

# AN ACT

To amend sections 1751.33, 1753.33, 3901.021, 3903.81, 3903.83, 3905.04, 3905.041, 3905.05, 3905.06, 3905.061, 3905.07, 3905.071, 3905.12, 3905.14, 3905.16, 3905.20, 3905.30, 3905.35, 3905.36, 3905.40, 3905.41, 3905.481, 3905.483, 3905.484, 3905.841, 3905.85, 3905.86, 3905.862, 3905.87, 3905.88, 3905.89, 3905.932, 3924.01, 3924.09, 3924.10, 3929.30, 3956.04, 3960.03, and 5725.18, to enact section 3905.051, and to repeal sections 3905.10, 3905.482, and 3929.301 of the Revised Code to make changes to the law governing the licensure and regulation of insurance agents, certain insurance-related taxes, the Ohio Life and Health Insurance Guaranty Association, Ohio health care plans, risk-based capital reports, reporting requirements for insurers, and notice requirements for health insuring corporations, to temporarily extend the time after employment during which a person can keep the person's health insurance coverage, and to declare an emergency.

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

SECTION 1. That sections 1751.33, 1753.33, 3901.021, 3903.81, 3903.83, 3905.04, 3905.041, 3905.05, 3905.06, 3905.061, 3905.07, 3905.071, 3905.12, 3905.14, 3905.16, 3905.20, 3905.30, 3905.35, 3905.36, 3905.40, 3905.41, 3905.481, 3905.483, 3905.484, 3905.841, 3905.85, 3905.86, 3905.862, 3905.87, 3905.88, 3905.89, 3905.932, 3924.01, 3924.09, 3924.10, 3929.30, 3956.04, 3960.03, and 5725.18 be amended and section 3905.051 of the Revised Code be enacted to read as follows:

Sec. 1751.33. (A) Each health insuring corporation shall provide to its subscribers, ~~by mail,~~ a description of the health insuring corporation, its

method of operation, its service area, its most recent provider list, its complaint procedure established pursuant to section 1751.19 of the Revised Code, and a description of its utilization review, internal review, and external review processes established under sections 1751.77 to 1751.85 of the Revised Code. A health insuring corporation may satisfy this requirement by delivering to its subscribers a document that identifies a web site where the subscriber may view this information. At the request of ~~or with the approval of~~ the subscriber, a health insuring corporation ~~may~~ shall provide this information in hard copy by ~~electronic means rather than~~ by mail. A health insuring corporation providing basic health care services or supplemental health care services shall provide this information annually. A health insuring corporation providing only specialty health care services shall provide this information biennially.

(B) Each health insuring corporation, upon the request of a subscriber, shall make available its most recent statutory financial statement.

Sec. 1753.33. (A) For purposes of sections 1753.31 to 1753.43 of the Revised Code, a "company action level event" is any of the following events:

(1) A health insuring corporation's filing of an RBC report that indicates that the health insuring corporation's total adjusted capital is greater than or equal to its regulatory action level RBC but less than its company action level RBC;

(2) A health insuring corporation's filing of an RBC report that indicates that the health insuring corporation's total adjusted capital is greater than or equal to its company action level RBC but less than the product of its authorized control level RBC and 3.0, and that triggers the trend test determined in accordance with the trend test calculation included in the RBC instructions;

(3) The notification by the superintendent of insurance to a health insuring corporation of an adjustment to the health insuring corporation's RBC report, which adjusted RBC report shows the health insuring corporation's total adjusted capital within the range described in division (A)(1) of this section, provided that the health insuring corporation does not challenge the adjusted RBC report under section 1753.37 of the Revised Code;

~~(3)~~(4) The notification by the superintendent to a health insuring corporation, following the hearing required under section 1753.37 of the Revised Code, that the superintendent has rejected the health insuring corporation's challenge to an adjusted RBC report showing the health insuring corporation's total adjusted capital within the range described in

division (A)(1) of this section.

(B) In the case of a company action level event, the health insuring corporation shall prepare and submit to the superintendent an RBC plan that shall do all of the following:

(1) Identify the conditions that contributed to the company action level event;

(2) Contain proposals of corrective actions that the health insuring corporation intends to take to eliminate the conditions contributing to the company action level event;

(3) Provide projections of the health insuring corporation's financial results in the current year and at least the two succeeding years, both in the absence of the proposed corrective actions and giving effect to the proposed corrective actions. The projections shall include projections of statutory balance sheets, operating income, net income, capital, surplus, and RBC levels. Projections for both new and renewal business may include separate projections for each major line of business, and may separately identify each significant income, expense, and benefit component of the projection.

(4) Identify the key assumptions impacting the health insuring corporation's projections made pursuant to division (B)(3) of this section, and describe the sensitivity of the projections to the assumptions;

(5) Identify the quality of, and problems associated with, the health insuring corporation's business, including, but not limited to, its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and the use of reinsurance, if any, in each case.

(C) The RBC plan shall be submitted within forty-five days after a company action level event. However, if a health insuring corporation has challenged an adjusted RBC report pursuant to section 1753.37 of the Revised Code, an RBC plan need not be submitted unless the superintendent rejects the challenge following the hearing required under section 1753.37 of the Revised Code. If the superintendent rejects the health insuring corporation's challenge, the RBC plan shall be submitted within forty-five days after the superintendent's notification to the health insuring corporation of the superintendent's rejection of the challenge.

(D)(1) Within sixty days after a health insuring corporation submits an RBC plan to the superintendent, the superintendent shall either require the health insuring corporation to implement the RBC plan or notify the health insuring corporation that the RBC plan is unsatisfactory in the judgment of the superintendent. If the superintendent has determined that the RBC plan is unsatisfactory, the notification to the health insuring corporation shall set

forth the reasons for the determination, and may set forth proposed revisions that will render the RBC plan satisfactory in the judgment of the superintendent. Upon its receipt of such notification from the superintendent, the health insuring corporation shall prepare and submit a revised RBC plan, which may incorporate by reference any revisions proposed by the superintendent.

(2) If a health insuring corporation challenges, under section 1753.37 of the Revised Code, a notification by the superintendent that the health insuring corporation's RBC plan or a revised RBC plan is unsatisfactory, submission of a revised RBC plan need not be made unless the superintendent rejects the health insuring corporation's challenge and notifies the health insuring corporation of this rejection. A health insuring corporation shall submit a revised RBC plan to the superintendent within forty-five days after receiving notification from the superintendent that its RBC plan is unsatisfactory, or that its challenge to a notification made under division (D)(1) of this section has been rejected, as applicable.

(E) Notwithstanding division (D) of this section, if the superintendent notifies a health insuring corporation that its RBC plan or revised RBC plan is unsatisfactory, the superintendent may, at the superintendent's discretion but subject to the health insuring corporation's right to a hearing under section 1753.37 of the Revised Code, specify in the notification that the notification constitutes a regulatory action level event.

(F) Every domestic health insuring corporation that submits an RBC plan or revised RBC plan to the superintendent shall file a copy of the RBC plan or revised RBC plan with the insurance regulatory authority of every state in which the health insuring corporation is authorized to do business upon receiving the insurance regulatory authority's written request for a copy of the plan, if the state has a confidentiality law substantially similar to section 1753.38 of the Revised Code. The health insuring corporation shall file the copy in that state no later than the later of:

(1) Fifteen days after receiving the request for a copy of the plan;

(2) The date on which the RBC plan or revised RBC plan is filed pursuant to division (C) or (D) of this section.

Sec. 3901.021. (A) Three-fourths of all appointment and other fees collected under ~~section 3905.10 and~~ division (B) of section 3905.20 of the Revised Code shall be paid into the state treasury to the credit of the department of insurance operating fund, which is hereby created. The remaining one-fourth shall be credited to the general revenue fund. Other revenues collected by the superintendent of insurance, such as registration fees for sponsored seminars or conferences and grants from private entities,

shall be paid into the state treasury to the credit of the department of insurance operating fund.

(B) Seven-tenths of all fees collected under divisions (A)(2), (A)(3), and (A)(6) of section 3905.40 of the Revised Code shall be paid into the state treasury to the credit of the department of insurance operating fund. The remaining three-tenths shall be credited to the general revenue fund.

(C) All operating expenses of the department of insurance except those expenses defined under section 3901.07 of the Revised Code shall be paid from the department of insurance operating fund.

Sec. 3903.81. As used in sections 3903.81 to 3903.93 of the Revised Code:

(A) "Adjusted RBC report" means an RBC report that has been adjusted by the superintendent of insurance in accordance with division (C) of section 3903.82 of the Revised Code.

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

(C) "Company action level RBC" means the product of 2.0 and an insurer's authorized control level RBC.

(D) "Corrective order" means an order issued by the superintendent of insurance in accordance with division (B)(3) of section 3903.84 of the Revised Code specifying corrective actions that the superintendent has determined are required.

(E) "Domestic insurer" means any insurance company organized under Chapter 3907. or 3925. of the Revised Code.

(F) "Foreign insurer" means any insurance company licensed under section 3909.01 or 3927.01 of the Revised Code.

(G) "Life or health insurer" means any insurance company licensed under section 3907.08 or 3909.01 of the Revised Code, or a company possessing a certificate of authority pursuant to section 3929.01 of the Revised Code that writes only accident and health insurance.

(H) "Mandatory control level RBC" means the product of .70 and an insurer's authorized control level RBC.

(I) "NAIC" means the national association of insurance commissioners.

(J) "Negative trend" means a negative trend over a period of time for a life or health insurer as determined in accordance with the trend test calculation included in the RBC instructions.

(K) "Property and casualty insurer" means any insurance company that has a certificate of authority pursuant to section 3929.01 of the Revised Code. "Property and casualty insurer" does not include monoline mortgage

guarantee insurers, financial guarantee insurers, or title insurers.

(L) "RBC" means risk-based capital.

(M) "RBC instructions" means the RBC report, including risk-based capital instructions, as adopted by the NAIC and as amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC. ~~However, no NAIC amendment to the RBC instructions shall become effective until the superintendent has adopted by rule the RBC instructions as so amended.~~ "RBC instructions" shall also include any modifications adopted by the superintendent, as the superintendent considers to be necessary.

(N) "RBC level" means an insurer's company action level RBC, regulatory action level RBC, authorized control level RBC, or mandatory control level RBC.

(O) "RBC plan" means a comprehensive financial plan containing the elements specified in division (B) of section 3903.83 of the Revised Code.

(P) "Revised RBC plan" means an RBC plan rejected by the superintendent of insurance and then revised by an insurer with or without incorporating the superintendent of insurance's recommendation.

(Q) "RBC report" means the report required by section 3903.82 of the Revised Code.

(R) "Regulatory action level RBC" means the product of 1.5 and an insurer's authorized control level RBC.

(S) "Total adjusted capital" means the sum of both of the following:

(1) An insurer's statutory capital and surplus as determined in accordance with the statutory accounting applicable to the annual statements prepared on a form adopted under section 3901.77 of the Revised Code, as required to be filed by sections 3907.19, 3909.06, and 3929.30 of the Revised Code;

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

Sec. 3903.83. (A) For purposes of sections 3903.81 to 3903.93 of the Revised Code, a "company action level event" is any of the following events:

(1) A domestic or foreign insurer's filing of an RBC report that indicates that the insurer's total adjusted capital is greater than or equal to its regulatory action level RBC but less than its company action level RBC;

(2) A life or health insurer's filing of an RBC report that indicates that the insurer's total adjusted capital is greater than or equal to its company action level RBC but less than the product of 2.5 and its authorized control level RBC, and that indicates a negative trend;

(3) A property and casualty insurer's filing of an RBC report that

indicates that the insurer's total adjusted capital is greater than or equal to its company action level RBC but less than the product of its authorized control level RBC and 3.0, and that triggers the trend test determined in accordance with the trend test calculation included in the property and casualty RBC instructions:

(4) The notification by the superintendent of insurance to an insurer of an adjustment to the insurer's RBC report, which adjusted RBC report shows the insurer's total adjusted capital within the range described in either division (A)(1) or (2) of this section, provided that the insurer does not challenge the adjusted RBC report under section 3903.87 of the Revised Code;

~~(4)~~(5) The superintendent's notification to an insurer, following the hearing required under section 3903.87 of the Revised Code, that the superintendent has rejected the insurer's challenge to an adjusted RBC report showing the insurer's total adjusted capital within the range described in either division (A)(1) or (2) of this section.

(B) In the case of a company action level event, the insurer shall prepare and submit to the superintendent an RBC plan that shall:

(1) Identify the conditions that contributed to the company action level event;

(2) Contain proposals of corrective actions that the insurer intends to take to eliminate the conditions leading to the company action level event;

(3) Provide projections of the insurer's financial results in the current year and at least the four succeeding years, both in the absence of the proposed corrective actions and giving effect to the proposed corrective actions. The projections shall include projections of statutory operating income, net income, capital, and surplus. Projections for both new and renewal business may include separate projections for each major line of business, and may separately identify each significant income, expense, and benefit component of the projection.

(4) Identify the key assumptions impacting the insurer's projections made pursuant to division (B)(3) of this section, and describe the sensitivity of the projections to the assumptions;

(5) Identify the quality of, and problems associated with, the insurer's business, including, but not limited to, its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and use of reinsurance.

(C) The RBC plan shall be submitted within forty-five days after a company action level event. However, if an insurer has challenged an adjusted RBC report pursuant to section 3903.87 of the Revised Code, the

RBC plan need not be submitted until after the hearing required under section 3903.87 of the Revised Code. If the superintendent rejects the insurer's challenge, the RBC plan shall be submitted within forty-five days after the superintendent's notification to the insurer of the rejection of the challenge.

(D)(1) Within sixty days after an insurer submits an RBC plan to the superintendent, the superintendent shall either require the insurer to implement the RBC plan or shall notify the insurer that the RBC plan is unsatisfactory in the judgment of the superintendent. If the superintendent has determined that the RBC plan is unsatisfactory, the notification to the insurer shall set forth the reasons for the determination, and may set forth proposed revisions that will render the RBC plan satisfactory in the judgment of the superintendent. Upon such notification from the superintendent, the insurer shall prepare and submit a revised RBC plan, which may incorporate by reference any revisions proposed by the superintendent.

(2) If an insurer challenges, under section 3903.87 of the Revised Code, a notification from the Superintendent that the insurer's RBC plan or a revised RBC plan is unsatisfactory, submission of a revised RBC plan need not be made unless the superintendent rejects the insurer's challenge following the hearing required by section 3903.87 of the Revised Code and then notifies the insurer of this rejection.

(3) An insurer shall submit a revised RBC plan to the superintendent within forty-five days after receiving notification from the superintendent that its RBC plan is unsatisfactory, or, that its challenge to a notification made under division (D)(1) of this section has been rejected, as applicable.

(E) Notwithstanding division (D) of this section, if the superintendent notifies an insurer that its RBC plan or revised RBC plan is unsatisfactory, the superintendent may, at the superintendent's discretion, but subject to the insurer's right to a hearing under section 3903.87 of the Revised Code, specify in the notification that the notification constitutes a regulatory action level event.

(F) Every domestic insurer that submits an RBC plan or revised RBC plan to the superintendent shall file a copy of the RBC plan or revised RBC plan with the insurance regulatory authority of every state in which the insurer is authorized to do business upon receiving the insurance regulatory authority's written request for a copy of the plan, if the state has a confidentiality law with provisions substantially similar to those set forth in divisions (A) and (B) of section 3903.88 of the Revised Code. The insurer shall file the copy in that state no later than the later of:

- (1) Fifteen days after receiving the request for a copy of the plan;
- (2) The date on which the RBC plan or revised RBC plan is filed pursuant to division (C) or (D) of this section.

Sec. 3905.04. (A) Except as otherwise provided in this section or in section 3905.041 of the Revised Code, a resident individual applying for an insurance agent license for any of the lines of authority described in division (B) of this section shall take and pass a written examination prior to application for licensure. The examination shall test the knowledge of the individual with respect to the lines of authority for which application ~~is~~ will be made, the duties and responsibilities of an insurance agent, and the insurance laws of this state. Before admission to the examination, each individual shall pay the nonrefundable examination fee ~~required under division (C) of section 3905.40 of the Revised Code~~.

(B) The examination described in division (A) of this section shall be required for the following lines of authority:

- (1) Any of the lines of authority set forth in divisions (B)(1) to ~~(6)~~(5) of section 3905.06 of the Revised Code;
- (2) Title insurance;
- (3) Surety bail bonds as provided in sections 3905.83 to 3905.95 of the Revised Code;
- (4) Any other line of authority designated by the superintendent of insurance.

(C) An individual shall not be permitted to take the examination described in division (A) of this section unless one ~~or both~~ of the following ~~apply~~ applies:

- (1) The individual has earned a bachelor's or associate's degree in insurance from an accredited institution.
- (2) The individual has earned a professional designation approved by the superintendent.

(3) The individual has completed, for each line of authority for which the individual has applied, twenty hours of study in a program of insurance education approved by the superintendent, in consultation with the insurance agent education advisory council, under criteria established by the superintendent. Division (C) of this section does not apply with respect to title insurance or any other line of authority designated by the superintendent.

(D) An individual who fails to appear for an examination as scheduled, or fails to pass an examination, may reapply for the examination if the individual pays the required fee and submits any necessary forms prior to being rescheduled for the examination.

(E)(1) The superintendent may, in accordance with Chapter 119. of the Revised Code, adopt any rule necessary for the implementation of this section.

(2) The superintendent may make any necessary arrangements, including contracting with an outside testing service, for the administration of the examinations and the collection of the fees required by this section.

Sec. 3905.041. (A)(1) An individual who applies for a resident insurance agent license in this state within ninety days after establishing a principal place of residence or principal place of business in this state shall not be required under section 3905.04 of the Revised Code to complete a program of insurance education or to pass a written examination if the individual has paid all applicable fees required under this chapter and if either of the following applies:

(a) The individual is currently licensed in another state and is in good standing for the line or lines of authority requested.

(b) The individual was previously licensed in another state, the individual's application for a resident insurance agent license in this state is received within ninety days after the cancellation of the individual's previous license, and, at the time of license cancellation, the individual was in good standing for the line or lines of authority requested.

(2) To determine an applicant's licensure status and standing ~~status~~ in another state, the superintendent of insurance may utilize the producer database maintained by the NAIC or its affiliates or subsidiaries. If that information is not available on the producer database, the superintendent may require ~~a certification letter~~ documentation from the prior home state.

(B) An individual who applies for a temporary insurance agent license in this state shall not be required under section 3905.04 of the Revised Code to complete any preclicensing education or to pass a written examination.

(C) The superintendent may exempt any limited lines insurance from the examination requirement of section 3905.04 of the Revised Code.

Sec. 3905.05. (A) A natural person shall apply for a resident insurance agent license by submitting to the superintendent of insurance the uniform application or any other application prescribed by the superintendent, any additional information required by the superintendent, and a declaration made under penalty of refusal, suspension, or revocation of the license, that the statements made in the application are true, correct, and complete to the best of the applicant's knowledge and belief and paying any applicable fees required under this chapter.

A person who applies for a resident insurance agent license with a variable life-variable annuity line of authority shall include in the person's

application the person's individual central registration depository number.

~~The applicant shall also request consent to a criminal records check conducted by the superintendent of the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code, or other governmental agencies, or other sources, as required and designated by the superintendent of insurance, and direct that the responses to that request be transmitted to the superintendent of insurance, or to the superintendent's designee. If the superintendent of insurance or the superintendent's designee fails to receive a response to a requested criminal records check, or if the applicant fails to request the criminal records check, the superintendent may refuse to issue a license under this section. The applicant shall pay any fee required for conducting the criminal records check pursuant to section 3905.051 of the Revised Code.~~

(B) A business entity acting as an insurance agent shall apply for a resident insurance agent license by submitting to the superintendent of insurance the uniform business entity application or any other application prescribed by the superintendent and paying any applicable fees required under this chapter.

(C) The superintendent may require an applicant to submit any document reasonably necessary to verify the information contained in an application.

Sec. 3905.051. As used in this section:

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

(1) A resident license as an insurance agent or surety bail bond agent;

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

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

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

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

(E) The superintendent of insurance may contract for the collection and

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

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

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

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

Sec. 3905.06. (A)(1) The superintendent of insurance shall issue a resident insurance agent license to an individual applicant whose home state is Ohio upon submission of a completed application and payment of any applicable fee required under this chapter, if the superintendent finds all of the following:

(a) The applicant is at least eighteen years of age.

(b) The applicant has not committed any act that is a ground for the denial, suspension, or revocation of a license under section 3905.14 of the Revised Code.

(c) If required under section 3905.04 of the Revised Code, the applicant has completed a program of insurance education for each line of authority for which the applicant has applied.

(d) If required under section 3905.04 of the Revised Code, the applicant has passed an examination for each line of authority for which the applicant has applied.

(e) Any applicant applying for variable life-variable annuity line of authority is registered with the financial industry regulatory authority (FINRA) as a registered representative after having passed at least one of the following examinations administered by the FINRA: the series 6

examination, the series 7 examination, the series 63 examination, the series 66 examination, or any other FINRA examination approved by the superintendent.

(f) If required under section 3905.051 of the Revised Code, the applicant has consented to a criminal records check and the results of the applicant's criminal records check are determined to be satisfactory by the superintendent.

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

(h) The applicant is of good reputation and character, is honest and trustworthy, and is otherwise suitable to be licensed.

(2) The superintendent shall issue a resident insurance agent license to a business entity applicant upon submission of a completed application and payment of any applicable fees required under this chapter if the superintendent finds all of the following:

(a) The applicant either is domiciled in Ohio or maintains its principal place of business in Ohio.

(b) The applicant has designated a licensed insurance agent who will be responsible for the applicant's compliance with the insurance laws of this state.

(c) The applicant has not committed any act that is a ground for the denial, suspension, or revocation of a license under section 3905.14 of the Revised Code.

(d) The applicant has submitted any other documents requested by the superintendent.

(B) An insurance agent license issued pursuant to division (A) of this section shall state the licensee's name, the license number, the date of issuance, the date the license expires, the line or lines of authority for which the licensee is qualified, and any other information the superintendent deems necessary.

A licensee may be qualified for any of the following lines of authority:

(1) Life, which is insurance coverage on human lives, including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;

(2) Accident and health, which is insurance coverage for sickness, bodily injury, or accidental death, and may include benefits for disability income;

(3) Property, which is insurance coverage for the direct or consequential loss or damage to property of any kind;

(4) Casualty, which is insurance coverage against legal liability,

including coverage for death, injury, or disability or damage to real or personal property;

~~(5) Variable life and variable annuity products, which is insurance coverage provided under variable life insurance contracts and variable annuities;~~

~~(6) Personal lines, which is property and casualty insurance coverage sold to individuals and families for noncommercial purposes;~~

(6) Variable life and variable annuity products, which is insurance coverage provided under variable life insurance contracts and variable annuities;

(7) Credit, which is limited line credit insurance;

(8) Title, which is insurance coverage against loss or damage suffered by reason of liens against, encumbrances upon, defects in, or the unmarketability of, real property;

(9) Surety bail bond, which is the authority set forth in sections 3905.83 to 3905.95 of the Revised Code;

(10) Any other line of authority designated by the superintendent.

~~(C) A (1) An individual seeking to renew a resident insurance agent license shall be perpetual unless surrendered by the licensee or suspended or revoked by the superintendent~~ apply biennially for a renewal of the license on or before the last day of the licensee's birth month. A business entity seeking to renew a resident insurance agent license shall apply biennially for a renewal of the license on or before the date determined by the superintendent. The superintendent shall send a renewal notice to all licensees at least one month prior to the renewal date.

Applications shall be submitted to the superintendent on forms prescribed by the superintendent. Each application shall be accompanied by a biennial renewal fee. The superintendent also may require an applicant to submit any document reasonably necessary to verify the information contained in the renewal application.

(2) To be eligible for renewal, an individual applicant shall complete the continuing education requirements pursuant to section 3905.481 of the Revised Code prior to the renewal date.

(3) If an applicant submits a completed renewal application, qualifies for renewal pursuant to divisions (C)(1) and (2) of this section, and has not committed any act that is a ground for the refusal to issue, suspension of, or revocation of a license under section 3905.14 of the Revised Code, the superintendent shall renew the applicant's resident insurance agent license.

(D) If an individual or business entity does not apply for the renewal of the individual or business entity's license on or before the license renewal

date specified in division (C)(1) of this section, the individual or business entity may submit a late renewal application along with all applicable fees required under this chapter prior to the first day of the second month following the license renewal date.

(E) A license issued under this section that is not renewed on or before its renewal date pursuant to division (C) of this section or its late renewal date pursuant to division (D) of this section automatically is suspended for nonrenewal on the first day of the second month following the renewal date. If a license is suspended for nonrenewal pursuant to this division, the individual or business entity is eligible to apply for reinstatement of the license within the twelve-month period following the date by which the license should have been renewed by complying with the reinstatement procedure established by the superintendent and paying all applicable fees required under this chapter.

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

(G) An individual licensed as a resident insurance agent who is unable to comply with the license renewal procedures established under this section and who is unable to engage in the business of insurance due to military service, a long-term medical disability, or some other extenuating circumstance may request an extension of the renewal date of the individual's license. To be eligible for such an extension, the individual shall submit a written request with supporting documentation to the superintendent. At the superintendent's discretion, the superintendent may not consider a written request made after the renewal date of the license.

Sec. 3905.061. (A) If a person licensed as an insurance agent under section 3905.06 of the Revised Code changes the person's address within the state, the person shall, within thirty days after making that change, file a change of address with the superintendent of insurance or the superintendent's designee.

(B)(1) If a person licensed as an insurance agent under section 3905.06 of the Revised Code changes the person's home state ~~of residence~~, the person shall, within thirty days after making that change, file a change of address with the superintendent and provide the superintendent with certification from the new home state ~~of residence~~.

(2) If ~~an~~ a resident insurance agent complies with division (B)(1) of this

section and the agent is in good standing with the superintendent, the agent's license shall be changed to that of a nonresident license and no fee or license application shall be required. A change in the residency status of an insurance agent license under this section does not change the license renewal date established by the initial licensure under section 3905.06 of the Revised Code.

Sec. 3905.07. (A) The superintendent of insurance shall issue a nonresident insurance agent license to an applicant that is a nonresident person upon payment of all applicable fees required under this chapter if the superintendent finds all of the following:

(1) The applicant is currently licensed as a resident and is in good standing in the applicant's home state.

(2) ~~The applicant has submitted the request for licensure prescribed by the superintendent~~ is licensed in the applicant's home state for the lines of authority requested in this state.

(3) The applicant has submitted or has had transmitted to the superintendent the application for licensure that the applicant submitted to the applicant's home state or a completed applicable uniform application ~~or uniform business entity application, as applicable.~~

(4) The applicant has not committed any act that is a ground for the denial, suspension, or revocation of a license under section 3905.14 of the Revised Code.

(5) The applicant is of good reputation and character, is honest and trustworthy, and is otherwise suitable to be licensed.

(6) The applicant's home state issues nonresident insurance agent licenses to residents of this state on the same basis as set forth in division (A) of this section.

(7) If the applicant is a business entity, the applicant has designated an insurance agent licensed as an agent in this state to be responsible for the applicant's compliance with the insurance laws of this state.

(8) The applicant has submitted any other documents requested by the superintendent.

(B) To determine an applicant's licensure and standing status in another state, the superintendent may utilize the producer database maintained by the NAIC or its affiliates or subsidiaries. If that information is not available on the producer database, the superintendent may require a certification letter from the applicant's home state.

(C) ~~A (1) An individual seeking to renew a nonresident insurance agent license shall be perpetual unless surrendered by the licensee or suspended or revoked by the superintendent~~ apply biennially for a renewal of the license

on or before the last day of the licensee's birth month. A business entity seeking to renew a nonresident insurance agent license shall apply biennially for a renewal of the license on or before the date determined by the superintendent.

Applications shall be submitted to the superintendent on forms prescribed by the superintendent. Each application shall be accompanied by a biennial renewal fee. The superintendent also may require an applicant to submit any document reasonably necessary to verify the information contained in the renewal application.

(2) To be eligible for renewal, an applicant shall maintain a resident license in the applicant's home state for the lines of authority held in this state.

(3) If an applicant submits a completed renewal application, qualifies for renewal pursuant to divisions (C)(1) and (2) of this section, and has not committed any act that is a ground for the refusal to issue, suspension of, or revocation of a license under section 3905.14 of the Revised Code, the superintendent shall renew the applicant's nonresident insurance agent license.

(D) If an individual or business entity does not apply for the renewal of the individual or business entity's license on or before the license renewal date specified in division (C)(1) of this section, the individual or business entity may submit a late renewal application along with all applicable fees required under this chapter prior to the first day of the second month following the license renewal date.

(E) A license issued under this section that is not renewed on or before its renewal date pursuant to division (C) of this section or its late renewal date pursuant to division (D) of this section automatically is suspended for nonrenewal on the first day of the second month following the renewal date. If a license is suspended for nonrenewal pursuant to this division, the individual or business entity is eligible to apply for a reinstatement of the license within the twelve-month period following the date by which the license should have been renewed by complying with the reinstatement procedure established by the superintendent and paying all applicable fees required under this chapter.

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

(G) An individual licensed as a nonresident insurance agent who is unable to comply with the license renewal procedures established under this section and who is unable to engage in the business of insurance due to military service, a long-term medical disability, or some other extenuating circumstance may request an extension of the renewal date of the individual's license. To be eligible for such an extension, the individual shall submit a written request with supporting documentation to the superintendent. At the superintendent's discretion, the superintendent may not consider a written request made after the renewal date of the license.

~~(D)~~(H) Notwithstanding any other provision of this chapter, a nonresident person licensed as a surplus lines producer in the applicant's home state shall receive a nonresident surplus lines broker license pursuant to division (A) of this section. Nothing in this section otherwise affects or supersedes any provision of sections 3905.30 to 3905.37 of the Revised Code.

Sec. 3905.071. (A)(1) If a nonresident person licensed as a nonresident insurance agent under section 3905.07 of the Revised Code changes the person's address within the person's state of residence, the person shall, within thirty days after making that change, file a change of address with the superintendent of insurance or the superintendent's designee.

(2) If a nonresident person licensed as a nonresident insurance agent under section 3905.07 of the Revised Code changes the person's home state of residence ~~or the state in which the person's principal place of business is located~~, the person shall, within thirty days after making that change, file a change of address with the superintendent and provide the superintendent with certification from the ~~new state of residence or the new~~ home state ~~in which the principal place of business is located.~~

(B) If a nonresident insurance agent complies with division (A) of this section and the agent is in good standing with the superintendent, no fee or license application shall be required. A change in the residency status of an agent's license under this section does not change the license renewal date established by the initial license under section 3905.07 of the Revised Code.

Sec. 3905.12. (A) The superintendent of insurance may adopt rules in accordance with Chapter 119. of the Revised Code to do the following:

(1) Establish procedures for the issuance ~~and~~, renewal, late renewal, extension, reactivation, and reinstatement of insurance agent licenses;

(2) Provide for the issuance and renewal of limited authority licenses, and establish any preclicensing education, examination, or continuing education requirements the superintendent considers appropriate for such a license;

(3) Establish a schedule of fees to be paid to the superintendent for extensions, late renewals, reinstatements, and reactivations of a license under this chapter and for credit card payments, electronic processing service, and manual processing service. Fees collected under this section shall be credited to the department of insurance operating fund created under section 3901.021 of the Revised Code.

(B) To assist the superintendent in carrying out the superintendent's duties under this chapter, the superintendent may contract with any nongovernmental entity, including the NAIC and its affiliates or subsidiaries, to perform any ministerial function related to insurance agent licensing, including the collection of fees, that the superintendent considers to be appropriate.

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, maintaining, or attempting to obtain or maintain 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 or pleaded guilty or no contest to a felony regardless of whether a judgment of conviction has been entered by the court;

(7) Having been convicted of or pleaded guilty or no contest to a misdemeanor that involves the misuse or theft of money or property belonging to another, fraud, forgery, dishonest acts, or breach of a fiduciary duty, that is based on any act or omission relating to the business of insurance, securities, or financial services, or that involves moral turpitude regardless of whether a judgment has been entered by the court;

(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, equipment, or devices of any kind 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~~ official invoice, notice, assessment, or order directing payment of federal, state, or local income tax, state or local sales tax, or workers' compensation premiums;

(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 or financial industry regulatory authority registration suspended or revoked ~~as a result of a~~ or having been barred from participation in any industry;

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

~~(18)~~(19) Causing or permitting a policyholder or applicant for insurance to designate the insurance agent or the insurance agent's spouse, parent, child, or sibling as the beneficiary of a policy or annuity sold by the insurance agent or of a policy or annuity for which the agent, at any time, was designated as the agent of record, unless the insurance agent or a relative of the insurance agent is the insured or applicant;

~~(19)~~(20) Causing or permitting a policyholder or applicant for insurance to designate the insurance agent or the insurance agent's spouse, parent, child, or sibling as the owner or beneficiary of a trust funded, in whole or in part, by a policy or annuity sold by the insurance agent or by a policy or annuity for which the agent, at any time, was designated as the agent of record, unless the insurance agent or a relative of the insurance agent is the insured or applicant;

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

~~(20)~~(22) Failing to appear to answer questions before the superintendent after being notified in writing by the superintendent of a scheduled interview, unless a reasonable extension of time has been requested of, and granted by, the superintendent or the superintendent's designee;

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

~~(21)~~(24) Failing to inform a policyholder or applicant for insurance of the identity of the insurer or insurers, or the identity of any other insurance agent or licensee known to be involved in procuring, placing, or continuing the insurance for the policyholder or applicant, upon the binding of the coverage;

~~(22)~~(25) In the case of an agent that is a business entity, failing to report an individual licensee's violation to the department when the violation was known or should have been known by one or more of the partners, officers,

managers, or members of the business entity;

~~(23)~~(26) 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 a writing that was forged signature of another person as defined in section 2913.01 of the Revised Code;~~

~~(24)~~(27) Misrepresenting the person's qualifications, status or relationship to another person, agency, or entity, or using in any way a professional designation that has not been conferred upon the person by the appropriate accrediting organization;

~~(25)~~(28) Obtaining a premium loan or policy surrender or causing a premium loan or policy surrender to be made to or in the name of an insured or policyholder without that person's knowledge and written authorization;

~~(26)~~(29) Using paper, software, or any other materials of or provided by an insurer after the insurer has terminated the authority of the licensee, if the use of such materials would cause a reasonable person to believe that the licensee was acting on behalf of or otherwise representing the insurer;

~~(27)~~(30) Soliciting, procuring an application for, or placing, either directly or indirectly, any insurance policy when the person is not authorized under this chapter to engage in such activity;

~~(28)~~(31) Soliciting, ~~marketing, or~~ selling, or negotiating any product or service that offers benefits similar to insurance but is not regulated by the superintendent, without fully disclosing, orally and in writing, to the prospective purchaser that the product or service is not insurance and is not regulated by the superintendent;

~~(29)~~(32) Failing to fulfill a refund obligation to a policyholder or applicant in a timely manner. For purposes of division (B)~~(29)~~(32) of this section, a rebuttable presumption exists that a refund obligation is not fulfilled in a timely manner unless it is fulfilled within one of the following time periods:

(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)~~(33) With respect to a surety bail bond agent license, rebating or offering to rebate, or unlawfully dividing or offering to divide, any

commission, premium, or fee;

~~(31)~~(34) Using a license for the principal purpose of procuring, receiving, or forwarding applications for insurance of any kind, other than life, or soliciting, placing, or effecting such insurance directly or indirectly upon or in connection with the property of the licensee or that of relatives, employers, employees, or that for which they or the licensee is an agent, custodian, vendor, bailee, trustee, or payee;

~~(32)~~(35) 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)~~(36) Offering, selling, soliciting, or negotiating policies, contracts, agreements, or applications for insurance, or annuities providing fixed, variable, or fixed and variable benefits, or contractual payments, for or on behalf of any insurer or multiple employer welfare arrangement not authorized to transact business in this state, or for or on behalf of any spurious, fictitious, nonexistent, dissolved, inactive, liquidated or liquidating, or bankrupt insurer or multiple employer welfare arrangement;

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

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

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

(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), (19), (20), ~~(21)~~, (22), (23), (24), (25), (26), (27), (28), (29), (30), (31), (32), ~~or (33), (34), (35), and (36)~~ 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)~~(21) 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)~~(36) 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. 3905.16. (A)(1) Except as provided in division (A)(2) of this section, any person licensed as an agent under this chapter may at any time surrender any or all licenses held by the person.

(2) No agent shall surrender the agent's licenses if the superintendent of insurance is investigating any allegation of wrongdoing by the agent or has initiated proceedings under Chapter 119. of the Revised Code and notice of an opportunity for a hearing has been issued to the agent, and any attempt to so surrender is invalid.

(B)(1) If an agent's license is surrendered, revoked, ~~or~~ suspended, canceled, or inactivated by request, all appointments held by the agent are void. If a new license is issued to that person or if that person's previous license is reinstated or renewed, any appointment of the person to represent an insurer must be made in accordance with the requirements of this chapter.

(2) If an agent's license is surrendered, revoked, or canceled and the person wishes to apply for a new license, the person shall apply as a new agent and shall satisfy all requirements for a new agent license including, if applicable, submitting to a criminal records check under section 3905.051 of the Revised Code.

(C)(1) Any agent, other than a business entity, who is no longer engaged in the business of insurance in any capacity for which an agent's license is required may apply to the superintendent for inactive status. The superintendent may grant such status only if the superintendent is satisfied that the person is not engaged in and does not intend to engage in any of the activities set forth in section 3905.02 of the Revised Code that requires an agent's license.

(2) A person who has been granted inactive status is exempt from any continuing education requirements imposed under this chapter.

(3) The superintendent may adopt rules in accordance with Chapter 119. of the Revised Code to establish procedures for applying for inactive status, criteria used to determine eligibility for such status, and standards and procedures for transferring from inactive to active status.

(D) The superintendent may suspend or revoke a license, or take any other disciplinary action authorized by this chapter, regardless of whether the person is appointed or otherwise authorized to represent an insurer or agent.

Sec. 3905.20. (A) An insurance agent shall not act as an agent of an insurer unless the insurance agent is appointed as an agent of the insurer. An insurance agent who does not act as an agent of an insurer shall not be required to be appointed as an agent of the insurer.

For purposes of this division, an insurance agent acts as an agent of an insurer when the insurance agent sells, solicits, or negotiates any product of the insurer and is compensated ~~directly~~ by the insurer.

(B)(1) To appoint an insurance agent as its agent, an insurer shall file a notice of appointment with the superintendent of insurance not later than thirty days after the date the agency contract is executed or the first insurance application is submitted, whichever is earlier. The notice of appointment shall be provided in the manner prescribed by the superintendent.

Each insurer shall pay to the superintendent a fee ~~of twenty dollars~~ pursuant to division (A) of section 3905.40 of the Revised Code for every such appointment when issued and for each continuance thereafter. Such an appointment, unless canceled by the insurer, may be continued in force past the thirtieth day of June next after its issue and after the thirtieth day of June of each succeeding year, unless a different date is determined by the superintendent.

A separate appointment and fee are required for a variable life and variable annuity products line of authority.

(2) By appointing an insurance agent, an insurer certifies to the superintendent that the person is competent, financially responsible, and suitable to represent the insurer.

(3) While an appointment remains in force, an insurer shall be bound by the acts of the person named in the appointment within that person's actual and apparent authority as its agent.

(C) The superintendent may, in accordance with Chapter 119. of the Revised Code, adopt rules to establish appointment procedures, including cancellations and renewals, to clarify the circumstances that require an appointment, and to provide for the appointment of insurance agents to some or all of the insurers within an insurer's holding company system or group.

Sec. 3905.30. The superintendent of insurance may issue a surplus line broker's license to any natural person who is a resident of this or any other state or to a business entity that is organized under the laws of this or any other state. To be eligible for a resident surplus line broker's license, a person must have both a property license and a casualty license. ~~A To be eligible for a nonresident surplus line broker's license, a person must hold an active surplus line broker license in the person's home state. A nonresident surplus line broker shall obtain a nonresident license with a property and casualty line of authority in this state if the broker is or will be personally performing the due diligence requirements under section 3905.33 of the Revised Code.~~

A surplus line broker's license permits the person named in the license to negotiate for and obtain insurance, other than life insurance, on property or persons in this state from insurers not authorized to transact business in this state. Each such license expires on the thirty-first day of January next after the year in which it is issued, and may be then renewed.

Sec. 3905.35. Before ~~receiving~~ an applicant receives a resident license under section 3905.30 of the Revised Code, the person named in the license shall execute and deliver to the superintendent of insurance a bond in the

sum of twenty-five thousand dollars, payable to the state and conditioned that the person will faithfully comply with sections 3905.30 to 3905.35 of the Revised Code. The bond required by this section shall be issued by an insurance company authorized to transact surety business in this state, be on a form prescribed by the superintendent, and be deposited with the superintendent and kept in the superintendent's office.

Sec. 3905.36. (A) Except as provided in divisions (B) and (C) of this section, every insured association, company, corporation, or other person that enters, directly or indirectly, into any agreements with any insurance company, association, individual, firm, underwriter, or Lloyd's, not authorized to do business in this state, whereby the insured shall procure, continue, or renew contracts of insurance covering subjects of insurance resident, located, or to be performed within this state, with such unauthorized insurance company, association, individual, firm, underwriter, or Lloyd's, for which insurance there is a gross premium, membership fee, assessment, dues, or other consideration charged or collected, shall annually, on or before the thirty-first day of ~~January~~ March, return to the superintendent of insurance a statement under oath showing the name and address of the insured, name and address of the insurer, subject of the insurance, general description of the coverage, and amount of gross premium, fee, assessment, dues, or other consideration for such insurance for the preceding ~~twelve-month period~~ calendar year and shall at the same time pay to the treasurer of state a tax of five per cent of such gross premium, fee, assessment, dues, or other consideration, after a deduction for return premium, if any, as calculated on a form prescribed by the treasurer of state. All taxes collected under this section by the treasurer of state shall be paid into the general revenue fund. If the tax is not paid when due, the tax shall be increased by a penalty of twenty-five per cent. An interest charge computed as set forth in section 5725.221 of the Revised Code shall be made on the entire sum of the tax plus penalty, which interest shall be computed from the date the tax is due until it is paid. For purposes of this section, payment is considered made when it is received by the treasurer of state, irrespective of any United States postal service marking or other stamp or mark indicating the date on which the payment may have been mailed.

(B) This section does not apply to:

(1) Transactions in this state involving a policy solicited, written, and delivered outside this state covering only subjects of insurance not resident, located, or to be performed in this state at the time of issuance, provided such transactions are subsequent to the issuance of the policy;

(2) Attorneys-at-law acting on behalf of their clients in the adjustment

of claims or losses;

(3) Transactions involving policies issued by a captive insurer. For this purpose, a "captive insurer" means any of the following:

(a) An insurer owned by one or more individuals or organizations, whose exclusive purpose is to insure risks of one or more of the parent organizations or individual owners and risks of one or more affiliates of the parent organizations or individual owners;

(b) In the case of groups and associations, insurers owned by the group or association whose exclusive purpose is to insure risks of members of the group or association and affiliates of the members;

(c) Other types of insurers, licensed and operated in accordance with the captive insurance laws of their jurisdictions of domicile and operated in a manner so as to self-insure risks of their owners and insureds.

(4) Professional or medical liability insurance procured by a hospital organized under Chapter 3701. of the Revised Code;

(5) Insurance with an initial policy period of more than three years and that is procured to cover known events related to environmental remediation that occurred prior to the effective date of that insurance;

(6) Insurance procured on behalf of an entity that manufactures, packages, and sells, as more than fifty per cent of the entity's business, pharmaceutical products for human use where the production, packaging, and sale of such products are subject to regulation by an agency of the United States.

(C) In transactions that are subject to sections 3905.30 to 3905.35 of the Revised Code, each person licensed under section 3905.30 of the Revised Code shall pay to the treasurer of state, on or before the thirty-first day of ~~January~~ March of each year, five per cent of the balance of the gross premiums charged for insurance placed or procured under the license after a deduction for return premiums, as reported on a form prescribed by the treasurer of state. The tax shall be collected from the insured by the surplus line broker who placed or procured the policy of insurance at the time the policy is delivered to the insured. No license issued under section 3905.30 of the Revised Code shall be renewed until payment is made. If the tax is not paid when due, the tax shall be increased by a penalty of twenty-five per cent. An interest charge computed as set forth in section 5725.221 of the Revised Code shall be made on the entire sum of the tax plus penalty, which interest shall be computed from the date the tax is due until it is paid. For purposes of this section, payment is considered made when it is received by the treasurer of state, irrespective of any United States postal service marking or other stamp or mark indicating the date on which the payment

may have been mailed.

Sec. 3905.40. There shall be paid to the superintendent of insurance the following fees:

(A) Each insurance company doing business in this state shall pay:

(1) For filing a copy of its charter or deed of settlement, two hundred fifty dollars;

(2) For filing each statement, one hundred seventy-five dollars;

(3) For each certificate of authority or license, one hundred seventy-five, and for each certified copy thereof, five dollars;

(4) For each copy of a paper filed in the superintendent's office, twenty cents per page;

(5) For issuing certificates of deposits or certified copies thereof, five dollars for the first certificate or copy and one dollar for each additional certificate or copy;

(6) For issuing certificates of compliance or certified copies thereof, sixty dollars;

(7) For affixing the seal of office and certifying documents, other than those enumerated herein, two dollars;

(8) For each agent appointment and each annual renewal of an agent appointment, twenty dollars;

(9) For each termination of an agent appointment, five dollars.

(B) Each domestic life insurance company doing business in this state shall pay for annual valuation of its policies, one cent on every one thousand dollars of insurance.

(C) Each applicant for licensure as an ~~individual~~ insurance agent except applicants for licensure as ~~limited lines insurance~~ surety bail bond agents and surplus line brokers shall pay ten dollars for each line of authority requested. Fees collected under this division shall be credited to the department of insurance operating fund created in section 3901.021 of the Revised Code.

(D) Each domestic mutual life insurance company shall pay for verifying that any amendment to its articles of incorporation was regularly adopted, two hundred fifty dollars with each application for verification. Any such amendment shall be considered to have been regularly adopted when approved by the affirmative vote of two-thirds of the policyholders present in person or by proxy at any annual meeting of policyholders or at a special meeting of policyholders called for that purpose.

(E) Each insurance agent doing business in this state shall pay a biennial license renewal fee of twenty-five dollars, except the following insurance agents are not required to pay the license renewal fee:

(1) Individual resident agents who have met their continuing education requirements under section 3905.481 of the Revised Code;

(2) Surety bail bond agents;

(3) Surplus line brokers.

(F) All fees collected by the superintendent under this section except any fees collected under divisions (A)(2), (3), and (6) of this section shall be credited to the department of insurance operating fund created under section 3901.021 of the Revised Code.

Sec. 3905.41. The superintendent of insurance may open an account in the name of each insurance company authorized to do business in this state and in the name of any authorized insurance agent, and charge the accounts with all fees incurred by such companies or agents in accordance with sections ~~3905.10~~, 3905.20, 3905.40, 3919.26, and 3931.03 of the Revised Code, and other statutes imposing fees. The statutory fee for each service requested shall be charged against the proper account immediately upon the rendition of the service.

Not later than the tenth day of each calendar month the superintendent shall render an itemized statement to each company or agent whose account has been charged during the month next preceding, showing the amount of all fees charged during that month and demanding that payment thereof be made not later than the first day of the month next following.

The failure of any insurance company within that time to pay the amount of such fees in accordance with the monthly statement, or, if the statement or account is found to be incorrect, in accordance with a corrected monthly statement rendered by the superintendent, is grounds for the revocation of its certificate of authority to do business in this state. In the event of such an order of revocation, the superintendent shall immediately cause a notice thereof to be published once in at least one newspaper at the seat of the government and also, if a domestic company, once in at least one newspaper published in the county where its home office is located, or, if a foreign or alien company, once in at least one newspaper published in a county of this state where an agency of the company is located. After the publication of the notice, no agent of the company shall procure applications for insurance or issue policies.

In the event of the failure of any agent within the time fixed to pay the amount of fees charged against the agent's account in accordance with the monthly statement rendered by the superintendent, the agent's license may be revoked in the manner provided by section 3905.14 of the Revised Code.

Sec. 3905.481. ~~(A)(1) Except as provided in division (B) of this section, each person~~ Each individual who is issued a resident insurance agent license

~~as an agent on or after the effective date of this amendment shall complete in accordance with division (A)(1) of this section at least twenty twenty-four hours of continuing education in each license renewal period. The continuing education shall be offered in a course or program of study approved by the superintendent of insurance in consultation with the insurance agent education advisory council and shall include at least three hours of approved ethics training. The person shall complete the initial twenty hours of continuing education during a period not to exceed twenty-four months commencing on the first day of January of the year immediately following the year of the issuance of the license and ending on the thirty-first day of December of the second year following the year of the issuance of the license. Thereafter, the person shall complete at least twenty hours of continuing education in every subsequent twenty-four month period commencing on the first day of January and ending on the thirty-first day of December of the following year.~~

~~(2) Except as provided in division (B) of this section, each person who, on the effective date of this amendment, holds a license as an agent issued prior to that date shall complete during that person's applicable twenty-four month reporting period, at least twenty hours of continuing education offered in a course or program of study approved by the superintendent in consultation with the council. Thereafter, the person shall complete at least twenty hours of continuing education in every subsequent twenty-four month period commencing on the first day of January and ending on the thirty-first day of December of the following year.~~

~~(B) Division (A) of this This section does not apply to any person or class of persons, as determined by the superintendent in consultation with the council.~~

~~(C) A person may comply with division (A) of this section by demonstrating to the council that the person has completed the minimum number of hours required by that division in a substantially similar course or program of study offered in another state.~~

Sec. 3905.483. (A) There is hereby created the insurance agent education advisory council to advise the superintendent of insurance in carrying out the duties imposed under sections 3905.04 and 3905.481 to 3905.486 of the Revised Code.

(B) The council shall be composed of the superintendent, or the superintendent's designee, and twelve members appointed by the superintendent, as follows:

(1) One representative of the association of Ohio life insurance companies;

- (2) One representative of the independent insurance agents of Ohio;
- (3) One representative of the Ohio association of health underwriters;
- (4) One representative of the ~~Ohio~~ national association of ~~life underwriters~~ insurance and financial advisors-Ohio;
- (5) One representative of the Ohio insurance institute;
- (6) One representative of the professional insurance agents association of Ohio;
- (7) One representative of the Ohio land title association;
- (8) Two insurance agents each of whom has been licensed continuously during the five-year period immediately preceding the agent's appointment;
- (9) One representative of an insurance company admitted to transact business in this state;
- (10) Two representatives of consumers, one of whom shall be at least sixty years of age.

(C)(1) Of the initial eleven appointments made by the superintendent, three shall be for terms ending December 31, 1994, four shall be for terms ending December 31, 1995, and four shall be for terms ending December 31, 1996. Thereafter, terms of office shall be for three years, each term ending on the thirty-first day of December of the third year.

(2) The initial appointment of the twelfth member made by the superintendent under division (B)(7) of this section, pursuant to Am. Sub. S.B. 129 of the 124th general assembly, shall be for a term ending December 31, 2003. Thereafter, the term of office shall be for three years, ending on the thirty-first day of December of the third year.

(D) Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. A vacancy shall be filled in the same manner as the original appointment.

(E) Initial appointments to the council shall be made no later than thirty days after April 16, 1993. The initial appointment of the twelfth member to the council under division (B)(7) of this section, pursuant to Am. Sub. S.B. 129 of the 124th general assembly, shall be made no later than December 31, 2002.

(F) Any member is eligible for reappointment. The superintendent, after notice and opportunity for a hearing, may remove for cause any member the superintendent appoints.

(G) The superintendent or the superintendent's designee shall serve as chairperson of the council. Meetings shall be held upon the call of the chairperson and as may be provided by procedures adopted by the superintendent. Seven members of the council constitute a quorum.

(H) Each member shall receive mileage and necessary and actual expenses while engaged in the business of the council.

Sec. 3905.484. (A) The superintendent of insurance, in consultation with the insurance agent education advisory council, shall establish criteria for any course or program of study that is offered in this state under section 3905.04 or sections 3905.481 to 3905.486 of the Revised Code.

(B) No course or program of study shall be offered in this state under section 3905.04 or sections 3905.481 to 3905.486 of the Revised Code unless it is approved by the superintendent in consultation with the council.

(C) A course or program of study offered in this state under section 3905.04 or sections 3905.481 to 3905.486 of the Revised Code shall be developed or sponsored only by one of the following:

(1) An insurance company admitted to transact business in this state;

(2) An accredited college or university;

(3) An insurance trade association;

(4) An independent program of instruction that is approved by the superintendent in consultation with the council;

(5) Any institution as defined in section 1713.01 of the Revised Code that holds a certificate of authorization issued by the Ohio board of regents under Chapter 1713. of the Revised Code or is exempt under that chapter from the requirements for a certificate of authorization.

~~(D) Any person who teaches any approved course or program of study qualifies for the same number of classroom hours as would be granted to any person who takes and successfully completes that course or program.~~

Sec. 3905.841. The following persons or classes of persons shall not act as surety bail bond agents or employees of a surety bail bond agent or bail bond business and shall not directly or indirectly receive any benefits from the execution of a bail bond, except as a principal:

(A) Jailers or other persons employed in a detention facility, as defined in section 2921.01 of the Revised Code;

(B) Prisoners incarcerated in any jail, prison, or any other place used for the incarceration of persons;

(C) Peace officers as defined in section 2921.51 of the Revised Code, including volunteer or honorary peace officers, or other employees of a law enforcement agency;

~~(D)~~ (D) Committing magistrates, judges, employees of a court, or

employees of the clerk of any court;

~~(D)~~(E) Attorneys or any person employed at an attorney's office;

~~(E)~~(F) Any other persons having the power to arrest, or persons who have authority over or control of, federal, state, county, or municipal corporation prisoners.

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

~~The~~ (2) An applicant for an individual resident license shall also ~~request submit to a criminal records check conducted by the superintendent of the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code, or other governmental agencies, or other sources, as required and designated by the superintendent of insurance, and direct that the responses to that request be transmitted to the superintendent of insurance, or to the superintendent's designee. If the superintendent of insurance or the superintendent's designee fails to receive a response to a requested criminal records check, or if the applicant fails to request the criminal records check, the superintendent may refuse to issue a license under this section. The applicant shall pay any fee required for conducting the criminal records check pursuant to section 3905.051 of the Revised Code.~~

~~An applicant for a license shall submit to an examination as to the qualifications set forth in division (B) of this section.~~

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

~~(1)~~(a) The applicant is eighteen years of age or older.

~~(2)~~(b) The applicant's home state is Ohio.

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

~~(3)~~(d) The applicant has not committed any act that is grounds for the refusal to issue, suspension of, or revocation of a license under section 3905.14 of the Revised Code.

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

(f) The applicant has successfully completed the educational

requirements set forth in section 3905.04 of the Revised Code and passed the examination required by that section.

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

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

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

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

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

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

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

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

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

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

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

(f) The applicant has submitted any other documents requested by the superintendent.

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

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

application fee.

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

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

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

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

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

(D) The superintendent ~~of insurance~~ may ~~suspend or revoke~~ refuse to renew a surety bail bond agent's license as provided in division (B) of section 3905.482 3905.88 of the Revised Code, and may suspend, revoke, or refuse to issue or renew such a license as provided in section 3905.14 of the Revised Code.

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

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

(F) ~~Unless revoked or suspended by the superintendent of insurance or surrendered by the surety bail bond agent, such a license may, in the discretion of the superintendent and the payment of a one hundred fifty dollar fee, be renewed effective the first day of March next after its issue and after the first day of March in each succeeding year (1) A person seeking to renew a surety bail bond agent license shall apply annually for a renewal of the license on or before the last day of February. Applications~~

shall be submitted to the superintendent on forms prescribed by the superintendent. Each application shall be accompanied by a one-hundred-fifty-dollar renewal fee.

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

(3) If an applicant submits a completed renewal application, qualifies for renewal pursuant to divisions (F)(1) and (2) of this section, and has not committed any act that is a ground for the refusal to issue, suspension of, or revocation of a license under section 3905.14 or sections 3905.83 to 3905.99 of the Revised Code, the superintendent shall renew the applicant's surety bail bond insurance agent license.

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

(a) The applicant submits a completed renewal application.

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

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

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

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

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

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

(7) A license that is suspended for nonrenewal that is not reinstated pursuant to division (F)(6) of this section automatically is canceled unless

the superintendent is investigating any allegations of wrongdoing by the agent or has initiated proceedings under Chapter 119. of the Revised Code. In that case, the license automatically is canceled after the completion of the investigation or proceedings unless the superintendent revokes the license.

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

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

(2) The failure of a business entity to be in good standing with the secretary of state or to maintain a valid appointment of statutory agent is grounds for suspending, revoking, or refusing to renew its license.

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

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

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

Sec. 3905.86. (A) Any person licensed as a surety bail bond agent may be appointed by an insurer in accordance with this section.

~~(B) Each insurer shall certify to the superintendent of insurance before the thirtieth day of June each year the names and addresses of the surety bail bond agents for whom it requests appointments or the continuance of appointments~~ To appoint a surety bail bond agent as its agent, an insurer shall file a notice of appointment with the superintendent of insurance in the manner prescribed by the superintendent. All insurers shall pay to the superintendent a fee ~~of twenty dollars pursuant to division (A)(8) of section 3905.40 of the Revised Code~~ for each such appointment when issued and for each continuance thereafter. Such an appointment, unless canceled by the insurer, may be continued in force past the thirtieth day of June next after its issue and after the thirtieth day of June of each succeeding year provided that the appointee is licensed and is eligible for the appointment.

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

(C)(1) By appointing a surety bail bond agent, an insurer certifies to the superintendent that the person is competent, financially responsible, and suitable to represent the insurer.

(2) An insurer shall be bound by the acts of the person named in the appointment within that person's actual or apparent authority as its agent.

(D) A surety bail bond agent shall not represent to the public that the agent has authority to represent a particular insurer until the insurer has acknowledged that authority by appointment of the agent in accordance with this section.

Sec. 3905.862. Upon the expiration or cancellation of a surety bail bond agent's appointment, the agent shall not engage or attempt to engage in any activity requiring such an appointment. However, an insurer that cancels the appointment of a surety bail bond agent may authorize the agent to continue to attempt the arrest and surrender of a defendant for whom a bail bond had been written prior to the cancellation and to seek discharge of forfeitures and judgments.

An insurer that cancels the appointment of a surety bail bond agent or allows that appointment to expire shall pay to the superintendent of insurance a fee pursuant to division (A)(9) of section 3905.40 of the Revised Code.

Sec. 3905.87. (A) A surety bail bond agent shall not file a bond in any court of this state unless ~~both of the following conditions are met:~~

~~(1) The the agent is licensed and appointed under sections 3905.83 to 3905.95 of the Revised Code and has registered with the clerk of that court pursuant to division (B) of this section, if registration is required by the court.~~

~~(2) The agent has registered with the clerk of the court of common pleas of the county in which the agent resides.~~

(B) To register with a court, a surety bail bond agent shall file, with the clerk of the court, a copy of the agent's surety bail bond license, a copy of the agent's driver's license or state identification card, and a certified copy of the surety bail bond agent's appointment by power of attorney from each insurer that the surety bail bond agent represents. Registration and filing of a certified copy of a renewed power of attorney shall be performed An agent shall renew the agent's registration biennially by the first day of August of each odd-numbered year. ~~The clerk of the court shall not accept the registration of a surety bail bond agent unless the surety bail bond agent is~~

~~currently licensed and appointed in accordance with sections 3905.83 to 3905.95 of the Revised Code.~~

(C) The clerk of the court shall make available a list of court-registered surety bail bond agents to the appropriate holding facility, jail, correction facility, or other similar entity within the court's jurisdiction annually not later than the first day of September. If an agent registers with a court after the last day of August, the court shall add that agent to the list and make the updated list available to the appropriate holding facility, jail, correction facility, or other similar entity within the court's jurisdiction within twenty-four hours of the court's approval of that registration.

Sec. 3905.88. (A) Each individual who is issued a license as a resident surety bail bond agent shall complete, ~~in accordance with section 3905.481 of the Revised Code,~~ at least ~~fourteen~~ seven hours of continuing education in each license renewal period. The continuing education shall be offered in a course or program of study related to the bail bond business that is approved by the superintendent of insurance in consultation with the insurance agent education advisory council and shall include at least one hour of approved ethics training.

(B) The superintendent shall, ~~in accordance with section 3905.482 of the Revised Code, suspend or revoke~~ not renew the license of any surety bail bond agent who fails to meet the requirements of division (A) of this section ~~and has not been granted an extension of time within which to complete the requirements~~ or whose application for renewal does not meet the requirements of section 3905.85 of the Revised Code.

~~(C) The superintendent shall adopt, in accordance with Chapter 119. of the Revised Code, any rule necessary to carry out the superintendent's duties under this section.~~

Sec. 3905.89. Each person licensed under sections 3905.83 to 3905.95 of the Revised Code shall notify in writing the appropriate insurer or managing general agent, and the clerk of the court of common pleas of the county in which the licensee ~~resides~~ is registered, within thirty days after a change in the licensee's principal business address or telephone number.

This notification requirement is in addition to the notification requirements set forth in other provisions of this chapter.

Sec. 3905.932. A surety bail bond agent or insurer shall not do any of the following:

(A) Suggest or advise the employment of, or name for employment, any particular attorney to represent its principal;

(B) ~~Directly or indirectly solicit~~ Solicit business in, or on the property or grounds of, a detention facility, as defined in section 2921.01 of the Revised

Code, or in, or on the property or grounds of, any court. For purposes of this division, "solicit" includes, but is not limited to, the distribution of business cards, print advertising, or any other written information directed to prisoners or potential indemnitors, unless a request is initiated by the prisoner or potential indemnitor. Permissible print advertising in a detention facility is strictly limited to a listing in a telephone directory and the posting of the surety bail bond agent's name, address, and telephone number in a designated location within the detention facility.

(C) Wear or otherwise display any identification, other than the wallet identification card required under division (G) of section 3905.85 of the Revised Code, in or on the property or grounds of a detention facility, as defined in section 2921.01 of the Revised Code, or in or on the property or grounds of any court;

(D) Pay a fee or rebate or give or promise anything of value to a jailer, law enforcement officer, committing magistrate, or other person who has power to arrest or to hold in custody, or to any public official or public employee, in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond or estreatment of bail;

(E) Pay a fee or rebate or give or promise anything of value to an attorney in a bail bond matter, except in defense of any action on a bond;

(F) Pay a fee or rebate or give or promise anything of value to the principal or to anyone in the principal's behalf;

(G) Post anything without using a bail instrument representing an insurer, to have a defendant released on bail on all types of set court bail, except for the following:

(1) Cash court fees or cash reparation fees;

(2) Ten per cent assignments;

(3) Other nonsurety court bonds, if the agent provides full written disclosure and receipts and retains copies of all documents and receipts for not less than three years.

(H) Participate in the capacity of an attorney at a trial or hearing of a principal;

~~(H)~~(I) Accept anything of value from a principal for providing a bail bond, other than the premium filed with and approved by the superintendent of insurance and an expense fee, except that the surety bail bond agent may, in accordance with section 3905.92 of the Revised Code, accept collateral security or other indemnity from a principal or other person together with documentary stamp taxes if applicable. No fees, expenses, or charges of any kind shall be deducted from the collateral held or any return premium due, except as authorized by sections 3905.83 to 3905.95 of the Revised Code or

by rule of the superintendent. A surety bail bond agent, upon written agreement with another party, may receive a fee or other compensation for returning to custody an individual who has fled the jurisdiction of the court or caused the forfeiture of a bond.

~~(J)~~(J) Execute a bond in this state on the person's own behalf;

~~(K)~~(K) Execute a bond in this state if a judgment has been entered on a bond executed by the surety bail bond agent, which judgment has remained unpaid for at least sixty days after all appeals have been exhausted, unless the full amount of the judgment is deposited with the clerk of the court.

As used in this section, "instrument" means a fiduciary form showing a dollar amount for a surety bail bond.

Sec. 3924.01. As used in sections 3924.01 to 3924.14 of the Revised Code:

(A) "Actuarial certification" means a written statement prepared by a member of the American academy of actuaries, or by any other person acceptable to the superintendent of insurance, that states that, based upon the person's examination, a carrier offering health benefit plans to small employers is in compliance with sections 3924.01 to 3924.14 of the Revised Code. "Actuarial certification" shall include a review of the appropriate records of, and the actuarial assumptions and methods used by, the carrier relative to establishing premium rates for the health benefit plans.

(B) "Adjusted average market premium price" means the average market premium price as determined by the board of directors of the Ohio health reinsurance program either on the basis of the arithmetic mean of all carriers' premium rates for an OHC plan sold to groups with similar case characteristics by all carriers selling OHC plans in the state, or on any other equitable basis determined by the board.

(C) "Base premium rate" means, as to any health benefit plan that is issued by a carrier and that covers at least two but no more than fifty employees of a small employer, the lowest premium rate for a new or existing business prescribed by the carrier for the same or similar coverage under a plan or arrangement covering any small employer with similar case characteristics.

(D) "Carrier" means any sickness and accident insurance company or health insuring corporation authorized to issue health benefit plans in this state or a MEWA. A sickness and accident insurance company that owns or operates a health insuring corporation, either as a separate corporation or as a line of business, shall be considered as a separate carrier from that health insuring corporation for purposes of sections 3924.01 to 3924.14 of the Revised Code.

(E) "Case characteristics" means, with respect to a small employer, the geographic area in which the employees work; the age and sex of the individual employees and their dependents; the appropriate industry classification as determined by the carrier; the number of employees and dependents; and such other objective criteria as may be established by the carrier. "Case characteristics" does not include claims experience, health status, or duration of coverage from the date of issue.

(F) "Dependent" means the spouse or child of an eligible employee, subject to applicable terms of the health benefits plan covering the employee.

(G) "Eligible employee" means an employee who works a normal work week of twenty-five or more hours. "Eligible employee" does not include a temporary or substitute employee, or a seasonal employee who works only part of the calendar year on the basis of natural or suitable times or circumstances.

(H) "Health benefit plan" means any hospital or medical expense policy or certificate or any health plan provided by a carrier, that is delivered, issued for delivery, renewed, or used in this state on or after the date occurring six months after November 24, 1995. "Health benefit plan" does not include policies covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, specified disease, or vision care; coverage under a one-time-limited-duration policy of no longer than six months; coverage issued as a supplement to liability insurance; insurance arising out of a workers' compensation or similar law; automobile medical-payment insurance; or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(I) "Late enrollee" means an eligible employee or dependent who enrolls in a small employer's health benefit plan other than during the first period in which the employee or dependent is eligible to enroll under the plan or during a special enrollment period described in section 2701(f) of the "Health Insurance Portability and Accountability Act of 1996," Pub. L. No. 104-191, 110 Stat. 1955, 42 U.S.C.A. 300gg, as amended.

(J) "MEWA" means any "multiple employer welfare arrangement" as defined in section 3 of the "Federal Employee Retirement Income Security Act of 1974," 88 Stat. 832, 29 U.S.C.A. 1001, as amended, except for any arrangement which is fully insured as defined in division (b)(6)(D) of section 514 of that act.

(K) "Midpoint rate" means, for small employers with similar case characteristics and plan designs and as determined by the applicable carrier

for a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

(L) "Pre-existing conditions provision" means a policy provision that excludes or limits coverage for charges or expenses incurred during a specified period following the insured's enrollment date as to a condition for which medical advice, diagnosis, care, or treatment was recommended or received during a specified period immediately preceding the enrollment date. Genetic information shall not be treated as such a condition in the absence of a diagnosis of the condition related to such information.

For purposes of this division, "enrollment date" means, with respect to an individual covered under a group health benefit plan, the date of enrollment of the individual in the plan or, if earlier, the first day of the waiting period for such enrollment.

(M) "Service waiting period" means the period of time after employment begins before an employee is eligible to be covered for benefits under the terms of any applicable health benefit plan offered by the small employer.

(N)(1) "Small employer" means, in connection with a group health benefit plan and with respect to a calendar year and a plan year, an employer who employed an average of at least two but no more than fifty eligible employees on business days during the preceding calendar year and who employs at least two employees on the first day of the plan year.

(2) For purposes of division (N)(1) of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, shall be considered one employer. In the case of an employer that was not in existence throughout the preceding calendar year, the determination of whether the employer is a small or large employer shall be based on the average number of eligible employees that it is reasonably expected the employer will employ on business days in the current calendar year. Any reference in division (N) of this section to an "employer" includes any predecessor of the employer. Except as otherwise specifically provided, provisions of sections 3924.01 to 3924.14 of the Revised Code that apply to a small employer that has a health benefit plan shall continue to apply until the plan anniversary following the date the employer no longer meets the requirements of this division.

(O) "OHC plan" means an Ohio health care plan, which is the basic, standard, or carrier reimbursement plan for small employers and individuals established by ~~the board~~ in accordance with section 3924.10 of the Revised Code.

Sec. 3924.09. The Ohio health reinsurance program shall have the general powers and authority granted under the laws of the state to insurance companies licensed to transact sickness and accident insurance, except the power to issue insurance. The board of directors of the program also shall have the specific authority to do all of the following:

(A) Enter into contracts as are necessary or proper to carry out the provisions and purposes of sections 3924.07 to 3924.14 of the Revised Code, including the authority to enter into contracts with similar programs of other states for the joint performance of common functions, or with persons or other organizations for the performance of administrative functions;

(B) Sue or be sued, including taking any legal actions necessary or proper for recovery of any assessments for, on behalf of, or against any program or board member;

(C) Take such legal action as is necessary to avoid the payment of improper claims against the program;

(D) ~~Design~~ Make recommendations to the superintendent of insurance regarding the design of the OHC plans which, when offered by a carrier, are eligible for reinsurance and issue reinsurance policies in accordance with the requirements of sections 3924.07 to 3924.14 of the Revised Code;

(E) Establish rules, conditions, and procedures pertaining to the reinsurance of members' risks by the program;

(F) Establish appropriate rates, rate schedules, rate adjustments, rate classifications, and any other actuarial functions appropriate to the operation of the program;

(G) Assess members in accordance with division (G) of section 3924.11 and the provisions of section 3924.13 of the Revised Code, and make such advance interim assessments as may be reasonable and necessary for organizational and interim operating expenses. Any interim assessments shall be credited as offsets against any regular assessments due following the close of the calendar year.

(H) Appoint members to appropriate legal, actuarial, and other committees if necessary to provide technical assistance with respect to the operation of the program, policy and other contract design, and any other function within the authority of the program;

(I) Borrow money to effect the purposes of the program. Any notes or other evidence of indebtedness of the program not in default shall be legal investments for carriers and may be carried as admitted assets.

(J) Reinsure risks, collect assessments, and otherwise carry out its duties under division (G) of section 3924.11 of the Revised Code;

(K) Study the operation of the Ohio health reinsurance program and the open enrollment reinsurance program and, based on its findings, make legislative recommendations to the general assembly for improvements in the effectiveness, operation, and integrity of the programs;

(L) Design a basic and standard plan for purposes of sections 1751.16, 3923.122, and 3923.581 of the Revised Code.

Sec. 3924.10. (A) ~~The board of directors of the Ohio health reinsurance program shall design~~ may make recommendations to the superintendent of insurance, and the superintendent may adopt or amend by rule adopted in accordance with Chapter 119. of the Revised Code, the OHC basic, standard, and carrier reimbursement plans which, when offered by a carrier, are eligible for reinsurance under the program. ~~The board~~ superintendent shall establish the form and level of coverage to be made available by carriers in their OHC plans. ~~In designing the~~ The plans ~~the board shall also establish~~ include benefit levels, deductibles, coinsurance factors, exclusions, and limitations for the plans. The forms and levels of coverage ~~established by the board~~ shall specify which components of health benefit plans offered by a carrier may be reinsured. The OHC plans are subject to division (C) of section 3924.02 of the Revised Code and to the provisions in Chapters 1751., 1753., 3923., and any other chapter of the Revised Code that require coverage or the offer of coverage of a health care service or benefit.

(B) ~~The board shall adopt the OHC plans within one hundred eighty days after the effective date of this amendment.~~ Prior to adopting any rule that makes changes to the OHC basic or standard plan, the superintendent shall conduct an actuarial analysis of the cost impact of the proposed rule. The superintendent may consider recommendations of the Ohio health care coverage and quality council established under section 3923.90 of the Revised Code. The plans may include cost containment features including any of the following:

- (1) Utilization review of health care services, including review of the medical necessity of hospital and physician services;
  - (2) Case management benefit alternatives;
  - (3) Selective contracting with hospitals, physicians, and other health care providers;
  - (4) Reasonable benefit differentials applicable to participating and nonparticipating providers;
  - (5) Employee assistance program options that provide preventive and early intervention mental health and substance abuse services;
  - (6) Other provisions for the cost-effective management of the plans.
- (C) OHC plans established for use by health insuring corporations shall

be consistent with the basic method of operation of such corporations.

(D) Each carrier shall certify to the superintendent of insurance, in the form and manner prescribed by the superintendent, that the OHC plans filed by the carrier are in substantial compliance with the provisions of the ~~board~~ OHC plans designed or adopted under this section. Upon receipt by the superintendent of the certification, the carrier may use the certified plans.

(E) Each carrier shall, on and after sixty days after the date that the program becomes operational and as a condition of transacting business in this state, renew coverage provided to any individual or group under its OHC plans.

(F) The OHC plans in effect as of June 1, 2009, shall remain in effect until those plans are amended or new plans are adopted in accordance with this section.

Sec. 3929.30. The president or the vice-president and the secretary of each insurance company organized under the laws of this or any other state and doing business in this state, annually, on the first day of January or within sixty days thereafter, shall prepare, under oath, and deposit in the office of the superintendent of insurance a statement of the condition of such company on the next preceding thirty-first day of December. The statement shall be submitted on the forms adopted by the superintendent pursuant to section 3901.77 of the Revised Code, and shall exhibit the following facts and items:

(A) The amount of the capital stock of the company, specifying the amount paid and unpaid;

(B) A detailed statement of all the assets of the company and the manner of their investment.

(C) The liabilities of the company, specifying:

(1) The amount of losses due and unpaid;

(2) The amount of claims for losses resisted by the company;

(3) The amount of losses incurred during the year, including those claimed and not due, and those reported to the company upon which no action has been taken;

(4) The amount of dividends declared, due, and unpaid;

(5) The amount of dividends, either cash or scrip, declared but not due;

(6) The amount of money borrowed and the security given for its payment;

(7) The amount required for reinsurance, being a pro rata of all premiums, received and receivable, on unexpired risks and policies, provided that as to fire insurance business, a company may, at its option, maintain a sum equal to fifty per cent of the whole amount of premiums

received and receivable on unexpired risks and policies running one year and less from the date of the policy. In the case of marine insurance, premiums on trip risks not terminated shall be deemed unearned, and the superintendent may require a reserve to be carried thereon equal to one hundred per cent of the premiums on trip risks written during the month ended as of the date of statement.

(8) The amount of all other existing claims against the company;

~~(9) A statement, approved by the superintendent, from a member of the American academy of actuaries certifying that the loss and loss adjustment reserves established for medical malpractice business, as reported in the statutory annual statement, are computed in accordance with accepted loss reserving standards and are fairly stated in accordance with sound loss reserving principles.~~

(D) The income of the company during the preceding year, specifying:

- (1) The amount of cash premiums received;
- (2) The amount of notes or contingent assets received for premiums;
- (3) The amount of interest money received;
- (4) The amount of income received from other sources.

(E) The expenditure during the preceding year, specifying:

(1) The amount of losses paid during the year, stating how much of them accrued prior, and how much accrued subsequent, to the date of the preceding statement, and the amount at which losses were estimated in each preceding statement;

(2) The amount of dividends paid during the year;

(3) The amount of expenses paid during the year, including commissions and fees to agents and officers of the company;

(4) The amount paid for taxes;

(5) The amount of all payments and expenditures;

(6) The amount of scrip dividend declared.

Sec. 3956.04. (A) This chapter provides coverage, by the Ohio life and health insurance guaranty association, for the policies and contracts specified in division (B) of this section to all of the following persons:

(1) Persons who are the beneficiaries, assignees, or payees of the persons covered under division (A)(2) of this section, regardless of where they reside, except for nonresident certificate holders under group policies or contracts;

(2) Persons who are owners of or certificate holders under the policies or contracts, or, in the case of unallocated annuity contracts, the persons who are the contract holders, if either of the following applies:

(a) The persons are residents of this state;

(b) The persons are not residents of this state and all of the following conditions apply:

(i) The insurers that issued the policies or contracts are domiciled in this state;

(ii) At the time the policies or contracts were issued, the insurers did not hold a license or certificate of authority in the states in which the persons reside;

(iii) The states have associations similar to the association created by section 3956.06 of the Revised Code;

(iv) The persons are not eligible for coverage by those associations.

(B)(1) This chapter provides coverage to the persons specified in division (A) of this section for direct, nongroup life, health, annuity, and supplemental policies or contracts, for certificates under direct group policies and contracts, and for unallocated annuity contracts issued by member insurers, except as otherwise limited in this chapter. Annuity contracts and certificates under group annuity contracts include, but are not limited to, guaranteed investment contracts, deposit administration contracts, unallocated funding agreements, allocated funding agreements, structured settlement agreements, lottery contracts, and any immediate or deferred annuity contracts.

(2) This chapter does not provide coverage for any of the following:

(a) Any portion of a policy or contract not guaranteed by the insurer, or under which the risk is borne by the policy or contract holder;

(b) Any policy or contract of reinsurance, unless assumption certificates have been issued;

(c) Any portion of a policy or contract to the extent that the rate of interest on which it is based:

(i) Averaged over the period of four years prior to the date on which the association becomes obligated with respect to the policy or contract or if the policy or contract has been issued for a lesser period averaged over that period, exceeds the rate of interest determined by subtracting two percentage points from the monthly average-corporates as published by Moody's investors service, inc., or any successor to that service, averaged for the same period;

(ii) On and after the date on which the association becomes obligated with respect to the policy or contract, exceeds the rate of interest determined by subtracting three percentage points from the monthly average-corporates as published by Moody's investors service, inc., or any successor to that service, as most recently available.

If the monthly average-corporates is no longer published, the

superintendent, by rule, shall establish a substantially similar average.

(d) Any plan or program of an employer, association, or similar entity to provide life, health, or annuity benefits to its employees or members to the extent that the plan or program is self-funded or uninsured, including but not limited to benefits payable by an employer, association, or similar entity under any of the following:

(i) A multiple employer welfare arrangement as defined in section 514 of the "Employee Retirement Income Security Act of 1974," 88 Stat. 833, 29 U.S.C.A. 1001, as amended;

(ii) A minimum premium group insurance plan;

(iii) A stop-loss group insurance plan;

(iv) An administrative services only contract.

(e) Any portion of a policy or contract to the extent that it provides dividends or experience rating credits, or provides that any fees or allowances be paid to any person, including the policy or contract holder, in connection with the service to or administration of the policy or contract;

(f) Any policy or contract issued in this state by a member insurer at a time when it was not licensed or did not have a certificate of authority to issue the policy or contract in this state;

(g) Any unallocated annuity contract issued to an employee benefit plan protected under the federal pension benefit guaranty corporation;

(h) Any portion of any unallocated annuity contract that is not issued to or in connection with a governmental lottery or a benefit plan of a specific employee, union, or association of natural persons;

(i) Any policy or contract issued to or for the benefit of a past or present director or officer within one year of the filing of the successful complaint that the insurer was impaired or insolvent;

(j) Any policy or contract issued by any entity described in division (F)(2) of section 3956.01 of the Revised Code;

(k) Any policy or contract issued by a member insurer if the member insurer is carrying on as a line of business, and not as a separate legal entity, the activities of any entity described in division (F)(2) of section 3956.01 of the Revised Code, and the policy or contract is issued as a product of those activities.

(C) The benefits for which the association may become liable shall not exceed the lesser of either of the following:

(1) The contractual obligations for which the insurer is liable or would have been liable if it were not an impaired or insolvent insurer;

(2)(a) With respect to any one life, regardless of the number of policies or contracts:

(i) Three hundred thousand dollars in life insurance death benefits, but not more than one hundred thousand dollars in net cash surrender and net cash withdrawal values for life insurance;

(ii) One hundred thousand dollars in health insurance benefits, including any net cash surrender and net cash withdrawal values;

(iii) ~~One~~ Two hundred fifty thousand dollars in the present value of annuity benefits, including net cash surrender and net cash withdrawal values.

(b) With respect to each individual participating in a governmental retirement plan established under section 401, 403(b), or 457 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and covered by an unallocated annuity contract, or the beneficiaries of each such individual if deceased, in the aggregate, ~~one~~ two hundred fifty thousand dollars in present value annuity benefits, including net cash surrender and net cash withdrawal values.

The association is not liable to expend more than three hundred thousand dollars in the aggregate with respect to any one individual under divisions (C)(2)(a) and (b) of this section combined.

(c) With respect to any one contract holder, covered by any unallocated annuity contract not included in division (C)(2)(b) of this section, one million dollars in benefits, irrespective of the number of those contracts held by that contract holder.

(D) The liability of the association is limited strictly by the express terms of the policies or contracts and by this chapter, and is not affected by the contents of any brochures, illustrations, advertisements in the print or electronic media, or other advertising material used in connection with the sale of the policies or contracts, or by oral statements made by agents or other sales representatives in connection with the sale of the policies or contracts. The association is not liable for extra-contractual damages, punitive damages, attorney's fees, or interest other than as provided for by the terms of the policies or contracts as limited by this chapter, that might be awarded by any court or governmental agency in connection with the policies or contracts.

(E) The protection provided by this chapter does not apply where any guaranty protection is provided to residents of this state by the laws of the domiciliary state or jurisdiction of the impaired or insolvent insurer other than this state.

Sec. 3960.03. All of the following apply to risk retention groups chartered and licensed in states other than this state, that seek to do business as a risk retention group in this state:

(A) No risk retention group shall offer insurance in this state unless it has submitted to the superintendent of insurance, in a form satisfactory to the superintendent, all of the following:

(1) A statement identifying the state or states in which it is chartered and licensed as a liability insurance company, the date of chartering, its principal place of business, and any other information, including but not limited to, information on its membership, that the superintendent may require to verify that it is qualified under division (J) of section 3960.01 of the Revised Code;

(2) A copy of its plan of operation or a feasibility study and revisions of the plan or study submitted to the state in which the risk retention group is chartered and licensed. Division (A)(2) of this section does not apply to any line or classification of liability insurance that was defined in the federal "Product Liability Risk Retention Act of 1981," 95 Stat. 949, 15 U.S.C.A. 3901, as amended, before October 27, 1986, and was offered before that date by any risk retention group that had been chartered and operating for not less than three years before that date. The risk retention group shall submit a copy of any revision to its plan of operation or feasibility study required by division (A)(2) of section 3960.02 of the Revised Code at the same time that the revision is submitted to the commissioner of insurance of its chartering state.

(3) A statement of registration, for which a filing fee shall be determined by the superintendent, that submits it to the jurisdiction of the superintendent and the courts of this state. The fee shall be paid into the state treasury to the credit of the department of insurance operating fund pursuant to section 3901.021 of the Revised Code.

(B) A risk retention group doing business in this state shall submit to the superintendent all of the following:

(1) A copy of its financial statement submitted to the state in which the risk retention group is chartered and domiciled, which shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by a member of the American academy of actuaries or a qualified loss reserve specialist under criteria established by the national association of insurance commissioners;

(2) A copy of each examination of the group as certified by the commissioner or public official conducting the examination;

(3) Upon request by the superintendent, a copy of any information or document pertaining to any outside audit performed with respect to the group;

(4) Any information that may be required to verify, to the superintendent's satisfaction, its continuing qualification as a risk retention

group under division (J) of section 3960.01 of the Revised Code.

(C)(1) Agents or brokers for the risk retention group shall report to the superintendent the premiums for direct business for risks resident or located within this state that they have placed with or on behalf of a risk retention group not chartered in this state.

(2) The agent or broker shall keep a complete and separate record of all policies procured from each risk retention group, which record shall be open to examination by the superintendent. These records shall, for each policy and each kind of insurance provided, include the following:

- (a) The limit of liability;
- (b) The time period covered;
- (c) The effective date;
- (d) The name of the risk retention group that issued the policy;
- (e) The gross premium charged;
- (f) The amount of return premiums.

(D) Every risk retention group that is not chartered in this state shall do both of the following:

(1) On or before the thirty-first day of ~~January~~ March, pay to the treasurer of state five per cent of all premiums, fees, assessments, dues, or other consideration for the preceding ~~one-year period~~ calendar year for risks resident or located in this state, as calculated on a form prescribed by the treasurer of state. If such tax is not paid when due, the tax shall be increased by a penalty of twenty-five per cent. An interest charge computed as set forth in section 5725.221 of the Revised Code shall be made on the entire sum of the tax plus penalty, which interest shall be computed from the date the tax is due until it is paid. All taxes collected under this section shall be paid into the general revenue fund. For purposes of division (D)(1) of this section, payment is considered made when it is received by the treasurer of state, irrespective of any United States postal service marking or other stamp or mark indicating the date on which the payment may have been mailed.

(2) On or before the thirty-first day of ~~January~~ March, file a statement with the superintendent, on a form prescribed by the superintendent, showing the name and address of the insured, name and address of the insurer, subject of the insurance, general description of the coverage, the amount of gross premium, fee, assessment, dues, or other consideration for the insurance, after a deduction for return premium, if any, and any other information the superintendent requires.

(E) The superintendent may examine the financial condition of a risk retention group if the commissioner of insurance in the state in which it is chartered and licensed has not initiated an examination or does not initiate

an examination within sixty days after the superintendent has requested an examination. The examination shall be conducted in an expeditious manner and in accordance with the national association of insurance commissioners' examiner handbook.

(F) The superintendent may issue any order appropriate in voluntary dissolution proceedings or commence delinquency proceedings against a risk retention group not chartered in this state that does business in this state if the superintendent finds, after an examination of the group under division (E) of this section, that its financial condition is impaired. A risk retention group that violates any provision of this chapter is subject to fines and penalties, including revocation of its right to do business in this state, applicable to licensed insurers generally. ~~In addition to complying with the requirements of this section, any risk retention group operating in this state prior to enactment of this section shall comply with division (A)(1) of this section within thirty days after October 26, 1989.~~

Sec. 5725.18. (A) An annual franchise tax on the privilege of being an insurance company is hereby levied on each domestic insurance company. In the month of May, annually, the treasurer of state shall charge for collection from each domestic insurance company a franchise tax in the amount computed in accordance with the following, as applicable:

(1) With respect to a domestic insurance company that is a health insuring corporation, one per cent of all premium rate payments received, exclusive of payments received under the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and exclusive of payments received pursuant to the medical assistance program established under Chapter 5111. of the Revised Code for the period ending September 30, 2009, as reflected in its annual report for the preceding calendar year;

(2) With respect to a domestic insurance company that is not a health insuring corporation, one and four-tenths per cent of the gross amount of premiums received from policies covering risks within this state, exclusive of premiums received under the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and exclusive of payments received pursuant to the medical assistance program established under Chapter 5111. of the Revised Code for the period ending September 30, 2009, as reflected in its annual statement for the preceding calendar year, and, if the company operates a health insuring corporation as a line of business, one per cent of all premium rate payments received from that line of business, exclusive of payments received under the medicare program established under Title XVIII of the

"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and exclusive of payments received pursuant to the medical assistance program established under Chapter 5111. of the Revised Code for the period ending September 30, 2009. as reflected in its annual statement for the preceding calendar year.

Domestic insurance companies, including health insuring corporations, receiving payments pursuant to the medical assistance program established under Chapter 5111. of the Revised Code during the period beginning October 1, 2009, and ending December 31, 2009, shall file with the 2009 annual statement to the superintendent a schedule that reflects those payments received pursuant to the medical assistance program for that period. The payments reflected in the schedule, plus all other taxable premiums, are subject to the annual franchise tax due to be paid in 2010.

(B) The gross amount of premium rate payments or premiums used to compute the applicable tax in accordance with division (A) of this section is subject to the deductions prescribed by section 5729.03 of the Revised Code for foreign insurance companies. The objects of such tax are those declared in section 5725.24 of the Revised Code, to which only such tax shall be applied.

(C) In no case shall such tax be less than two hundred fifty dollars.

SECTION 2. That existing sections 1751.33, 1753.33, 3901.021, 3903.81, 3903.83, 3905.04, 3905.041, 3905.05, 3905.06, 3905.061, 3905.07, 3905.071, 3905.12, 3905.14, 3905.16, 3905.20, 3905.30, 3905.35, 3905.36, 3905.40, 3905.41, 3905.481, 3905.483, 3905.484, 3905.841, 3905.85, 3905.86, 3905.862, 3905.87, 3905.88, 3905.89, 3905.932, 3924.01, 3924.09, 3924.10, 3929.30, 3956.04, 3960.03, and 5725.18 and sections 3905.10 and 3905.482, and 3929.301 of the Revised Code are hereby repealed.

SECTION 3. Sections 1 and 2 of this act take effect on the ninetieth day after the effective date of this act. The Superintendent of Insurance may further delay the implementation and enforcement of the requirements amended, enacted, or repealed by those sections under Section 6 of this act.

SECTION 4. Notwithstanding section 3905.481 of the Revised Code, the Superintendent of Insurance shall establish a prorated phase-in schedule for the completion of continuing education requirements for the first license renewal period after the effective date of this act.

SECTION 5. For the time period beginning on the effective date of Sections 1 and 2 of this act and ending upon implementation and enforcement of section 3905.40 of the Revised Code as amended by this act, each applicant for licensure as an insurance agent except applicants for licensure as surety bail bond agents and surplus line brokers shall pay ten dollars for each line of authority requested. Fees collected under this section shall be credited to the Department of Insurance Operating Fund created in section 3901.021 of the Revised Code.

SECTION 6. (A) The Superintendent of Insurance may delay the implementation and enforcement of the requirements of sections 3901.021, 3905.04, 3905.041, 3905.05, 3905.051, 3905.06, 3905.061, 3905.07, 3905.071, 3905.10, 3905.12, 3905.14, 3905.16, 3905.20, 3905.30, 3905.35, 3905.36, 3905.40, 3905.41, 3905.481, 3905.482, 3905.483, 3905.484, 3905.841, 3905.85, 3905.86, 3905.862, 3905.87, 3905.88, 3905.89, 3905.932, and 3960.03 of the Revised Code as amended, enacted, or repealed by this act until the earlier of January 1, 2011, or thirty days after the Superintendent of Insurance determines that the Department of Insurance is able to implement those requirements and places a notification of that determination on the Department's web site. The Department shall place a notification on the Department's web site stating the effective date of the amendments, enactments, and repeals that are delayed under this section.

(B) The Superintendent shall continue to enforce requirements of the sections listed in division (A) of this section, as they existed immediately prior to the effective date of this act, until the Superintendent implements requirements amended, enacted, or repealed by this act pursuant to division (A) of this section.

SECTION 7. Sections 1753.33 and 3903.83 of the Revised Code, as amended by this act, shall take effect on January 1, 2012, for year-end 2012 results.

SECTION 8. Section 3956.04 of the Revised Code, as amended by this act, shall not apply to any liability incurred by the Ohio Life and Health Insurance Guaranty Association from an insurer that is an impaired or insolvent insurer on the effective date of this act.

SECTION 9. (A) Notwithstanding the duration of coverage specified in sections 1751.53 and 3923.38 of the Revised Code, a group contract or group policy that is delivered, issued for delivery, or renewed in this state on or after the effective date of this act shall provide that any eligible employee may continue the coverage under the contract or policy, for the employee and the employee's eligible dependents, for the length of time for which the employee is eligible for federal continuation coverage premium subsidies but not longer than fifteen months after the date that the group coverage would otherwise terminate by reason of the termination of the employee's employment. Expiration of the subsidized period or fifteen months, whichever occurs first, shall end the employee's privilege to continue coverage and shall end any coverage being continued pursuant to this section.

As used in this section:

(1) "Group contract" has the same meaning as in section 1751.53 of the Revised Code.

(2) "Group policy" has the same meaning as in section 3923.38 of the Revised Code.

(3) "Eligible employee" has the same meaning as in section 1751.53 of the Revised Code for purposes of group contracts and the same meaning as in section 3923.38 of the Revised Code for purposes of group policies, but includes only those individuals who are eligible for continuation coverage premium subsidies from the federal government.

(B) This section does not apply to an individual who is not an eligible employee as defined under division (A)(3) of this section.

SECTION 10. Section 9 of this act shall apply until the day after the last loss-of-employment date for which the federal government is subsidizing continuation coverage.

SECTION 11. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such a necessity is to provide as many Ohioans as possible the opportunity to take advantage of federal subsidies for the continuation of health insurance coverage following a loss of employment. Therefore, this act shall go into immediate effect.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Sub. H. B. No. 300

128th G.A.

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

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_