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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 339  
133<sup>rd</sup> General Assembly

## Final Analysis

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**Version:** As Passed by the General Assembly

**Primary Sponsor:** Rep. Merrin

**Effective date:** January 1, 2021

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### SUMMARY

- Corrects technical errors throughout the insurance laws.
- Lengthens the amount of time a life insurance policy may be backdated from three to six months.
- Specifies that a regional council of governments does not engage in the business of insurance if it provides health care benefits to the council members' officers and employees and their dependents, if certain criteria are met.
- Requires retail installment contracts to list any amounts paid for related insurance, as well as the types of such insurance coverage.
- Exempts single interest insurance from notification requirements that apply to insurance coverage related to retail installment agreements.
- Requires single interest insurance to be listed as a specific good in a retail installment contract.
- Allows domestic life insurance companies to record assets that support fund accumulation contracts that meet certain criteria under the company's general account.
- Permits a nonresident that is licensed as a public insurance adjuster and is in good standing in the applicant's home state to receive a certificate of authority to be a public insurance adjuster in Ohio.
- Allows certain documents to be signed electronically if needed by an insurance company to obtain a salvage certificate of title to a motor vehicle.
- Expands the assigned risk insurance plan to include all automobile liability insurance policies, as opposed to just private passenger automobile liability insurance policies.
- Modifies the deadline for the renewal of a surety bail bond agent license.

- Modifies the deadline for a surety bail bond agent’s registration with the clerk of the court.
- Modifies the deadline for the clerk of the court to make available a list of court-registered surety bail bond agents to the appropriate holding facility, jail, correction facility, or other similar entity within the court’s jurisdiction.

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## DETAILED ANALYSIS

### Technical corrections

The act corrects a number of technical errors in the insurance laws. For example, R.C. 3903.724(A)(4) refers to a “contact” instead of a “*contract*.” Another example is R.C. 3902.08, which contains an incorrect cross-reference. That section exempts certain insurance policies from the general requirement that policies must be filed with the Superintendent of Insurance, so long as the exempted policies are accompanied by certificates that meet certain requirements. One of those requirements is that the form must meet a minimum reading ease score. That specific requirement is found in R.C. 3902.04(D). However, R.C. 3902.08 incorrectly cross-references to a nonexistent division, R.C. 3902.05(D), instead.

The act also changes the wording of two sections. The first, R.C. 3919.14, appears to have been defectively re-codified from General Code 9429-2 in 1953 when the General Code was re-codified into the Revised Code. This particular section requires a mutual life and accident insurer to submit “separate annual statements to the superintendent of insurance of the business transacted by it under the assessment plan, as required by section **3919.01 to 3919.15**, inclusive, of the Revised Code, **or for the purpose of** under the level premium or legal reserve plan, as required by section 3907.19 of the Revised Code.” The act corrects two issues with this section. First, it changes “3919.01 to 3919.15” to “3919.16,” which is the correct cross-reference. And second, it replaces the phrase “or for the purpose of” – which is inconsistent with the original wording in the General Code and results in an incomplete sentence – with the phrase, “and of the business transacted by it,” which was the original wording under the General Code. Thus, under the act, the insurer must make separate annual statements to the Superintendent of Insurance of the business transacted by it under the assessment plan, as required by **3919.16** of the Revised Code, **and of the business transacted by it** under the level premium or legal reserve plan, as required by section 3907.19 of the Revised Code.

The second provision reworded by the act is R.C. 3964.19(E)(1). This division lists the types of agreements into which a special purpose financial captive insurance company may enter. The division was reworded and broken up into more divisions for ease of reading:

Prior wording	Act’s wording
(E)(1) A special purpose financial captive insurance company may enter into asset management agreements, including swap agreements, guaranteed investment contracts, or other transactions with the objective of reducing timing	(E)(1)(a) A special purpose financial captive insurance company may enter into the following types of transactions for the purposes described in division (E)(1)(b) of this section:

Prior wording	Act's wording
<p>differences in the funding of upfront, or ongoing, transaction expenses, or managing asset, credit, prepayment, or interest rate risk of the investments of the special purpose financial captive insurance company to ensure that the investments are sufficient to assure payment or repayment of the securities, and related interest or principal payments, issued pursuant to a special purpose financial captive insurance company insurance securitization transaction or the obligations required under a special purpose financial captive insurance company contract or for any other purpose approved by the superintendent.</p>	<p>(i) Asset management agreements, including swap agreements;</p> <p>(ii) Guaranteed investment contracts;</p> <p>(iii) Other transactions with the objective of reducing timing differences in the funding of upfront, or ongoing, transaction expenses, or managing asset, credit, prepayment, or interest rate risk of the investments of the special purpose financial captive insurance company.</p> <p>(b) The purpose of the transactions described in division (E)(1)(a) of this section shall be any of the following:</p> <p>(i) To ensure that the investments are sufficient to assure payment or repayment of the securities, and related interest or principal payments, issued pursuant to a special purpose financial captive insurance company insurance securitization transaction;</p> <p>(ii) To ensure that the investments are sufficient to assure payment or repayment of the obligations required under a special purpose financial captive insurance company contract;</p> <p>(iii) Any other purpose approved by the superintendent.</p>

The act explicitly states that in enacting these changes, the intent of the General Assembly is to correct nonsubstantive errors only and not to make substantive changes. Any section affected by these changes must be construed as a restatement and correction of, and substituted in a continuing way for, the corresponding statutory provision existing on its date of enactment.<sup>1</sup>

## Backdating life insurance policies

A life insurer will often allow an applicant to backdate the applicant's life insurance policy if the applicant recently had a birthday, thereby "capturing" the applicant's younger age and lowering the premium. Former law allowed a policy to be backdated up to three months. In other words, if an applicant turned 56 on January 1 and applied for life insurance March 31, the policy could be backdated to take effect as of December 31, when the applicant was 55 years

<sup>1</sup> R.C. 1.301 and Section 3.

old. This could result in a lower premium. The applicant would still need to pay the premiums for the additional months of January through March, but depending on the circumstances, the total amount paid could be less than if the policy were not backdated.

The act extends the amount of time the policy may be backdated from three to six months.<sup>2</sup>

## **Regional Council of Governments – health care benefits**

Continuing law permits the governing bodies of Ohio political subdivisions to enter into an agreement with each other, or with the governing bodies of political subdivisions of another state, for establishment of a regional council. A regional council that is established to provide health care benefits to the council members' officers and employees and their dependents may contract to administer and coordinate a self-funded health benefit program of a nonprofit corporation.

Under the act, if a council operating such a program does not act as a third-party administrator under the Third-party Administrator Law, the operation of the program does not constitute engaging in the business of insurance and is not subject to Ohio Insurance Laws.<sup>3</sup>

## **Retail installment agreements**

The act amends the law related to insurance purchased in relation to retail installment agreements. Retail installment agreements are contracts through which a consumer purchases moveable goods and pays for such goods over time. This includes the sale of large, financed items, such as motor vehicles, but does not include the sale of homes, unless that home was a mobile home. Vendors that sell goods through retail installment agreements often purchase insurance to protect themselves from loss in the case that the purchaser defaults on the outstanding payments. Some or all of the cost of this insurance can be passed on to the consumer as a part of the purchase price of the good in question. The act requires the written instrument evidencing a retail installment agreement (i.e., the contract) to list any amounts paid for insurance, as well as the types of such coverage.<sup>4</sup>

With certain policies, such insurance coverage can be extended to the purchaser. Former law required retail sellers who extended such coverage and included the price of the coverage in the installment payments to provide to the purchaser a copy of the policy of insurance via mail. The act specifies that in circumstances where a policy only protects the retail seller, such a notification is not required.<sup>5</sup>

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<sup>2</sup> R.C. 3915.13.

<sup>3</sup> R.C. 167.03(E) and R.C. 167.01, not in the act.

<sup>4</sup> R.C. 1317.04.

<sup>5</sup> R.C. 1317.05.

## **Accounting for assets supporting fund accumulation contracts**

The act amends the law pertaining to how insurers account for certain assets. The act enables insurers to account for assets supporting fund accumulation contracts to record such assets as if they were held in the insurer's general account. Such an asset must meet all of the following criteria to be accounted for in such a way:

- The asset must not participate in the underlying portfolio experience.
- The asset must have a fixed interest rate guarantee.
- The asset must be purchased under a retirement plan or plan of deferred compensation established or maintained by an employer.<sup>6</sup>

## **Public insurance adjusters**

The act amends the eligibility requirements for receiving a public insurance adjuster's license. Continuing law requires an applicant for such a license to have executed a bond in the amount of \$1,000 for each person named in the application and to meet either of the following criteria before receiving a license:

- Be a resident of Ohio;
- Be a lending institution or a bona fide employee of a lending institution who is authorized to act as a public insurance adjuster in another state on behalf of the public lending institution.

The act adds to these criteria by allowing nonresidents to receive a public insurance adjuster license if the applicant is a licensed public insurance adjuster in good standing in the applicant's home state.<sup>7</sup>

## **Certificate of title**

The act allows insurance companies to receive title to a salvage vehicle by signing certain related documents electronically. The documents that may be signed electronically are:

- The certificate of title, any supporting power of attorney, or application for a salvage certificate of title;
- An application for a salvage certificate of title without the insurer having the certificate of title or a signature on the certificate of title within the prescribed deadline.<sup>8</sup>

## **Assigned risk**

The act amends the law related to the distribution of uninsurable motor vehicle risk, otherwise known as assigned risk. Continuing law requires the Superintendent of Insurance to

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<sup>6</sup> R.C. 3907.15(E).

<sup>7</sup> R.C. 3951.06.

<sup>8</sup> R.C. 4505.11(C).

develop a plan enabling motor vehicle owners who are unable receive insurance to purchase insurance and to distribute the associated risk amongst insurers. The prior plan only pertained to private passenger vehicles. The act expands the plan to include all motor vehicles.<sup>9</sup>

### **Renewal deadline for surety bail bond agent license**

The act changes the renewal date for a surety bail bond agent license from the last day of February to April 1. The act also modifies former law by providing that if an individual or business entity does not apply for the license renewal before April 1, the individual or entity may submit a late renewal application along with all required applicable fees prior to May 1, rather than March 31 under former law, following the renewal date. A surety bail bond agent license that is not renewed on or before May 1 is automatically suspended for nonrenewal effective May 2, rather than April 1 under former law.<sup>10</sup>

### **Surety bail bond agent registration with the clerk of court**

The act changes the date that a bail bond agent must register biennially with a court from August 1 of each odd-numbered year to April 1 of each odd-numbered year. The act also makes corresponding four-month shifts. It modifies former law by requiring the clerk of the court to make available a list of court-registered surety bail bond agents to the appropriate holding facility, jail, correction facility, or other similar entity within the court's jurisdiction annually not later than May 1, rather than September 1 under former law and requires the court to add the agent to the list if the agent registers with a court after April 30, rather than August 31 under former law.<sup>11</sup>

## **HISTORY**

<b>Action</b>	<b>Date</b>
Introduced	09-17-19
Reported, H. Insurance	12-11-19
Passed House (92-3)	05-06-20
Reported, S. Insurance & Financial Institutions	06-09-20
Recommitted to S. Insurance & Financial Institutions	07-21-20
Re-reported, S. Insurance & Financial Institutions	09-02-20
Passed Senate (31-0)	09-02-20
House concurred in Senate amendments (93-0)	09-23-20

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<sup>9</sup> R.C. 4509.70.

<sup>10</sup> R.C. 3905.85(F).

<sup>11</sup> R.C. 3905.87(B) and (C).