



Greg Schwab

Final Analysis
Legislative Service Commission

Am. Sub. H.B. 281
125th General Assembly
(As Passed by the General Assembly)

Reps. Martin, McGregor, Kearns, Seitz, Husted, Schaffer, Webster, Gibbs, Walcher, Carano, G. Smith, Olman, Wolpert, Faber, Hughes, Daniels, Allen, Barrett, Buehrer, Calvert, Carmichael, Chandler, Collier, DeBose, DeGeeter, Distel, Domenick, C. Evans, Flowers, Gilb, Grendell, Hagan, Hartnett, Harwood, Hoops, Jolivette, Kilbane, Latta, Niehaus, Otterman, S. Patton, Perry, Price, Reidelbach, Schlichter, Schmidt, Setzer, Sferra, D. Stewart, J. Stewart, Strahorn, Taylor, Ujvagi, Wagner, Widener, Yates

Sens. Nein, Hottinger, Padgett, Robert Gardner, Mumper, Roberts, Zurz

Effective date:*

ACT SUMMARY

- Provides a means of identifying a health insuring corporation's admitted assets for purposes of meeting the statutory minimum, repealing the former listing of qualifying assets.
- Imposes penalties on any person operating a multiple employer welfare arrangement, health insuring corporation, or insurance company, without a valid certificate of authority from the Superintendent of Insurance.
- Imposes criminal and administrative penalties on agents selling policies of unlicensed insurers.
- Limits the circumstances under which the Superintendent of Insurance is required to issue certificates of compliance to insurers.
- Defines life insurance covering the members of a specified workforce to be group life insurance.

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

CONTENT AND OPERATION

Assets qualifying as the admitted assets of a health insuring corporation

(secs. 1751.02 and 1751.28)

Under continuing law, every health insuring corporation authorized to provide health care services pursuant to the Health Insuring Corporation Law, Chapters 1751. and 1753. of the Revised Code, is required to maintain total "admitted assets" equal to a minimum of 110% of the corporation's liabilities. Formerly, the Revised Code identified the assets that qualified as admitted assets for this purpose by listing dozens of specific, qualifying securities, investments, receivables, and other assets. The Revised Code also imposed conditions and limitations on the valuation of qualifying assets and required that all admitted assets be held in the health insuring corporation's name and be free and clear of all encumbrances, pledges, or hypothecation.

The act ends the use of a list of assets, repealing the list and instead defines an "admitted asset" for purposes of meeting the required minimum as an asset that is consistent with the forms, instructions, and manuals prescribed by the National Association of Insurance Commissioners for the preparation and reporting of statutory financial statements and other financial information, as these forms, instructions, and manuals are adopted by the Superintendent of Insurance, including modifications and later-approved rules. The act repeals the provision that required that all admitted assets be held in a health insuring corporation's name and be free and clear of all encumbrances, pledges, or hypothecation. The new method of identifying the admitted assets of a health insuring corporation first applies to calendar year 2004.

Certificate of authority required for the operation of a multiple employer welfare arrangement

(secs. 1739.02, 1739.27, and 1739.99)

The act expressly prohibits any person from establishing, operating, or maintaining a multiple employer welfare arrangement in Ohio that provides benefits through a group self-insurance program, without a valid certificate of authority from the Superintendent. Under the act, a violation of this prohibition is classified as a felony of the fourth degree. The act also prohibits insurance agents, brokers, and others persons from advertising, soliciting, negotiating, collecting premiums on, or selling enrollments in, a multiple employer welfare arrangement's group self-insurance program, if the multiple employer welfare arrangement does not have a valid certificate of authority from the Superintendent, classifying a violation of this prohibition as a first degree misdemeanor on a first offense and a

fifth degree felony on each subsequent offense. The act permits a trial court to award restitution, in accordance with continuing law (R.C. section 2929.18), if a person is found guilty of violating either one of these prohibitions or continuing law pertaining to the operation of multiple employer welfare arrangements (R.C. section 1739.02(B)).

Certificates of compliance and certificates of authority issued to insurers and health insuring corporations; violations

(secs. 3901.78, 3905.14, 3999.18, and 3999.99)

Formerly, the Insurance Law, Title 39 of the Revised Code, required the Superintendent of Insurance to issue a certificate of compliance with the laws of Ohio to each insurance company authorized to do business in this state, upon the insurer's filing of its annual statement with the Superintendent. The Superintendent also was required to issue a certificate of compliance to each insurance company applying to do business in Ohio, upon finding that the applicant should be authorized to do business in this state. The law required certificates of compliance to contain a statement of the amounts of paid up capital stock, assets, liabilities, income and expenditures for the preceding year, as shown in the insurer's annual statement for that year, or, in the case of an applicant insurer, as shown in the financial statement submitted to the Superintendent by the applicant's officers.

The act repeals the provisions that formerly governed the issuance of certificates of compliance to existing insurers and applicants and that governed the contents of certificates of compliance. The act requires the Superintendent to issue a certificate of compliance to an insurer following the insurer's filing of annual statements, but only if the insurer is authorized to do business in Ohio but is incorporated elsewhere. The insurer must publish the certificate in a newspaper of general circulation in every county where the insurance company has an agency. Additionally, the act permits the Superintendent to issue a certificate of compliance to an insurance company authorized to do business in Ohio, upon the insurer's request or in any other circumstance the Superintendent considers to be appropriate. Certificates of compliance issued in these circumstances are not subject to publication requirements. All certificates of compliance either must be on forms established by the National Association of Insurance Commissioners or on such other forms as the Superintendent prescribes.

Under the act, no person may establish, operate, or maintain an entity in Ohio that delivers, issues, or renews policies of sickness and accident insurance or contracts of health care if Ohio law requires the person to have a certificate of authority under the Insurance Law or the Health Insuring Corporation Law and the person does not have a valid certificate of authority. A violation of this

prohibition is classified as a felony of the fourth degree. The act also prohibits insurance agents, brokers, and other persons from advertising, soliciting, negotiating, collecting premiums on, or selling, policies of sickness and accident insurance or contracts of health care services, unless the entity that delivers, issues, or renews the policy or contract maintains any certificate of authority required under the Insurance Law or the Health Insuring Corporation Law, classifying a violation of this prohibition as a first degree misdemeanor on a first offense and a fifth degree felony on each subsequent offense. The act permits a trial court to award restitution, in accordance with Ohio law (R.C. section 2929.18), if a person is found guilty of violating these or any of the other criminal prohibitions listed in section 3999.99 of the Revised Code.

Ongoing Insurance Agent Law permits the Superintendent of Insurance to suspend, revoke, or refuse to issue or renew any license of an insurance agent, and to assess a civil penalty, for specified offenses by an agent. Formerly, one offense that allowed the Superintendent to impose penalties against an agent is when an agent offered "within this state, in person or by advertisement, poster, letter, circular, or otherwise, to sell, procure, or obtain" policies, contracts, agreements, or applications for life insurance, annuities, or sickness and accident insurance, either for insurers or other entities that were not authorized to transact business in Ohio or for nonexistent, liquidating, or bankrupt insurers or other entities. The act extends the scope of the offense to "[o]ffering, selling, soliciting, or negotiating" policies, contracts, or agreements, or applications for *any* form of insurance, either for insurers or multiple employer welfare arrangements not authorized to transact business in Ohio or for nonexistent, liquidating, or bankrupt insurers or multiple employer welfare arrangements. Under the act, the Superintendent of Insurance may continue to impose any existing penalty or penalties on agents who violate this "sales" prohibition; however, the act amends the former provisions that did not require the Superintendent to suspend an agent's license for this offense to mandate that the Superintendent impose a minimum of a two-year suspension on all of the offending agent's licenses for all lines of insurance.

Life insurance for individuals engaged in service for a business may qualify as group life insurance

(sec. 3917.01)

Under continuing law, certain forms of life insurance are defined as group life insurance, subject to the provisos of the Group Life Insurance Law, Chapter 3917. of the Revised Code. The act defines another form of life insurance as group life insurance.

Under the act, life insurance covering members of a workforce actively engaged in an occupation for and performing services on behalf of a duly



organized corporation, L.L.C., partnership, proprietor, or similar organization, which members are not employees of the organization, falls under the Group Life Insurance Law's definition of group life insurance if it meets certain conditions. First, the life insurance must be written under a policy that is issued to the organization, and the premium either must be paid by the organization alone or jointly with the members; provided, that when the premium is paid jointly and the benefits are offered to all eligible members not less than 75% of the members are insured (members are subject to being required to furnish evidence of proof of insurability to the insurer). For purposes of the group life insurance, the organization is considered to be the member's employer. Further, in order to qualify as group life insurance, the life insurance must insure the members for amounts of insurance based upon some plan that precludes individual selection and benefiting persons other than the organization. At the option of the organization, life insurance qualifying as group life insurance under this definition may also cover the organization's own employees.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	09-17-03	p. 1067
Reported, H. Insurance	12-03-03	p. 1246
Passed House (96-0)	12-09-03	pp. 1265-1266
Reported, S. Insurance, Commerce, and Labor	02-12-04	p. 1526
Passed Senate (32-0)	03-17-04	pp. 1636-1643
House concurred in Senate amendments (97-0)	03-23-04	pp. 1723-1724

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