



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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(As Reported by H. Insurance)

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BILL SUMMARY

Travel insurance

- Defines travel insurance and distinguishes travel insurance from longer-term medical insurance coverage for persons spending six months or more overseas, such as expatriates or deployed military personnel.
- Authorizes the Superintendent of Insurance to issue a limited lines travel insurance license to qualified individuals or business entities.
- Requires the licensee to designate one of the licensee's employees as the agent responsible for ensuring compliance with the travel insurance law and makes the licensee and responsible agent responsible for the acts of any associated travel retailer.
- Permits a travel retailer to offer and disseminate travel insurance in conjunction with the making, arranging, or offering of travel services under the direction of a licensed limited lines travel insurance agent and prohibits the travel retailer from providing technical insurance related services.
- Requires travel insurance agents and travel retailers to disclose to customers specified information, including material terms, the claim filing process, the cancellation process, and contact information.
- Authorizes the Superintendent of Insurance to take action as provided in current law for any violation of the bill's travel insurance provisions.

- Provides that the bill's travel insurance provisions take effect 90 days after the bill's effective date.

Supervision of internationally active insurance groups

- Authorizes the Superintendent of Insurance to act as, or appoint another regulatory official to act as, the group-wide supervisor for any internationally active insurance group.
- Requires the Superintendent to cooperate with other state, federal, and international regulatory agencies in appointing a group-wide supervisor.
- Allows the Superintendent to collect from a registered member of an insurance holding company system all information necessary to determine who may act as the group-wide supervisor.
- Allows the Superintendent to obtain information from insurers regarding enterprise risk.
- Authorizes the Superintendent to coordinate with officials in other jurisdictions to mitigate any enterprise risk to members of the internationally active insurance group for which the Superintendent is the group-wide supervisor when those members are domiciled in those other jurisdictions.
- Allows the Superintendent to work and share information with other regulatory agencies regarding members of internationally active insurance groups.
- Allows the Superintendent to enter into agreements with or obtain documentation from insurers and other regulatory agencies regarding the group-wide supervisor's role.
- Allows the Superintendent to undertake any other group-wide supervision activities the Superintendent considers necessary.
- Requires registered members of insurance holding company systems to pay reasonable expenses of the Superintendent's participation in the administration of the bill's internationally active insurance group provisions.
- Allows the Superintendent to adopt rules in accordance with the Ohio Administrative Procedure Act to implement the bill's internationally active insurance group provisions.
- Provides that the bill's internationally active insurance group provisions take effect 90 days after the bill's effective date.



Delinquency proceedings involving insurer-members of federal home loan banks

- Limits the time a federal home loan bank can be stayed from acting on an insurer-member's collateral in a delinquency proceeding to ten days following the issuance of an injunction or other order.
- Requires a federal home loan bank to repurchase an insurer-member's excess capital stock within seven days of a redemption request.
- Requires a federal home loan bank to provide a court-appointed receiver, conservator, rehabilitator, or liquidator (collectively, an appointee) a process and timeline for dealing with the release of collateral by the bank, payment of fees by the insurer-member, and redemption of the insurer-member's stock by the bank.
- Requires a federal home loan bank to provide any available options for renewing or restructuring a loan upon request of the appointee.
- Provides that a transfer of money or property from an insurer-member to its federal home loan bank made within one year prior to a delinquency proceeding and without fair consideration may nevertheless be deemed not fraudulent so long as it was made in the ordinary course of business, without intent to hinder or defraud, and in compliance with the applicable agreement.

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CONTENT AND OPERATION

Travel insurance

Limited lines travel insurance

Currently, the Superintendent of Insurance (Superintendent) is authorized to issue a resident insurance agent license to an individual who meets specified criteria. The license must specify the line for which the licensee is qualified. Existing law specifies certain lines of authority for licenses but permits the Superintendent to designate more lines.

The Superintendent has by rule authorized the issuance of travel insurance coverage. According to the Department of Insurance website, the travel insurance limited line licensee is not currently required to complete any pre-licensing education, examination, or continuing education. The license is valid for two years.¹

The bill establishes travel insurance as a limited line in the Revised Code and regulates the licensure of individuals and business entities selling travel insurance. Under the bill, "travel insurance" means individual or group insurance coverage for personal risks incident to planned travel, including interruption or cancellation of a trip or event, loss of baggage or personal effects, damages to accommodations or rental vehicles, and sickness, accident, disability, or death occurring during travel. "Travel insurance" does not include major medical plans that provide comprehensive medical protection for a traveler with a trip lasting six months or longer, including a person working overseas as an expatriate or deployed military personnel.²

Under the bill, the Superintendent is permitted to issue a limited lines travel insurance agent license to an individual or a business entity. The license authorizes the individual or business entity to sell, solicit, or negotiate travel insurance through a licensed insurer if the individual or business entity has filed an application with the Superintendent in a form and manner required by the Superintendent and pays all

¹ R.C. 3905.041(C), 3905.05(A), and 3906.06(B)(12); Ohio Administrative Code 3901-5-09(F); Ohio Department of Insurance, *Limited Authority Licenses for Individuals*, <http://insurance.ohio.gov/agent/pages/indivltdauth.aspx> (accessed December 4, 2017).

² R.C. 3905.064(A)(2), (B), and (H).



associated fees, including an application fee set by the Superintendent of up to \$50.³ It must be renewed every two years in accordance with continuing Insurance Law for insurance agents; the renewal fee is set by the Superintendent and cannot exceed \$50.⁴

Under the bill, "limited lines travel insurance agent" means an individual or entity licensed to sell, solicit, or negotiate travel insurance. A "travel retailer" is a business entity that makes, arranges, or offers travel services. A travel retailer, as a service to its customers and on behalf of, and under the direction of, a limited lines travel insurance agent that is a business entity may "offer and disseminate travel insurance." But, the sale of travel insurance must be only in conjunction with the making, arranging, or offering of travel services.⁵

The limited lines travel insurance agent, and those travel retailers registered under the agent's license, are exempt from any examination and education requirements required under continuing Insurance Law for insurance agents for the purpose of selling travel insurance.⁶

The bill's provisions relating to travel insurance take effect 90 days after the bill's effective date.⁷

Requirements

Registration of travel retailers

A limited lines travel insurance agent must establish and maintain a register of each travel retailer that offers travel insurance on the agent's behalf on a form prescribed by the Superintendent. Upon reasonable request of the Department of Insurance, the agent must submit the register and certify that the registered travel retailers comply with federal law pertaining to insurance affecting interstate commerce.⁸

Designated responsible agent

A limited lines travel insurance agent must designate one of the agent's employees as the designated responsible agent responsible for the agent's and travel

³ R.C. 3905.064(C) and 3905.40, with conforming changes in R.C. 3905.01(K) and 3905.06(B).

⁴ R.C. 3905.064(J) and 3905.40(G).

⁵ R.C. 3905.064(A)(1) and (3), (E), (E)(5), and (G)(2)(d).

⁶ R.C. 3905.064(F).

⁷ Section 3.

⁸ R.C. 3905.064(D).



retailer's compliance with Ohio's travel insurance laws and rules. The designated responsible agent must (1) be a licensed insurance agent, (2) be qualified in one of the travel, property, or personal lines of insurance, and (3) comply with the criminal records check fingerprinting requirements under continuing law or the fingerprinting requirements of the agent's home state.⁹ The bill specifies that the limited lines travel insurance agent business entity and that entity's responsible agent are responsible for the acts of any associated travel retailer selling travel insurance and are to use reasonable means to ensure compliance with the travel insurance requirements.¹⁰

Disclosures

A limited lines travel insurance agent, or the travel retailer, must provide purchasers of travel insurance with all of the following at the time of sale or in the sale fulfillment materials:

- A description of the material terms, or the actual terms, of the insurance coverage;
- A description of the process for filing a claim;
- A description of the review or cancellation process for the travel insurance policy;
- The identity and contact information of the insurer and limited lines travel insurance agent.¹¹

The bill also imposes disclosure requirements exclusively on travel retailers. Travel retailers that offer or disseminate travel insurance must provide brochures or other written materials to prospective customers that include all of the following information:

- The identity and contact information of the insurer and the limited lines travel insurance agent;
- An explanation that the purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer;

⁹ R.C. 3905.064(E)(2).

¹⁰ R.C. 3905.064(E)(3).

¹¹ R.C. 3905.064(E)(1).



- An explanation that an unlicensed travel retailer is permitted to provide general information about the insurance it offers, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance it offers or to evaluate the adequacy of the customer's existing insurance coverage.¹²

Instruction and training

A limited lines travel insurance agent must require each employee and authorized representative of the travel retailer whose duties include offering and disseminating travel insurance to receive instruction or training that includes instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers. The Superintendent is authorized to review this instruction or training.¹³

Prohibited actions

The bill prohibits a travel retailer's employee or authorized representative who is not licensed as an insurance agent from doing any of the following:

- Evaluating or interpreting the technical terms, benefits, and conditions of the offered travel insurance coverage;
- Evaluating or providing advice concerning a prospective purchaser's existing insurance coverage;
- Holding itself out as a licensed insurer, licensed agent, or insurance expert.¹⁴

Compensation

Under the bill, if a travel retailer's insurance-related activities are limited to offering and disseminating travel insurance on behalf of and under the direction of a limited lines travel insurance agent meeting the requirements of the bill, the travel retailer may offer and disseminate travel insurance and receive compensation for those services if the travel retailer is registered by the agent as required under the bill. However, the bill stipulates that compensation for a travel retailer employee or

¹² R.C. 3905.064(G)(1).

¹³ R.C. 3905.064(E)(4).

¹⁴ R.C. 3905.064(G)(2).

authorized representative must not be primarily tied to the number of customers who purchase travel insurance from that employee or authorized representative.

Nothing in the bill's provisions are to be construed as prohibiting payment of compensation to a travel retailer, its employees, or its authorized representatives for activities under the limited lines travel insurance agent's license that are incidental to the overall compensation of the retailer, employees, or representatives of the travel retailer.¹⁵

Enforcement

Any limited lines travel insurance agent or any travel retailer offering and disseminating travel insurance under a limited lines travel insurance agent that is found to have violated the provisions of the bill has committed an unfair and deceptive act or practice in the business of insurance. If the Superintendent finds that an agent or retailer has committed such an act or practice, the Superintendent may take a variety of actions, including issuing a cease and desist order, imposing a civil penalty of up to \$25,000, suspending or revoking an insurance license, and ordering corrective actions.¹⁶

Supervision of internationally active insurance groups

Overview

The bill authorizes the Superintendent to act as the group-wide supervisor for any internationally active insurance group.¹⁷ An "internationally active insurance group" (international group) is an insurance holding company system (holding company system) that includes an insurer that is registered in Ohio as a member of a holding company system and that meets all of the following criteria:

- Insurers that are part of the holding company system write premiums in at least three countries.
- The percentage of gross premiums written outside the U.S. by the holding company system is at least 10% of the holding company system's total gross written premiums.

¹⁵ R.C. 3905.064(G)(3).

¹⁶ R.C. 3905.064(I); R.C. 3901.21 and 3905.14, not in the bill.

¹⁷ R.C. 3901.352.



- Based on a three-year rolling average, either the total assets of the holding company system are at least \$50 billion, or the total gross written premiums of the holding company system are at least \$10 billion.¹⁸

A "group-wide supervisor" (supervisor) is the regulatory official authorized by the Superintendent to supervise an international group and who is determined by the Superintendent to have sufficient contacts with the international group.

The Superintendent may authorize a regulatory official from another jurisdiction as the supervisor if the international group meets any of the following conditions:

- It lacks substantial operations in the U.S.
- It has substantial operations in the U.S., but not in Ohio.
- It has substantial operations in both the U.S. and Ohio, but the Superintendent has determined pursuant to the factors set forth below under "**Appointment of group-wide supervisor**" and "**Unaccredited group-wide supervisors**" that the other regulatory official is the appropriate supervisor.

Under the bill, an insurance holding company system that does not otherwise qualify as an internationally active insurance group may request that the Superintendent appoint a supervisor for the insurance holding company system.¹⁹

The bill's provisions relating to internationally active insurance groups take effect 90 days after the bill's effective date.²⁰

Appointment of group-wide supervisor

The bill requires the Superintendent to cooperate with other regulatory agencies to appoint a supervisor for each international group. The Superintendent may determine that the Superintendent is the appropriate supervisor for an international group with substantial operations in Ohio. Or, the Superintendent may acknowledge a regulatory official from another jurisdiction as the appropriate supervisor. In making this determination, the Superintendent must consider the following factors:

¹⁸ R.C. 3901.32(G) and 3901.352(A)(1).

¹⁹ R.C. 3901.32(D) and 3901.352(A).

²⁰ Section 3.

- The place of domicile of the insurers within the internationally active insurance group that hold the largest share of the group's premiums, assets, or liabilities;
- The place of domicile of the top-tiered insurer in the internationally active insurance group's insurance holding company system;
- The location of the executive offices or largest operational offices of the internationally active insurance group;
- Whether another regulatory official is acting or seeking to act as the group-wide supervisor under another regulatory system that the Superintendent determines is either substantially similar to Ohio's regulatory system or is otherwise sufficient in terms of providing for group-wide supervision, enterprise risk analysis, and cooperation with other regulatory officials;
- Whether another regulatory official acting or seeking to act as group-wide supervisor provides the Superintendent with reasonably reciprocal recognition and cooperation.

If the Superintendent is identified as the supervisor, the bill allows the Superintendent to acknowledge someone else as the supervisor. This acknowledgment must be made in accordance with all of the following:

- After consideration of the factors above;
- In cooperation with and subject to the acknowledgment of other regulatory officials involved with supervision of members of the internationally active insurance group;
- In consultation with the internationally active insurance group.²¹

Change of group-wide supervisor

The bill requires the Superintendent to make a determination as to the appropriate supervisor if a material change in the international group results in either:

- Ohio being the domicile of the group's insurers holding the largest share of the group's premiums, assets, or liabilities; or

²¹ R.C. 3901.352(B) and (C)(1).

- Ohio being the domicile of the top-tiered insurer in the group's holding company system.²²

Information required to determine group-wide supervisor

Under the bill, the Superintendent may collect from a registered member of an insurance holding company system all information necessary to determine who may act as the supervisor. Prior to determining that an international group is subject to supervision by the Superintendent, the Superintendent must notify the registered member and the ultimate control person within the international group. The Superintendent must give the international group at least 30 days to provide the Superintendent any additional information pertinent to the determination. The Superintendent must publish on its website the identity of international groups that the Superintendent has determined are subject to supervision by the Superintendent.²³

Supervision activities

Risk assessment

If the Superintendent is the supervisor for an international group, the Superintendent may assess the enterprise risks within the group to ensure that the material financial condition and liquidity risks to group members are identified by management and that reasonable and effective mitigation measures are in place.²⁴

The Superintendent may request from any member of an international group subject to the Superintendent's supervision information necessary and appropriate to assess enterprise risk, including information about group members regarding governance, risk assessment, management, capital adequacy, and material intercompany transactions.²⁵

The Superintendent may coordinate and, through the authority of the regulatory officials of the jurisdictions in which members of the international group are domiciled, compel development and implementation of reasonable measures designed to ensure that the group is able to timely recognize and mitigate enterprise risks to group members.²⁶

²² R.C. 3901.352(C)(2).

²³ R.C. 3901.352(D).

²⁴ R.C. 3901.352(E)(1).

²⁵ R.C. 3901.352(E)(2).

²⁶ R.C. 3901.352(E)(3).

Working with insurers and other agencies

The bill authorizes the Superintendent to communicate with other regulatory agencies for members of the international group and share relevant information through a supervisory college, subject to confidentiality. (A supervisory college is a forum of supervisors established to facilitate the effectiveness of supervision of entities belonging to an insurance group and the group as a whole.²⁷) It also allows the Superintendent to enter into agreements with or obtain documentation from any registered insurer, any member of the international group, and any other regulatory agency, that provides the basis for or otherwise clarifies the supervisor's role. The agreements or documentation may include provisions for resolving disputes with other regulatory officials.²⁸

Other supervision activities

The Superintendent may undertake any other group-wide supervision activities consistent with the bill that the Superintendent considers necessary.²⁹

Unaccredited group-wide supervisors

If the Superintendent acknowledges that another regulatory official from a jurisdiction that is not accredited by the National Association of Insurance Commissioners is the supervisor of an international group, the Superintendent may reasonably cooperate, through a supervisory college, with that official if both of the following are true:

- The Superintendent's cooperation is in compliance with the Revised Code; and
- The regulatory official also recognizes and cooperates with the Superintendent's activities as a supervisor for other international groups, as applicable. If recognition and cooperation is not reasonably reciprocal, the Superintendent may refuse to recognize the regulatory official.³⁰

²⁷ R.C. 3901.351, not in the bill.

²⁸ R.C. 3901.352(E)(4) and (5) and (G).

²⁹ R.C. 3901.352(E)(6).

³⁰ R.C. 3901.352(F).



Administrative expenses and rules

Under the bill, registered members of insurance holding company systems are liable for reasonable expenses of the Superintendent's participation in the administration of the bill's internationally active insurance group provisions, including engaging attorneys, actuaries, and any other professionals and all reasonable travel expenses. The Superintendent may adopt rules in accordance with the Ohio Administrative Procedure Act as necessary to implement those provisions.³¹

Delinquency proceedings involving insurer-members of federal home loan banks

Continuing law states that in the course of a delinquency proceeding against an insurer under the Insurers Supervision, Rehabilitation, and Liquidation Law, upon complaint of the court-appointed receiver, conservator, rehabilitator, or liquidator (collectively, the appointee), any court of general jurisdiction may issue an injunction or any other order the court considers necessary and proper to prevent the continuation of business, actions against the insurer or its assets, or interference with the appointee's duties.³² The bill amends the Insurers Supervision, Rehabilitation, and Liquidation Law to address a situation in which the delinquent insurer is a member of a federal home loan bank (bank). A federal home loan bank is any institution chartered under the Federal Home Loan Bank Act of 1932.³³

Rights regarding collateral

The bill limits the maximum time a bank can be prevented from acting on collateral pledged by an insurer-member to ten days following the date an injunction or other order described above is issued.³⁴

A bank exercising its rights to collateral must, within seven days of receiving an insurer-member's redemption request, repurchase any of the insurer-member's outstanding capital stock in excess of the amount the insurer-member must hold as a minimum investment. The bank must repurchase the excess stock only to the extent that it determines in good faith that the repurchase is both of the following:

³¹ R.C. 3901.352(H) and (I).

³² R.C. 3903.05.

³³ R.C. 3901.01(K) and 3903.05(E).

³⁴ R.C. 3903.05(C)(1).



- Permissible under federal laws and regulations and the bank's capital plan;
- Consistent with the capital stock practices currently applicable to the bank's entire membership.³⁵

Process, timeline, and options

Within ten days following the designation of an appointee in a delinquency proceeding, the bank must provide the appointee a process and timeline for all of the following:

- The release of any collateral held by the bank exceeding the amount required to support the secured obligations of the insurer-member and remaining after repayment of loans;
- The release of any collateral held by the bank following full repayment of the insurer-member's outstanding secured obligations;
- The payment of fees owed by the insurer-member and the operation, maintenance, closure, or disposition of deposits and other accounts of the insurer-member, as mutually agreed upon by the appointee and the bank;
- Any redemption or repurchase of bank stock or excess stock of any class that the insurer-member must own under its agreements with the bank.

Upon the appointee's request, the bank must provide any available options for the insurer-member to renew or restructure a loan. In determining which options are available, the bank may consider market conditions, the terms of any loans outstanding to the insurer-member, the bank's policies, and federal laws and regulations applicable to federal home loan banks.³⁶

Fraudulent transactions

Current law provides that any transaction made by an insurer within a year prior to a successful filing for rehabilitation or liquidation is fraudulent if made without fair consideration or with the intent to hinder, delay, or defraud existing or future creditors. Such fraudulent transactions may be avoided by the appointee, except as to a good faith purchaser, lienor, or obligee.³⁷ The bill provides an exception if the transaction is a

³⁵ R.C. 3903.05(C)(2).

³⁶ R.C. 3903.05(D).

³⁷ R.C. 3903.26(A).

transfer of money or property from an insurer-member to its federal home loan bank in accordance with a credit agreement. In that case, the transfer is not deemed fraudulent if all of the following apply:

- The transfer was not made with the intent to hinder, delay, or defraud an insurer-member, the appointee, or existing or future creditors of the insurer-member.
- The transfer was made in the ordinary course of business.
- The transfer was made in compliance with the applicable agreement.³⁸

HISTORY

ACTION	DATE
Introduced	06-27-17
Reported, S. Insurance and Financial Institutions	10-17-17
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³⁸ R.C. 3903.26(D).

