

# AN ACT

To amend sections 1751.25, 3901.043, 3901.045, 3901.17, 3901.32, 3901.321, 3901.33, 3901.34, 3901.341, 3901.35, 3901.36, 3901.62, 3901.63, 3901.64, 3903.72, 3903.721, 3903.83, 3907.14, 3913.01, 3913.34, 3915.04, 3915.071, 3915.072, 3921.21, 3925.08, 3939.01, and 3953.15, to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 3903.72 (3903.723) and 3903.721 (3903.724), to enact new sections 3903.72 and 3903.721 and sections 3901.351, 3901.371, 3901.372, 3901.373, 3901.374, 3901.375, 3901.376, 3901.377, 3901.378, 3901.41, 3901.621, 3901.631, 3903.722, 3903.725, 3903.726, 3903.727, 3903.728, 3903.729, 3903.7210, 3903.7211, 3906.01 to 3906.15, and 3937.19, and to repeal sections 3907.09, 3907.10, 3907.11, and 3907.13 of the Revised Code to enact the Insurance Regulatory Modernization Act to revise the insurance laws regarding alternative investments, holding company systems, risk management, reserves kept for life insurance policies, automated transactions, reinsurance, and mergers and consolidations.

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

SECTION 1. That sections 1751.25, 3901.043, 3901.045, 3901.17, 3901.32, 3901.321, 3901.33, 3901.34, 3901.341, 3901.35, 3901.36, 3901.62, 3901.63, 3901.64, 3903.72, 3903.721, 3903.83, 3907.14, 3913.01, 3913.34, 3915.04, 3915.071, 3915.072, 3921.21, 3925.08, 3939.01, and 3953.15 be amended, sections 3903.72 (3903.723) and 3903.721 (3903.724) be amended for the purpose of adopting new section numbers as indicated in parentheses, new sections 3903.72 and 3903.721, and sections 3901.351,

3901.371, 3901.372, 3901.373, 3901.374, 3901.375, 3901.376, 3901.377, 3901.378, 3901.41, 3901.621, 3901.631, 3903.722, 3903.725, 3903.726, 3903.727, 3903.728, 3903.729, 3903.7210, 3903.7211, 3906.01, 3906.02, 3906.03, 3906.04, 3906.05, 3906.06, 3906.07, 3906.08, 3906.09, 3906.10, 3906.11, 3906.12, 3906.13, 3906.14, 3906.15, and 3937.19 of the Revised Code be enacted to read as follows:

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

(B) A health insuring corporation 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.

Sec. 3901.043. The superintendent of insurance may adopt rules in accordance with Chapter 119. of the Revised Code to establish reasonable fees for any service or transaction performed by the department of insurance pursuant to section 1751.03, 3901.321, 3901.341, ~~3907.09, 3907.10, 3907.11,~~ 3907.12, 3911.011, 3913.40, 3915.14, 3917.06, 3918.07, 3923.02, 3935.04, 3937.03, or 3953.28 of the Revised Code or any provision in sections 3913.01 to 3913.23 or in Chapter 3905. of the Revised Code, if no fee is otherwise provided under Title XVII or XXXIX of the Revised Code for such service or transaction. Any fee collected pursuant to those rules shall be paid into the state treasury to the credit of the department of insurance operating fund.

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

(B) The superintendent may also receive documents and information, including otherwise confidential or privileged documents and information, from the chief deputy rehabilitator, the chief deputy liquidator, other deputy rehabilitators and liquidators, and from any other person employed by, or

acting on behalf of, the superintendent pursuant to Chapter 3901. or 3903. of the Revised Code, provided that the superintendent maintains as confidential or privileged any document or information received with the notice or understanding that the document or information is confidential or privileged, except that the superintendent may share and disclose such a document or information when authorized by other sections of the Revised Code.

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

(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 same meaning ~~defined as~~ as 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 same meaning ~~defined in division (A)(1) of~~ as in section 3901.04 of the Revised Code.

(4) "Person" has the same meaning ~~defined in division (A) of~~ as in 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 therein;

(2) Making or proposing to make any insurance contracts;

(3) Soliciting, taking, or receiving any application for insurance;

(4) Receiving or collecting any premium, commission, membership fee, assessment, dues, or other consideration for any insurance contract or any part thereof;

(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;

(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.

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.

(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.

(D) Service of any notice, order, subpoena, or process in any such action, suit, or proceeding shall, in addition to the manner provided in division (C) of this section, be valid if served upon any person within this state who, in this state on behalf of such insurer, person, or agent is or has been:

- (1) Soliciting, procuring, effecting, or negotiating for insurance;
- (2) Making, issuing, or delivering any contract of insurance;
- (3) Collecting or receiving any premium, membership fees, assessment, dues, or other consideration for insurance;

(4) 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.

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

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

(G) If this state is the home state of the insured, each such insurer that does any of the acts set forth in division (B) of this section shall be subject

to the requirements of section 3905.36 of the Revised Code.

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

(I) This section does not apply to:

(1) Insurance obtained pursuant to sections 3905.30 to 3905.36 of the Revised Code;

(2) The transaction of reinsurance by insurers;

(3) Transactions in this state involving a policy of group life or group accident and sickness insurance solicited, written, and delivered outside this state;

(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;

(5) An attorney at law acting on behalf of the attorney's clients in the adjustment of claims or losses;

(6) Ocean marine insurance;

(7) Transactions involving policies issued by a captive insurer.

Sec. 3901.32. As used in sections 3901.32 to 3901.37 of the Revised Code:

(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.

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

(C) "Enterprise risk" means any activity, circumstance, event, or series

of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a materially adverse effect on the financial condition or liquidity of the insurer or its insurance holding company system as a whole. "Enterprise risk" includes anything that would cause the insurer's risk-based capital to fall into company action level as set forth in section 3903.83 of the Revised Code or would cause the insurer to be in a hazardous financial condition.

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

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

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

~~(F)~~(G) "Subsidiary" of a specified person is an affiliate controlled by such person, directly or indirectly, through one or more intermediaries.

~~(G)~~(H) "Voting security" includes any security convertible into or evidencing a right to acquire a voting security.

Sec. 3901.321. (A) For the purposes of this section:

(1) "Acquiring party" means any person by whom or on whose behalf a merger or other acquisition of control is to be effected.

(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.

(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.

(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:

(a) Make a tender offer for any voting security of a domestic insurer;

(b) Make a request or invitation for tenders of any voting security of a domestic insurer;

(c) Enter into any agreement to exchange securities of a domestic insurer;

(d) Seek to acquire or acquire, in the open market or otherwise, any voting security of a domestic insurer;

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

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

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

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

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

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

(3) Any controlling person of a domestic insurer seeking to divest its controlling interest in the domestic insurer shall file a confidential notice of its proposed divestiture with the superintendent at least thirty days prior to the cessation of control, and provide a copy of the confidential notice to the insurer. The superintendent may require the person seeking to divest the controlling interest to file for and obtain approval of the transaction. The information shall remain confidential until the conclusion of the transaction unless the superintendent, in the superintendent's discretion, determines that the confidential treatment will interfere with enforcement of this section. If the statement required by division (B)(2) of this section is otherwise filed with the superintendent in relation to all parties that acquire a controlling interest as a result of the divestiture, this division shall not apply.

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

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

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

(3) If the acquiring party is not an individual, a report of the nature of its business operations during the past five years or for such lesser period as the

acquiring party and any of its predecessors shall have been in existence; an informative description of the business intended to be done by the acquiring party and the acquiring party's subsidiaries; and a list of all individuals who are or who have been selected to become directors or executive officers of the acquiring party, who perform or will perform functions appropriate to such positions. The list shall include for each individual the information required by division (C)(2) of this section.

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

(5) Fully audited financial information as to the earnings and financial condition of each acquiring party for its preceding 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 or agreed to be paid therefor;

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

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

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

(14) With respect to proposed affiliations between depository institutions 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, the proposed effective date of the acquisition or change of control;

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

(16) An acknowledgment by the person required to file the statement required by division (B) of this section that the person and all subsidiaries within the person's control in the insurance holding company system will provide information to the superintendent upon request as necessary to evaluate enterprise risk to the insurer;

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

(D)(1) If the person required to file the statement required by division (B)(2) of this section is a partnership, limited partnership, syndicate, or other group, the superintendent may require that the information required by division (C) of this section be furnished with respect to each partner of such partnership or limited partnership, each member of such syndicate or group, and each person that controls such partner or member. If any such partner, member, or person is a corporation, or the person required to file the statement is a corporation, the superintendent may require that the

information required by division (C) of this section be furnished with respect to the corporation, each officer and director of the corporation, and each person that is directly or indirectly the beneficial owner of more than ten per cent of the outstanding voting securities of the corporation.

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

(E) If any offer, request, invitation, agreement, or acquisition described in division (B)(1) of this section is proposed to be made by means of a registration statement under the "Securities Act of 1933," 48 Stat. 74, 15 U.S.C.A. 78a, or in circumstances requiring the disclosure of similar information under the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C.A. 78a, or under a state law requiring similar registration or disclosure, the person required to file the statement required by division (B)(2) of this section may use such documents in furnishing the information required by that statement.

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

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

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

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

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

(e) The competence, experience, and integrity of those persons that would control the operation of the domestic insurer are such that it would not be in the interest of policyholders of the domestic insurer and of the

public to permit the merger or other acquisition of control;

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

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

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

(c) The hearing shall be held at the offices of the superintendent within ten calendar days, but not earlier than seven calendar days, of the date of transmission of the notice of hearing by any means, unless it is postponed or continued; but in no event shall the hearing be held unless notice is received at least three days prior to the hearing. The superintendent may postpone or continue the hearing upon receipt of a written request by an acquiring party, or upon the superintendent's motion, provided, however, a hearing 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, may be postponed or continued only upon the request of an acquiring party, or upon the superintendent's motion when the acquiring party agrees in writing to extend the sixty-day period provided for in section 104(c) of the "Gramm-Leach-Bliley Act," by a

number of days equal to the number of days of such postponement or continuance.

(d) For the purpose of conducting any hearing held under this section, the superintendent may require the attendance of such witnesses and the production of such books, records, and papers as the superintendent desires, and may take the depositions of witnesses residing within or without the state in the same manner as is prescribed by law for the taking of depositions in civil actions in the court of common pleas, and for that purpose the superintendent may, and upon the request of an acquiring party shall, issue a subpoena for any witnesses or a subpoena duces tecum to compel the production of any books, records, or papers, directed to the sheriff of the county where such witness resides or is found, which shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. The fees of the sheriff shall be the same as that allowed in the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised 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 hearing as is granted to the superintendent. The hearing officer shall have been admitted to the practice of law in the state and be possessed of any additional qualifications as the superintendent requires. The hearing officer shall submit to the superintendent a written report setting forth the hearing officer's finding of fact and conclusions of law and a recommendation of the action to be taken by the superintendent. A copy of the written report and recommendation shall, within seven days of the date of filing thereof, be served upon the acquiring party or the acquiring party's attorney or other representative of record, by personal service, certified mail, ~~e-mail~~ electronic mail, or any other method designed to ensure and confirm receipt of the report. The acquiring party may, within three days of receipt of the copy of the written report and recommendation, file with the superintendent written objections to the report and recommendation, which objections the superintendent shall consider before approving, modifying, or disapproving the recommendation. The superintendent may grant extensions of time to the acquiring party within which to file such objections. No recommendation of the hearing officer shall be approved, modified, or disapproved by the superintendent until after three days following the service of the report and recommendation as provided in this section. The superintendent may order additional testimony to be taken or permit the introduction of further documentary evidence. The superintendent may approve, modify, or disapprove the recommendation of the hearing officer, and the order of the superintendent based on the report, recommendation, transcript of testimony, and evidence, or the objections of the acquiring party, and additional testimony and evidence shall have the same effect as if the hearing had been conducted by the superintendent. No such recommendation is final until confirmed and approved by the superintendent as indicated by the order entered in the record of proceedings, and if the superintendent modifies or disapproves the recommendations of the hearing officer, the reasons for the modification or disapproval shall be included in the record of proceedings.

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

party.

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

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

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

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

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

(a) It has not been made or entered into for the purpose and 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 annually after its initial registration. The superintendent may require any authorized insurer that is a member of a holding company system that is not subject to registration under this section to furnish a copy of the registration statement or other information filed by the insurance company with the insurance regulatory authority of domiciliary jurisdiction.

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

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

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

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

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

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

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

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

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

(f) Reinsurance agreements;

(g) Dividends and other distributions to shareholders;

(h) Consolidated tax allocation agreements.

(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;

(5) 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.

(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;

(7) Statements that the insurer's or its ultimate controlling person's board of directors oversees corporate governance and internal controls and that the insurer's or its ultimate controlling person's officers or senior management have approved, implemented, and continue to maintain and monitor corporate governance and internal control procedures;

(8) Any other information required by the superintendent by rule or regulation.

(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 that division.

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

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

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

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

(H) The superintendent may allow an insurer that is authorized to do



business in this state and that is part of an insurance holding company system to register on behalf of any affiliated insurer that is required to register under division (A) of this section and to file all information and material required to be filed under this section.

(I) This section does not apply to any insurer, information, or transaction if and to the extent that the superintendent by rule, regulation, or order exempts it from this section.

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

(K) The ultimate controlling person of every insurer subject to registration under this section also shall file an annual enterprise risk report. The report shall be appropriate to the nature, scale, and complexity of the operations of the insurance holding company system and shall, to the best of the ultimate controlling person's knowledge and belief, identify the material risks within the insurance holding company system that could pose enterprise risk to the insurer. The ultimate controlling person shall file the report with the lead state commissioner of the insurance holding company system as determined by the procedures within the financial analysis handbook adopted by the national association of insurance commissioners.

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

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

- (1) The terms shall be fair and reasonable.
- (2) Charges or fees for services performed shall be reasonable.
- (3) Expenses incurred and payment received shall be allocated to the

insurer in conformity with customary insurance accounting practices that are consistently applied.

(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 including such accounting information as is necessary to support the reasonableness of the charges or fees to the respective parties.

(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.

(6) Agreements for cost-sharing services and management services shall include such provisions as required by the superintendent of insurance in rule or regulation.

(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:

(1) The size of the insurer as measured by its assets, capital, surplus, reserves, premium writings, insurance in force, and other appropriate criteria;

(2) The extent to which the insurer's business is diversified among the several lines of insurance;

(3) The number and size of risks insured in each line of business;

(4) The extent of the geographical dispersion of the insurer's insured risks;

(5) The nature and extent of the insurer's reinsurance program;

(6) The quality, diversification, and liquidity of the insurer's investment portfolio;

(7) The recent past and projected future trend in the size of the insurer's surplus as regards policyholders;

(8) The adequacy of the insurer's reserves;

(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.

(10) The quality of the insurer's earnings and the extent to which the reported earnings include extraordinary items;

(11) The surplus as regards policyholders maintained by other comparable insurers in respect of the factors enumerated in this division.

(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.

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

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

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

Sec. 3901.341. (A) No insurer subject to registration under section 3901.33 of the Revised Code shall enter into any of the following transactions with any person in its insurance holding company system, including amendments or modifications of affiliate agreements previously filed under this section that are subject to the materiality standards contained in divisions (A)(1) to (5) of this section, until thirty days after the superintendent of insurance has received, for ~~his~~ the superintendent's review, written notice of the insurer's intention to enter into the transaction and if, during that period, the superintendent has not disapproved the proposed transaction. The notice for amendments or modifications shall include the reasons for the change and the financial impact on the domestic insurer. Informal notice shall be reported to the superintendent within thirty days after termination of a previously filed agreement. These requirements

shall apply to all of the following transactions:

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

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

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

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

(3) Reinsurance agreements or modifications of such agreements including all of the following:

(a) All new reinsurance pooling agreements;

(b) All reinsurance pooling agreements in which a domestic company is newly added;

(c) Agreements in which the reinsurance premium or the change in the insurer's liabilities, or the projected reinsurance premium or a change in the insurer's liabilities in any of the next three years, equals or exceeds five per cent of the insurer's surplus as regards policyholders as of the thirty-first day of December next preceding. ~~Division~~

Division (A)(3) of this section also applies to reinsurance agreements that may require as consideration the transfer of assets from an insurer to a nonaffiliate, if the insurer and nonaffiliate have an agreement or understanding that any portion of the assets will be transferred to one or more affiliates of the insurer.

(4) All management agreements, service contracts, tax allocations agreements, and cost-sharing arrangements;

(5) Any other material transaction that the superintendent, pursuant to

rules adopted in accordance with Chapter 119. of the Revised Code, determines may render the insurer's surplus as regards policyholders unreasonable in relation to the insurer's outstanding liabilities and inadequate to its financial needs.

(B) In reviewing transactions under division (A) of this section, the superintendent shall consider whether the terms of the transaction are fair and reasonable and whether the transaction may adversely affect the interests of policyholders.

(C) Any transaction or agreement described in division (A) of this section that is not disapproved by the superintendent in accordance with that division is effective as of the effective date set forth in the notice required under this section.

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

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

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

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

Sec. 3901.35. (A)(1) In addition to the powers ~~which that~~ that the superintendent has under sections 3901.01 to 3901.31, ~~inclusive,~~ of the Revised Code, relating to the examination of insurers, the superintendent of insurance, subject to sections 119.01 to 119.13, ~~inclusive,~~ of the Revised Code, shall also have the power to ~~order~~ examine any insurer registered under section 3901.33 of the Revised Code and its affiliates to ascertain the financial condition of the insurer, including the enterprise risk to the insurer

by the ultimate controlling party, or by any entity or combination of entities within the insurance holding company system, or by the insurance holding company system on a consolidated basis.

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

(3) To determine compliance with sections 3901.32 to 3901.37 of the Revised Code, the superintendent may order any insurer registered under section 3901.33 of the Revised Code to produce information not in the possession of the insurer if the insurer can obtain access to such information pursuant to a contractual relationship, statutory obligation, or other method. If the insurer cannot obtain the information requested by the superintendent, the insurer shall provide the superintendent a detailed explanation of the reason that the insurer cannot obtain the information and the identity of the holder of information. Whenever it appears to the superintendent that the detailed explanation is without merit, the superintendent may require, after notice and hearing, that the insurer pay a penalty of up to five hundred dollars per day, or the superintendent may suspend or revoke the insurer's license.

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

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

(D) If the insurer fails to comply with an order issued pursuant to this section, the superintendent may examine the affiliates to obtain the

information. The superintendent also may issue subpoenas, administer oaths, and examine under oath any person for purposes of determining compliance with this section. Upon the failure or refusal of any person to obey a subpoena, the superintendent may petition the court of common pleas of Franklin county for an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order shall be punishable as contempt of court. A person who receives a subpoena issued pursuant to this division shall appear as a witness at the place specified in the subpoena within the state. The person is entitled to the same fees and mileage as a witness in a civil action in the court of common pleas. Any fees, mileage, or actual expenses necessarily incurred in securing the attendance of a witness and their testimony shall be itemized and charged against the insurer being examined.

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

- (1) Initiate the establishment of a supervisory college;
- (2) Clarify the membership and participation of other supervisors in the supervisory college;
- (3) Clarify the functions of the supervisory college and the role of other regulators, including the establishment of a group-wide supervisor;
- (4) Coordinate the ongoing activities of the supervisory college, including planning meetings, supervisory activities, and processes for information sharing;
- (5) Establish a crisis management plan.

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

(C) In order to assess the business strategy, financial position, legal and regulatory position, risk exposure, risk management, and governance processes, and as part of the examination of individual insurers in

accordance with section 3901.35 of the Revised Code, the superintendent may participate in a supervisory college with other regulators charged with supervision of the insurer or its affiliates, including other state, federal, and international regulatory agencies. The superintendent may enter into agreements in accordance with section 3901.36 of the Revised Code that provide the basis for cooperation between the superintendent and the other regulatory agencies, and the activities of the supervisory college.

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

(E) As used in this section, "supervisory college" means a forum for cooperation and communication between the involved supervisors established for the fundamental purpose of facilitating all of the following:

(1) The effectiveness of supervision of entities that belong to an insurance group;

(2) The supervision of the insurance group as a whole on a group-wide basis;

(3) Improving the legal entity supervision of the entities within the insurance group.

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

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

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

~~(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.~~

~~(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.~~



~~(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;

~~(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.~~

(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.

(C) In order to assist in the performance of the superintendent's duties under this section, the superintendent may do either of the following:

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

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

~~(C) Notwithstanding divisions (A) and (B) of this section, the superintendent may authorize the national association of insurance commissioners and its affiliates and subsidiaries by agreement to share confidential or privileged documents or information received pursuant to division (B)(3) of this section with local, state, federal, and international~~

~~regulatory and law enforcement agencies and with local, state, and federal prosecutors, provided that the recipient agrees to maintain the confidential or privileged status of the confidential or privileged document or information and has authority to do so.~~

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

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

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

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

~~(1) Specify procedures and protocols regarding the confidentiality and security of information shared with the national association of insurance commissioners and its affiliates and subsidiaries pursuant to sections 3901.32 to 3901.37 of the Revised Code, including procedures and protocols for sharing by the national association of insurance commissioners with other state, federal, or international regulators;~~

~~(2) Specify that ownership of information shared with the national association of insurance commissioners and its affiliates and subsidiaries~~

pursuant to sections 3901.32 to 3901.37 of the Revised Code remains with the superintendent and the national association of insurance commissioners' use of the information is subject to the direction of the superintendent;

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

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

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

~~(F) The superintendent may enter into agreements governing the sharing and use of documents and information consistent with the requirements of this section.~~

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

~~(2) The disclosure of a document or information in connection with a regulatory or legal action pursuant to divisions (B)(4) and (D) of this section does not prohibit an insurer or any other person from taking steps to limit the dissemination of the document or information 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. (G) Documents, materials, or other information in the possession or control of the national association of insurance commissioners pursuant to this section shall be given confidential and privileged treatment and shall not be subject to section 149.43 of the Revised Code, subpoena, or discovery, and shall not be admissible in evidence in any private civil action.~~

Sec. 3901.371. The purpose of sections 3901.371 to 3901.378 of the

Revised Code is to provide the requirements for maintaining a risk management framework and completing an own risk and solvency assessment, and to provide guidance and instructions for filing an own risk and solvency assessment summary report with the superintendent of insurance. The requirements of these sections shall apply to all insurers domiciled in this state unless exempt pursuant to section 3901.376 of the Revised Code.

The general assembly finds and declares that the own risk and solvency assessment summary report will contain confidential and sensitive information related to an insurer or insurance group's identification of risks material and relevant to the insurer or insurance group filing the report. This information will include proprietary and trade secret information that has the potential for harm and competitive disadvantage to the insurer or insurance group if the information is made public. It is the intent of the general assembly that the own risk and solvency assessment summary report shall be a confidential document filed with the superintendent, that the own risk and solvency assessment summary report will be shared only as stated in sections 3901.371 to 3901.378 of the Revised Code to assist the superintendent of insurance in the performance of the superintendent's duties, and that in no event shall the own risk and solvency assessment summary report be subject to public disclosure.

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

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

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

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

(D) "Own risk and solvency assessment guidance manual" means the current version of the own risk and solvency assessment guidance manual developed and adopted by the national association of insurance commissioners and as amended from time to time. A change in the own risk and solvency assessment guidance manual shall be effective on the first day of January following the calendar year in which the changes have been

adopted by the national association of insurance commissioners.

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

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

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

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

(2) Notwithstanding any request from the superintendent, if the insurer is a member of an insurance group, the insurer shall submit the report required by division (A)(1) of this section if the superintendent is the lead state commissioner of the insurance group as determined by the procedures within the financial analysis handbook adopted by the national association of insurance commissioners.

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

(C) An insurer may comply with division (A) of this section by providing the most recent and substantially similar report provided by the insurer or another member of an insurance group of which the insurer is a

member to the commissioner of another state or to a supervisor or regulator of a foreign jurisdiction, if that report provides information that is comparable to the information described in the own risk and solvency assessment guidance manual. Any such report in a language other than English must be accompanied by a translation of that report into the English language.

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

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

(b) The insurance group of which the insurer is a member has annual direct written and unaffiliated assumed premium, including international direct and assumed premium, less than one billion dollars.

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

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

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

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

(a) The type and volume of business written;

(b) The ownership and organizational structure of the insurer or insurance group of which the insurer is a member;

(c) Any other factor the superintendent considers relevant to the insurer or insurance group of which the insurer is a member.

(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.

(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:

(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;

(2) At the request of a federal agency;

(3) At the request of an international supervisor;

(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.

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

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

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

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

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

(C)(1) Notwithstanding division (B) of this section, the superintendent may use the documents, materials, or other information in furtherance of any regulatory or legal action brought as a part of the superintendent's official duties.

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

(D) Neither the superintendent nor any person who receives documents, materials, or other own risk and solvency assessment related information, through examination or otherwise, while acting under the authority of the superintendent or with whom such documents, materials, or other information are shared pursuant to sections 3901.371 to 3901.378 of the Revised Code 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.

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

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

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



supervisory college as described in section 3901.351 of the Revised Code, and from the national association of insurance commissioners.

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

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

(a) Specify procedures and protocols regarding the confidentiality and security 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, including procedures and protocols for sharing by the national association of insurance commissioners with other state regulators from states in which the insurance group has domiciled insurers;

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

(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;

(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;

(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;

(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;

(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;

(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;

(i) Provide for the insurer's written consent in the case of an agreement involving a third-party consultant.

(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.

(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.

(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.

Sec. 3901.41. (A) As used in this section:

(1) "Automated transaction" has the same meaning as in section 1306.01

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

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

(a) An electronic mail address;

(b) An instant message identity;

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

(d) A facsimile number.

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

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

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

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

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

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

(b) The web site requires a person to enter a unique user credential to access personally identifiable information for which the person has the legal right to access.

(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.

(C)(1) If an insured 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 both of the following apply:

(a) The transmission of information is in compliance with sections 1306.07 and 1306.14 of the Revised Code.

(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. An insurer's form used

only to notify an insured of and obtain consent for an automated transaction does not need to be approved or accepted by the superintendent of insurance.

(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.

(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:

(i) A list or summary of the changes;

(ii) A link to the complete document located on the insurer's secure web site;

(iii) The following or substantially similar statement displayed in a prominent manner:

"There are changes in the terms or conditions of your policy, certificate, or contract of insurance."

(3) At a minimum, the details of the automated transaction shall include all of the following:

(a) A clear and conspicuous statement informing the insured of any right or option of the insured to receive a record on paper;

(b) The right of the insured to withdraw the insured's consent, and any consequences or fees if the insured withdraws consent;

(c) A description of the procedures the insured must use to withdraw consent and to update the insured's contact point.

(4) 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.

(5) A withdrawal of consent by an insured shall be effective within a reasonable time period, not to exceed ten business days after the receipt of the withdrawal by the insurer.

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

(E) Any insurer conducting the business of insurance via an automated transaction shall allow the insurer's insureds who agree to participate in an

automated transaction the option to withdraw consent from participating in the automated transaction.

(F) Notwithstanding any laws or regulations of this state relating to insurance, any policy, certificate, or contract of insurance, including any endorsements or amendments, that do not contain personally identifiable information may be posted to the insurer's web site in lieu of any other method of delivery. If the insurer elects to post any policy, certificate, or contract of insurance to the insurer's web site, all of the following shall apply:

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

(2) The policy, certificate, or contract of insurance is posted in such a manner that the insured can easily identify the insured's applicable policy, certificate, or contract and print or download the insured's documents without charge and without the use of any special program or application that is not readily available to the public without charge;

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

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

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

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

(H) This section does not supersede any time periods, filing requirements, or content of notices, documents, notices to insureds' agents required pursuant to sections 3937.25, 3937.26, and 3937.27 of the Revised Code, or information otherwise required by a law other than this section relating to insurance. This section does not apply to disclosures through

electronic media of certificates, explanation of benefit statements, and other mandated materials under the "Employee Retirement Income Security Act of 1974," 88 Stat. 829, 29 U.S.C. 1001, as amended, and any regulation adopted thereunder.

(I) If the consent of an insured to receive certain notices, documents, or information in an electronic form is on file with an insurer before the effective date of this section, if the consent was not accompanied by the details of the automated transaction described in division (C)(3) of this section, and if, pursuant to this section, an insurer intends to deliver additional notices, documents, or information to that insured in an electronic form, then, prior to delivering or at the time of delivering such additional notice, documents, or information electronically, the insurer shall notify the insured of the details of the automated transaction in compliance with division (C)(3) of this section.

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

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

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

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

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

~~(3)~~(4) The reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in division (B)(2) of section 3901.63 of the Revised Code, for the payment of the valid claims of its United States policyholders and ceding insurers, and their assigns and successors in interest in accordance with division (C) of this section.

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

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

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

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

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

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

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

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

(C)(1) A trust maintained by an assuming insurer under division (A)(3)(4) of this section shall meet the following requirements:

(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.

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.

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.

~~(2)~~(b) In the case of a group of assuming insurers, including incorporated and individual unincorporated underwriters, the trust shall consist of a trusteed account representing the group's liabilities attributable to business written in the United States. A trusteed surplus shall be maintained by the group, of which surplus one hundred million dollars shall be held jointly for the benefit of the United States ceding insurers of any member of the group. The following requirements apply to the group of assuming insurers:

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

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

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

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

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

~~(e)~~(iii) Each member of the group shall make available to the



superintendent an annual certification of the member's solvency by the member's domiciliary regulator and an independent public accountant.

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

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

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

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

~~(D)~~(3) No later than the last day of February of each year, the trustees of a trust maintained by an assuming insurer under division (A)~~(3)~~(4) of this section shall provide the superintendent with a written report setting forth the balance of the trust and listing the trust's investments as of the preceding thirty-first day of December. The trustees shall certify the date of the termination of the trust, if termination of the trust is planned, or shall certify that the trust does not expire prior to the following thirty-first day of December.

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

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

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

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

(c) Maintain financial strength ratings from two or more rating agencies

that meet criteria the superintendent sets forth in rule or regulation:

(d) Agree to submit to the jurisdiction of this state, appoint the superintendent as its agent for service of process in this state, and agree to provide security for one hundred per cent of the assuming insurer's liabilities attributable to reinsurance ceded by ceding insurers in the United States if it resists enforcement of a final judgment from the United States;

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

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

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

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

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

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

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

(a) The superintendent shall consider the list of qualified jurisdictions published through the national association of insurance commissioner's committee process in determining qualified jurisdictions. If the

superintendent approves a jurisdiction as qualified that does not appear on the list, the superintendent shall provide justification in accordance with criteria to be developed by the superintendent under rule or regulation.

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

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

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

(e) A jurisdiction shall not be recognized as a qualified jurisdiction if the superintendent has determined that the jurisdiction does not adequately and promptly enforce final judgments and arbitration awards from the United States.

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

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

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

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

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

(b) If a certified reinsurer chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust for the benefit of the ceding insurer, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this division or comparable laws of other jurisdictions within the United States, and for its obligations subject to division (A)(4) of this section.

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

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

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

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

(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.

(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.

~~(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.

(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.

(G)(1) In order to facilitate the prompt payment of claims, the superintendent may permit a certified reinsurer to defer the posting of security for catastrophe recoverables for a period of up to one year from the date of the first instance of a liability reserve entry by the ceding insurer as a result of a loss from a catastrophic occurrence.

(2) Upon notice by the ceding insurer to the superintendent that the certified reinsurer has failed to pay claims owed under a reinsurance agreement in a timely manner, the superintendent shall notify the certified reinsurer that it is no longer permitted to defer the posting of security for catastrophe recoverables.

(3) Reinsurance recoverables for only the following lines of business, as reported on the national association of insurance commissioners' annual financial statement related specifically to the catastrophic occurrence, shall be included in the deferral:

- (a) Fire;
- (b) Allied lines;
- (c) Farmowner's multiple peril;
- (d) Homeowners multiple peril;
- (e) Commercial multiple peril;
- (f) Inland marine;
- (g) Earthquake;
- (h) Auto physical damage.

(4) The superintendent may adopt rules in accordance with Chapter 119. of the Revised Code to establish the process for a certified reinsurer to seek a deferral of posting of security for catastrophe recoverables.

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 or certification after a hearing held pursuant to Chapter 119. of the Revised Code. The suspension or revocation shall not take effect until after the superintendent's order or hearing, unless one of the following applies:

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

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

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

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

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

Sec. 3901.63. (A) If section 3901.62 of the Revised Code does not apply to the reinsurance ceded to an assuming insurer by a domestic ceding insurer that is authorized to do any insurance business in this state, the ceding insurer may take credit for the 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 purposes and procedures manual of the securities valuation office, and that qualify as admitted assets;

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

(a) It 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.

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

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

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

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

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

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

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

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

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

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

Sec. 3901.64. (A) A domestic ceding insurer may take credit for any reinsurance ceded as provided in sections 3901.61 to 3901.63 of the Revised Code only if the reinsurance agreement contained in the reinsurance contract, and any agreement that provides security for the payment of the obligations under the reinsurance agreement, including any trust agreement, provide, in substance, for the following:

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

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



of the insolvency of the ceding insurer.

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

(2) The expense may be filed as a claim against the insolvent ceding insurer to the extent of a proportionate share of the benefit that may accrue to the ceding insurer solely as a result of the defense undertaken by the assuming insurer. Where two or more assuming insurers are involved in the same claim and a majority in interest elect to interpose a defense to the claim, the expense shall be apportioned in accordance with the terms of the reinsurance agreement as though the expense had been incurred by the ceding insurer.

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

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

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

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

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

conditions:

(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.

(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.

(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.

(4) The grantor shall waive any right otherwise available to it under the laws of the United States that are inconsistent with this division.

Sec. 3903.72. (A) The definitions provided in division (B) of this section shall apply after the operative date of the valuation manual.

(B) As used in sections 3903.72 to 3903.7211 of the Revised Code:

(1) "Accident and health insurance" means a contract that incorporates morbidity risk and provides protection against economic loss resulting from accident, sickness, or medical conditions and as may be specified in the valuation manual.

(2) "Appointed actuary" means a qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required in section 3903.722 of the Revised Code.

(3) "Company" means an entity that meets either of the following criteria:

(a) The entity has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this state and has at least one such policy in force or on claim.

(b) The entity has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts in any state and is required to hold a certificate of authority to write life insurance.

accident and health insurance, or deposit-type contracts in this state.

(4) "Deposit-type contract" means a contract that does not incorporate mortality or morbidity risks and as may be specified in the valuation manual.

(5) "Life insurance" means a contract that incorporates mortality risk, including an annuity and pure endowment contract, and as may be specified in the valuation manual.

(6) "Operative date of the valuation manual" means the date specified in division (B) of section 3903.728 of the Revised Code.

(7) "Policyholder behavior" means any action a policyholder, contract holder, or any other person with the right to elect options under a policy or contract, such as a certificate holder, may take under a policy or contract subject to this section including lapse, withdrawal, transfer, deposit, premium payment, loan, annuitization, or benefit elections prescribed by the policy or contract. "Policyholder behavior" does not include events of mortality or morbidity that result in benefits prescribed in the terms of the policy or contract.

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

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

(10) "Superintendent" means superintendent of insurance.

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

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

Sec. 3903.721. (A)(1) The superintendent shall annually value, or cause to be valued, the reserve liabilities, referred to as reserves, for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this state issued prior to the operative date of the valuation manual.

In calculating reserves, the superintendent may use group methods and approximate averages for fractions of a year or otherwise. The valuation of the reserves of a company organized under the laws of a foreign government

shall be limited to its United States business.

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

(2) The provisions set forth in sections 3903.723, 3903.724, 3903.725, and 3903.727 of the Revised Code shall apply to all policies and contracts, as appropriate, issued on or after January 1, 1989, and prior to the operative date of the valuation manual. The provisions set forth in sections 3903.726, 3903.728, and 3903.729 of the Revised Code shall not apply to any such policies and contracts.

(3) The minimum standard for the valuation of policies and contracts issued prior to January 1, 1989, shall be that provided by the laws in effect immediately prior to that date.

(B)(1) For all outstanding life insurance contracts, annuity and pure endowment contracts, deposit-type contracts, and accident and health contracts of every company issued on or after the operative date of the valuation manual, the superintendent shall annually value, or cause to be valued, the reserve liabilities for such contracts according to sections 3903.727, 3903.728, and 3903.729 of the Revised Code. The valuation of the reserves of a company organized under the laws of a foreign government shall be limited to its United States business.

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

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

Sec. 3903.722. (A) This section shall apply prior to the operative date of the valuation manual.

(B) Every life insurance company doing business in this state shall annually submit to the superintendent the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by rule by the superintendent are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply with the applicable laws of this state. The superintendent shall adopt rules establishing the form

and content of this opinion, and may require the life insurance company to supply information in addition to that contained in the actuarial opinion.

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

(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 (C) of this section.

(D) Each opinion required by division (C)(1) of this section shall be governed by the following provisions:

(1) The opinion shall be supported by a memorandum prepared in a form and contain content as specified by rule by the superintendent.

(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.

(E) Every opinion required by this section is governed by the following:

(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.

(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.

(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.

(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 (E)(9) and (F) 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 privileged, is not a public record under section 149.43 of the Revised Code, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action.

(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 (F) 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.

(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.

(F) Notwithstanding division (E) of this section, the superintendent may do any of the following:

(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;

(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.

(3) Share documents and materials or other information, including the confidential and privileged documents, materials, or information subject to division (E) of this section, with other state, federal, and international regulatory agencies and law enforcement officials and with the national association of insurance commissioners and its affiliates and subsidiaries, provided that the recipient agrees to maintain the confidential or privileged status of any confidential or privileged memorandum or other material and has the legal authority to do so;

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

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

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

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

(J) 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 (F)(2) and (3), (G), and (H) of this section.

~~Sec. 3903.72 3903.723. (A) The superintendent of insurance shall annually value, or cause to be valued, the reserve liabilities, referred to in this section as reserves, for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company~~

~~doing business in this state. The superintendent may certify the amount of such reserves, specifying the mortality tables, rates of interest, and net level premium method and other methods used to calculate reserves. In calculating reserves, the superintendent may use group methods and approximate averages for fractions of a year or otherwise. The valuation of the reserves of a company organized under the laws of a foreign government shall be limited to its United States business.~~

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

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

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

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

~~(2)(a) Every life insurance company, except as exempted by rule adopted by the superintendent, shall also include in the annual opinion required by division (B)(1) of this section an opinion of the same qualified~~



~~actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by rule by the superintendent, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including, but not limited to, the benefits under and the expenses associated with the policies and contracts.~~

~~(b) 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.~~

~~(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.~~

~~(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.~~

~~(3) Every opinion required by division (B) of this section is governed by the following:~~

~~(a) The opinion shall be submitted with the annual statement reflecting the valuation of the reserve liabilities.~~

~~(b) The opinion shall apply to all business in force including individual and group health insurance plans.~~

~~(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.~~

~~(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.~~

~~(e) 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.~~

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

~~(g) The superintendent shall keep as confidential and privileged any memorandum received in support of a qualified actuary's opinion and also any other material provided by the insurance company to the superintendent in connection with the opinion. The memorandum and other materials shall not be made public, and shall not be subject to subpoena other than for the purpose of defending an action required by this section or rules adopted under this section. However, 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.~~

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

~~(i) 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;~~

~~(ii) 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.~~

~~(iii) Share memoranda and other materials described in 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, with other local, state, federal, and international regulatory and law enforcement agencies, with local, state, and federal prosecutors, and with the national association of insurance commissioners and its affiliates and subsidiaries, provided that the recipient agrees to maintain the confidential or privileged status of any confidential or privileged memorandum or other material and has authority to do so;~~

~~(iv) Disclose memoranda and other materials described in this section in the furtherance of any regulatory or legal action brought by or on behalf of~~

~~the superintendent or the state, resulting from the exercise of the superintendent's official duties.~~

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

~~(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.~~

~~(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.~~

~~(l) The superintendent may enter into agreements governing the sharing and use of memoranda and materials consistent with the requirements of this section.~~

~~(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.~~

~~(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.~~

~~(C) Except in the case of policies and contracts to which division (D) of this section applies, the minimum standard for the valuation of reserves shall be the method set forth in section 3915.04 of the Revised Code, using 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 of the Revised Code or with the provisions of this division. The minimum standard for the valuation of all such policies and contracts shall be the commissioner's reserve valuation method defined in division (E), (F), (H), or (K) of this section and the following tables and interest rates:~~

~~(1) Using the mortality, morbidity, and interest rates as provided in divisions (B) to (H) of this section and in sections 3903.724, 3903.725, and 3903.727 of the Revised Code, the minimum standard for the valuation of policies and contracts shall be derived according to the commissioner's reserve valuation methods defined in divisions (I) to (L) and (O) of this section and section 3903.727 of the Revised Code for policies and contracts issued on or after January 1, 1989.~~

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

~~(a) On and after November 5, 1959, or an earlier date, not before July 17, 1947, specified in a written notice by the company to the superintendent of its election to use this table and before division (D)(1)(b) of this section became operative for subsequent policy issues, the commissioner's 1941 standard ordinary mortality table and three and one-half per cent interest;~~

~~(b) On and after January 1, 1966, or an earlier date, not before November 5, 1959, specified in a written notice by the company to the superintendent of its election to use this table and before division (D)(1)(c) of this section becomes operative for subsequent policy issues, the commissioner's 1958 standard ordinary mortality table and three and one-half per cent interest before January 1, 1975; four per cent interest on and after January 1, 1975 and before January 1, 1979; and four and one-half per cent interest on and after January 1, 1979; provided that modified premiums and present values for female risks may be calculated at an age three years younger than the actual age of the insured for policies issued before January 1, 1979, and at an age six years younger for policies issued~~

~~on and after January 1, 1979.~~

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

~~(2) on or after January 1, 1989, the minimum standard for the valuation of policies and contracts shall be derived from the following:~~

~~(1) The commissioners 1980 standard ordinary mortality table;~~

~~(2) At the election of the company for any one or more specified plans of life insurance, the commissioners 1980 standard ordinary mortality table with ten-year select mortality factors;~~

~~(3) Any ordinary mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by rules adopted by the department of insurance for use in determining the minimum standard of valuation for such policies.~~

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

~~(a) On and after November 5, 1959, or an earlier date, not before July 17, 1947, specified in a written notice by the company to the superintendent of its election to use this table and before division (D)(2)(b) of this section became operative for subsequent policy issues, the 1941 standard industrial mortality table and three and one-half per cent interest;~~

~~(b) On and after January 1, 1968, or an earlier date, not before September 2, 1963, specified in a written notice by the company to the superintendent of its election to use this table on or after January 1, 1989, the minimum standard for the valuation of policies shall be derived from the commissioners 1961 standard industrial mortality table and three and one-half per cent interest before January 1, 1975; four per cent interest on and after January 1, 1975 and before January 1, 1979; four and one-half per cent interest on and after January 1, 1979 and before January 1, 1989, or before an earlier date, not before January 1, 1983, specified in a written notice by the company to the superintendent of its election to issue such policies pursuant to the provisions of the nonforfeiture law for life insurance provided in section 3915.071 of the Revised Code. On and after January 1,~~

~~1989, or such earlier date, the interest rate to be used in calculating the minimum reserve for such policies is the applicable valuation interest rate as defined in section 3903.721 of the Revised Code. The superintendent may approve the use of any industrial mortality table adopted after 1980 by the national association of insurance commissioners for determining the minimum standard for the valuation of such policies or any industrial mortality table adopted after 1980 by the national association of insurance commissioners that is approved by rules adopted by the superintendent for use in determining the minimum standard of valuation for the policies.~~

~~(3)(D)~~ For all individual annuity and pure endowment contracts, excluding disability and accidental death benefits, ~~issued:~~

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

~~(b) On and after January 1, 1979, or an earlier date, not before January 1, 1975, specified by the company in a written notice to the superintendent of its election to use this table, the issued on or after January 1, 1989, the minimum standard for the valuation of contracts shall be derived from both of the following:~~

~~(1) The valuation interest rates as defined in section 3903.724 of the Revised Code;~~

~~(2) The 1971 individual annuity mortality table or any modification of that table approved by the superintendent and four per cent interest on and after January 1, 1975 and before January 1, 1979; four and one half per cent interest on and after January 1, 1979, and before January 1, 1983; and the valuation interest rate as defined in section 3903.721 of the Revised Code on and after January 1, 1983, except that on and after January 1, 1975, and before January 1, 1979, the interest rate is six per cent for single premium immediate contracts and on and after January 1, 1979, and before January 1, 1983, the interest rate is five and one half per cent for single premium deferred contracts and seven and one half per cent for single premium immediate contracts. The superintendent may approve the use of any individual annuity mortality table adopted after 1980 by the national association of insurance commissioners, either as adopted or as modified by the superintendent, for determining the minimum standard for the valuation of such contracts.~~

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

~~(a) On and after November 5, 1959, or an earlier date, not before July 17, 1947, as of which the company elected to comply with this division (D)(4)(a) and before division (D)(4)(b) of this section became operative for subsequent contract purchases in the policies issued on or after January 1, 1989, the group annuity mortality table for 1951, any modification of this table approved by the superintendent, or either of the tables, or modification of either of them, specified in division (D)(3)(a) of this section for individual annuity and pure endowment contracts and three and one-half per cent interest;~~

~~(b) On and after January 1, 1979, or an earlier date, not before January 1, 1975, specified by the company in a written notice to the superintendent of its election to use this table, the minimum standard for the valuation of contracts shall be derived from both of the following:~~

~~(1) The valuation interest rates as defined in section 3903.724 of the Revised Code;~~

~~(2) The 1971 group annuity mortality table, or any modification of that table approved by the superintendent, and six per cent interest on and after January 1, 1975, and before January 1, 1979; seven and one-half per cent interest on and after January 1, 1979, and before January 1, 1983, and the valuation interest rate as defined in section 3903.721 of the Revised Code on and after January 1, 1983. The superintendent may approve the use of any group annuity mortality table adopted after 1980 by the national association of insurance commissioners, either as adopted or as modified by the superintendent, for determining the minimum standard for the valuation of such contracts.~~

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

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

~~(b)(1) On and after January 1, ~~1961~~ 1989, the minimum standard for the valuation of policies and contracts shall be derived from the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries, with due regard for the type of benefit; except that a company may, at its option, use the class (3) disability table (1926) for policies and contracts issued on and after January 1, 1961,~~

~~and before January 1, 1966. Any such table, for active lives, shall be combined with a mortality table permitted for calculating the reserves for life insurance policies. The interest rate to be used in calculating 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 other table of disablement rates and termination rates adopted after 1980 by the national association of insurance commissioners for use in determining the minimum standard for the valuation of such total and permanent benefits those policies.~~

Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(2) The interest rate to be used in calculating minimum reserves for such benefits shall not exceed the applicable rate specified in section 3903.724 of the Revised Code for ordinary life insurance policies.

~~(6)(G)~~ For accidental death benefits in or supplementary to policies issued:

~~(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.~~

~~(b)(1) On and after January 1, 1961 1989, the minimum standard for the valuation of policies shall be derived from 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.~~

The table used shall be combined with a mortality table for calculating the reserves for life insurance policies.

(2) The interest rate to be used in calculating minimum reserves for such benefits shall not exceed the applicable rate specified in section 3903.724 of the Revised Code for ordinary life insurance policies.

~~(7)(H)~~ For group life insurance, life insurance issued on the substandard



basis and all other special benefits, such tables as may be approved by the superintendent and interest not to exceed the applicable rate used in division ~~(D)~~(1) of this section for ordinary life insurance policies.

~~(E)~~ This division defines the (I) Except as otherwise provided in divisions (L) and (O) of this section and in section 3903.727 of the Revised Code, reserves according to the commissioners reserve valuation method for all policies, riders, and supplemental policy provisions, with the life insurance ~~or~~ and endowment benefits, ~~or both,~~ of policies providing for a uniform ~~amounts~~ amount of life insurance and requiring the payment of uniform premiums. Reserves for such policies, riders, and provisions, ~~except as otherwise provided in divisions (F) and (K) of this section,~~ shall be the excess, if any, of the present value on the valuation date of the future guaranteed benefits over the then present value ~~on that date of the~~ any future modified net premiums therefor. The modified net ~~premium is a~~ premiums for a policy shall be the uniform percentage of ~~each~~ the respective contract ~~premium—specified~~ premiums for the guaranteed benefits such that the present value, at the date of issue of the policy, of all modified net premiums shall be equal to the sum of the then present value, ~~on the date of issue,~~ of the ~~future guaranteed~~ benefits plus the excess provided for by the policy and the excess of division ~~(E)~~(I)(1) over division ~~(E)~~(I)(2) of this section, as follows:

(1) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of the policy on which a premium falls due; ~~provided that such.~~ However, the net level annual premium shall not exceed the net level annual premium on the nineteen-year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of the policy.

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

~~(F)~~(J) This division defines the commissioners reserve valuation method for all life insurance policies issued on or after January 1, 1989, that have a first year premium in excess of the premium for the second policy year and for which excess no comparable benefit is provided in the first year and that provide either an endowment benefit or cash surrender value, or ~~both~~ a combination, in an amount greater than the excess premium. ~~Reserves for such policies before the assumed ending date shall be the greater of the amount calculated in accordance with division (E) of this section and the reserve calculated in accordance with that division but with the following~~

~~changes~~ The reserve according to the commissioners reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than the excess premium shall, except as otherwise provided in division (O) of this section, be the greater of either of the following:

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

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

~~(1)(a)~~ The value defined in division ~~(E)~~(I)(1) of this section shall be being reduced by fifteen per cent of the amount of such excess first-year premium;

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

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

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

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

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

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

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

(2) Group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code of 1954, as amended;

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

~~and~~

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

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

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

~~(2)~~ Reserves for benefits under such contracts, excluding disability and accidental death benefits, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contract at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations required by the terms of the contract that become payable prior to the end of each such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values.

~~(H)(M)(1)~~ In no event shall a company's aggregate reserves for all life insurance policies, ~~to which division (D) of this section applies,~~ excluding disability and accidental death benefits issued on or after January 1, 1989, be less than the aggregate reserves calculated in accordance with the method set forth in divisions ~~(E), (F), (G)(I), (K)(J), and (K), (L), (O), and (P)~~ of this section and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

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

~~(J)(N)(1)~~ Reserves for policies and contracts issued prior to January 1,

1989, may be calculated, at the option of the company, according to any standards that produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to that date.

(2) Reserves for any category of policies, contracts, or benefits as established by the superintendent, issued on or after January 1, 1989, may be calculated, at the option of the company, according to any standards ~~which~~ that produce aggregate reserves for such category greater than those calculated according to the minimum standards provided in this section, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for in such standards.

~~(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 sections 3903.722 and 3903.726 of the Revised Code shall not be considered to be the adoption of a higher standard of valuation.

(O) 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 (H) 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 comparable additional benefit is provided in the first year for the excess and that provides an endowment benefit or a cash surrender value or a combination in an amount greater than the excess premium, the provisions of this division shall be applied as if the method used in calculating the reserve for such policy were the method defined in division ~~(E)~~(I) of this section. The minimum reserve for such policy, at each policy anniversary, shall be the greater of the minimum reserve calculated in accordance with division ~~(F)~~(J) of this section and in accordance with this division.

~~(L) Methods for determining the reserves for plans of (P) In the case of a plan of life insurance that provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of a life insurance or annuity which are that is of such a nature that the minimum reserves cannot be determined by the methods described in divisions (I), (J), (K), (L), and (O) of this section shall be promulgated by rule adopted by the superintendent. The, the reserves to be held under such plans must the plan shall be appropriate in relation to the benefits and the pattern of premiums for each that plan and must shall be computed by methods which are a method that is consistent with the principles of this section as determined by rules adopted by the superintendent. This division applies to any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the company on the basis of an estimate of future experience made at the time of any such determination.~~

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

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

- ~~(1) Life insurance policies issued on or after January 1, 1989;~~
- ~~(2) Individual annuity and pure endowment contracts issued on or after January 1, 1989;~~
- ~~(3) Annuities and pure endowments purchased on or after January 1, 1989, under group annuity and pure endowment contracts;~~
- ~~(4) The net increase, if any, in amounts held under a guaranteed interest contact in a calendar year after January 1, 1989.~~

~~(B) The calendar year statutory valuation interest rates shall be~~

calculated as follows and the results rounded to the nearest one-quarter of one per cent:

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

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

(b) Provided that if the calendar year statutory valuation interest rate for ~~policies~~ a life insurance policy issued in any calendar year determined in accordance with this division does not differ from the calendar year valuation interest rate for similar policies issued in the preceding calendar year by at least one-half of one per cent, the calendar year valuation interest rate for ~~such policies~~ the policy shall be equal to the calendar year valuation interest rate for the preceding calendar year. ~~For any calendar year the~~ The calendar year statutory valuation interest rate ~~is~~ shall be determined for ~~each preceding calendar year starting with 1980 and for each subsequent year prior to the operative date of the valuation manual.~~

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

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

**Provided that**

(3) Except as provided in division (B)(2) of this section, for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, the life insurance formula stated in division (A)(B)(1) of this section shall apply to all annuity and guaranteed interest contracts with cash settlement options valued on an issue year basis and with guarantee durations in excess of ten years other than single premium immediate annuities and annuity benefits involving life contingencies arising from other annuity and guaranteed interest contracts.

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

~~(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.

(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.

(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.

~~(C) For life insurance policies change with the guarantee duration of the plan of insurance. The, 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

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

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

~~(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.

~~(D)(F)~~ Weighting factors for all other annuity and guaranteed interest contracts vary with the type of plan and guarantee duration. The types of plans are as follows:

(1) A plan type A is one in which funds may not be withdrawn or may be withdrawn in only one of three ways:

- (a) With an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the company;
- (b) Without such adjustment but in installments over five or more years;
- (c) As an immediate life annuity.

(2) A plan type B is one in which the funds may not be withdrawn before the expiration of the interest rate guarantee unless an adjustment is made to reflect changes in interest rates or asset values since receipt of the funds by the company or unless they are withdrawn in installments over five

or more years. At the end of the interest rate guarantee, funds may be withdrawn in a single sum or in installments over less than five years without adjustment.

(3) A plan type C is one in which the funds may be withdrawn before the end of the interest rate guarantee in a single sum or in installments over less than five years without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the company or subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

(4) The guarantee duration for an annuity or guaranteed interest contract with cash settlement options is the number of years for which the contract guarantees interest rates in excess of the calendar year valuation interest rate for life insurance policies with guarantee duration in excess of twenty years. The guarantee duration for annuity and guaranteed interest contracts without cash settlement options is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(5) Annuity and guaranteed interest contracts with cash settlement options may be valued on an issue year basis or on a change in fund basis. ~~If valued on an issue year basis, the interest rate used to determine the minimum valuation standard for the entire duration is the valuation interest rate for the year of issue or purchase. If valued on a change in fund basis, the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the contract is the valuation interest rate for the year of change in the fund.~~ Annuity and guaranteed interest contracts without cash settlement options must be valued on an issue year basis. As used in this division, an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

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

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



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

~~Weighting Factors for Annuities and Guaranteed Interest Contracts~~

~~Table I~~

~~Issue Year Basis—Interest on Considerations After First Year Guaranteed Or No Cash Settlement Options~~

<del>Guarantee Duration (Years)</del>	<del>Weighting Factor for Plan Type</del>		
	<del>A</del>	<del>B</del>	<del>C</del>
<del>5 or less</del>	<del>.80</del>	<del>.60</del>	<del>.50</del>
<del>More than 5, but not more than 10</del>	<del>.75</del>	<del>.60</del>	<del>.50</del>
<del>More than 10, but not more than 20</del>	<del>.65</del>	<del>.50</del>	<del>.45</del>
<del>More than 20</del>	<del>.45</del>	<del>.35</del>	<del>.35</del>

~~Table II~~

~~Issue Year Basis—Interest on Considerations After First Year NOT Guaranteed And Cash Settlement Options~~

<del>Guarantee Duration (Years)</del>	<del>Weighting Factor for Plan Type</del>		
	<del>A</del>	<del>B</del>	<del>C</del>
<del>5 or less</del>	<del>.85</del>	<del>.65</del>	<del>.55</del>
<del>More than 5, but not more than 10</del>	<del>.80</del>	<del>.65</del>	<del>.55</del>
<del>More than 10, but not more than 20</del>	<del>.70</del>	<del>.55</del>	<del>.50</del>
<del>More than 20</del>	<del>.50</del>	<del>.40</del>	<del>.40</del>

~~Table III~~

~~Change in Fund Basis—Interest on Considerations Guaranteed More Than Twelve Months After Valuation Date~~

<del>Guarantee Duration (Years)</del>	<del>Weighting Factor for Plan Type</del>		
	<del>A</del>	<del>B</del>	<del>C</del>
<del>5 or less</del>	<del>.95</del>	<del>.85</del>	<del>.55</del>
<del>More than 5, but not more than 10</del>	<del>.90</del>	<del>.85</del>	<del>.55</del>
<del>More than 10, but not more than 20</del>	<del>.80</del>	<del>.75</del>	<del>.50</del>
<del>More than 20</del>	<del>.60</del>	<del>.60</del>	<del>.40</del>

~~Table IV~~

~~Change in Fund Basis—Interest on Considerations NOT~~

Guarantee Duration (Years)	<del>Guaranteed More Than Twelve Months After Valuation Date</del> Weighting Factor for Plan Type		
	A	B	C
5 or less	1.00	.90	.60
More than 5, but not more than 10	.95	.90	.90
More than 10, but not more than 20	.85	.80	.55
More than 20	.65	.65	.45

~~(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~~ comparing the monthly average ~~for of the applicable period of time of~~ Moody's corporate bond yield average ~~monthly average~~ composite yield of the monthly average on seasoned corporate bonds, as published by Moody's investors service, inc. for the applicable time period, as prescribed below:

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

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

(3) The reference interest rate for other annuities with cash settlement

options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in division (G)(6) of this section, with guarantee duration of ten years or less, such average over the twelve-month period ending on the thirtieth day of June of the calendar year of issue or purchase.

(4) The reference interest rate for other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, such average over the twelve-month period ending on the thirtieth day of June of the calendar year of issue or purchase.

(5) The reference interest rate for all other annuity and guaranteed interest contracts with cash settlement options valued on a change in fund basis is such average over the twelve-month period ending on the thirtieth day of June of the calendar year in which a change in the fund occurs.

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

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

Sec. 3903.725. For individual annuity and pure endowment contracts issued on or after January 1, 1989, and for annuities and pure endowments purchased on or after January 1, 1989, under group annuity and pure endowment contracts, the minimum standard of valuation shall be the commissioners reserve valuation methods defined in divisions (I), (J), (K), and (L) of section 3903.723 of the Revised Code, interest rates defined in section 3903.724 of the Revised Code, and the following tables:

(A) For individual single premium immediate annuity contracts issued on or after January 1, 1989, excluding any disability and accidental death benefits in those contracts, the 1971 individual annuity mortality table or any individual annuity mortality table adopted after 1980 by the national association of insurance commissioners that is approved in rules adopted by the superintendent for use in determining the minimum standard of valuation for these contracts, or any modification of these tables approved by the superintendent;

(B) For individual annuity and pure endowment contracts issued on or

after January 1, 1989, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in those contracts, the 1971 individual annuity mortality table or any individual annuity mortality table adopted after 1980 by the national association of insurance commissioners that is adopted in rules by the superintendent for use in determining the minimum standard of valuation for those contracts, or any modification of these tables approved by the superintendent;

(C) For annuities and pure endowments purchased on or after January 1, 1989, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under those contracts, the 1971 group annuity mortality table, or any group annuity mortality table adopted after 1980 by the national association of insurance commissioners that is approved in rules adopted by the superintendent for use in determining the minimum standard of valuation for annuities and pure endowments, or any modification of these tables approved by the superintendent.

Sec. 3903.726. (A) This section shall apply on and after the operative date of the valuation manual.

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

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

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

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

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

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

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

(5) In the case of an opinion required to be submitted by a foreign or alien company, the superintendent may accept the opinion filed by that company with the insurance supervisory official of another state if the superintendent determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

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

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

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

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

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

Sec. 3903.727. For accident and health insurance contracts 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. For disability, accident and sickness, accident and health insurance contracts issued on or after January 1, 1989, and prior to the operative date of the valuation manual, the minimum standard of valuation is the standard adopted in rules by the superintendent.

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 (E) and (G) of this section.

(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:

(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.

(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.

(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 jurisdictions: the fifty states of the United States, American Samoa, the American Virgin Islands, the District of Columbia, Guam, and Puerto Rico.

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

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

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

(b) Members of the national association of insurance commissioners

representing jurisdictions totaling greater than seventy-five per cent of the direct premiums written as reported in one or more of the following annual statements most recently available prior to the vote in division (C)(1)(a) of this section: life, accident, and health annual statements; health annual statements; or fraternal annual statements.

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

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

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

(b) The commissioners annuity reserve valuation method for annuity contracts subject to division (B) of section 3903.721 of the Revised Code;

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

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

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

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

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

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

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

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

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

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

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

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

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

(G) The superintendent may require a company to change any assumption or method that in the opinion of the superintendent is necessary in order to comply with the requirements of the valuation manual or sections 3903.72 to 3903.7211 of the Revised Code, and the company shall adjust the reserves as required by the superintendent. The superintendent may take other disciplinary action as permitted under applicable laws.

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

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

(2) The principle-based valuation shall reflect conditions, for policies or



contracts with significant tail risk, appropriately adverse to quantify the tail risk.

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

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

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

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

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

(ii) To the extent company data is not available, relevant, or statistically credible, be established utilizing other relevant statistically credible experience.

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

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

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

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

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

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

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

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

(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.

(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 (F) of section 3903.728 of the Revised Code.

(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 (F) 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.

(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;

(d) Any principle-based valuation report developed under division (B)(3) of section 3903.729 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 report;

(e) Any documents, materials, data, and other information submitted by a company under section 3903.7210 of the Revised Code, referred to collectively as "experience data," and any other documents, materials, data, and other information, including all working papers, and copies thereof, created or produced in connection with such experience data, in each case that include any potentially company-identifying or personally identifiable

information, that is provided to or obtained by the superintendent, which when combined with any experience data is referred to as "experience materials," and any other documents, materials, data, 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 experience materials.

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

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

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

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

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

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

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

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

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

(D) The superintendent may receive documents, materials, data, and other information, including otherwise confidential and privileged

documents, materials, data, or information, from the national association of insurance commissioners and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions, and from the actuarial board for counseling and discipline or its successor. The superintendent shall maintain as confidential or privileged any document, material, data, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, data, or other information.

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

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

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

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

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

(2) The confidential information may otherwise be released by the superintendent with the written consent of the company.

(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.

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

events:

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

(2) A life or health insurer's filing of an RBC report that indicates that the insurer's total adjusted capital is greater than or equal to its company action level RBC but less than the product of ~~2.5~~ 3.0 and its authorized control level RBC, and that indicates a negative trend;

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

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

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

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

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

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

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

(4) Identify the key assumptions impacting the insurer's projections

made pursuant to division (B)(3) of this section, and describe the sensitivity of the projections to the assumptions;

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

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

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

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

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

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

level event.

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

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

Sec. 3906.01. As used in this chapter:

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

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

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

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

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

(a) 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;

(b) 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.

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

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

(G) "Hedging transaction" means a derivative transaction that is entered into and maintained to reduce either of the following:

(1) 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;

(2) 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.

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

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

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

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

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

(M) "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 chapter. "Replication transaction" does not include a derivative transaction that is entered into as a hedging transaction.

(N) "Securities valuation office" means the securities valuation office of the national association of insurance commissioners or any successor office.

(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.

(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.

(Q) "Superintendent" means the superintendent of insurance.

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.

(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.

(C) In determining whether to permit an entity to invest pursuant to this chapter, the superintendent shall consider all of the following:

(1) The character, reputation, and financial standing of the officers of the entity;

(2) The character, reputation, and financial condition of the entity;

(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;

(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;

(5) Any other factor the superintendent considers relevant.

(D) Separate accounts established in accordance with section 3907.15 of the Revised Code shall continue to be governed by that section.

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:

(a) 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;

(b) The minimum capital or minimum surplus required by statute or rule for maintenance of an insurer's certificate of authority in this state;

(c) All invested assets of an entity organized under Chapter 3919. or 3939. of the Revised Code;

(d) For title insurers, the quotient of annualized net earned premiums divided by eight;

(e) For multiple employer welfare arrangements, the greater of three hundred per cent of the risk-based capital amount reported in the annual

statement or the quotient of annualized net earned premiums divided by twelve.

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

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

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

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

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

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

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

(d) Changes in economic conditions that would make liquidity more important than contemplated and would force untimely sale of assets or prevent timely investments;

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

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

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

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

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

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

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

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

(f) Any other factor the superintendent considers relevant.

Sec. 3906.04. (A) Subject to this chapter, an insurer making investments under this chapter may loan or invest its funds, and may buy, sell, hold title to, possess, occupy, pledge, convey, manage, protect, insure, and deal with its investments, property, and other assets to the same extent as any other person or corporation under the laws of this state and of the United States.

(B) With respect to all of the insurer's investments, the board of directors of an insurer making investments under this chapter shall exercise the judgment and care, under the circumstances then prevailing, that persons of reasonable prudence, discretion, and intelligence would exercise in the management of a like enterprise, not in regard to speculating but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. Investments shall be of sufficient value, liquidity, and diversity to assure the insurer's ability to meet its outstanding obligations based on reasonable assumptions as to new business production for current lines of business. As part of its exercise of judgment and care, the board of directors shall take into account the prudence evaluation criteria of division (C) of section 3906.05 of the Revised Code. The exercise of judgment and care by the board of directors under this section shall also be governed by sections 1701.59 and 1702.30 of the Revised Code, as applicable.

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

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

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

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

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

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

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

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

(1) General economic conditions;

(2) The possible effect of inflation or deflation;

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

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

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

(a) Individual investments;

(b) Classes of investments;

(c) Industry concentrations;

(d) Dates of maturity;

(e) Geographic areas.

(6) The quality and liquidity of investments in affiliates;

(7) The investment exposure to all of the following risks, quantified in a manner consistent with the insurer's acceptable risk level as described in the insurer's written investment policy, required under division (H) of section 3906.06 of the Revised Code:

(a) Liquidity;

(b) Credit and default;

(c) Systemic or market;

(d) Interest rate;

(e) Call, prepayment, and extension;

(f) Currency;

(g) Foreign sovereign.

(8) The amount of the insurer's assets, capital and surplus, premium writings, insurance in force, and other appropriate characteristics;

(9) The amount and adequacy of the insurer's reported liabilities;

(10) The relationship of the expected cash flows of the insurer's assets and liabilities, and the risk of adverse changes in the insurer's assets and liabilities;

(11) The adequacy of the insurer's capital and surplus to secure the risks and liabilities of the insurer;

(12) Any other factors relevant to whether an investment is prudent.

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

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

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

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

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

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

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

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

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

Sec. 3906.07. All of the following classes of investments may be counted for the purposes specified in section 3906.11 of the Revised Code, whether they are made directly or as a participant in a partnership, joint venture, or limited liability company:

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

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

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

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

(E) Real property necessary for the convenient transaction of the insurer's business;

(F) Real property, together with the fixtures, furniture, furnishings, and equipment pertaining thereto in the United States or Canada, which produces, or after suitable improvement can reasonably be expected to produce, substantial income;

(G) Loans, securities, or other investments of the types described in divisions (A) to (F) of this section in countries other than the United States and Canada;

(H) Bonds or other evidences of indebtedness of international development organizations of which the United States is a member;

(I) Loans upon the security of the insurer's own policies in amounts that are adequately secured by the policies and that in no case exceed the surrender values of the policies;

(J) Subsidiary or affiliate equity investments, including common stock, equity-like preferred stock, limited liability partnerships, or limited liability membership interests, of entities that are engaged exclusively in insurance,

finance, or investments, and investment management companies that are registered with the securities and exchange commission under the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C. 80a-1 to 80a-64, as amended:

(K) Investments not otherwise permitted by this section, not specifically prohibited by statute, to which both of the following apply:

(1) The assets do not exceed five per cent of the first five hundred million dollars of the insurer's admitted assets plus ten per cent of the insurer's admitted assets exceeding five hundred million dollars.

(2) The assets qualified to meet the minimum asset requirement at the time they were acquired.

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

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

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

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

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

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

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

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

(3) Investments authorized by division (D) of section 3906.07 of the Revised Code shall be not more than twenty per cent of an insurer's

admitted assets in the case of life insurers and not more than twenty-five per cent of an insurer's admitted assets in the case of insurers that are not life insurers.

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

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

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

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

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

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

(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.

(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.

(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.

(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 in the insurer's most recent annual financial statement required to be filed with the superintendent.

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

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

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

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

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

Sec. 3906.11. (A) An insurer investing under this chapter shall maintain assets in an amount equivalent to the sum of its liabilities and its minimum financial security benchmark at all times.

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

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

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

(2) Cash received in a dollar roll transaction;

(3) Other amounts reported as borrowed money.

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

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

(F) Notwithstanding any provision of this chapter to the contrary, an asset acquired in the bona fide enforcement of creditors' rights or in bona fide workouts or settlements of disputed claims may be counted toward the minimum asset requirement for five years if the asset is real property and three years if the asset is not real property.

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

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

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

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

(B) An insurer shall notify the superintendent of insurance in writing within three days after identifying either of the following:

(1) Any event or occurrence related to an insurer's derivatives use that may lead to a material change to the insurer's policyholder surplus;

(2) Any event or occurrence related to an insurer's derivatives use that, with the passage of time, may lead to a material change to the insurer's policyholder surplus.

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

(D) The superintendent may adopt rules prescribing the form and content of derivative use plans, as well as any internal controls the superintendent considers necessary.

(E) An insurer that engages in hedging transactions or replication transactions shall do both of the following:

(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;

(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.

(F) An insurer may not invest, or use, a derivative instrument for any purpose other than a hedging transaction, income generation, or replication.

(G) All documents provided to the superintendent under this section shall be deemed trade secrets and shall be provided with trade secret protection. Such documents shall also be considered work papers of the superintendent that are subject to section 3901.48 of the Revised Code and are confidential and privileged and shall not be considered a public record, as defined in section 149.43 of the Revised Code. The original documents and any copies of them shall not be subject to subpoena and shall not be made public by the superintendent or any other person, except as otherwise provided in section 3901.48 of the Revised Code.

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.

(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.

(C) The superintendent may count toward satisfaction of the minimum asset requirement any assets that an insurer is required to invest under the laws of a country other than the United States as a condition for doing business in that country if the superintendent finds that counting them does not endanger the interests of the insurer's insureds or creditors, or the general public.

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

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

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

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

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

(1) The superintendent may prescribe for defined classes of insurers special procedural requirements, including special reports and prior approval

on investments, as well as disapproval of investments subsequent to either.

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

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

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

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

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

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

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

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

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

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

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

(5) Which is acquired, owned, or held for the purpose of developing, improving, or otherwise utilizing such real estate for the production of income, without restriction or limitation as to time, and may acquire, lease, hold, and manage personal property used in connection therewith. No

investments in real estate to be used primarily for recreational, agricultural, or mining purposes shall be made under authority of division (A)(5) of this section and except for investments authorized under divisions (A)(1), (2), (3), and (4) of this section, no domestic life insurance company shall invest in real estate under divisions (A)(5) and (R) of this section a sum exceeding in the aggregate ten per cent of its admitted assets on the preceding thirty-first day of December.

All real estate specified in divisions (A)(3) and (4) of this section, which is not necessary for its accommodation in the convenient transaction of its business, shall be sold by the company and disposed of within five years after it has acquired the title to such real estate or within five years after such real estate has ceased to be necessary for the accommodation of its business, unless the company procures the certificate of the superintendent of insurance that its interests will suffer materially by a forced sale of the real estate, in which event the time for the sale may be extended to such time as the superintendent directs in such certificate.

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

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

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

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

the first year after such date;

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

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

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

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

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

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

(2) In legally authorized and executed bonds, notes, warrants, and

securities which are the direct obligation of or are guaranteed by Canada, or which are the direct obligation of or are guaranteed as to both principal and interest by any province of Canada, or which are the direct obligation of or are guaranteed as to both principal and interest by any municipality of Canada having a population of fifty thousand or more by the latest official census, and which are not in default as to principal or interest;

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

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



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

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

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

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

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

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

(K)(1) In bonds or notes secured by mortgages or deeds of trust which

are a first lien upon unencumbered fee simple real estate in any state, the Commonwealth of Puerto Rico, the District of Columbia, or Canada, provided the amount loaned does not exceed eighty per cent of the actual market value of such property.

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

In the event the amount loaned under division (K)(1) of this section exceeds eighty per cent of the actual market value of the land, the structures on the land must be insured by an authorized fire insurance company or covered by other comparable indemnification, and the policies or indemnifications shall be payable or assigned to the mortgagee or to a trustee in its behalf and shall be held by the mortgagee or an agent of the mortgagee or by such trustee; or in lieu of holding such policies or indemnifications, 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 fire insurance company or other comparable source, insurance or indemnification.

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

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

restoring, or rebuilding such buildings;

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

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

(L) In bonds, notes, or other evidences of indebtedness of corporations, trusts, partnerships, or similar business entities organized under the laws of the United States, or any state thereof, the Commonwealth of Puerto Rico, the District of Columbia, or Canada or any province of Canada, secured by assignment of lease or leases or the rentals payable under such leases, of real or personal property or both to (1) the United States or any instrumentality thereof, or any state of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, or any county, city, town, school, or water district, authority, or other political subdivision in any such government, or Canada, any province of Canada, or any municipal corporation of Canada that has a population of fifty thousand or more by the latest official census; or (2) one or more corporations, trusts, partnerships, or similar business entities organized under the laws of the United States, any state thereof, the Commonwealth of Puerto Rico, the District of Columbia, or Canada or any province of Canada, provided that (a) the fixed rentals assigned shall be sufficient to repay the indebtedness within the unexpired term of the lease, exclusive of the term which may be provided by an enforceable option of renewal; (b) such lessee has not defaulted in payment of interest or principal on any of its bonds, notes, debentures, or other evidences of indebtedness during the five years immediately preceding the date of the investment, and provided the average net earnings available for fixed charges of such lessee under division (L)(2) of this section for not less than five fiscal years preceding such investment have been at least one and one-half times average fixed charges for that period and during either of the last two years of such period, the net earnings available for fixed charges shall have been not less than one and one-half times fixed charges for such year, except that railroad companies and utility companies may qualify as lessees herein by application of the earnings test provided for railroads under division (J)(1) of this section and for utilities under division (J)(4) of this section; and (c) a

first lien on the interest of the lessor in the unencumbered property so leased shall be obtained as additional security for the indebtedness;

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

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

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

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

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

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

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

(P)(1) In the preferred stocks of any company organized under the laws of the United States or of any state thereof engaged directly and primarily in

the production and sale of, or in the purchase and sale of electricity or gas, or in the operation of telephone or telegraph systems or water works, or in some combination of them, if the average annual net earnings of such company, for not less than five fiscal years preceding purchase thereof, after deduction of interest on all mortgages, bonds, debentures, and funded debts and after deduction of the proper charges for replacements, depreciation, and obsolescence, have been at least two times the average yearly amount which is required to pay the dividends or distributions on all preferred stocks; and in which the mortgages, bonds, debentures, funded debts, and preferred stocks shall not in the aggregate exceed seventy per cent of the total capitalization of such company, including mortgages, bonds, debentures, funded debts, and preferred and common stocks;

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

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

(4) In the bonds, notes, debentures, or other evidences of indebtedness of a solvent corporation, trust, partnership, or similar business entity existing under the laws of the United States, of any state thereof, the Commonwealth of Puerto Rico, or Canada or any province of Canada, provided that either:

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

commissioners;

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

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

(6) In the stocks, limited liability company membership interests, limited partnership interests, or limited liability partnership interests of insurance, financial, investment, and investment management companies, which investment management companies are registered with the securities and exchange commission under the "Investment Company Act of 1940," 54 Stat. 789, 15 80a-1, as amended, or the stocks, limited liability company membership interests, limited partnership interests, or limited liability partnership interests in an entity wholly owned by a domestic company or by a domestic company and its affiliates, that is formed and maintained to acquire or hold specific assets or liabilities for bankruptcy remoteness or limitation of liability purposes, except its own stock, but no domestic life insurance company shall invest in such stocks, limited liability company membership interests, or limited liability partnership interests under division (P)(6) of this section, exclusive of its investments in stocks or limited liability company membership interests of insurance company subsidiaries or subsidiaries engaged exclusively in the ownership of insurance company subsidiaries, a sum exceeding the lesser of fifty per cent of its policyholder

surplus or ten per cent of its admitted assets as of the preceding thirty-first day of December unless the approval of the superintendent of insurance is first obtained. Whenever the superintendent has reason to believe that the retention, investment, or acquisition of the stock, limited liability company membership interest, limited partnership interest, or limited liability partnership interest of any such company substantially lessens competition generally in the business of insurance or creates a monopoly therein the superintendent shall proceed under section 3901.13 of the Revised Code to cause such domestic insurance company to divest itself of such stock, limited liability company membership interest, limited partnership interest, or limited liability partnership interest.

(7)(a) In bonds, notes, debentures, or other evidences of indebtedness issued, assumed, or guaranteed by a solvent corporation, trust, or partnership formed or existing under the laws of a foreign jurisdiction, provided each such foreign investment is of the same kind and quality as United States investments authorized under this section; or in common or preferred stock, shares, membership interest, or partnership interest of any solvent business entity formed or existing under the laws of a foreign jurisdiction provided each such foreign investment is of the same kind and quality as United States investments authorized under this section; or in bonds or other evidences of indebtedness issued, assumed, or guaranteed by a foreign jurisdiction.

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

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

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

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

preceding thirty-first day of December.

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

(8) An insurer may invest without limitation in investments of government money market funds. As used in division (P)(8) of this section, "government money market fund" means a mutual fund that at all times invests in obligations issued, guaranteed, or insured by the federal government of the United States, or collateralized repurchase agreements comprised of these obligations, and that qualifies for investment without a reserve pursuant to the purposes and procedures of the securities valuation office of the national association of insurance commissioners.

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

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

As used in division (R) of this section:

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



administration.

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

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

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

(S)(1) No domestic life insurance company shall subscribe to or participate in any underwriting for the purchase or sale of securities or property, nor shall it enter into any such transaction for purchase or sale on account of said company jointly with any other person, nor shall any such company enter into any agreement to withhold from sale any of its property, but the disposition of its property shall be at all times within the control of its board of directors. Nothing contained in division (S)(1) of this section shall be construed to invalidate or prohibit an agreement by an insurance company for the purchase for its own account of an entire issue of the securities of a corporation or to invalidate or prohibit an agreement by an insurance company and one or more other investors to join and share in the purchase of investments for their individual accounts and for bona fide investment purposes.

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

(3) As used in this section:

(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 invested in or loaned upon the security of the obligations, property, or securities of a particular corporation, trust, partnership, or similar business entity a sum exceeding the greater of two per cent of its admitted assets as of the preceding thirty-first day of December or twenty-five per cent of that portion of its capital and surplus, or its surplus in the case of a mutual company, that exceeds the minimum required capital and surplus under section 3907.05 of the Revised Code unless the approval of the superintendent of insurance is first obtained. The restrictions of division (S)(7) of this section do not apply to divisions (C), (F), (G), (H), (P)(6), and (R) of this section or to any valid obligation issued, assumed, or guaranteed by the United States, or any state thereof, the Commonwealth of Puerto Rico, the District of Columbia, or Canada or any province of Canada. For purposes of division (S)(7) of this section, such company may, at its option, consider either the lessor or the lessee under division (L) of this section to be the person to whom any such investment or loan is made.

(8) This section does not affect the propriety or legality of an investment

made by a domestic life insurance company which was in accordance with the laws in force at the time of the making of the investment.

(T) A domestic life insurance company 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.

(U) As used in divisions (U) and (V) of this section:

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

(2)(a) "Derivative instrument" means an agreement, option, instrument, or a series or combination thereof of either of the following types:

(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;

(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.

(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.

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

(4) "Hedging transaction" means a derivative transaction that is entered into and maintained to reduce either of the following:

(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;

(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.

(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.

(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 chapter. "Replication transaction" does not include a derivative transaction that is entered into as a hedging transaction.

(V)(1) Prior to an insurer entering into derivative transactions, the board of directors of the insurer shall approve a derivative use plan.

(2) An insurer shall notify the superintendent of insurance in writing within three days after identifying either of the following:

(a) Any event or occurrence related to an insurer's derivatives use that may lead to a material change to the insurer's policyholder surplus;

(b) Any event or occurrence related to an insurer's derivatives use that, with the passage of time, may lead to a material change to the insurer's policyholder surplus.

(3) Prior to entering into derivative transactions, an insurer shall file with the superintendent a copy of its derivative use plan and internal controls, for informational purposes. The insurer shall keep current the copy of its derivative use plan and internal controls filed with the superintendent. The insurer shall not enter into derivative transactions until thirty calendar days after the date on which the derivative use plan and internal controls is filed with the superintendent. This thirty-calendar-day period is to begin on the date that the superintendent receives the derivative use plan and internal controls.

(4) The superintendent may adopt rules prescribing the form and content of derivative use plans, as well as any internal controls the superintendent considers necessary.

(5) An insurer that engages in hedging transactions or replication transactions shall do both of the following:

(a) 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;

(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.

(8) All documents provided to the superintendent under division (V) of this section shall be deemed trade secrets and shall be provided with trade secret protection. Such documents shall also be considered work papers of

the superintendent that are subject to section 3901.48 of the Revised Code and are confidential and privileged and shall not be considered a public record, as defined in section 149.43 of the Revised Code. The original documents and any copies of them shall not be subject to subpoena and shall not be made public by the superintendent or any other person, except as otherwise provided in section 3901.48 of the Revised Code.

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 person to whom any annuity or pure endowment is presently or prospectively payable by the terms of an individual annuity or pure endowment contract, except where the policy or contract declares some other person to be the owner or holder thereof, in which case such owner or policyholder shall be deemed the policyholder, and except in cases of assignment. In the case of any individual policy or contract insuring two or more persons jointly or in case the policy or contract declares two or more persons to be the owner, the persons insured or declared to be the owner are considered as one policyholder for the purposes of this section. In case any such policy or contract has been assigned by an assignment absolute on its face to an assignee other than the corporation, and such assignment has been filed at the principal office of the corporation at least thirty days prior to the date of the meeting of policyholders, then such assignee shall be deemed a policyholder. Except as provided in this section, an assignee of a policy or contract shall not be deemed a policyholder. The reference in division (C) of this section to insurance in the amount of one thousand dollars or more is deemed to include any annuity contract, the commuted value of which is one thousand dollars or more on the date of said meeting, and any pure endowment contract for the principal sum of one thousand dollars or more.

Notice of the meeting of policyholders shall be given by mailing such notice from the home office of the corporation at least thirty days prior to such meeting in a sealed envelope, postage prepaid, addressed to such policyholders at their last known post-office addresses, provided that personal delivery of such written notice to any policyholder evidenced by written receipt therefor may be substituted for mailing the same. The meeting shall be otherwise provided for and conducted in such manner as is provided in the mutualization plan, provided that policyholders may vote in person, by proxy, or by mail, and that all votes shall be cast by ballot on a uniform ballot furnished by the corporation. The superintendent of insurance shall supervise and direct the method and procedure of said meeting and shall appoint an adequate number of inspectors to conduct the voting at said meeting who may determine all questions concerning the verification of the ballots, the ascertainment of the validity of such ballots, the qualifications of the voters, and the canvass of the vote, and who shall certify to the superintendent and to the corporation the result of such proceedings, which shall be supervised by said inspectors in accordance with such rules as are prescribed by the superintendent. All necessary expenses incurred by the superintendent shall be paid by the corporation, as certified to by ~~him~~ the superintendent.

Before such a plan can be carried out, it must be submitted to the superintendent and must be approved by ~~him~~ the superintendent in writing; provided that every payment for the acquisition of any shares of the capital stock of such corporation, the purchase price of which is not fixed by such plan, shall be subject to the approval of the superintendent, and provided that neither such plan, nor any such payment, shall be approved by the superintendent unless at the time of such approvals, respectively, the corporation, after deducting the aggregate sum appropriated by such plan for the acquisition of any part or all of its capital stock, and, in the case of any payment not fixed by such plan and subject to separate approval by the superintendent, after deducting also the amount of such payment, shall be possessed of net assets of not less than two hundred thousand dollars from which it shall maintain its deposit made previously with the superintendent, and such assets shall be not less than the entire liabilities of the corporation, including the net values of its outstanding contracts computed according to the standard adopted by the corporation under ~~section~~ sections 3903.72 to 3903.7211 of the Revised Code and including all funds, contingent reserves, and surplus, except for such surplus as has been appropriated or paid under such plan.

Sec. 3913.34. (A) Sections 3913.11 to 3913.13 and 3913.20 to 3913.23

of the Revised Code shall apply to a mutual insurance holding company as if the mutual insurance holding company were a domestic mutual insurance company. The members of the mutual insurance holding company are deemed to be members of a domestic mutual insurance company for all purposes of such sections.

(B) A reorganization of a domestic mutual life insurance company subject to sections 3913.25 to 3913.38 of the Revised Code ~~also is subject to sections 3907.09 to 3907.11 of the Revised Code, if applicable, but~~ is not subject to sections 3901.32 to 3901.323 of the Revised Code.

(C) Notwithstanding division (B) of this section, for a period of five years following the effective date of a reorganization under sections 3913.25 to 3913.38 of the Revised Code, no person shall acquire control of a reorganized stock company without compliance with sections 3901.32 to 3901.323 of the Revised Code. For purposes of this division, "control" has the same meaning as in division (B) of section 3901.32 of the Revised Code, except that control is presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing five per cent or more of the voting securities of any other person.

(D) An intermediate holding company or, if there is no such company, a reorganized stock company shall not issue shares of stock, in addition to the shares issued pursuant to the reorganization plan under which the company was formed, without the prior approval of the mutual insurance holding company as its majority shareholder. The prior approval of the mutual insurance holding company must be evidenced by a resolution of the board of directors of the mutual insurance holding company delivered to the board of directors of the intermediate holding company or the reorganized stock company prior to the issuance of the additional shares.

(E) A mutual insurance holding company, and an intermediate holding company, if any, are deemed to be insurers subject to sections 3901.07, 3901.071, and 3901.48 of the Revised Code.

Sec. 3915.04. Life insurance policies may provide for not more than one year preliminary term insurance by incorporation therein of the following clause immediately preceding the "change of beneficiary" clause:

"The first year's insurance under this policy is term insurance."

If the premium charged for term insurance under a limited payment life or endowment preliminary term policy, providing for the payment of all premiums thereon in less than twenty years from the date of the policy, exceeds that charged for like insurance under whole life preliminary term policies of the same company, the reserve thereon at the end of any year, including the first, shall not be less than the reserve on a whole life

preliminary term policy issued in the same year and at the same age together with an amount equivalent to the accumulation of a net level premium sufficient to provide for a pure endowment at the end of the premium-payment period equal to the difference between the value at the end of such period of such a whole life preliminary term policy and the full reserve at such time of such limited payment life or endowment policy. This section does not apply to any policy issued under section 3915.07 of the Revised Code on or after the operative date for such policy as authorized by division (H) of such section.

This section is applicable to any preliminary term policies, except in the case of ~~policies which are subject to the valuation requirements of division (D) of life insurance policies and annuity and pure endowment contracts issued between July 17, 1947, and November 5, 1959, that are subject to valuation under section 3903.72~~ 3903.723 of the Revised Code.

Sec. 3915.071. (A) As used in this section, "operative date of the valuation manual" means the January 1 of the first calendar year that the valuation manual, as defined in section 3903.72 of the Revised Code, is effective.

(B) No policy of life insurance shall be delivered or issued for delivery in this state, on or after January 1, 1989, or the operative date (not before January 1, 1983) applicable to such policy, as permitted by division (P) of this section, unless it contains in substance the provisions set out in this division which are applicable to the plan of insurance or corresponding provisions which, in the opinion of the superintendent of insurance, are at least as favorable to the policyholder:

(1) That the company will, upon proper request within sixty days after the due date of a premium in default, grant a paid-up nonforfeiture benefit on a plan stated in the policy. The effective date of the benefit shall be the due date of the unpaid premium. The benefit shall be in the amount specified in this section.

(2) That upon proper request, within the same sixty-day period, the company may substitute an alternative nonforfeiture benefit of an actuarially equivalent value. The amount may be greater or the death benefit may be for a longer period. If the benefit is an endowment benefit, the amount may be greater or payment may be made earlier.

(3) That after premiums have been paid for at least three full years for ordinary insurance or for at least five full years for industrial insurance, the company will, upon surrender of the policy within sixty days after the due date of an unpaid premium, pay a cash surrender value in the amount specified in this section in lieu of any paid-up nonforfeiture benefits.



(4) That if another available nonforfeiture benefit is not elected within sixty days after the due date of an unpaid premium, the paid-up nonforfeiture benefit specified in the policy shall become effective.

(5) That if all premiums for the policy have been paid, the company will pay the cash surrender value, upon surrender of the policy within thirty days after a policy anniversary, in the amount specified in this section. That value will also be available within any such thirty-day period if the policy is continuing under any nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance.

(6) A statement of the mortality table, interest rate, and method used in calculating cash surrender values and paid-up nonforfeiture benefits available under policies which guarantee unscheduled changes in benefits or premiums upon the happening of specified events or upon the exercise of an option without change to a new policy.

For all other policies, a statement of the mortality table and interest rate used in calculating the cash surrender values and paid-up nonforfeiture benefits, together with a table showing such values and benefits on each policy anniversary during the first twenty policy years, or the term of the policy, if shorter. Values and benefits are to be calculated on the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the company on the policy.

(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 at issue, at the option of the insured, to a policy by rider or supplemental policy provision and for an identifiable additional premium, the cash surrender values for the basic insurance and for the supplemental insurance or benefits shall be determined as if each had been issued as a separate policy. The cash surrender value of the policy shall be the sum of the cash surrender value of the basic insurance and of the supplemental insurance or benefits.

The cash surrender value for a family policy, which defines a primary insured and which provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age seventy-one, is the sum of the cash surrender value of the insurance on the primary insured and the cash surrender value of the term insurance on the spouse, determined as if the insurance on each had been issued as a separate policy.

Any cash surrender value available within thirty days after a policy anniversary, under a policy paid up by completion of all premium payments or continued under any paid-up nonforfeiture benefit, shall be not less than the present value, on the anniversary, of the future guaranteed benefits provided by the policy, including any paid-up additions, and decreased by any indebtedness to the company on the policy.

Any paid-up nonforfeiture benefit available upon default in payment of the premium due on a policy anniversary shall have a present value as of the anniversary at least equal to the policy's cash surrender value on that date or, if none is provided for, the cash surrender value which would have been required by this section in the absence of the condition that premiums shall have been paid for the requisite number of years.

~~(C)~~(D)(1) Amounts payable as extra premiums to cover impairments or special hazards and uniform annual contract charges or policy fees specified in the policy statement of the method to be used in calculating cash surrender values and paid-up nonforfeiture benefits are excluded in calculating adjusted premiums and recalculated future adjusted premiums.

A policy issued on a substandard basis but similar to one issued on a

standard basis may be considered the same as the standard policy in calculating adjusted premiums and present values if tabular mortality costs in each policy year are the same as those in the standard policy and if the policies differ only in that the substandard policy provides reduced graded amounts of insurance and the standard policy provides higher uniform amounts of insurance.

(2) The adjusted premiums for any policy are calculated on an annual basis and shall be a uniform per cent of the respective premiums specified in the policy for each policy year such that the present value, at the date of issue, of all such adjusted premiums is equal to the sum of the following:

(a) The present value at the date of issue of the future guaranteed benefits;

(b) One per cent of either the amount of insurance, if uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years; and

(c) One hundred twenty-five per cent of the nonforfeiture net level premium, as defined in division ~~(C)~~(D)(3) of this section, provided that for the purposes of this division ~~(C)~~(D)(2)(c) the nonforfeiture net level premium shall not be deemed to exceed four per cent of either the amount of insurance, if uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years.

The date of issue, as used in this division, is the date as of which the rated age of the insured is determined.

(3) The nonforfeiture net level premium is equal to the present value, at the date of issue, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue, of an annuity of one per annum payable on the date of issue and on each anniversary of the policy on which a premium falls due.

(4) Adjusted premiums, present values, additional expense allowances, and nonforfeiture net level premiums for policies which guarantee unscheduled changes in benefits or premiums upon the happening of specified events or upon the exercise of an option without change to a new policy are determined as follows:

(a) At the date of issue, adjusted premiums, nonforfeiture net level premiums, and present values are calculated on the assumption that there will be no change in future benefits or premiums;

(b) At the time of a change in benefits or premiums, future adjusted premiums, nonforfeiture net level premiums and present values are recalculated on the assumption that there will be no other change in future benefits or premiums;

(c) These recalculated future adjusted premiums are a uniform percentage of the respective future premiums specified in the policy for each policy year after the change such that the present value, at the time of change, of the future adjusted premiums is equal to the sum of:

(i) The present value at the time of change of all future guaranteed benefits provided for by the policy;

(ii) Any additional expense allowance less the cash surrender value at that time or, if none, the value of any paid-up nonforfeiture benefit.

(d) The additional expense allowance, at the time of change, is the sum of one per cent of any increase in the average amount of insurance and one hundred twenty-five per cent of any increase in the nonforfeiture net level premium. The average amount of insurance after the change is the average amount of insurance at the beginning of the first ten policy years following the change. The average amount of insurance before the change is the average amount of insurance at the beginning of each of the first ten policy years starting with the date of the most recent previous change or, if there has been no change, the date of issue.

(e) The recalculated nonforfeiture net level premium is the quotient of (i) the present value of the increase in future guaranteed benefits provided by the policy plus (ii) the nonforfeiture net level premium before the change times the present value of an annuity of one per annum payable on each anniversary of the policy on and after the date of change on which a premium would, except for the change, have fallen due divided by (iii) the present value of an annuity of one per annum payable on each anniversary on or after the date of change on which a premium falls due.

~~(D)~~(E) For policies issued prior to the operative date of the valuation manual:

(1) For all policies of ordinary insurance issued on the standard basis, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the commissioners 1980 standard ordinary mortality table and a rate of interest not exceeding the nonforfeiture interest rate provided for by division ~~(F)~~(E)(3) of this section or, at the option of the company, a rate not exceeding the nonforfeiture interest rate for policies issued in the preceding calendar year. The company may elect to use the commissioners 1980 standard ordinary mortality table with ten-year select mortality factors for any specified plan of life insurance. The superintendent may approve the use of any ordinary mortality table adopted after 1980 by the national association of insurance commissioners in determining the minimum nonforfeiture standard for such policies.

~~(E)~~(2) For all policies of industrial insurance issued on the standard

basis, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the commissioners 1961 standard industrial mortality table and a rate of interest not exceeding the nonforfeiture interest rate provided for by division ~~(F)(E)(3)~~ of this section or, at the option of the company, a rate not exceeding the nonforfeiture interest rate for policies issued in the preceding calendar year. The superintendent may approve the use of any industrial mortality table adopted after 1980 by the national association of insurance commissioners in determining the minimum nonforfeiture standard for such policies.

~~(F)(3)~~ The nonforfeiture interest rate for a policy issued in any calendar year is equal to one hundred twenty-five per cent of the valuation interest rate for the policy as defined in section ~~3903.721~~ 3903.724 of the Revised Code, rounded to the nearer one-quarter of one per cent, provided, however, that the nonforfeiture interest rate shall not be less than four per cent.

(F) For all policies issued on or after the operative date of the valuation manual:

(1) For all policies of ordinary insurance, the valuation manual shall provide the commissioners standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the commissioners 1980 standard ordinary mortality table, with or without ten-year select mortality factors, or for the commissioners 1980 extended term insurance table. If the superintendent approves by rule any commissioners standard ordinary mortality table adopted by the national association of insurance commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

(2) For all policies of industrial insurance, the valuation manual shall provide the commissioners standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the commissioners 1961 standard industrial mortality table or the commissioners 1961 industrial extended term insurance table. If the superintendent approves by rule any commissioners standard industrial mortality table adopted by the national association of insurance commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

(3) The nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be provided by the valuation manual.

(G) Any cash surrender value for any paid-up nonforfeiture benefit including any paid-up dividend additions shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such benefit and paid-up dividend additions.

(H) Guaranteed paid-up nonforfeiture benefits, including any paid-up additions, shall be calculated on the basis of an interest rate no lower than that specified in the policy when calculating cash surrender values.

(I) Present values, for any paid-up term insurance or any paid-up term insurance with accompanying pure endowment offered as a nonforfeiture benefit, shall be calculated using rates of mortality not to exceed those shown in the commissioners 1980 extended term insurance table for policies of ordinary insurance and those shown in the commissioners 1961 industrial extended term insurance table for policies of industrial insurance. The superintendent may approve the use of any extended term insurance table adopted after 1980 by the national association of insurance commissioners in determining such present values.

(J) Adjusted premiums and present values for policies that are issued on a substandard basis may be calculated on the basis of such table of mortality as may be specified by the company and approved by the superintendent.

(K) The superintendent of insurance may by rule adopt methods for computing cash surrender values and paid-up nonforfeiture benefits for plans of life insurance which are of such a nature that values cannot be determined by any method described in this section, provided the superintendent is satisfied that the benefits provided in any such plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by this section and that the benefits and patterns of premiums for the plan will not mislead prospective policyholders or insureds. Such methods must be consistent with the principles of this section. This division shall apply to any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the company on the basis of estimates of future experience made at the time of any such determination.

(L) Any cash surrender value and any paid-up nonforfeiture benefit, available upon default in payment of a premium due at any time other than on a policy anniversary, shall be calculated with allowance for lapse of time and payment of fractional premiums beyond the preceding policy anniversary. All values referred to in this section may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up addition, other than paid-up term additions, shall be not less than the amount used to provide such additions.

(M) All other policy benefits additional to life insurance and endowment benefits shall be disregarded, and premiums for all such additional benefits and any extra premiums to cover impairments or special hazards shall be disregarded, in ascertaining the cash surrender values and nonforfeiture benefits required by this section. No such additional benefits shall be required to be included in any paid-up nonforfeiture benefit. Such benefits include additional benefits payable:

- (1) For death or dismemberment by accident or accidental means;
- (2) For total and permanent disability;
- (3) As reversionary annuity or deferred reversionary annuity benefits;
- (4) As term insurance benefits provided by rider or supplemental policy provisions to which, issued as a separate policy, this section would not apply;
- (5) As term insurance on the life of a child or lives of children provided in a policy on the life of a parent, if such term insurance expires before the child's age is twenty-six, is uniform in amount after the child's age is one, and has not become paid-up by reason of the death of a parent.

(N) This section does not apply to any reinsurance, group insurance, pure endowment or annuity or reversionary annuity contract nor to any:

- (1) Term policy, or renewal thereof, of uniform amount and for twenty years or less expiring before age seventy-one which provides no guaranteed nonforfeiture or endowment benefit and for which uniform premiums are payable during the entire term and any renewal of the policy;
- (2) Term policy of decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, and for which each adjusted premium is less than the adjusted premium for a term policy described in division (N)(1) of this section issued at the same age and for the same initial amount of insurance;
- (3) Policy, which provides no guaranteed nonforfeiture or endowment benefits, and for which the cash surrender value or present value of any paid-up nonforfeiture benefit for any policy year calculated according to this section as of the beginning of such policy year, does not exceed two and one-half per cent of the amount of insurance at the beginning of the same policy year;
- (4) Policy which is delivered outside this state through an agent or other representative of the company issuing the policy.

For purposes of determining the applicability of this division to a joint-term life insurance policy, the age at expiry shall be the age at expiry of the oldest life.

- (O) No approved policy form need be refiled if nonforfeiture values or

methods for computing such values for it are refiled and the only change is in the interest rate or the mortality table.

(P) The operative date of this section shall be January 1, 1989, except that an earlier operative date may be elected as provided in this division. A company may, by written notice filed with the superintendent, elect to issue all, or one or more, of its policy forms pursuant to this section on and after a date specified in the notice. The date specified may be any date on or after January 1, 1983, and before January 1, 1989. The date specified shall be the operative date of this section for the policy form or forms specified in the notice.

No other statute shall be construed to prohibit any life insurance company from classifying its policies and electing to issue specified forms of policies pursuant to the plan set forth in this section, while using other legal basis as to reserve calculations and nonforfeiture values for other of its policies, nor shall it be construed to prohibit any life insurance company from adopting other reasonable classifications of policies or policyholders.

Sec. 3915.072. This section applies to all policies of life insurance, not excluded by division (N) of section 3915.071 of the Revised Code, that are delivered, or issued for delivery, in this state on or after January 1, 1989.

(A) Upon default in payment of the premium due on a policy anniversary, the cash surrender value shall not differ by more than two-tenths of one per cent of the amount of insurance from the sum of the greater of zero or the basic cash value, as defined in division (B) of this section, and the present value of any paid-up additions less any indebtedness to the company on the policy. If the amount of insurance is not uniform, the amount is the average amount of insurance in force at the beginning of each of the first ten policy years.

(B) The basic cash value is equal to the present value on the anniversary of the future guaranteed benefits which would have been provided for by the policy had default not occurred less the present value on the anniversary of the nonforfeiture factors corresponding to the premiums which would have fallen due on and after the anniversary. The basic cash value may not be less than the value obtained by substituting the adjusted premiums, as defined in division ~~(C)~~(D)(2) of section 3915.071 of the Revised Code, for the nonforfeiture factors. Paid-up additions and indebtedness to the company on the policy are not taken into consideration in determining basic cash value. Basic cash values for policies having supplemental life insurance or annuity benefits or for a family policy as described in division (B) of section 3915.071 of the Revised Code shall be determined in the manner provided in division (B) of that section for cash surrender values.



(C) The nonforfeiture factor is a percentage of the adjusted premium, as defined in division ~~(C)~~(D)(2) of section 3915.071 of the Revised Code, for each policy year. The percentage must be the same for each policy year after the second until the later of the fifth policy anniversary and the first policy anniversary after the second on which the cash surrender value, before including any paid-up additions and before deducting any indebtedness, is at least equal to two-tenths of one per cent of the amount of insurance. Any change in percentage after the fifth policy anniversary must apply to no fewer than five consecutive policy years before a different percentage can be adopted. If the amount of insurance is not uniform, the amount is the average amount of insurance in force at the beginning of each of the first ten policy years.

(D) Adjusted premiums and present values shall be calculated using the same mortality table and interest rate used to demonstrate the policy's compliance with section 3915.071 of the Revised Code. The cash surrender values referred to in this section include any endowment benefit provided for by the policy.

(E) Any cash surrender value available upon default in a premium payment due at any time other than on a policy anniversary, and the amount of any paid-up nonforfeiture benefit available upon default in a premium at any time shall be calculated in accordance with the requirements for determining analogous minimum amounts in section 3915.071 of the Revised Code. The amounts of any cash surrender values and paid-up nonforfeiture benefits granted in connection with additional benefits such as those listed in division (M) of section 3915.071 of the Revised Code shall conform with the principles of this section.

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.

(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.

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:

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

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

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

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

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

(C) Bonds or other evidences of indebtedness, not in default as to principal or interest, which are valid obligations issued, assumed, or guaranteed by the United States, by any state thereof, the Commonwealth of Puerto Rico, by any territory or insular possession of the United States, or by the District of Columbia, or which are valid obligations issued, assumed, or guaranteed by any county, municipal corporation, district, or political subdivision, or by any civil division or public instrumentality of such

governmental units, if by statutory or other legal requirements such obligations are payable, as to both principal and interest, from taxes levied upon all taxable property within the jurisdiction of such governmental unit, or in bonds or other obligations issued by or for account of any such governmental unit having a population of five thousand or more by the latest official federal or state census, which are payable as to both principal and interest from revenues or earnings from the whole or any part of a publicly owned utility, provided that by statute or other applicable legal requirements, rates from the service or operation of such utility must be fixed, maintained, and collected at all times so as to produce sufficient revenues or earnings to pay both principal and interest of such bonds or obligations as they become due, and in any bonds or obligations issued or guaranteed by the United States, any state, the District of Columbia, the Commonwealth of Puerto Rico, any county, municipal corporation, district, political subdivision, civil division, commission, board, authority, agency, or other instrumentality of one or more of them, provided there is a specific pledge of revenues, earnings, or other adequate security and provided that no prior or parity obligation of the same issuer, payable from revenues or earnings from the same source, has been in default as to principal or interest during the five years next preceding the date of such investment, but such issuer need not have been in existence for that period, and obligations acquired under this section may be newly issued, and further provided that there is adequate provision for payment of expenses of operation and maintenance and the principal and interest on all obligations when due;

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

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

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

(2) Stocks, limited liability company membership interests, limited partnership interests, or limited liability partnership interests of any insurance, financial, investment, or investment management companies,

which investment management companies are registered with the securities and exchange commission under the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C. 80a-1, as amended, or the stocks, limited liability company membership interests, limited partnership interests, or limited liability partnership interests in an entity wholly owned by a domestic company or by a domestic company and its affiliates, that is formed and maintained to acquire or hold specific assets or liabilities for bankruptcy remoteness or limitation of liability purposes, except its own stock, and stocks, limited liability company membership interests, limited partnership interests, limited liability partnership interests, bonds, notes, and debentures of any company which is organized for, and limited in its operations to, the financing of insurance premiums, upon approval of such investments by the superintendent of insurance; except that approval shall not be required for the purchase of the outstanding stocks, limited liability company membership interests, limited partnership interests, or limited liability partnership interests of any such company, if investment in each such company does not exceed in the aggregate two and one-half per cent of the total admitted assets of the company making the investment as of the preceding thirty-first day of December. Whenever the superintendent has reason to believe that the retention, investment, or acquisition of the stock, limited liability company membership interest, limited partnership interest, or limited liability partnership interest of any such company substantially lessens competition generally in the business of insurance or creates a monopoly therein the superintendent shall proceed under section 3901.13 of the Revised Code to cause such domestic insurance company to divest itself of such stock, limited liability company membership interest, limited partnership interest, or limited liability partnership interest.

(3) Other stocks, limited liability company membership interests, or limited partnership interests, or limited liability partnership interests of any solvent corporation organized under the laws of this or any other state, or of the United States, or of the District of Columbia, or of Canada or any province of Canada, provided that a dividend or distribution has been paid by the business entity in the preceding twelve months upon the stock, membership interest, or partnership interest to be purchased or such business entity, together with its predecessor entity or entities, has been in existence for a period of at least five years.

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

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

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

(E) Negotiable promissory notes maturing in not more than six months from the date thereof, secured by collateral security through the transfer of any of the classes of securities described in this section or in sections 3925.05 and 3925.06 of the Revised Code, with absolute power of sale within twenty days after default in payment at maturity;

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

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

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

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

(H)(1) In bonds, notes, debentures, or other evidences of indebtedness issued, assumed, or guaranteed by a solvent corporation, trust, or partnership formed or existing under the laws of a foreign jurisdiction, provided each such foreign investment is of the same kind and quality as United States investments authorized under this section; or in common or preferred stock, shares, membership interests, or partnership interests of any solvent business entity formed or existing under the laws of a foreign jurisdiction, provided each such foreign investment is of the same kind and quality as United States investments authorized under this section; or in bonds or other evidences of indebtedness issued, assumed, or guaranteed by a foreign jurisdiction.

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

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

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

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

(3) As used in division (H) of this section, "foreign currency" means a currency other than that of the United States.

(I)(1) Any securities or other property not permitted under section 3925.05, 3925.06, 3925.08, or 3925.20 of the Revised Code to an extent not exceeding in the aggregate six per cent of the total admitted assets of such company on the preceding thirty-first day of December, within the limitations prescribed in division (J) of this section. Any such company may

also invest up to an additional five per cent of the total admitted assets of such company on the preceding thirty-first day of December, within the limitations prescribed in division (J) of this section, in loans or investments in small businesses having more than half of their assets or employees in this state and in venture capital firms having an office within this state, provided that, as a condition of a company making an investment in a venture capital firm, the firm must agree to use its best efforts to make investments, in an aggregate amount at least equal to the investment to be made by the company in that venture capital firm, in small businesses having their principal offices within this state and having either more than one-half of their assets within this state or more than one-half of their employees employed within this state.

As used in division (I) of this section:

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

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

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

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

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

with its subsidiary, if any, shall at any time own directly or indirectly more than twenty-five per cent of the outstanding bonds, notes, debentures, other evidences of indebtedness, and stocks of any corporation, except for investments authorized under divisions (A) and (D)(2) of this section.

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

A business entity organized for the purpose provided in section 3925.01 of the Revised Code 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.

(K) As used in divisions (K) and (L) of this section:

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

(2)(a) "Derivative instrument" means an agreement, option, instrument, or a series or combination thereof of either of the following types:

(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;

(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.

(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.

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

(4) "Hedging transaction" means a derivative transaction that is entered into and maintained to reduce either of the following:

(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;

(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.

(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.

(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 chapter. "Replication transaction" does not include a derivative transaction that is entered into as a hedging transaction.

(L)(1) Prior to an insurer entering into derivative transactions, the board of directors of the insurer shall approve a derivative use plan.

(2) An insurer shall notify the superintendent of insurance in writing within three days after identifying either of the following:

(a) Any event or occurrence related to an insurer's derivatives use that may lead to a material change to the insurer's policyholder surplus;

(b) Any event or occurrence related to an insurer's derivatives use that, with the passage of time, may lead to a material change to the insurer's policyholder surplus.

(3) Prior to entering into derivative transactions, an insurer shall file with the superintendent a copy of its derivative use plan and internal controls, for informational purposes. The insurer shall keep current the copy of its derivative use plan and internal controls filed with the superintendent. The insurer shall not enter into derivative transactions until thirty calendar days after the date on which the derivative use plan and internal controls is filed with the superintendent. This thirty-calendar-day period is to begin on the date that the superintendent receives the derivative use plan and internal controls.

(4) The superintendent may adopt rules prescribing the form and content of derivative use plans, as well as any internal controls the superintendent considers necessary.

(5) An insurer that engages in hedging transactions or replication transactions shall do both of the following:

(a) 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;

(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 a sum exceeding in the aggregate five per cent of its admitted assets, as of the preceding thirty-first day of December.

(8) All documents provided to the superintendent under division (L) of this section shall be deemed trade secrets and shall be provided with trade secret protection. Such documents shall also be considered work papers of the superintendent that are subject to section 3901.48 of the Revised Code and are confidential and privileged and shall not be considered a public record, as defined in section 149.43 of the Revised Code. The original documents and any copies of them shall not be subject to subpoena and shall not be made public by the superintendent or any other person, except as otherwise provided in section 3901.48 of the Revised Code.

Sec. 3937.19. (A) As used in this section:

(1) "Personal lines policy of insurance" means a policy of property and casualty insurance issued to a natural person primarily for personal or family protection for personal automobile, homeowner's, tenant's, mobile-homeowner's, non-commercial dwelling fire or personal umbrella coverage.

(2) "Customer" has the same meaning as in section 3901.19 of the Revised Code.

(B)(1) An insurer may, but is not required to, provide or make a policy summary of material coverages and exclusions in a personal lines policy of insurance available to a customer. If an insurer chooses to provide or make any such policy summary available, the summary shall include at a minimum all of the following:

(a) A brief description of the principal benefits provided under the policy for which a premium is charged;

(b) A brief description of the principal exclusions, provided under the policy;

(c) A statement of the loss valuation methods provided under the policy;

(d) The following notice, or a substantially similar notice, prominently displayed in conjunction with the policy summary:

"You should read your insurance policy and get assistance in understanding the coverages and any exclusions directly from your agent or the insurance company issuing your policy. This policy summary is for informational purposes only and is designed to provide a basic description of insurance coverages and exclusions in your policy. This summary does not reflect all the coverages and exclusions contained in your policy and is qualified in its entirety to the policy terms.

State law prohibits this policy summary from replacing, modifying, altering, amending, or changing any of the terms or provisions of the

insurance policy that is the subject of this summary."

(2) A policy summary, as described in division (B)(1) of this section, does not include the policy declarations page and any notations contained therein.

(C) Nothing contained in this section shall be construed to prohibit an insurer from providing information related to an insurance policy that does not meet the requirements prescribed in division (B) of this section.

(D) An insurer may display sections of a policy summary individually, in any combination or in any order, as long as the summary meets the requirements prescribed in division (B) of this section and the notice contained in division (B)(1)(d) of this section appears in each section of the policy summary. If the policy summary is paginated, then the notice contained in division (B)(1)(d) of this section shall appear on each page.

(E) An insurer's election to provide or make a policy summary available to a customer does not obligate the insurer to provide a policy summary upon the renewal of the policy or for any other policies issued to the same customer.

(F) If an insurer elects to provide or make a policy summary available for a personal lines policy of insurance, the insurer shall provide a policy summary for the named insured under a policy for that product.

(G) A policy summary provided or made available under this section shall not be considered a replacement for the terms of the policy of insurance, shall not have the effect of altering the coverage afforded by the policy, and shall not confer new or additional rights beyond those expressly provided for in the policy. Nothing in this section shall be construed to create or imply a private cause of action for a violation of this section. A policy summary provided or made available pursuant to this section shall not be admissible in court or in any other legal or administrative proceeding, except to enforce division (H) of this section.

(H) No person doing the business of insurance in this state shall provide or use a policy summary that contains any false, misleading, or deceptive representation or statement.

(I) Any violation of this section is an unfair and deceptive act or practice in the business of insurance under sections 3901.19 to 3901.26 of the Revised Code. If the superintendent, by written order, finds that any person is about to engage, is engaging, or has engaged in a violation of this section, the superintendent may impose any or all of the administrative remedies set forth in divisions (D)(1) to (5) of section 3901.22 of the Revised Code. If the superintendent finds that the violation was due to gross or willful misconduct, the superintendent may order that person to reimburse any

customer harmed by the violation or violations, including reimbursement or payment of insurance claims for which a loss occurred as a result of a customer's reliance upon a policy summary containing any false, misleading, or deceptive representation or statement.

Sec. 3939.01. (A) Any number of persons of lawful age, not less than ten in number, owning insurable property in this state, may associate themselves together for the purpose of insuring each other against the risk of direct physical loss or damage to property in this state, including theft of property in this state, except loss or damage to motor vehicles caused by collision. Any association organized under this section shall file with the department of insurance all policy forms currently in use by the association and all additions, deletions, or amendments to the policy forms at least thirty days prior to the use of the policy forms, additions, deletions, or amendments. Each filing under this division is deemed approved thirty days after the filing is received by the superintendent of insurance, unless the filing is disapproved by the superintendent during that thirty-day period.

(B) Any association organized under this section, from time to time, may assess upon and collect from its members or other responsible parties sums of money that are necessary to pay expenses and losses that occur, or are anticipated to occur, from those covered perils. The assessment and collection of those sums of money shall be regulated by the constitution of the association adopted under section 3939.06 of the Revised Code. The constitution shall require the assessments to be made directly and specifically upon the members or other responsible parties, and to be paid by them out of any funds paid to or deposited with the association in anticipation of assessments. Any association organized under this section may borrow money for the payment of losses and associated expenses, but those loans shall not be made for a period of time that extends beyond the collection of the association's next assessment.

(C) Any association organized under this section may accumulate a surplus from its assessments. ~~That~~ Except as provided in division (D) of this section, that surplus and all other funds received or accumulated in the course of business shall be invested under sections 3925.05 and 3925.08 of the Revised Code. Upon prior approval of the superintendent of insurance, the association may invest that surplus and those other funds in real estate for the association's convenient accommodation in the transaction of its business. The association shall not have at any one time more than ten per cent of its admitted assets invested in real estate.

(D) An association organized under this section 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.

(E) Any association organized under this section may insure farm buildings, residential and detached dwellings, outbuildings, churches, township buildings, grange buildings, farm machinery, equipment, and other farm personal property, household goods and personal effects, pleasure and utility vehicles, and other similar property, except motor vehicles titled or capable of being titled for use on public roads and property used exclusively for commercial or industrial purposes.

The property described in this division may be classified only for the purpose of determining and levying assessments, and that property may be located within or without the limits of any municipal corporation.

~~(E)~~(F) Any association organized under this section may collect a charge on each contract of insurance in accordance with its constitution adopted under section 3939.06 of the Revised Code.

~~(F)~~(G) Any association organized under this section may make contracts of reinsurance for the kinds of insurance authorized by sections 3939.01 to 3939.11 of the Revised Code or accept reinsurance on any portion of that insurance.

Sec. 3953.15. ~~The (A) Except as provided in division (B) of this section, the unearned premium reserve of a title insurance company shall be invested in accordance with sections 3925.05 to 3925.08, inclusive, of the Revised Code.~~

(B) A title insurance company 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.

SECTION 2. That existing sections 1751.25, 3901.043, 3901.045, 3901.17, 3901.32, 3901.321, 3901.33, 3901.34, 3901.341, 3901.35, 3901.36, 3901.62, 3901.63, 3901.64, 3903.72, 3903.721, 3903.83, 3907.14, 3913.01, 3913.34, 3915.04, 3915.071, 3915.072, 3921.21, 3925.08, 3939.01, and 3953.15, and sections 3907.09, 3907.10, 3907.11, and 3907.13 of the Revised Code are hereby repealed.

SECTION 3. Sections 3901.371 to 3907.378 of the Revised Code, as enacted in this act, shall take effect on January 1, 2015. The first filing of the own risk and solvency assessment summary report, as required by section 3901.375 of the Revised Code, shall be in 2015.

SECTION 4. The intent of the General Assembly, in enacting this act is to protect and to further the interests of insureds, creditors, and the general public by providing, with minimum interference with management initiative and judgment, prudent standards for the development and administration of insurer investment programs.

SECTION 5. This act shall be known as the "Ohio Insurer Investment Act."

SECTION 6. The Superintendent of Insurance shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the amendments to sections 3901.62, 3901.63, and 3901.64 of the Revised Code as enacted in this act and to implement new sections 3901.621 and 3901.631 of the Revised Code as enacted in this act. It is the intent of the General Assembly in mandating the adoption of these rules that the Superintendent adopt rules that are substantially similar to those portions of the Credit for Reinsurance Model Regulation, #786, as approved by the National Association of Insurance Commissioners on November 6, 2011, that the Reinsurance Task Force of the National Association of Insurance Commissioners approved on May 4, 2012, as key elements for purposes of accreditation.

SECTION 7. Notwithstanding division (V)(3) of section 3907.14 and division (L)(3) of section 3925.08 of the Revised Code, an insurer that is engaged in derivative transactions, pursuant to a derivative use plan approved by that insurer's board of directors, prior to the effective date of this act, may continue to engage in derivative transactions pursuant to that derivative use plan for a period of no longer than one hundred twenty days after the effective date of this act.

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

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

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

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

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*Governor.*

Sub. S. B. No. 140

130th G.A.

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

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*Director, Legislative Service Commission.*

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

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*Secretary of State.*

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