Elizabeth Dominic *Legislative Service Commission*

Sub. H.B. 442*

126th General Assembly
(As Reported by S. Insurance, Commerce, and Labor)

Reps. Dolan, J. McGregor, Martin, Combs, Law, S. Patton, Miller, Chandler, Wagner, Oelslager, Coley, Willamowski, Barrett, Beatty, Blessing, Cassell, Collier, Core, DeBose, DeGeeter, Distel Domenick, C. Evans, D. Evans, Flowers, Garrison, Gibbs, Hagan, Hartnett, Hughes, Key, Mason, R. McGregor, Mitchell, Otterman, T. Patton, Redfern, Reidelbach, Sayre, Schaffer, Schlichter, Schneider, Setzer, G. Smith, D. Stewart, J. Stewart, Strahorn, Taylor, Walcher, Webster, Wolpert, Woodard, Yates, Yuko

BILL SUMMARY

- Requires all vehicle protection product warranties to be covered by warranty reimbursement insurance policies that must contain specified statements.
- Expands the conditions that a vehicle protection product warranty must meet in order for the warranty to not constitute an insurance contract or for its issuance to not constitute the business of insurance.
- Enacts new provisions pertaining to consumer goods service contracts to perform or pay for repairs, replacement, or maintenance of consumer goods due to a defect in materials or workmanship, normal wear and tear, power surges, or accidental damage from handling.
- Provides that, unless issued by an insurer authorized or eligible to do business in Ohio, consumer goods service contracts do not constitute contracts substantially amounting to insurance and that their issuance does not constitute the business of insurance.

---

* *This analysis was prepared before the report of the Senate Insurance, Commerce, and Labor Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

- Requires that consumer goods service contracts that provide for the performance of or payment for repairs, replacement, or maintenance of consumer goods due to power surges or accidental damage from handling be covered by reimbursement insurance policies that must contain a specified statement.

- Provides that consumer goods service contracts that are required to be covered by reimbursement insurance policies must comply with specified requirements.

- Applies the Ohio Consumer Sales Practices Act to vehicle protection product warranties and consumer goods service contracts.

- Modifies the laws pertaining to the organization and business of mutual protective associations that insure members of the association against the risk of direct physical loss or damage to certain types of property.

- Requires mutual protective associations to file with the Department of Insurance all policy forms currently in use and additions, deletions, and amendments to the forms.

- Removes the dollar limit on the amount of surplus from assessments that mutual protective associations may accumulate and authorizes the association, upon prior approval of the Superintendent of Insurance, to invest the surplus and other funds in real estate for its accommodation in transacting business.

- Modifies the types of property that a mutual protective association may insure and excludes certain motor vehicles from those types of insurable property.

- Removes the maximum dollar limit on the charges that a mutual protective association may collect on each insurance contract.

- Modifies the existing requirement for a mutual protective association to adopt a constitution and bylaws to require the adoption of a constitution, whether designated a constitution, constitution and bylaws, regulations, or code of regulations.

- Extends the time period for a mutual protective association to file its annual report to the Superintendent of Insurance.

- Specifies certain factors to be considered by the Superintendent of Insurance in determining the financial capacity of a mutual protective association.

- Prohibits the delivery in Ohio of any policy of group life insurance until a copy of its form has been filed with the Superintendent of Insurance pursuant to existing law, and clarifies certain provisions dealing with group life insurance.

- Specifies that certain waivers of customer obligations are not insurance.

- Modifies the investment and reinvestment exceptions concerning life insurance policies and annuities.

TABLE OF CONTENTS

Vehicle protection product warranties 4
Existing law 4
Operation of the bill 4
Definitions for purposes of vehicle protection product warranties 6
Consumer goods service contracts 7
Applicability of Ohio Consumer Sales Practices Act 7
Reimbursement insurance policy 7
Application of contract holder's rights 8
Definitions for purposes of consumer goods service contracts 8
Mutual protective associations dealing with property 10
Organization and purpose; filing policy forms 10
Assessments; surplus 10
Insurable property 11
Charge on insurance contract 12
Adoption of association's constitution 13
Filing with Superintendent of Insurance 13
Annual report 13
Financial capacity of mutual protective association 14
Group life insurance 14
Forms of group life insurance 14
Filing of copy of form 14
Waivers of customer obligations to a service provider 15
Investment of amounts allocated to separate accounts for life insurance policies and annuities 15

CONTENT AND OPERATION

Vehicle protection product warranties

Existing law

Under existing law, a "vehicle protection product" warranty may be issued by a "warrantor of a vehicle protection product." (See "***Definitions for purposes of vehicle protection product warranties***," below.) A vehicle protection product warranty issued by the warrantor of a vehicle protection product does not constitute a contract substantially amounting to insurance nor does the issuance of the warranty constitute the business of insurance under R.C. 3905.42 (prohibition against engaging in the business of insurance unless expressly authorized by Ohio laws) if the warranty meets the following conditions (R.C. 3905.421(C)(1) and (2)):

(1) The warranty is limited to indemnifying the warranty holder for "incidental costs" (see "***Definitions for purposes of vehicle protection product warranties***," below) caused by the failure of the vehicle protection product to deter the theft of the vehicle or facilitate the recovery of the vehicle after it has been stolen.

(2) The warranty contains both of the following conspicuous, written disclosures:

"This vehicle protection product warranty is not subject to the insurance laws of this state, contained in Title XXXIX of the Ohio Revised Code." "This warranty may not include all of the benefits or protections of an insurance policy that includes theft coverage issued by an insurer authorized to do business in Ohio."

Operation of the bill

The bill modifies existing law by requiring a vehicle protection product warranty to be covered by a warranty reimbursement insurance policy and expanding the conditions that preclude such a warranty from being considered an insurance contract.

Warranty reimbursement insurance policy. The bill requires all vehicle protection product warranties issued in Ohio to be covered by a "warranty reimbursement insurance policy" (see "***Definitions for purposes of vehicle protection product warranties***," below). A warranty reimbursement insurance policy must contain both of the following: a statement that the warranty reimbursement insurance company will reimburse, or pay on behalf of, the

warrantor of a vehicle protection product all covered amounts for which the warrantor is legally obligated, and will provide any service that the warrantor is legally obligated to perform, under the terms of a vehicle protection product warranty, and a statement that if a payment due under the terms of a vehicle protection product warranty is not paid within 60 days after the warranty holder files proof of loss pursuant to the terms of the warranty, that the warranty holder may file directly with the warrantor's warranty reimbursement insurance company for payment or reimbursement. The bill provides that the cancellation of a warrantor's warranty reimbursement insurance policy does not affect the warrantor's liability to the warranty holder. (R.C. 3905.421(B), (D), and (E).)

Additional conditions precluding a vehicle protection product warranty from being considered an insurance contract. The bill expands the conditions described in (1) and (2) under "***Existing law***," above, that a vehicle protection product warranty must meet in order for the warranty to not constitute a contract substantially amounting to insurance or for its issuance to not constitute the business of insurance under existing law. It adds the following conditions (R.C. 3905.421(C)(3), (4), (5), and (6)):

(1) The warranty identifies the warrantor, the warranty holder, and the terms of the sale of the vehicle protection product.

(2) The warranty conspicuously states that the obligations of the warrantor to the warranty holder are guaranteed under a warranty reimbursement insurance policy.

(3) The warranty conspicuously states that if a payment due under the terms of the warranty is not paid by the warrantor within 60 days after the warranty holder files proof of loss pursuant to the terms of the warranty, the warranty holder may file directly with the warrantor's warranty reimbursement insurance company for reimbursement.

(4) The warranty conspicuously states the name and address of the warrantor's warranty reimbursement insurance company.

Applicability of Ohio Consumer Sales Practices Act. The bill specifies that the sale of a vehicle protection product or the issuance of a vehicle protection product warranty to a consumer by the warrantor of a vehicle protection product constitutes a consumer transaction for purposes of the Ohio Consumer Sales Practices Law (R.C. 1345.01 to 1345.13). It provides that the warrantor is the supplier and the warranty holder is the consumer in such consumer transactions. (R.C. 3905.421(F).) (See **COMMENT** 1.)

Indemnification of seller. The bill requires a warrantor of a vehicle protection product to indemnify a seller of that product that pays or is required to pay a consumer of the product any amount that the warrantor is obligated to pay under the terms of the vehicle protection product warranty (R.C. 3905.421(G)).

Application of warranty holder's rights. The bill provides that the rights of a warranty holder against a warrantor's warranty reimbursement insurance company as provided in the bill apply only in regard to a warranty reimbursement insurance policy issued under the bill. The bill specifies that it does not create any contractual rights in favor of a person that does not qualify as an insured under any other type of insurance policy described in R.C. Title XXXIX (Insurance Law). (R.C. 3905.421(H).)

Definitions for purposes of vehicle protection product warranties

Existing law, not affected by the bill, defines the following terms (R.C. 3905.421(A)(1), (2), and (3)):

"Vehicle protection product" means a vehicle protection device, system, or service that is installed on or applied to a vehicle and that is designed to deter the theft of a vehicle or facilitate the recovery of the vehicle after it has been stolen. "Vehicle protection product" includes, but is not limited to, alarm systems, window etch products, body part marking products, steering locks, pedal and ignition locks, fuel and ignition kill switches, and electronic, radio, and satellite tracking devices.

"Warrantor of a vehicle protection product" or "warrantor" means the person that is contractually obligated to the warranty holder under the terms of a vehicle protection product warranty. "Warrantor" does not include an insurer authorized or eligible to do business in Ohio.

"Incidental costs" means the losses and expenses specified by a vehicle protection product warranty related to the failure of a vehicle protection product to deter the theft of a vehicle or facilitate the recovery of the vehicle after it has been stolen. "Incidental costs" may include, but are not limited to, insurance policy deductibles, rental vehicle charges, the difference between the actual value of the stolen vehicle at the time of the theft and the cost of a replacement vehicle, sales taxes, registration fees, transaction fees, and mechanical inspection fees.

The bill adds the following definition for purposes of vehicle protection product warranties (R.C. 3905.421(A)(4)):

"Warranty reimbursement insurance policy" means a policy of insurance issued by an insurer authorized or eligible to do business in Ohio to the warrantor

of a vehicle protection product to pay, on behalf of the warrantor, all covered contractual obligations incurred by the warrantor under the terms and conditions of the vehicle protection product warranty.

Consumer goods service contracts

The bill enacts new provisions pertaining to consumer goods service contracts. It provides that, unless issued by an insurer authorized or eligible to do business in Ohio, a "consumer goods service contract" (see "***Definitions for purposes of consumer goods service contracts***," below) does not constitute a contract substantially amounting to insurance, or the contract's issuance the business of insurance, under R.C. 3905.42 (R.C. 3905.423(F)).

Applicability of Ohio Consumer Sales Practices Act

The bill specifies that the sale or issuance of a consumer goods service contract is a consumer transaction for purposes of the Ohio Consumer Sales Practices Law. For purposes of that Law, the provider is the supplier, and the contract holder is the consumer. (R.C. 3905.423(E).) (See **COMMENT** 1.)

Reimbursement insurance policy

The bill requires consumer goods service contracts issued in Ohio that provide for the performance of or payment for repairs, replacement, or maintenance of consumer goods due to power surges or accidental damage from handling to be covered by a "reimbursement insurance policy" (see "***Definitions for purposes of consumer goods service contracts***," below) (R.C. 3905.423(B)). A reimbursement insurance policy that is required to be issued under the bill must contain a statement that if a provider fails to perform or make payment due under the terms of the consumer goods service contract within 60 days after the contract holder requests performance or payment pursuant to the terms of the contract, the contract holder may request performance or payment directly from the provider's reimbursement policy insurer, including, but not limited to, any obligation in the contract by which the provider must refund the contract holder upon cancellation of a contract (R.C. 3905.423(D)).

The bill requires a consumer goods service contract issued by a "provider" (see "***Definitions for purposes of consumer goods service contracts***," below) that is required to be covered by a reimbursement insurance policy to comply with all of the following requirements (R.C. 3905.423(C)):

(1) Conspicuously state that the obligations of the provider are guaranteed under a reimbursement insurance policy;

(2) Conspicuously state that if a provider fails to perform or make payment due under the terms of the contract within 60 days after the "contract holder" requests performance or payment pursuant to the terms of the contract, the contract holder may request performance or payment directly from the provider's reimbursement policy insurer, including, but not limited to, any obligation in the contract by which the provider must refund the contract holder upon cancellation of a contract;

(3) Conspicuously state the name, address, and telephone number of the provider's reimbursement insurance policy insurer.

Application of contract holder's rights

The bill provides that the rights of a contract holder against a provider's reimbursement policy insurer as provided in the bill apply only in regard to a reimbursement insurance policy issued under the bill. The bill specifies that it does not create any contractual rights in favor of a person that does not qualify as an insured under any other type of insurance policy described in R.C. Title XXXIX (Insurance Law). (R.C. 3905.423(G).)

Definitions for purposes of consumer goods service contracts

The bill defines the following terms for purposes of its provisions pertaining to consumer goods service contracts (R.C. 3905.423(A)):

"Consumer" means a person who engages in a consumer transaction with a supplier (by reference to R.C. 1345.01, not in the bill).

"Consumer goods" means goods sold, leased, assigned, awarded by chance, or transferred to a consumer in a consumer transaction.

"Consumer goods service contract" means a contract or agreement to perform or pay for repairs, replacement, or maintenance of consumer goods due to a defect in materials or workmanship, normal wear and tear, power surges, or accidental damage from handling, that is effective for a specified duration and paid for by means other than the purchase of the consumer goods. "Consumer goods service contract" does not include any of the following: (1) a contract or agreement to perform or pay for the repair, replacement, or maintenance of a motor vehicle or utility vehicle,[1] that is effective for a specified duration and paid

---

[1] *"Motor vehicle" means, with specified exceptions, any vehicle, including mobile homes and recreational vehicles, that is propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires (by reference to R.C. 4501.01, not in the bill).*

for by means other than the purchase of a motor vehicle or utility vehicle, (2) a vehicle protection product as defined in R.C. 3905.421, and (3) a home service contract, which is a contract, however described or denominated by the contract's issuer, whereby, for a predetermined fee, a person undertakes to repair or replace all or any part of any structural component, appliance, or system of a home necessitated by wear and tear, deterioration, or inherent defect that occurs on or after the effective date of the home service contract (see "***Definitions for purposes of vehicle protection product warranties***," above).

"Consumer transaction" means a sale, lease, assignment, award by chance, or other transfer of an item of goods, a service, a franchise, or an intangible, to an individual for purposes that are primarily personal, family, or household, or solicitation to supply any of these things. "Consumer transaction" does not include transactions between persons, defined in the Public Utilities Commission Law (R.C. Chapter 4905.) and the Financial Institutions, Dealers in Intangibles, and Insurance Companies Law (R.C. 5725.01 to 5725.26), and their customers; transactions between certified public accountants or public accountants and their clients; transactions between attorneys, physicians, or dentists and their clients or patients; and transactions between veterinarians and their patients that pertain to medical treatment but not ancillary services. (By reference to R.C. 1345.01, not in the bill.)

"Contract holder" means the consumer who purchased goods covered by a consumer goods service contract, any authorized transferee or assignee of the consumer, or any other person assuming the consumer's rights under the consumer goods service contract.

"Provider" means a person who is contractually obligated to a contract holder under the terms of a consumer goods service contract.

"Reimbursement insurance policy" means a policy of insurance issued by an insurer authorized or eligible to do business in Ohio to a provider to pay, on behalf of the provider, all covered contractual obligations incurred by the provider under the terms and conditions of the consumer goods service contract.

"Supplier" means a seller, lessor, assignor, franchisor, or other person engaged in the business of effecting or soliciting consumer transactions, whether or not the person deals directly with the consumer (by reference to R.C. 1345.01).

"Utility vehicle" means a self-propelled vehicle designed with a bed, principally for the purpose of transporting material or cargo in connection with construction, agricultural, forestry, grounds maintenance, lawn and garden, materials handling, or similar activities (by reference to R.C. 4501.01).

Mutual protective associations dealing with property

The bill makes substantive changes to the laws regarding mutual protective associations that insure the members against property losses and also makes several grammatical changes to update those laws.

Organization and purpose; filing policy forms

Existing law authorizes any number of persons of lawful age, not less than ten in number, owning insurable property in Ohio, to associate themselves together for the purpose of insuring each other against loss on property in Ohio *caused by fire and lightning, smoke, smudge, cyclones, tornadoes or wind storms, hail storms, explosion, except explosion by steam boilers or flywheels, riot, riot attending a strike, civil commotion, and falling or moving bodies*, except loss or damage to motor vehicles caused by collision (R.C. 3939.01).

The bill modifies existing law (modification in italics) by authorizing any number of persons of lawful age, not less than ten in number, owning insurable property in Ohio, to associate themselves together for the purpose of insuring each other against *the risk of direct physical* loss *or damage to* property in Ohio, *including theft of property in Ohio,* except loss or damage to motor vehicles caused by collision. The bill repeals the provision in existing law that specifies the causes of the loss on property and exceptions to those causes (italicized clause in the preceding paragraph). The bill requires any association organized under existing law, as modified by the bill (hereafter "mutual protective association"), to 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 30 days prior to the use of the policy forms, additions, deletions, or amendments. Each such filing is deemed approved 30 days after the filing is received by the Superintendent of Insurance, unless the filing is disapproved by the Superintendent during that 30-day period. (R.C. 3939.01(A).)

Assessments; surplus

Existing law. Existing law authorizes a mutual protective association to assess upon and collect from *each other* sums of money, from time to time, as are necessary to pay expenses and losses which occur from *such causes*. The assessment and collection of such sums of money must be regulated by the constitution *and bylaws* of the association, which must require such assessments to be made directly and specifically upon the members, and to be paid *directly and specifically* by them *and not* out of any fund deposited with the association *or other trustee* in anticipation of assessments, *nor in any other manner except that any such* association may borrow money for the payment of losses and expenses,

but such loans cannot be made for a *longer* period than the collection of their next assessment.

Existing law authorizes a mutual protective association to also accumulate a surplus from its assessments, *not exceeding $10 on each $1,000 of insurance in force, such surplus to be used in paying losses and expenses that occur*. Such surplus, *if invested*, must be under R.C. 3925.05 (investment of insurance company's capital) and R.C. 3925.08 (investment of insurance company's accumulated funds or surplus). (R.C. 3939.01.)

Operation of the bill. The bill modifies existing law by authorizing a mutual protective association, from time to time, to 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 must be regulated by the constitution of the association adopted under R.C. 3939.06 (see "***Adoption of association's constitution***," below). The constitution must 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 mutual protective association may borrow money for the payment of losses and *associated* expenses, but those loans cannot be made for a period *of time that extends beyond* the collection of the association's next assessment. (R.C. 3939.01(B).)

As in existing law, the bill authorizes a mutual protective association to accumulate a surplus from its assessments; but it repeals the provisions in existing law that the surplus cannot exceed $10 on each $1,000 of insurance in force and that the surplus is to be used in paying losses and expenses that occur. The bill modifies existing law by requiring the surplus *and all other funds received or accumulated in the course of business* to be invested under R.C. 3925.05 and 3925.08 (see "***Existing law***," above). The bill also authorizes a mutual protective association, upon prior approval of the Superintendent of Insurance, to invest that surplus and those other funds in real estate for the association's convenient accommodation in the transaction of its business. The association cannot have at any one time more than 10% of its admitted assets invested in real estate. (R.C. 3939.01(C).)

Insurable property

Under existing law, mutual protective associations may only insure farm buildings, detached dwellings and outbuildings, *schoolhouses*, churches, township buildings, grange buildings, farm *implements*, farm *products, livestock*, household goods, *furniture*, pleasure and utility vehicles, *motor vehicles, steam, gas, gasoline, and oil engines, motor trucks, tractors, electric motors, electric*

appliances, lighting systems, and other similar property except property used exclusively for commercial or industrial purposes. Such property may be classified only for the purpose of determining and levying assessments, and such property may be located within or without the limits of any municipal corporation. *An association whose membership is restricted to persons engaged in any particular trade or occupation, and whose insurance is confined in any particular kind or description of property, may insure property located in any county in Ohio which is used exclusively for such commercial or industrial purposes. An association whose membership is so restricted and whose insurance is so confined and which insures such property may also accumulate from its assessments a surplus not exceeding five times the average yearly losses and expenses of the association, as shown by the reports of the association to the Division of Insurance for the preceding three years. Such surplus must be used in paying losses and expenses that may occur and, if invested, must be under R.C. 3925.05 and 3925.08.* (R.C. 3939.01.)

The bill modifies existing law by providing that any mutual protective association 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 the preceding sentence 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. The bill repeals the provisions in existing law that pertain to insurable property of associations whose membership is restricted to persons engaged in any particular trade or occupation (italicized sentences in the preceding paragraph). (R.C. 3939.01(D).)

Charge on insurance contract

Existing law authorizes any mutual protective association to collect *an initial* charge on each contract of insurance in accordance with its constitution *and bylaws, and in addition thereto an amount not in excess of one tenth of one per cent of the amount of each individual contract of insurance, provided that the total amount of such charges cannot exceed $15* (R.C. 3939.01).

The bill authorizes any mutual protective association to collect (the bill deletes *an initial*) a charge on each contract of insurance in accordance with its constitution adopted as described in "***Adoption of association's constitution***," below. The bill repeals the provision in existing law authorizing such association to collect an additional amount as restricted, and providing a maximum dollar

limit on the total charges as specified, in the italicized clause in the preceding paragraph. (R.C. 3939.01(E).)

Adoption of association's constitution

Existing law requires every mutual protective association to adopt a constitution *and bylaws which will* in the judgment of its members best *subserve* its interests and purposes. *All persons who sign such constitution must be considered and held to be members of the association, and must be held in law to comply with all its requirements*. (R.C. 3939.06.)

The bill modifies existing law by requiring every mutual protective association to adopt a constitution, *whether designated a constitution, constitution and bylaws, regulations, or code of regulations, that* in the judgment of its members best *serves* its interests and purposes. It additionally provides that the constitution may include provisions set forth in R.C. 1702.11 (contents of regulations of nonprofit corporations). The bill repeals the provision in existing law that *all persons who sign such constitution must be considered and held to be members of the association, and must be held in law to comply with all its requirements*. (R.C. 3939.06.)

Filing with Superintendent of Insurance

Existing law requires that, before granting insurance, a mutual protective association must file with the Superintendent of Insurance a copy of its articles of incorporation, certified by the Secretary of State, and a copy of its *constitution and bylaws*, and forms of certificates of membership or insurance (R.C. 3939.07).

The bill modifies existing law by requiring that instead of filing a copy of the association's *constitution and bylaws*, the association must file a copy of its *constitution adopted as described in "**Adoption of association's constitution**,"* above (R.C. 3939.07).

Annual report

Under existing law, the president or vice-president and the secretary of every mutual protective association, annually on January 1, or within *30 days* thereafter, must prepare under oath and deposit in the office of the Superintendent of Insurance a statement of the condition of the association on the 31st day of the preceding December, exhibiting the facts enumerated in R.C. 3929.30 (annual report of insurance companies other than life) and applicable to such associations, and such other information necessary to reveal the financial condition of the association as the Superintendent requires (R.C. 3939.09).

The bill extends the time period for filing the annual report described in the preceding paragraph to *60 days* (instead of *30 days*) after January 1 (R.C. 3939.09).

Financial capacity of mutual protective association

The bill provides that in determining the financial capacity of a mutual protective association, the Superintendent of Insurance may take into consideration factors that include, but are not limited to, all of the following: (1) any reinsurance arrangements of the association with authorized insurers in Ohio, (2) the amount of contracts or policies of insurance of the association that are written and in force, and (3) any other measure of financial capacity of the association that the Superintendent considers appropriate (R.C. 3939.11).

The bill changes the references in existing law to the mutual protective association sections (R.C. 3939.01 to 3939.09 or R.C. 3939.01 to 3939.10) to include the new section R.C. 3939.11 (R.C. 3905.29 and 3941.27).

Group life insurance

Forms of group life insurance

Existing law lists and describes the various forms of life insurance that are group life insurance under R.C. 3917.01 to 3917.06. One of these is a life insurance policy issued to a trust or to the trustees of a trust fund established or adopted by two or more *employees*, or by one or more labor unions or similar employee organizations, or by one or more employers and one or more labor unions or similar employee organizations, which trust or trustees are deemed the policyholder, to insure employees of the employers or members of the unions or similar employee organizations for the benefit of persons other than the employers or the unions or organizations, subject to specified requirements. (R.C. 3917.01(D).)

The bill clarifies the above provision in existing law regarding group life insurance policy issued to a trust or to the trustees of a trust fund established or adopted by two or more *employers* (instead of *employees*) (R.C. 3917.01(D)).

Filing of copy of form

The bill prohibits the delivery in Ohio of any policy of group life insurance until a copy of its form has been filed with the Superintendent of Insurance pursuant to R.C. 3915.14(A) (see **COMMENT** 2) (R.C. 3917.06).

Existing law provides that, with the exception of specified provisions in R.C. Chapter 3915. (life insurance policy provisions), that chapter does not apply

to group policies. The bill adds R.C. 3915.14(A) as another exception to the nonapplicability of R.C. Chapter 3915. to group policies (R.C. 3917.06(M)(2)).

Waivers of customer obligations to a service provider

The bill stipulates that a waiver of customer obligation is not insurance and Ohio laws relating to insurance do not govern the sale or issuance of such a waiver. A waiver of customer obligation may be a portion of a larger agreement or a separate agreement. "Waiver of customer obligation" means an optional agreement between a service provider and the service provider's customer under which the service provider agrees, in return for a specified charge payable by the customer to the service provider, to waive all or a portion of the customer's financial obligation to the service provider for charges incurred during a defined period and upon the occurrence of a qualifying event. "Qualifying event" may include the customer's call to active military service, involuntary unemployment, death, disability, hospitalization, marriage, divorce, evacuation, displacement due to a natural disaster or other cause, qualification for family leave, or similar occurrence. "Service provider" means any public or private provider of services, including, but not limited to, (1) electricity, gas, water, wastewater, solid waste collection, or similar utility or (2) communications involving the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, through any medium or method now in existence or hereafter devised, including, but not limited to, cable, internet access, voice over internet, telephone, or wireless telephone. (R.C. 3905.424.)

Investment of amounts allocated to separate accounts for life insurance policies and annuities

Under existing law, a domestic life insurance company may issue policies, annuities, or other contracts, whether on an individual or group basis, providing benefits or other contractual payments, payable in fixed or variable dollar amounts, and allocate to one or more separate accounts any amounts to be applied to provide such benefits and contractual payments. With several exceptions, existing law permits amounts allocated to any separate account and the accumulations on those amounts to be invested and reinvested by the life insurance company without regard to investments requirements described in the Domestic Legal Reserve Life Insurance Companies Law (R.C. Chapter 3907.). However, not more 25% of the amounts allocated to a separate account and the accumulations on those amounts may be invested in the stocks, notes, debentures, bonds, or other securities of any one corporation or issuer and not more than 25% of the issued and outstanding voting securities of any one corporation or issuer may be acquired by all separate accounts in the case of (1) securities of investment companies registered under the federal Investment Company Act of 1940, (2) annuities or funding agreements issued by a life insurance company authorized to

do business in Ohio from its general account, and (3) the transfer of any investment or other asset in any separate account to any other account or to the general assets of the company or any investment among the general assets of the company transferred to any separate account. (R.C. 3907.15.)

The bill modifies this investment and reinvestment exception to stipulate that not more 10% of the amounts allocated to a separate account and the accumulations on those amounts may be invested in the stocks, notes, debentures, bonds, or other securities of any one corporation or issuer and not more than 10% of the issued and outstanding voting securities of any one corporation or issuer may be acquired by all separate accounts. The Superintendent may waive this limitation if, in the Superintendent's opinion, the waiver will not render the operation of the separate account hazardous to the public or policyholders in Ohio. The bill exempts from this 10% limitation the securities, annuities or funding agreements, and transfers described above and securities issued or guaranteed as to principal or interest by the United States. (*Id*.)

COMMENT

1. R.C. 1345.02 includes a listing of prohibited unfair or deceptive consumer sales practices, and R.C. 1345.03 prohibits unconscionable consumer sales practices. R.C. 1345.06 grants the Attorney General investigatory powers regarding acts or practices that allegedly violate the Consumer Sales Practices Law. Upon finding a reasonable cause to believe that a supplier has engaged or is engaging in an act or practice in violation of that Law, the Attorney General may bring a declaratory judgment action, an action to obtain a temporary restraining order, preliminary injunction, or permanent injunction to restrain the act or practice, or a class action on behalf of aggrieved consumers. (R.C. 1345.07.) An aggrieved consumer also has an individual cause of action under R.C. 1345.09 and is entitled to relief, which includes recovery of damages, rescission of the consumer transaction, declaratory judgment, injunctive relief, or other appropriate relief.

2. R.C. 3915.14(A), not in the bill, precludes any policy of life insurance, or any indorsement, rider, or application that becomes or is designed to become a part of any such policy, from being delivered, issued for delivery, or used in Ohio, or from being issued by a life insurance company organized under Ohio laws, until 30 days after the form of said policy, indorsement, rider, or application has been filed with the Superintendent of Insurance, unless within that time the Superintendent gives the insurance company written approval for the use of the form.

HISTORY

ACTION	DATE
Introduced	12-08-05
Reported, H. Civil & Commercial Law	02-22-06
Passed House (93-0)	03-08-06
Reported, S. Insurance, Commerce, & Labor	---

H0442-RS-126.doc/jc