

AN ACT

To amend sections 1739.02, 1739.99, 1751.02, 1751.28, 3901.78, 3905.14, 3917.01, and 3999.99 and to enact sections 1739.27 and 3999.18 of the Revised Code to change the assets that are considered to be admitted assets for purposes of meeting the statutory minimum for health insuring corporations, to provide an option for group life insurance coverage for certain members of a workforce, to provide for criminal and financial penalties for persons establishing or operating unlicensed health care insurers and criminal and administrative penalties for agents selling policies of unlicensed insurers, and to amend provisions governing the issuance of certificates of compliance to insurers.

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

SECTION 1. That sections 1739.02, 1739.99, 1751.02, 1751.28, 3901.78, 3905.14, 3917.01, and 3999.99 be amended and sections 1739.27 and 3999.18 of the Revised Code be enacted to read as follows:

Sec. 1739.02. (A) A trade association, industry association, or professional association that has been organized and maintained in good faith for a continuous period of one year or more for purposes other than obtaining insurance may establish, maintain, or operate a group self-insurance program under a multiple employer welfare arrangement that is chartered and created in this state under sections 1739.01 to 1739.22 of the Revised Code.

(B) Except as provided in section 9.833 and sections 1739.01 to 1739.22 of the Revised Code, no multiple employer welfare arrangement or other entity by which two or more employers jointly participate in a common employee welfare benefit plan shall operate a group self-insurance program in this state after four months after the effective date of this section.

(C) Sections 1739.01 to 1739.22 of the Revised Code do not apply to

any entity that establishes, maintains, or operates a fully-insured program.

(D) No person shall establish, operate, or maintain a multiple employer welfare arrangement providing benefits through a group self-insurance program in this state unless the multiple employer welfare arrangement has a valid certificate of authority from the superintendent of insurance.

Sec. 1739.27. No insurance agent, broker, or other person shall advertise, solicit, negotiate, collect a premium on, or sell any enrollment in, a group self-insurance program in this state, unless the multiple employer welfare arrangement has a valid certificate of authority from the superintendent of insurance.

Sec. 1739.99. (A) Whoever violates division (B) of section 1739.02 of the Revised Code is guilty of a felony of the fourth degree.

(B) Whoever violates division (D) of section 1739.02 of the Revised Code is guilty of a felony of the fourth degree.

(C) Whoever violates section 1739.27 of the Revised Code is guilty of a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense.

(D) If a person is found guilty under this section, the court may award restitution in accordance with section 2929.18 of the Revised Code.

Sec. 1751.02. (A) Notwithstanding any law in this state to the contrary, any corporation, as defined in section 1751.01 of the Revised Code, may apply to the superintendent of insurance for a certificate of authority to establish and operate a health insuring corporation. If the corporation applying for a certificate of authority is a foreign corporation domiciled in a state without laws similar to those of this chapter, the corporation must form a domestic corporation to apply for, obtain, and maintain a certificate of authority under this chapter.

(B) No person shall establish, operate, or perform the services of a health insuring corporation in this state without obtaining a certificate of authority under this chapter.

(C) Except as provided by division (D) of this section, no political subdivision or department, office, or institution of this state, or corporation formed by or on behalf of any political subdivision or department, office, or institution of this state, shall establish, operate, or perform the services of a health insuring corporation. Nothing in this section shall be construed to preclude a board of county commissioners, a county board of mental retardation and developmental disabilities, an alcohol and drug addiction services board, a board of alcohol, drug addiction, and mental health services, or a community mental health board, or a public entity formed by or on behalf of any of these boards, from using managed care techniques in

carrying out the board's or public entity's duties pursuant to the requirements of Chapters 307., 329., 340., and 5126. of the Revised Code. However, no such board or public entity may operate so as to compete in the private sector with health insuring corporations holding certificates of authority under this chapter.

(D) A corporation formed by or on behalf of a publicly owned, operated, or funded hospital or health care facility may apply to the superintendent for a certificate of authority under division (A) of this section to establish and operate a health insuring corporation.

(E) A health insuring corporation shall operate in this state in compliance with this chapter and Chapter 1753. of the Revised Code, and with sections 3702.51 to 3702.62 of the Revised Code, and shall operate in conformity with its filings with the superintendent under this chapter, including filings made pursuant to sections 1751.03, 1751.11, 1751.12, and 1751.31 of the Revised Code.

(F) An insurer licensed under Title XXXIX of the Revised Code need not obtain a certificate of authority as a health insuring corporation to offer an open panel plan as long as the providers and health care facilities participating in the open panel plan receive their compensation directly from the insurer. If the providers and health care facilities participating in the open panel plan receive their compensation from any person other than the insurer, or if the insurer offers a closed panel plan, the insurer must obtain a certificate of authority as a health insuring corporation.

(G) An intermediary organization need not obtain a certificate of authority as a health insuring corporation, regardless of the method of reimbursement to the intermediary organization, as long as a health insuring corporation or a self-insured employer maintains the ultimate responsibility to assure delivery of all health care services required by the contract between the health insuring corporation and the subscriber and the laws of this state or between the self-insured employer and its employees.

Nothing in this section shall be construed to require any health care facility, provider, health delivery network, or intermediary organization that contracts with a health insuring corporation or self-insured employer, regardless of the method of reimbursement to the health care facility, provider, health delivery network, or intermediary organization, to obtain a certificate of authority as a health insuring corporation under this chapter, unless otherwise provided, in the case of contracts with a self-insured employer, by operation of the "Employee Retirement Income Security Act of 1974," 88 Stat. 829, 29 U.S.C.A. 1001, as amended.

(H) Any health delivery network doing business in this state, including

any health delivery network that is functioning as an intermediary organization doing business in this state, that is not required to obtain a certificate of authority under this chapter shall certify to the superintendent annually, not later than the first day of July, and shall provide a statement signed by the highest ranking official which includes the following information:

(1) The health delivery network's full name and the address of its principal place of business;

(2) A statement that the health delivery network is not required to obtain a certificate of authority under this chapter to conduct its business.

(I) The superintendent shall not issue a certificate of authority to a health insuring corporation that is a provider sponsored organization unless all health care plans to be offered by the health insuring corporation provide basic health care services. Substantially all of the physicians and hospitals with ownership or control of the provider sponsored organization, as defined in division (X) of section 1751.01 of the Revised Code, shall also be participating providers for the provision of basic health care services for health care plans offered by the provider sponsored organization. If a health insuring corporation that is a provider sponsored organization offers health care plans that do not provide basic health care services, the health insuring corporation shall be deemed, for purposes of section 1751.35 of the Revised Code, to have failed to substantially comply with this chapter.

Except as specifically provided in this division and in division ~~(C)~~(A) of section 1751.28 of the Revised Code, the provisions of this chapter shall apply to all health insuring corporations that are provider sponsored organizations in the same manner that these provisions apply to all health insuring corporations that are not provider sponsored organizations.

(J) Nothing in this section shall be construed to apply to any multiple employer welfare arrangement operating pursuant to Chapter 1739. of the Revised Code.

(K) Any person who violates division (B) of this section, and any health delivery network that fails to comply with division (H) of this section, is subject to the penalties set forth in section 1751.45 of the Revised Code.

Sec. 1751.28. (A) ~~As used in this section:~~

~~(1) "Admitted assets" includes the investments authorized by section 1751.25 of the Revised Code, and, in addition to these investments, only the following:~~

~~(a) Petty cash and other cash funds that are in the health insuring corporation's principal office or any official branch office and that are under the control of the corporation;~~

~~(b) Immediately withdrawable funds on deposit in demand accounts in a bank or trust company, or similar funds that are actually in the health insuring corporation's principal office or any official branch office at statement date and that are in transit to the bank or trust company with authentic deposit credit given prior to the close of business on the fifth bank business day following the statement date;~~

~~(c) The amount fairly estimated as recoverable on cash deposited in a bank or trust company the operations of which have been suspended or for which a receiver has been appointed, if qualifying under this section prior to the suspension of operations of or the appointment of a receiver for the bank or trust company;~~

~~(d) Bills and accounts receivable collateralized by securities of the kind in which the health insuring corporation may invest;~~

~~(e) Premiums receivable from groups or individuals that are not more than ninety days past due;~~

~~(f) Accounts receivable that are not more than ninety days past due;~~

~~(g) Amounts due under reinsurance arrangements from insurance companies authorized to do business in this state;~~

~~(h) Tax refunds due from the United States or any state;~~

~~(i) The interest accrued on mortgage loans that conform to section 3925.08 of the Revised Code, not exceeding on an individual loan an aggregate amount of one year's total due and accrued interest;~~

~~(j) The rents accrued and owing to the health insuring corporation on real and personal property, directly or beneficially owned, not exceeding on each individual property the amount of one year's total due and accrued rent;~~

~~(k) Interest or rents accrued on conditional sales agreements, security interests, chattel mortgages, and real or personal property under lease to other corporations, that conform to section 3925.08 of the Revised Code, not exceeding on any individual investment the amount of one year's total due and accrued interest or rent;~~

~~(l) The fixed and required interest due and accrued on bonds and other similar evidences of indebtedness, that conform to section 3925.08 of the Revised Code, and not in default;~~

~~(m) Dividends receivable on shares of stock that conform to section 3925.08 of the Revised Code, provided that the market price taken for valuation purposes does not include the value of the dividend;~~

~~(n) The interest or dividends due and payable, but not credited, on deposits in banks and trust companies or on accounts with savings and loan associations;~~

~~(o) Interest accrued on secured loans that conform to section 3925.08 of~~

~~the Revised Code, not exceeding the amount of one year's interest on any loan;~~

~~(p) Interest accrued on tax anticipation warrants;~~

~~(q) The amortized value of electronic computer or data processing machines or systems purchased for use in connection with the business of the health insuring corporation, including software purchased and developed specifically for the use and purposes of the corporation;~~

~~(r) The cost of furniture, equipment, and medical equipment, less accumulated depreciation on the furniture and equipment to be applied pro rata over a period not to exceed five years, and of medical and pharmaceutical supplies, that are under the control of the health insuring corporation, provided these assets do not exceed fifteen per cent of admitted assets;~~

~~(s) Amounts due from affiliates to the extent that the affiliate has liquid assets with which to pay the balance and maintain its accounts on a current basis. Any amount outstanding more than three months shall be considered not current.~~

~~(2) "Liabilities" means the liabilities of the health insuring corporation as determined by the superintendent of insurance.~~

~~(B) All admitted assets of a health insuring corporation must be held in the health insuring corporation's name and must be free and clear of any encumbrances, pledges, or hypothecation.~~

~~(C)(1) Every health insuring corporation authorized to provide basic health care services, which health insuring corporation is not a provider sponsored organization, shall maintain total admitted assets equal to at least one hundred ten per cent of the liabilities of the corporation. However, at no time shall the corporation's net worth be less than one million two hundred thousand dollars.~~

~~(2) Every health insuring corporation authorized to provide only supplemental health care services shall maintain total admitted assets equal to at least one hundred ten per cent of the liabilities of the corporation. However, at no time shall the corporation's net worth be less than five hundred thousand dollars.~~

~~(3) Every health insuring corporation authorized to provide only specialty health care services shall maintain total admitted assets equal to at least one hundred ten per cent of the liabilities of the corporation. However, at no time shall the corporation's net worth be less than two hundred fifty thousand dollars.~~

~~(4) Every health insuring corporation authorized to provide both basic health care services and supplemental health care services, which health~~

insuring corporation is not a provider sponsored organization, shall maintain total admitted assets equal to at least one hundred ten per cent of the liabilities of the corporation. However, at no time shall the corporation's net worth be less than one million seven hundred thousand dollars.

(5) Every health insuring corporation authorized to provide both basic health care services and specialty health care services, which health insuring corporation is not a provider sponsored organization, shall maintain total admitted assets equal to at least one hundred ten per cent of the liabilities of the corporation. However, at no time shall the corporation's net worth be less than one million four hundred fifty thousand dollars.

(6) Every health insuring corporation authorized to provide basic health care services, which health insuring corporation is a provider sponsored organization, shall maintain total admitted assets equal to at least one hundred ten per cent of the liabilities of the corporation. However, at no time shall the corporation's net worth be less than one million dollars.

(7) Every health insuring corporation authorized to provide both basic health care services and supplemental health care services, which health insuring corporation is a provider sponsored organization, shall maintain total admitted assets equal to at least one hundred ten per cent of the liabilities of the corporation. However, at no time shall the corporation's net worth be less than one million five hundred thousand dollars.

(8) Every health insuring corporation authorized to provide both basic health care services and specialty health care services, which health insuring corporation is a provider sponsored organization, shall maintain total admitted assets equal to at least one hundred ten per cent of the liabilities of the corporation. However, at no time shall the corporation's net worth be less than one million two hundred fifty thousand dollars.

~~(D) The admitted value of any real estate owned by a health insuring corporation, whether used for the accommodation of the health insuring corporation's business operations or otherwise, shall be the original cost plus the cost of improvements, less encumbrances and accumulated depreciation.~~

~~(E)~~(B) The net worth otherwise required by this section shall be reduced by an amount representing credit given to reserve liabilities when a health insuring corporation carries reinsurance with an admitted reinsurer. However, such an amount shall not affect the minimum amounts set forth in this section and section 1751.27 of the Revised Code.

(C) A health insuring corporation may only consider those admitted assets in connection with this section that are consistent with the forms, instructions, and manuals for the preparation and reporting of statutory financial statements and other financial information set forth in section

1751.47 of the Revised Code and any rules adopted under that section.

(D) All health insuring corporations must comply with this section, as amended, for calendar year 2004 and each calendar year thereafter.

~~Sec. 3901.78. Upon the filing of each of its annual statements, or as soon thereafter as practicable, the superintendent of insurance shall issue to each insurance company or association authorized to do business in this state but not incorporated under the laws of this state a certificate ~~that it has complied with the laws of this state.~~ Such certificate of compliance shall also contain a statement of the amounts of the paid-up capital stock, assets, liabilities, income, and expenditures of the company or association for the preceding year, as shown by its annual statement for that year. The superintendent shall issue to each newly applying company or association that the superintendent finds should be authorized to do business in this state, a certificate that it has complied with the laws of this state, which certificate shall contain a statement of the amounts of its paid-up capital stock, assets, liabilities, income, and expenditures as shown by a financial statement submitted by it, under the oath of its officers. of compliance, an original of which must be published in accordance with section 3901.781 of the Revised Code in every county where the insurance company or association has an agency. Upon request or in any other circumstance that the superintendent determines to be appropriate, the superintendent may issue other certificates of compliance, which certificates are not subject to section 3901.781 of the Revised Code, to insurance companies and associations authorized to do business in this state. Certificates of compliance either must be on forms established by the national association of insurance commissioners or on such other forms as the superintendent may prescribe.~~

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

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

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

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

(4) "Surrender for cause" means the voluntary termination of all authority to hold any license as an agent in this state, in lieu of a revocation or suspension order.

(5) "Suspension" means the termination of all authority to hold any

license as an agent in this state, for either a specified period of time or an indefinite period of time and under any terms or conditions determined by the superintendent.

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

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

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

(3) Obtaining or attempting to obtain a license through misrepresentation or fraud;

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

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

(6) Having been convicted of a felony;

(7) Having been convicted of a misdemeanor that involves the misuse or theft of money or property belonging to another, fraud, forgery, dishonest acts, or breach of a fiduciary duty, that is based on any act or omission relating to the business of insurance, securities, or financial services, or that involves moral turpitude;

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

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

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

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

(12) Improperly using notes or any other reference material to complete an examination for an insurance agent license;

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

(14) Failing to comply with any administrative or court order directing payment of state income tax;

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

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

(17) Having any professional license suspended or revoked as a result of a mishandling of funds or breach of fiduciary responsibilities or having been subject to a cease and desist order or permanent injunction for unlicensed activities;

(18) Causing or permitting a policyholder or applicant for insurance to designate the insurance agent or the insurance agent's spouse, parent, child, or sibling as the beneficiary of a policy or annuity sold by the insurance agent, unless the insurance agent or a relative of the insurance agent is the insured or applicant;

(19) Failing to provide a written response to the department of insurance within twenty-one calendar days after receipt of any written inquiry from the department, unless a reasonable extension of time has been requested of, and granted by, the superintendent;

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

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

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

(23) Submitting or using a document in the conduct of the business of insurance when the person knew or should have known that the document contained the forged signature of another person;

(24) Misrepresenting the person's qualifications or using in any way a professional designation that has not been conferred upon the person by the

appropriate accrediting organization;

(25) Obtaining a premium loan or causing a premium loan to be made to or in the name of an insured without that person's knowledge and written authorization;

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

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

(28) Soliciting, marketing, or selling any product or service that offers benefits similar to insurance but is not regulated by the superintendent, without fully disclosing to the prospective purchaser that the product or service is not insurance and is not regulated by the superintendent;

(29) Failing to fulfill a refund obligation to a policyholder or applicant in a timely manner. For purposes of division (B)(29) of this section, a rebuttable presumption exists that a refund obligation is not fulfilled in a timely manner unless it is fulfilled within one of the following time periods:

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

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

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

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

(30) With respect to a surety bail bond agent license, rebating or offering to rebate, or unlawfully dividing or offering to divide, any commission;

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

(32) In the case of an insurance agent that is a business entity, using a life license for the principal purpose of soliciting or placing insurance on the lives of the business entity's officers, employees, or shareholders, or on the

lives of relatives of such officers, employees, or shareholders, or on the lives of persons for whom they, their relatives, or the business entity is agent, custodian, vendor, bailee, trustee, or payee;

(33) ~~Offering within this state, in person or by advertisement, poster, letter, circular, or otherwise, to sell, procure, or obtain, selling, soliciting, or negotiating~~ policies, contracts, agreements, or applications for ~~life insurance,~~ or annuities providing fixed, variable, or fixed and variable benefits, or contractual payments, ~~or any form of sickness and accident insurance,~~ for or on behalf of any ~~life insurance corporation, association, or organization, or mutual protective or mutual benefit association or organization,~~ insurer or multiple employer welfare arrangement not authorized to transact business in this state, or for or on behalf of any spurious, fictitious, nonexistent, dissolved, inactive, liquidated or liquidating, or bankrupt ~~life insurance corporation, association, or organization, or mutual protective or mutual benefit association or organization~~ insurer or multiple employer welfare arrangement.

(C) Before denying, revoking, suspending, or refusing to issue any license or imposing any penalty under this section, the superintendent shall provide the licensee or applicant with 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 residential address of a licensee or applicant, or the principal-place-of-business address of a business entity, that is contained in the licensing records of the department.

(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 party 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 party's attorney by ordinary mail if the attorney has entered an appearance in the matter.

(e) The superintendent may, at any time, perfect service on a party 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 (C)(1)(a) of this section shall be sent by ordinary mail to the party and to the party's attorney.

(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.

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

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

(2) Assess administrative costs to cover the expenses incurred by the department in the administrative action, including costs incurred in the investigation and hearing processes. Any costs collected shall be paid into the state treasury to the credit of the department of insurance operating fund created in section 3901.021 of the Revised Code.

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

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

(5) Refuse to issue a license;

(6) Refuse to renew a license;

(7) Prohibit the person from being employed in any capacity in the business of insurance and from having any financial interest in any insurance agency, company, surety bail bond business, or third-party

administrator in this state. The superintendent may, in the superintendent's discretion, determine the nature, conditions, and duration of such restrictions.

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

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

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

- (1) Whether the person acted in good faith;
- (2) Whether the person made restitution for any pecuniary losses suffered by other persons as a result of the person's actions;
- (3) The actual harm or potential for harm to others;
- (4) The degree of trust placed in the person by, and the vulnerability of, persons who were or could have been adversely affected by the person's actions;
- (5) Whether the person was the subject of any previous administrative actions by the superintendent;
- (6) The number of individuals adversely affected by the person's acts or omissions;
- (7) Whether the person voluntarily reported the violation, and the extent of the person's cooperation and acceptance of responsibility;
- (8) Whether the person obstructed or impeded, or attempted to obstruct or impede, the superintendent's investigation;
- (9) The person's efforts to conceal the misconduct;
- (10) Remedial efforts to prevent future violations;
- (11) If the person was convicted of a criminal offense, the nature of the offense, whether the conviction was based on acts or omissions taken under any professional license, whether the offense involved the breach of a fiduciary duty, the amount of time that has passed, and the person's activities subsequent to the conviction;
- (12) Such other factors as the superintendent determines to be appropriate under the circumstances.

(F)(1) A violation described in division (B)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (16), (17), (18), (20), (21), (22), (23), (24), (25), (26), (27), (28), (29), (30), (31), (32), or (33) of this section is a class A offense for which the superintendent may impose any penalty set forth in division (D) of this section.

(2) A violation described in division (B)(15) or (19) of this section, or a failure to comply with section 3905.061, 3905.071, or 3905.22 of the Revised Code, is a class B offense for which the superintendent may impose any penalty set forth in division (D)(1), (2), (8), or (9) of this section.

(3) If the superintendent determines that a violation described in division (B)(33) of this section has occurred, the superintendent shall impose a minimum of a two-year suspension on all of the person's licenses for all lines of insurance.

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

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

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

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

(H) If the superintendent has reasonable cause to believe that an order issued under this section has been violated in whole or in part, the superintendent may request the attorney general to commence and prosecute

any appropriate action or proceeding in the name of the state against such person.

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

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

(2) Injunctive relief;

(3) Restitution;

(4) Any other appropriate relief.

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

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

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

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

Sec. 3917.01. (A) Group life insurance is that form of life insurance covering not less than ten employees with or without medical examination, written under a policy issued to the employer, or to a trustee of a trust created by such employer, the premium on which is to be paid by the employer, by the employer and employees jointly, or by such trustee out of funds contributed by the employer or by the employer and employees jointly, and insuring only all of the employer's employees or all of any classes thereof, determined by sex, age, or conditions pertaining to the employment, for amounts of insurance based upon some plan which will preclude individual selection, for the benefit of persons other than the employer; but when the premium is to be paid by the employer and employee jointly and the benefits of the policy are offered to all eligible employees, not less than seventy-five per cent of such employees may be so insured. Such group policy may provide that "employees" includes retired employees of the employer and the officers, managers, employees, and retired employees of subsidiary or affiliated corporations and the individual proprietors, partners, employees, and retired employees of affiliated individuals and firms, when the business of such subsidiary or affiliated corporations, firms, or individuals is controlled by the common employer through stock ownership, contract, or otherwise. This section does not define as a group the lives covered by a policy issued on more than one life

which provides for payments upon the death of any one or more or upon the death of each of the lives so insured, and upon which the premium rates charged are computed on the same basis as used by the issuing company on single life policies and upon its regular forms of insurance.

(B) As used in sections 3917.01 to 3917.06 of the Revised Code, the following forms of life insurance are group life insurance:

(1) Life insurance covering the members of one or more companies, batteries, troops, battalions, divisions, or other units of the national guard or naval militia of any state, written under a policy issued to the commanding general of the national guard or commanding officer of the naval militia, who is the employer for the purposes of such sections, the premium on which is to be paid by the members of such units for the benefit of persons other than the employer; provided that when the benefits of the policy are offered to all eligible members of a unit of the national guard or naval militia, not less than seventy-five per cent of the members of such a unit may be insured;

(2) Life insurance covering the members of one or more troops or other units of the state troopers or state police of any state, written under a policy issued to the commanding officer of the state troopers or state police who is the employer for the purposes of such sections, the premium on which is to be paid by the members of such units for the benefit of persons other than the employer; provided that when the benefits of the policy are offered to all eligible members of a unit of the state troopers or state police, not less than seventy-five per cent of the members of such a unit may be insured;

(3) Life insurance covering the members of any labor union, written under a policy issued to such union which is the employer for the purposes of such sections, the premium on which is to be paid by the union or by the union and its members jointly, and insuring only all of its members, who are actively engaged in the same occupation, for amounts of insurance based upon some plan which will preclude individual selection, for the benefit of persons other than the union or its officials; provided that in case the insurance policy is cancellable at the end of any policy year at the option of the insurance company and that the basis of premium rates may be changed by the insurance company at the beginning of any policy year, all members of a labor union may be insured; and provided that when the premium is to be paid by the union and its members jointly and the benefits are offered to all eligible members, not less than seventy-five per cent of such members may be insured; and provided that when members apply and pay for additional amounts of insurance, a smaller percentage of members may be insured for such additional amounts if they pass satisfactory medical

examinations or submit satisfactory evidence of insurability;

(4) Life insurance written under a policy issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements:

(a) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor, excepting that no debtor is eligible unless the indebtedness constitutes an obligation to repay that is binding upon the debtor during the debtor's lifetime at and from the date the insurance becomes effective upon the debtor's life. The policy may provide that "debtors" includes the debtors of one or more subsidiary corporations and the debtors of one or more affiliated corporations, proprietors, or partnerships if the business of the policyholder and of such affiliated corporations, proprietors, or partnerships is under common control through stock ownership, contract, or otherwise.

(b) The premium for the policy shall be paid by the policyholder, either from the creditor's funds, or from charges collected from the insured debtors, or from both. A policy on which part or all of the premium is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include debtors under obligations outstanding at its date of issue without evidence of individual insurability unless at least seventy-five per cent of the then eligible debtors elect to pay the required charges. A policy on which no part of the premium is to be derived from the collection of such identifiable charges must insure all eligible debtors, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(c) The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least one hundred persons yearly, or may reasonably be expected to receive at least one hundred new entrants during the first policy year, and continues to receive not less than one hundred new entrants to the group yearly, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than seventy-five per cent of the new entrants become insured. The policy may exclude from the classes eligible for insurance classes of debtors determined by age.

(d) The amount of insurance on the life of any debtor may be determined by the age of the debtor based upon a plan which will preclude individual selection and shall at no time exceed the amount owed by the debtor that is repayable in installments to the creditor.

(e) The insurance shall be payable to the policyholder. Such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent

of such payment.

(5) Life insurance covering the members of any duly organized corporation or association of veterans or veteran society or association of the World War veterans, written under a policy issued to such corporation, association, or society which is the employer for the purpose of such sections, the premium on which is to be paid by the corporation, association, society, and its members jointly, and insuring all of its members who are actively engaged in any occupation for amounts of insurance based upon some plan which will preclude individual selection for the benefit of persons other than the corporation, association, or society or its officials; provided that when the premium is to be paid by the corporation, association, or society and its members jointly and the benefits are offered to all eligible members, not less than seventy-five per cent of such members may be insured; and provided that when members apply and pay for additional amounts of insurance, a smaller percentage of members may be insured for such additional amounts if they pass satisfactory medical examinations or submit satisfactory evidence of insurability;

(6) Life insurance covering the members of any organization of agriculturists or horticulturists organized under the co-operative laws of this state, written under a policy issued to such co-operative association which is the employer for the purpose of such sections, the premium on which is to be paid by the association or by the association and its members jointly, and insuring all of its members who are actively engaged in agricultural or horticultural pursuits, for an amount of insurance based upon some plan which will preclude individual selection, and for the benefit of persons other than the association or its officials; provided that when the premium is to be paid by the corporation, association, or society and its members jointly and the benefits are offered to all eligible members, not less than seventy-five per cent of such members may be insured; provided that when members apply and pay for additional amounts of insurance, a smaller percentage of members may be insured for such additional amounts if they pass satisfactory medical examinations or submit satisfactory evidence of insurability;

(7) Life insurance covering employees of a political subdivision or district of this state, or of an educational or other institution supported in whole or in part by public funds, or of any classes thereof, determined by conditions pertaining to employment, or of this state or any department or division thereof, written under a policy issued to such political subdivision, district, or institution, or the proper official or board of this state or of such state department or division thereof, which is the employer for the purpose

of such sections, the premium on which is to be paid by such employees, unless otherwise provided by law, charter, or ordinance, for the benefit of persons other than the employer; provided that when the benefits of the policy are offered to all eligible employees of a political subdivision or district of the state or of an educational or other institution supported in whole, or in part by public funds, or of this state or a state department or division thereof, not less than seventy-five per cent of such employees may be insured; and provided that when employees apply and pay for additional amounts of insurance, a smaller percentage of employees may be insured for such additional amounts if they pass satisfactory medical examinations or submit satisfactory evidence of insurability; and provided that upon acquisition by a political subdivision of any privately owned property or enterprise, the employees of which have been covered by a group policy of life or other insurance as employees of such private employer, such political subdivision and insurance company may continue such contract in force upon similar conditions as the last preceding private employer;

(8) Life insurance covering the members, or the members and the employees of members of any duly organized association, other than an association subject to any other provision of this division, written under a policy issued to such association, which association is the employer for the purpose of such sections, the premium on which is to be paid by the insured members or their employees, insuring members and their employees for amounts of insurance based upon some plan which will preclude individual selection except as provided in this section, for the benefit of persons other than the association; provided the association has been in existence for at least two years immediately preceding the purchase of the insurance; provided that there must be at least fifty insured members in any group; and provided that the association has been organized and is maintained in good faith for purposes other than that of obtaining insurance;

(9) Life insurance issued to trustees of a trust fund established jointly by one or more employers in the same industry, on the one hand, and one or more labor unions representing as bargaining agents employees of such employers, on the other hand, or by two or more employers in the same industry, or by two or more labor unions, which trustees shall be deemed the policyholder to insure employees of the employers or members of unions for the benefit of persons other than the employers or the unions or the trustees, subject to the following requirements:

(a) The persons eligible for such insurance shall be all of the employees of the employers, or all of the members of the unions, or all of any class of such employees determined by sex, age, or conditions pertaining to their

employment, or to membership in the unions, or to any or all of them. The policy may provide that "employees" includes the retired employees of the employer and the officers, managers, employees, and retired employees of subsidiary or affiliated corporations and the individual proprietors, partners, employees, and retired employees of affiliated individuals and firms, when the business of such subsidiary or affiliated corporations, firms, or individuals is controlled by the common employer through stock ownership, contract, or otherwise. The policy may provide that "employees" includes the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that "employees" includes the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(b) The premium for the policy shall be paid by the trustees, either wholly from funds contributed by the employers of the insured persons, or partly from such funds and partly from funds contributed by the insured employees. If part of the premium is to be derived from funds contributed by the insured employees, then such policy may be placed in force only if it covers at least seventy-five per cent of the then eligible employees. A policy on which no part of the premium is derived from funds contributed by the insured employees must insure all eligible employees.

(c) Any policy must insure at least ten persons at date of issue.

(d) The amounts of insurance under the policy must be based upon some plan precluding individual selection by the insured persons or the policyholder or the employers or the unions or the trustees.

(10) Life insurance covering the members of a credit union, which shall be deemed to be the employer for the purposes of this section, the premium on which is to be paid by the credit union or by the credit union and its members jointly, and insuring all of its eligible members for amounts of insurance not in excess of the share balance as to each member, and for the benefit of persons other than the credit union or its officers; provided that in the determination of the eligibility of members there may be classifications and limitations based upon age; provided also that when the premium is to be paid by the credit union and its members jointly and the benefits are offered to all eligible members, not less than seventy-five per cent of such members may be so insured; provided also that in obtaining such insurance, the officers of the credit union shall consider proposals from any licensed insurer; provided also that members may be required to provide evidence of insurability satisfactory to the insurer.

(11) Life insurance covering the members of any duly organized corporation or association of members of the Ohio national guard, the Ohio

naval militia, and the Ohio military reserve, which shall have been in existence for at least two years immediately preceding the purchase of such insurance, written under a policy issued to such corporation or association, which corporation or association is the employer for the purpose of such sections, the premium on which is to be paid by the insured members, insuring members for amounts of insurance based upon some plan which will preclude individual selection, except as provided in this section, for the benefit of persons other than the corporation or association, provided that there must be at least fifty insured members in any group, and provided further that unless seventy-five per cent of all members or one thousand members, whichever is the lesser number, are insured, each member must pass a satisfactory medical examination in order to be insured; and provided that, when members apply and pay for additional amounts of insurance, they may be insured for such additional amounts if they pass satisfactory medical examinations or submit satisfactory evidence of insurability.

(12) Life insurance that is written under a policy issued to a trustee under a trust established by an insurer for the purpose of providing continued group life insurance coverage to those former employees, former members, or former members and the employees of such members, and their spouses and dependent children, previously covered under policies of group life insurance issued by the insurer to employers or trustees pursuant to division (A) of this section, to associations pursuant to division (B)(8) of this section, or to trustees pursuant to division (B)(9) of this section, and that is evidenced by the issuance of a certificate of insurance to such former employees or members; provided that the amount of the continued life insurance coverage made available to a former employee or member and to the employee's or member's spouse and dependents shall not exceed the amount of the group life insurance coverage previously provided to the employee or member and the employee's or member's eligible dependents at the time of the employee's separation from employment or the member's termination of membership.

(13) Life insurance covering the members of a workforce actively engaged in an occupation for, and performing services on behalf of, a duly organized corporation, limited liability company, partnership, proprietor, or similar organization, whose members are not employees of the organization, written under a policy issued to the organization, which organization is the members' employer for this purpose, the premium on which is to be paid by the organization or by the organization and the members jointly, insuring members for amounts of insurance based upon some plan which will preclude individual selection, for the benefit of persons other than the

organization; provided, that when the premium is to be paid by the organization and its members jointly and the benefits are offered to all eligible members, not less than seventy-five per cent of the members may be so insured; provided also that members may be required to furnish evidence of insurability satisfactory to the insurer. Life insurance meeting this definition may also cover the organization's employees at the option of the organization.

(C) Any policy issued pursuant to this section, except a policy issued to a creditor pursuant to division (B)(4) of this section, may be extended, in the form of group term life insurance only, to insure the spouse and dependent children of an insured employee or member, or any class or classes thereof, subject to the following requirements:

(1) The premiums for the group term life insurance shall be paid by the policyholder, either from the employer, union or association funds, or from funds contributed by the employer, union, or association, or from funds contributed by the insured employee or member, or from both.

(2) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured employee or member or by the policyholder.

(3) Upon termination of the group term life insurance with respect to the spouse of any insured employee or member by reason of such person's termination of employment or membership or death, the spouse insured pursuant to this section shall have the same conversion rights as to the group term life insurance on the spouse's life as is provided for the insured employee or member.

(4) Only one certificate need be issued for delivery to an insured employee or member if a statement concerning any dependent's coverage is included in such certificate.

Sec. 3999.18. (A) No person shall establish, operate, or maintain any entity that delivers, issues for delivery, or renews any policy of sickness and accident insurance or contract for health care services in this state if the entity is required to, but does not, have a valid certificate of authority under Chapter 1751. or Title XXXIX of the Revised Code.

(B) No insurance agent, broker, or other person shall advertise, solicit, negotiate, collect a premium on, or sell any policy of sickness and accident insurance or contract for health care services in this state unless the entity that delivers, issues for delivery, or renews the policy or contract is subject to and has complied with division (A) of this section.

Sec. 3999.99. (A) Whoever violates section 3999.02 of the Revised Code is guilty of a misdemeanor of the second degree.

(B) Whoever violates section 3999.03, 3999.07, 3999.13, 3999.14, or 3999.15 of the Revised Code is guilty of a misdemeanor of the first degree.

(C) Whoever violates section 3999.04, 3999.05, 3999.08, or 3999.09 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(D) Whoever violates section 3999.10 or 3999.11 of the Revised Code shall be fined five hundred dollars for a first offense and shall be fined one thousand dollars for each subsequent offense.

(E) Whoever violates section 3999.12 of the Revised Code shall be fined not less than ten nor more than one thousand dollars.

(F) Whoever violates division (F) of section 3999.32, division (B) of section 3999.36, or section 3999.37 or 3999.38 of the Revised Code is guilty of a felony of the fourth degree.

(G) Whoever violates division (A) of section 3999.18 of the Revised Code is guilty of a felony of the fourth degree.

(H) Whoever violates division (B) of section 3999.18 of the Revised Code is guilty of a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense.

(I) If a person is found guilty under this section, the court may award restitution in accordance with section 2929.18 of the Revised Code.

SECTION 2. That existing sections 1739.02, 1739.99, 1751.02, 1751.28, 3901.78, 3905.14, 3917.01, and 3999.99 of the Revised Code are hereby repealed.

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 _____