



# Ohio Legislative Service Commission

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## Final Analysis

Ashley Blackburn

### **Sub. S.B. 9**

130th General Assembly  
(As Passed by the General Assembly)

**Sens.** Bacon, Beagle, Hite, Jones, Seitz, Widener, Eklund, Lehner, Manning, Peterson,

**Reps.** Carney, Hackett, Henne, Huffman, Letson, Pillich, Sears, Wachtmann, Batchelder

**Effective date:** September 4, 2013

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### **ACT SUMMARY**

- Requires health insuring corporations to file any changes in a solicitation document with the Superintendent of Insurance 30 days prior to use for informational purposes.
  - Authorizes the Superintendent to disapprove any solicitation document or require that the document be amended if the Superintendent finds that it fails to comply with the necessary requirements.
  - Suspends the operation of the following beginning January 1, 2014, and expiring January 1, 2018: Ohio's Open Enrollment Program, Ohio's Health Reinsurance Program, and the option to convert certain health insurance contracts and policies.
  - Requires that if the sections of the federal Patient Protection and Affordable Care Act of 2010, related to health insurance coverage, do not take effect January 1, 2014, or become ineffective before the suspension expires on January 1, 2018, the suspended sections in either their present form or as they are later amended, again become operational.
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### **CONTENT AND OPERATION**

#### **HIC solicitation documents**

The act requires a health insuring corporation (HIC) to file with the Superintendent of Insurance any changes in the HIC's solicitation document 30 days prior to use for informational purposes. If, under the act, the Superintendent finds that

any solicitation document fails to comply with the necessary requirements, pursuant to continuing law the Superintendent is authorized to disapprove the solicitation document. In addition, the act allows the Superintendent to require amendment to a solicitation document. Prior law required any changes in a HIC's solicitation document to be filed with the Superintendent, with no prior-to-use requirement, and allowed the Superintendent 60 days to disapprove any solicitation document or amendment to it.<sup>1</sup>

Under continuing law, the Superintendent must give written notice to the HIC of a disapproval of a solicitation document, and the notice must state the grounds for disapproval as well as comply with Ohio's Administrative Procedure Law.<sup>2</sup> Continuing law requires that a solicitation document contain all information necessary to enable a consumer to make an informed choice as to whether or not to enroll in the health insuring corporation. Additionally, continuing law requires the information to include a specific description of the health care services to be available and the approximate number and type of full-time equivalent medical practitioners. Finally, the information must be presented in the solicitation document in a manner that is clear, concise, and intelligible to prospective applicants in the proposed service area.<sup>3</sup>

### **Suspension of Ohio's Open Enrollment Program, Health Reinsurance Program, and option for conversion of a health policy or contract**

The act suspends, beginning on January 1, 2014, and expiring January 1, 2018, the operation of the following programs:

- Ohio's Open Enrollment Program;<sup>4</sup>
- Ohio's Health Reinsurance Program;<sup>5</sup>
- Option for conversion from a group to individual contract under an existing contract with a HIC;<sup>6</sup>
- Option for conversion from a nongroup contract to a contract issued on a direct payment basis under an existing contract with a HIC;<sup>7</sup>

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<sup>1</sup> R.C. 1751.31(A).

<sup>2</sup> R.C. 1751.31(A).

<sup>3</sup> R.C. 1751.31(B).

<sup>4</sup> R.C. 1751.15, 3923.58, 3923.581, 3923.582, and 3923.59.

<sup>5</sup> R.C. 3923.59 and 3924.07 to 3924.14.

<sup>6</sup> R.C. 1751.16.



- Option for conversion from a group policy to an individual policy under an existing policy with a sickness and accident insurer.<sup>8</sup>

The programs suspended by the act appear to be duplicative of the guaranteed availability of coverage in the individual and group markets.<sup>9</sup> If the guaranteed availability of coverage and the requirements related to health insurance coverage under the ACA do not take effect on January 1, 2014, or become ineffective before the suspension expires, the suspended programs, in either their present form or as they are later amended, again become operational.<sup>10</sup>

### **Requirements for existing open enrollment or conversion policies or contracts**

Under the act, carriers are not required to offer open enrollment coverage under the Ohio Open Enrollment Program on or after January 1, 2014.<sup>11</sup> Under continuing law that is suspended by the act, during certain periods of time, insurers are required to accept individuals for health care coverage generally without regard to the individual's health status pursuant to Ohio's Open Enrollment Program.<sup>12</sup>

Additionally, under the act, carriers are not required to include any option to convert coverage as required by the suspended laws in any policy or contract issued on or after January 1, 2014.<sup>13</sup> Under those suspended laws, HICs are required to provide the option for conversion of every group contract to an individual contract issued on a direct-payment basis to any subscriber covered by the group contract who terminates employment or membership in the group, unless certain exceptions apply.<sup>14</sup> Continuing law that is suspended by this act also requires that every nongroup contract that is issued by a HIC that makes available basic health care services must provide an option for conversion to a contract issued on a direct-payment basis to an enrollee covered by the nongroup contract, unless certain exceptions apply.<sup>15</sup> Similar to the conversion

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<sup>7</sup> R.C. 1751.17.

<sup>8</sup> R.C. 3923.122.

<sup>9</sup> 42 U.S.C. 300gg-1 and 300gg-6.

<sup>10</sup> Section 3 of the act.

<sup>11</sup> Section 3 of the act.

<sup>12</sup> R.C. 1751.15, 3923.28, 3923.581, 3923.582, and 3923.59.

<sup>13</sup> Section 3 of the act.

<sup>14</sup> R.C. 1751.16.

<sup>15</sup> R.C. 1751.17.

requirements of HICs, continuing law that is suspended by this act requires every policy of group sickness and accident insurance providing hospital, surgical, or medical expense coverage for other than specific diseases or accidents only to include a provision giving each insured the option to convert under certain circumstances.<sup>16</sup>

With respect to an open enrollment or conversion policy or contract issued prior to January 1, 2014, the act authorizes a carrier to terminate such policy or contract on or after January 1, 2014, if the carrier provides notice of termination to the policy or contract holder at the time the policy is issued, or at least 90 days prior to the termination, and offers the policy or contract holder the option to purchase other coverage offered by the insurer to be effective at the time of the termination.<sup>17</sup>

### **Ohio's Health Reinsurance Program and Board of Directors**

Under the act, carriers must not reinsure any insurance policies with the Ohio Health Reinsurance Program (Program) during the suspension of the Program on or after January 1, 2014.<sup>18</sup> Under continuing law that is suspended by this act, the Program reinsures small employer health benefit plans that offer group coverage to employees of employers with at least two and up to 50 employees without regard for the employees' health status, and open enrollment plans that offer coverage to specified individuals without regard for the applicant's health status.<sup>19</sup>

Moreover, under continuing law that is suspended by this act, the Program is administered by a Board of Directors.<sup>20</sup> Under the act, the Program's Board continues to have all of the authority and protection provided by the law during the period beginning January 1, 2014, and ending December 31, 2014, in order to wind up affairs of the Program. The act requires the Board to pay all claims incurred on or before January 1, 2014, handle assessments needed to fund the wind up of the Program, as well as refund any excess assessments, and prepare final audited financial statements and tax returns.<sup>21</sup>

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<sup>16</sup> R.C. 3923.122.

<sup>17</sup> Section 3 of the act.

<sup>18</sup> Section 3 of the act.

<sup>19</sup> R.C. 3924.01 to 3924.14.

<sup>20</sup> R.C. 3924.08.

<sup>21</sup> Section 3 of the act.



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## HISTORY

ACTION	DATE
Introduced	02-12-13
Reported, S. Insurance & Financial Institutions	03-19-13
Passed Senate (33-0)	03-19-13
Reported, H. Insurance	05-08-13
Passed House (95-3)	05-15-13
Senate concurred in House amendments (22-11)	05-22-13

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