



Ohio Revised Code

Section 3955.08 Association powers and duties.

Effective: June 29, 1994

Legislation: House Bill 89 - 120th General Assembly

(A) The Ohio insurance guaranty association shall:

(1) Be obligated to the extent of the covered claims existing prior to the determination that an insolvent insurer exists and arising within thirty days after such determination, or before the policy expiration date if less than thirty days after the determination, or before the insured replaces the policy or on request effects cancellation, if he does so within thirty days after the determination. In no event shall the association be obligated to a policyholder or claimant in an amount in excess of the face amount of the policy from which the claim arises. Claims of assessable members or subscribers of an insolvent insurer shall not be paid until all assessable subscribers or members have been assessed in accordance with section 3903.31 of the Revised Code and such assessments have been paid. Notwithstanding any other provision of the Revised Code, the association shall not be liable to pay any claim filed with the association after the earlier of the final date set by a court for filing claims in the liquidation proceedings of the insolvent insurer or eighteen months after the order of liquidation.

(2) Be deemed the insurer to the extent of its obligation on the covered claims and to such extent shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent;

(3) Allocate claims paid and expenses incurred among the accounts separately, and assess member insurers separately for each account amounts necessary to pay the obligations of the association under division (A)(1) of this section subsequent to an insolvency, the expenses of handling covered claims subsequent to insolvency, and other expenses authorized by sections 3955.01 to 3955.19 of the Revised Code. The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the preceding calendar year on the kinds of insurance in the account bears to the net direct written premiums of all member insurers for the preceding calendar year on such kinds of insurance.



Each member insurer shall be notified of the assessment not later than thirty days before it is due. Each member insurer may be assessed in any year on any account any amount not greater than one and one-half per cent of its net direct written premiums for the preceding calendar year on the kinds of insurance in that account. After an initial assessment has been made for an insolvency, any subsequent assessments for that insolvency may be calculated in the same manner as the initial assessment and may use the same calendar year's net direct written premiums as were used in determining the original assessment. If the maximum assessment, together with the other assets of the association in any account, does not provide in any one year in any account an amount sufficient to make all necessary payments from that account, the funds available shall be prorated and the unpaid portion shall be paid as soon as funds become available, or claims shall be paid in any other manner the association may consider reasonable, including the payment of claims as they are received from claimants or the payment of claims in groups or categories.

The association may exempt or defer, in whole or in part, the assessment of any member insurer, if it would cause the insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which such insurer is authorized to transact insurance. The association may waive an assessment of any insurer if such assessment does not exceed ten dollars. If the balance of funds in any account, established pursuant to this section and section 3955.06 of the Revised Code, is in excess of amounts needed to pay all obligations chargeable to that account, the board of directors may authorize the transfer of such excess funds to any other account established pursuant to such sections in lieu of making an additional assessment for such other account or to reduce the total amount of an additional assessment for such other account.

- (4) Investigate claims brought against the association and adjust, compromise, settle, or pay covered claims to the extent of the association's obligation and deny all other claims;
- (5) Notify such persons as the superintendent directs under section 3955.10 of the Revised Code;
- (6) Handle claims through its employees or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the superintendent, but may be declined by a member insurer.



(7) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association, and pay all other expenses of the association authorized by sections 3955.01 to 3955.19 of the Revised Code.

(B) The association may:

(1) Appear in, defend, and appeal any action on a claim brought against the association;

(2) Employ or retain such persons as are necessary to handle claims and perform other duties of the association;

(3) Borrow funds necessary to effect the purposes of sections 3955.01 to 3955.19 of the Revised Code, in accord with the plan of operation;

(4) Sue or be sued;

(5) Negotiate and become a party to such contracts as are necessary to carry out the purposes of sections 3955.01 to 3955.20 of the Revised Code;

(6) Perform such other acts as are necessary or proper to effectuate the purposes of sections 3955.01 to 3955.19 of the Revised Code;

(7) Refund to the member insurers in proportion to the contribution of each member insurer to that account that amount by which the assets of the account exceed the liabilities, if, at the end of any calendar year, the board of directors finds that the assets of the association in any account exceed the liabilities of that account as estimated by the board of directors for the coming year, provided that the association shall not be required to make a refund to any member insurer where the amount does not exceed ten dollars;

(8) Act, with the approval of the superintendent, as a servicing facility for other insurance guaranty associations.