



## Ohio Revised Code

### Section 3964.191 Grounds for rehabilitation or liquidation.

Effective: September 17, 2014

Legislation: House Bill 117 - 130th General Assembly

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(A) Notwithstanding the provisions of sections 3903.01 to 3903.59 of the Revised Code, the superintendent may apply to the court of common pleas of Franklin county for an order authorizing the superintendent to rehabilitate or liquidate a special purpose financial captive insurance company domiciled in this state on one or both of the following grounds:

(1) There has been embezzlement, wrongful sequestration, dissipation, or diversion of the assets of the special purpose financial captive insurance company intended to be used to pay amounts owed to the counterparty or the holders of special purpose financial captive insurance company securities.

(2) The special purpose financial captive insurance company is insolvent and the holders of a majority in outstanding principal amount of each class of special purpose financial captive insurance company securities request or consent to conservation, rehabilitation, or liquidation pursuant to the provisions of this section.

(B) A court may not grant the relief provided by division (A) of this section unless, after notice and a hearing, the superintendent establishes that relief must be granted.

(C) Notwithstanding any other applicable law or rule, upon any order of rehabilitation or liquidation of a special purpose financial captive insurance company, the receiver shall manage the assets and liabilities of the special purpose financial captive insurance company pursuant to the provisions of section 3964.193 of the Revised Code.

(D) With respect to amounts recoverable under a special purpose financial captive insurance company contract, the amount recoverable by the receiver shall not be reduced or diminished as a result of the entry of an order of conservation, rehabilitation, or liquidation with respect to the counterparty, notwithstanding any provision in the contracts or other documentation governing a special purpose financial captive insurance company insurance securitization.



(E) An application or petition, or a temporary restraining order or injunction issued pursuant to sections 3903.01 to 3903.59 of the Revised Code, with respect to a counterparty, does not prohibit the transaction of business by a special purpose financial captive insurance company, including any payment by a special purpose financial captive insurance company made pursuant to a special purpose financial captive insurance company security, or any action or proceeding against a special purpose financial captive insurance company or its assets.

(F) Notwithstanding the provisions of any applicable law or rule, the commencement of a summary proceeding or other interim proceeding commenced before a formal delinquency proceeding with respect to a special purpose financial captive insurance company, and any order issued by the court, does not prohibit the payment by a special purpose financial captive insurance company made pursuant to a special purpose financial captive insurance company security or special purpose financial insurance company contract, and also does not prohibit the special purpose financial captive insurance company from taking any action required to make such payments.

(G) Notwithstanding the provisions of any other applicable law or rule, both of the following shall apply:

(1) A receiver of a counterparty may not void a nonfraudulent transfer by a counterparty to a special purpose financial captive insurance company of money or other property made pursuant to a special purpose financial captive insurance company contract.

(2) A receiver of a special purpose financial captive insurance company may not void a nonfraudulent transfer by the special purpose financial captive insurance company of money or other property made to a counterparty pursuant to a special purpose financial captive insurance company contract or made to or for the benefit of any holder of a special purpose financial captive insurance company security on account of the special purpose financial captive insurance company security.

(H) With the exception of the fulfillment of the obligations under a special purpose financial captive insurance company contract, and notwithstanding the provisions of any other applicable law or rule, the assets of a special purpose financial captive insurance company, including assets held in trust, shall not be consolidated with or included in the estate of a counterparty in any delinquency



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proceeding against the counterparty, pursuant to the provisions of this section, for any purpose, including distribution to creditors of the counterparty.