

**As Introduced**

**130th General Assembly  
Regular Session  
2013-2014**

**H. B. No. 313**

**Representatives Kunze, Hackett**

—

**A BILL**

To amend sections 1751.25, 3901.043, 3901.045, 1  
3901.17, 3901.32, 3901.321, 3901.33, 3901.34, 2  
3901.341, 3901.35, 3901.36, 3901.62, 3901.63, 3  
3901.64, 3903.72, 3903.721, 3903.83, 3907.14, 4  
3913.01, 3913.34, 3915.04, 3915.071, 3915.072, 5  
3921.21, 3925.08, 3939.01, and 3953.15, to amend, 6  
for the purpose of adopting new section numbers as 7  
indicated in parentheses, sections 3903.72 8  
(3903.723) and 3903.721 (3903.724), to enact new 9  
sections 3903.72 and 3903.721 and sections 10  
3901.351, 3901.371, 3901.372, 3901.373, 3901.374, 11  
3901.375, 3901.376, 3901.377, 3901.378, 3901.41, 12  
3901.621, 3901.631, 3903.722, 3903.725, 3903.726, 13  
3903.727, 3903.728, 3903.729, 3903.7210, 14  
3903.7211, and 3906.01 to 3906.15, and to repeal 15  
sections 3907.09, 3907.10, 3907.11, and 3907.13 of 16  
the Revised Code to enact the Insurance Regulatory 17  
Modernization Act to revise the insurance laws 18  
regarding alternative investments, holding company 19  
systems, risk management, reserves kept for life 20  
insurance policies, automated transactions, 21  
reinsurance, and mergers and consolidations. 22

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

**Section 1.** That sections 1751.25, 3901.043, 3901.045, 23  
3901.17, 3901.32, 3901.321, 3901.33, 3901.34, 3901.341, 3901.35, 24  
3901.36, 3901.62, 3901.63, 3901.64, 3903.72, 3903.721, 3903.83, 25  
3907.14, 3913.01, 3913.34, 3915.04, 3915.071, 3915.072, 3921.21, 26  
3925.08, 3939.01, and 3953.15 be amended, sections 3903.72 27  
(3903.723) and 3903.721 (3903.724) be amended for the purpose of 28  
adopting new section numbers as indicated in parentheses, new 29  
sections 3903.72 and 3903.721, and sections 3901.351, 3901.371, 30  
3901.372, 3901.373, 3901.374, 3901.375, 3901.376, 3901.377, 31  
3901.378, 3901.41, 3901.621, 3901.631, 3903.722, 3903.725, 32  
3903.726, 3903.727, 3903.728, 3903.729, 3903.7210, 3903.7211, 33  
3906.01, 3906.02, 3906.03, 3906.04, 3906.05, 3906.06, 3906.07, 34  
3906.08, 3906.09, 3906.10, 3906.11, 3906.12, 3906.13, 3906.14, and 35  
3906.15 of the Revised Code be enacted to read as follows: 36

**Sec. 1751.25.** The (A) Except as provided in division (B) of 37  
this section, the funds of a health insuring corporation shall be 38  
invested only in securities or other investments or assets that 39  
constitute permissible investments under section 1751.26 or 40  
3925.08 of the Revised Code. 41

(B) A health insuring corporation may seek permission from 42  
the superintendent of insurance to invest funds under Chapter 43  
3906. of the Revised Code and may invest funds under that chapter 44  
if such permission is granted. 45

**Sec. 3901.043.** The superintendent of insurance may adopt 46  
rules in accordance with Chapter 119. of the Revised Code to 47  
establish reasonable fees for any service or transaction performed 48  
by the department of insurance pursuant to section 1751.03, 49  
3901.321, 3901.341, ~~3907.09, 3907.10, 3907.11,~~ 3907.12, 3911.011, 50  
3913.40, 3915.14, 3917.06, 3918.07, 3923.02, 3935.04, 3937.03, or 51  
3953.28 of the Revised Code or any provision in sections 3913.01 52

to 3913.23 or in Chapter 3905. of the Revised Code, if no fee is 53  
otherwise provided under Title XVII or XXXIX of the Revised Code 54  
for such service or transaction. Any fee collected pursuant to 55  
those rules shall be paid into the state treasury to the credit of 56  
the department of insurance operating fund. 57

**Sec. 3901.045.** (A) The superintendent of insurance may 58  
receive documents and information, including otherwise 59  
confidential or privileged documents and information, from local, 60  
state, federal, and international regulatory and law enforcement 61  
agencies, from local, state, and federal prosecutors, and from the 62  
national association of insurance commissioners and its affiliates 63  
and subsidiaries, provided that the superintendent maintains as 64  
confidential or privileged any document or information received 65  
with notice or the understanding that the document or information 66  
is confidential or privileged under the laws of the jurisdiction 67  
that is the source of the document or information. 68

(B) The superintendent may also receive documents and 69  
information, including otherwise confidential or privileged 70  
documents and information, from the chief deputy rehabilitator, 71  
the chief deputy liquidator, other deputy rehabilitators and 72  
liquidators, and from any other person employed by, or acting on 73  
behalf of, the superintendent pursuant to Chapter 3901. or 3903. 74  
of the Revised Code, provided that the superintendent maintains as 75  
confidential or privileged any document or information received 76  
with the notice or understanding that the document or information 77  
is confidential or privileged, except that the superintendent may 78  
share and disclose such a document or information when authorized 79  
by other sections of the Revised Code. 80

(C) The superintendent has the authority to maintain as 81  
confidential or privileged the documents and information received 82  
pursuant to this section. 83

(D) The superintendent's authority to receive documents and information under this section, from the persons and subject to the conditions listed in this section, is not limited in any way by section 1751.19, 3901.36, 3901.44, 3901.48, 3901.70, 3903.11, ~~3903.72~~ 3903.722, 3903.7211, 3903.88, 3905.492, 3905.50, 3922.21, or 3999.36 of the Revised Code.

**Sec. 3901.17.** (A) As used in this section:

(1) "Captive insurer" has the meaning defined in section 3905.36 of the Revised Code.

(2) "Insurer" includes, but is not limited to, any person that is an affiliate of or affiliated with the insurer, as defined in division (A) of section 3901.32 of the Revised Code, and any person that is a subsidiary of the insurer as defined in ~~division (F) of~~ section 3901.32 of the Revised Code.

(3) "Laws of this state relating to insurance" has the meaning defined in division (A)(1) of section 3901.04 of the Revised Code.

(4) "Person" has the meaning defined in division (A) of section 3901.19 of the Revised Code.

(5) "Home state" has the same meaning as in section 3905.30 of the Revised Code.

(B) Any of the following acts in this state, effected by mail or otherwise, by any foreign or alien insurer not authorized to transact business within this state, any nonresident person acting on behalf of an insurer, or any nonresident insurance agent subjects the insurer, person, or agent to the exercise of personal jurisdiction over the insurer, person, or agent to the extent permitted by the constitutions of this state and of the United States:

(1) Issuing or delivering contracts of insurance to residents

of this state or to corporations authorized to do business	114
therein;	115
(2) Making or proposing to make any insurance contracts;	116
(3) Soliciting, taking, or receiving any application for insurance;	117 118
(4) Receiving or collecting any premium, commission, membership fee, assessment, dues, or other consideration for any insurance contract or any part thereof;	119 120 121
(5) Disseminating information as to coverage or rates, forwarding applications, inspecting risks, fixing rates, investigating or adjusting claims or losses, or transacting any matters subsequent to effecting a contract of insurance and arising out of it;	122 123 124 125 126
(6) Doing any kind of business recognized as constituting the doing of an insurance business under Title XXXIX of the Revised Code or subject to regulation by the superintendent of insurance under the laws of this state relating to insurance.	127 128 129 130
Any such act shall be considered to be the doing of an insurance business in this state by such insurer, person, or agent and shall be its agreement that service of any lawful subpoena, notice, order, or process is of the same legal force and validity as personal service of the subpoena, notice, order, or process in this state upon the insurer, person, or agent.	131 132 133 134 135 136
(C) Service of process in judicial proceedings shall be as provided by the Rules of Civil Procedure. Service in or out of this state of notice, orders, or subpoenas in administrative proceedings before the superintendent shall be as provided in section 3901.04 of the Revised Code.	137 138 139 140 141
(D) Service of any notice, order, subpoena, or process in any such action, suit, or proceeding shall, in addition to the manner	142 143

provided in division (C) of this section, be valid if served upon 144  
any person within this state who, in this state on behalf of such 145  
insurer, person, or agent is or has been: 146

(1) Soliciting, procuring, effecting, or negotiating for 147  
insurance; 148

(2) Making, issuing, or delivering any contract of insurance; 149

(3) Collecting or receiving any premium, membership fees, 150  
assessment, dues, or other consideration for insurance; 151

(4) Disseminating information as to coverage or rates, 152  
forwarding applications, inspecting risks, fixing rates, 153  
investigating or adjusting claims or losses, or transacting any 154  
matters subsequent to effecting a contract of insurance and 155  
arising out of it. 156

(E) Nothing in this section shall limit or abridge the right 157  
to serve any subpoena, order, process, notice, or demand upon any 158  
insurer, person, or agent in any other manner permitted by law. 159

(F) Every person investigating or adjusting any loss or claim 160  
under a policy of insurance not excepted under division (I) of 161  
this section and issued by any such insurer and covering a subject 162  
of insurance that was resident, located, or to be performed in 163  
this state at the time of issuance shall immediately report the 164  
policy to the superintendent. 165

(G) If this state is the home state of the insured, each such 166  
insurer that does any of the acts set forth in division (B) of 167  
this section shall be subject to the requirements of section 168  
3905.36 of the Revised Code. 169

(H) No contract of insurance effected in this state by mail 170  
or otherwise by any such insurer is enforceable by the insurer. 171

(I) This section does not apply to: 172

(1) Insurance obtained pursuant to sections 3905.30 to 173

3905.36 of the Revised Code;	174
(2) The transaction of reinsurance by insurers;	175
(3) Transactions in this state involving a policy of group life or group accident and sickness insurance solicited, written, and delivered outside this state;	176 177 178
(4) Transactions involving contracts of insurance independently procured through negotiations occurring entirely outside this state which are reported and the tax is paid in accordance with section 3905.36 of the Revised Code;	179 180 181 182
(5) An attorney at law acting on behalf of the attorney's clients in the adjustment of claims or losses;	183 184
(6) Ocean marine insurance;	185
(7) Transactions involving policies issued by a captive insurer.	186 187
<b>Sec. 3901.32.</b> As used in sections 3901.32 to 3901.37 of the Revised Code:	188 189
(A) "Affiliate of" or "affiliated with" a specific person means a person that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, the person specified.	190 191 192 193
(B) "Control," including "controlling," "controlled by," and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten per cent or more	194 195 196 197 198 199 200 201 202 203

of the voting securities of any other person. This presumption may 204  
be rebutted by a showing made in the manner provided in division 205  
(J) of section 3901.33 of the Revised Code that control does not 206  
exist in fact. The superintendent of insurance may determine, 207  
after furnishing all persons in interest notice and opportunity to 208  
be heard and making specific findings of fact to support such 209  
determination, that control exists in fact, notwithstanding the 210  
absence of a presumption to that effect. 211

(C) "Enterprise risk" means any activity, circumstance, 212  
event, or series of events involving one or more affiliates of an 213  
insurer that, if not remedied promptly, is likely to have a 214  
materially adverse effect on the financial condition or liquidity 215  
of the insurer or its insurance holding company system as a whole. 216  
"Enterprise risk" includes anything that would cause the insurer's 217  
risk-based capital to fall into company action level as set forth 218  
in section 3903.83 of the Revised Code or would cause the insurer 219  
to be in a hazardous financial condition. 220

(D) "Insurance holding company system" means two or more 221  
affiliated persons, one or more of which is an insurer. 222

~~(D)~~(E) "Insurer" means any person engaged in the business of 223  
insurance, guaranty, or membership, an inter-insurance exchange, a 224  
mutual or fraternal benefit society, or a health insuring 225  
corporation, ~~excepting.~~ "Insurer" does not include any agency, 226  
authority, or instrumentality of the United States, its 227  
possessions and territories, the Commonwealth of Puerto Rico, the 228  
District of Columbia, or a state or political subdivision of a 229  
state. 230

~~(E)~~(F) "Person" means an individual, a corporation, a 231  
partnership, an association, a joint stock company, a trust, an 232  
unincorporated organization, any similar entity, or any 233  
combination of the foregoing acting in concert. 234



~~(F)~~(G) "Subsidiary" of a specified person is an affiliate controlled by such person, directly or indirectly, through one or more intermediaries. 235  
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~~(G)~~(H) "Voting security" includes any security convertible into or evidencing a right to acquire a voting security. 238  
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**Sec. 3901.321.** (A) For the purposes of this section: 240

(1) "Acquiring party" means any person by whom or on whose behalf a merger or other acquisition of control is to be effected. 241  
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(2) "Domestic insurer" includes any person controlling a domestic insurer unless the person, as determined by the superintendent of insurance, is either directly or through its affiliates primarily engaged in business other than the business of insurance. 243  
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(3) "Person" does not include any securities broker holding, in the usual and customary broker's function, less than twenty per cent of the voting securities of an insurance company or of any person that controls an insurance company. 248  
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(B)(1) Subject to compliance with division (B)(2) of this section, no person other than the issuer shall do any of the following if, as a result, the person would, directly or indirectly, including by means of conversion or the exercise of any right to acquire, be in control of a domestic insurer: 252  
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(a) Make a tender offer for any voting security of a domestic insurer; 257  
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(b) Make a request or invitation for tenders of any voting security of a domestic insurer; 259  
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(c) Enter into any agreement to exchange securities of a domestic insurer; 261  
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(d) Seek to acquire or acquire, in the open market or 263

otherwise, any voting security of a domestic insurer; 264

(e) Enter into an agreement to merge with, or otherwise to 265  
acquire control of, a domestic insurer. 266

(2)(a) No person shall engage in any transaction described in 267  
division (B)(1) of this section, unless all of the following 268  
conditions are met: 269

(i) The person has filed with the superintendent of insurance 270  
a statement containing the information required by division (C) of 271  
this section; 272

(ii) The person has sent the statement to the domestic 273  
insurer; 274

(iii) The offer, request, invitation, agreement, or 275  
acquisition has been approved by the superintendent in the manner 276  
provided in division (F) of this section. 277

(b) The requirements of division (B)(2)(a) of this section 278  
shall be met at the time any offer, request, or invitation is 279  
made, or any agreement is entered into, or prior to the 280  
acquisition of the securities if no offer or agreement is 281  
involved. 282

(3) Any controlling person of a domestic insurer seeking to 283  
divest its controlling interest in the domestic insurer shall file 284  
a confidential notice of its proposed divestiture with the 285  
superintendent at least thirty days prior to the cessation of 286  
control, and provide a copy of the confidential notice to the 287  
insurer. The superintendent may require the person seeking to 288  
divest the controlling interest to file for and obtain approval of 289  
the transaction. The information shall remain confidential until 290  
the conclusion of the transaction unless the superintendent, in 291  
the superintendent's discretion, determines that the confidential 292  
treatment will interfere with enforcement of this section. If the 293  
statement required by division (B)(2) of this section is otherwise 294

filed with the superintendent in relation to all parties that 295  
acquire a controlling interest as a result of the divestiture, 296  
this division shall not apply. 297

(C) The statement required by division (B)(2) of this section 298  
shall be made under oath or affirmation, and shall contain all of 299  
the following information: 300

(1) The name and address of each acquiring party; 301

(2) If the acquiring party is an individual, the individual's 302  
principal occupation and all offices and positions held during the 303  
past five years, and any conviction of crimes other than minor 304  
traffic violations during the past ten years; 305

(3) If the acquiring party is not an individual, a report of 306  
the nature of its business operations during the past five years 307  
or for such lesser period as the acquiring party and any of its 308  
predecessors shall have been in existence; an informative 309  
description of the business intended to be done by the acquiring 310  
party and the acquiring party's subsidiaries; and a list of all 311  
individuals who are or who have been selected to become directors 312  
or executive officers of the acquiring party, who perform or will 313  
perform functions appropriate to such positions. The list shall 314  
include for each individual the information required by division 315  
(C)(2) of this section. 316

(4) The source, nature, and amount of the consideration used 317  
or to be used in effecting the merger or other acquisition of 318  
control, a description of any transaction in which funds were or 319  
are to be obtained for any such purpose, including any pledge of 320  
the domestic insurer's stock, or the stock of any of its 321  
subsidiaries or controlling affiliates, and the identity of 322  
persons furnishing such consideration; 323

(5) Fully audited financial information as to the earnings 324  
and financial condition of each acquiring party for its preceding 325

five fiscal years, or for such lesser period as the acquiring party and any of its predecessors shall have been in existence, and similar unaudited information as of a date not earlier than ninety days prior to the filing of the statement;

(6) Any plans or proposals which each acquiring party may have to liquidate such domestic insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management;

(7) The number of shares of any security of such issuer or such controlling person that each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement, or acquisition, and a statement as to the method by which the fairness of the proposal was determined;

(8) The amount of each class of any security of such issuer or such controlling person which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party;

(9) A full description of any contracts, arrangements, or understandings with respect to any security of such issuer or such controlling person in which any acquiring party is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. The description shall identify the persons with whom such contracts, arrangements, or understandings have been made.

(10) A description of the purchase of any security of such issuer or such controlling person during the year preceding the filing of the statement, by any acquiring party, including the

dates of purchase, names of the purchasers, and consideration paid 357  
or agreed to be paid therefor; 358

(11) A description of any recommendations to purchase any 359  
security of such issuer or such controlling person made during the 360  
year preceding the filing of the statement, by any acquiring 361  
party, or by anyone based upon interviews or at the suggestion of 362  
the acquiring party; 363

(12) Copies of all tender offers for, requests, or 364  
invitations for tenders of, exchange offers for, and agreements to 365  
acquire or exchange any securities of such issuer or such 366  
controlling person, and, if distributed, of additional 367  
solicitation material relating thereto; 368

(13) The terms of any agreement, contract, or understanding 369  
made with or proposed to be made with any broker or dealer as to 370  
solicitation of securities of such issuer or such controlling 371  
person for tender, and the amount of any fees, commissions, or 372  
other compensation to be paid to brokers or dealers with regard 373  
thereto; 374

(14) With respect to proposed affiliations between depository 375  
institutions or any affiliate thereof, within the meaning of Title 376  
I, section 104(c) of the "Gramm-Leach-Bliley Act," Pub. L. No. 377  
106-102, 113 Stat. 1338 (1999), and a domestic insurer, the 378  
proposed effective date of the acquisition or change of control; 379

(15) An agreement by the person required to file the 380  
statement required by division (B) of this section that the person 381  
will provide the annual registration required by division (K) of 382  
section 3901.33 of the Revised Code for so long as the person has 383  
control of the domestic insurer; 384

(16) An acknowledgment by the person required to file the 385  
statement required by division (B) of this section that the person 386  
and all subsidiaries within the person's control in the insurance 387

holding company system will provide information to the 388  
superintendent upon request as necessary to evaluate enterprise 389  
risk to the insurer; 390

(17) Such additional information as the superintendent may by 391  
rule prescribe as necessary or appropriate for the protection of 392  
policyholders of the domestic insurer or in the public interest. 393

(D)(1) If the person required to file the statement required 394  
by division (B)(2) of this section is a partnership, limited 395  
partnership, syndicate, or other group, the superintendent may 396  
require that the information required by division (C) of this 397  
section be furnished with respect to each partner of such 398  
partnership or limited partnership, each member of such syndicate 399  
or group, and each person that controls such partner or member. If 400  
any such partner, member, or person is a corporation, or the 401  
person required to file the statement is a corporation, the 402  
superintendent may require that the information required by 403  
division (C) of this section be furnished with respect to the 404  
corporation, each officer and director of the corporation, and 405  
each person that is directly or indirectly the beneficial owner of 406  
more than ten per cent of the outstanding voting securities of the 407  
corporation. 408

(2) If any material change occurs in the facts set forth in 409  
the statement required by division (B)(2) of this section, an 410  
amendment setting forth such change, together with copies of all 411  
documents and other material relevant to the change, shall be 412  
filed with the superintendent by the person subject to division 413  
(B)(2) of this section and sent to the domestic insurer within two 414  
business days after such person learns of the occurrence of the 415  
material change. 416

(E) If any offer, request, invitation, agreement, or 417  
acquisition described in division (B)(1) of this section is 418  
proposed to be made by means of a registration statement under the 419

"Securities Act of 1933," 48 Stat. 74, 15 U.S.C.A. 78a, or in 420  
circumstances requiring the disclosure of similar information 421  
under the "Securities Exchange Act of 1934," 48 Stat. 881, 15 422  
U.S.C.A. 78a, or under a state law requiring similar registration 423  
or disclosure, the person required to file the statement required 424  
by division (B)(2) of this section may use such documents in 425  
furnishing the information required by that statement. 426

(F)(1) The superintendent shall approve any merger or other 427  
acquisition of control described in division (B)(1) of this 428  
section unless, after a public hearing, the superintendent finds 429  
that any of the following apply: 430

(a) After the change of control, the domestic insurer would 431  
not be able to satisfy the requirements for the issuance of a 432  
license to write the line or lines of insurance for which it is 433  
presently licensed; 434

(b) The effect of the merger or other acquisition of control 435  
would be substantially to lessen competition in insurance in this 436  
state or tend to create a monopoly; 437

(c) The financial condition of any acquiring party is such as 438  
might jeopardize the financial stability of the domestic insurer, 439  
or prejudice the interests of its policyholders; 440

(d) The plans or proposals that the acquiring party has to 441  
liquidate the domestic insurer, sell its assets, or consolidate or 442  
merge it with any person, or to make any other material change in 443  
its business or corporate structure or management, are unfair and 444  
unreasonable to policyholders of the domestic insurer and not in 445  
the public interest; 446

(e) The competence, experience, and integrity of those 447  
persons that would control the operation of the domestic insurer 448  
are such that it would not be in the interest of policyholders of 449  
the domestic insurer and of the public to permit the merger or 450

other acquisition of control; 451

(f) The acquisition is likely to be hazardous or prejudicial 452  
to the insurance-buying public. 453

(2)(a) Chapter 119. of the Revised Code, except for section 454  
119.09 of the Revised Code, applies to any hearing held under 455  
division (F)(1) of this section, including the notice of the 456  
hearing, the conduct of the hearing, the orders issued pursuant to 457  
it, the review of the orders, and all other matters relating to 458  
the holding of the hearing, but only to the extent that Chapter 459  
119. of the Revised Code is not inconsistent or in conflict with 460  
this section. 461

(b) The notice of a hearing required under this division 462  
shall be transmitted by personal service, certified mail, e-mail, 463  
or any other method designed to ensure and confirm receipt of the 464  
notice, to the persons and addresses designated to receive notices 465  
and correspondence in the information statement filed under 466  
division (B)(2) of this section. Confirmation of receipt of the 467  
notice, including electronic "Read Receipt" confirmation, shall 468  
constitute evidence of compliance with the requirement of this 469  
section. The notice of hearing shall include the reasons for the 470  
proposed action and a statement informing the acquiring party that 471  
the party is entitled to a hearing. The notice also shall inform 472  
the acquiring party that at the hearing the acquiring party may 473  
appear in person, by attorney, or by such other representative as 474  
is permitted to practice before the superintendent, or that the 475  
acquiring party may present its position, arguments, or 476  
contentions in writing, and that at the hearing the acquiring 477  
party may present evidence and examine witnesses appearing for and 478  
against the acquiring party. A copy of the notice also shall be 479  
transmitted to attorneys or other representatives of record 480  
representing the acquiring party. 481

(c) The hearing shall be held at the offices of the 482



superintendent within ten calendar days, but not earlier than 483  
seven calendar days, of the date of transmission of the notice of 484  
hearing by any means, unless it is postponed or continued; but in 485  
no event shall the hearing be held unless notice is received at 486  
least three days prior to the hearing. The superintendent may 487  
postpone or continue the hearing upon receipt of a written request 488  
by an acquiring party, or upon the superintendent's motion, 489  
provided, however, a hearing in connection with a proposed change 490  
of control involving a depository institution or any affiliate 491  
thereof, within the meaning of Title I, section 104(c) of the 492  
"Gramm-Leach-Bliley Act," Pub. L. No. 106-102, 113 Stat. 1338 493  
(1999), and a domestic insurer, may be postponed or continued only 494  
upon the request of an acquiring party, or upon the 495  
superintendent's motion when the acquiring party agrees in writing 496  
to extend the sixty-day period provided for in section 104(c) of 497  
the "Gramm-Leach-Bliley Act," by a number of days equal to the 498  
number of days of such postponement or continuance. 499

(d) For the purpose of conducting any hearing held under this 500  
section, the superintendent may require the attendance of such 501  
witnesses and the production of such books, records, and papers as 502  
the superintendent desires, and may take the depositions of 503  
witnesses residing within or without the state in the same manner 504  
as is prescribed by law for the taking of depositions in civil 505  
actions in the court of common pleas, and for that purpose the 506  
superintendent may, and upon the request of an acquiring party 507  
shall, issue a subpoena for any witnesses or a subpoena duces 508  
tecum to compel the production of any books, records, or papers, 509  
directed to the sheriff of the county where such witness resides 510  
or is found, which shall be served and returned in the same manner 511  
as a subpoena in a criminal case is served and returned. The fees 512  
of the sheriff shall be the same as that allowed in the court of 513  
common pleas in criminal cases. Witnesses shall be paid the fees 514  
and mileage provided for under section 119.094 of the Revised 515

Code. Fees and mileage shall be paid from the fund in the state treasury for the use of the superintendent in the same manner as other expenses of the superintendent are paid. In any case of disobedience or neglect of any subpoena served on any person or the refusal of any witness to testify in any matter regarding which the witness may lawfully be interrogated, the court of common pleas of any county where such disobedience, neglect, or refusal occurs or any judge thereof, on application by the superintendent, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify therein.

In any hearing held under this section, a record of the testimony, as provided by stenographic means or by use of audio electronic recording devices, as determined by the superintendent, and other evidence submitted shall be taken at the expense of the superintendent. The record shall include all of the testimony and other evidence, and rulings on the admissibility thereof, presented at the hearing.

The superintendent shall pass upon the admissibility of evidence, but a party to the proceedings may at that time object to the rulings of the superintendent, and if the superintendent refuses to admit evidence, the party offering the evidence shall proffer the evidence. The proffer shall be made a part of the record of the hearing.

In any hearing held under this section, the superintendent may call any person to testify under oath as upon cross-examination. The superintendent, or any one delegated by the superintendent to conduct a hearing, may administer oaths or affirmations.

In any hearing under this section, the superintendent may appoint a hearing officer to conduct the hearing; the hearing

officer has the same powers and authority in conducting the 548  
hearing as is granted to the superintendent. The hearing officer 549  
shall have been admitted to the practice of law in the state and 550  
be possessed of any additional qualifications as the 551  
superintendent requires. The hearing officer shall submit to the 552  
superintendent a written report setting forth the hearing 553  
officer's finding of fact and conclusions of law and a 554  
recommendation of the action to be taken by the superintendent. A 555  
copy of the written report and recommendation shall, within seven 556  
days of the date of filing thereof, be served upon the acquiring 557  
party or the acquiring party's attorney or other representative of 558  
record, by personal service, certified mail, ~~e-mail~~ electronic 559  
mail, or any other method designed to ensure and confirm receipt 560  
of the report. The acquiring party may, within three days of 561  
receipt of the copy of the written report and recommendation, file 562  
with the superintendent written objections to the report and 563  
recommendation, which objections the superintendent shall consider 564  
before approving, modifying, or disapproving the recommendation. 565  
The superintendent may grant extensions of time to the acquiring 566  
party within which to file such objections. No recommendation of 567  
the hearing officer shall be approved, modified, or disapproved by 568  
the superintendent until after three days following the service of 569  
the report and recommendation as provided in this section. The 570  
superintendent may order additional testimony to be taken or 571  
permit the introduction of further documentary evidence. The 572  
superintendent may approve, modify, or disapprove the 573  
recommendation of the hearing officer, and the order of the 574  
superintendent based on the report, recommendation, transcript of 575  
testimony, and evidence, or the objections of the acquiring party, 576  
and additional testimony and evidence shall have the same effect 577  
as if the hearing had been conducted by the superintendent. No 578  
such recommendation is final until confirmed and approved by the 579  
superintendent as indicated by the order entered in the record of 580

proceedings, and if the superintendent modifies or disapproves the 581  
recommendations of the hearing officer, the reasons for the 582  
modification or disapproval shall be included in the record of 583  
proceedings. 584

After the order is entered, the superintendent shall transmit 585  
in the manner and by any of the methods set forth in division 586  
(F)(2)(b) of this section a certified copy of the order and a 587  
statement of the time and method by which an appeal may be 588  
perfected. A copy of the order shall be mailed to the attorneys or 589  
other representatives of record representing the acquiring party. 590

(e) An order of disapproval issued by the superintendent may 591  
be appealed to the court of common pleas of Franklin county by 592  
filing a notice of appeal with the superintendent and a copy of 593  
the notice of appeal with the court, within fifteen calendar days 594  
after the transmittal of the copy of the order of disapproval. The 595  
notice of appeal shall set forth the order appealed from and the 596  
grounds for appeal, in accordance with section 119.12 of the 597  
Revised Code. 598

(3) The superintendent may retain at the acquiring party's 599  
expense any attorneys, actuaries, accountants, and other experts 600  
not otherwise a part of the superintendent's staff as may be 601  
reasonably necessary to assist the superintendent in reviewing the 602  
proposed acquisition of control. 603

(G) This section does not apply to either of the following: 604

(1) Any transaction that is subject to section ~~3907.09,~~ 605  
~~3907.10, 3907.11, or~~ 3921.14, or sections 3925.27 to 3925.31, 606  
3941.35 to 3941.46, or section 3953.19 of the Revised Code; 607

(2) Any offer, request, invitation, agreement, or acquisition 608  
that the superintendent by order exempts from this section on 609  
either of the following bases: 610

(a) It has not been made or entered into for the purpose and 611

does not have the effect of changing or influencing the control of a domestic insurer;

(b) It is not otherwise comprehended within the purposes of this section.

(H) Nothing in this section or in any other section of Title XXXIX of the Revised Code shall be construed to impair the authority of the attorney general to investigate or prosecute actions under any state or federal antitrust law with respect to any merger or other acquisition involving domestic insurers.

(I) In connection with a proposed change of control involving a depository institution or any affiliate thereof, within the meaning of Title I, section 104(c) of the "Gramm-Leach-Bliley Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999), and a domestic insurer, not later than sixty days after the date of the notification of the proposed change in control submitted pursuant to division (B)(2) of this section, the superintendent shall make any determination that the person acquiring control of the insurer shall maintain or restore the capital of the insurer to the level required by the laws and regulations of this state.

**Sec. 3901.33.** (A) Every insurer that is authorized to do business in this state and that is a member of an insurance holding company system shall register with the superintendent of insurance, except a foreign insurer subject to disclosure requirements and standards adopted by statute or regulation in the jurisdiction of its domicile that are substantially similar to those contained in this section and section 3901.341 of the Revised Code. Every insurer that is subject to registration under this section shall register initially not later than ~~December 31, 1971, or within~~ thirty days after it becomes subject to registration, ~~whichever is later,~~ unless the superintendent for good cause shown extends the time for registration, and then

within the extended time, and every such insurer shall register 643  
annually after its initial registration. The superintendent may 644  
require any authorized insurer that is a member of a holding 645  
company system that is not subject to registration under this 646  
section to furnish a copy of the registration statement or other 647  
information filed by the insurance company with the insurance 648  
regulatory authority of domiciliary jurisdiction. 649

(B) Every insurer subject to registration shall file a 650  
registration statement with the superintendent on a form and in a 651  
format provided by the superintendent, which shall contain current 652  
information about all of the following: 653

(1) The capital structure, general financial condition, 654  
ownership, and management of the insurer and any person 655  
controlling the insurer; 656

(2) The identity of every member of the insurance holding 657  
company system; 658

(3) The following agreements in force, relationships 659  
subsisting, and transactions currently outstanding between the 660  
insurer and its affiliates: 661

(a) Loans, other investments, or purchases, sales or 662  
exchanges of securities of the affiliates by the insurer or of the 663  
insurer by its affiliates; 664

(b) Purchases, sales, or exchanges of assets; 665

(c) Transactions not in the ordinary course of business; 666

(d) Guarantees or undertakings for the benefit of an 667  
affiliate that result in an actual contingent exposure of the 668  
insurer's assets to liability, other than insurance contracts 669  
entered into in the ordinary course of the insurer's business; 670

(e) All management and service contracts and all cost-sharing 671  
arrangements; 672

(f) Reinsurance agreements;	673
(g) Dividends and other distributions to shareholders;	674
(h) Consolidated tax allocation agreements.	675
(4) Any pledge of the insurer's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system;	676 677 678
(5) <u>If requested by the superintendent, financial statements of an insurance holding company system, including all affiliates. Financial statements may include annual audited financial statements filed with the United States securities and exchange commission pursuant to the "Securities Act of 1933," 48 Stat. 74, 15 U.S.C. 77a, or the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78a. The insurer may satisfy the request by providing the superintendent with the most recently filed parent corporation financial statements that have been filed with the securities and exchange commission.</u>	679 680 681 682 683 684 685 686 687 688
(6) Other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the superintendent;	689 690 691 692
(7) <u>Statements that the insurer's board of directors oversees corporate governance and internal controls and that the insurer's officers or senior management have approved, implemented, and continue to maintain and monitor corporate governance and internal control procedures;</u>	693 694 695 696 697
(8) <u>Any other information required by the superintendent by rule or regulation.</u>	698 699
(C) Each registration statement filed pursuant to division (B) of this section shall summarize the information that has changed from the prior registration statement filed pursuant to	700 701 702

that division. 703

(D) No information need be disclosed on the registration 704  
statement filed pursuant to division (B) of this section if the 705  
information is not material for the purposes of this section. 706  
Unless the superintendent by rule, regulation, or order provides 707  
otherwise, sales, purchases, exchanges, loans or extensions of 708  
credit, or investments involving one-half of one per cent or less 709  
of an insurer's admitted assets as of the thirty-first day of 710  
December next preceding shall not be deemed material for the 711  
purposes of this section. 712

(E) Each registered insurer shall keep current the 713  
information required to be disclosed in its registration statement 714  
by reporting all material changes or additions on amendment forms 715  
provided by the superintendent within fifteen days after the end 716  
of the month in which it learns of each change or addition. 717

(F) The superintendent shall terminate the registration of 718  
any insurer that demonstrates that it no longer is a member of an 719  
insurance holding company system. 720

(G) The superintendent may require or allow two or more 721  
affiliated insurers subject to registration under this section to 722  
file a consolidated registration statement or consolidated reports 723  
amending their consolidated registration statement or their 724  
individual registration statements. 725

(H) The superintendent may allow an insurer that is 726  
authorized to do business in this state and that is part of an 727  
insurance holding company system to register on behalf of any 728  
affiliated insurer that is required to register under division (A) 729  
of this section and to file all information and material required 730  
to be filed under this section. 731

(I) This section does not apply to any insurer, information, 732  
or transaction if and to the extent that the superintendent by 733



rule, regulation, or order exempts it from this section. 734

(J) Any person may file with the superintendent a disclaimer 735  
of affiliation with any authorized insurer or such a disclaimer 736  
may be filed by the insurer or any member of an insurance holding 737  
company system. The disclaimer shall fully disclose all material 738  
relationships and bases for affiliation between the person and the 739  
insurer as well as the basis for disclaiming the affiliation. 740  
After a disclaimer has been filed, the insurer shall be relieved 741  
of any duty to register or report under this section which may 742  
arise out of the insurer's relationship with the person unless and 743  
until the superintendent disallows the disclaimer. The 744  
superintendent shall disallow such a disclaimer only in the manner 745  
provided in Chapter 119. of the Revised Code. 746

(K) The ultimate controlling person of every insurer subject 747  
to registration under this section also shall file an annual 748  
enterprise risk report. The report shall, to the best of the 749  
ultimate controlling person's knowledge and belief, identify the 750  
material risks within the insurance holding company system that 751  
could pose enterprise risk to the insurer. The ultimate 752  
controlling person shall file the report with the lead state 753  
commissioner of the insurance holding company system as determined 754  
by the procedures within the financial analysis handbook adopted 755  
by the national association of insurance commissioners. 756

(L) The failure to file any registration statement or any 757  
amendment thereto or enterprise risk report required by this 758  
section within the time specified for the filing is a violation of 759  
this section. 760

**Sec. 3901.34.** (A) ~~Material transactions by registered~~ 761  
~~insurers with their affiliates~~ Transactions within an insurance 762  
holding company system to which an insurer subject to registration 763  
is a party shall be subject to the following standards: 764

(1) The terms shall be fair and reasonable.	765
(2) Charges or fees for services performed shall be reasonable.	766 767
(3) Expenses incurred and payment received shall be allocated to the insurer in conformity with customary insurance accounting practices that are consistently applied.	768 769 770
(4) The books, accounts, and records of each party shall be so maintained as to clearly and accurately disclose the precise nature and details of the transactions <u>including such accounting information as is necessary to support the reasonableness of the charges or fees to the respective parties.</u>	771 772 773 774 775
(5) The insurer's surplus as regards policyholders following any dividends or distributions to shareholder affiliates shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.	776 777 778 779
<u>(6) Agreements for cost-sharing services and management services shall include such provisions as required by the superintendent of insurance in rule or regulation.</u>	780 781 782
(B) For the purposes of this section, in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, may be considered:	783 784 785 786 787
(1) The size of the insurer as measured by its assets, capital, surplus, reserves, premium writings, insurance in force, and other appropriate criteria;	788 789 790
(2) The extent to which the insurer's business is diversified among the several lines of insurance;	791 792
(3) The number and size of risks insured in each line of business;	793 794

(4) The extent of the geographical dispersion of the insurer's insured risks;	795 796
(5) The nature and extent of the insurer's reinsurance program;	797 798
(6) The quality, diversification, and liquidity of the insurer's investment portfolio;	799 800
(7) The recent past and projected future trend in the size of the insurer's surplus as regards policyholders;	801 802
(8) The adequacy of the insurer's reserves;	803
(9) The quality and liquidity of investments in subsidiaries. The superintendent may discount any such investment or treat any investment as a nonadmitted asset for purposes of determining the adequacy of surplus as regards policyholders whenever the investment so warrants.	804 805 806 807 808
(10) The quality of the insurer's earnings and the extent to which the reported earnings include extraordinary items;	809 810
(11) The surplus as regards policyholders maintained by other comparable insurers in respect of the factors enumerated in this division.	811 812 813
(C) No insurer subject to registration under section 3901.33 of the Revised Code shall pay any extraordinary dividend or make any other extraordinary distribution to its shareholders and the declaration of any such dividend or distribution shall be conditional and shall confer no rights upon shareholders until thirty days after the superintendent has received notice of the declaration thereof and has not within the thirty-day period disapproved the dividend or distribution, or the superintendent has approved the dividend or distribution within the thirty-day period.	814 815 816 817 818 819 820 821 822 823
Prior to paying any dividend or distribution, the insurer	824

shall notify the superintendent on a form provided by the 825  
superintendent for informational purposes within five business 826  
days following its declaration of any dividend or distribution and 827  
at least ten calendar days prior to payment of such dividend or 828  
distribution, such ten-calendar-day period to be measured from the 829  
date of the superintendent's receipt of the notice. 830

For the purposes of this section, an extraordinary dividend 831  
or distribution includes any dividend or distribution of cash or 832  
other property, whose fair market value, together with that of 833  
other dividends or distributions made within the preceding twelve 834  
months, exceeds the greater of ten per cent of the insurer's 835  
surplus as regards policyholders as of the thirty-first day of 836  
December next preceding, or the net income of the insurer for the 837  
twelve-month period ending the thirty-first day of December next 838  
preceding, but shall not include pro rata distributions of any 839  
class of the insurer's own securities. 840

Any dividend or distribution paid from other than earned 841  
surplus shall be considered an extraordinary dividend or 842  
extraordinary distribution. For the purposes of this section, 843  
"earned surplus" means an amount equal to an insurer's unassigned 844  
funds as set forth in its most recent statutory financial 845  
statement submitted to the superintendent, including net 846  
unrealized capital gains and losses or revaluation of assets. 847

**Sec. 3901.341.** (A) No insurer subject to registration under 848  
section 3901.33 of the Revised Code shall enter into any of the 849  
following transactions with any person in its insurance holding 850  
company system, including amendments or modifications of affiliate 851  
agreements previously filed under this section that are subject to 852  
the materiality standards contained in divisions (A)(1) to (5) of 853  
this section, until thirty days after the superintendent of 854  
insurance has received, for ~~his~~ the superintendent's review, 855

written notice of the insurer's intention to enter into the 856  
transaction and if, during that period, the superintendent has not 857  
disapproved the proposed transaction. The notice for amendments or 858  
modifications shall include the reasons for the change and the 859  
financial impact on the domestic insurer. Informal notice shall be 860  
reported to the superintendent within thirty days after 861  
termination of a previously filed agreement. These requirements 862  
shall apply to all of the following transactions: 863

(1) Any sale, purchase, exchange of assets, loan, extension 864  
of credit, guarantee, or investment, if the transaction equals or 865  
exceeds, with respect to insurers other than life insurers, the 866  
lesser of three per cent of the insurer's admitted assets as of 867  
the thirty-first day of December next preceding or twenty-five per 868  
cent of the insurer's surplus as regards policyholders as of the 869  
thirty-first day of December next preceding or, with respect to 870  
life insurers, three per cent of the insurer's admitted assets as 871  
of the thirty-first day of December next preceding; 872

(2) Any loan or extension of credit to any person that is not 873  
an affiliate of the insurer, if both of the following apply: 874

(a) The loan or extension of credit equals or exceeds, with 875  
respect to insurers other than life insurers, the lesser of three 876  
per cent of the insurer's admitted assets as of the thirty-first 877  
day of December next preceding or twenty-five per cent of the 878  
insurer's surplus as regards policyholders as of the thirty-first 879  
day of December next preceding or, with respect to life insurers, 880  
three per cent of the insurer's admitted assets as of the 881  
thirty-first day of December next preceding. 882

(b) The insurer makes the loan or extends the credit with an 883  
agreement or understanding that the proceeds of the transaction, 884  
in whole or in substantial part, are to be used to make loans or 885  
extend credit to, to purchase assets of, or to make investments 886  
in, any affiliate of the insurer. 887

(3) Reinsurance agreements or modifications <del>of such</del>	888
<u>agreements including all of the following:</u>	889
<u>(a) All new reinsurance pooling agreements;</u>	890
<u>(b) All reinsurance pooling agreements in which a domestic</u>	891
<u>company is newly added;</u>	892
<u>(c) Agreements in which the reinsurance premium or the change</u>	893
<u>in the insurer's liabilities, or the projected reinsurance premium</u>	894
<u>or a change in the insurer's liabilities in any of the next three</u>	895
<u>years, equals or exceeds five per cent of the insurer's surplus as</u>	896
<u>regards policyholders as of the thirty-first day of December next</u>	897
<u>preceding. Division</u>	898
<u>Division (A)(3) of this section also applies to reinsurance</u>	899
<u>agreements that may require as consideration the transfer of</u>	900
<u>assets from an insurer to a nonaffiliate, if the insurer and</u>	901
<u>nonaffiliate have an agreement or understanding that any portion</u>	902
<u>of the assets will be transferred to one or more affiliates of the</u>	903
<u>insurer.</u>	904
(4) All management agreements, service contracts, <u>tax</u>	905
<u>allocations agreements, guarantees, and cost-sharing arrangements;</u>	906
(5) Any other material transaction that the superintendent,	907
pursuant to rules adopted in accordance with Chapter 119. of the	908
Revised Code, determines may render the insurer's surplus as	909
regards policyholders unreasonable in relation to the insurer's	910
outstanding liabilities and inadequate to its financial needs.	911
(B) In reviewing transactions under division (A) of this	912
section, the superintendent shall consider whether the terms of	913
the transaction are fair and reasonable and whether the	914
transaction may adversely affect the interests of policyholders.	915
(C) Any transaction or agreement described in division (A) of	916
this section that is not disapproved by the superintendent in	917

accordance with that division is effective as of the effective 918  
date set forth in the notice required under this section. 919

(D) The superintendent, pursuant to rules adopted in 920  
accordance with Chapter 119. of the Revised Code, may designate 921  
certain types of transactions that need not be submitted for 922  
review under division (A) of this section, if those transactions 923  
would not have a significant impact on the financial condition of 924  
an insurer. 925

(E) A domestic insurer shall not enter into any transaction 926  
described in division (A) of this section with members of its 927  
insurance holding company system if the transaction is part of a 928  
plan or series of similar transactions and if the purpose of 929  
entering into the separate transactions is to avoid the review 930  
required under division (A) of this section that would otherwise 931  
occur. If the superintendent determines that the insurer, within a 932  
twelve-month period, entered into those separate transactions for 933  
that purpose, ~~he~~ the superintendent may take any action authorized 934  
by section 3901.37 of the Revised Code. 935

(F) A domestic insurer shall give written notice to the 936  
superintendent, within thirty days after making an investment, if 937  
the investment is made in a corporation and the total investment 938  
in the corporation by the insurance holding company system exceeds 939  
ten per cent of the voting securities of the corporation. 940

(G) Nothing in division (A) of this section shall be 941  
construed to authorize or permit any transaction that would 942  
otherwise be contrary to law. 943

**Sec. 3901.35.** (A)~~(1)~~ In addition to the powers ~~which that~~ the 944  
superintendent has under sections 3901.01 to 3901.31, ~~inclusive,~~ 945  
of the Revised Code, relating to the examination of insurers, the 946  
superintendent of insurance, subject to sections 119.01 to 119.13, ~~inclusive,~~ 947  
~~inclusive,~~ of the Revised Code, shall also have the power to ~~order~~ 948

examine any insurer registered under section 3901.33 of the 949  
Revised Code and its affiliates to ascertain the financial 950  
condition of the insurer, including the enterprise risk to the 951  
insurer by the ultimate controlling party, or by any entity or 952  
combination of entities within the insurance holding company 953  
system, or by the insurance holding company system on a 954  
consolidated basis. 955

(2) The superintendent of insurance may order any insurer 956  
registered under section 3901.33 of the Revised Code to produce 957  
for examination such records, books, or other information papers 958  
in the possession of the insurer and its affiliates as may be 959  
reasonably necessary to ascertain the financial condition or 960  
legality of conduct of such insurer, but only if the 961  
superintendent finds that an examination of such insurer pursuant 962  
to sections 3901.01 to 3901.31, inclusive, of the Revised Code, 963  
would be inadequate or the interests of the policyholders of such 964  
insurer may be adversely affected. In the event such insurer fails 965  
to comply with such order, the superintendent shall have the power 966  
to examine such affiliates to obtain such information determine 967  
compliance with sections 3901.32 to 3901.37 of the Revised Code. 968

(3) To determine compliance with sections 3901.32 to 3901.37 969  
of the Revised Code, the superintendent may order any insurer 970  
registered under section 3901.33 of the Revised Code to produce 971  
information not in the possession of the insurer if the insurer 972  
can obtain access to such information pursuant to a contractual 973  
relationship, statutory obligation, or other method. If the 974  
insurer cannot obtain the information requested by the 975  
superintendent, the insurer shall provide the superintendent a 976  
detailed explanation of the reason that the insurer cannot obtain 977  
the information and the identity of the holder of information. 978  
Whenever it appears to the superintendent that the detailed 979  
explanation is without merit, the superintendent may require, 980



after notice and hearing, that the insurer pay a penalty of up to 981  
ten thousand dollars per day, or the superintendent may suspend or 982  
revoke the insurer's license. 983

(B) The superintendent may retain at the registered insurer's 984  
expense such attorneys, actuaries, accountants, and other experts 985  
not otherwise a part of the superintendent's staff as shall be 986  
reasonably necessary to assist in the conduct of the examination 987  
under division (A) of this section. Any persons so retained shall 988  
be under the direction and control of the superintendent and shall 989  
act in a purely advisory capacity. 990

(C) Each registered insurer producing for examination 991  
records, books, and papers pursuant to division (A) of this 992  
section shall be liable for and shall pay the expense of such 993  
examination in accordance with section 3901.07 of the Revised 994  
Code. 995

(D) If the insurer fails to comply with an order issued 996  
pursuant to this section, the superintendent may examine the 997  
affiliates to obtain the information. The superintendent also may 998  
issue subpoenas, administer oaths, and examine under oath any 999  
person for purposes of determining compliance with this section. 1000  
Upon the failure or refusal of any person to obey a subpoena, the 1001  
superintendent may petition the court of common pleas of Franklin 1002  
county for an order compelling the witness to appear and testify 1003  
or produce documentary evidence. Failure to obey the court order 1004  
shall be punishable as contempt of court. A person who receives a 1005  
subpoena issued pursuant to this division shall appear as a 1006  
witness at the place specified in the subpoena within the state. 1007  
The person is entitled to the same fees and mileage as a witness 1008  
in a civil action in the court of common pleas. Any fees, mileage, 1009  
or actual expenses necessarily incurred in securing the attendance 1010  
of a witness and their testimony shall be itemized and charged 1011  
against the insurer being examined. 1012

Sec. 3901.351. (A) With respect to any insurer registered 1013  
under section 3901.33 of the Revised Code and in accordance with 1014  
division (C) of this section, the superintendent of insurance may 1015  
participate in a supervisory college for any domestic insurer that 1016  
is part of an insurance holding company system with international 1017  
operations in order to determine compliance by the insurer with 1018  
sections 3901.32 to 3901.37 of the Revised Code. In participating, 1019  
the superintendent may do all of the following: 1020

(1) Initiate the establishment of a supervisory college; 1021

(2) Clarify the membership and participation of other 1022  
supervisors in the supervisory college; 1023

(3) Clarify the functions of the supervisory college and the 1024  
role of other regulators, including the establishment of a 1025  
group-wide supervisor; 1026

(4) Coordinate the ongoing activities of the supervisory 1027  
college, including planning meetings, supervisory activities, and 1028  
processes for information sharing; 1029

(5) Establish a crisis management plan. 1030

(B) Each registered insurer subject to this section shall be 1031  
liable for and shall pay the reasonable expenses of the 1032  
superintendent's participation in a supervisory college in 1033  
accordance with division (C) of this section, including reasonable 1034  
travel expenses. The superintendent may establish a regular 1035  
assessment to the insurer for the payment of these expenses. A 1036  
supervisory college may be convened as either a temporary or 1037  
permanent forum for communication and cooperation between the 1038  
regulators charged with the supervision of the insurer or its 1039  
affiliates. 1040

(C) In order to assess the business strategy, financial 1041  
position, legal and regulatory position, risk exposure, risk 1042

management, and governance processes, and as part of the 1043  
examination of individual insurers in accordance with section 1044  
3901.35 of the Revised Code, the superintendent may participate in 1045  
a supervisory college with other regulators charged with 1046  
supervision of the insurer or its affiliates, including other 1047  
state, federal, and international regulatory agencies. The 1048  
superintendent may enter into agreements in accordance with 1049  
section 3901.36 of the Revised Code that provide the basis for 1050  
cooperation between the superintendent and the other regulatory 1051  
agencies, and the activities of the supervisory college. 1052

(D) Nothing in this section shall delegate to the supervisory 1053  
college the authority of the superintendent to regulate or 1054  
supervise the insurer or its affiliates within its jurisdiction. 1055

**Sec. 3901.36.** (A) ~~All information, documents, and copies~~ 1056  
~~thereof~~ Documents, materials, or other information in the 1057  
possession or control of the department of insurance that are 1058  
obtained by or disclosed to the superintendent of insurance or any 1059  
other person in the course of an examination or investigation made 1060  
pursuant to section 3901.35 of the Revised Code and all 1061  
information reported pursuant to section 3901.33 of the Revised 1062  
Code shall be given confidential and privileged treatment and 1063  
shall not be subject to section 149.43 of the Revised Code, 1064  
subpoena, ~~or be made public by the superintendent or any other~~ 1065  
~~person.~~ 1066

~~(B) Notwithstanding division (A) of this section, the~~ 1067  
~~discovery, and shall not be admissible in evidence in any private~~ 1068  
~~civil action. The superintendent may do any of the following:~~ 1069

~~(1) Disclose documents and information that are the subject~~ 1070  
~~of this section upon obtaining~~ shall not make the documents, 1071  
materials, or other information public unless one of the following 1072  
applies: 1073

(1) The superintendent uses the documents, materials, or other information in furtherance of any regulatory or legal action brought as a part of the superintendent's official duties. 1074  
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(2) The superintendent has obtained the prior written consent from of the insurer to which pertaining to the disclosure of the documents and, materials, or other information pertain of the insurer. 1077  
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~~(2) Disclose documents and information that are the subject of this section in such a manner as the superintendent considers appropriate~~ (3) The superintendent, after giving the insurer and those affiliates that are the subject of the documents and, materials, or other information notice and an opportunity to be heard in accordance with Chapter 119. of the Revised Code, if the superintendent determines that the interests of policyholders, shareholders, or the public will be served by the disclosure 1081  
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~~(3) Share documents and information that are the subject of this section with the chief deputy rehabilitator, the chief deputy liquidator, other deputy rehabilitators and liquidators, and any other person employed by, or acting on behalf of, the superintendent pursuant to Chapter 3901. or 3903. of the Revised Code, in which case the superintendent may make disclosures as the superintendent considers appropriate.~~ 1089  
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(B) Neither the superintendent nor any person who receives documents, materials, or other information while acting under the authority of the superintendent or with whom such documents, materials, or other information are shared pursuant to this section shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to division (A) of this section. 1096  
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(C) In order to assist in the performance of the superintendent's duties under this section, the superintendent may 1103  
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do either of the following: 1105

(1) Share documents, materials, or other information, 1106  
including the confidential and privileged documents, materials, or 1107  
other information subject to division (A) of this section with 1108  
other local, state, federal, and international regulatory and law 1109  
enforcement agencies, ~~with local, state, and federal prosecutors,~~ 1110  
~~and~~ with the national association of insurance commissioners and 1111  
its affiliates and subsidiaries, and with members of any 1112  
supervisory college described in section 3901.351 of the Revised 1113  
Code, provided that the recipient agrees to maintain the 1114  
confidential or privileged status of the confidential or 1115  
privileged ~~document~~ documents, materials, or other information and 1116  
has verified in writing the legal authority to do so+ 1117

~~(4) Disclose documents and information that are the subject~~ 1118  
~~of this section in the furtherance of any regulatory or legal~~ 1119  
~~action brought by or on behalf of the superintendent or the state,~~ 1120  
~~resulting from the exercise of the superintendent's official~~ 1121  
~~duties.~~ 1122

~~(C) Notwithstanding divisions (A) and (B) of this section,~~ 1123  
~~the superintendent may authorize the national association of~~ 1124  
~~insurance commissioners and its affiliates and subsidiaries by~~ 1125  
~~agreement to share confidential or privileged documents or~~ 1126  
~~information received pursuant to division (B)(3) of this section~~ 1127  
~~with local, state, federal, and international regulatory and law~~ 1128  
~~enforcement agencies and with local, state, and federal~~ 1129  
~~prosecutors, provided that the recipient agrees to maintain the~~ 1130  
~~confidential or privileged status of the confidential or~~ 1131  
~~privileged document or information and has authority to do so.~~ 1132

~~(D) Notwithstanding divisions (A) and (B) of this section,~~ 1133  
~~the chief deputy rehabilitator, the chief deputy liquidator, and~~ 1134  
~~other deputy rehabilitators and liquidators may disclose documents~~ 1135  
~~and information that are the subject of this section in the~~ 1136

~~furtherance of any regulatory or legal action brought by or on 1137  
behalf of the superintendent, the rehabilitator, the liquidator, 1138  
or the state resulting from the exercise of the superintendent's 1139  
official duties in any capacity. 1140~~

~~(E) Nothing in this section shall prohibit the superintendent 1141  
from receiving documents and information in accordance with 1142  
section 3901.045 of the Revised Code. The superintendent may share 1143  
confidential and privileged documents, materials, or other 1144  
information reported pursuant to section 3901.33 of the Revised 1145  
Code only with superintendents of states having statutes or 1146  
regulations substantially similar to division (A) of this section 1147  
and who have agreed in writing not to disclose such information. 1148~~

~~(2) Receive documents, materials, or information, including 1149  
otherwise confidential and privileged documents, materials, or 1150  
information from the national association of insurance 1151  
commissioners and its affiliates and subsidiaries and from 1152  
regulatory and law enforcement officials of other foreign or 1153  
domestic jurisdictions. The superintendent shall maintain as 1154  
confidential or privileged any such document, material, or 1155  
information received with notice or the understanding that it is 1156  
confidential or privileged under the laws of the jurisdiction that 1157  
is the source of the document, material, or information. 1158~~

~~(D) The superintendent shall enter into written agreements 1159  
with the national association of insurance commissioners governing 1160  
sharing and use of information provided pursuant to sections 1161  
3901.32 to 3901.37 of the Revised Code consistent with division 1162  
(C) of this section. The written agreements shall do all of the 1163  
following: 1164~~

~~(1) Specify procedures and protocols regarding the 1165  
confidentiality and security of information shared with the 1166  
national association of insurance commissioners and its affiliates 1167  
and subsidiaries pursuant to sections 3901.32 to 3901.37 of the 1168~~

Revised Code, including procedures and protocols for sharing by 1169  
the national association of insurance commissioners with other 1170  
state, federal, or international regulators; 1171

(2) Specify that ownership of information shared with the 1172  
national association of insurance commissioners and its affiliates 1173  
and subsidiaries pursuant to sections 3901.32 to 3901.37 of the 1174  
Revised Code remains with the superintendent and the national 1175  
association of insurance commissioners' use of the information is 1176  
subject to the direction of the superintendent; 1177

(3) Require prompt notice to be given to an insurer whose 1178  
confidential information is in the possession of the national 1179  
association of insurance commissioners or its affiliates or 1180  
subsidiaries and is subject to a request or subpoena for 1181  
disclosure or production; 1182

(4) Require the national association of insurance 1183  
commissioners and its affiliates and subsidiaries to consent to 1184  
intervention by an insurer in any judicial or administrative 1185  
action in which the national association of insurance 1186  
commissioners and its affiliates and subsidiaries may be required 1187  
to disclose confidential information about the insurer shared with 1188  
the national association of insurance commissioners and its 1189  
affiliates and subsidiaries pursuant to sections 3901.32 to 1190  
3901.37 of the Revised Code. 1191

(E) The sharing of information by the superintendent pursuant 1192  
to sections 3901.32 to 3901.37 of the Revised Code shall not 1193  
constitute a delegation of regulatory or rule-making authority. 1194  
The superintendent is solely responsible for the administration, 1195  
execution, and enforcement of the provisions of sections 3901.32 1196  
to 3901.37 of the Revised Code. 1197

~~(F) The superintendent may enter into agreements governing~~ 1198  
~~the sharing and use of documents and information consistent with~~ 1199

~~the requirements of this section.~~ 1200

~~(G)(1) No waiver of any applicable privilege or claim of~~ 1201  
~~confidentiality in the documents and, materials, or other~~ 1202  
~~information described in this section shall occur as a result of~~ 1203  
~~sharing or receiving documents and information as authorized in~~ 1204  
~~divisions (B)(3), division (C), and (E) of this section.~~ 1205

~~(2) The disclosure of a document or information in connection~~ 1206  
~~with a regulatory or legal action pursuant to divisions (B)(4) and~~ 1207  
~~(D) of this section does not prohibit an insurer or any other~~ 1208  
~~person from taking steps to limit the dissemination of the~~ 1209  
~~document or information to persons not involved in or the subject~~ 1210  
~~of the regulatory or legal action on the basis of any recognized~~ 1211  
~~privilege arising under any other section of the Revised Code or~~ 1212  
~~the common law. (G) Documents, materials, or other information in~~ 1213  
~~the possession or control of the national association of insurance~~ 1214  
~~commissioners pursuant to this section shall be given confidential~~ 1215  
~~and privileged treatment and shall not be subject to section~~ 1216  
~~149.43 of the Revised Code, subpoena, or discovery, and shall not~~ 1217  
~~be admissible in evidence in any private civil action.~~ 1218

**Sec. 3901.371.** The purpose of sections 3901.371 to 3901.378 1219  
of the Revised Code is to provide the requirements for maintaining 1220  
a risk management framework and completing an own risk and 1221  
solvency assessment, and to provide guidance and instructions for 1222  
filing an own risk and solvency assessment summary report with the 1223  
superintendent of insurance. The requirements of these sections 1224  
shall apply to all insurers domiciled in this state unless exempt 1225  
pursuant to section 3901.376 of the Revised Code. 1226

The general assembly finds and declares that the own risk and 1227  
solvency assessment summary report will contain confidential and 1228  
sensitive information related to an insurer or insurance group's 1229  
identification of risks material and relevant to the insurer or 1230



insurance group filing the report. This information will include 1231  
proprietary and trade secret information that has the potential 1232  
for harm and competitive disadvantage to the insurer or insurance 1233  
group if the information is made public. It is the intent of the 1234  
general assembly that the own risk and solvency assessment summary 1235  
report shall be a confidential document filed with the 1236  
superintendent, that the own risk and solvency assessment summary 1237  
report will be shared only as stated in sections 3901.371 to 1238  
3901.378 of the Revised Code to assist the superintendent of 1239  
insurance in the performance of the superintendent's duties, and 1240  
that in no event shall the own risk and solvency assessment 1241  
summary report be subject to public disclosure. 1242

**Sec. 3901.372.** For the purposes of sections 3901.371 to 1243  
3907.378 of the Revised Code: 1244

(A) "Insurance group" means those insurers and affiliates 1245  
included within an insurance holding company system as defined in 1246  
section 3901.32 of the Revised Code. 1247

(B) "Insurer" has the same meaning as set forth in section 1248  
3901.32 of the Revised Code. 1249

(C) "Own risk and solvency assessment" means a confidential 1250  
internal assessment, appropriate to the nature, scale, and 1251  
complexity of an insurer or insurance group, conducted by that 1252  
insurer or insurance group of the material and relevant risks 1253  
associated with the insurer or insurance group's current business 1254  
plan, and the sufficiency of capital resources to support those 1255  
risks. 1256

(D) "Own risk and solvency assessment guidance manual" means 1257  
the current version of the own risk and solvency assessment 1258  
guidance manual developed and adopted by the national association 1259  
of insurance commissioners and as amended from time to time. A 1260  
change in the own risk and solvency assessment guidance manual 1261

shall be effective on the first day of January following the 1262  
calendar year in which the changes have been adopted by the 1263  
national association of insurance commissioners. 1264

(E) "Own risk and solvency assessment summary report" means a 1265  
confidential high-level summary of an insurer or insurance group's 1266  
own risk and solvency assessment. 1267

**Sec. 3901.373.** An insurer shall maintain a risk management 1268  
framework to assist the insurer with identifying, assessing, 1269  
monitoring, managing, and reporting on its material and relevant 1270  
risks. This requirement may be satisfied if the insurance group of 1271  
which the insurer is a member maintains a risk management 1272  
framework applicable to the operations of the insurer. 1273

**Sec. 3901.374.** Unless exempted by section 3901.376 of the 1274  
Revised Code, an insurer, or the insurance group of which the 1275  
insurer is a member, shall regularly conduct an own risk and 1276  
solvency assessment consistent with a process comparable to the 1277  
own risk and solvency assessment guidance manual. The own risk and 1278  
solvency assessment shall be conducted not less than annually, but 1279  
also at any time when there are significant changes to the risk 1280  
profile of the insurer or the insurance group of which the insurer 1281  
is a member. 1282

**Sec. 3901.375.** (A)(1) Upon the request of the superintendent 1283  
of insurance, and not more than once annually, an insurer shall 1284  
submit to the superintendent an own risk and solvency assessment 1285  
summary report, or any combination of reports that together 1286  
contain the information described in the own risk and solvency 1287  
assessment guidance manual, applicable to the insurer or the 1288  
insurance group of which it is a member. 1289

(2) Notwithstanding any request from the superintendent, if 1290  
the insurer is a member of an insurance group, the insurer shall 1291

submit the report required by division (A)(1) of this section if 1292  
the superintendent is the lead state commissioner of the insurance 1293  
group as determined by the procedures within the financial 1294  
analysis handbook adopted by the national association of insurance 1295  
commissioners. 1296

(B) The report shall include a signature of the insurer or 1297  
insurance group's chief risk officer, or other executive having 1298  
responsibility for the oversight of the insurer's enterprise risk 1299  
management process, attesting to the best of the officer's or 1300  
executive's belief and knowledge that the insurer applies the 1301  
enterprise risk management process described in the own risk and 1302  
solvency assessment summary report, and that a copy of the report 1303  
has been provided to the insurer's board of directors or the 1304  
appropriate committee thereof. 1305

(C) An insurer may comply with division (A) of this section 1306  
by providing the most recent and substantially similar report 1307  
provided by the insurer or another member of an insurance group of 1308  
which the insurer is a member to the commissioner of another state 1309  
or to a supervisor or regulator of a foreign jurisdiction, if that 1310  
report provides information that is comparable to the information 1311  
described in the own risk and solvency assessment guidance manual. 1312  
Any such report in a language other than English must be 1313  
accompanied by a translation of that report into the English 1314  
language. 1315

**Sec. 3901.376.** (A)(1) An insurer shall be exempt from the 1316  
requirements of sections 3901.371 to 3901.378 of the Revised Code 1317  
if both of the following apply: 1318

(a) The insurer has annual direct written and unaffiliated 1319  
assumed premium, including international direct and assumed 1320  
premium, less than five hundred million dollars. 1321

(b) The insurance group of which the insurer is a member has 1322

annual direct written and unaffiliated assumed premium, including 1323  
international direct and assumed premium, less than one billion 1324  
dollars. 1325

(2) The annual direct written and unaffiliated assumed 1326  
premium described in divisions (A)(1)(a) and (b) of this section 1327  
does not include premiums reinsured with the federal crop 1328  
insurance corporation and federal flood program. 1329

(B) If an insurer qualifies for exemption pursuant to 1330  
division (A)(1)(a) of this section, but the insurance group of 1331  
which the insurer is a member does not qualify for exemption 1332  
pursuant to division (A)(1)(b) of this section, and if an own risk 1333  
and solvency assessment summary report is required pursuant to 1334  
division (E) of this section, then the summary report shall 1335  
include every insurer within the insurance group. This requirement 1336  
may be satisfied if the insurer submits more than one own risk and 1337  
solvency assessment summary report for any combination of insurers 1338  
provided the combination of reports includes every insurer within 1339  
the insurance group. 1340

(C) If an insurer does not qualify for exemption pursuant to 1341  
division (A)(1)(a) of this section, but the insurance group of 1342  
which it is a member qualifies for exemption pursuant to division 1343  
(A)(1)(b) of this section, then the insurer shall only file an own 1344  
risk and solvency assessment summary report if required pursuant 1345  
to division (E) of this section. 1346

(D)(1) An insurer that does not qualify for exemption 1347  
pursuant to division (A) of this section may apply to the 1348  
superintendent of insurance for a waiver from the requirements of 1349  
sections 3901.371 to 3901.378 of the Revised Code based upon 1350  
unique circumstances. In deciding whether to grant the insurer's 1351  
request for waiver, the superintendent may consider any of the 1352  
following: 1353

<u>(a) The type and volume of business written;</u>	1354
<u>(b) The ownership and organizational structure of the insurer or insurance group of which the insurer is a member;</u>	1355 1356
<u>(c) Any other factor the superintendent considers relevant to the insurer or insurance group of which the insurer is a member.</u>	1357 1358
<u>(2) If the insurer is part of an insurance group with insurers domiciled in more than one state, the superintendent shall coordinate with the lead state commissioner and with the other domiciliary commissioners in considering whether to grant the insurer's request for a waiver.</u>	1359 1360 1361 1362 1363
<u>(E) Notwithstanding the exemptions stated in this section, the superintendent may require that an insurer maintain a risk management framework, conduct an own risk and solvency assessment, and file an own risk and solvency assessment summary report in any of the following circumstances:</u>	1364 1365 1366 1367 1368
<u>(1) Based on unique circumstances, including the type and volume of business written and the ownership and organizational structure of the insurer or insurance group of which the insurer is a member;</u>	1369 1370 1371 1372
<u>(2) At the request of a federal agency;</u>	1373
<u>(3) At the request of an international supervisor;</u>	1374
<u>(4) If the insurer has risk-based capital for a company action level event as set forth in section 3903.83 of the Revised Code, meets one or more of the standards set out in section 3903.09 or 3903.71 of the Revised Code, or otherwise exhibits qualities of a troubled insurer as determined by the superintendent.</u>	1375 1376 1377 1378 1379 1380
<u>(F) If an insurer that qualifies for an exemption pursuant to division (A) of this section subsequently no longer qualifies for that exemption due to changes in premium as reflected in the</u>	1381 1382 1383

insurer's most recent annual statement, or in the most recent 1384  
annual statements of the insurers within the insurance group of 1385  
which the insurer is a member, the insurer shall have one year 1386  
after the year the threshold is exceeded to comply with the 1387  
requirements of sections 3901.371 to 3901.378 of the Revised Code. 1388

**Sec. 3901.377.** (A) The own risk and solvency assessment 1389  
summary report shall be prepared consistent with the own risk and 1390  
solvency assessment guidance manual, subject to the requirements 1391  
of division (B) of this section, and all documentation and 1392  
supporting information shall be maintained and made available for 1393  
examination upon request of the superintendent of insurance. 1394

(B) The superintendent's review of the own risk and solvency 1395  
assessment summary report, and any additional requests for 1396  
information, shall be made using similar procedures used in the 1397  
analysis and examination of multi-state or global insurers and 1398  
insurance groups. 1399

**Sec. 3901.378.** (A) Documents, materials, or other 1400  
information, including the own risk and solvency assessment 1401  
summary report, in the possession or control of the department of 1402  
insurance that are obtained by, created by, or disclosed to the 1403  
superintendent of insurance, or any other person under sections 1404  
3901.371 to 3901.378 of the Revised Code, are recognized by this 1405  
state as being proprietary and to contain trade secrets. 1406

(B) The documents described in division (A) of this section 1407  
shall be confidential by law and privileged, and shall not be 1408  
admissible into evidence in any private civil action or subject to 1409  
section 149.43 of the Revised Code, subpoena, or discovery. 1410

(C)(1) Notwithstanding division (B) of this section, the 1411  
superintendent may use the documents, materials, or other 1412  
information in furtherance of any regulatory or legal action 1413

brought as a part of the superintendent's official duties. 1414

(2) The superintendent shall not otherwise make the 1415  
documents, materials, or other information public without the 1416  
prior written consent of the insurer. 1417

(D) Neither the superintendent nor any person who receives 1418  
documents, materials, or other own risk and solvency assessment 1419  
related information, through examination or otherwise, while 1420  
acting under the authority of the superintendent or with whom such 1421  
documents, materials, or other information are shared pursuant to 1422  
sections 3901.371 to 3901.378 of the Revised Code shall be 1423  
permitted or required to testify in any private civil action 1424  
concerning any confidential documents, materials, or information 1425  
subject to division (A) of this section. 1426

(E)(1) In order to assist in the performance of the 1427  
superintendent's regulatory duties, the superintendent may do 1428  
either of the following: 1429

(a) Upon request, share documents, materials, or other own 1430  
risk and solvency assessment related information, including 1431  
confidential and privileged documents, materials, or information 1432  
subject to division (A) of this section, and proprietary and trade 1433  
secret documents, with other state, federal and international 1434  
financial regulatory agencies, members of any supervisory college 1435  
as described in section 3901.351 of the Revised Code, the national 1436  
association of insurance commissioners, or any third-party 1437  
consultant designated by the superintendent; 1438

(b) Receive documents, materials, or other own risk and 1439  
solvency assessment related information, including confidential 1440  
and privileged documents, materials, or information subject to 1441  
division (A) of this section, and proprietary and trade secret 1442  
documents, from regulatory officials of other foreign or domestic 1443  
jurisdictions, including members of any supervisory college as 1444

described in section 3901.351 of the Revised Code, and from the 1445  
national association of insurance commissioners. 1446

(2) The recipient of any information pursuant to division 1447  
(E)(1)(a) of this section shall agree in writing to maintain the 1448  
confidentiality and privileged status of the documents, materials, 1449  
or other information and verify in writing their legal authority 1450  
to maintain confidentiality. If the superintendent receives any 1451  
information pursuant to division (E)(1)(b) of this section, the 1452  
superintendent shall maintain as confidential or privileged any 1453  
documents, materials, or information received with notice or the 1454  
understanding that it is confidential or privileged under the laws 1455  
of the jurisdiction that is the source of the document, material, 1456  
or information. 1457

(3) The superintendent shall enter into a written agreement 1458  
with the national association of insurance commissioners or a 1459  
third-party consultant governing sharing and use of information 1460  
provided pursuant to sections 3901.371 to 3901.378 of the Revised 1461  
Code. The written agreement shall do the all of the following: 1462

(a) Specify procedures and protocols regarding the 1463  
confidentiality and security of information shared with the 1464  
national association of insurance commissioners or a third-party 1465  
consultant pursuant to sections 3901.371 to 3901.378 of the 1466  
Revised Code, including procedures and protocols for sharing by 1467  
the national association of insurance commissioners with other 1468  
state regulators from states in which the insurance group has 1469  
domiciled insurers; 1470

(b) Provide that the recipient of information agrees in 1471  
writing to maintain the confidentiality and privileged status of 1472  
the own risk and solvency assessment related documents, materials, 1473  
or other information obtained pursuant to sections 3901.371 to 1474  
3901.378 of the Revised Code, and has verified in writing the 1475  
legal authority to maintain confidentiality; 1476



(c) Specify that ownership of information shared with the national association of insurance commissioners or a third-party consultant pursuant to sections 3901.371 to 3901.378 of the Revised Code remains with the superintendent and the national association of insurance commissioners' or a third-party consultant's use of the information is subject to the direction of the superintendent; 1477  
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(d) Prohibit the national association of insurance commissioners or a third-party consultant from storing the information obtained pursuant to sections 3901.371 to 3901.378 of the Revised Code in a permanent database after the underlying analysis is completed; 1484  
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(e) Require prompt notice to be given to an insurer whose confidential information in the possession of the national association of insurance commissioners or a third-party consultant pursuant to sections 3901.371 to 3901.378 of the Revised Code is subject to a request or subpoena for disclosure or production of the information; 1489  
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(f) Require the national association of insurance commissioners or a third-party consultant to consent to intervention by an insurer in any judicial or administrative action in which the national association of insurance commissioners or a third-party consultant may be required to disclose confidential information about the insurer that was obtained pursuant to sections 3901.371 to 3901.378 of the Revised Code; 1495  
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(g) Require the national association of insurance commissioners or a third-party consultant to use documents, materials, or other information, including the own risk solvency assessment summary report, for the specific purposes as directed by the superintendent; 1503  
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(h) Prohibit the national association of insurance commissioners or a third-party consultant from using, sharing, or disclosing any documents, materials, or other information, including the own risk and solvency assessment summary report, beyond the scope of the responsibilities outlined by the superintendent; 1508  
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(i) Provide for the insurer's written consent in the case of an agreement involving a third-party consultant. 1514  
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(F) The sharing of information, materials, and documents by the superintendent pursuant to sections 3901.371 to 3901.378 of the Revised Code shall not constitute a delegation of regulatory or rule-making authority, and the superintendent is solely responsible for the administration, execution, and enforcement of sections 3901.371 to 3901.378 of the Revised Code. 1516  
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(G) No waiver of any applicable privilege or claim of confidentiality in the documents, proprietary and trade-secret materials, or other own risk and solvency assessment related information shall occur as a result of disclosure of such own risk and solvency assessment related information, materials, or documents to the superintendent as a result of sharing authorized in sections 3901.371 to 3901.378 of the Revised Code. 1522  
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(H) Documents, materials, or other information in the possession or control of the national association of insurance commissioners or a third-party consultant pursuant to sections 3901.371 to 3901.378 of the Revised Code shall be confidential by law and privileged, and shall not be subject to section 149.43 of the Revised Code, subpoena, discovery, or admissible in evidence in any private civil action. 1529  
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**Sec. 3901.41. (A) As used in this section:** 1536

(1) "Automated transaction" has the same meaning as in 1537

section 1306.01 of the Revised Code, and includes electronic 1538  
transactions between two or more persons conducting business 1539  
pursuant to the laws of this state relating to insurance. 1540

(2) "Contact point" means any electronic identification to 1541  
which messages can be sent, including, but not limited to, any of 1542  
the following: 1543

(a) An electronic mail address; 1544

(b) An instant message identity; 1545

(c) A wireless telephone number, or any other personal 1546  
electronic communication device; 1547

(d) A facsimile number. 1548

(3) "Insured" means a certificate holder, contract owner, 1549  
customer, policyholder, or subscriber as those terms are used in 1550  
the laws of this state relating to insurance. 1551

(4) "Insurer" has the same meaning as in section 3901.32 of 1552  
the Revised Code. 1553

(5) "Laws of this state relating to insurance" has the same 1554  
meaning as in section 3901.04 of the Revised Code. 1555

(6) "Personally identifiable information" means any 1556  
individually identifiable information gathered in connection with 1557  
an insurance transaction, including a person's name, address, 1558  
social security number, and banking information. 1559

(7) "Secure web site" means a web site that meets both of the 1560  
following criteria: 1561

(a) The web site uses the hypertext transfer protocol secure 1562  
communication protocol or other equally secure communication 1563  
protocol. 1564

(b) The web site requires a person to enter a unique user 1565  
credential to access personally identifiable information for which 1566

the person has the legal right to access. 1567

(B) Notwithstanding any laws of this state relating to insurance, sections 1306.01 to 1306.23 of the Revised Code, the "Uniform Electronics Transactions Act," apply to the business of insurance in this state. 1568  
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(C)(1) If an insured affirmatively agrees to conduct the business of insurance via an automated transaction, any information issued or delivered in writing may be issued or delivered electronically to a contact point provided by the insured, as long as all of the following apply: 1572  
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(a) The transmission of information is in compliance with sections 1306.07 and 1306.14 of the Revised Code; 1577  
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(b) The details of the automated transaction are fully disclosed to the insured in the application, policy, certificate, contract of insurance, or by another method that ensures notice to the insured; 1579  
1580  
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(c) The details of the automated transaction related to notices of cancellation, nonrenewal, termination, or changes in the terms or conditions in the policy, certificate, or contract of insurance are approved or accepted by the superintendent of insurance. 1583  
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(2)(a) Except for notices of cancellation, nonrenewal, or termination, an insurer may deliver information via a secure web site if the insurer sends an electronic notice to a contact point and the electronic notice includes a hyperlink to the secure web site. 1588  
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(b) If an insurer uses a secure web site to deliver changes in terms or conditions in an insured's policy, certificate, or contract of insurance, including any endorsements or amendments, the electronic notice to the insured's contact point shall include all of the following: 1593  
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<u>(i) A list and description of the changes;</u>	1598
<u>(ii) A link to the complete document located on the insurer's secure web site;</u>	1599 1600
<u>(iii) The following or substantially similar statement displayed in a prominent manner:</u>	1601 1602
<u>"There are changes in the terms or conditions of your policy, certificate, or contract of insurance."</u>	1603 1604
<u>(3) At a minimum, the details of the automated transaction shall include all of the following:</u>	1605 1606
<u>(a) A clear and conspicuous statement informing the insured of any right or option of the insured to receive a record on paper;</u>	1607 1608 1609
<u>(b) The right of the insured to withdraw the insured's consent, and any consequences or fees if the insured withdraws consent;</u>	1610 1611 1612
<u>(c) A description of the procedures the insured must use to withdraw consent and to update the insured's contact point.</u>	1613 1614
<u>(4) Affirmative agreement to participate in a part of an automated transaction shall not be used to confirm the insured's consent to transact the entire business of insurance pursuant to this section.</u>	1615 1616 1617 1618
<u>(5) A withdrawal of consent by an insured shall be effective within a reasonable time period, not to exceed five days after the receipt of the withdrawal by the insurer, unless otherwise noted by the insured.</u>	1619 1620 1621 1622
<u>(6) In the event that an insurer chooses to modify insurance forms to notify an insured of and obtain consent for an automated transaction, if the laws of this state relating to insurance require modifications to such forms to be approved or accepted by the superintendent, then the modifications must receive the</u>	1623 1624 1625 1626 1627

required approval or acceptance. A form used only to notify an 1628  
insured of and obtain consent for an automated transaction does 1629  
not need to be approved or accepted by the superintendent. 1630

(D) The insurer shall send all notices of cancellation, 1631  
nonrenewal, termination, or changes in the terms or conditions of 1632  
the policy, certificate, or contract of insurance to the last 1633  
known contact point supplied by the insured. If the insurer has 1634  
knowledge that the insured's contact point is no longer valid, the 1635  
insurer shall send the information via regular mail to the last 1636  
known address furnished to the insurer by the insured. 1637

(E) Any insurer conducting the business of insurance via an 1638  
automated transaction shall allow the insurer's insureds who agree 1639  
to participate in an automated transaction the option to withdraw 1640  
consent from participating in the automated transaction. 1641

(F) Notwithstanding any laws or regulations of this state 1642  
relating to insurance, any policy, certificate, or contract of 1643  
insurance, including any endorsements or amendments, that do not 1644  
contain personally identifiable information may be posted to the 1645  
insurer's web site that is accessible by the general public in 1646  
lieu of any other method of delivery. If the insurer elects to 1647  
post any policy, certificate, or contract of insurance to the 1648  
insurer's web site, all of the following shall apply: 1649

(1) The policy, certificate, or contract of insurance is 1650  
readily accessible by the insured and, once the policy, 1651  
certificate, or contract of insurance is no longer used by the 1652  
insurer in this state, it is stored in a readily accessible 1653  
archive; 1654

(2) The policy, certificate, or contract of insurance is 1655  
posted in such a manner that the insured can easily identify the 1656  
insured's applicable policy, certificate, or contract and print or 1657  
download the insured's documents without charge and without the 1658

use of any special program or application that is not readily 1659  
available to the public without charge; 1660

(3) The insurer provides written notice at the time of 1661  
issuance of the initial policy, certificate, contract, or any 1662  
renewal forms of a method by which the insured may obtain upon 1663  
request a paper or electronic copy of their policy, certificate, 1664  
or contract without charge; 1665

(4) The insurer clearly identifies the applicable policy, 1666  
endorsements, amendments, certificate, or contract of insurance 1667  
purchased by the insured on any declaration page, certificate of 1668  
insurance, summary of benefits, or other evidence of coverage 1669  
issued to the insured; 1670

(5) The insurer gives notice, in the manner it customarily 1671  
communicates with an insured, of any changes to the policy, 1672  
certificate, or contract of insurance, including any endorsements 1673  
or amendments, and of the insured's right to obtain upon request a 1674  
paper or electronic copy of the policy, such forms, or 1675  
endorsements or amendments without charge. 1676

(G) Notwithstanding any other section of Title XXXIX or 1677  
Chapters 1739. or 1751. of the Revised Code or rules adopted 1678  
thereunder to the contrary, an insurer may deliver any notices, 1679  
documents, or information to an insured via an automated 1680  
transaction pursuant to this section. 1681

(H) This section only applies to the method of delivery of 1682  
notices, documents, or information to insureds and does not 1683  
supersede any time periods or content of notices, documents, or 1684  
information otherwise required by the laws of this state relating 1685  
to insurance. 1686

(I) If the consent of an insured to receive certain notices, 1687  
documents, or information in an electronic form is on file with an 1688  
insurer before the effective date of this section, and, pursuant 1689

to this section, an insurer intends to deliver additional notices, 1690  
documents, or information to that insured in an electronic form, 1691  
then prior to delivering such additional notice, documents, or 1692  
information electronically, the insurer shall notify the insured 1693  
in compliance with division (C)(3) of this section. 1694

(J) The superintendent of insurance may adopt rules in 1695  
accordance with Chapter 119. of the Revised Code as the 1696  
superintendent considers necessary to carry out the purposes of 1697  
this section. 1698

**Sec. 3901.62.** (A) Except as provided in sections 3901.63 and 1699  
3901.64 of the Revised Code, a domestic ceding insurer that is 1700  
authorized to do any insurance business in this state may take 1701  
credit for any reinsurance ceded as either an asset or a reduction 1702  
of liability only if one of the following applies: 1703

(1) The reinsurance is ceded to an assuming insurer that is 1704  
authorized to do any insurance or reinsurance business in this 1705  
state. 1706

(2) The reinsurance is ceded to an assuming insurer that is 1707  
accredited by the superintendent of insurance as a reinsurer in 1708  
this state in accordance with division (B) of this section. 1709

(3) The reinsurance is ceded to an assuming insurer that is 1710  
not authorized to do any insurance or reinsurance business in this 1711  
state, provided the reinsurance is ceded to a reinsurance pool or 1712  
other risk-sharing entity in which participation is required by 1713  
law, rule, or regulation of the jurisdiction in which the pool or 1714  
entity is located. 1715

~~(3)~~(4) The reinsurance is ceded to an assuming insurer that 1716  
maintains a trust fund in a qualified United States financial 1717  
institution, as defined in ~~division (B)(2) of~~ section 3901.63 of 1718  
the Revised Code, for the payment of the valid claims of its 1719



United States policyholders and ceding insurers, and their assigns 1720  
and successors in interest in accordance with division (C) of this 1721  
section. 1722

(5) The reinsurance is ceded to an assuming insurer that has 1723  
been certified by the superintendent as a reinsurer in this state 1724  
and that secures its obligations in accordance with division (D) 1725  
of this section. 1726

(B)(1) In order to be eligible for accreditation under 1727  
division (A)(2) of this section, the assuming insurer shall do all 1728  
of the following: 1729

(a) File with the superintendent evidence of its submission 1730  
to this state's jurisdiction; 1731

(b) Submit to this state's authority to examine its books and 1732  
records; 1733

(c) Maintain a license to transact insurance or reinsurance 1734  
in at least one state or, in the case of a United States branch of 1735  
a foreign or alien assuming insurer, be entered through and 1736  
licensed to transact insurance or reinsurance in at least one 1737  
state; 1738

(d) File annually with the superintendent a copy of its 1739  
annual statement filed with the insurance department of its state 1740  
of domicile, and a copy of its most recent audited financial 1741  
statement; 1742

(e) Demonstrate to the satisfaction of the superintendent 1743  
that it has adequate financial capacity to meet its reinsurance 1744  
obligations and is otherwise qualified to assume reinsurance from 1745  
domestic insurers. 1746

(2) An assuming insurer is considered to meet the requirement 1747  
of division (B)(1)(e) of this section as of the time of its 1748  
application to the superintendent for accreditation if it 1749

maintains a surplus with regard to policyholders in an amount not less than twenty million dollars, and the superintendent has not denied its accreditation within ninety days after submission of its application. 1750  
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(C)(1) A trust maintained by an assuming insurer under division (A)(3)(4) of this section shall meet the following requirements: 1754  
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(1)(a) In the case of a single assuming insurer, the trust shall consist of a trusteed account representing the assuming insurer's liabilities attributable to business underwritten in the United States. A trusteed surplus of not less than twenty million dollars shall be maintained by the assuming insurer, except that at any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the superintendent with principal regulatory oversight of the trust may authorize a reduction in the required trusteed surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of ceding insurers within the United States, policyholders, and claimants in light of reasonably foreseeable adverse loss development. 1757  
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The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. 1771  
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The minimum required trusteed surplus shall not be reduced to an amount less than thirty per cent of the assuming insurer's liabilities attributable to reinsurance ceded by ceding insurers within the United States covered by the trust. 1777  
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~~(2)~~(b) In the case of a group of assuming insurers, including 1781  
incorporated and individual unincorporated underwriters, the trust 1782  
shall consist of a trusteed account representing the group's 1783  
liabilities attributable to business written in the United States. 1784  
A trusteed surplus shall be maintained by the group, of which 1785  
surplus one hundred million dollars shall be held jointly for the 1786  
benefit of the United States ceding insurers of any member of the 1787  
group. The following requirements apply to the group of assuming 1788  
insurers: 1789

~~(a)~~(i) The incorporated members of the group shall not engage 1790  
in any business other than underwriting as a member of the group, 1791  
and shall be subject to the same level of solvency regulation and 1792  
control by the group's domiciliary regulator as are the 1793  
unincorporated members. 1794

~~(b)~~(ii) The group shall make available to the superintendent 1795  
of insurance an annual certification of the solvency of each 1796  
underwriter in the group. The certification shall be provided by 1797  
the group's domiciliary regulator and its independent public 1798  
accountants. 1799

~~(3)~~(c) In the case of a group of incorporated insurers under 1800  
common administration with aggregate policyholders' surplus of ten 1801  
billion dollars that has continuously transacted an insurance 1802  
business outside the United States for at least three years 1803  
immediately prior to assuming reinsurance, the trust shall be in 1804  
an amount equal to the group's several liabilities attributable to 1805  
business ceded by United States ceding insurers to any member of 1806  
the group pursuant to reinsurance contracts issued in the name of 1807  
the group. A joint trusteed surplus shall be maintained by the 1808  
group, of which surplus one hundred million dollars shall be held 1809  
jointly for the benefit of United States ceding insurers of any 1810  
member of the group as additional security for any such 1811  
liabilities. The following requirements apply to the group of 1812

incorporated insurers: 1813

~~(a)~~(i) The group shall comply with all filing requirements 1814  
contained in this section. 1815

~~(b)~~(ii) The books and records of the group shall be subject 1816  
to examination by the superintendent in the same manner as the 1817  
books and records of insurers are subject to examination by the 1818  
superintendent in accordance with section 3901.07 of the Revised 1819  
Code. The group shall bear the expenses of these examinations in 1820  
the manner provided by that section. 1821

~~(e)~~(iii) Each member of the group shall make available to the 1822  
superintendent an annual certification of the member's solvency by 1823  
the member's domiciliary regulator and an independent public 1824  
accountant. 1825

~~(c)~~(2) A trust maintained by an assuming insurer under 1826  
division (A)~~(3)~~(4) of this section shall remain in effect for as 1827  
long as the assuming insurer has outstanding obligations due under 1828  
the reinsurance agreements subject to the trust. The trust shall 1829  
be in a form approved by the superintendent and shall include the 1830  
following: 1831

~~(1)~~(a) The trust instrument shall provide that contested 1832  
claims are valid and enforceable upon the final order of any court 1833  
of competent jurisdiction in the United States. 1834

~~(2)~~(b) The trust shall vest legal title to its assets in the 1835  
trustees of the trust for its United States policyholders and 1836  
ceding insurers, and their assigns and successors in interest. 1837

~~(3)~~(c) The trust, and the assuming insurer maintaining the 1838  
trust, shall allow the superintendent to conduct examinations in 1839  
the same manner as the superintendent conducts examinations of 1840  
insurers under section 3901.07 of the Revised Code. 1841

~~(D)~~(3) No later than the last day of February of each year, 1842

the trustees of a trust maintained by an assuming insurer under 1843  
division (A)~~(3)~~(4) of this section shall provide the 1844  
superintendent with a written report setting forth the balance of 1845  
the trust and listing the trust's investments as of the preceding 1846  
thirty-first day of December. The trustees shall certify the date 1847  
of the termination of the trust, if termination of the trust is 1848  
planned, or shall certify that the trust does not expire prior to 1849  
the following thirty-first day of December. 1850

~~(E)~~(4) To enable the superintendent to determine the 1851  
sufficiency of a trust maintained by an assuming insurer under 1852  
division (A)~~(3)~~(4) of this section, the assuming insurer shall 1853  
annually report information on the trust to the superintendent 1854  
that is substantially the same as that information licensed 1855  
insurers are required to report under sections 3907.19, 3909.06, 1856  
and 3929.30 of the Revised Code on forms adopted under section 1857  
3901.77 of the Revised Code. 1858

(D)(1) In order to be eligible for certification under 1859  
division (A)(5) of this section, the assuming insurer shall do all 1860  
of the following: 1861

(a) Be domiciled and licensed to transact insurance or 1862  
reinsurance in a qualified jurisdiction as determined by the 1863  
superintendent pursuant to division (D)(3) of this section; 1864

(b) Maintain minimum capital and surplus, or its equivalent, 1865  
in an amount to be determined by the superintendent in rule or 1866  
regulation; 1867

(c) Maintain financial strength ratings from two or more 1868  
rating agencies that meet criteria the superintendent sets forth 1869  
in rule or regulation; 1870

(d) Agree to submit to the jurisdiction of this state, 1871  
appoint the superintendent as its agent for service of process in 1872  
this state, and agree to provide security for one hundred per cent 1873

of the assuming insurer's liabilities attributable to reinsurance 1874  
ceded by ceding insurers in the United States if it resists 1875  
enforcement of a final judgment from the United States; 1876

(e) Agree to meet applicable information filing requirements 1877  
as determined by the superintendent with respect to an initial 1878  
application for certification and on an ongoing basis; 1879

(f) Satisfy any other requirements for certification 1880  
considered relevant by the superintendent. 1881

(2) An association, including incorporated and individual 1882  
unincorporated underwriters, may be a certified reinsurer. In 1883  
order to be eligible for certification, an association, in 1884  
addition to satisfying the requirements of division (D)(1) of this 1885  
section, shall also meet the following requirements: 1886

(a) The association shall satisfy its minimum capital and 1887  
surplus requirements through the capital and surplus equivalents 1888  
(net of liabilities), or the net liabilities, of the association 1889  
and its members which shall include a joint central fund that may 1890  
be applied to any unsatisfied obligation of the association or any 1891  
of its members, in an amount determined by the superintendent in 1892  
order to provide adequate protection. 1893

(b) The incorporated members of the association shall not be 1894  
engaged in any business other than underwriting as a member of the 1895  
association, and shall be subject to the same level of regulation 1896  
and solvency control by the association's domiciliary regulator as 1897  
the unincorporated members. 1898

(c) The association shall provide the superintendent an 1899  
annual certification by the association's domiciliary regulator of 1900  
the solvency of each underwriter member within ninety days after 1901  
its financial statements are due to be filed with the 1902  
association's domiciliary regulator. If a certification is 1903  
unavailable, the association shall provide the superintendent with 1904

financial statements prepared by independent public accountants of 1905  
each underwriter member of the association. 1906

(3) The superintendent shall create and publish a list of 1907  
qualified jurisdictions under which an assuming insurer licensed 1908  
and domiciled in such jurisdiction is eligible to be considered by 1909  
the superintendent for certification as a certified reinsurer. 1910

(a) The superintendent shall consider the list of qualified 1911  
jurisdictions published through the national association of 1912  
insurance commissioner's committee process in determining 1913  
qualified jurisdictions. If the superintendent approves a 1914  
jurisdiction as qualified that does not appear on the list, the 1915  
superintendent shall provide justification in accordance with 1916  
criteria to be developed by the superintendent under rule or 1917  
regulation. 1918

(b) Jurisdictions within the United States that meet the 1919  
requirement for accreditation under the national association of 1920  
insurance commissioner's financial standards and accreditation 1921  
program shall be recognized as qualified. 1922

(c) To determine if a domiciliary jurisdiction not located 1923  
within the United States is eligible to be recognized as a 1924  
qualified jurisdiction, the superintendent shall evaluate the 1925  
appropriateness and effectiveness of the reinsurance supervisory 1926  
system of the jurisdiction, both initially and on an ongoing 1927  
basis, and consider the rights, benefits, and the extent of 1928  
reciprocal recognition afforded by the jurisdiction to reinsurers 1929  
licensed and domiciled in the United States. 1930

(d) A qualified jurisdiction shall agree to share information 1931  
and cooperate with the superintendent with respect to all 1932  
certified reinsurers domiciled within that jurisdiction. 1933

(e) A jurisdiction shall not be recognized as a qualified 1934  
jurisdiction if the superintendent has determined that the 1935

jurisdiction does not adequately and promptly enforce final 1936  
judgments and arbitration awards from the United States. 1937

(f) If a certified reinsurer's domiciliary jurisdiction 1938  
ceases to be a qualified jurisdiction, the superintendent may 1939  
revoke the reinsurer's certification or suspend the reinsurer's 1940  
certification indefinitely. 1941

(g) The superintendent may consider additional factors as the 1942  
superintendent considers appropriate. 1943

(4) The superintendent shall assign a rating to each 1944  
certified reinsurer giving due consideration to the financial 1945  
strength ratings assigned by rating agencies pursuant to division 1946  
(D)(1)(c) of this section. The superintendent shall publish a list 1947  
of all certified reinsurers and their ratings. 1948

(5) A certified reinsurer shall secure obligations assumed 1949  
from a ceding insurer within the United States at a level 1950  
consistent with its rating as specified by the superintendent in 1951  
rule or regulation. 1952

(a) Except as otherwise provided in division (D)(5) of this 1953  
section, a certified reinsurer shall maintain security in a form 1954  
acceptable to the superintendent and consistent with section 1955  
3901.63 of the Revised Code, or in a multibeneficiary trust on 1956  
behalf of the ceding insurer in accordance with division (A)(4) of 1957  
this section, in order for a domestic ceding insurer to qualify 1958  
for full financial statement credit for reinsurance ceded to a 1959  
certified reinsurer. 1960

(b) If a certified reinsurer chooses to secure its 1961  
obligations incurred as a certified reinsurer in the form of a 1962  
multibeneficiary trust for the benefit of the ceding insurer, the 1963  
certified reinsurer shall maintain separate trust accounts for its 1964  
obligations incurred under reinsurance agreements issued or 1965  
renewed as a certified reinsurer with reduced security as 1966



permitted by this division or comparable laws of other 1967  
jurisdictions within the United States, and for its obligations 1968  
subject to division (A)(4) of this section. 1969

(c) Upon termination of any such trust account described in 1970  
division (A)(4) of this section, a certified reinsurer shall be 1971  
bound by the language of the trust and agreement with the 1972  
superintendent that has principal regulatory oversight of each 1973  
trust account to fund any deficiency of any other trust account 1974  
out of the remaining surplus of such trust as a condition to 1975  
certification under division (D)(1) of this section. 1976

(d) The minimum trusteed surplus requirements provided in 1977  
division (C) of this section are not applicable with respect to a 1978  
multibeneficiary trust maintained by a certified reinsurer for the 1979  
purpose of securing obligations incurred under division (A)(5) of 1980  
this section, except that such trust shall maintain a minimum 1981  
trusteed surplus of ten million dollars. 1982

(e) With respect to obligations incurred by a certified 1983  
reinsurer under division (A)(5) of this section, if the security 1984  
is insufficient, the superintendent shall reduce the allowable 1985  
credit by an amount proportionate to the deficiency, and the 1986  
superintendent may impose further reductions in allowable credit 1987  
upon finding that there is a material risk that the certified 1988  
reinsurer's obligations will not be paid in full when due. 1989

(f) Except as otherwise provided in division (D)(5) of this 1990  
section, a reinsurer whose certification has been terminated for 1991  
any reason shall be treated under this section as a certified 1992  
reinsurer required to secure one hundred per cent of its 1993  
obligations. The superintendent may continue to assign a higher 1994  
rating to the reinsurer if the reinsurer is in inactive status or 1995  
the reinsurer's certification has been suspended. As used in 1996  
division (D)(5)(f) of this section, "terminated" means revocation, 1997  
suspension, voluntary surrender, or inactive status. 1998

(6) If an applicant for certification has been certified as a reinsurer in a national association of insurance commissioners accredited jurisdiction, the superintendent may defer to that jurisdiction's certification and rating assignment, and the assuming insurer shall be considered to be a certified reinsurer in this state. 1999  
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(7) A certified reinsurer that ceases to assume new business in this state may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of division (A)(5) of this section, and the superintendent shall assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business. 2005  
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~~(F)~~(E) An assuming insurer shall file a written instrument appointing an attorney as its agent in this state upon whom all service of process may be served. Service of process upon this agent shall bring the assuming insurer within the jurisdiction of the courts of this state as if served upon an agent pursuant to section 3927.03 of the Revised Code. 2014  
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(F) Nothing in this section shall prohibit the parties to a reinsurance agreement from agreeing to provisions in the agreement establishing security requirements that exceed the minimum security requirements established for certified reinsurers under this section. 2020  
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**Sec. 3901.621.** (A) If a reinsurer accredited pursuant to division (B)(1) of section 3901.62 of the Revised Code or certified pursuant to division (D)(1) of that section ceases to meet the requirements for accreditation or certification, the superintendent may suspend or revoke the reinsurer's accreditation 2025  
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or certification after a hearing held pursuant to Chapter 119. of 2030  
the Revised Code. The suspension or revocation shall not take 2031  
effect until after the superintendent's order or hearing, unless 2032  
one of the following applies: 2033

(1) The reinsurer waives its right to a hearing. 2034

(2) The superintendent's order is based on regulatory action 2035  
by the reinsurer's domiciliary jurisdiction or the voluntary 2036  
surrender or termination of the reinsurer's eligibility to 2037  
transact insurance or reinsurance business in its domiciliary 2038  
jurisdiction or in the primary certifying state of the reinsurer 2039  
under division (D)(6) of section 3901.62 of the Revised Code. 2040

(3) The superintendent finds that an emergency requires 2041  
immediate action, and a court of competent jurisdiction has not 2042  
stayed the superintendent's action. 2043

(B) While a reinsurer's accreditation or certification is 2044  
suspended, no reinsurance contract issued or renewed after the 2045  
effective date of the suspension qualifies for credit except to 2046  
the extent that the reinsurer's obligations under the contract are 2047  
secured in accordance with section 3901.63 of the Revised Code. 2048

(C) If the superintendent revokes a reinsurer's accreditation 2049  
or certification, no credit for reinsurance may be granted under 2050  
section 3901.62 or 3901.63 of the Revised Code after the effective 2051  
date of the revocation except to the extent that the reinsurer's 2052  
obligations under the contract are secured in accordance with 2053  
division (D)(5) of section 3901.62 or section 3901.63 of the 2054  
Revised Code. 2055

**Sec. 3901.63.** (A) If section 3901.62 of the Revised Code does 2056  
not apply to the reinsurance ceded to an assuming insurer by a 2057  
domestic ceding insurer that is authorized to do any insurance 2058  
business in this state, the ceding insurer may take credit for the 2059

reinsurance ceded as a reduction of liability in an amount not exceeding the liabilities carried by the ceding insurer, if the ceding insurer complies with section 3901.64 of the Revised Code, and if funds are held directly by the ceding insurer or in trust on behalf of the ceding insurer, in accordance with this section, as security for the payment of obligations under the reinsurance contract with the assuming insurer.

(B)(1) If the funds are held directly by the ceding insurer under division (A) of this section, the funds shall be held in the United States and shall be under the exclusive control of, and subject to withdrawal solely by, the ceding insurer. If the funds are held in trust on behalf of the ceding insurer under division (A) of this section, the funds shall be held in the United States in a qualified United States financial institution.

(2) For the purposes of division (B)(1) of this section, a "United States financial institution" is qualified if both of the following apply:

(a) The institution is organized under or, in the case of a United States branch or agency office of a foreign banking organization, is chartered under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers.

(b) The institution is regulated, supervised, and examined by federal or state officials that have regulatory authority over banks and trust companies.

(C) The funds held directly by the ceding insurer or in trust on behalf of the ceding insurer shall be in any of the following forms:

(1) Cash;

(2) Securities that are listed by the securities valuation office of the national association of insurance commissioners.

including those considered exempt from filing as defined by the 2091  
purposes and procedures manual of the securities valuation office, 2092  
and that qualify as admitted assets; 2093

(3) Irrevocable, unconditional, and automatically renewable 2094  
letters of credit that are issued or confirmed by a qualified 2095  
United States financial institution. For purposes of division 2096  
(C)(3) of this section, a United States financial institution is 2097  
qualified if all of the following apply: 2098

(a) It is organized under or, in the case of a United States 2099  
branch or agency office of a foreign banking organization, is 2100  
chartered under the laws of the United States or any state 2101  
thereof. 2102

(b) It is regulated, supervised, and examined by federal or 2103  
state officials that have regulatory authority over banks and 2104  
trust companies. 2105

(c) The superintendent of insurance or the securities 2106  
valuation office of the national association of insurance 2107  
commissioners has determined that it meets such standards of 2108  
financial condition and standing as are considered necessary and 2109  
appropriate for purposes of ensuring that its letters of credit 2110  
will be of a quality that is acceptable to the superintendent. 2111

(4) Any other form of security the superintendent determines 2112  
to be acceptable. 2113

(D) Notwithstanding any subsequent failure of an issuing or 2114  
confirming financial institution to meet the standards of issuer 2115  
acceptability set forth in division (C)(3) of this section, a 2116  
letter of credit issued or confirmed by a financial institution 2117  
that meets those standards on the date of the issuance or 2118  
confirmation shall continue to be acceptable as security until its 2119  
expiration, extension, renewal, modification, or amendment, 2120  
whichever occurs first. 2121

Sec. 3901.631. (A) A domestic ceding insurer shall take steps 2122  
to manage its reinsurance recoverables proportionate to its own 2123  
book of business. 2124

(1) A domestic ceding insurer shall notify the superintendent 2125  
within thirty days after reinsurance recoverables from any single 2126  
assuming insurer, or group of affiliated assuming insurers, exceed 2127  
fifty per cent of the domestic ceding insurer's last reported 2128  
surplus to policyholders, or after it has determined that 2129  
reinsurance recoverables from any single assuming insurer, or 2130  
group of affiliated assuming insurers, are likely to exceed this 2131  
limit. 2132

(2) The notification required in division (A)(1) of this 2133  
section shall demonstrate that the exposure is safely managed by 2134  
the domestic ceding insurer. 2135

(B) A domestic ceding insurer shall take steps to diversify 2136  
its reinsurance program. 2137

(1) A domestic ceding insurer shall notify the superintendent 2138  
within thirty days after ceding to any single assuming insurer, or 2139  
group of affiliated assuming insurers, more than twenty per cent 2140  
of the ceding insurer's gross written premium in the prior 2141  
calendar year, or after it has determined that the reinsurance 2142  
ceded to any single assuming insurer, or group of affiliated 2143  
assuming insurers, is likely to exceed this limit. 2144

(2) The notification required in division (B)(1) of this 2145  
section shall demonstrate that the exposure is safely managed by 2146  
the domestic ceding insurer. 2147

**Sec. 3901.64. (A) A domestic ceding insurer may take credit** 2148  
**for any reinsurance ceded as provided in sections 3901.61 to** 2149  
**3901.63 of the Revised Code only if the reinsurance agreement** 2150  
**contained in the reinsurance contract, and any agreement that** 2151

provides security for the payment of the obligations under the 2152  
reinsurance agreement, including any trust agreement, provide, in 2153  
substance, for the following: 2154

(1) In the event of the insolvency of the ceding insurer, the 2155  
reinsurance, whether paid directly or from trust assets securing 2156  
the reinsurance agreement, shall be payable by the assuming 2157  
insurer on the basis of the liability of the ceding insurer under 2158  
the policy or contract reinsured, without any diminution because 2159  
the ceding insurer is insolvent or because the liquidator or 2160  
statutory receiver has failed to pay all or any portion of any 2161  
claims; 2162

(2) The reinsurance payments, whether paid directly or from 2163  
trust assets securing the reinsurance agreement, shall be made by 2164  
the assuming insurer directly to the ceding insurer, or in the 2165  
event of its insolvency or liquidation, to its liquidator or 2166  
statutory receiver except where the reinsurance contract or other 2167  
written agreement specifically provides for direct payment of the 2168  
reinsurance to the insured or beneficiary of the insurance policy 2169  
in the event of the insolvency of the ceding insurer. 2170

(B)(1) The reinsurance agreement may provide that the 2171  
domiciliary liquidator or statutory receiver shall give written 2172  
notice to the assuming insurer that a claim is pending against the 2173  
ceding insurer on the policy or contract reinsured. The notice 2174  
shall be given within a reasonable amount of time after the claim 2175  
is filed with the liquidator or statutory receiver. During the 2176  
pendency of the claim, any assuming insurer may investigate the 2177  
claim and interpose, at its own expense, in the proceeding where 2178  
the claim is to be adjudicated any defenses which it deems to be 2179  
available to the ceding insurer or its liquidator. 2180

(2) The expense may be filed as a claim against the insolvent 2181  
ceding insurer to the extent of a proportionate share of the 2182  
benefit that may accrue to the ceding insurer solely as a result 2183

of the defense undertaken by the assuming insurer. Where two or 2184  
more assuming insurers are involved in the same claim and a 2185  
majority in interest elect to interpose a defense to the claim, 2186  
the expense shall be apportioned in accordance with the terms of 2187  
the reinsurance agreement as though the expense had been incurred 2188  
by the ceding insurer. 2189

(C) If the assuming insurer is not licensed, or accredited or 2190  
certified to transact insurance or reinsurance in this state, the 2191  
credit permitted by division (A)(4) of section 3901.62 of the 2192  
Revised Code shall not be allowed unless the assuming insurer 2193  
agrees to do both of the following in the reinsurance agreements: 2194

(1)(a) If the assuming insurer fails to perform its 2195  
obligations under the terms of the reinsurance agreement, at the 2196  
request of the ceding insurer, the assuming insurer shall submit 2197  
to the jurisdiction of any court of competent jurisdiction in any 2198  
state within the United States, comply with all requirements 2199  
necessary to give the court jurisdiction, and abide by the final 2200  
decision of the court or of any appellate court in the event of an 2201  
appeal. 2202

(b) The assuming insurer shall designate the superintendent 2203  
or a designated attorney as its true and lawful attorney upon whom 2204  
may be served any lawful process in any action, suit, or 2205  
proceeding instituted by or on behalf of the ceding insurer. 2206

(2) This division is not intended to conflict with or 2207  
override the obligation of the parties to a reinsurance agreement 2208  
to arbitrate their disputes, if this obligation is created in the 2209  
agreement. 2210

(D) If the assuming insurer does not meet the requirements of 2211  
division (A)(1), (2), or (3) of section 3901.62 of the Revised 2212  
Code, the credit permitted by divisions (A)(4) and (5) of that 2213  
section shall not be allowed unless the assuming insurer agrees in 2214



the trust agreements to the following conditions: 2215

(1) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by division (C)(1) of section 3901.62 of the Revised Code, or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the superintendent with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the superintendent with regulatory oversight all of the assets of the trust fund. 2216  
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(2) The assets shall be distributed by, and claims shall be filed with and valued by, the superintendent with regulatory oversight in accordance with the laws of the state, in which the trust is domiciled, that are applicable to the liquidation of domestic insurance companies. 2227  
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(3) If the superintendent with regulatory oversight determines that the assets of the trust fund, or any part thereof, are not necessary to satisfy the claims of the ceding insurers within the United States or the grantor of the trust, the superintendent with regulatory oversight shall return the assets or part thereof to the trustee for distribution in accordance with the trust agreement. 2232  
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(4) The grantor shall waive any right otherwise available to it under the laws of the United States that are inconsistent with this division. 2239  
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**Sec. 3903.72.** (A) The definitions provided in division (B) of this section shall apply after the operative date of the valuation manual. 2242  
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<u>(B) As used in sections 3903.72 to 3903.7211 of the Revised</u>	2245
<u>Code:</u>	2246
<u>(1) "Accident and health insurance" means a contract that</u>	2247
<u>incorporates morbidity risk and provides protection against</u>	2248
<u>economic loss resulting from accident, sickness, or medical</u>	2249
<u>conditions and as may be specified in the valuation manual.</u>	2250
<u>(2) "Appointed actuary" means a qualified actuary who is</u>	2251
<u>appointed in accordance with the valuation manual to prepare the</u>	2252
<u>actuarial opinion required in section 3903.722 of the Revised</u>	2253
<u>Code.</u>	2254
<u>(3) "Company" means an entity that meets either of the</u>	2255
<u>following criteria:</u>	2256
<u>(a) The entity has written, issued, or reinsured life</u>	2257
<u>insurance contracts, accident and health insurance contracts, or</u>	2258
<u>deposit-type contracts in this state and has at least one such</u>	2259
<u>policy in force or on claim.</u>	2260
<u>(b) The entity has written, issued, or reinsured life</u>	2261
<u>insurance contracts, accident and health insurance contracts, or</u>	2262
<u>deposit-type contracts in any state and is required to hold a</u>	2263
<u>certificate of authority to write life insurance, accident and</u>	2264
<u>health insurance, or deposit-type contracts in this state.</u>	2265
<u>(4) "Deposit-type contract" means a contract that does not</u>	2266
<u>incorporate mortality or morbidity risks and as may be specified</u>	2267
<u>in the valuation manual.</u>	2268
<u>(5) "Life insurance" means a contract that incorporates</u>	2269
<u>mortality risk, including an annuity and pure endowment contract,</u>	2270
<u>and as may be specified in the valuation manual.</u>	2271
<u>(6) "Operative date of the valuation manual" means the date</u>	2272
<u>specified in division (B) of section 3903.728 of the Revised Code.</u>	2273
<u>(7) "Policyholder behavior" means any action a policyholder,</u>	2274

contract holder, or any other person with the right to elect 2275  
options under a policy or contract, such as a certificate holder, 2276  
may take under a policy or contract subject to this section 2277  
including lapse, withdrawal, transfer, deposit, premium payment, 2278  
loan, annuitization, or benefit elections prescribed by the policy 2279  
or contract. "Policyholder behavior" does not include events of 2280  
mortality or morbidity that result in benefits prescribed in the 2281  
terms of the policy or contract. 2282

(8) "Principle-based valuation" means a reserve valuation 2283  
that uses one or more methods or one or more assumptions 2284  
determined by the insurer and that is required to comply with 2285  
section 3903.729 of the Revised Code. 2286

(9) "Qualified actuary" means an individual who is qualified 2287  
to sign a statement of actuarial opinion in accordance with the 2288  
American academy of actuaries qualification standards for 2289  
actuaries signing such statements and who meets the requirements 2290  
specified in the valuation manual. 2291

(10) "Superintendent" means superintendent of insurance. 2292

(11) "Tail risk" means a risk that occurs either when the 2293  
frequency of low probability events is higher than expected under 2294  
a normal probability distribution or when there are observed 2295  
events of very significant size or magnitude. 2296

(12) "Valuation manual" means the manual of valuation 2297  
instructions adopted by the national association of insurance 2298  
commissioners or as subsequently amended. 2299

**Sec. 3903.721.** (A)(1) The superintendent shall annually 2300  
value, or cause to be valued, the reserve liabilities, referred to 2301  
as reserves, for all outstanding life insurance policies, annuity 2302  
and pure endowment contracts, and deposit-type contracts of every 2303  
life insurance company doing business in this state issued prior 2304

to the operative date of the valuation manual. 2305

In calculating reserves, the superintendent may use group 2306  
methods and approximate averages for fractions of a year or 2307  
otherwise. 2308

In lieu of the valuation of the reserves required of a 2309  
foreign or alien company, the superintendent may accept a 2310  
valuation made, or caused to be made, by the insurance supervisory 2311  
official of any state or other jurisdiction when the valuation 2312  
complies with the minimum standard provided in sections 3903.72 to 2313  
3903.7211 of the Revised Code. 2314

(2) The provisions set forth in sections 3903.723, 3903.724, 2315  
3903.725, and 3903.727 of the Revised Code shall apply to all 2316  
policies and contracts, as appropriate, issued on or after August 2317  
25, 1983, and prior to the operative date of the valuation manual. 2318  
The provisions set forth in sections 3903.726, 3903.728, and 2319  
3903.729 of the Revised Code shall not apply to any such policies 2320  
and contracts. 2321

(3) The minimum standard for the valuation of policies and 2322  
contracts issued prior to August 25, 1983, shall be that provided 2323  
by the laws in effect immediately prior to that date. 2324

(B)(1) For all outstanding life insurance contracts, annuity 2325  
and pure endowment contracts, deposit-type contracts, and accident 2326  
and health contracts of every company issued on or after the 2327  
operative date of the valuation manual, the superintendent shall 2328  
annually value, or cause to be valued, the reserve liabilities for 2329  
such contracts according to sections 3903.728 and 3903.729 of the 2330  
Revised Code. 2331

In lieu of the valuation of the reserves required of a 2332  
foreign or alien company, the superintendent may accept a 2333  
valuation made, or caused to be made, by the insurance supervisory 2334

official of any state or other jurisdiction when the valuation 2335  
complies with the minimum standard provided in sections 3903.72 to 2336  
3903.7211 of the Revised Code. 2337

(2) The provisions set forth in sections 3903.728 and 2338  
3903.729 of the Revised Code shall apply to all policies and 2339  
contracts issued on or after the operative date of the valuation 2340  
manual. 2341

**Sec. 3903.722.** (A) Every life insurance company doing 2342  
business in this state shall annually submit to the superintendent 2343  
the opinion of a qualified actuary as to whether the reserves and 2344  
related actuarial items held in support of the policies and 2345  
contracts specified by rule by the superintendent are computed 2346  
appropriately, are based on assumptions that satisfy contractual 2347  
provisions, are consistent with prior reported amounts, and comply 2348  
with the applicable laws of this state. The superintendent shall 2349  
adopt rules establishing the form and content of this opinion, and 2350  
may require the life insurance company to supply information in 2351  
addition to that contained in the actuarial opinion. 2352

(B)(1) Every life insurance company, except as exempted by 2353  
rule adopted by the superintendent, shall also include in the 2354  
annual opinion required by division (A) of this section an opinion 2355  
of the same qualified actuary as to whether the reserves and 2356  
related actuarial items held in support of the policies and 2357  
contracts specified by rule by the superintendent, when considered 2358  
in light of the assets held by the company with respect to the 2359  
reserves and related actuarial items, including the investment 2360  
earnings on the assets and the considerations anticipated to be 2361  
received and retained under the policies and contracts, make 2362  
adequate provision for the company's obligations under the 2363  
policies and contracts, including the benefits under and the 2364  
expenses associated with the policies and contracts. 2365

(2) The superintendent may provide by rule for a transition period for establishing any higher reserves that the qualified actuary may consider necessary to render the opinion required by division (B) of this section. 2366  
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(C) Each opinion required by division (B)(1) of this section shall meet both of the following requirements: 2370  
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(1) The opinion shall be supported by a memorandum prepared in a form and contain content as specified by rule by the superintendent. 2372  
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(2) If a life insurance company fails to provide a supporting memorandum within the period of time specified by rule by the superintendent, or if the superintendent determines that a supporting memorandum fails to meet the standards set out in the rule, or is otherwise unacceptable to the superintendent, the superintendent may employ, at the expense of the insurance company, a qualified actuary to review the opinion and the basis for the opinion and prepare such supporting memorandum as is required by the superintendent. 2375  
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(D) Every opinion required by this section is governed by the following: 2384  
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(1) The opinion shall be submitted with the annual statement reflecting the valuation of the reserve liabilities for each year ending on or after December 31, 2012. 2386  
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(2) The opinion shall apply to all business in force including individual and group health insurance plans in form and substance as specified in rules adopted by the superintendent. 2389  
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(3) The opinion shall be based on standards adopted from time to time by the actuarial standards board of the American academy of actuaries and on such additional standards as the superintendent may prescribe by rule. 2392  
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(4) In the case of an opinion required to be submitted by a foreign or alien life insurance company, the superintendent may accept the opinion filed by that company with the insurance regulatory authority of another state if the superintendent determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(5) Except in cases of fraud or willful misconduct, the qualified actuary is not liable for damages in any civil action to any person, other than the insurance company and the superintendent, for any act, error, omission, decision, or conduct with respect to the actuary's opinion.

(6) The superintendent shall establish by rule penalties for an insurance company's or qualified actuary's failure to comply with this section.

(7) Except as provided in divisions (D)(9) and (E) of this section, documents, materials, or other information in the possession or control of the department of insurance that are a memorandum in support of the opinion or other material provided by the insurance company to the superintendent in connection with the memorandum shall be confidential by law and privilege and is not a public record under section 149.43 of the Revised Code, shall not be subject to subpoena, except as provided in division (D)(9) of this section, and shall not be subject to discovery or admissible in evidence in any private civil action, except as provided in division (E)(4) of this section.

(8) Neither the superintendent nor any person who received documents, materials, or other information while acting under the authority of the superintendent shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to division (E) of this section.

(9) A memorandum in support of the opinion, and any other associated material, may be subject to subpoena for the purpose of defending an action seeking damages from the actuary submitting the memorandum by reason of an action required by this section or by rules adopted by the superintendent. 2427  
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(10) If any portion of a confidential and privileged memorandum is cited by the company in its marketing, is cited before any governmental agency other than a state insurance regulatory authority, or is released by the company to the news media, the entire memorandum shall no longer be confidential and privileged. 2432  
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(E) Notwithstanding division (D) of this section, the superintendent may do any of the following: 2438  
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(1) Disclose memoranda and other materials described in this section upon obtaining prior written consent from the insurer to which the memorandum or other materials pertain; 2440  
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(2) Disclose memoranda and other materials described in this section to the American academy of actuaries upon receipt of a written request from the academy stating that a memorandum or other material is required for the purpose of professional disciplinary proceedings. A request from the American academy of actuaries shall set forth the procedures to be used by the academy for preserving the confidential and privileged status of the memorandum or other material. If the procedures set forth are not satisfactory to the superintendent, the superintendent shall not release the memorandum or other material to the academy. 2443  
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(3) Share documents and materials or other information, including the confidential and privileged documents, materials, or information subject to division (D) of this section, with other local, state, federal, and international regulatory and law enforcement agencies, with local, state, and federal prosecutors, 2453  
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and with the national association of insurance commissioners and 2458  
its affiliates and subsidiaries, provided that the recipient 2459  
agrees to maintain the confidential or privileged status of any 2460  
confidential or privileged memorandum or other material and has 2461  
authority to do so; 2462

(4) Disclose memoranda and other materials described in this 2463  
section in the furtherance of any regulatory or legal action 2464  
brought by or on behalf of the superintendent or the state, 2465  
resulting from the exercise of the superintendent's official 2466  
duties. 2467

(F) Notwithstanding divisions (D) and (E) of this section, 2468  
the superintendent may authorize the national association of 2469  
insurance commissioners and its affiliates and subsidiaries by 2470  
agreement to share confidential or privileged memoranda and other 2471  
material received pursuant to division (E)(3) of this section with 2472  
local, state, federal, and international regulatory and law 2473  
enforcement agencies and with local, state, and federal 2474  
prosecutors, provided that the recipient agrees to maintain the 2475  
confidential or privileged status of the confidential or 2476  
privileged memorandum or other material and has authority to do 2477  
so. 2478

(G) Nothing in this section shall prohibit the superintendent 2479  
from receiving memoranda and other material in accordance with 2480  
section 3901.045 of the Revised Code. 2481

(H) The superintendent may enter into agreements governing 2482  
the sharing and use of memoranda and materials consistent with the 2483  
requirements of this section. 2484

(I) No waiver of any applicable privilege or claim of 2485  
confidentiality in the memoranda and materials described in this 2486  
section shall occur as a result of sharing or receiving memoranda 2487  
and material as authorized in divisions (E)(2) and (3), (F), and 2488

(G) of this section. 2489

~~Sec. 3903.72 3903.723. (A) The superintendent of insurance 2490  
shall annually value, or cause to be valued, the reserve 2491  
liabilities, referred to in this section as reserves, for all 2492  
outstanding life insurance policies and annuity and pure endowment 2493  
contracts of every life insurance company doing business in this 2494  
state. The superintendent may certify the amount of such reserves, 2495  
specifying the mortality tables, rates of interest, and net level 2496  
premium method and other methods used to calculate reserves. In 2497  
calculating reserves, the superintendent may use group methods and 2498  
approximate averages for fractions of a year or otherwise. The 2499  
valuation of the reserves of a company organized under the laws of 2500  
a foreign government shall be limited to its United States 2501  
business. 2502~~

~~In lieu of a valuation of the reserves of a foreign company, 2503  
the superintendent may accept the valuation made, or caused to be 2504  
made, by the insurance supervisory official of any state or other 2505  
jurisdiction when such valuation complies with the minimum 2506  
standards required by this section, provided such official accepts 2507  
the certificate of valuation of the superintendent when such 2508  
certificate states that the valuation was made in a specified 2509  
manner and when such valuation complies with the minimum standards 2510  
required by the law of that state or jurisdiction. 2511~~

~~A company, which adopts a standard of valuation producing 2512  
aggregate reserves greater than those required by this section, 2513  
may adopt a lower standard of valuation with the approval of the 2514  
superintendent, but not lower than the minimum provided by this 2515  
section. However, the holding of additional reserves previously 2516  
determined by a qualified actuary to be necessary for the actuary 2517  
to render the opinions required by divisions (B)(1) and (2) of 2518  
this section shall not be deemed to be the adoption of a higher 2519~~

~~standard of valuation.~~ 2520

~~(B)(1) Every life insurance company doing business in this 2521  
state shall annually submit to the superintendent the opinion of a 2522  
qualified actuary as to whether the reserves and related actuarial 2523  
items held in support of the policies and contracts specified by 2524  
rule by the superintendent are computed appropriately, are based 2525  
on assumptions that satisfy contractual provisions, and are 2526  
consistent with prior reported amounts. The opinion shall be 2527  
submitted no later than March 1, 1996, and no later than the first 2528  
day of March of each year thereafter. The superintendent shall 2529  
adopt rules establishing the form and content of this opinion, and 2530  
may require the life insurance company to supply information in 2531  
addition to that contained in the actuarial opinion.~~ 2532

~~As used in this section, a "qualified actuary" means a person 2533  
who is a member in good standing of the American academy of 2534  
actuaries and who meets the requirements set by rule by the 2535  
superintendent.~~ 2536

~~(2)(a) Every life insurance company, except as exempted by 2537  
rule adopted by the superintendent, shall also include in the 2538  
annual opinion required by division (B)(1) of this section an 2539  
opinion of the same qualified actuary as to whether the reserves 2540  
and related actuarial items held in support of the policies and 2541  
contracts specified by rule by the superintendent, when considered 2542  
in light of the assets held by the company with respect to the 2543  
reserves and related actuarial items, including, but not limited 2544  
to, the investment earnings on the assets and the considerations 2545  
anticipated to be received and retained under the policies and 2546  
contracts, make adequate provision for the company's obligations 2547  
under the policies and contracts, including, but not limited to, 2548  
the benefits under and the expenses associated with the policies 2549  
and contracts.~~ 2550

~~(b) The superintendent may provide by rule for a transition 2551~~

~~period for establishing any higher reserves that the qualified actuary may consider necessary to render the opinion required by division (B) of this section.~~ 2552  
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~~(c) Each opinion required by division (B) of this section shall be supported by a memorandum prepared in form and content as specified by rule by the superintendent.~~ 2555  
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~~(d) If a life insurance company fails to provide a supporting memorandum within the period of time specified by rule by the superintendent, or if the superintendent determines that a supporting memorandum fails to meet the standards set out in the rule, or is otherwise unacceptable to the superintendent, the superintendent may employ, at the expense of the insurance company, a qualified actuary to review the opinion and the basis for the opinion and prepare such supporting memorandum as is required by the superintendent.~~ 2558  
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~~(3) Every opinion required by division (B) of this section is governed by the following:~~ 2567  
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~~(a) The opinion shall be submitted with the annual statement reflecting the valuation of the reserve liabilities.~~ 2569  
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~~(b) The opinion shall apply to all business in force including individual and group health insurance plans.~~ 2571  
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~~(c) The opinion shall be based on standards adopted from time to time by the actuarial standards board of the American academy of actuaries and on such additional standards as the superintendent may prescribe by rule.~~ 2573  
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~~(d) In the case of an opinion required to be submitted by a foreign or alien life insurance company, the superintendent may accept the opinion filed by that company with the insurance regulatory authority of another state if the superintendent determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.~~ 2577  
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~~(e) Except in cases of fraud or willful misconduct, the 2583  
qualified actuary is not liable for damages in any civil action to 2584  
any person, other than the insurance company and the 2585  
superintendent, for any act, error, omission, decision, or conduct 2586  
with respect to the actuary's opinion. 2587~~

~~(f) The superintendent shall establish by rule penalties for 2588  
an insurance company's or qualified actuary's failure to comply 2589  
with this section. 2590~~

~~(g) The superintendent shall keep as confidential and 2591  
privileged any memorandum received in support of a qualified 2592  
actuary's opinion and also any other material provided by the 2593  
insurance company to the superintendent in connection with the 2594  
opinion. The memorandum and other materials shall not be made 2595  
public, and shall not be subject to subpoena other than for the 2596  
purpose of defending an action required by this section or rules 2597  
adopted under this section. However, if any portion of a 2598  
confidential and privileged memorandum is cited by the company in 2599  
its marketing, is cited before any governmental agency other than 2600  
a state insurance regulatory authority, or is released by the 2601  
company to the news media, the entire memorandum shall no longer 2602  
be confidential and privileged. 2603~~

~~(h) Notwithstanding division (B)(3)(g) of this section, the 2604  
superintendent may do any of the following: 2605~~

~~(i) Disclose memoranda and other materials described in this 2606  
section upon obtaining prior written consent from the insurer to 2607  
which the memorandum or other materials pertain; 2608~~

~~(ii) Disclose memoranda and other materials described in this 2609  
section to the American academy of actuaries upon receipt of a 2610  
written request from the academy stating that a memorandum or 2611  
other material is required for the purpose of professional 2612  
disciplinary proceedings. A request from the American academy of 2613~~

~~actuaries shall set forth the procedures to be used by the academy 2614  
for preserving the confidential and privileged status of the 2615  
memorandum or other material. If the procedures set forth are not 2616  
satisfactory to the superintendent, the superintendent shall not 2617  
release the memorandum or other material to the academy. 2618~~

~~(iii) Share memoranda and other materials described in this 2619  
section with the chief deputy rehabilitator, the chief deputy 2620  
liquidator, other deputy rehabilitators and liquidators, and any 2621  
other person employed by, or acting on behalf of, the 2622  
superintendent pursuant to Chapter 3901. or 3903. of the Revised 2623  
Code, with other local, state, federal, and international 2624  
regulatory and law enforcement agencies, with local, state, and 2625  
federal prosecutors, and with the national association of 2626  
insurance commissioners and its affiliates and subsidiaries, 2627  
provided that the recipient agrees to maintain the confidential or 2628  
privileged status of any confidential or privileged memorandum or 2629  
other material and has authority to do so; 2630~~

~~(iv) Disclose memoranda and other materials described in this 2631  
section in the furtherance of any regulatory or legal action 2632  
brought by or on behalf of the superintendent or the state, 2633  
resulting from the exercise of the superintendent's official 2634  
duties. 2635~~

~~(i) Notwithstanding divisions (B)(3)(g) and (h) of this 2636  
section, the superintendent may authorize the national association 2637  
of insurance commissioners and its affiliates and subsidiaries by 2638  
agreement to share confidential or privileged memoranda and other 2639  
material received pursuant to division (B)(3)(h)(iii) of this 2640  
section with local, state, federal, and international regulatory 2641  
and law enforcement agencies and with local, state, and federal 2642  
prosecutors, provided that the recipient agrees to maintain the 2643  
confidential or privileged status of the confidential or 2644  
privileged memorandum or other material and has authority to do 2645~~

so. 2646

~~(j) Notwithstanding divisions (B)(3)(g) and (h) of this section, the chief deputy rehabilitator, the chief deputy liquidator, and other deputy rehabilitators and liquidators may disclose memoranda and other material described in this section in the furtherance of any regulatory or legal action brought by or on behalf of the superintendent, the rehabilitator, the liquidator, or the state resulting from the exercise of the superintendent's official duties in any capacity.~~ 2647  
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~~(k) Nothing in this section shall prohibit the superintendent from receiving memoranda and other material in accordance with section 3901.045 of the Revised Code.~~ 2655  
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~~(l) The superintendent may enter into agreements governing the sharing and use of memoranda and materials consistent with the requirements of this section.~~ 2658  
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~~(m)(i) No waiver of any applicable privilege or claim of confidentiality in the memoranda and materials described in this section shall occur as a result of sharing or receiving memoranda and material as authorized in divisions (B)(3)(h)(ii) and (iii), (B)(3)(i), and (B)(3)(k) of this section.~~ 2661  
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~~(ii) The disclosure of any memorandum or material in connection with a regulatory or legal action pursuant to divisions (B)(3)(h)(iv) and (B)(3)(j) of this section does not prohibit an insurer or any other person from taking steps to limit the dissemination of the memorandum or material to persons not involved in or the subject of the regulatory or legal action on the basis of any recognized privilege arising under any other section of the Revised Code or the common law.~~ 2666  
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~~(C) Except in the case of policies and contracts to which division (D) of this section applies as provided in division (B) of this section and in sections 3903.724, 3903.725, and 3903.727~~ 2674  
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of the Revised Code, the minimum standard for the valuation of reserves policies and contracts issued prior to the effective date of this section shall be the method set forth in section 3915.04 of the Revised Code, using that provided by the laws in effect immediately prior to that date.

(B) Except as otherwise provided in sections 3903.724, 3903.725, and 3903.727 of the Revised Code, the minimum standard for the valuation of all policies and contracts shall be derived according to the tables listed in this section and the following:

(1) The commissioner's reserve valuation methods defined in divisions (J) to (M) and (P) of this section and section 3903.727 of the Revised Code for policies and contracts issued on or after August 25, 1983;

(2) Three and one-half per cent interest, or, in the case of life insurance policies and contracts, other than annuity and pure endowment contracts, issued on or after January 1, 1972, and before January 1, 1976, four per cent interest and the American experience table of mortality; provided that in no event shall a company's aggregate reserves for policies and contracts which guarantee nonforfeiture benefits be less than the aggregate reserves calculated in accordance with the standard used in calculating nonforfeiture benefits for such policies and contracts.;

~~Reserves for such policies and contracts may be calculated according to standards which produce aggregate reserves greater than the minimum reserves required by this division.~~

~~(D) This division applies to all life insurance policies and annuity and pure endowment contracts issued on and after November 5, 1959, or each earlier date not before July 17, 1947, elected by the company for one or more of such policies or contracts as the date on which it would comply with the provisions of the~~



~~nonforfeiture law for life insurance provided in section 3915.07 2708  
of the Revised Code or with the provisions of this division. The 2709  
minimum standard for the valuation of all such policies and 2710  
contracts shall be the commissioners reserve valuation method 2711  
defined in division (E), (F), (H), or (K) of this section and the 2712  
following tables and interest rates: 2713~~

~~(1)(3) Five and one-half per cent interest for single premium 2714  
life insurance policies issued on and after January 1, 1976; 2715~~

~~(4) Four and one-half per cent interest for all other 2716  
policies issued on and after January 1, 1976. 2717~~

~~(C) For ordinary life insurance policies, excluding 2718  
disability and accidental death benefits, issued on the standard 2719  
basis: 2720~~

~~(a) On and after November 5, 1959, or an earlier date, not 2721  
before July 17, 1947, specified in a written notice by the company 2722  
to the superintendent of its election to use this table and before 2723  
division (D)(1)(b) of this section became operative for subsequent 2724  
policy issues, the (1) The commissioners 1941 standard ordinary 2725  
mortality table and three and one half per cent interest for 2726  
policies issued prior to the operative date of section 5a of the 2727  
standard nonforfeiture law for life insurance as amended; 2728~~

~~(b) On and after January 1, 1966, or an earlier date, not 2729  
before November 5, 1959, specified in a written notice by the 2730  
company to the superintendent of its election to use this table 2731  
and before division (D)(1)(c) of this section becomes operative 2732  
for subsequent policy issues, the (2) The commissioners 1958 2733  
standard ordinary mortality table and three and one half per cent 2734  
interest before January 1, 1975; four per cent interest on and 2735  
after January 1, 1975 and before January 1, 1979; and four and 2736  
one half per cent interest on and after January 1, 1979; for 2737  
policies issued on or after the operative date of section 5a of 2738~~

the standard nonforfeiture law for life insurance as amended and 2739  
prior to the operative date of section 5c of the standard 2740  
nonforfeiture law for life insurance as amended, provided that 2741  
modified premiums and present values for any category of policies 2742  
issued on female risks, all modified and net premiums and present 2743  
values referred to in this section may be calculated ~~at~~ according 2744  
to an age ~~three~~ not more than six years younger than the actual 2745  
age of the insured ~~for policies issued before January 1, 1979, and~~ 2746  
~~at an age six years younger for policies issued on and after~~ 2747  
January 1, 1979. 2748

~~(c) On and after January 1, 1989, or an earlier date, not~~ 2749  
~~before January 1, 1983, specified in a written notice by the~~ 2750  
~~company to the superintendent of its election to use this table,~~ 2751  
~~the commissioners 1980 standard ordinary mortality table and the~~ 2752  
~~applicable valuation interest rate as defined in section 3903.721~~ 2753  
~~of the Revised Code. The company may elect to use the~~ 2754  
~~commissioners 1980 standard ordinary mortality table with ten-year~~ 2755  
~~select mortality factors for any specified plan of life insurance.~~ 2756  
~~The superintendent may approve the use of any ordinary mortality~~ 2757  
~~table adopted after 1980 by the national association of insurance~~ 2758  
~~commissioners for determining the minimum standard for the~~ 2759  
~~valuation of such policies.~~ 2760

(2)(3) For policies issued on or after the operative date of 2761  
section 5c of the standard nonforfeiture law for life insurance as 2762  
amended: 2763

(a) The commissioners 1980 standard ordinary mortality table; 2764

(b) At the election of the company for any one or more 2765  
specified plans of life insurance, the commissioners 1980 standard 2766  
ordinary mortality table with ten-year select mortality factors; 2767

(c) Any ordinary mortality table, adopted after 1980 by the 2768  
national association of insurance commissioners, that is approved 2769

by rules adopted by the department of insurance for use in 2770  
determining the minimum standard of valuation for such policies. 2771

(D) For industrial life insurance policies, excluding 2772  
disability and accidental death benefits, issued on the standard 2773  
basis: 2774

~~(a) On and after November 5, 1959, or an earlier date, not~~ 2775  
~~before July 17, 1947, specified in a written notice by the company~~ 2776  
~~to the superintendent of its election to use this table and before~~ 2777  
~~division (D)(2)(b) of this section became operative for subsequent~~ 2778  
~~policy issues~~ (1) Prior to the operative date of section 5b of the 2779  
standard nonforfeiture law for life insurance, as amended, 2780  
the 1941 standard industrial mortality table and three and one-half 2781  
per cent interest; 2782

~~(b) On and after January 1, 1968, or an earlier date, not~~ 2783  
~~before September 2, 1963, specified in a written notice by the~~ 2784  
~~company to the superintendent of its election to use this table~~ 2785  
(2) On or after the effective date of section 5b of the standard 2786  
nonforfeiture law for life insurance, as amended, 2787  
the 1961 standard industrial mortality table and three 2788  
and one-half per cent interest before January 1, 1975; four per 2789  
cent interest on and after January 1, 1975 and before January 1, 2790  
1979; four and one-half per cent interest on and after January 1, 2791  
1979 and before January 1, 1989, or before an earlier date, not 2792  
before January 1, 1983, specified in a written notice by the 2793  
company to the superintendent of its election to issue such 2794  
policies pursuant to the provisions of the nonforfeiture law for 2795  
life insurance provided in section 3915.071 of the Revised Code. 2796  
On and after January 1, 1989, or such earlier date, the interest 2797  
rate to be used in calculating the minimum reserve for such 2798  
policies is the applicable valuation interest rate as defined in 2799  
section 3903.721 of the Revised Code. The superintendent may 2800  
approve the use of any industrial mortality table adopted after 2801

~~1980 by the national association of insurance commissioners for 2802  
determining the minimum standard for the valuation of such 2803  
policies or any industrial mortality table adopted after 1980 by 2804  
the national association of insurance commissioners that is 2805  
approved by rules adopted by the superintendent for use in 2806  
determining the minimum standard of valuation for the policies. 2807~~

~~(3)(E) For all individual annuity and pure endowment 2808  
contracts, excluding disability and accidental death benefits, 2809  
issued. 2810~~

~~(a) On and after November 5, 1959, or an earlier date, not 2811  
before July 17, 1947, as of which the company elected to comply 2812  
with this division (D)(3)(a) and before division (D)(3)(b) of this 2813  
section became operative for subsequent contract issues, the 1937 2814  
standard annuity mortality table, or, at the option of the 2815  
company, the annuity mortality table for 1949, ultimate, or any 2816  
modification of either table approved by the superintendent and 2817  
three and one half per cent interest; 2818~~

~~(b) On and after January 1, 1979, or an earlier date, not 2819  
before January 1, 1975, specified by the company in a written 2820  
notice to the superintendent of its election to use this table, 2821  
the 1971 individual annuity mortality table or any modification of 2822  
that table approved by the superintendent and four per cent 2823  
interest on and after January 1, 1975 and before January 1, 1979; 2824  
four and one half per cent interest on and after January 1, 1979, 2825  
and before January 1, 1983; and the valuation interest rate as 2826  
defined in section 3903.721 of the Revised Code on and after 2827  
January 1, 1983, except that on and after January 1, 1975, and 2828  
before January 1, 1979, the interest rate is six per cent for 2829  
single premium immediate contracts and on and after January 1, 2830  
1979, and before January 1, 1983, the interest rate is five and 2831  
one half per cent for single premium deferred contracts and seven 2832  
and one half per cent for single premium immediate contracts. The 2833~~

~~superintendent may approve the use of any individual annuity 2834  
mortality table adopted after 1980 by the national association of 2835  
insurance commissioners, either as adopted or as modified by the 2836  
superintendent, for determining the minimum standard for the 2837  
valuation of such contracts. 2838~~

~~(4)(F) For all group annuity and pure endowment contracts, 2839  
excluding disability and accidental death benefits, purchased 2840  
under group annuity and pure endowment contracts: 2841~~

~~(a) On and after November 5, 1959, or an earlier date, not 2842  
before July 17, 1947, as of which the company elected to comply 2843  
with this division (D)(4)(a) and before division (D)(4)(b) of this 2844  
section became operative for subsequent contract purchases in the 2845  
policies, the group annuity mortality table for 1951, any 2846  
modification of this table approved by the superintendent, or 2847  
either of the tables, or modification of either of them, specified 2848  
in division (D)(3)(a) of this section for individual annuity and 2849  
pure endowment contracts and three and one half per cent interest: 2850~~

~~(b) On and after January 1, 1979, or an earlier date, not 2851  
before January 1, 1975, specified by the company in a written 2852  
notice to the superintendent of its election to use this table, 2853  
the 1971 group annuity mortality table, or any modification of 2854  
that table approved by the superintendent, and six per cent 2855  
interest on and after January 1, 1975, and before January 1, 1979; 2856  
seven and one half per cent interest on and after January 1, 1979, 2857  
and before January 1, 1983, and the valuation interest rate as 2858  
defined in section 3903.721 of the Revised Code on and after 2859  
January 1, 1983. The superintendent may approve the use of, at the 2860  
option of the company, any group of the tables or modifications of 2861  
tables specified for individual annuity mortality table adopted 2862  
after 1980 by the national association of insurance commissioners, 2863  
either as adopted or as modified by the superintendent, for 2864  
determining the minimum standard for the valuation of such and 2865~~

pure endowment contracts. 2866

~~(5)(G)~~ For total and permanent disability benefits in or 2867  
supplementary to ordinary policies and contracts issued: 2868

~~(a)~~ ~~On and after July 17, 1947, and before January 1, 1961,~~ 2869  
~~the class (3) disability table (1926) and three and one half per~~ 2870  
~~cent interest. This table, for active lives, shall be combined~~ 2871  
~~with a mortality table permitted for calculating the reserves for~~ 2872  
~~life insurance policies.~~ 2873

~~(b)(1)~~ On and after January 1, ~~1961~~ 1966, the tables of 2874  
period 2 disablement rates and the 1930 to 1950 termination rates 2875  
of the 1952 disability study of the society of actuaries, with due 2876  
regard for the type of benefit; ~~except that a company may, at its~~ 2877  
~~option, use the class (3) disability table (1926) for policies and~~ 2878  
~~contracts issued on and after January 1, 1961, and before January~~ 2879  
~~1, 1966. Any such table, for active lives, shall be combined with~~ 2880  
~~a mortality table permitted for calculating the reserves for life~~ 2881  
~~insurance policies. The interest rate to be used in calculating~~ 2882  
~~minimum reserves for such benefits may not exceed the applicable~~ 2883  
~~rate specified in division (D)(1) of this section for ordinary~~ 2884  
~~life insurance policies. The superintendent may approve the use of~~ 2885  
or any other table of disablement rates and termination rates 2886  
adopted after 1980 by the national association of insurance 2887  
commissioners for use in determining the minimum standard for the 2888  
valuation of ~~such total and permanent benefits~~ those policies; 2889

(2) On or after January 1, 1961, and prior to January 1, 2890  
1966, either the tables described in division (G)(1) of this 2891  
section or, at the option of the company, the class (3) disability 2892  
table (1926); 2893

(3) Prior to January 1, 1961, the class (3) disability table 2894  
(1926). 2895

Any such table shall, for active lives, be combined with a 2896

mortality table permitted for calculating the reserves for life insurance policies. 2897  
2898

~~(6)(H)~~ For accidental death benefits in or supplementary to policies issued: 2899  
2900

~~(a) On and after July 17, 1947, and before January 1, 1961, the inter-company double indemnity mortality table and three and one-half per cent interest. This table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.~~ 2901  
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~~(b)(1) On and after January 1, 1961 1966, the 1959 accidental death benefits table; except that a company may, at its option, use the inter-company double indemnity mortality table for policies issued on and after January 1, 1961, and before January 1, 1966. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies. The interest rate to be used in calculating the minimum reserves for such benefits may not exceed the applicable rate specified in division (D)(1) of this section for ordinary life insurance policies. The superintendent may approve the use of or any accidental death benefits table adopted after 1980 by the national association of insurance commissioners for use in determining the minimum standard for the valuation of such accidental death benefits that is approved in rules adopted by the superintendent;~~ 2906  
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(2) On or after January 1, 1961, and prior to January 1, 1966, either the table described in division (H)(1) of this section or, at the option of the company, the inter-company double indemnity mortality table; 2921  
2922  
2923  
2924

(3) Prior to January 1, 1961, the inter-company double indemnity mortality table. 2925  
2926

The table used shall be combined with a mortality table for 2927

calculating the reserves for life insurance policies. 2928

~~(7)(I)~~ For group life insurance, life insurance issued on the 2929  
substandard basis and all other special benefits, such tables as 2930  
may be approved by the superintendent ~~and interest not to exceed~~ 2931  
~~the applicable rate used in division (D)(1) of this section for~~ 2932  
~~ordinary life insurance policies.~~ 2933

~~(E)~~ This division defines the (J) Except as otherwise 2934  
provided in divisions (M) and (P) of this section and in section 2935  
3903.727 of the Revised Code, reserves according to the 2936  
commissioners reserve valuation method for ~~all policies, riders,~~ 2937  
~~and supplemental policy provisions, with~~ the life insurance or and 2938  
endowment benefits, ~~or both,~~ of policies providing for a uniform 2939  
amounts amount of life insurance and requiring the payment of 2940  
uniform premiums. ~~Reserves for such policies, riders, and~~ 2941  
~~provisions, except as otherwise provided in divisions (F) and (K)~~ 2942  
~~of this section,~~ shall be the excess, if any, of the present value 2943  
on the valuation date of the future guaranteed benefits over the 2944  
then present value ~~on that date of the any~~ future modified net 2945  
premiums therefor. The modified net ~~premium is a~~ premiums for a 2946  
policy shall be the uniform percentage of ~~each~~ the respective 2947  
contract ~~premium specified~~ premiums for the ~~guaranteed~~ benefits 2948  
such that the present value, at the date of issue of the policy, 2949  
of all modified net premiums shall be equal to the sum of the then 2950  
present value, ~~on the date of issue,~~ of the ~~future guaranteed~~ 2951  
benefits ~~plus the excess~~ provided for by the policy and the excess 2952  
of division ~~(E)(J)(1)~~ over division ~~(E)(J)(2)~~ of this section, as 2953  
follows: 2954

(1) A net level annual premium equal to the present value, at 2955  
the date of issue, of such benefits provided for after the first 2956  
policy year, divided by the present value, at the date of issue, 2957  
of an annuity of one per annum payable on the first and each 2958  
subsequent anniversary of the policy on which a premium falls due. 2959



~~provided that such.~~ However, the net level annual premium shall 2960  
not exceed the net level annual premium on the nineteen-year 2961  
premium whole life plan for insurance of the same amount at an age 2962  
one year higher than the age at issue of the policy. 2963

(2) A net one-year term premium for such benefits provided 2964  
for in the first policy year. 2965

~~(F)~~(K) This division defines the commissioners reserve 2966  
valuation method for all life insurance policies issued on or 2967  
after January 1, 1989, that have a first year premium in excess of 2968  
the premium for the second policy year and for which excess no 2969  
comparable benefit is provided in the first year and that provide 2970  
either an endowment benefit or cash surrender value, or ~~both a~~ 2971  
combination, in an amount greater than the excess premium. 2972  
~~Reserves for such policies before the assumed ending date shall be~~ 2973  
~~the greater of the amount calculated in accordance with division~~ 2974  
~~(E) of this section and the reserve calculated in accordance with~~ 2975  
~~that division but with the following changes~~ The reserve according 2976  
to the commissioners reserve valuation method as of any policy 2977  
anniversary occurring on or before the assumed ending date defined 2978  
herein as the first policy anniversary on which the sum of any 2979  
endowment benefit and any cash surrender value then available is 2980  
greater than the excess premium shall, except as otherwise 2981  
provided in division (P) of this section, be the greater of either 2982  
of the following: 2983

(1) The reserve as of the policy anniversary, with the policy 2984  
anniversary being calculated as described in division (J) of this 2985  
section; 2986

(2) The reserve as of the policy anniversary calculated as 2987  
described in division (J) of this section, but with: 2988

~~(1)~~(a) The value defined in division ~~(E)~~(J)(1) of this 2989  
section ~~shall be~~ being reduced by fifteen per cent of the amount 2990

of such excess first-year premium; 2991

~~(2)(b)~~ All present values of benefits and premiums ~~shall be~~ 2992  
being determined without reference to premiums and benefits 2993  
provided for by the policy after the assumed ending date; 2994

~~(3)(c)~~ The policy ~~shall be~~ being assumed to mature on the 2995  
assumed ending date ~~in the amount of its~~ as an endowment ~~benefits~~ 2996  
~~and cash surrender value. The assumed ending date is the first~~ 2997  
~~policy anniversary on which the sum of any endowment benefit and~~ 2998  
~~any cash surrender value then available is greater than such~~ 2999  
~~excess first-year premium.~~ 3000

~~On and after the assumed ending date, the reserve for such~~ 3001  
~~policies shall be calculated in accordance with division (E) of~~ 3002  
~~this section;~~ 3003

(d) The cash surrender value provided on the assumed ending 3004  
date being considered as an endowment benefit. 3005

In making the above comparison, the mortality and interest 3006  
bases stated in this section and in section 3903.724 of the 3007  
Revised Code shall be used. 3008

~~(G)(L)~~ Reserves according to the commissioners reserve 3009  
valuation method shall be calculated by a method consistent with 3010  
the principles of divisions (J) and (K) of this section for: 3011

(1) ~~All Life insurance policies, riders, and supplemental~~ 3012  
~~policy provisions~~ providing for a varying amounts amount of life 3013  
insurance or requiring payment of varying premiums; 3014

(2) Group annuity and pure endowment contracts purchased 3015  
under a retirement plan or plan of deferred compensation, 3016  
established or maintained by an employer, including a partnership 3017  
or sole proprietorship, or by an employee organization, or by 3018  
both, other than a plan providing individual retirement accounts 3019  
or individual retirement annuities under section 408 of the 3020

Internal Revenue Code of 1954, as amended; 3021

(3) Disability and accidental death benefits in all policies 3022  
and contracts; ~~and~~ 3023

(4) All other benefits, except life insurance and endowment 3024  
benefits in life insurance policies and benefits provided by all 3025  
other annuity and pure endowment contracts, ~~shall be calculated by~~ 3026  
~~a method consistent with the principles of division (E) of this~~ 3027  
~~section.~~ 3028

~~Extra premiums charged because of impairments or special~~ 3029  
~~hazards shall be disregarded in determining modified net premiums.~~ 3030

~~(H)~~(M)(1) This division defines the commissioners annuity 3031  
reserve valuation method for all annuity and pure endowment 3032  
contracts other than group annuity and pure endowment contracts 3033  
purchased under a retirement plan or plan of deferred 3034  
compensation, established or maintained by an employer, including 3035  
a partnership or sole proprietorship, or by an employee 3036  
organization, or by both, other than a plan providing individual 3037  
retirement accounts or individual retirement annuities under 3038  
section 408 of the Internal Revenue Code of 1954, as amended. 3039

(2) Reserves for benefits under such contracts, excluding 3040  
disability and accidental death benefits, shall be the greatest of 3041  
the respective excesses of the present values, at the date of 3042  
valuation, of the future guaranteed benefits, including guaranteed 3043  
nonforfeiture benefits, provided for by such contract at the end 3044  
of each respective contract year, over the present value, at the 3045  
date of valuation, of any future valuation considerations derived 3046  
from future gross considerations required by the terms of the 3047  
contract that become payable prior to the end of each such 3048  
respective contract year. The future guaranteed benefits shall be 3049  
determined by using the mortality table, if any, and the interest 3050  
rate, or rates, specified in such contracts for determining 3051

guaranteed benefits. The valuation considerations are the portions 3052  
of the respective gross considerations applied under the terms of 3053  
such contracts to determine nonforfeiture values. 3054

~~(I)(N)(1)~~ In no event shall a company's aggregate reserves 3055  
for all life insurance policies, ~~to which division (D) of this~~ 3056  
~~section applies~~, excluding disability and accidental death 3057  
benefits issued on or after August 25, 1983, be less than the 3058  
aggregate reserves calculated in accordance with the method set 3059  
forth in divisions ~~(E), (F), (G)~~(J), (K), ~~and (L), (M), (P), and~~ 3060  
(Q) of this section and the mortality table or tables and rate or 3061  
rates of interest used in calculating nonforfeiture benefits for 3062  
such policies. 3063

(2) In no event shall the aggregate reserves for all 3064  
policies, contracts, and benefits be less than the aggregate 3065  
reserves determined by the ~~qualified~~ appointed actuary to be 3066  
necessary to render the opinion required by ~~division (B) of this~~ 3067  
section 3903.722 of the Revised Code. 3068

~~(J)(O)(1)~~ Reserves for policies and contracts issued prior to 3069  
August 25, 1983, may be calculated, at the option of the company, 3070  
according to any standards that produce greater aggregate reserves 3071  
for all such policies and contracts than the minimum reserves 3072  
required by the laws in effect immediately prior to that date. 3073

(2) Reserves for any category of policies, contracts, or 3074  
benefits as established by the superintendent, issued on or after 3075  
August 25, 1983, may be calculated, at the option of the company, 3076  
according to any standards ~~which~~ that produce aggregate reserves 3077  
for such category greater than those calculated according to the 3078  
minimum standards provided in this section, but the rate or rates 3079  
of interest used for policies and contracts, other than annuity 3080  
and pure endowment contracts, shall not be higher than the 3081  
corresponding rate or rates of interest used in calculating any 3082  
nonforfeiture benefits provided for in such standards. 3083

~~(K)~~(3) A company, which adopts at any time a standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard provided under sections 3903.72 to 3903.7211 of the Revised Code, may adopt a lower standard of valuation with the approval of the superintendent, but not lower than the minimum provided in these sections. However, for the purposes of this division, the holding of additional reserves previously determined by the appointed actuary to be necessary to render the opinion required by section 3903.722 of the Revised Code shall not be considered to be the adoption of a higher standard of valuation.

(P) If in any contract year the gross premium charged by a company on a policy or contract is less than the valuation net premium calculated by the method used in calculating the reserve for a policy or contract but using the minimum valuation standards of mortality and rate of interest is more than the gross premium for such policy or contract, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by such method but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this division are those required by ~~division (D)~~ divisions (A) to (I) of this section and section 3903.724 of the Revised Code.

~~For the purposes of this division, the minimum reserve for any policy to which the provisions of division (F) of this section apply shall be calculated~~ For a life insurance policy issued on or after January 1, 1987, for which the gross premium in the first

policy year exceeds that of the second year and for which no 3116  
comparable additional benefit is provided in the first year for 3117  
the excess and that provides an endowment benefit or a cash 3118  
surrender value or a combination in an amount greater than the 3119  
excess premium, the provisions of this division shall be applied 3120  
as if the method used in calculating the reserve for such policy 3121  
were the method defined in division ~~(E)~~(J) of this section. The 3122  
minimum reserve for such policy, at each policy anniversary, shall 3123  
be the greater of the minimum reserve calculated in accordance 3124  
with division ~~(F)~~(K) of this section and in accordance with this 3125  
division. 3126

~~(L) Methods for determining the reserves for plans of (Q) In~~ 3127  
~~the case of a plan of life insurance that provides for future~~ 3128  
~~premium determination, the amounts of which are to be determined~~ 3129  
~~by the insurance company based on then estimates of future~~ 3130  
~~experience, or in the case of a life insurance or annuity which~~ 3131  
~~are that is of such a nature that the minimum reserves cannot be~~ 3132  
~~determined by the methods described in divisions (J), (K), (L),~~ 3133  
~~(M), and (P) of this section shall be promulgated by rule adopted~~ 3134  
~~by the superintendent. The, the reserves to be held under such~~ 3135  
~~plans must the plan shall be appropriate in relation to the~~ 3136  
benefits and the pattern of premiums for ~~each that plan and must~~ 3137  
~~shall be computed by methods which are a method that is consistent~~ 3138  
with the principles of this section as determined by rules adopted 3139  
by the superintendent. This division applies to any plan of life 3140  
~~insurance which provides for future premium determination, the~~ 3141  
~~amounts of which are to be determined by the company on the basis~~ 3142  
~~of an estimate of future experience made at the time of any such~~ 3143  
~~determination.~~ 3144

~~(M)~~(R) The superintendent shall adopt rules specifying 3145  
minimum reserve standards for the valuation of individual and 3146  
group health plans. 3147

~~Sec. 3903.721~~ 3903.724. (A) ~~The~~ This section shall determine 3148  
the calendar year statutory valuation interest rate rates (VIR) 3149  
~~required by division (D) of section 3903.72 of the Revised Code is~~ 3150  
~~determined~~ used in determining the minimum standard for the 3151  
valuation of all of the following: 3152

(1) Life insurance policies issued on or after the operative 3153  
date of section 5c of the standard nonforfeiture law for life 3154  
insurance as amended; 3155

(2) Individual annuity and pure endowment contracts issued on 3156  
or after January 1, 1984; 3157

(3) Annuities and pure endowments purchased on or after 3158  
January 1, 1984, under group annuity and pure endowment contracts; 3159

(4) The net increase, if any, in amounts held under a 3160  
guaranteed interest contract in a calendar year after January 1, 3161  
1984. 3162

(B) The calendar year statutory valuation interest rates 3163  
shall be calculated as follows and the results rounded to the 3164  
nearest one-quarter of one per cent: 3165

(1)(a) For all life insurance policies, by adding three per 3166  
cent to the result of multiplying W (the applicable weighting 3167  
factor) by R(sub-1) minus three per cent (where R(sub-1) is the 3168  
lesser of the reference interest rate and nine per cent) and also 3169  
adding the result of multiplying one-half of the weighting factor 3170  
by R(sub-2) minus nine per cent (where R(sub-2) is the greater of 3171  
the reference interest rate and nine per cent), expressed as 3172  
follows: 3173

$$\text{VIR} = .03 + W (R(\text{sub-1}) - .03) + W/2(R(\text{sub-2}) - .09).$$
 3174

(b) Provided that if the calendar year statutory valuation 3175  
interest rate for policies a life insurance policy issued in any 3176  
calendar year determined in accordance with this division does not 3177

differ from the calendar year valuation interest rate for similar 3178  
policies issued in the preceding calendar year by at least 3179  
one-half of one per cent, the calendar year valuation interest 3180  
rate for ~~such policies~~ the policy shall be equal to the calendar 3181  
year valuation interest rate for the preceding calendar year. ~~For~~ 3182  
~~any calendar year~~ The calendar year statutory valuation 3183  
interest rate ~~is~~ shall be determined for ~~each preceding calendar~~ 3184  
~~year starting with~~ 1980 and for each subsequent year, regardless 3185  
of when section 5c of the standard nonforfeiture law for life 3186  
insurance becomes operative. 3187

(2) For all ~~annuity and guaranteed interest contracts~~ single 3188  
premium immediate annuities and for annuity benefits involving 3189  
life contingencies arising from other annuities with cash 3190  
settlement options and from guaranteed interest contracts with 3191  
cash settlement options by adding to three per cent the result of 3192  
multiplying W (the applicable weighting factor) by R minus three 3193  
per cent (where R is the reference interest rate), expressed as 3194  
follows: 3195

$$\text{VIR} = .03 + W (R - .03). \quad 3196$$

~~Provided that~~ 3197

(3) For other annuities with cash settlement options and 3198  
guaranteed interest contracts with cash settlement options, valued 3199  
on an issue year basis, the life insurance formula stated in 3200  
division ~~(A)~~(B)(1) of this section shall apply to all annuity and 3201  
guaranteed interest contracts ~~with cash settlement options valued~~ 3202  
~~on an issue year basis and~~ with guarantee durations in excess of 3203  
ten years ~~other than single premium immediate annuities and~~ 3204  
~~annuity benefits involving life contingencies arising from other~~ 3205  
~~annuity and guaranteed interest contracts.~~ 3206

~~(3) The results obtained under divisions (A)(1) and (2) of~~ 3207  
~~this section shall be rounded to the nearer one quarter of one per~~ 3208  
~~cent.~~ 3209



~~(B) The weighting factors for and the formula for single premium immediate annuities stated in division (B)(2) of this section shall apply to annuities and guaranteed interest contracts with guarantee duration of ten years or less.~~ 3210-3213

(4) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in division (B)(2) of this section shall apply. 3214-3217

(5) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in division (B)(2) of this section shall apply. 3218-3222

~~(C) For life insurance policies change with the guarantee duration of the plan of insurance. The, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under an option to convert to a plan of life insurance with premium rates or nonforfeiture values, or both, guaranteed in the policy. The~~ 3223-3228

(D) The weighting factors for the formulas prescribed in division (B) of this section are shown in the following table: 3229-3230

Weighting Factors for Life Insurance 3231

Guarantee Duration (Years)	Weighting Factors
10 or less	.50
More than 10, but not more than 20	.45
More than 20	.35

 3232-3236

~~(C)(E) The weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuity and guaranteed interest contracts with cash settlement options is eighty hundredths .80.~~ 3237-3240

<del>(D)</del> (F) Weighting factors for all other annuity and guaranteed	3241
interest contracts vary with the type of plan and guarantee	3242
duration. The types of plans are as follows:	3243
(1) A plan type A is one in which funds may not be withdrawn	3244
or may be withdrawn in only one of three ways:	3245
(a) With an adjustment to reflect changes in interest rates	3246
or asset values since receipt of the funds by the company;	3247
(b) Without such adjustment but in installments over five or	3248
more years;	3249
(c) As an immediate life annuity.	3250
(2) A plan type B is one in which the funds may not be	3251
withdrawn before the expiration of the interest rate guarantee	3252
unless an adjustment is made to reflect changes in interest rates	3253
or asset values since receipt of the funds by the company or	3254
unless they are withdrawn in installments over five or more years.	3255
At the end of the interest rate guarantee, funds may be withdrawn	3256
in a single sum or in installments over less than five years	3257
without adjustment.	3258
(3) A plan type C is one in which the funds may be withdrawn	3259
before the end of the interest rate guarantee in a single sum or	3260
in installments over less than five years without adjustment <u>to</u>	3261
<u>reflect changes in interest rates or asset values since receipt of</u>	3262
<u>the funds by the company</u> or subject only to a fixed surrender	3263
charge stipulated in the contract as a percentage of the fund.	3264
(4) The guarantee duration for an annuity or guaranteed	3265
interest contract with cash settlement options is the number of	3266
years for which the contract guarantees interest rates in excess	3267
of the <u>calendar year</u> valuation interest rate for life insurance	3268
policies with guarantee duration in excess of twenty years. The	3269
guarantee duration for annuity and guaranteed interest contracts	3270
without cash settlement options is the number of years from the	3271

date of issue or date of purchase to the date annuity benefits are 3272  
scheduled to commence. 3273

(5) Annuity and guaranteed interest contracts with cash 3274  
settlement options may be valued on an issue year basis or on a 3275  
change in fund basis. ~~If valued on an issue year basis, the~~ 3276  
~~interest rate used to determine the minimum valuation standard for~~ 3277  
~~the entire duration is the valuation interest rate for the year of~~ 3278  
~~issue or purchase. If valued on a change in fund basis, the~~ 3279  
~~interest rate used to determine the minimum valuation standard~~ 3280  
~~applicable to each change in the fund held under the contract is~~ 3281  
~~the valuation interest rate for the year of change in the fund.~~ 3282  
Annuity and guaranteed interest contracts without cash settlement 3283  
options must be valued on an issue year basis. As used in this 3284  
division, an issue year basis of valuation refers to a valuation 3285  
basis under which the interest rate used to determine the minimum 3286  
valuation standard for the entire duration of the annuity or 3287  
guaranteed interest contract is the calendar year valuation 3288  
interest rate for the year of issue or year of purchase of the 3289  
annuity or guaranteed interest contract, and the change in fund 3290  
basis of valuation refers to a valuation basis under which the 3291  
interest rate used to determine the minimum valuation standard 3292  
applicable to each change in the fund held under the annuity or 3293  
guaranteed interest contract is the calendar year valuation 3294  
interest rate for the year of the change in the fund. 3295

(6) ~~These weighting~~ Weighting factors for other annuities and 3296  
for guaranteed interest contracts, except as stated in division 3297  
(E) of this section, are specified in the applicable table shown 3298  
below. ~~Table I applies to~~ 3299

(a) For annuity and guaranteed interest contracts valued on 3300  
an issue year basis ~~that either guarantee interest on~~ 3301  
~~considerations received more than one year after issue or purchase~~ 3302  
~~or that have no cash settlement options. Table II applies to~~ 3303

~~annuity and guaranteed interest contracts with cash settlement 3304~~  
~~options valued on an issue year basis that do not guarantee 3305~~  
~~interest on considerations received more than one year after issue 3306~~  
~~or purchase. Tables III and IV are for contracts similar to those 3307~~  
~~in tables I and II, respectively, except that they are valued on a 3308~~  
~~change in fund basis and the one year guarantee refers to one year 3309~~  
~~following the valuation date. 3310~~

Weighting Factors for Annuities and Guaranteed 3311

Interest Contracts 3312

~~Table I 3313~~

~~Issue Year Basis — Interest on Considerations After First Year 3314~~

~~Guaranteed Or No Cash Settlement Options 3315~~

~~Weighting Factor for 3316~~

~~Plan Type 3317~~

~~Guarantee Duration (Years) A B C 3318~~

~~5 or less .80 .60 .50 3319~~

~~More than 5, but not more than 10 .75 .60 .50 3320~~

~~More than 10, but not more than 20 .65 .50 .45 3321~~

~~More than 20 .45 .35 .35 3322~~

~~Table II 3323~~

~~Issue Year Basis — Interest on Considerations After First Year 3324~~

~~NOT Guaranteed And Cash Settlement Options 3325~~

~~Weighting Factor for 3326~~

~~Plan Type 3327~~

~~Guarantee Duration (Years) A B C 3328~~

~~5 or less .85 .65 .55 3329~~

~~More than 5, but not more than 10 .80 .65 .55 3330~~

~~More than 10, but not more than 20 .70 .55 .50 3331~~

~~More than 20 .50 .40 .40 3332~~

~~Table III 3333~~

~~Change in Fund Basis — Interest on Considerations Guaranteed 3334~~

~~More Than Twelve Months After Valuation Date 3335~~

~~Weighting Factor for 3336~~

	Plan Type			
Guarantee Duration (Years)	A	B	C	
5 or less	.95	.85	.55	3338
More than 5, but not more than 10	.90	.85	.55	3340
More than 10, but not more than 20	.80	.75	.50	3341
More than 20	.60	.60	.40	3342

Table IV

Change in Fund Basis Interest on Considerations NOT				3343
Guaranteed More Than Twelve Months After Valuation Date				3344
Weighting Factor for				3346
	Plan Type			3347
Guarantee Duration (Years)	A	B	C	
5 or less	1.00	.90	.60	3348
More than 5, but not more than 10	.95	.90	.90	3349
More than 10, but not more than 20	.85	.80	.55	3350
More than 20	.65	.65	.45	3351

(E)(b) For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in division (F)(6)(a) of this section increased by the following amounts:

- (i) For plan type A, .15;
- (ii) For plan type B, .25;
- (iii) For plan type C, .05.

(c) For annuities and guaranteed interest contracts valued on an issue year basis, other than those with no cash settlement options, that do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis that do not guarantee interest rates on considerations received more than twelve months beyond the valuation date, the factors shown in item (F)(6)(a) or derived in item (F)(6)(b) increased by .05 for all plan types.

(G) The reference interest rate is determined by taking 3368  
comparing the monthly average for of the applicable period of time 3369  
of Moody's corporate bond yield average — monthly average 3370  
corporates composite yield of the monthly average on seasoned 3371  
corporate bonds, as published by Moody's investors service, inc. 3372  
for the applicable time period, as prescribed below: 3373

(1) The reference interest rate for all life insurance is the 3374  
lesser of such average over the thirty-six month period and such 3375  
average over the twelve-month period ending on the thirtieth day 3376  
of June of the calendar year preceding the year of issue. 3377

(2) The reference interest rate for annuity and guaranteed 3378  
interest contracts with cash settlement options, except single 3379  
premium immediate annuities and annuity benefits involving life 3380  
contingencies arising from other annuity and guaranteed interest 3381  
contracts with cash settlement options, valued on an issue year 3382  
basis with guarantee durations in excess of ten years, is the 3383  
lesser of such average over the thirty-six month period and such 3384  
average over the twelve-month period ending on the thirtieth day 3385  
of June of the calendar year of issue or purchase. 3386

(3) The reference interest rate for other annuities with cash 3387  
settlement options and guaranteed interest contracts with cash 3388  
settlement options, valued on a year of issue basis, except as 3389  
stated in division (G)(6) of this section, with guarantee duration 3390  
of ten years or less, the average over a period of twelve months, 3391  
ending on June 30 of the calendar year of issue or purchase. 3392

(4) The reference interest rate for other annuities with no 3393  
cash settlement options and for guaranteed interest contracts with 3394  
no cash settlement options, the average over a period of twelve 3395  
months, ending on June 30 of the calendar year of issue or 3396  
purchase. 3397

(5) The reference interest rate for all other annuity and 3398

guaranteed interest contracts with cash settlement options valued 3399  
on a change in fund basis is such average over the twelve-month 3400  
period ending on the thirtieth day of June of the calendar year in 3401  
which a change in the fund occurs. 3402

~~(4)(6)~~ The reference interest rate for all single premium 3403  
immediate annuities, and annuity benefits involving life 3404  
contingencies arising from other annuity and guaranteed interest 3405  
contracts with cash settlement options, ~~and all other annuity and~~ 3406  
~~guaranteed interest contracts~~ is such average over the 3407  
twelve-month period ending on the thirtieth day of June of the 3408  
calendar year of issue or purchase. 3409

~~(5)(7)~~ If such corporate bond rate average is no longer 3410  
published or the national association of insurance commissioners 3411  
determines that such average is no longer appropriate, the 3412  
superintendent may by rule approve the use of any alternative 3413  
method for the determination of the reference interest rate 3414  
adopted by the commissioners. 3415

Sec. 3903.725. (A) Except as provided in section 3903.724 of 3416  
the Revised Code, for individual annuity and pure endowment 3417  
contracts issued on or after the effective date of this section 3418  
and for annuities and pure endowments purchased on or after the 3419  
effective date of this section under group annuity and pure 3420  
endowment contracts, the minimum standard of valuation shall be 3421  
the commissioners reserve valuation methods defined in divisions 3422  
(J), (K), (L), and (M) of section 3903.723 of the Revised Code and 3423  
the following tables and interest rates: 3424

(1) For individual annuity and pure endowment contracts 3425  
issued prior to January 1, 1976, excluding any disability and 3426  
accidental death benefits in those contracts, the 1971 individual 3427  
annuity mortality table, or any modification of this table 3428  
approved by the superintendent, and six per cent interest for 3429

single premium immediate annuity contracts and four per cent 3430  
interest for all other individual annuity and pure endowment 3431  
contracts; 3432

(2) For individual single premium immediate annuity contracts 3433  
issued on or after January 1, 1976, excluding any disability and 3434  
accidental death benefits in those contracts, the 1971 individual 3435  
annuity mortality table or any individual annuity mortality table 3436  
adopted after 1980 by the national association of insurance 3437  
commissioners that is approved in rules adopted by the 3438  
superintendent for use in determining the minimum standard of 3439  
valuation for these contracts, or any modification of these tables 3440  
approved by the superintendent, and seven and one-half per cent 3441  
interest; 3442

(3) For individual annuity and pure endowment contracts 3443  
issued on or after January 1, 1976, other than single premium 3444  
immediate annuity contracts, excluding any disability and 3445  
accidental death benefits in those contracts, the 1971 individual 3446  
annuity mortality table or any individual annuity mortality table 3447  
adopted after 1980 by the national association of insurance 3448  
commissioners that is adopted in rules by the superintendent for 3449  
use in determining the minimum standard of valuation for those 3450  
contracts, or any modification of these tables approved by the 3451  
superintendent, and five and one-half per cent interest for single 3452  
premium deferred annuity and pure endowment contracts and four and 3453  
one-half per cent interest for all other individual annuity and 3454  
pure endowment contracts; 3455

(4) For annuities and pure endowments purchased prior to 3456  
January 1, 1976, under group annuity and pure endowment contracts, 3457  
excluding any disability and accidental death benefits purchased 3458  
under those contracts, the 1971 group annuity mortality table, or 3459  
any modification of this table approved by the superintendent, and 3460  
six per cent interest; 3461



(5) For annuities and pure endowments purchased on or after 3462  
January 1, 1976, under group annuity and pure endowment contracts, 3463  
excluding any disability and accidental death benefits purchased 3464  
under those contracts, the 1971 group annuity mortality table, or 3465  
any group annuity mortality table adopted after 1980 by the 3466  
national association of insurance commissioners that is approved 3467  
in rules adopted by the superintendent for use in determining the 3468  
minimum standard of valuation for annuities and pure endowments, 3469  
or any modification of these tables approved by the 3470  
superintendent, and seven and one-half per cent interest. 3471

(B)(1) If any company files with the superintendent a written 3472  
notice of its election to comply with the provisions of this 3473  
section after a specified date that is after January 1, 1972, and 3474  
before January 1, 1979, that specified date shall be the effective 3475  
date of this section for that company. 3476

(2) If a company makes no election under division (B)(1) of 3477  
this section, the effective date of this section for that company 3478  
shall be January 1, 1979. 3479

**Sec. 3903.726.** (A) This section shall apply on and after the 3480  
effective date of the valuation manual. 3481

(B) Every company with an outstanding life insurance 3482  
contract, accident and health insurance contract, or deposit-type 3483  
contract in this state that is subject to rules adopted by the 3484  
superintendent shall annually submit the opinion of an appointed 3485  
actuary as to whether the reserves and related actuarial items 3486  
held in support of the policies and contracts are computed 3487  
appropriately, are based on assumptions that satisfy contractual 3488  
provisions, are consistent with prior reported amounts, and comply 3489  
with applicable laws. The valuation manual shall prescribe the 3490  
specifics of this opinion. 3491

(C) Every company with an outstanding life insurance 3492

contract, accident and health insurance contract, or deposit-type 3493  
contract in this state that is subject to rules adopted by the 3494  
superintendent, except as exempted in the valuation manual, shall 3495  
also annually include in the opinion required by division (B) of 3496  
this section, an opinion of the same appointed actuary as to 3497  
whether the reserves and related actuarial items held in support 3498  
of the policies and contracts specified in the valuation manual, 3499  
when considered in light of the assets held by the company with 3500  
respect to the reserves and related actuarial items, including the 3501  
investment earnings on the assets and the considerations 3502  
anticipated to be received and retained under the policies and 3503  
contracts, make adequate provision for the company's obligations 3504  
under the policies and contracts, including the benefits under and 3505  
expenses associated with the policies and contracts. 3506

(D) Each opinion required by divisions (B) and (C) of this 3507  
section shall be governed by the following provisions: 3508

(1) The opinion shall be in form and substance as specified 3509  
in the valuation manual and acceptable to the superintendent. 3510

(2) The opinion shall be submitted with the annual statement 3511  
reflecting the valuation of such reserve liabilities for each year 3512  
ending on or after the operative date of the valuation manual. 3513

(3) The opinion shall apply to all policies and contracts 3514  
subject to division (C) of this section, plus other actuarial 3515  
liabilities as may be specified in the valuation manual. 3516

(4) The opinion shall be based on standards adopted from time 3517  
to time by the actuarial standards board or its successor, and on 3518  
such additional standards as may be prescribed in the valuation 3519  
manual. 3520

(5) In the case of an opinion required to be submitted by a 3521  
foreign or alien company, the superintendent may accept the 3522  
opinion filed by that company with the insurance supervisory 3523

official of another state if the superintendent determines that 3524  
the opinion reasonably meets the requirements applicable to a 3525  
company domiciled in this state. 3526

(6) Except in cases of fraud or willful misconduct, the 3527  
appointed actuary shall not be liable for damages to any person, 3528  
other than the insurance company and the superintendent, for any 3529  
act, error, omission, decision, or conduct with respect to the 3530  
appointed actuary's opinion. 3531

(7) Disciplinary action by the superintendent against the 3532  
company or the appointed actuary shall be defined in rules adopted 3533  
by the superintendent. 3534

(E) In addition to the requirements specified in division (D) 3535  
of this section, each opinion required by division (C) of this 3536  
section shall be governed by the following provisions: 3537

(1) A memorandum, in form and substance as specified in the 3538  
valuation manual, and acceptable to the superintendent, shall be 3539  
prepared to support each actuarial opinion. 3540

(2) If the insurance company fails to provide a supporting 3541  
memorandum at the request of the superintendent within a period 3542  
specified in the valuation manual or the superintendent determines 3543  
that the supporting memorandum provided by the insurance company 3544  
fails to meet the standards prescribed by the valuation manual or 3545  
is otherwise unacceptable to the superintendent, the 3546  
superintendent may engage a qualified actuary at the expense of 3547  
the company to review the opinion and the basis for the opinion 3548  
and prepare the supporting memorandum required by the 3549  
superintendent. 3550

**Sec. 3903.727.** For accident and health insurance contracts 3551  
issued on or after the operative date of the valuation manual, the 3552  
standard prescribed in the valuation manual is the minimum 3553

standard of valuation required under division (B) of section 3903.721 of the Revised Code. For disability, accident and sickness, accident and health insurance contracts issued on or after August 25, 1983, and prior to the operative date of the valuation manual, the minimum standard of valuation is the standard adopted in rules by the superintendent. 3554  
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Sec. 3903.728. (A) For policies issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under division (B) of section 3903.721 of the Revised Code, except as provided under divisions (F) and (H) of this section. 3560  
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(B) The operative date of the valuation manual is January 1 of the first calendar year following the first July 1 as of which all of the following have occurred: 3565  
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(1) The valuation manual has been adopted by the national association of insurance commissioners by an affirmative vote of at least forty-two members, or three-fourths of the members voting, whichever is greater. 3568  
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(2) The standard valuation law, as amended by the national association of insurance commissioners in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing greater than seventy-five per cent of the direct premiums written as reported in one or more of the following annual statements submitted for 2008: life, accident, and health annual statements; health annual statements; or fraternal annual statements. 3572  
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(3) The standard valuation law, as amended by the national association of insurance commissioners in 2009, or legislation including substantially similar terms and provisions, has been enacted by at least forty-two of the following fifty-five 3580  
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jurisdictions: the fifty states of the United States, American 3584  
Samoa, the American Virgin Islands, the District of Columbia, 3585  
Guam, and Puerto Rico. 3586

(C) Unless a change in the valuation manual specifies a later 3587  
effective date, changes to the valuation manual shall be effective 3588  
on January 1 following the date when all of the following have 3589  
occurred: 3590

(1) The change to the valuation manual has been adopted by 3591  
the national association of insurance commissioners by an 3592  
affirmative vote representing both of the following: 3593

(a) At least three-fourths of the members of the national 3594  
association of insurance commissioners voting, but not less than a 3595  
majority of the total membership; 3596

(b) Members of the national association of insurance 3597  
commissioners representing jurisdictions totaling greater than 3598  
seventy-five per cent of the direct premiums written as reported 3599  
in one or more of the following annual statements most recently 3600  
available prior to the vote in division (C)(1)(a) of this section: 3601  
life, accident, and health annual statements; health annual 3602  
statements; or fraternal annual statements. 3603

(D) The valuation manual may become effective pursuant to the 3604  
superintendent adopting the manual via rule. 3605

(E) The valuation manual shall specify all of the following: 3606

(1) Minimum valuation standards for and definitions of the 3607  
policies or contracts subject to division (B) of section 3903.721 3608  
of the Revised Code. The minimum valuation standards shall be: 3609

(a) The commissioners reserve valuation method for life 3610  
insurance contracts, other than annuity contracts, subject to 3611  
division (B) of section 3903.721 of the Revised Code; 3612

(b) The commissioners annuity reserve valuation method for 3613

annuity contracts subject to division (B) of section 3903.721 of 3614  
the Revised Code; 3615

(c) Minimum reserves for all other policies or contracts 3616  
subject to division (B) of section 3903.721 of the Revised Code. 3617

(2) Which policies or contracts or types of policies or 3618  
contracts are subject to the requirements of a principle-based 3619  
valuation in division (A) of section 3903.729 of the Revised Code 3620  
and the minimum valuation standards consistent with those 3621  
requirements. 3622

(3) For policies and contracts subject to a principle-based 3623  
valuation under section 3903.729 of the Revised Code: 3624

(a) Requirements for the format of reports to the 3625  
superintendent under division (B)(3) of section 3903.729 of the 3626  
Revised Code that shall include information necessary to determine 3627  
if the valuation is appropriate and in compliance with sections 3628  
3903.72 to 3903.7211 of the Revised Code. 3629

(b) Assumptions for risks over which the company does not 3630  
have significant control or influence. 3631

(c) Procedures for corporate governance and oversight of the 3632  
actuarial function, and a process for appropriate waiver or 3633  
modification of such procedures. 3634

(4) For policies not subject to a principle-based valuation 3635  
under section 3903.729 of the Revised Code, the minimum valuation 3636  
standard, which shall be or do either of the following: 3637

(a) Be consistent with the minimum standard of valuation 3638  
prior to the operative date of the valuation manual; 3639

(b) Develop reserves that quantify the benefits and 3640  
guarantees, and the funding, associated with the contracts and 3641  
their risks at a level of conservatism that reflects conditions 3642  
that include unfavorable events that have a reasonable probability 3643

of occurring. 3644

(5) Other requirements, including those relating to reserve 3645  
methods, models for measuring risk, generation of economic 3646  
scenarios, assumptions, margins, use of company experience, risk 3647  
measurement, disclosure, certifications, reports, actuarial 3648  
opinions and memorandums, transition rules, and internal controls; 3649

(6) The data and form of the data required under section 3650  
3903.7210 of the Revised Code, with whom the data must be 3651  
submitted, and other requirements specified by the superintendent, 3652  
which may include data analyses and reporting of analyses. 3653

(F) In the absence of a specific valuation requirement or if 3654  
a specific valuation requirement in the valuation manual is not, 3655  
in the opinion of the superintendent, in compliance with sections 3656  
3903.72 to 3903.7211 of the Revised Code, then the company shall, 3657  
with respect to such requirements, comply with minimum valuation 3658  
standards prescribed in rules adopted by the superintendent. 3659

(G) The superintendent may engage a qualified actuary, at the 3660  
expense of the company, to perform an actuarial examination of the 3661  
company and opine on the appropriateness of any reserve assumption 3662  
or method used by the company, or to review and opine on a 3663  
company's compliance with any requirement set forth in sections 3664  
3903.72 to 3903.7211 of the Revised Code. The superintendent may 3665  
rely upon the opinion, regarding provisions contained within 3666  
sections 3903.72 to 3903.7211 of the Revised Code, of a qualified 3667  
actuary engaged by the insurance commissioner of another state, 3668  
district, or territory of the United States. As used in this 3669  
division, the term "engage" includes employment and contracting. 3670

(H) The superintendent may require a company to change any 3671  
assumption or method that in the opinion of the superintendent is 3672  
necessary in order to comply with the requirements of the 3673  
valuation manual or sections 3903.72 to 3903.7211 of the Revised 3674

Code, and the company shall adjust the reserves as required by the 3675  
superintendent. The superintendent may take other disciplinary 3676  
action as permitted under applicable laws. 3677

Sec. 3903.729. (A) A company shall establish reserves using a 3678  
principle-based valuation that meets the following conditions for 3679  
policies or contracts as specified in the valuation manual: 3680

(1) The principle-based valuation shall quantify the benefits 3681  
and guarantees, and the funding, associated with the contracts and 3682  
their risks at a level of conservatism that reflects conditions 3683  
that include unfavorable events that have a reasonable probability 3684  
of occurring during the lifetime of the contracts. 3685

(2) The principle-based valuation shall reflect conditions, 3686  
for policies or contracts with significant tail risk, 3687  
appropriately adverse to quantify the tail risk. 3688

(3) The principle-based valuation shall incorporate 3689  
assumptions, risk analysis methods, and financial models and 3690  
management techniques that are consistent with, but not 3691  
necessarily identical to, those utilized within the company's 3692  
overall risk assessment process, while recognizing potential 3693  
differences in financial reporting structures and any prescribed 3694  
assumptions or methods. 3695

(4) The principle-based valuation shall incorporate 3696  
assumptions that are derived in one of the following manners: 3697

(a) The assumption is prescribed in the valuation manual. 3698

(b) For assumptions that are not prescribed, the assumptions 3699  
shall: 3700

(i) Be established utilizing the company's available 3701  
experience, to the extent it is relevant and statistically 3702  
credible; 3703

(ii) To the extent company data is not available, relevant, 3704



or statistically credible, be established utilizing other relevant 3705  
statistically credible experience. 3706

(5) The principle-based valuation shall provide margins for 3707  
uncertainty including adverse deviation and estimation error, such 3708  
that the greater the uncertainty the larger the margin and 3709  
resulting reserve. 3710

(B) A company using a principle-based valuation for one or 3711  
more policies or contracts subject to this section as specified in 3712  
the valuation manual shall do all of the following: 3713

(1) Establish procedures for corporate governance and 3714  
oversight of the actuarial valuation function consistent with 3715  
those described in the valuation manual; 3716

(2) Provide to the superintendent and the company's board of 3717  
directors an annual certification of the effectiveness of the 3718  
internal controls with respect to the principle-based valuation. 3719  
Such controls shall be designed to assure that all material risks 3720  
inherent in the liabilities and associated assets subject to such 3721  
valuation are included in the valuation, and that valuations are 3722  
made in accordance with the valuation manual. The certification 3723  
shall be based on the controls in place as of the end of the 3724  
preceding calendar year. 3725

(3) Develop, and file with the superintendent upon request, a 3726  
principle-based valuation report that complies with standards 3727  
prescribed in the valuation manual. 3728

**Sec. 3903.7210.** A company shall submit mortality, morbidity, 3729  
policyholder behavior, or expense experience and other data as 3730  
prescribed in the valuation manual for policies it has issued that 3731  
are in force on or after the operative date of the valuation 3732  
manual. 3733

**Sec. 3903.7211.** (A) As used in this section: 3734

(1) "Confidential information" means all of the following: 3735

(a) A memorandum in support of an opinion submitted under sections 3903.722 and 3903.726 of the Revised Code and any other documents, materials, and other information, including all working papers, and copies thereof, created, produced, or obtained by or disclosed to the superintendent or any other person in connection with such memorandum. 3736  
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(b)(i) Except as provided in division (A)(1)(b)(ii) of this section, all documents, materials, and other information, including all working papers, and copies thereof, created, produced, or obtained by or disclosed to the superintendent or any other person in the course of an examination made under division (G) of section 3903.728 of the Revised Code. 3742  
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(ii) If an examination report or other material prepared in connection with an examination made under section 3901.07 of the Revised Code is not held as private and confidential information under that section, an examination report or other material prepared in connection with an examination made under division (G) of section 3903.728 of the Revised Code shall not be considered confidential information to the same extent as if such examination report or other material had been prepared under section 3901.07 of the Revised Code. 3748  
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(c) Any reports, documents, materials, and other information developed by a company in support of, or in connection with, an annual certification by the company under division (B)(2) of section 3903.729 of the Revised Code evaluating the effectiveness of the company's internal controls with respect to a principle-based valuation and any other documents, materials, and other information, including all working papers, and copies thereof, created, produced, or obtained by or disclosed to the superintendent or any other person in connection with such reports, documents, materials, and other information; 3757  
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(d) Any principle-based valuation report developed under 3767  
division (B)(3) of section 3903.729 of the Revised Code and any 3768  
other documents, materials, and other information, including all 3769  
working papers, and copies thereof, created, produced, or obtained 3770  
by or disclosed to the superintendent or any other person in 3771  
connection with such report; 3772

(e) Any documents, materials, data, and other information 3773  
submitted by a company under section 3903.7210 of the Revised 3774  
Code, referred to collectively as "experience data," and any other 3775  
documents, materials, data, and other information, including all 3776  
working papers, and copies thereof, created or produced in 3777  
connection with such experience data, in each case that include 3778  
any potentially company-identifying or personally identifiable 3779  
information, that is provided to or obtained by the 3780  
superintendent, which when combined with any experience data is 3781  
referred to as "experience materials," and any other documents, 3782  
materials, data, and other information, including all working 3783  
papers, and copies thereof, created, produced, or obtained by or 3784  
disclosed to the superintendent or any other person in connection 3785  
with such experience materials. 3786

(2) "Regulatory agency," "law enforcement agency," and the 3787  
"national association of insurance commissioners" includes their 3788  
employees, agents, consultants, and contractors. 3789

(B)(1) Except as provided in division (B)(2) of this section 3790  
and as otherwise provided in this section, a company's 3791  
confidential information is confidential by law and privileged, is 3792  
not a public record under section 149.43 of the Revised Code, 3793  
shall not be subject to subpoena, and shall not be subject to 3794  
discovery or admissible in evidence in any private civil action. 3795  
Except as otherwise provided in this section, neither the 3796  
superintendent nor any person who received confidential 3797  
information while acting under the superintendent's authority 3798

shall be permitted or required to testify in any private civil 3799  
action concerning that confidential information. 3800

(2) The superintendent is authorized to use the confidential 3801  
information in the furtherance of any regulatory or legal action 3802  
brought against the company as a part of the superintendent's 3803  
official duties. 3804

(C)(1) In order to assist in the performance of the 3805  
superintendent's duties, the superintendent may share confidential 3806  
information with all of the following: 3807

(a) Other state, federal, and international regulatory 3808  
agencies; 3809

(b) The national association of insurance commissioners and 3810  
its affiliates and subsidiaries; 3811

(c) The actuarial board for counseling and discipline, or its 3812  
successor, in the case of confidential information specified in 3813  
divisions (A)(1)(a) and (d) of this section only, upon a request 3814  
stating that the confidential information is required for the 3815  
purpose of professional disciplinary proceedings; 3816

(d) State, federal, and international law enforcement 3817  
officials. 3818

(2) The superintendent may share confidential information as 3819  
specified in divisions (C)(1)(a), (b), and (c) of this section 3820  
only if the recipient agrees, and has the legal authority to 3821  
agree, to maintain the confidentiality and privileged status of 3822  
such documents, materials, data, and other information in the same 3823  
manner and to the same extent as required for the superintendent. 3824

(D) The superintendent may receive documents, materials, 3825  
data, and other information, including otherwise confidential and 3826  
privileged documents, materials, data, or information, from the 3827  
national association of insurance commissioners and its affiliates 3828

and subsidiaries, from regulatory or law enforcement officials of 3829  
other foreign or domestic jurisdictions, and from the actuarial 3830  
board for counseling and discipline or its successor. The 3831  
superintendent shall maintain as confidential or privileged any 3832  
document, material, data, or other information received with 3833  
notice or the understanding that it is confidential or privileged 3834  
under the laws of the jurisdiction that is the source of the 3835  
document, material, data, or other information. 3836

(E) The superintendent may enter into agreements governing 3837  
sharing and use of information consistent with this section. 3838

(F) No waiver of any applicable privilege or claim of 3839  
confidentiality in the confidential information shall occur as a 3840  
result of disclosure to the superintendent under this section or 3841  
as a result of sharing as authorized in division (C) of this 3842  
section. 3843

(G) A privilege established under the law of any state or 3844  
jurisdiction that is substantially similar to the privilege 3845  
established under this section shall be available and enforced in 3846  
any proceeding in, and in any court of, this state. 3847

(H) Notwithstanding divisions (B) to (G) of this section, any 3848  
confidential information specified in divisions (A)(1)(a) and (d) 3849  
of this section are subject to all of the following: 3850

(1) The confidential information may be subject to subpoena 3851  
for the purpose of defending an action seeking damages from the 3852  
appointed actuary submitting the related memorandum in support of 3853  
an opinion submitted under sections 3903.722 and 3903.726 of the 3854  
Revised Code or principle-based valuation report developed under 3855  
division (B)(3) of section 3903.729 of the Revised Code by reason 3856  
of an action required by sections 3903.72 to 3903.7211 of the 3857  
Revised Code or by rules adopted pursuant to those sections. 3858

(2) The confidential information may otherwise be released by 3859

the superintendent with the written consent of the company. 3860

(3) Once any portion of a memorandum in support of an opinion submitted under section 3903.722 and 3903.726 of the Revised Code or a principle-based valuation report developed under division (B)(3) of section 3903.729 of the Revised Code is cited by the company in its marketing or is publicly volunteered to or before a governmental agency other than a state insurance department or is released by the company to the news media, all portions of that memorandum or report shall no longer be confidential. 3861  
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**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: 3869  
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(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; 3872  
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(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~~ 3.0 and its authorized control level RBC, and that indicates a negative trend; 3876  
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(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; 3881  
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(4) The notification by the superintendent of insurance to an insurer of an adjustment to the insurer's RBC report, which 3888  
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adjusted RBC report shows the insurer's total adjusted capital 3890  
within the range described in either division (A)(1) or (2) of 3891  
this section, provided that the insurer does not challenge the 3892  
adjusted RBC report under section 3903.87 of the Revised Code; 3893

(5) The superintendent's notification to an insurer, 3894  
following the hearing required under section 3903.87 of the 3895  
Revised Code, that the superintendent has rejected the insurer's 3896  
challenge to an adjusted RBC report showing the insurer's total 3897  
adjusted capital within the range described in either division 3898  
(A)(1) or (2) of this section. 3899

(B) In the case of a company action level event, the insurer 3900  
shall prepare and submit to the superintendent an RBC plan that 3901  
shall: 3902

(1) Identify the conditions that contributed to the company 3903  
action level event; 3904

(2) Contain proposals of corrective actions that the insurer 3905  
intends to take to eliminate the conditions leading to the company 3906  
action level event; 3907

(3) Provide projections of the insurer's financial results in 3908  
the current year and at least the four succeeding years, both in 3909  
the absence of the proposed corrective actions and giving effect 3910  
to the proposed corrective actions. The projections shall include 3911  
projections of statutory operating income, net income, capital, 3912  
and surplus. Projections for both new and renewal business may 3913  
include separate projections for each major line of business, and 3914  
may separately identify each significant income, expense, and 3915  
benefit component of the projection. 3916

(4) Identify the key assumptions impacting the insurer's 3917  
projections made pursuant to division (B)(3) of this section, and 3918  
describe the sensitivity of the projections to the assumptions; 3919

(5) Identify the quality of, and problems associated with, 3920

the insurer's business, including, but not limited to, its assets, 3921  
anticipated business growth and associated surplus strain, 3922  
extraordinary exposure to risk, mix of business, and use of 3923  
reinsurance. 3924

(C) The RBC plan shall be submitted within forty-five days 3925  
after a company action level event. However, if an insurer has 3926  
challenged an adjusted RBC report pursuant to section 3903.87 of 3927  
the Revised Code, the RBC plan need not be submitted until after 3928  
the hearing required under section 3903.87 of the Revised Code. If 3929  
the superintendent rejects the insurer's challenge, the RBC plan 3930  
shall be submitted within forty-five days after the 3931  
superintendent's notification to the insurer of the rejection of 3932  
the challenge. 3933

(D)(1) Within sixty days after an insurer submits an RBC plan 3934  
to the superintendent, the superintendent shall either require the 3935  
insurer to implement the RBC plan or shall notify the insurer that 3936  
the RBC plan is unsatisfactory in the judgment of the 3937  
superintendent. If the superintendent has determined that the RBC 3938  
plan is unsatisfactory, the notification to the insurer shall set 3939  
forth the reasons for the determination, and may set forth 3940  
proposed revisions that will render the RBC plan satisfactory in 3941  
the judgment of the superintendent. Upon such notification from 3942  
the superintendent, the insurer shall prepare and submit a revised 3943  
RBC plan, which may incorporate by reference any revisions 3944  
proposed by the superintendent. 3945

(2) If an insurer challenges, under section 3903.87 of the 3946  
Revised Code, a notification from the Superintendent that the 3947  
insurer's RBC plan or a revised RBC plan is unsatisfactory, 3948  
submission of a revised RBC plan need not be made unless the 3949  
superintendent rejects the insurer's challenge following the 3950  
hearing required by section 3903.87 of the Revised Code and then 3951  
notifies the insurer of this rejection. 3952



(3) An insurer shall submit a revised RBC plan to the 3953  
superintendent within forty-five days after receiving notification 3954  
from the superintendent that its RBC plan is unsatisfactory, or, 3955  
that its challenge to a notification made under division (D)(1) of 3956  
this section has been rejected, as applicable. 3957

(E) Notwithstanding division (D) of this section, if the 3958  
superintendent notifies an insurer that its RBC plan or revised 3959  
RBC plan is unsatisfactory, the superintendent may, at the 3960  
superintendent's discretion, but subject to the insurer's right to 3961  
a hearing under section 3903.87 of the Revised Code, specify in 3962  
the notification that the notification constitutes a regulatory 3963  
action level event. 3964

(F) Every domestic insurer that submits an RBC plan or 3965  
revised RBC plan to the superintendent shall file a copy of the 3966  
RBC plan or revised RBC plan with the insurance regulatory 3967  
authority of every state in which the insurer is authorized to do 3968  
business upon receiving the insurance regulatory authority's 3969  
written request for a copy of the plan, if the state has a 3970  
confidentiality law with provisions substantially similar to those 3971  
set forth in divisions (A) and (B) of section 3903.88 of the 3972  
Revised Code. The insurer shall file the copy in that state no 3973  
later than the later of: 3974

(1) Fifteen days after receiving the request for a copy of 3975  
the plan; 3976

(2) The date on which the RBC plan or revised RBC plan is 3977  
filed pursuant to division (C) or (D) of this section. 3978

**Sec. 3906.01. As used in this chapter:** 3979

(A) "Annual financial statement" means an insurer's 3980  
statutorily required financial statement under the insurer's 3981  
respective authorizing chapter of the Revised Code. 3982

(B) "Authorized control level risked-based capital" means 3983  
authorized control level RBC as defined in sections 1753.31 and 3984  
3903.81 of the Revised Code. 3985

(C) "Cash equivalent" means a short-term, highly liquid 3986  
investment that is both readily convertible to known amounts of 3987  
cash and so near its maturity that it presents an insignificant 3988  
risk of change in value because of changes in interest rates, and 3989  
that has an original maturity date, to the entity holding the 3990  
investment, of three months or less. 3991

(D) "Covered" means that an insurer owns, or can immediately 3992  
acquire through the exercise of options, warrants, or conversion 3993  
rights already owned, the underlying interest in order to fulfill 3994  
or secure its obligation under the call option, cap, or floor it 3995  
has written. 3996

(E)(1) "Derivative instrument" means an agreement, option, 3997  
instrument, or a series or a combination thereof of either of the 3998  
following types: 3999

(a) To make or take delivery of, or assume or relinquish, a 4000  
specified amount of one or more underlying interest, or to make a 4001  
cash settlement in lieu thereof; 4002

(b) That has a price, performance, value, or cash flow based 4003  
primarily upon the actual or expected price, level, performance, 4004  
value, or cash flow of one or more underlying interests. 4005

(2) "Derivative instrument" includes options, warrants, caps, 4006  
floors, collars, swaps, forwards, futures, and any other 4007  
agreements, options, or instruments substantially similar thereto 4008  
or any series or combination thereof. 4009

(F) "Derivative transaction" means a transaction involving 4010  
the use of one or more derivative instruments. 4011

(G) "Hedging transaction" means a derivative transaction that 4012

is entered into and maintained to reduce either of the following: 4013

(1) The risk of economic loss due to a change in the value, 4014  
yield, price, cash flow, or quantity of assets or liabilities that 4015  
the insurer has acquired or incurred or anticipates acquiring or 4016  
incurring; 4017

(2) The currency exchange rate risk or the degree of exposure 4018  
as to assets or liabilities that an insurer has acquired or 4019  
incurred or anticipates acquiring or incurring. 4020

(H) "Income generation" means a derivative transaction 4021  
involving the writing of covered options, caps, or floors that is 4022  
intended to generate income or enhance return. 4023

(I) "Lower-grade investment" means a rated credit instrument 4024  
or debt-like preferred stock rated 4, 5, or 6 by the securities 4025  
valuation office. 4026

(J) "Medium-grade investment" means a rated credit instrument 4027  
or debt-like preferred stock rated 3 by the securities valuation 4028  
office. 4029

(K) "Minimum asset requirement" is the requirement that an 4030  
insurer maintain assets in an amount equal to the sum of the 4031  
insurer's liabilities and its minimum financial security 4032  
benchmark, as required by division (A) of section 3906.11 of the 4033  
Revised Code. 4034

(L) "Minimum financial security benchmark" is the amount an 4035  
insurer is required to have under section 3906.03 of the Revised 4036  
Code. 4037

(M) "Replication transaction" means a derivative transaction 4038  
that is intended to replicate the performance of one or more 4039  
assets that an insurer is authorized to acquire under this 4040  
chapter. "Replication transaction" does not include a derivative 4041  
transaction that is entered into as a hedging transaction. 4042

(N) "Securities valuation office" means the securities valuation office of the national association of insurance commissioners or any successor office. 4043  
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(O) "Securities valuation office listed mutual fund" means a money market mutual fund or short-term bond fund that is registered with the United States securities and exchange commission under the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C. 80a-1 to 80a-64, and that has been determined by the securities valuation office to be eligible for special reserve and reporting treatment, rather than as common stock. 4046  
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(P) "Securities valuation office listed exchange traded fund" means a bond or preferred stock exchange traded fund that is registered with the United States securities and exchange commission under the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C. 80a-1 to 80a-64, and that has been rated 1 or 2 by the securities valuation office and determined by the office to be eligible for special reserve and reporting treatment, rather than as common stock. 4053  
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(Q) "Superintendent" means the superintendent of insurance. 4061

**Sec. 3906.02.** (A) This chapter, and any rules adopted under it, apply to entities organized under Chapters 1731., 1751., 3907., 3919., 3921., 3925., 3931., 3939., 3941., and 3953. of the Revised Code. 4062  
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(B) An insurer may apply to the superintendent for permission to make investments under this chapter, in lieu of making investments under any other section of the Revised Code. 4066  
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(C) In determining whether to permit an entity to invest pursuant to this chapter, the superintendent shall consider all of the following: 4069  
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(1) The character, reputation, and financial standing of the 4072

<u>officers of the entity;</u>	4073
<u>(2) The character, reputation, and financial condition of the entity;</u>	4074 4075
<u>(3) The adequacy of the expertise, experience, character, and reputation of the person or persons who will manage the investments on behalf of the entity;</u>	4076 4077 4078
<u>(4) The quality of the enterprise risk management program implemented by the entity to identify, assess, monitor, manage, and report on its key investment and related risks;</u>	4079 4080 4081
<u>(5) Any other factor the superintendent considers relevant.</u>	4082
<u>(D) Separate accounts established in accordance with section 3907.15 of the Revised Code shall continue to be governed by that section.</u>	4083 4084 4085
<b><u>Sec. 3906.03. (A)(1) Unless otherwise established in accordance with divisions (A)(2) and (3) of this section, the amount of the minimum financial security benchmark for an insurer shall be the greatest of the following:</u></b>	4086 4087 4088 4089
<u>(a) Three hundred per cent of the authorized control level risk-based capital applicable to the insurer, as defined and set forth by sections 1753.31 to 1753.43 or 3903.81 to 3903.93 of the Revised Code, less the asset valuation reserve as defined in the risk-based capital instructions defined in division (M) of section 3903.81 of the Revised Code;</u>	4090 4091 4092 4093 4094 4095
<u>(b) The minimum capital or minimum surplus required by statute or rule for maintenance of an insurer's certificate of authority in this state;</u>	4096 4097 4098
<u>(c) All invested assets of an entity organized under Chapter 3919. or 3939. of the Revised Code;</u>	4099 4100
<u>(d) For title insurers, the quotient of annualized net earned</u>	4101

premiums divided by eight; 4102

(e) For multiple employer welfare arrangements, the greater 4103  
of three hundred per cent of the risk-based capital amount 4104  
reported in the annual statement or the quotient of annualized net 4105  
earned premiums divided by twelve. 4106

(2) The superintendent may, in accordance with division (B) 4107  
of this section, establish by order a minimum financial security 4108  
benchmark to apply to a specific insurer that exceeds the amount 4109  
arrived at under division (A)(1) of this section. 4110

(3) The superintendent may by rule change the minimum 4111  
financial security benchmark that is a multiple of authorized 4112  
control level risk-based capital, or equivalent risk-based capital 4113  
calculation, to apply to any class of insurers provided the amount 4114  
established by the rule is not less than the amount arrived at 4115  
under division (A)(1) of this section. 4116

(B) The superintendent shall determine the amount of minimum 4117  
capital or minimum surplus as specified in division (A)(1)(b) of 4118  
this section to determine an insurer's minimum financial security 4119  
benchmark. The amount shall be sufficient to provide reasonable 4120  
security against contingencies affecting the insurer's financial 4121  
position that are not fully covered by reserves or by reinsurance. 4122

(1) In determining this amount, the superintendent shall 4123  
consider all of the following risks: 4124

(a) Increases in the frequency or severity of losses beyond 4125  
the levels contemplated by the premium rates charged; 4126

(b) Increases in expenses beyond those contemplated by the 4127  
premium rates charged; 4128

(c) Decreases in the value of assets, or the return on 4129  
invested assets below those planned on; 4130

(d) Changes in economic conditions that would make liquidity 4131

more important than contemplated and would force untimely sale of 4132  
assets or prevent timely investments; 4133

(e) Currency devaluation to which the insurer may be subject; 4134

(f) Any other contingencies the superintendent identifies 4135  
that may affect the insurer's operations. 4136

(2) In determining the minimum financial security benchmark 4137  
under division (A)(2) of this section, the superintendent shall 4138  
also take into account the following factors: 4139

(a) The most reliable information available as to the 4140  
magnitude of the various risks under division (B)(1) of this 4141  
section; 4142

(b) The extent to which the risks in division (B)(1) of this 4143  
section are independent of each other or are related, and whether 4144  
any dependency is direct or inverse; 4145

(c) The insurer's recent history of profits or losses; 4146

(d) The extent to which the insurer has provided protection 4147  
against adverse contingencies in ways other than the establishment 4148  
of surplus, including redundancy of premiums, adjustability of 4149  
contracts under their terms, investment valuation reserves, 4150  
whether voluntary or mandatory, appropriate reinsurance, the use 4151  
of conservative actuarial assumptions to provide a margin of 4152  
security, reserve adjustments in recognition of previous rate 4153  
inadequacies, contingency or catastrophe reserves, diversification 4154  
of assets, and underwriting risks; 4155

(e) Independent judgments on the soundness of the insurer's 4156  
operations, as evidenced by the ratings of reliable professional 4157  
financial reporting services; 4158

(f) Any other factor the superintendent considers relevant. 4159

**Sec. 3906.04. (A) Subject to this chapter, an insurer making** 4160

investments under this chapter may loan or invest its funds, and 4161  
may buy, sell, hold title to, possess, occupy, pledge, convey, 4162  
manage, protect, insure, and deal with its investments, property, 4163  
and other assets to the same extent as any other person or 4164  
corporation under the laws of this state and of the United States. 4165

(B) With respect to all of the insurer's investments, the 4166  
board of directors of an insurer making investments under this 4167  
chapter shall exercise the judgment and care, under the 4168  
circumstances then prevailing, that persons of reasonable 4169  
prudence, discretion, and intelligence would exercise in the 4170  
management of a like enterprise, not in regard to speculating but 4171  
in regard to the permanent disposition of their funds, considering 4172  
the probable income as well as the probable safety of their 4173  
capital. Investments shall be of sufficient value, liquidity, and 4174  
diversity to assure the insurer's ability to meet its outstanding 4175  
obligations based on reasonable assumptions as to new business 4176  
production for current lines of business. As part of its exercise 4177  
of judgment and care, the board of directors shall take into 4178  
account the prudence evaluation criteria of division (C) of 4179  
section 3906.05 of the Revised Code. 4180

(C) An insurer making investments under this chapter shall 4181  
establish and implement internal controls and procedures to assure 4182  
compliance with investment policies and procedures to assure that 4183  
all of the following are met: 4184

(1) The insurer's investment staff and any consultants used 4185  
are reputable and capable. 4186

(2) A periodic evaluation and monitoring process occurs for 4187  
assessing the effectiveness of investment policy and strategies. 4188

(3) Management's performance is assessed in meeting the 4189  
stated objectives within the investment policy through periodic 4190  
presentations to the board of directors. 4191



(4) Appropriate analyses are undertaken on the degree to 4192  
which asset cash flows are adequate to meet liability cash flows 4193  
under different economic environments. These analyses shall be 4194  
conducted at least annually and make specific reference to the 4195  
economic conditions considered. 4196

Sec. 3906.05. (A) An insurer making investments under this 4197  
chapter shall consider the factors listed in division (C) of this 4198  
section along with its business in determining whether an 4199  
investment portfolio or investment policy is prudent. 4200

(B) The superintendent shall consider the factors listed in 4201  
division (C) of this section prior to making a determination that 4202  
an insurer's investment portfolio or investment policy is not 4203  
prudent. 4204

(C) Insurers and the superintendent shall consider the 4205  
following factors according to divisions (A) and (B) of this 4206  
section: 4207

(1) General economic conditions; 4208

(2) The possible effect of inflation or deflation; 4209

(3) The expected tax consequences of investment decisions or 4210  
strategies; 4211

(4) The fairness and reasonableness of the terms of an 4212  
investment considering its probable risk and reward 4213  
characteristics and relationship to the investment portfolio as a 4214  
whole; 4215

(5) The extent of the diversification of the insurer's 4216  
investments among all of the following: 4217

(a) Individual investments; 4218

(b) Classes of investments; 4219

(c) Industry concentrations; 4220

<u>(d) Dates of maturity;</u>	4221
<u>(e) Geographic areas.</u>	4222
<u>(6) The quality and liquidity of investments in affiliates;</u>	4223
<u>(7) The investment exposure to all of the following risks,</u>	4224
<u>quantified in a manner consistent with the insurer's acceptable</u>	4225
<u>risk level as described in the insurer's written investment</u>	4226
<u>policy, required under division (H) of section 3906.06 of the</u>	4227
<u>Revised Code:</u>	4228
<u>(a) Liquidity;</u>	4229
<u>(b) Credit and default;</u>	4230
<u>(c) Systemic or market;</u>	4231
<u>(d) Interest rate;</u>	4232
<u>(e) Call, prepayment, and extension;</u>	4233
<u>(f) Currency;</u>	4234
<u>(g) Foreign sovereign.</u>	4235
<u>(8) The amount of the insurer's assets, capital and surplus,</u>	4236
<u>premium writings, insurance in force, and other appropriate</u>	4237
<u>characteristics;</u>	4238
<u>(9) The amount and adequacy of the insurer's reported</u>	4239
<u>liabilities;</u>	4240
<u>(10) The relationship of the expected cash flows of the</u>	4241
<u>insurer's assets and liabilities, and the risk of adverse changes</u>	4242
<u>in the insurer's assets and liabilities;</u>	4243
<u>(11) The adequacy of the insurer's capital and surplus to</u>	4244
<u>secure the risks and liabilities of the insurer;</u>	4245
<u>(12) Any other factors relevant to whether an investment is</u>	4246
<u>prudent.</u>	4247

Sec. 3906.06. In acquiring, investing, exchanging, holding, 4248  
selling, and managing investments under this chapter, an insurer 4249  
shall establish and follow a written investment policy that shall 4250  
be reviewed and approved by the insurer's board of directors on at 4251  
least an annual basis. The content and format of an insurer's 4252  
investment policy are at the insurer's discretion, but shall 4253  
include written guidelines appropriate to the insurer's business 4254  
with regard to all of the following: 4255

(A) The general investment policy of the insurer, containing 4256  
policies, procedures, and controls covering all aspects of the 4257  
investing function; 4258

(B) Quantified goals and objectives regarding the composition 4259  
of classes of investments, including maximum internal limits; 4260

(C) Periodic evaluations of the investment portfolio as to 4261  
its risk and reward characteristics; 4262

(D) Professional standards for the individuals making 4263  
day-to-day investment decisions to assure that investments are 4264  
managed in an ethical, prudent, and capable manner; 4265

(E) The types of investments that are allowed and that are 4266  
prohibited, based on their risk and reward characteristics and the 4267  
insurer's level of experience with the investments; 4268

(F) The relationship of classes of investments to the 4269  
insurer's insurance products and liabilities; 4270

(G) The manner in which the insurer intends to implement 4271  
section 3906.05 of the Revised Code; 4272

(H) The level of risk, based on quantitative measures, 4273  
appropriate for the insurer given the level of capitalization and 4274  
expertise available to the insurer. 4275

Sec. 3906.07. All of the following classes of investments may 4276

be counted for the purposes specified in section 3906.11 of the 4277  
Revised Code, whether they are made directly or as a participant 4278  
in a partnership, joint venture, or limited liability company: 4279

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(A) Cash, and cash equivalents, in the direct possession of 4281  
the insurer or on deposit with a financial institution regulated 4282  
by any federal or state agency of the United States; 4283

(B) Bonds, debt-like preferred stock, and other evidences of 4284  
indebtedness of governmental units in the United States or Canada, 4285  
or the instrumentalities of the governmental units, or private 4286  
business entities domiciled in the United States or Canada, 4287  
including asset-backed securities, securities valuation office 4288  
listed mutual funds, and securities valuation office listed 4289  
exchange traded funds; 4290

(C) Loans with a loan to value ratio of no greater than 4291  
eighty per cent that are secured by mortgages, trust deeds, or 4292  
other security interests in real property located in the United 4293  
States or Canada, or secured by insurance against default issued 4294  
by a government insurance corporation of the United States or 4295  
Canada or by an insurer authorized to do business in this state; 4296

(D) Unaffiliated common stock, or equity-like preferred 4297  
stock, or equity interests in any business entity organized under 4298  
the United States, any state thereof, the District of Columbia, 4299  
the Commonwealth of Puerto Rico, Canada, or any province or 4300  
territory of Canada, or shares of mutual funds or exchange traded 4301  
funds registered with the securities and exchange commission of 4302  
the United States under the "Investment Company Act of 1940," 54 4303  
Stat. 789, 15 U.S.C. 80a-1 to 80a-64, other than securities 4304  
valuation office listed mutual funds and securities valuation 4305  
office listed exchange traded funds; 4306

(E) Real property necessary for the convenient transaction of 4307

<u>the insurer's business;</u>	4308
<u>(F) Real property, together with the fixtures, furniture,</u>	4309
<u>furnishings, and equipment pertaining thereto in the United States</u>	4310
<u>or Canada, which produces, or after suitable improvement can</u>	4311
<u>reasonably be expected to produce, substantial income;</u>	4312
<u>(G) Loans, securities, or other investments of the types</u>	4313
<u>described in divisions (A) to (F) of this section in countries</u>	4314
<u>other than the United States and Canada;</u>	4315
<u>(H) Bonds or other evidences of indebtedness of international</u>	4316
<u>development organizations of which the United States is a member;</u>	4317
<u>(I) Loans upon the security of the insurer's own policies in</u>	4318
<u>amounts that are adequately secured by the policies and that in no</u>	4319
<u>case exceed the surrender values of the policies;</u>	4320
<u>(J) Subsidiary or affiliate equity investments, including</u>	4321
<u>common stock, equity-like preferred stock, limited liability</u>	4322
<u>partnerships, or limited liability membership interests, of</u>	4323
<u>entities that are engaged exclusively in insurance, finance, or</u>	4324
<u>investments, and investment management companies that are</u>	4325
<u>registered with the securities and exchange commission under the</u>	4326
<u>"Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C. 80a-1 to</u>	4327
<u>80a-64, as amended;</u>	4328
<u>(K) Investments not otherwise permitted by this section, not</u>	4329
<u>specifically prohibited by statute, to which both of the following</u>	4330
<u>apply:</u>	4331
<u>(1) The assets do not exceed five per cent of the first five</u>	4332
<u>hundred million dollars of the insurer's admitted assets plus ten</u>	4333
<u>per cent of the insurer's admitted assets exceeding five hundred</u>	4334
<u>million dollars.</u>	4335
<u>(2) The assets qualified to meet the minimum asset</u>	4336
<u>requirement at the time they were acquired.</u>	4337

Sec. 3906.08. (A) For the purposes of determining an 4338  
insurer's minimum asset requirement under section 3906.11 of the 4339  
Revised Code, the following limitations on classes of investments 4340  
shall apply: 4341

(1) For investments authorized by division (B) of section 4342  
3906.07 of the Revised Code and investments authorized by division 4343  
(G) of section 3906.07 of the Revised Code that are of the types 4344  
described in division (B) of section 3906.07 of the Revised Code 4345  
the following limitations shall apply: 4346

(a) The aggregate amount of medium- and lower-grade 4347  
investments shall be not more than twenty per cent of an insurer's 4348  
admitted assets. 4349

(b) The aggregate amount of lower-grade investments shall be 4350  
not more than ten per cent of an insurer's admitted assets. 4351

(c) The aggregate amount of investments rated 5 or 6 by the 4352  
securities valuation office shall be not more than five per cent 4353  
of the insurer's admitted assets. 4354

(d) The aggregate amount of investments rated 6 by the 4355  
securities valuation office shall be not more than one per cent of 4356  
an insurer's admitted assets. 4357

(e) The aggregate amount of medium- and lower-grade 4358  
investments that receive as cash income less than the yield for 4359  
treasury issues with a comparative average life shall be not more 4360  
than one per cent of an insurer's admitted assets. 4361

(2) Investments authorized by division (C) of section 3906.07 4362  
of the Revised Code shall be not more than forty-five per cent of 4363  
an insurer's admitted assets in the case of life insurers and not 4364  
more than twenty-five per cent of an insurer's admitted assets in 4365  
the case of insurers that are not life insurers. 4366

(3) Investments authorized by division (D) of section 3906.07 4367

of the Revised Code shall be not more than twenty per cent of an 4368  
insurer's admitted assets in the case of life insurers and not 4369  
more than twenty-five per cent of an insurer's admitted assets in 4370  
the case of insurers that are not life insurers. 4371

(4) Investments authorized by division (E) of section 3906.07 4372  
of the Revised Code shall be not more than ten per cent of an 4373  
insurer's admitted assets. 4374

(5) Investments authorized by division (F) of section 3906.07 4375  
of the Revised Code shall be not more than ten per cent of an 4376  
insurer's admitted assets. 4377

(6) Investments authorized by division (G) of section 3906.07 4378  
of the Revised Code shall be not more than twenty per cent of an 4379  
insurer's admitted assets. 4380

(7) Investments authorized by division (H) of section 3906.07 4381  
of the Revised Code shall be not more than two per cent of an 4382  
insurer's admitted assets. 4383

(8) Investments authorized by division (J) of section 3906.07 4384  
of the Revised Code shall be not more than ten per cent of an 4385  
insurer's admitted assets in the case of life insurers and not 4386  
more than three per cent of an insurer's admitted assets in the 4387  
case of insurers that are not life insurers. An insurer may exceed 4388  
the limits described in division (A)(8) of this section with 4389  
investments in a wholly owned domestic insurer, or in a 4390  
corporation, or similar business entity organized under the laws 4391  
of the United States, any state thereof, or any other jurisdiction 4392  
approved by the superintendent, that is formed and maintained to 4393  
acquire or hold shares of an insurer, with the prior written 4394  
consent of the superintendent. 4395

(B)(1) For purposes of determining compliance with section 4396  
3906.11 of the Revised Code, securities issued by a single entity 4397  
and its affiliates, other than the government of the United 4398

States, or agencies whose securities are backed by the full faith and credit of the United States, and subsidiaries authorized under division (J) of section 3906.07 of the Revised Code, shall be not more than five per cent of an insurer's admitted assets in the case of life insurers and shall be not more than five per cent of an insurer's admitted assets in the case of insurers that are non-life insurers. 4399  
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(2) Notwithstanding division (B)(1) of this section, investments in the voting securities of a depository institution, or any company that controls a depository institution, shall not exceed five per cent of an insurer's admitted assets. 4406  
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(C) For purposes of determining compliance with this section, the admitted portion of assets of subsidiaries of an insurer invested in under division (J) of section 3906.07 of the Revised Code shall be deemed to be owned directly by the insurer and any other investors in proportion to the market value of their interest in the subsidiaries. If interest in the subsidiary has no market value, then the asset allocation proportion shall be determined by the reasonable value of interest in the subsidiary as determined under the national association of insurance commissioners' accounting practices and procedures manual. 4410  
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(D) If the superintendent considers it necessary to get a proper evaluation of the investment portfolio of an insurer, the superintendent may require that investments in mutual funds, exchange traded funds, pooled investment vehicles, or other investment companies be treated for purposes of this chapter as if the investor owned directly its proportional share of the assets owned by the mutual fund, exchange traded fund, pooled investment vehicle, or investment company. 4420  
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(E) Unless otherwise specified in this chapter, an insurer's investment limitations shall be computed using the insurer's general account admitted assets, capital, or surplus as reported 4428  
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in the insurer's most recent annual financial statement required 4431  
to be filed with the superintendent. 4432

Sec. 3906.09. An insurer investing under this chapter that is 4433  
doing business that requires the insurer to make payment in 4434  
different currencies shall have investments in securities in each 4435  
of these currencies in an amount that, independent of all other 4436  
investments, meets the requirements of this chapter, as applied 4437  
separately to the insurer's obligations in each currency. The 4438  
superintendent may, by order, exempt an insurer, or, by rule, a 4439  
class of insurers, from this requirement if the obligations in 4440  
other currencies are small enough that no significant problem for 4441  
financial solidity would be created by substantial fluctuations in 4442  
relative currency values. 4443

Sec. 3906.10. (A) An insurer investing under this chapter 4444  
shall not invest in investments that are prohibited for an insurer 4445  
by statute or rules of this state. 4446

(B) An insurer investing under this chapter shall not invest 4447  
in a partnership as a general partner. 4448

(C) The superintendent shall set a reasonable amount of time, 4449  
not to exceed five years, for disposal of a prohibited investment 4450  
in hardship cases if the insurer demonstrates that the investment 4451  
was legal when made or the result of a mistake made in good faith, 4452  
or if the superintendent determines that the sale of the asset 4453  
would be contrary to the interests of insureds, creditors, or the 4454  
general public. 4455

(D) Violation of division (A) of this section may be grounds 4456  
for regulatory action pursuant to divisions (A) and (I) of section 4457  
3903.12 of the Revised Code. 4458

Sec. 3906.11. (A) An insurer investing under this chapter 4459

shall maintain assets in an amount equivalent to the sum of its 4460  
liabilities and its minimum financial security benchmark at all 4461  
times. 4462

(B) Assets invested under this chapter may be counted toward 4463  
satisfaction of the minimum asset requirement only so far as they 4464  
are invested in compliance with this chapter and any applicable 4465  
rules adopted, or orders issued, by the superintendent pursuant to 4466  
this chapter. 4467

(C) The amount of admitted assets used to calculate the 4468  
minimum asset requirement shall be reduced by the amount of the 4469  
liability recorded on an insurer's statutory balance sheet for all 4470  
of the following: 4471

(1) The return of acceptable collateral received in a reverse 4472  
repurchase transaction or a securities lending transaction; 4473

(2) Cash received in a dollar roll transaction; 4474

(3) Other amounts reported as borrowed money. 4475

(D) Assets other than invested assets may be counted toward 4476  
satisfaction of the minimum asset requirement at admitted annual 4477  
financial statement value. However, loans to officers or directors 4478  
or their immediate families shall not be counted toward the 4479  
satisfaction of the minimum asset requirement. 4480

(E) An investment held as an admitted asset by an insurer on 4481  
the effective date of this section that qualified under the 4482  
applicable insurance investment law of this state shall remain 4483  
qualified as an admitted asset under this chapter. 4484

(F) Notwithstanding any provision of this chapter to the 4485  
contrary, an asset acquired in the bona fide enforcement of 4486  
creditors' rights or in bona fide workouts or settlements of 4487  
disputed claims may be counted toward the minimum asset 4488  
requirement for five years if the asset is real property and three 4489

years if the asset is not real property. 4490

(G) The superintendent may determine an insurer to be 4491  
financially hazardous under section 3903.09 of the Revised Code if 4492  
either of the following apply: 4493

(1) The insurer does not own the amount of assets needed to 4494  
meet its minimum asset requirement. 4495

(2) The insurer is unable to apply the amount of assets 4496  
needed to meet its minimum asset requirement toward compliance 4497  
with this chapter. 4498

**Sec. 3906.12.** (A) Prior to an insurer entering into 4499  
derivative transactions, the board of directors of the insurer 4500  
investing under this chapter shall approve a derivative use plan. 4501

(B) The derivative use plan shall require the insurer, when 4502  
entering into a derivative transaction that carries a risk of 4503  
losing more than the amount invested in a derivative, to establish 4504  
a liability in its financial statements for the full amount of 4505  
that potential loss. 4506

(C) Prior to entering into derivative transactions, an 4507  
insurer shall file with the superintendent a copy of its 4508  
derivative use plan and internal controls, for informational 4509  
purposes. The insurer shall keep current the copy of its 4510  
derivative use plan and internal controls filed with the 4511  
superintendent. The insurer shall not enter into derivative 4512  
transactions until thirty calendar days after the date on which 4513  
the derivative use plan and internal controls is filed with the 4514  
superintendent. This thirty-calendar-day period is to begin on the 4515  
date that the superintendent receives the derivative use plan and 4516  
internal controls. 4517

(D) The superintendent may adopt rules prescribing the form 4518  
and content of derivative use plans, as well as any internal 4519

controls the superintendent considers necessary. 4520

(E) An insurer that engages in hedging transactions or replication transactions shall do both of the following: 4521  
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(1) Maintain its position in any outstanding derivative instrument used as part of a hedging transaction or replication transaction for as long as the hedging transaction or replication transaction continues to be effective; 4523  
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(2) Demonstrate to the superintendent, upon request, that any derivative transaction entered into and involving hedging transaction or replication transaction is an effective hedging transaction or replication transaction. The insurer must be able to demonstrate this at the time the derivative transaction is entered into, and for as long as the transaction continues to be in place. 4527  
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(F) An insurer may not invest, or use, a derivative instrument for any purpose other than a hedging transaction, income generation, or replication. 4534  
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**Sec. 3906.13.** (A) If the superintendent determines that an insurer's investment practices do not meet the requirements of this chapter, the superintendent may, after notification to the insurer of the superintendent's findings, order the insurer to make changes necessary to comply with this chapter. 4537  
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(B) If the superintendent determines that the financial condition, current investment practice, or current investment plan of an insurer are or may endanger the interests of insureds, creditors, or the general public, the superintendent may impose reasonable additional restrictions upon the admissibility or valuation of investments and may impose restrictions on the investment practices of the insurer, including prohibiting an investment or requiring the divestment of an investment. 4542  
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(C) The superintendent may count toward satisfaction of the 4550  
minimum asset requirement any assets that an insurer is required 4551  
to invest under the laws of a country other than the United States 4552  
as a condition for doing business in that country if the 4553  
superintendent finds that counting them does not endanger the 4554  
interests of the insurer's insureds or creditors, or the general 4555  
public. 4556

(D) If the superintendent is satisfied by evidence of the 4557  
solidity of an insurer and the competence of management and its 4558  
investment advisors, the superintendent, after a hearing, may, by 4559  
order, adjust the class limitations prescribed in section 3906.08 4560  
of the Revised Code for that insurer, to the extent that the 4561  
superintendent is satisfied that the interests of the insurer's 4562  
insureds and creditors and the general public are sufficiently 4563  
protected. Such adjustments, in aggregate, shall be limited to an 4564  
amount equal to ten per cent of the insurer's liabilities. 4565

**Sec. 3906.14.** (A) An insurer subject to an order of the 4566  
superintendent under section 3906.03 or 3906.13 of the Revised 4567  
Code may request a hearing within thirty days of the date of the 4568  
order. The hearing shall be held in compliance with Chapter 119. 4569  
of the Revised Code. 4570

(B) The superintendent shall hold hearings required under 4571  
this section privately unless the insurer requests a public 4572  
hearing, in which case the hearing shall be public. 4573

**Sec. 3906.15.** (A) The superintendent may, in accordance with 4574  
section 119.03 of the Revised Code, adopt rules interpreting and 4575  
implementing the provisions of this chapter. 4576

(B) The superintendent may, in accordance with section 119.03 4577  
of the Revised Code, adopt one or more of the following 4578  
restrictions on investments in rules: 4579

(1) The superintendent may prescribe for defined classes of 4580  
insurers special procedural requirements, including special 4581  
reports and prior approval on investments, as well as disapproval 4582  
of investments subsequent to either. 4583

(2) The superintendent may prescribe substantive restrictions 4584  
on investments of defined classes of insurers, including all of 4585  
the following: 4586

(a) Specification of classes of assets that may not be 4587  
counted toward satisfaction of the minimum asset requirement even 4588  
though the assets may be counted for unrestricted insurers; 4589

(b) Specification of maximum amounts of assets that an 4590  
insurer may invest in a single investment, issue, or class or 4591  
group of classes of investments that shall be expressed as 4592  
percentages of total assets, capital, surplus, legal reserves, or 4593  
other variables; 4594

(c) Prescription of qualitative tests for investments and 4595  
conditions under which investments may be made, including 4596  
requirements of specified ratings from investment advisory 4597  
services, listing on specified stock exchanges, collateral, 4598  
marketability, currency matching, and the financial and legal 4599  
status of the issuer and its earnings capacity. 4600

(C) If the superintendent is satisfied by evidence of the 4601  
solidity of an insurer and the competence of management and its 4602  
investment advisors, the superintendent, after a hearing, may by 4603  
order grant an exemption to that insurer from any restriction made 4604  
under division (B) of this section to the extent that the 4605  
superintendent is satisfied that the interests of the insurer's 4606  
insureds and creditors, as well as the general public, are 4607  
protected. 4608

**Sec. 3907.14.** The capital, surplus, and all accumulations of 4609

every domestic life insurance company shall be invested as 4610  
follows: 4611

(A) A domestic company may acquire, hold, and convey real 4612  
estate: 4613

(1) Which has been acquired or is acquired for its principal 4614  
offices, or which is used in connection therewith, provided that 4615  
it shall not invest more than five per cent of its admitted assets 4616  
on the preceding thirty-first day of December in such real estate; 4617

(2) Which has been mortgaged to it in good faith by way of 4618  
security for loans previously contracted or for money due; 4619

(3) Which has been conveyed to it in satisfaction of debts 4620  
previously contracted in the course of its dealings, or which it 4621  
may receive in or on account of an exchange for real estate 4622  
acquired in its operations; 4623

(4) Which it has purchased at sales under mortgages and on 4624  
any legal process in connection with its investments or under 4625  
decrees obtained or made for such debts; 4626

(5) Which is acquired, owned, or held for the purpose of 4627  
developing, improving, or otherwise utilizing such real estate for 4628  
the production of income, without restriction or limitation as to 4629  
time, and may acquire, lease, hold, and manage personal property 4630  
used in connection therewith. No investments in real estate to be 4631  
used primarily for recreational, agricultural, or mining purposes 4632  
shall be made under authority of division (A)(5) of this section 4633  
and except for investments authorized under divisions (A)(1), (2), 4634  
(3), and (4) of this section, no domestic life insurance company 4635  
shall invest in real estate under divisions (A)(5) and (R) of this 4636  
section a sum exceeding in the aggregate ten per cent of its 4637  
admitted assets on the preceding thirty-first day of December. 4638

All real estate specified in divisions (A)(3) and (4) of this 4639  
section, which is not necessary for its accommodation in the 4640

convenient transaction of its business, shall be sold by the 4641  
company and disposed of within five years after it has acquired 4642  
the title to such real estate or within five years after such real 4643  
estate has ceased to be necessary for the accommodation of its 4644  
business, unless the company procures the certificate of the 4645  
superintendent of insurance that its interests will suffer 4646  
materially by a forced sale of the real estate, in which event the 4647  
time for the sale may be extended to such time as the 4648  
superintendent directs in such certificate. 4649

(B) A domestic company may acquire, hold, and convey tangible 4650  
personal property or interests therein for the production of 4651  
income, provided no domestic company shall invest in excess of two 4652  
per cent of its admitted assets as of the preceding thirty-first 4653  
day of December under this division. 4654

(C) In loans and liens upon the security of its own policies, 4655  
not exceeding the reserve or present value of the policies, 4656  
computed according to any standard authorized by law or according 4657  
to such higher standard as the company has adopted and maintains 4658  
on the policy, the reserve being the amount of debts of the life 4659  
insurance company by reason of its outstanding policies in gross, 4660  
which may be so treated in the returns for taxation made by it; 4661

(D) In bankers' acceptances and bills of exchange of the 4662  
kinds and maturities made eligible by law for rediscount with 4663  
federal reserve banks, provided that such acceptances and bills of 4664  
exchange are accepted by a bank or trust company incorporated 4665  
under the laws of the United States or of this state or any other 4666  
bank or trust company which is a member of the federal reserve 4667  
system; 4668

(E) In equipment trust obligations or certificates, security 4669  
agreements, or other evidences of indebtedness entered into 4670  
directly or guaranteed by any company operating wholly or partly 4671  
within the United States or Canada, provided that the debt 4672



obligation is secured by a first lien on tangible personal 4673  
property which is purchased or secured for payment thereof and the 4674  
debt obligation is repayable within twenty years from the date of 4675  
issue in annual, semiannual, or more frequent installments 4676  
beginning not later than the first year after such date; 4677

(F) In bonds issued by or for federal land banks and any 4678  
debentures issued by or for federal intermediate credit banks 4679  
under the "Federal Farm Loan Act of 1916," 39 Stat. 360, 12 4680  
U.S.C.A. 641 as amended; any debentures issued by or for banks for 4681  
cooperatives under the "Farm Credit Act of 1933," 48 Stat. 257, 12 4682  
U.S.C.A. 131 as amended; 4683

(G) In bonds issued under the "Home Owners' Loan Act of 4684  
1933," 48 Stat. 128, 12 U.S.C.A. 1461; 4685

(H) In notes, bonds, debentures, or other such obligations 4686  
issued by the federal housing administrator; 4687

(I)(1)(a) In bonds or other evidences of indebtedness, not in 4688  
default as to principal or interest, which are valid obligations 4689  
issued, assumed or guaranteed by the United States, by any state 4690  
thereof, by the Commonwealth of Puerto Rico, by any territory or 4691  
insular possession of the United States, or by the District of 4692  
Columbia, or which are valid obligations issued, assumed, or 4693  
guaranteed by any county, municipal corporation, district, or 4694  
political subdivision, or by any civil division or public 4695  
instrumentality of such governmental units, if by statutory or 4696  
other legal requirements such obligations are payable, as to both 4697  
principal and interest, from taxes levied upon all taxable 4698  
property within the jurisdiction of such governmental unit; 4699

(b) In bonds or other obligations issued by or for account of 4700  
any such governmental unit having a population of five thousand or 4701  
more by the latest official federal or state census, which are 4702  
payable as to both principal and interest from revenues or 4703

earnings from the whole or any part of a publicly owned utility 4704  
supplying water, gas, sewage disposal facility, or electricity, or 4705  
any or all of them, provided that by statute or other applicable 4706  
legal requirements, rates from the service or operation of such 4707  
utility must be fixed, maintained, and collected at all times so 4708  
as to produce sufficient revenues or earnings to pay both 4709  
principal and interest of such bonds or obligations as they become 4710  
due; 4711

(c) In any bonds or obligations payable from and secured by 4712  
revenues of the United States, the Commonwealth of Puerto Rico, or 4713  
any state or instrumentality of any of them, or of the District of 4714  
Columbia or of any commission, board, or other instrumentality of 4715  
one or more of them, provided there is a specific pledge of 4716  
revenues, and provided that there is adequate provision for 4717  
payment of interest prior to completion of construction and that 4718  
rates, fees, tolls, or charges fixed are, after completion of 4719  
construction, sufficient to pay all expenses of operation and 4720  
maintenance and the principal and interest when due. 4721

(2) In legally authorized and executed bonds, notes, 4722  
warrants, and securities which are the direct obligation of or are 4723  
guaranteed by Canada, or which are the direct obligation of or are 4724  
guaranteed as to both principal and interest by any province of 4725  
Canada, or which are the direct obligation of or are guaranteed as 4726  
to both principal and interest by any municipality of Canada 4727  
having a population of fifty thousand or more by the latest 4728  
official census, and which are not in default as to principal or 4729  
interest; 4730

(3) In bonds or other evidence of indebtedness, not in 4731  
default as to principal or interest, which are valid obligations 4732  
issued, assumed, or guaranteed by the United States, by any state 4733  
thereof, the Commonwealth of Puerto Rico, or by the District of 4734  
Columbia, if by statutory or other legal requirements such 4735

obligations are payable, as to both principal and interest, from 4736  
selective taxes levied by such governmental unit. 4737

(J)(1) In mortgage bonds which are the direct obligation of a 4738  
railroad, and which are the first lien on a substantial portion of 4739  
its property, situated wholly in the United States or partly in 4740  
the United States and partly in Canada, the average net yearly 4741  
earnings of which, after deducting proper charges for maintenance 4742  
of way and equipment, for the five fiscal years preceding such 4743  
investments, have been at least one and one-half times the average 4744  
yearly interest for the same period on its mortgages, bonds, and 4745  
funded debts, and in the junior mortgage bond issues of such 4746  
railroad corporations of the same character and under the same 4747  
conditions where the average net yearly earnings for the five 4748  
fiscal years preceding such investment, after deducting proper 4749  
charges for maintenance of way and equipment, have been at least 4750  
three times the average yearly interest charges on such issues and 4751  
all prior liens; or in the mortgage bonds of any incorporated 4752  
railroad company which have been assumed or guaranteed, both as to 4753  
principal and interest, by any incorporated railroad company whose 4754  
bonds constitute a legal investment under division (J)(1) of this 4755  
section. In applying the earnings test to any issuing, assuming, 4756  
or guaranteeing company, whether or not in legal existence during 4757  
the whole of such five years next preceding the date of investment 4758  
by such insurer, which has at any time during such five-year 4759  
period acquired the assets of any other company by purchase, 4760  
merger, consolidation, or otherwise, substantially as an entirety, 4761  
or has been reorganized pursuant to the bankruptcy law, the 4762  
earnings of such other predecessor or constituent companies, or of 4763  
the company so reorganized, available for interest for such 4764  
portion of such period that has preceded such acquisition, or such 4765  
reorganization, may be included in the earnings of such issuing, 4766  
assuming, or guaranteeing company for such portion of such period 4767  
as is determined in accordance with adjusted or pro forma 4768

consolidated earnings statements covering such portion of such 4769  
period. In such cases the requirements as to earnings shall be 4770  
based upon the mortgages, bonds, and funded debts as they exist 4771  
immediately after such acquisitions or such reorganizations. 4772

(2) In mortgage bonds or other interest-bearing obligations 4773  
of terminal companies organized under the laws of the United 4774  
States or any state thereof, provided such bonds or obligations 4775  
have been assumed or guaranteed jointly or severally by two or 4776  
more railroad corporations whose bonds constitute legal 4777  
investments under division (J)(1) of this section; 4778

(3) In loans to veterans guaranteed in whole or in part by 4779  
the United States pursuant to Title III of the "Servicemen's 4780  
Readjustment Act of 1944," 58 Stat. 284, 38 U.S.C.A. 693, as 4781  
amended, provided such guaranteed loans are liens upon real 4782  
estate; 4783

(4) In mortgage bonds which are the direct obligation of and 4784  
first lien upon the property of a corporation engaged directly and 4785  
primarily in the production and sale of, or in the purchase and 4786  
sale of electricity or gas, or in the operation of telephone or 4787  
telegraph systems or waterworks, or in some combination of them, 4788  
and situated wholly in the United States, or the Commonwealth of 4789  
Puerto Rico, or partly in the United States and partly in Canada, 4790  
the average net yearly earnings of which, after deducting proper 4791  
charges for replacements, depreciation, and obsolescence, for the 4792  
five fiscal years preceding such investment, have been at least 4793  
one and one-half times the average yearly interest for the same 4794  
period on its mortgages, bonds, and funded debts; 4795

(5) Any such corporation, or any of its predecessors, 4796  
constituent, or successor corporations, must have been in business 4797  
not less than ten years prior to the date of the purchase of such 4798  
bonds, and must not have defaulted on the interest or principal of 4799  
any of its bonds or funded debts outstanding during the five years 4800

immediately preceding the date of purchase, provided that division 4801  
(J)(5) of this section does not preclude investments in mortgage 4802  
bonds of railroads reorganized through purchase of assets, merger, 4803  
consolidation, bankruptcy proceedings, or otherwise if such bonds 4804  
are eligible for investment under division (J)(1) of this section; 4805

(6) No investment shall be made under division (J)(1), (2), 4806  
(4), or (5) of this section if such railroad or other utility 4807  
corporation and its business, and its issue of bonds, funded 4808  
debts, and stocks are not under the supervision and control of an 4809  
authorized state or federal official or commission, provided that 4810  
division (J)(6) of this section does not apply to the mortgage 4811  
bonds or other interest-bearing obligations of companies engaged 4812  
in the operation of telephone or telegraph systems. 4813

(K)(1) In bonds or notes secured by mortgages or deeds of 4814  
trust which are a first lien upon unencumbered fee simple real 4815  
estate in any state, the Commonwealth of Puerto Rico, the District 4816  
of Columbia, or Canada, provided the amount loaned does not exceed 4817  
eighty per cent of the actual market value of such property. 4818

The actual market value of any such property shall be shown 4819  
by a valuation and appraisalment in writing by a qualified land 4820  
appraiser. 4821

In the event the amount loaned under division (K)(1) of this 4822  
section exceeds eighty per cent of the actual market value of the 4823  
land, the structures on the land must be insured by an authorized 4824  
fire insurance company or covered by other comparable 4825  
indemnification, and the policies or indemnifications shall be 4826  
payable or assigned to the mortgagee or to a trustee in its behalf 4827  
and shall be held by the mortgagee or an agent of the mortgagee or 4828  
by such trustee; or in lieu of holding such policies or 4829  
indemnifications, the mortgagee may purchase a policy or policies 4830  
of mortgage protection insurance, payable to the mortgagee or a 4831  
trustee in its behalf, insuring the mortgagee against loss 4832

resulting from the failure of the mortgagor to acquire and 4833  
maintain, from such an authorized fire insurance company or other 4834  
comparable source, insurance or indemnification. 4835

(2) In bonds or notes secured by mortgages insured by the 4836  
federal housing administrator; 4837

(3) In bonds or notes secured by mortgages or deeds of trust 4838  
which are a first lien on leasehold estates in wholly or partly 4839  
improved real property, unencumbered, except rentals accruing from 4840  
the property to the owner of the fee, provided that any loan 4841  
secured by a leasehold estate must provide for amortization by 4842  
repayment of principal at least once in each year in amounts 4843  
sufficient to repay the loan within a period of four-fifths of the 4844  
unexpired term of the leasehold but within a period of not more 4845  
than thirty years, and further provided that the amount loaned on 4846  
the leasehold estate does not exceed seventy-five per cent of 4847  
total market value of the leasehold estate determined by 4848  
appraisements in writing made under oath by two real estate 4849  
owners, residents of the county or local district in which the 4850  
real estate is located, or by a qualified land appraiser; if the 4851  
amount loaned exceeds seventy-five per cent of the value of that 4852  
portion of the leasehold estate represented by the value of the 4853  
land, exclusive of improvements on the land, such improvements 4854  
shall be insured against fire for the benefit of the mortgagee in 4855  
an amount not less than the difference between seventy-five per 4856  
cent of the value of such land, exclusive of buildings, and the 4857  
amount loaned; the policies for such amount shall be payable to 4858  
and held by the mortgagee or a trustee named in the lease who 4859  
shall be required by the terms of said lease to use and apply the 4860  
proceeds of such insurance for repairing, restoring, or rebuilding 4861  
such buildings; 4862

(4) The following shall not be considered as prior liens or 4863  
encumbrances in the construction and application of this section: 4864

leasehold estates of any duration, rights-of-way, servitudes, 4865  
joint driveways, easements, party wall agreements, current taxes 4866  
and assessments not delinquent, and restrictions as to building, 4867  
use, and occupancy. 4868

(5) This section does not prohibit a domestic life insurance 4869  
company from renewing or extending a loan for the original or a 4870  
lesser amount nor does it prohibit a company from accepting as 4871  
part payment for real estate sold by it a mortgage on the real 4872  
estate for a greater percentage of the purchase price of the real 4873  
estate than is otherwise permitted by this section. 4874

(L) In bonds, notes, or other evidences of indebtedness of 4875  
corporations, trusts, partnerships, or similar business entities 4876  
organized under the laws of the United States, or any state 4877  
thereof, the Commonwealth of Puerto Rico, the District of 4878  
Columbia, or Canada or any province of Canada, secured by 4879  
assignment of lease or leases or the rentals payable under such 4880  
leases, of real or personal property or both to (1) the United 4881  
States or any instrumentality thereof, or any state of the United 4882  
States, the Commonwealth of Puerto Rico, or the District of 4883  
Columbia, or any county, city, town, school, or water district, 4884  
authority, or other political subdivision in any such government, 4885  
or Canada, any province of Canada, or any municipal corporation of 4886  
Canada that has a population of fifty thousand or more by the 4887  
latest official census; or (2) one or more corporations, trusts, 4888  
partnerships, or similar business entities organized under the 4889  
laws of the United States, any state thereof, the Commonwealth of 4890  
Puerto Rico, the District of Columbia, or Canada or any province 4891  
of Canada, provided that (a) the fixed rentals assigned shall be 4892  
sufficient to repay the indebtedness within the unexpired term of 4893  
the lease, exclusive of the term which may be provided by an 4894  
enforceable option of renewal; (b) such lessee has not defaulted 4895  
in payment of interest or principal on any of its bonds, notes, 4896

debentures, or other evidences of indebtedness during the five 4897  
years immediately preceding the date of the investment, and 4898  
provided the average net earnings available for fixed charges of 4899  
such lessee under division (L)(2) of this section for not less 4900  
than five fiscal years preceding such investment have been at 4901  
least one and one-half times average fixed charges for that period 4902  
and during either of the last two years of such period, the net 4903  
earnings available for fixed charges shall have been not less than 4904  
one and one-half times fixed charges for such year, except that 4905  
railroad companies and utility companies may qualify as lessees 4906  
herein by application of the earnings test provided for railroads 4907  
under division (J)(1) of this section and for utilities under 4908  
division (J)(4) of this section; and (c) a first lien on the 4909  
interest of the lessor in the unencumbered property so leased 4910  
shall be obtained as additional security for the indebtedness; 4911

(M) In ground rents, land trust certificates, or fee 4912  
ownership certificates representing or evidencing beneficial 4913  
ownership of or interest in improved real estate under lease for 4914  
not less than twenty-five years from the date of such lease, in 4915  
which it must be provided that the lessee shall pay all taxes and 4916  
assessments levied on or assessed against said real estate, shall 4917  
maintain the improvements on the real estate in good repair, and 4918  
shall provide and maintain fire insurance in an amount equal to 4919  
the insurable value of the building on the real estate; provided: 4920

(1) The value of the land and improvements shall be evidenced 4921  
by an appraisalment made under oath by a disinterested appraiser 4922  
resident in and the owner of real estate in the city in which the 4923  
property is situated, and such appraisalment shall not be less than 4924  
one and sixty-seven hundredths times the amount of such land trust 4925  
certificates, which amount shall be not less than twenty times the 4926  
net annual rental distributable to holders of outstanding 4927  
certificates; 4928



(2) Such beneficial interests shall only be in properties on 4929  
which actual earning records for five years immediately preceding 4930  
are available; 4931

(3) Such declaration of trust or other trust instrument shall 4932  
provide for a depreciation or other similar fund, in an amount 4933  
which is not less than nine per cent of the net annual 4934  
distributable rental, for the benefit of the holders of 4935  
outstanding certificates. 4936

(N)(1) In certificates of deposit or other evidence of 4937  
indebtedness of a savings and loan association provided the 4938  
certificates or other evidence of deposit are insured pursuant to 4939  
the "Financial Institutions Reform, Recovery, and Enforcement Act 4940  
of 1989," 103 Stat. 183, 12 U.S.C.A. 1811, as amended; 4941

(2) In interest-bearing obligations, including savings 4942  
accounts and time certificates of deposit of a national bank or 4943  
state bank provided such bank is a member of the federal deposit 4944  
insurance corporation created pursuant to the "Banking Act of 4945  
1933," 92 Stat. 624, 12 U.S.C.A. 624, as amended. 4946

(O) In obligations issued, assumed, or guaranteed by the 4947  
international finance corporation or by the international bank for 4948  
reconstruction and development, the Asian development bank, the 4949  
inter-American development bank, the African development bank, or 4950  
other similar development bank in which the president, as 4951  
authorized by congress and on behalf of the United States, has 4952  
accepted membership; 4953

(P)(1) In the preferred stocks of any company organized under 4954  
the laws of the United States or of any state thereof engaged 4955  
directly and primarily in the production and sale of, or in the 4956  
purchase and sale of electricity or gas, or in the operation of 4957  
telephone or telegraph systems or water works, or in some 4958  
combination of them, if the average annual net earnings of such 4959

company, for not less than five fiscal years preceding purchase 4960  
thereof, after deduction of interest on all mortgages, bonds, 4961  
debentures, and funded debts and after deduction of the proper 4962  
charges for replacements, depreciation, and obsolescence, have 4963  
been at least two times the average yearly amount which is 4964  
required to pay the dividends or distributions on all preferred 4965  
stocks; and in which the mortgages, bonds, debentures, funded 4966  
debts, and preferred stocks shall not in the aggregate exceed 4967  
seventy per cent of the total capitalization of such company, 4968  
including mortgages, bonds, debentures, funded debts, and 4969  
preferred and common stocks; 4970

(2) In the preferred stocks of any other company organized 4971  
under the laws of the United States, or of any state thereof if 4972  
the average annual net earnings of such company for a period of 4973  
not less than five fiscal years preceding purchase thereof, after 4974  
deduction of interest on all mortgages, bonds, debentures, and 4975  
funded debts and after deduction of the proper charges for 4976  
replacements, depreciation, and obsolescence, have been at least 4977  
four times the amount which is required to pay the dividends or 4978  
distributions on all preferred stocks, and in which the mortgages, 4979  
bonds, debentures, funded debts, and preferred stocks shall not in 4980  
the aggregate exceed sixty per cent of the total capitalization of 4981  
such company, including mortgages, bonds, debentures, funded 4982  
debts, and preferred and common stocks; 4983

(3) A domestic life insurance company shall not purchase any 4984  
preferred stocks when the total market values of such stocks then 4985  
owned with those purchased exceed in the aggregate of book values 4986  
and purchase price the capital, surplus, and contingency funds, 4987  
excluding all reserves required by law, of such company on the 4988  
thirty-first day of December preceding the date of such purchase, 4989  
or contemplated purchase, provided that in case of appreciations 4990  
in values of stocks owned the cost rather than the market values 4991

shall be used in arriving at such aggregate; the purpose being to 4992  
restrict the investments of such company in all preferred stocks 4993  
to capital, surplus, and contingency funds. 4994

(4) In the bonds, notes, debentures, or other evidences of 4995  
indebtedness of a solvent corporation, trust, partnership, or 4996  
similar business entity existing under the laws of the United 4997  
States, of any state thereof, the Commonwealth of Puerto Rico, or 4998  
Canada or any province of Canada, provided that either: 4999

(a) The bonds, notes, debentures, or other evidences of 5000  
indebtedness of such corporation, trust, partnership, or similar 5001  
business entity are rated 1 or 2 by the securities valuation 5002  
office of the national association of insurance commissioners; 5003

(b) The corporation, trust, partnership, or similar business 5004  
entity has not defaulted in payment of interest or principal on 5005  
any of its bonds, notes, debentures, or other evidences of 5006  
indebtedness during the five years immediately preceding the date 5007  
of purchase, and the average annual net earnings of such 5008  
corporation, trust, partnership, or similar business entity that 5009  
are available for fixed charges for not less than five fiscal 5010  
years preceding such purchase have been at least one and one-half 5011  
times the average fixed charges of such corporation, trust, 5012  
partnership, or similar business entity for that period and during 5013  
either of the last two years of such period, the net earnings 5014  
available for fixed charges shall have been not less than one and 5015  
one-half times the fixed charges of such corporation, trust, 5016  
partnership, or similar business entity for such year. 5017

(5) In common stocks or shares of any solvent incorporated 5018  
company organized under the laws of the United States, or of any 5019  
state, district, or territory thereof, or the Commonwealth of 5020  
Puerto Rico, provided that a dividend or distribution has been 5021  
paid by the corporation in the preceding twelve months upon such 5022  
stock to be purchased, or that such corporation, together with its 5023

predecessor corporation or corporations, has been in existence for 5024  
a period of at least five years. No domestic company shall invest 5025  
in common stock or shares under divisions (P)(5) and (R) of this 5026  
section a sum exceeding in the aggregate ten per cent of its 5027  
admitted assets on the preceding thirty-first day of December. 5028

(6) In the stocks, limited liability company membership 5029  
interests, limited partnership interests, or limited liability 5030  
partnership interests of insurance, financial, investment, and 5031  
investment management companies, which investment management 5032  
companies are registered with the securities and exchange 5033  
commission under the "Investment Company Act of 1940," 54 Stat. 5034  
789, 15 80a-1, as amended, or the stocks, limited liability 5035  
company membership interests, limited partnership interests, or 5036  
limited liability partnership interests in an entity wholly owned 5037  
by a domestic company or by a domestic company and its affiliates, 5038  
that is formed and maintained to acquire or hold specific assets 5039  
or liabilities for bankruptcy remoteness or limitation of 5040  
liability purposes, except its own stock, but no domestic life 5041  
insurance company shall invest in such stocks, limited liability 5042  
company membership interests, or limited liability partnership 5043  
interests under division (P)(6) of this section, exclusive of its 5044  
investments in stocks or limited liability company membership 5045  
interests of insurance company subsidiaries or subsidiaries 5046  
engaged exclusively in the ownership of insurance company 5047  
subsidiaries, a sum exceeding the lesser of fifty per cent of its 5048  
policyholder surplus or ten per cent of its admitted assets as of 5049  
the preceding thirty-first day of December unless the approval of 5050  
the superintendent of insurance is first obtained. Whenever the 5051  
superintendent has reason to believe that the retention, 5052  
investment, or acquisition of the stock, limited liability company 5053  
membership interest, limited partnership interest, or limited 5054  
liability partnership interest of any such company substantially 5055  
lessens competition generally in the business of insurance or 5056

creates a monopoly therein the superintendent shall proceed under 5057  
section 3901.13 of the Revised Code to cause such domestic 5058  
insurance company to divest itself of such stock, limited 5059  
liability company membership interest, limited partnership 5060  
interest, or limited liability partnership interest. 5061

(7)(a) In bonds, notes, debentures, or other evidences of 5062  
indebtedness issued, assumed, or guaranteed by a solvent 5063  
corporation, trust, or partnership formed or existing under the 5064  
laws of a foreign jurisdiction, provided each such foreign 5065  
investment is of the same kind and quality as United States 5066  
investments authorized under this section; or in common or 5067  
preferred stock, shares, membership interest, or partnership 5068  
interest of any solvent business entity formed or existing under 5069  
the laws of a foreign jurisdiction provided each such foreign 5070  
investment is of the same kind and quality as United States 5071  
investments authorized under this section; or in bonds or other 5072  
evidences of indebtedness issued, assumed, or guaranteed by a 5073  
foreign jurisdiction. 5074

An insurer shall not invest in foreign investments under 5075  
division (P)(7) of this section, including investments denominated 5076  
in foreign currency, a sum exceeding in the aggregate fifteen per 5077  
cent of its admitted assets as of the preceding thirty-first day 5078  
of December. The aggregate amount of investments held by an 5079  
insurer in a single foreign jurisdiction shall not exceed three 5080  
per cent of its admitted assets as of the preceding thirty-first 5081  
day of December. 5082

As used in division (P)(7)(a) of this section, "foreign 5083  
jurisdiction" means a jurisdiction outside the United States, 5084  
Puerto Rico, or ~~canada~~ Canada, whose bonds are rated 1 by the 5085  
securities valuation office of the national association of 5086  
insurance commissioners. 5087

(b) An insurer may acquire investments denominated in foreign 5088

currency whether or not they are foreign investments. 5089

An insurer shall not invest in investments denominated in 5090  
foreign currency a sum exceeding in the aggregate ten per cent of 5091  
its admitted assets as of the preceding thirty-first day of 5092  
December. The aggregate amount of investments denominated in a 5093  
single foreign currency held by an insurer shall not exceed three 5094  
per cent of an insurer's admitted assets as of the preceding 5095  
thirty-first day of December. 5096

(c) As used in division (P)(7) of this section, "foreign 5097  
currency" means a currency other than that of the United States. 5098

(8) An insurer may invest without limitation in investments 5099  
of government money market funds. As used in division (P)(8) of 5100  
this section, "government money market fund" means a mutual fund 5101  
that at all times invests in obligations issued, guaranteed, or 5102  
insured by the federal government of the United States, or 5103  
collateralized repurchase agreements comprised of these 5104  
obligations, and that qualifies for investment without a reserve 5105  
pursuant to the purposes and procedures of the securities 5106  
valuation office of the national association of insurance 5107  
commissioners. 5108

(Q) In loans upon the pledge of any securities in which such 5109  
companies are authorized by this section to invest, provided that 5110  
any loan upon such a pledge shall not exceed eighty per cent of 5111  
the cash market value of the collateral at the time of the making 5112  
of such loan and at the end of each twelve-month period 5113  
thereafter, and such company, through the collateral pledged to 5114  
it, shall not exceed the amounts which it may, under this section, 5115  
invest in one corporation so that, in the stocks and securities 5116  
which may be owned and those which are pledged to it, the 5117  
limitations in this section might be indirectly evaded; 5118

(R)(1) Any domestic legal reserve life insurance company may 5119

loan or invest its funds, to an extent not exceeding in the 5120  
aggregate five per cent of its total admitted assets, in loans or 5121  
investments not permitted under this section. Any such company may 5122  
also invest up to an additional five per cent of its total 5123  
admitted assets, in loans or investments in small businesses 5124  
having more than half of their assets or employees in this state 5125  
and in venture capital firms having an office within this state, 5126  
provided that, as a condition of a company making an investment in 5127  
a venture capital firm, the firm must agree to use its best 5128  
efforts to make investments, in an aggregate amount at least equal 5129  
to the investment to be made by the company in that venture 5130  
capital firm, in small businesses having their principal offices 5131  
within this state and having either more than one-half of their 5132  
assets within this state or more than one-half of their employees 5133  
employed within this state. 5134

As used in division (R) of this section: 5135

(a) "Small businesses" means any corporation, partnership, 5136  
proprietorship, or other entity that either does not have more 5137  
than four hundred employees, or would qualify as a small business 5138  
for the purpose of receiving financial assistance from small 5139  
business investment companies licensed under the "Small Business 5140  
Investment Act of 1958," 72 Stat. 689, 15 U.S.C.A. 661, as 5141  
amended, and rules of the small business administration. 5142

(b) "Venture capital firms" means any corporation, 5143  
partnership, proprietorship, or other entity, the principal 5144  
business of which is or will be the making of investments in small 5145  
businesses. 5146

(c) "Investments" means any equity investment, including 5147  
limited partnership interests and other equity interests in which 5148  
liability is limited to the amount of the investment, but does not 5149  
include general partnership interests or other interests involving 5150  
general liability. 5151

(2) In the event that, subsequent to being made under 5152  
provisions of division (R) of this section, an investment is 5153  
determined to have become qualified as an investment for a 5154  
domestic life insurance company as provided for in this section, 5155  
the company may consider such investment as held under the 5156  
applicable provisions of the foregoing divisions (A) to (Q) of 5157  
this section and such investment shall no longer be considered as 5158  
having been made under the provisions of this division. 5159

(S)(1) No domestic life insurance company shall subscribe to 5160  
or participate in any underwriting for the purchase or sale of 5161  
securities or property, nor shall it enter into any such 5162  
transaction for purchase or sale on account of said company 5163  
jointly with any other person, nor shall any such company enter 5164  
into any agreement to withhold from sale any of its property, but 5165  
the disposition of its property shall be at all times within the 5166  
control of its board of directors. Nothing contained in division 5167  
(S)(1) of this section shall be construed to invalidate or 5168  
prohibit an agreement by an insurance company for the purchase for 5169  
its own account of an entire issue of the securities of a 5170  
corporation or to invalidate or prohibit an agreement by an 5171  
insurance company and one or more other investors to join and 5172  
share in the purchase of investments for their individual accounts 5173  
and for bona fide investment purposes. 5174

(2) In the determination of capitalization in this section 5175  
the value of all bonds, debentures, and funded debts, and 5176  
nonconvertible or nonparticipating preferred stocks shall be 5177  
figured at par. Participating or convertible preferred shares 5178  
shall be figured at par or market on the preceding thirty-first 5179  
day of December, whichever is higher, and the value of all common 5180  
shares shall be figured at the market on the preceding 5181  
thirty-first day of December. 5182

(3) As used in this section: 5183



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

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

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

(4) Except as provided in a plan of mutualization adopted pursuant to the provisions of sections 3913.01 to 3913.10 of the Revised Code, no domestic life insurance company may invest in or loan upon its own stock, either directly or indirectly.

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

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

(7) No domestic life insurance company shall at any time have 5215  
invested in or loaned upon the security of the obligations, 5216  
property, or securities of a particular corporation, trust, 5217  
partnership, or similar business entity a sum exceeding the 5218  
greater of two per cent of its admitted assets as of the preceding 5219  
thirty-first day of December or twenty-five per cent of that 5220  
portion of its capital and surplus, or its surplus in the case of 5221  
a mutual company, that exceeds the minimum required capital and 5222  
surplus under section 3907.05 of the Revised Code unless the 5223  
approval of the superintendent of insurance is first obtained. The 5224  
restrictions of division (S)(7) of this section do not apply to 5225  
divisions (C), (F), (G), (H), (P)(6), and (R) of this section or 5226  
to any valid obligation issued, assumed, or guaranteed by the 5227  
United States, or any state thereof, the Commonwealth of Puerto 5228  
Rico, the District of Columbia, or Canada or any province of 5229  
Canada. For purposes of division (S)(7) of this section, such 5230  
company may, at its option, consider either the lessor or the 5231  
lessee under division (L) of this section to be the person to whom 5232  
any such investment or loan is made. 5233

(8) This section does not affect the propriety or legality of 5234  
an investment made by a domestic life insurance company which was 5235  
in accordance with the laws in force at the time of the making of 5236  
the investment. 5237

(T) A domestic life insurance company may seek permission 5238  
from the superintendent of insurance to invest funds under Chapter 5239  
3906. of the Revised Code and may invest funds under that chapter 5240  
if such permission is granted. 5241

(U) As used in divisions (U) and (V) of this section: 5242

(1) "Covered" means that an insurer owns, or can immediately 5243  
acquire through the exercise of options, warrants, or conversion 5244  
rights already owned, the underlying interest in order to fulfill 5245  
or secure its obligation under the call option, cap, or floor it 5246

has written. 5247

(2)(a) "Derivative instrument" means an agreement, option, instrument, or a series or combination thereof of either of the following types: 5248  
5249  
5250

(i) To make or take delivery of, or assume or relinquish, a specified amount of one or more underlying interests, or to make a cash settlement in lieu thereof; 5251  
5252  
5253

(ii) That has a price, performance, value, or cash flow based primarily upon the actual or expected price, level, performance, value, or cash flow of one or more underlying interests. 5254  
5255  
5256

(b) Derivative instruments include options, warrants, caps, floors, collars, swaps, forwards, futures, and any other agreements, options, or instruments substantially similar thereto or any series or combination thereof. 5257  
5258  
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(3) "Derivative transaction" means a transaction involving the use of one or more derivative instruments. 5261  
5262

(4) "Hedging transaction" means a derivative transaction that is entered into and maintained to reduce either of the following: 5263  
5264

(a) The risk of economic loss due to a change in the value, yield, price, cash flow, or quantity of assets or liabilities that the insurer has acquired or incurred or anticipates acquiring or incurring; 5265  
5266  
5267  
5268

(b) The currency exchange rate risk or the degree of exposure as to assets or liabilities that an insurer has acquired or incurred or anticipates acquiring or incurring. 5269  
5270  
5271

(5) "Income generation" means a derivative transaction involving the writing of covered options, caps, or floors that is intended to generate income or enhance return. 5272  
5273  
5274

(6) "Replication transaction" means a derivative transaction that is intended to replicate the performance of one or more 5275  
5276

assets that an insurer is authorized to acquire under this 5277  
chapter. "Replication transaction" does not include a derivative 5278  
transaction that is entered into as a hedging transaction. 5279

(V)(1) Prior to an insurer entering into derivative 5280  
transactions, the board of directors of the insurer shall approve 5281  
a derivative use plan. 5282

(2) The derivative use plan shall require the insurer, when 5283  
entering into a derivative transaction that carries a risk of 5284  
losing more than the amount invested in a derivative, to establish 5285  
a liability in its financial statements for the full amount of 5286  
that potential loss. 5287

(3) Prior to entering into derivative transactions, an 5288  
insurer shall file with the superintendent a copy of its 5289  
derivative use plan and internal controls, for informational 5290  
purposes. The insurer shall keep current the copy of its 5291  
derivative use plan and internal controls filed with the 5292  
superintendent. The insurer shall not enter into derivative 5293  
transactions until thirty calendar days after the date on which 5294  
the derivative use plan and internal controls is filed with the 5295  
superintendent. This thirty-calendar-day period is to begin on the 5296  
date that the superintendent receives the derivative use plan and 5297  
internal controls. 5298

(4) The superintendent may adopt rules prescribing the form 5299  
and content of derivative use plans, as well as any internal 5300  
controls the superintendent considers necessary. 5301

(5) An insurer that engages in hedging transactions or 5302  
replication transactions shall do both of the following: 5303

(a) Maintain its position in any outstanding derivative 5304  
instrument used as part of a hedging transaction or replication 5305  
transaction for as long as the hedging transaction or replication 5306  
transaction remains in effect; 5307

(b) Demonstrate to the superintendent, upon request, that any derivative transaction entered into and involving hedging transaction or replication transaction is an effective hedging transaction or replication transaction. The insurer must be able to demonstrate this at the time the derivative transaction is entered into, and for as long as the transaction continues to be in place.

(6) An insurer may not invest in, or use, a derivative instrument for any purpose other than a hedging transaction, income generation, or replication.

(7) An insurer shall not invest in, or use a derivative instrument for purposes of income generation in a sum exceeding in the aggregate five per cent of its admitted assets, as of the preceding thirty-first day of December.

**Sec. 3913.01.** Any domestic stock life insurance corporation, incorporated under a general law, may become a mutual life insurance corporation, and to that end may carry out a plan for the acquisition of shares of its capital stock, provided such plan:

(A) Has been adopted by a vote of a majority of the directors of such corporation;

(B) Has been approved by a vote of stockholders representing a majority of the capital stock then outstanding at a meeting of stockholders called for the purpose;

(C) Has been approved by a majority of the policyholders voting at a meeting of policyholders called for the purpose, each of whom is insured in a sum of at least one thousand dollars and whose insurance shall then be in force and shall have been in force for at least one year prior to such meeting.

As used in this section, "policyholder" means the person

insured under an individual policy of life insurance, and the 5338  
person to whom any annuity or pure endowment is presently or 5339  
prospectively payable by the terms of an individual annuity or 5340  
pure endowment contract, except where the policy or contract 5341  
declares some other person to be the owner or holder thereof, in 5342  
which case such owner or policyholder shall be deemed the 5343  
policyholder, and except in cases of assignment. In the case of 5344  
any individual policy or contract insuring two or more persons 5345  
jointly or in case the policy or contract declares two or more 5346  
persons to be the owner, the persons insured or declared to be the 5347  
owner are considered as one policyholder for the purposes of this 5348  
section. In case any such policy or contract has been assigned by 5349  
an assignment absolute on its face to an assignee other than the 5350  
corporation, and such assignment has been filed at the principal 5351  
office of the corporation at least thirty days prior to the date 5352  
of the meeting of policyholders, then such assignee shall be 5353  
deemed a policyholder. Except as provided in this section, an 5354  
assignee of a policy or contract shall not be deemed a 5355  
policyholder. The reference in division (C) of this section to 5356  
insurance in the amount of one thousand dollars or more is deemed 5357  
to include any annuity contract, the commuted value of which is 5358  
one thousand dollars or more on the date of said meeting, and any 5359  
pure endowment contract for the principal sum of one thousand 5360  
dollars or more. 5361

Notice of the meeting of policyholders shall be given by 5362  
mailing such notice from the home office of the corporation at 5363  
least thirty days prior to such meeting in a sealed envelope, 5364  
postage prepaid, addressed to such policyholders at their last 5365  
known post-office addresses, provided that personal delivery of 5366  
such written notice to any policyholder evidenced by written 5367  
receipt therefor may be substituted for mailing the same. The 5368  
meeting shall be otherwise provided for and conducted in such 5369  
manner as is provided in the mutualization plan, provided that 5370

policyholders may vote in person, by proxy, or by mail, and that 5371  
all votes shall be cast by ballot on a uniform ballot furnished by 5372  
the corporation. The superintendent of insurance shall supervise 5373  
and direct the method and procedure of said meeting and shall 5374  
appoint an adequate number of inspectors to conduct the voting at 5375  
said meeting who may determine all questions concerning the 5376  
verification of the ballots, the ascertainment of the validity of 5377  
such ballots, the qualifications of the voters, and the canvass of 5378  
the vote, and who shall certify to the superintendent and to the 5379  
corporation the result of such proceedings, which shall be 5380  
supervised by said inspectors in accordance with such rules as are 5381  
prescribed by the superintendent. All necessary expenses incurred 5382  
by the superintendent shall be paid by the corporation, as 5383  
certified to by ~~him~~ the superintendent. 5384

Before such a plan can be carried out, it must be submitted 5385  
to the superintendent and must be approved by ~~him~~ the 5386  
superintendent in writing; provided that every payment for the 5387  
acquisition of any shares of the capital stock of such 5388  
corporation, the purchase price of which is not fixed by such 5389  
plan, shall be subject to the approval of the superintendent, and 5390  
provided that neither such plan, nor any such payment, shall be 5391  
approved by the superintendent unless at the time of such 5392  
approvals, respectively, the corporation, after deducting the 5393  
aggregate sum appropriated by such plan for the acquisition of any 5394  
part or all of its capital stock, and, in the case of any payment 5395  
not fixed by such plan and subject to separate approval by the 5396  
superintendent, after deducting also the amount of such payment, 5397  
shall be possessed of net assets of not less than two hundred 5398  
thousand dollars from which it shall maintain its deposit made 5399  
previously with the superintendent, and such assets shall be not 5400  
less than the entire liabilities of the corporation, including the 5401  
net values of its outstanding contracts computed according to the 5402  
standard adopted by the corporation under ~~section~~ sections 3903.72 5403

to 3903.7211 of the Revised Code and including all funds, 5404  
contingent reserves, and surplus, except for such surplus as has 5405  
been appropriated or paid under such plan. 5406

**Sec. 3913.34.** (A) Sections 3913.11 to 3913.13 and 3913.20 to 5407  
3913.23 of the Revised Code shall apply to a mutual insurance 5408  
holding company as if the mutual insurance holding company were a 5409  
domestic mutual insurance company. The members of the mutual 5410  
insurance holding company are deemed to be members of a domestic 5411  
mutual insurance company for all purposes of such sections. 5412

(B) A reorganization of a domestic mutual life insurance 5413  
company subject to sections 3913.25 to 3913.38 of the Revised Code 5414  
~~also is subject to sections 3907.09 to 3907.11 of the Revised~~ 5415  
~~Code, if applicable, but~~ is not subject to sections 3901.32 to 5416  
3901.323 of the Revised Code. 5417

(C) Notwithstanding division (B) of this section, for a 5418  
period of five years following the effective date of a 5419  
reorganization under sections 3913.25 to 3913.38 of the Revised 5420  
Code, no person shall acquire control of a reorganized stock 5421  
company without compliance with sections 3901.32 to 3901.323 of 5422  
the Revised Code. For purposes of this division, "control" has the 5423  
same meaning as in division (B) of section 3901.32 of the Revised 5424  
Code, except that control is presumed to exist if any person, 5425  
directly or indirectly, owns, controls, holds with the power to 5426  
vote, or holds proxies representing five per cent or more of the 5427  
voting securities of any other person. 5428

(D) An intermediate holding company or, if there is no such 5429  
company, a reorganized stock company shall not issue shares of 5430  
stock, in addition to the shares issued pursuant to the 5431  
reorganization plan under which the company was formed, without 5432  
the prior approval of the mutual insurance holding company as its 5433  
majority shareholder. The prior approval of the mutual insurance 5434



holding company must be evidenced by a resolution of the board of 5435  
directors of the mutual insurance holding company delivered to the 5436  
board of directors of the intermediate holding company or the 5437  
reorganized stock company prior to the issuance of the additional 5438  
shares. 5439

(E) A mutual insurance holding company, and an intermediate 5440  
holding company, if any, are deemed to be insurers subject to 5441  
sections 3901.07, 3901.071, and 3901.48 of the Revised Code. 5442

**Sec. 3915.04.** Life insurance policies may provide for not 5443  
more than one year preliminary term insurance by incorporation 5444  
therein of the following clause immediately preceding the "change 5445  
of beneficiary" clause: 5446

"The first year's insurance under this policy is term 5447  
insurance." 5448

If the premium charged for term insurance under a limited 5449  
payment life or endowment preliminary term policy, providing for 5450  
the payment of all premiums thereon in less than twenty years from 5451  
the date of the policy, exceeds that charged for like insurance 5452  
under whole life preliminary term policies of the same company, 5453  
the reserve thereon at the end of any year, including the first, 5454  
shall not be less than the reserve on a whole life preliminary 5455  
term policy issued in the same year and at the same age together 5456  
with an amount equivalent to the accumulation of a net level 5457  
premium sufficient to provide for a pure endowment at the end of 5458  
the premium-payment period equal to the difference between the 5459  
value at the end of such period of such a whole life preliminary 5460  
term policy and the full reserve at such time of such limited 5461  
payment life or endowment policy. This section does not apply to 5462  
any policy issued under section 3915.07 of the Revised Code on or 5463  
after the operative date for such policy as authorized by division 5464  
(H) of such section. 5465

This section is applicable to any preliminary term policies, 5466  
except in the case of ~~policies which are subject to the valuation~~ 5467  
~~requirements of division (D) of~~ life insurance policies and 5468  
annuity and pure endowment contracts issued between July 17, 1947, 5469  
and November 5, 1959, that are subject to valuation under section 5470  
~~3903.72~~ 3903.723 of the Revised Code. 5471

**Sec. 3915.071.** (A) As used in this section, "operative date 5472  
of the valuation manual" means the January 1 of the first calendar 5473  
year that the valuation manual, as defined in section 3903.72 of 5474  
the Revised Code, is effective. 5475

(B) No policy of life insurance shall be delivered or issued 5476  
for delivery in this state, on or after January 1, 1989, or the 5477  
operative date (not before January 1, 1983) applicable to such 5478  
policy, as permitted by division (P) of this section, unless it 5479  
contains in substance the provisions set out in this division 5480  
which are applicable to the plan of insurance or corresponding 5481  
provisions which, in the opinion of the superintendent of 5482  
insurance, are at least as favorable to the policyholder: 5483

(1) That the company will, upon proper request within sixty 5484  
days after the due date of a premium in default, grant a paid-up 5485  
nonforfeiture benefit on a plan stated in the policy. The 5486  
effective date of the benefit shall be the due date of the unpaid 5487  
premium. The benefit shall be in the amount specified in this 5488  
section. 5489

(2) That upon proper request, within the same sixty-day 5490  
period, the company may substitute an alternative nonforfeiture 5491  
benefit of an actuarially equivalent value. The amount may be 5492  
greater or the death benefit may be for a longer period. If the 5493  
benefit is an endowment benefit, the amount may be greater or 5494  
payment may be made earlier. 5495

(3) That after premiums have been paid for at least three 5496

full years for ordinary insurance or for at least five full years 5497  
for industrial insurance, the company will, upon surrender of the 5498  
policy within sixty days after the due date of an unpaid premium, 5499  
pay a cash surrender value in the amount specified in this section 5500  
in lieu of any paid-up nonforfeiture benefits. 5501

(4) That if another available nonforfeiture benefit is not 5502  
elected within sixty days after the due date of an unpaid premium, 5503  
the paid-up nonforfeiture benefit specified in the policy shall 5504  
become effective. 5505

(5) That if all premiums for the policy have been paid, the 5506  
company will pay the cash surrender value, upon surrender of the 5507  
policy within thirty days after a policy anniversary, in the 5508  
amount specified in this section. That value will also be 5509  
available within any such thirty-day period if the policy is 5510  
continuing under any nonforfeiture benefit which became effective 5511  
on or after the third policy anniversary in the case of ordinary 5512  
insurance or the fifth policy anniversary in the case of 5513  
industrial insurance. 5514

(6) A statement of the mortality table, interest rate, and 5515  
method used in calculating cash surrender values and paid-up 5516  
nonforfeiture benefits available under policies which guarantee 5517  
unscheduled changes in benefits or premiums upon the happening of 5518  
specified events or upon the exercise of an option without change 5519  
to a new policy. 5520

For all other policies, a statement of the mortality table 5521  
and interest rate used in calculating the cash surrender values 5522  
and paid-up nonforfeiture benefits, together with a table showing 5523  
such values and benefits on each policy anniversary during the 5524  
first twenty policy years, or the term of the policy, if shorter. 5525  
Values and benefits are to be calculated on the assumption that 5526  
there are no dividends or paid-up additions credited to the policy 5527  
and that there is no indebtedness to the company on the policy. 5528

(7) A statement that the cash surrender values and paid-up nonforfeiture benefits are not less than those required by the law of the state in which the policy is delivered.

(8) An explanation of the manner in which cash surrender values and paid-up nonforfeiture benefits are increased by any paid-up additions to the policy and decreased by any indebtedness to the company on the policy.

(9) A statement that a detailed statement of the method of computation of values and benefits has been filed with the insurance supervisory official of the state in which the policy is delivered if such a detailed statement is not included in the policy.

(10) A statement of the method used in calculating the cash surrender value and paid-up nonforfeiture benefit available on any policy anniversary beyond the last anniversary for which values and benefits are consecutively shown in the policy.

The company shall reserve the right to defer the payment of any cash surrender value for a period of six months after demand and surrender of the policy.

~~(B)~~(C) Upon default in payment of a premium due on a policy anniversary, any cash surrender value shall be determined as of the due date. The value shall be not less than the present value on the anniversary of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions, had default not occurred, less the present value on the anniversary of the adjusted premiums corresponding to the premiums which would have fallen due on and after such anniversary and less any indebtedness to the company on the policy. Any cash surrender value provided for by the policy shall be in substantial compliance with section 3915.072 of the Revised Code.

If supplemental life insurance or annuity benefits are added 5560  
at issue, at the option of the insured, to a policy by rider or 5561  
supplemental policy provision and for an identifiable additional 5562  
premium, the cash surrender values for the basic insurance and for 5563  
the supplemental insurance or benefits shall be determined as if 5564  
each had been issued as a separate policy. The cash surrender 5565  
value of the policy shall be the sum of the cash surrender value 5566  
of the basic insurance and of the supplemental insurance or 5567  
benefits. 5568

The cash surrender value for a family policy, which defines a 5569  
primary insured and which provides term insurance on the life of 5570  
the spouse of the primary insured expiring before the spouse's age 5571  
seventy-one, is the sum of the cash surrender value of the 5572  
insurance on the primary insured and the cash surrender value of 5573  
the term insurance on the spouse, determined as if the insurance 5574  
on each had been issued as a separate policy. 5575

Any cash surrender value available within thirty days after a 5576  
policy anniversary, under a policy paid up by completion of all 5577  
premium payments or continued under any paid-up nonforfeiture 5578  
benefit, shall be not less than the present value, on the 5579  
anniversary, of the future guaranteed benefits provided by the 5580  
policy, including any paid-up additions, and decreased by any 5581  
indebtedness to the company on the policy. 5582

Any paid-up nonforfeiture benefit available upon default in 5583  
payment of the premium due on a policy anniversary shall have a 5584  
present value as of the anniversary at least equal to the policy's 5585  
cash surrender value on that date or, if none is provided for, the 5586  
cash surrender value which would have been required by this 5587  
section in the absence of the condition that premiums shall have 5588  
been paid for the requisite number of years. 5589

~~(C)~~(D)(1) Amounts payable as extra premiums to cover 5590  
impairments or special hazards and uniform annual contract charges 5591

or policy fees specified in the policy statement of the method to 5592  
be used in calculating cash surrender values and paid-up 5593  
nonforfeiture benefits are excluded in calculating adjusted 5594  
premiums and recalculated future adjusted premiums. 5595

A policy issued on a substandard basis but similar to one 5596  
issued on a standard basis may be considered the same as the 5597  
standard policy in calculating adjusted premiums and present 5598  
values if tabular mortality costs in each policy year are the same 5599  
as those in the standard policy and if the policies differ only in 5600  
that the substandard policy provides reduced graded amounts of 5601  
insurance and the standard policy provides higher uniform amounts 5602  
of insurance. 5603

(2) The adjusted premiums for any policy are calculated on an 5604  
annual basis and shall be a uniform per cent of the respective 5605  
premiums specified in the policy for each policy year such that 5606  
the present value, at the date of issue, of all such adjusted 5607  
premiums is equal to the sum of the following: 5608

(a) The present value at the date of issue of the future 5609  
guaranteed benefits; 5610

(b) One per cent of either the amount of insurance, if 5611  
uniform in amount, or the average amount of insurance at the 5612  
beginning of each of the first ten policy years; and 5613

(c) One hundred twenty-five per cent of the nonforfeiture net 5614  
level premium, as defined in division ~~(C)~~(D)(3) of this section, 5615  
provided that for the purposes of this division ~~(C)~~(D)(2)(c) the 5616  
nonforfeiture net level premium shall not be deemed to exceed four 5617  
per cent of either the amount of insurance, if uniform in amount, 5618  
or the average amount of insurance at the beginning of each of the 5619  
first ten policy years. 5620

The date of issue, as used in this division, is the date as 5621  
of which the rated age of the insured is determined. 5622

(3) The nonforfeiture net level premium is equal to the 5623  
present value, at the date of issue, of the guaranteed benefits 5624  
provided for by the policy divided by the present value, at the 5625  
date of issue, of an annuity of one per annum payable on the date 5626  
of issue and on each anniversary of the policy on which a premium 5627  
falls due. 5628

(4) Adjusted premiums, present values, additional expense 5629  
allowances, and nonforfeiture net level premiums for policies 5630  
which guarantee unscheduled changes in benefits or premiums upon 5631  
the happening of specified events or upon the exercise of an 5632  
option without change to a new policy are determined as follows: 5633

(a) At the date of issue, adjusted premiums, nonforfeiture 5634  
net level premiums, and present values are calculated on the 5635  
assumption that there will be no change in future benefits or 5636  
premiums; 5637

(b) At the time of a change in benefits or premiums, future 5638  
adjusted premiums, nonforfeiture net level premiums and present 5639  
values are recalculated on the assumption that there will be no 5640  
other change in future benefits or premiums; 5641

(c) These recalculated future adjusted premiums are a uniform 5642  
percentage of the respective future premiums specified in the 5643  
policy for each policy year after the change such that the present 5644  
value, at the time of change, of the future adjusted premiums is 5645  
equal to the sum of: 5646

(i) The present value at the time of change of all future 5647  
guaranteed benefits provided for by the policy; 5648

(ii) Any additional expense allowance less the cash surrender 5649  
value at that time or, if none, the value of any paid-up 5650  
nonforfeiture benefit. 5651

(d) The additional expense allowance, at the time of change, 5652  
is the sum of one per cent of any increase in the average amount 5653

of insurance and one hundred twenty-five per cent of any increase 5654  
in the nonforfeiture net level premium. The average amount of 5655  
insurance after the change is the average amount of insurance at 5656  
the beginning of the first ten policy years following the change. 5657  
The average amount of insurance before the change is the average 5658  
amount of insurance at the beginning of each of the first ten 5659  
policy years starting with the date of the most recent previous 5660  
change or, if there has been no change, the date of issue. 5661

(e) The recalculated nonforfeiture net level premium is the 5662  
quotient of (i) the present value of the increase in future 5663  
guaranteed benefits provided by the policy plus (ii) the 5664  
nonforfeiture net level premium before the change times the 5665  
present value of an annuity of one per annum payable on each 5666  
anniversary of the policy on and after the date of change on which 5667  
a premium would, except for the change, have fallen due divided by 5668  
(iii) the present value of an annuity of one per annum payable on 5669  
each anniversary on or after the date of change on which a premium 5670  
falls due. 5671

~~(D)~~(E) For policies issued prior to the operative date of the 5672  
valuation manual: 5673

(1) For all policies of ordinary insurance issued on the 5674  
standard basis, all adjusted premiums and present values referred 5675  
to in this section shall be calculated on the basis of the 5676  
commissioners 1980 standard ordinary mortality table and a rate of 5677  
interest not exceeding the nonforfeiture interest rate provided 5678  
for by division ~~(F)~~(E)(3) of this section or, at the option of the 5679  
company, a rate not exceeding the nonforfeiture interest rate for 5680  
policies issued in the preceding calendar year. The company may 5681  
elect to use the commissioners 1980 standard ordinary mortality 5682  
table with ten-year select mortality factors for any specified 5683  
plan of life insurance. The superintendent may approve the use of 5684  
any ordinary mortality table adopted after 1980 by the national 5685



association of insurance commissioners in determining the minimum 5686  
nonforfeiture standard for such policies. 5687

~~(E)~~(2) For all policies of industrial insurance issued on the 5688  
standard basis, all adjusted premiums and present values referred 5689  
to in this section shall be calculated on the basis of the 5690  
commissioners 1961 standard industrial mortality table and a rate 5691  
of interest not exceeding the nonforfeiture interest rate provided 5692  
for by division ~~(F)~~(E)(3) of this section or, at the option of the 5693  
company, a rate not exceeding the nonforfeiture interest rate for 5694  
policies issued in the preceding calendar year. The superintendent 5695  
may approve the use of any industrial mortality table adopted 5696  
after 1980 by the national association of insurance commissioners 5697  
in determining the minimum nonforfeiture standard for such 5698  
policies. 5699

~~(F)~~(3) The nonforfeiture interest rate for a policy issued in 5700  
any calendar year is equal to one hundred twenty-five per cent of 5701  
the valuation interest rate for the policy as defined in section 5702  
~~3903.721~~ 3903.724 of the Revised Code, rounded to the nearer 5703  
one-quarter of one per cent. 5704

(F) For all policies issued on or after the operative date of 5705  
the valuation manual: 5706

(1) For all policies of ordinary insurance, the valuation 5707  
manual shall provide the commissioners standard mortality table 5708  
for use in determining the minimum nonforfeiture standard that may 5709  
be substituted for the commissioners 1980 standard ordinary 5710  
mortality table, with or without ten-year select mortality 5711  
factors, or for the commissioners 1980 extended term insurance 5712  
table. If the superintendent approves by rule any commissioners 5713  
standard ordinary mortality table adopted by the national 5714  
association of insurance commissioners for use in determining the 5715  
minimum nonforfeiture standard for policies issued on or after the 5716  
operative date of the valuation manual, then that minimum 5717

nonforfeiture standard supersedes the minimum nonforfeiture 5718  
standard provided by the valuation manual. 5719

(2) For all policies of industrial insurance, the valuation 5720  
manual shall provide the commissioners standard mortality table 5721  
for use in determining the minimum nonforfeiture standard that may 5722  
be substituted for the commissioners 1961 standard industrial 5723  
mortality table or the commissioners 1961 industrial extended term 5724  
insurance table. If the superintendent approves by rule any 5725  
commissioners standard industrial mortality table adopted by the 5726  
national association of insurance commissioners for use in 5727  
determining the minimum nonforfeiture standard for policies issued 5728  
on or after the operative date of the valuation manual, then that 5729  
minimum nonforfeiture standard supersedes the minimum 5730  
nonforfeiture standard provided by the valuation manual. 5731

(3) The nonforfeiture interest rate per annum for any policy 5732  
issued in a particular calendar year shall be provided by the 5733  
valuation manual. 5734

(G) Any cash surrender value for any paid-up nonforfeiture 5735  
benefit including any paid-up dividend additions shall be 5736  
calculated on the basis of the mortality table and rate of 5737  
interest used in determining the amount of such benefit and 5738  
paid-up dividend additions. 5739

(H) Guaranteed paid-up nonforfeiture benefits, including any 5740  
paid-up additions, shall be calculated on the basis of an interest 5741  
rate no lower than that specified in the policy when calculating 5742  
cash surrender values. 5743

(I) Present values, for any paid-up term insurance or any 5744  
paid-up term insurance with accompanying pure endowment offered as 5745  
a nonforfeiture benefit, shall be calculated using rates of 5746  
mortality not to exceed those shown in the commissioners 1980 5747  
extended term insurance table for policies of ordinary insurance 5748

and those shown in the commissioners 1961 industrial extended term 5749  
insurance table for policies of industrial insurance. The 5750  
superintendent may approve the use of any extended term insurance 5751  
table adopted after 1980 by the national association of insurance 5752  
commissioners in determining such present values. 5753

(J) Adjusted premiums and present values for policies that 5754  
are issued on a substandard basis may be calculated on the basis 5755  
of such table of mortality as may be specified by the company and 5756  
approved by the superintendent. 5757

(K) The superintendent of insurance may by rule adopt methods 5758  
for computing cash surrender values and paid-up nonforfeiture 5759  
benefits for plans of life insurance which are of such a nature 5760  
that values cannot be determined by any method described in this 5761  
section, provided the superintendent is satisfied that the 5762  
benefits provided in any such plan are substantially as favorable 5763  
to policyholders and insureds as the minimum benefits otherwise 5764  
required by this section and that the benefits and patterns of 5765  
premiums for the plan will not mislead prospective policyholders 5766  
or insureds. Such methods must be consistent with the principles 5767  
of this section. This division shall apply to any plan of life 5768  
insurance which provides for future premium determination, the 5769  
amounts of which are to be determined by the company on the basis 5770  
of estimates of future experience made at the time of any such 5771  
determination. 5772

(L) Any cash surrender value and any paid-up nonforfeiture 5773  
benefit, available upon default in payment of a premium due at any 5774  
time other than on a policy anniversary, shall be calculated with 5775  
allowance for lapse of time and payment of fractional premiums 5776  
beyond the preceding policy anniversary. All values referred to in 5777  
this section may be calculated upon the assumption that any death 5778  
benefit is payable at the end of the policy year of death. The net 5779  
value of any paid-up addition, other than paid-up term additions, 5780

shall be not less than the amount used to provide such additions. 5781

(M) All other policy benefits additional to life insurance 5782  
and endowment benefits shall be disregarded, and premiums for all 5783  
such additional benefits and any extra premiums to cover 5784  
impairments or special hazards shall be disregarded, in 5785  
ascertaining the cash surrender values and nonforfeiture benefits 5786  
required by this section. No such additional benefits shall be 5787  
required to be included in any paid-up nonforfeiture benefit. Such 5788  
benefits include additional benefits payable: 5789

(1) For death or dismemberment by accident or accidental 5790  
means; 5791

(2) For total and permanent disability; 5792

(3) As reversionary annuity or deferred reversionary annuity 5793  
benefits; 5794

(4) As term insurance benefits provided by rider or 5795  
supplemental policy provisions to which, issued as a separate 5796  
policy, this section would not apply; 5797

(5) As term insurance on the life of a child or lives of 5798  
children provided in a policy on the life of a parent, if such 5799  
term insurance expires before the child's age is twenty-six, is 5800  
uniform in amount after the child's age is one, and has not become 5801  
paid-up by reason of the death of a parent. 5802

(N) This section does not apply to any reinsurance, group 5803  
insurance, pure endowment or annuity or reversionary annuity 5804  
contract nor to any: 5805

(1) Term policy, or renewal thereof, of uniform amount and 5806  
for twenty years or less expiring before age seventy-one which 5807  
provides no guaranteed nonforfeiture or endowment benefit and for 5808  
which uniform premiums are payable during the entire term and any 5809  
renewal of the policy; 5810

(2) Term policy of decreasing amount, which provides no 5811  
guaranteed nonforfeiture or endowment benefits, and for which each 5812  
adjusted premium is less than the adjusted premium for a term 5813  
policy described in division (N)(1) of this section issued at the 5814  
same age and for the same initial amount of insurance; 5815

(3) Policy, which provides no guaranteed nonforfeiture or 5816  
endowment benefits, and for which the cash surrender value or 5817  
present value of any paid-up nonforfeiture benefit for any policy 5818  
year calculated according to this section as of the beginning of 5819  
such policy year, does not exceed two and one-half per cent of the 5820  
amount of insurance at the beginning of the same policy year; 5821

(4) Policy which is delivered outside this state through an 5822  
agent or other representative of the company issuing the policy. 5823

For purposes of determining the applicability of this 5824  
division to a joint-term life insurance policy, the age at expiry 5825  
shall be the age at expiry of the oldest life. 5826

(O) No approved policy form need be refiled if nonforfeiture 5827  
values or methods for computing such values for it are refiled and 5828  
the only change is in the interest rate or the mortality table. 5829

(P) The operative date of this section shall be January 1, 5830  
1989, except that an earlier operative date may be elected as 5831  
provided in this division. A company may, by written notice filed 5832  
with the superintendent, elect to issue all, or one or more, of 5833  
its policy forms pursuant to this section on and after a date 5834  
specified in the notice. The date specified may be any date on or 5835  
after January 1, 1983, and before January 1, 1989. The date 5836  
specified shall be the operative date of this section for the 5837  
policy form or forms specified in the notice. 5838

No other statute shall be construed to prohibit any life 5839  
insurance company from classifying its policies and electing to 5840  
issue specified forms of policies pursuant to the plan set forth 5841

in this section, while using other legal basis as to reserve 5842  
calculations and nonforfeiture values for other of its policies, 5843  
nor shall it be construed to prohibit any life insurance company 5844  
from adopting other reasonable classifications of policies or 5845  
policyholders. 5846

**Sec. 3915.072.** This section applies to all policies of life 5847  
insurance, not excluded by division (N) of section 3915.071 of the 5848  
Revised Code, that are delivered, or issued for delivery, in this 5849  
state on or after January 1, 1989. 5850

(A) Upon default in payment of the premium due on a policy 5851  
anniversary, the cash surrender value shall not differ by more 5852  
than two-tenths of one per cent of the amount of insurance from 5853  
the sum of the greater of zero or the basic cash value, as defined 5854  
in division (B) of this section, and the present value of any 5855  
paid-up additions less any indebtedness to the company on the 5856  
policy. If the amount of insurance is not uniform, the amount is 5857  
the average amount of insurance in force at the beginning of each 5858  
of the first ten policy years. 5859

(B) The basic cash value is equal to the present value on the 5860  
anniversary of the future guaranteed benefits which would have 5861  
been provided for by the policy had default not occurred less the 5862  
present value on the anniversary of the nonforfeiture factors 5863  
corresponding to the premiums which would have fallen due on and 5864  
after the anniversary. The basic cash value may not be less than 5865  
the value obtained by substituting the adjusted premiums, as 5866  
defined in division ~~(C)~~(D)(2) of section 3915.071 of the Revised 5867  
Code, for the nonforfeiture factors. Paid-up additions and 5868  
indebtedness to the company on the policy are not taken into 5869  
consideration in determining basic cash value. Basic cash values 5870  
for policies having supplemental life insurance or annuity 5871  
benefits or for a family policy as described in division (B) of 5872

section 3915.071 of the Revised Code shall be determined in the 5873  
manner provided in division (B) of that section for cash surrender 5874  
values. 5875

(C) The nonforfeiture factor is a percentage of the adjusted 5876  
premium, as defined in division ~~(C)~~(D)(2) of section 3915.071 of 5877  
the Revised Code, for each policy year. The percentage must be the 5878  
same for each policy year after the second until the later of the 5879  
fifth policy anniversary and the first policy anniversary after 5880  
the second on which the cash surrender value, before including any 5881  
paid-up additions and before deducting any indebtedness, is at 5882  
least equal to two-tenths of one per cent of the amount of 5883  
insurance. Any change in percentage after the fifth policy 5884  
anniversary must apply to no fewer than five consecutive policy 5885  
years before a different percentage can be adopted. If the amount 5886  
of insurance is not uniform, the amount is the average amount of 5887  
insurance in force at the beginning of each of the first ten 5888  
policy years. 5889

(D) Adjusted premiums and present values shall be calculated 5890  
using the same mortality table and interest rate used to 5891  
demonstrate the policy's compliance with section 3915.071 of the 5892  
Revised Code. The cash surrender values referred to in this 5893  
section include any endowment benefit provided for by the policy. 5894

(E) Any cash surrender value available upon default in a 5895  
premium payment due at any time other than on a policy 5896  
anniversary, and the amount of any paid-up nonforfeiture benefit 5897  
available upon default in a premium at any time shall be 5898  
calculated in accordance with the requirements for determining 5899  
analogous minimum amounts in section 3915.071 of the Revised Code. 5900  
The amounts of any cash surrender values and paid-up nonforfeiture 5901  
benefits granted in connection with additional benefits such as 5902  
those listed in division (M) of section 3915.071 of the Revised 5903  
Code shall conform with the principles of this section. 5904

**Sec. 3921.21.** A (A) Except as provided in division (B) of this section, a fraternal benefit society shall invest its funds only in such investments as are authorized by section 3907.14 of the Revised Code for the investment of assets of life insurers and subject to the limitations thereon. Any foreign or alien society permitted or seeking to do business in this state that invests its funds in accordance with the laws of the state, district, territory, country, or province in which it is incorporated, is held to meet the requirements of this section for the investment of funds. 5905  
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(B) A fraternal benefit society may seek permission from the superintendent of insurance to invest funds under Chapter 3906. of the Revised Code and may invest funds under that chapter if such permission is granted. 5915  
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**Sec. 3925.08.** Funds accumulated in the course of business, or surplus money above the capital stock, of any company organized under any law of this state, for the purpose provided in section 3925.01 of the Revised Code, shall only be loaned or invested in the securities listed in sections 3925.05 and 3925.06 of the Revised Code, or in the following: 5919  
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(A)(1) Bonds and mortgages on unencumbered real estate within this or any other state worth twenty-five per cent more than the sum loaned thereon, exclusive of buildings, unless such buildings are insured in some company authorized to do business in this state, and the policy is transferred to the company making the investment; or, in lieu of transferring such policies, the mortgagee may purchase a policy or policies of mortgage protection insurance, payable to the mortgagee or a trustee in its behalf, insuring the mortgagee against loss resulting from the failure of the mortgagor to acquire and maintain, from such an authorized insurance company, insurance in the amount required by this 5925  
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section; 5936

(2) Bonds or notes secured by mortgages insured by the 5937  
federal housing administrator; 5938

(3) Loans to veterans guaranteed in whole or in part by the 5939  
United States pursuant to Title III of the "Servicemen's 5940  
Readjustment Act of 1944," 58 Stat. 284, 38 U.S.C. 693, as 5941  
amended, provided such guaranteed loans are liens upon real 5942  
estate. 5943

(B)(1) Legally authorized and executed bonds, notes, 5944  
warrants, and securities which are the direct obligation of or are 5945  
guaranteed as to both principal and interest by Canada, or which 5946  
are the direct obligation of or are guaranteed as to both 5947  
principal and interest by any province of Canada, or which are the 5948  
direct obligation of or are guaranteed as to both principal and 5949  
interest by any municipal corporation of Canada having a 5950  
population of one hundred thousand or more by the latest official 5951  
census, and which are not in default as to principal or interest; 5952

(2) Obligations issued, assumed, or guaranteed by the 5953  
international finance corporation or by the international bank for 5954  
reconstruction and development, the Asian development bank, the 5955  
inter-American development bank, the African development bank, or 5956  
similar development bank in which the president, as authorized by 5957  
congress and on behalf of the United States, has accepted 5958  
membership. 5959

(C) Bonds or other evidences of indebtedness, not in default 5960  
as to principal or interest, which are valid obligations issued, 5961  
assumed, or guaranteed by the United States, by any state thereof, 5962  
the Commonwealth of Puerto Rico, by any territory or insular 5963  
possession of the United States, or by the District of Columbia, 5964  
or which are valid obligations issued, assumed, or guaranteed by 5965  
any county, municipal corporation, district, or political 5966

subdivision, or by any civil division or public instrumentality of 5967  
such governmental units, if by statutory or other legal 5968  
requirements such obligations are payable, as to both principal 5969  
and interest, from taxes levied upon all taxable property within 5970  
the jurisdiction of such governmental unit, or in bonds or other 5971  
obligations issued by or for account of any such governmental unit 5972  
having a population of five thousand or more by the latest 5973  
official federal or state census, which are payable as to both 5974  
principal and interest from revenues or earnings from the whole or 5975  
any part of a publicly owned utility, provided that by statute or 5976  
other applicable legal requirements, rates from the service or 5977  
operation of such utility must be fixed, maintained, and collected 5978  
at all times so as to produce sufficient revenues or earnings to 5979  
pay both principal and interest of such bonds or obligations as 5980  
they become due, and in any bonds or obligations issued or 5981  
guaranteed by the United States, any state, the District of 5982  
Columbia, the Commonwealth of Puerto Rico, any county, municipal 5983  
corporation, district, political subdivision, civil division, 5984  
commission, board, authority, agency, or other instrumentality of 5985  
one or more of them, provided there is a specific pledge of 5986  
revenues, earnings, or other adequate security and provided that 5987  
no prior or parity obligation of the same issuer, payable from 5988  
revenues or earnings from the same source, has been in default as 5989  
to principal or interest during the five years next preceding the 5990  
date of such investment, but such issuer need not have been in 5991  
existence for that period, and obligations acquired under this 5992  
section may be newly issued, and further provided that there is 5993  
adequate provision for payment of expenses of operation and 5994  
maintenance and the principal and interest on all obligations when 5995  
due; 5996

(D)(1) Bonds or other evidences of indebtedness, bearing or 5997  
accruing interest, issued, assumed, or guaranteed by any solvent 5998  
corporation, trust, partnership, or similar business entity 5999

organized and existing under the laws of this or any other state, 6000  
or of the United States, the Commonwealth of Puerto Rico, or of 6001  
the District of Columbia, or of Canada or any province of Canada, 6002  
upon which there is no existing interest or principal default, 6003  
provided that either: 6004

(a) The bonds or other evidences of indebtedness are rated 1 6005  
or 2 by the securities valuation office of the national 6006  
association of insurance commissioners; 6007

(b) The corporation, together with its predecessor 6008  
corporation or corporations, or the trust, partnership, or similar 6009  
business entity, has been in existence for a period of at least 6010  
five years. 6011

(2) Stocks, limited liability company membership interests, 6012  
limited partnership interests, or limited liability partnership 6013  
interests of any insurance, financial, investment, or investment 6014  
management companies, which investment management companies are 6015  
registered with the securities and exchange commission under the 6016  
"Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C. 80a-1, 6017  
as amended, or the stocks, limited liability company membership 6018  
interests, limited partnership interests, or limited liability 6019  
partnership interests in an entity wholly owned by a domestic 6020  
company or by a domestic company and its affiliates, that is 6021  
formed and maintained to acquire or hold specific assets or 6022  
liabilities for bankruptcy remoteness or limitation of liability 6023  
purposes, except its own stock, and stocks, limited liability 6024  
company membership interests, limited partnership interests, 6025  
limited liability partnership interests, bonds, notes, and 6026  
debentures of any company which is organized for, and limited in 6027  
its operations to, the financing of insurance premiums, upon 6028  
approval of such investments by the superintendent of insurance; 6029  
except that approval shall not be required for the purchase of the 6030  
outstanding stocks, limited liability company membership 6031

interests, limited partnership interests, or limited liability 6032  
partnership interests of any such company, if investment in each 6033  
such company does not exceed in the aggregate two and one-half per 6034  
cent of the total admitted assets of the company making the 6035  
investment as of the preceding thirty-first day of December. 6036  
Whenever the superintendent has reason to believe that the 6037  
retention, investment, or acquisition of the stock, limited 6038  
liability company membership interest, limited partnership 6039  
interest, or limited liability partnership interest of any such 6040  
company substantially lessens competition generally in the 6041  
business of insurance or creates a monopoly therein the 6042  
superintendent shall proceed under section 3901.13 of the Revised 6043  
Code to cause such domestic insurance company to divest itself of 6044  
such stock, limited liability company membership interest, limited 6045  
partnership interest, or limited liability partnership interest. 6046

(3) Other stocks, limited liability company membership 6047  
interests, or limited partnership interests, or limited liability 6048  
partnership interests of any solvent corporation organized under 6049  
the laws of this or any other state, or of the United States, or 6050  
of the District of Columbia, or of Canada or any province of 6051  
Canada, provided that a dividend or distribution has been paid by 6052  
the business entity in the preceding twelve months upon the stock, 6053  
membership interest, or partnership interest to be purchased or 6054  
such business entity, together with its predecessor entity or 6055  
entities, has been in existence for a period of at least five 6056  
years. 6057

(4) A domestic company may acquire, hold, and convey tangible 6058  
personal property or interests therein for the production of 6059  
income, provided no domestic company shall invest in excess of two 6060  
per cent of its admitted assets as of the preceding thirty-first 6061  
day of December under this division. 6062

(5) In equipment trust obligations or certificates, security 6063

agreements, or other evidences of indebtedness entered into 6064  
directly or guaranteed by any company operating wholly or partly 6065  
within the United States or Canada, provided that such debt 6066  
obligation is secured by a first lien on tangible personal 6067  
property which is purchased or secured for payment thereof and 6068  
such debt obligation is repayable within twenty years from the 6069  
date of issue in annual, semiannual, or more frequent installments 6070  
beginning not later than the first year after such date. 6071

(6) An insurer may invest without limitation in investments 6072  
of government money market funds. As used in division (D)(6) of 6073  
this section, "government money market fund" means a fund that at 6074  
all times invests in obligations issued, guaranteed, or insured by 6075  
the federal government of the United States or collateralized 6076  
repurchase agreements comprised of such obligations, and that 6077  
qualifies for investment without a reserve pursuant to the 6078  
purposes and procedures of the securities valuation office of the 6079  
national association of insurance commissioners. 6080

(E) Negotiable promissory notes maturing in not more than six 6081  
months from the date thereof, secured by collateral security 6082  
through the transfer of any of the classes of securities described 6083  
in this section or in sections 3925.05 and 3925.06 of the Revised 6084  
Code, with absolute power of sale within twenty days after default 6085  
in payment at maturity; 6086

(F)(1) Repurchase agreements with, and interest-bearing 6087  
obligations, including savings accounts and time certificates of 6088  
deposit of, a national bank of the United States, a commonwealth 6089  
bank of Puerto Rico, a chartered bank of Canada, or a state bank, 6090  
provided such bank is either a member of the federal deposit 6091  
insurance corporation created pursuant to the "Banking Act of 6092  
1933," as amended, or the Canada deposit insurance corporation 6093  
created pursuant to the act of parliament known as the "Canada 6094  
Deposit Insurance Corporation Act," as amended. 6095

(2) Certificates of deposit, savings share accounts, 6096  
investment share accounts, stock deposits, stock certificates, or 6097  
other evidences of indebtedness of a savings and loan association, 6098  
provided all such evidences of indebtedness are insured pursuant 6099  
to the "Financial Institutions Reform, Recovery, and Enforcement 6100  
Act of 1989," 103 Stat. 183, 12 U.S.C.A. 1811, as amended; 6101

(3) Bankers' acceptances and bills of exchange of the kinds 6102  
and maturities made eligible by law for rediscount with the 6103  
federal reserve banks, provided that the same are accepted by a 6104  
bank or trust company incorporated under the laws of the United 6105  
States or of this state or any other bank or trust company which 6106  
is a member of the federal reserve system. 6107

(G) Any securities issued as a result of any reorganization, 6108  
or capital or debt adjustment, in whole or in part, in exchange 6109  
for securities acquired by it prior to such reorganization, or 6110  
capital or debt adjustment; 6111

(H)(1) In bonds, notes, debentures, or other evidences of 6112  
indebtedness issued, assumed, or guaranteed by a solvent 6113  
corporation, trust, or partnership formed or existing under the 6114  
laws of a foreign jurisdiction, provided each such foreign 6115  
investment is of the same kind and quality as United States 6116  
investments authorized under this section; or in common or 6117  
preferred stock, shares, membership interests, or partnership 6118  
interests of any solvent business entity formed or existing under 6119  
the laws of a foreign jurisdiction, provided each such foreign 6120  
investment is of the same kind and quality as United States 6121  
investments authorized under this section; or in bonds or other 6122  
evidences of indebtedness issued, assumed, or guaranteed by a 6123  
foreign jurisdiction. 6124

An insurer shall not invest in foreign investments under 6125  
division (H) of this section, including investments denominated in 6126  
foreign currency, a sum exceeding in the aggregate fifteen per 6127

cent of its admitted assets as of the preceding thirty-first day 6128  
of December. The aggregate amount of investments held by an 6129  
insurer in a single foreign jurisdiction shall not exceed three 6130  
per cent of its admitted assets as of the preceding thirty-first 6131  
day of December. 6132

As used in division (H)(1) of this section, "foreign 6133  
jurisdiction" means a jurisdiction outside the United States, 6134  
Puerto Rico, or Canada whose bonds are rated 1 by the securities 6135  
valuation office of the national association of insurance 6136  
commissioners. 6137

(2) An insurer may acquire investments denominated in foreign 6138  
currency whether or not they are foreign investments. 6139

An insurer shall not invest in investments denominated in 6140  
foreign currency a sum exceeding in the aggregate fifteen per cent 6141  
of its admitted assets as of the preceding thirty-first day of 6142  
December. The aggregate amount of investments denominated in a 6143  
single foreign currency held by an insurer shall not exceed three 6144  
per cent of an insurer's admitted assets as of the preceding 6145  
thirty-first day of December. 6146

(3) As used in division (H) of this section, "foreign 6147  
currency" means a currency other than that of the United States. 6148

(I)(1) Any securities or other property not permitted under 6149  
section 3925.05, 3925.06, 3925.08, or 3925.20 of the Revised Code 6150  
to an extent not exceeding in the aggregate six per cent of the 6151  
total admitted assets of such company on the preceding 6152  
thirty-first day of December, within the limitations prescribed in 6153  
division (J) of this section. Any such company may also invest up 6154  
to an additional five per cent of the total admitted assets of 6155  
such company on the preceding thirty-first day of December, within 6156  
the limitations prescribed in division (J) of this section, in 6157  
loans or investments in small businesses having more than half of 6158

their assets or employees in this state and in venture capital 6159  
firms having an office within this state, provided that, as a 6160  
condition of a company making an investment in a venture capital 6161  
firm, the firm must agree to use its best efforts to make 6162  
investments, in an aggregate amount at least equal to the 6163  
investment to be made by the company in that venture capital firm, 6164  
in small businesses having their principal offices within this 6165  
state and having either more than one-half of their assets within 6166  
this state or more than one-half of their employees employed 6167  
within this state. 6168

As used in division (I) of this section: 6169

(a) "Small businesses" means any corporation, partnership, 6170  
proprietorship, or other entity that either does not have more 6171  
than four hundred employees, or would qualify as a small business 6172  
for the purpose of receiving financial assistance from small 6173  
business investment companies licensed under the "Small Business 6174  
Investment Act of 1958," 72 Stat. 689, 15 U.S.C.A. 661, as 6175  
amended, and rules of the small business administration. 6176

(b) "Venture capital firms" means any corporation, 6177  
partnership, proprietorship, or other entity, the principal 6178  
business of which is or will be the making of investments in small 6179  
businesses. 6180

(c) "Investments" means any equity investment, including 6181  
limited partnership interests and other equity interests in which 6182  
liability is limited to the amount of the investment, but does not 6183  
include general partnership interests or other interests involving 6184  
general liability. 6185

(2) In the event that, subsequent to being made under this 6186  
division, a loan or investment is determined to have become 6187  
qualified as a loan or investment under any of the divisions (A) 6188  
to (F) of this section or under section 3925.05, 3925.06, or 6189



3925.20 of the Revised Code, the company may consider such loan or 6190  
investment as held under such other statutory provision and such 6191  
loan or investment shall no longer be considered as having been 6192  
made under this division. 6193

(J) No domestic insurance company shall at any time have 6194  
invested a sum exceeding five per cent of its admitted assets as 6195  
of the preceding thirty-first day of December in the bonds, notes, 6196  
debentures, other evidences of indebtedness, and stocks of a 6197  
particular corporation, trust, partnership, or similar business 6198  
entity, except for investments authorized under divisions (A) and 6199  
(D)(2) of this section, and no domestic insurance company together 6200  
with its subsidiary, if any, shall at any time own directly or 6201  
indirectly more than twenty-five per cent of the outstanding 6202  
bonds, notes, debentures, other evidences of indebtedness, and 6203  
stocks of any corporation, except for investments authorized under 6204  
divisions (A) and (D)(2) of this section. 6205

This section does not affect the propriety or legality of an 6206  
investment made by such domestic insurance company which was in 6207  
accordance with the laws in force at the time of the making of the 6208  
investment. 6209

A business entity organized for the purpose provided in 6210  
section 3925.01 of the Revised Code may seek permission from the 6211  
superintendent of insurance to invest funds under Chapter 3906. of 6212  
the Revised Code and may invest funds under that chapter if such 6213  
permission is granted. 6214

(K) As used in divisions (K) and (L) of this section: 6215

(1) "Covered" means that an insurer owns, or can immediately 6216  
acquire through the exercise of options, warrants, or conversion 6217  
rights already owned, the underlying interest in order to fulfill 6218  
or secure its obligation under the call option, cap, or floor it 6219  
has written. 6220

(2)(a) "Derivative instrument" means an agreement, option, instrument, or a series or combination thereof of either of the following types: 6221  
6222  
6223

(i) To make or take delivery of, or assume or relinquish, a specified amount of one or more underlying interest, or to make a cash settlement in lieu thereof; 6224  
6225  
6226

(ii) That has a price, performance, value, or cash flow based primarily upon the actual or expected price, level, performance, value, or cash flow of one or more underlying interests. 6227  
6228  
6229

(b) Derivative instruments include options, warrants, caps, floors, collars, swaps, forwards, futures, and any other agreements, options, or instruments substantially similar thereto or any series or combination thereof. 6230  
6231  
6232  
6233

(3) "Derivative transaction" means a transaction involving the use of one or more derivative instruments. 6234  
6235

(4) "Hedging transaction" means a derivative transaction that is entered into and maintained to reduce either of the following: 6236  
6237

(a) The risk of economic loss due to a change in the value, yield, price, cash flow, or quantity of assets or liabilities that the insurer has acquired or incurred or anticipates acquiring or incurring; 6238  
6239  
6240  
6241

(b) The currency exchange rate risk or the degree of exposure as to assets or liabilities that an insurer has acquired or incurred or anticipates acquiring or incurring. 6242  
6243  
6244

(5) "Income generation" means a derivative transaction involving the writing of covered options, caps, or floors that is intended to generate income or enhance return. 6245  
6246  
6247

(6) "Replication transaction" means a derivative transaction that is intended to replicate the performance of one or more assets that an insurer is authorized to acquire under this 6248  
6249  
6250

chapter. "Replication transaction" does not include a derivative 6251  
transaction that is entered into as a hedging transaction. 6252

(L)(1) Prior to an insurer entering into derivative 6253  
transactions, the board of directors of the insurer shall approve 6254  
a derivative use plan. 6255

(2) The derivative use plan shall require the insurer, when 6256  
entering into a derivative transaction that carries a risk of 6257  
losing more than the amount invested in a derivative, to establish 6258  
a liability in its financial statements for the full amount of 6259  
that potential loss. 6260

(3) Prior to entering into derivative transactions, an 6261  
insurer shall file with the superintendent a copy of its 6262  
derivative use plan and internal controls, for informational 6263  
purposes. The insurer shall keep current the copy of its 6264  
derivative use plan and internal controls filed with the 6265  
superintendent. The insurer shall not enter into derivative 6266  
transactions until thirty calendar days after the date on which 6267  
the derivative use plan and internal controls is filed with the 6268  
superintendent. This thirty-calendar-day period is to begin on the 6269  
date that the superintendent receives the derivative use plan and 6270  
internal controls. 6271

(4) The superintendent may adopt rules prescribing the form 6272  
and content of derivative use plans, as well as any internal 6273  
controls the superintendent considers necessary. 6274

(5) An insurer that engages in hedging transactions or 6275  
replication transactions shall do both of the following: 6276

(a) Maintain its position in any outstanding derivative 6277  
instrument used as part of a hedging transaction or replication 6278  
transaction for as long as the hedging transaction or replication 6279  
transaction remains in effect; 6280

(b) Demonstrate to the superintendent, upon request, that any 6281

derivative transaction entered into and involving hedging 6282  
transaction or replication transaction is an effective hedging 6283  
transaction or replication transaction. The insurer must be able 6284  
to demonstrate this at the time the derivative transaction is 6285  
entered into, and for as long as the transaction continues to be 6286  
in place. 6287

(6) An insurer may not invest in, or use, a derivative 6288  
instrument for any purpose other than a hedging transaction, 6289  
income generation, or replication. 6290

(7) An insurer shall not invest in, or use a derivative 6291  
instrument for purposes of income generation a sum exceeding in 6292  
the aggregate five per cent of its admitted assets, as of the 6293  
preceding thirty-first day of December. 6294

**Sec. 3939.01.** (A) Any number of persons of lawful age, not 6295  
less than ten in number, owning insurable property in this state, 6296  
may associate themselves together for the purpose of insuring each 6297  
other against the risk of direct physical loss or damage to 6298  
property in this state, including theft of property in this state, 6299  
except loss or damage to motor vehicles caused by collision. Any 6300  
association organized under this section shall file with the 6301  
department of insurance all policy forms currently in use by the 6302  
association and all additions, deletions, or amendments to the 6303  
policy forms at least thirty days prior to the use of the policy 6304  
forms, additions, deletions, or amendments. Each filing under this 6305  
division is deemed approved thirty days after the filing is 6306  
received by the superintendent of insurance, unless the filing is 6307  
disapproved by the superintendent during that thirty-day period. 6308

(B) Any association organized under this section, from time 6309  
to time, may assess upon and collect from its members or other 6310  
responsible parties sums of money that are necessary to pay 6311  
expenses and losses that occur, or are anticipated to occur, from 6312

those covered perils. The assessment and collection of those sums 6313  
of money shall be regulated by the constitution of the association 6314  
adopted under section 3939.06 of the Revised Code. The 6315  
constitution shall require the assessments to be made directly and 6316  
specifically upon the members or other responsible parties, and to 6317  
be paid by them out of any funds paid to or deposited with the 6318  
association in anticipation of assessments. Any association 6319  
organized under this section may borrow money for the payment of 6320  
losses and associated expenses, but those loans shall not be made 6321  
for a period of time that extends beyond the collection of the 6322  
association's next assessment. 6323

(C) Any association organized under this section may 6324  
accumulate a surplus from its assessments. ~~That~~ Except as provided 6325  
in division (D) of this section, that surplus and all other funds 6326  
received or accumulated in the course of business shall be 6327  
invested under sections 3925.05 and 3925.08 of the Revised Code. 6328  
Upon prior approval of the superintendent of insurance, the 6329  
association may invest that surplus and those other funds in real 6330  
estate for the association's convenient accommodation in the 6331  
transaction of its business. The association shall not have at any 6332  
one time more than ten per cent of its admitted assets invested in 6333  
real estate. 6334

(D) An association organized under this section may seek 6335  
permission from the superintendent of insurance to invest funds 6336  
under Chapter 3906. of the Revised Code and may invest funds under 6337  
that chapter if such permission is granted. 6338

(E) Any association organized under this section may insure 6339  
farm buildings, residential and detached dwellings, outbuildings, 6340  
churches, township buildings, grange buildings, farm machinery, 6341  
equipment, and other farm personal property, household goods and 6342  
personal effects, pleasure and utility vehicles, and other similar 6343  
property, except motor vehicles titled or capable of being titled 6344

for use on public roads and property used exclusively for 6345  
commercial or industrial purposes. 6346

The property described in this division may be classified 6347  
only for the purpose of determining and levying assessments, and 6348  
that property may be located within or without the limits of any 6349  
municipal corporation. 6350

~~(E)~~(F) Any association organized under this section may 6351  
collect a charge on each contract of insurance in accordance with 6352  
its constitution adopted under section 3939.06 of the Revised 6353  
Code. 6354

~~(F)~~(G) Any association organized under this section may make 6355  
contracts of reinsurance for the kinds of insurance authorized by 6356  
sections 3939.01 to 3939.11 of the Revised Code or accept 6357  
reinsurance on any portion of that insurance. 6358

**Sec. 3953.15.** The (A) Except as provided in division (B) of 6359  
this section, the unearned premium reserve of a title insurance 6360  
company shall be invested in accordance with sections 3925.05 to 6361  
3925.08, inclusive, of the Revised Code. 6362

(B) A title insurance company may seek permission from the 6363  
superintendent of insurance to invest funds under Chapter 3906. of 6364  
the Revised Code and may invest funds under that chapter if such 6365  
permission is granted. 6366

**Section 2.** That existing sections 1751.25, 3901.043, 6367  
3901.045, 3901.17, 3901.32, 3901.321, 3901.33, 3901.34, 3901.341, 6368  
3901.35, 3901.36, 3901.62, 3901.63, 3901.64, 3903.72, 3903.721, 6369  
3903.83, 3907.14, 3913.01, 3913.34, 3915.04, 3915.071, 3915.072, 6370  
3921.21, 3925.08, 3939.01, and 3953.15, and sections 3907.09, 6371  
3907.10, 3907.11, and 3907.13 of the Revised Code are hereby 6372  
repealed. 6373

**Section 3.** Sections 3901.371 to 3907.378 of the Revised Code, 6374  
as enacted in this act, shall take effect on January 1, 2015. The 6375  
first filing of the own risk and solvency assessment summary 6376  
report, as required by section 3901.375 of the Revised Code, shall 6377  
be in 2015. 6378

**Section 4.** The intent of the General Assembly, in enacting 6379  
this act is to protect and to further the interests of insureds, 6380  
creditors, and the general public by providing, with minimum 6381  
interference with management initiative and judgment, prudent 6382  
standards for the development and administration of insurer 6383  
investment programs. 6384

**Section 5.** This act shall be known as the "Ohio Insurer 6385  
Investment Act." 6386

**Section 6.** The Superintendent of Insurance shall adopt rules 6387  
in accordance with Chapter 119. of the Revised Code to implement 6388  
the amendments to sections 3901.62, 3901.63, and 3901.64 of the 6389  
Revised Code as enacted in this act and to implement new sections 6390  
3901.621 and 3901.631 of the Revised Code as enacted in this act. 6391  
It is the intent of the General Assembly in mandating the adoption 6392  
of these rules that the Superintendent adopt rules that are 6393  
substantially similar to the Credit for Reinsurance Model 6394  
Regulation, #786, as approved by the National Association of 6395  
Insurance Commissioners on November 6, 2011. 6396

**Section 7.** Notwithstanding division (V)(13) of sections 6397  
3907.14 and division (L)(3) of section 3925.08 of the Revised 6398  
Code, an insurer that is engaged in derivative transactions, 6399  
pursuant to a derivative use plan approved by that insurer's board 6400  
of directors, prior to the effective date of this act, may 6401  
continue to engage in derivative transactions pursuant to that 6402

derivative use plan for a period of no longer than one hundred  
twenty days after the effective date of this act.

6403

6404