



Ohio Revised Code

Section 3911.091 Proceeds or avails free from claims of creditors.

Effective: November 3, 1995

Legislation: House Bill 330 - 121st General Assembly

Sec. 3911.091. (A) As used in this section, "employer" means any individual, sole proprietorship, partnership, limited liability company, corporation, or any other entity that is doing business in this state. "Employer" also includes all entities or persons that are controlled by or affiliated with any such individual, sole proprietorship, partnership, limited liability company, corporation, or other entity. Whether an entity or person is controlled by or affiliated with another shall be determined by applying the principles set forth, on January 1, 1993, in subsections 414(b) and (c) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 414, except that a voting power of fifty-one per cent shall be applied to the determination of control or affiliation for purposes of this section.

(B) An employer, or a trust that is sponsored by an employer for the benefit of its employees, has an insurable interest in each of the lives of its employees, directors, and retired employees.

Notwithstanding sections 3911.09 and 3917.01 of the Revised Code, an employer or trust may insure for its own benefit the lives of its employees, directors, or retired employees, on an individual or group basis, with the prior written consent of the prospective insured. At the time the employer or trust seeks the consent of the prospective insured, the employer or trust shall disclose in writing to the prospective insured that the employer or trust may maintain the proposed life insurance in force after the insured's employment terminates or the insured's retirement benefits expire.

(C) An employer's or trust's insurable interest in the lives of its nonmanagement and retired employees is limited to an amount of aggregate projected death benefits commensurate with the aggregate projected gross liabilities for such employees under all employee benefit plans, as defined in section 1002 of the "Employee Retirement Income Security Act of 1974," 88 Stat. 829, 29 U.S.C.A. 1002, as amended. Calculations of life insurance benefits and employee benefit liabilities under this division shall be made in accordance with generally accepted actuarial principles. Matching of such life insurance benefits and employee benefit liabilities may be carried out on a cash flow, present value, or other appropriate basis.

(D) No employer or trust may retaliate or take any other adverse action against any employee,



director, or retired employee because the employee, director, or retired employee has refused to consent to the insuring of the employee's, director's, or retired employee's life under this section.

(E) The effective date of a policy of life insurance, rather than the date of an insured's death or the filing of a claim, shall be used when determining the existence or extent of an insurable interest under this section.

(F) This section does not limit or affect any other insurable interest that may exist at common law or that has been established by statute.