments not permitted under this section. Any such company may 576  
also invest up to an additional five per cent of its total 577  
admitted assets, in loans or investments in small businesses 578  
having more than half of their assets or employees in this state 579  
and in venture capital firms having an office within this state, 580  
provided that, as a condition of a company making an investment in 581  
a venture capital firm, the firm must agree to use its best 582  
efforts to make investments, in an aggregate amount at least equal 583  
to the investment to be made by the company in that venture 584  
capital firm, in small businesses having their principal offices 585  
within this state and having either more than one-half of their 586  
assets within this state or more than one-half of their employees 587  
employed within this state. 588

As used in division (R) of this section: 589

(a) "Small businesses" means any corporation, partnership, 590

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

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

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

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

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

prohibit an agreement by an insurance company for the purchase for 623  
its own account of an entire issue of the securities of a 624  
corporation or to invalidate or prohibit an agreement by an 625  
insurance company and one or more other investors to join and 626  
share in the purchase of investments for their individual accounts 627  
and for bona fide investment purposes. 628

(2) In the determination of capitalization in this section 629  
the value of all bonds, debentures, and funded debts, and 630  
nonconvertible or nonparticipating preferred stocks shall be 631  
figured at par. Participating or convertible preferred shares 632  
shall be figured at par or market on the preceding thirty-first 633  
day of December, whichever is higher, and the value of all common 634  
shares shall be figured at the market on the preceding 635  
thirty-first day of December. 636

(3) As used in this section: 637

(a) "Funded debt" means all interest-bearing obligations 638  
maturing in more than one year from their issuance and all 639  
guaranteed or assumed interest-bearing obligations or stock. 640  
Securities or stock of a corporation pledged to secure other 641  
funded debt of the corporation are not included in the funded 642  
debt. 643

(b) "Fixed charges" include actual interest incurred in each 644  
year on funded and unfunded debt and annual apportionment of debt 645  
discount or premium. Where interest is partially or entirely 646  
contingent upon earnings, "fixed charges" include contingent 647  
interest payments. 648

(c) "Net earnings available for fixed charges" means income 649  
after deducting operating and maintenance expenses, taxes other 650  
than income taxes, depreciation, and depletion. Extraordinary, 651  
nonrecurring items of income or expense shall be excluded. 652

(4) Except as provided in a plan of mutualization adopted 653

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

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

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

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

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lessee under division (L) of this section to be the person to whom  
any such investment or loan is made.

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

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

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

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

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

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(B)(1) Legally authorized and executed bonds, notes, 717  
warrants, and securities which are the direct obligation of or are 718  
guaranteed as to both principal and interest by Canada, or which 719  
are the direct obligation of or are guaranteed as to both 720  
principal and interest by any province of Canada, or which are the 721  
direct obligation of or are guaranteed as to both principal and 722  
interest by any municipal corporation of Canada having a 723  
population of one hundred thousand or more by the latest official 724  
census, and which are not in default as to principal or interest; 725

(2) Obligations issued, assumed, or guaranteed by the 726  
international finance corporation or by the international bank for 727  
reconstruction and development, the Asian development bank, the 728  
inter-American development bank, the African development bank, or 729  
similar development bank in which the president, as authorized by 730  
congress and on behalf of the United States, has accepted 731  
membership. 732

(C) Bonds or other evidences of indebtedness, not in default 733  
as to principal or interest, which are valid obligations issued, 734  
assumed, or guaranteed by the United States, by any state thereof, 735  
the Commonwealth of Puerto Rico, by any territory or insular 736  
possession of the United States, or by the District of Columbia, 737  
or which are valid obligations issued, assumed, or guaranteed by 738  
any county, municipal corporation, district, or political 739  
subdivision, or by any civil division or public instrumentality of 740  
such governmental units, if by statutory or other legal 741  
requirements such obligations are payable, as to both principal 742  
and interest, from taxes levied upon all taxable property within 743  
the jurisdiction of such governmental unit, or in bonds or other 744  
obligations issued by or for account of any such governmental unit 745  
having a population of five thousand or more by the latest 746  
official federal or state census, which are payable as to both 747  
principal and interest from revenues or earnings from the whole or 748

any part of a publicly owned utility, provided that by statute or 749  
other applicable legal requirements, rates from the service or 750  
operation of such utility must be fixed, maintained, and collected 751  
at all times so as to produce sufficient revenues or earnings to 752  
pay both principal and interest of such bonds or obligations as 753  
they become due, and in any bonds or obligations issued or 754  
guaranteed by the United States, any state, the District of 755  
Columbia, the Commonwealth of Puerto Rico, any county, municipal 756  
corporation, district, political subdivision, civil division, 757  
commission, board, authority, agency, or other instrumentality of 758  
one or more of them, provided there is a specific pledge of 759  
revenues, earnings, or other adequate security and provided that 760  
no prior or parity obligation of the same issuer, payable from 761  
revenues or earnings from the same source, has been in default as 762  
to principal or interest during the five years next preceding the 763  
date of such investment, but such issuer need not have been in 764  
existence for that period, and obligations acquired under this 765  
section may be newly issued, and further provided that there is 766  
adequate provision for payment of expenses of operation and 767  
maintenance and the principal and interest on all obligations when 768  
due; 769

(D)(1) Bonds or other evidences of indebtedness, bearing or 770  
accruing interest, issued, assumed, or guaranteed by any solvent 771  
corporation, trust, partnership, or similar business entity 772  
organized and existing under the laws of this or any other state, 773  
or of the United States, the Commonwealth of Puerto Rico, or of 774  
the District of Columbia, or of Canada or any province of Canada, 775  
upon which there is no existing interest or principal default, 776  
provided that either: 777

(a) The bonds or other evidences of indebtedness are rated 1 778  
or 2 by the securities valuation office of the national 779  
association of insurance commissioners; 780

(b) The corporation, together with its predecessor 781  
corporation or corporations, or the trust, partnership, or similar 782  
business entity, has been in existence for a period of at least 783  
five years. 784

(2) Stocks or limited liability company membership interests 785  
of any insurance ~~corporation~~, financial ~~corporation~~, investment 786  
~~corporation~~, and investment management ~~company~~ companies, which 787  
investment management ~~company~~ is companies are registered with the 788  
securities and exchange commission under the "Investment Company 789  
Act of 1940," 54 Stat. 789, 15 U.S.C. 80a-1, as amended, except 790  
its own stock, and stocks or limited liability company membership 791  
interests, bonds, notes, and debentures of any ~~corporation~~ company 792  
which is organized for, and limited in its operations to, the 793  
financing of insurance premiums, upon approval of such investments 794  
by the superintendent of insurance; except that approval shall not 795  
be required for the purchase of the outstanding stocks or limited 796  
liability company membership interests of any such ~~corporation~~ 797  
company, if investment in each such ~~corporation~~ company does not 798  
exceed in the aggregate two and one-half per cent of the total 799  
admitted assets of the company making the investment as of the 800  
preceding thirty-first day of December. Whenever the 801  
superintendent has reason to believe that the retention, 802  
investment, or acquisition of the stock or limited liability 803  
company membership interest of any such ~~corporation~~ company 804  
substantially lessens competition generally in the business of 805  
insurance or creates a monopoly therein ~~he~~ the superintendent 806  
shall proceed under section 3901.13 of the Revised Code to cause 807  
such domestic insurance company to divest itself of such stock or 808  
limited liability company membership interest. 809

(3) Other stocks of any solvent corporation organized under 810  
the laws of this or any other state, or of the United States, or 811  
of the District of Columbia, or of Canada or any province of 812

Canada, provided that a dividend or distribution has been paid by 813  
the corporation in the preceding twelve months upon the stock to 814  
be purchased or such corporation, together with its predecessor 815  
corporation or corporations, has been in existence for a period of 816  
at least five years. 817

(4) A domestic company may acquire, hold, and convey tangible 818  
personal property or interests therein for the production of 819  
income, provided no domestic company shall invest in excess of two 820  
per cent of its admitted assets as of the preceding thirty-first 821  
day of December under this division. 822

(5) In equipment trust obligations or certificates, security 823  
agreements, or other evidences of indebtedness entered into 824  
directly or guaranteed by any company operating wholly or partly 825  
within the United States or Canada, provided that such debt 826  
obligation is secured by a first lien on tangible personal 827  
property which is purchased or secured for payment thereof and 828  
such debt obligation is repayable within twenty years from the 829  
date of issue in annual, semiannual, or more frequent installments 830  
beginning not later than the first year after such date. 831

(6) An insurer may invest without limitation in investments 832  
of government money market funds. As used in division (D)(6) of 833  
this section, "government money market fund" means a fund that at 834  
all times invests in obligations issued, guaranteed, or insured by 835  
the federal government of the United States or collateralized 836  
repurchase agreements comprised of such obligations, and that 837  
qualifies for investment without a reserve pursuant to the 838  
purposes and procedures of the securities valuation office of the 839  
national association of insurance commissioners. 840

(E) Negotiable promissory notes maturing in not more than six 841  
months from the date thereof, secured by collateral security 842  
through the transfer of any of the classes of securities described 843  
in this section or in sections 3925.05 and 3925.06 of the Revised 844

Code, with absolute power of sale within twenty days after default 845  
in payment at maturity; 846

(F)(1) Repurchase agreements with, and interest-bearing 847  
obligations, including savings accounts and time certificates of 848  
deposit of, a national bank of the United States, a commonwealth 849  
bank of Puerto Rico, a chartered bank of Canada, or a state bank, 850  
provided such bank is either a member of the federal deposit 851  
insurance corporation created pursuant to the "Banking Act of 852  
1933," as amended, or the Canada deposit insurance corporation 853  
created pursuant to the act of parliament known as the "Canada 854  
Deposit Insurance Corporation Act," as amended. 855

(2) Certificates of deposit, savings share accounts, 856  
investment share accounts, stock deposits, stock certificates, or 857  
other evidences of indebtedness of a savings and loan association, 858  
provided all such evidences of indebtedness are insured pursuant 859  
to the "Financial Institutions Reform, Recovery, and Enforcement 860  
Act of 1989," 103 Stat. 183, 12 U.S.C.A. 1811, as amended; 861

(3) Bankers' acceptances and bills of exchange of the kinds 862  
and maturities made eligible by law for rediscount with the 863  
federal reserve banks, provided that the same are accepted by a 864  
bank or trust company incorporated under the laws of the United 865  
States or of this state or any other bank or trust company which 866  
is a member of the federal reserve system. 867

(G) Any securities issued as a result of any reorganization, 868  
or capital or debt adjustment, in whole or in part, in exchange 869  
for securities acquired by it prior to such reorganization, or 870  
capital or debt adjustment; 871

(H)(1) In bonds, notes, debentures, or other evidences of 872  
indebtedness issued, assumed, or guaranteed by a solvent 873  
corporation, trust, or partnership formed or existing under the 874  
laws of a foreign jurisdiction, provided each such foreign 875

investment is of the same kind and quality as United States 876  
investments authorized under this section; or in common or 877  
preferred stock or shares of any solvent corporation formed or 878  
existing under the laws of a foreign jurisdiction, provided each 879  
such foreign investment is of the same kind and quality as United 880  
States investments authorized under this section; or in bonds or 881  
other evidences of indebtedness issued, assumed, or guaranteed by 882  
a foreign jurisdiction. 883

An insurer shall not invest in foreign investments under 884  
division (H) of this section, including investments denominated in 885  
foreign currency, a sum exceeding in the aggregate fifteen per 886  
cent of its admitted assets as of the preceding thirty-first day 887  
of December. The aggregate amount of investments held by an 888  
insurer in a single foreign jurisdiction shall not exceed three 889  
per cent of its admitted assets as of the preceding thirty-first 890  
day of December. 891

As used in division (H)(1) of this section, "foreign 892  
jurisdiction" means a jurisdiction outside the United States, 893  
Puerto Rico, or Canada whose bonds are rated 1 by the securities 894  
valuation office of the national association of insurance 895  
commissioners. 896

(2) An insurer may acquire investments denominated in foreign 897  
currency whether or not they are foreign investments. 898

An insurer shall not invest in investments denominated in 899  
foreign currency a sum exceeding in the aggregate ten per cent of 900  
its admitted assets as of the preceding thirty-first day of 901  
December. The aggregate amount of investments denominated in a 902  
single foreign currency held by an insurer shall not exceed three 903  
per cent of an insurer's admitted assets as of the preceding 904  
thirty-first day of December. 905

(3) As used in division (H) of this section, "foreign 906

currency" means a currency other than that of the United States. 907

(I)(1) Any securities or other property not permitted under 908  
section 3925.05, 3925.06, 3925.08, or 3925.20 of the Revised Code 909  
to an extent not exceeding in the aggregate six per cent of the 910  
total admitted assets of such company on the preceding 911  
thirty-first day of December, within the limitations prescribed in 912  
division (J) of this section. Any such company may also invest up 913  
to an additional five per cent of the total admitted assets of 914  
such company on the preceding thirty-first day of December, within 915  
the limitations prescribed in division (J) of this section, in 916  
loans or investments in small businesses having more than half of 917  
their assets or employees in this state and in venture capital 918  
firms having an office within this state, provided that, as a 919  
condition of a company making an investment in a venture capital 920  
firm, the firm must agree to use its best efforts to make 921  
investments, in an aggregate amount at least equal to the 922  
investment to be made by the company in that venture capital firm, 923  
in small businesses having their principal offices within this 924  
state and having either more than one-half of their assets within 925  
this state or more than one-half of their employees employed 926  
within this state. 927

As used in division (I) of this section: 928

(a) "Small businesses" means any corporation, partnership, 929  
proprietorship, or other entity that either does not have more 930  
than four hundred employees, or would qualify as a small business 931  
for the purpose of receiving financial assistance from small 932  
business investment companies licensed under the "Small Business 933  
Investment Act of 1958," 72 Stat. 689, 15 U.S.C.A. 661, as 934  
amended, and rules of the small business administration. 935

(b) "Venture capital firms" means any corporation, 936  
partnership, proprietorship, or other entity, the principal 937  
business of which is or will be the making of investments in small 938

businesses.

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

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

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

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

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**Section 2.** That existing sections 3901.64, 3903.32, 3907.14,

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and 3925.08 of the Revised Code are hereby repealed.

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