

CHAPTER 87

INSURANCE

HOUSE BILL 20-1136

BY REPRESENTATIVE(S) Snyder, Bird, Cutter, Exum, Gray, Michaelson Jenet, Woodrow, Arndt, Hooton, Titone, Valdez D., Young;
also SENATOR(S) Hansen and Tate, Crowder, Williams A.

AN ACT

CONCERNING THE REGULATION OF INVESTMENTS MADE BY DOMESTIC INSURANCE COMPANIES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 10-3-215, **amend** (1) introductory portion, (1)(a), (1)(d), (1)(e), and (2) introductory portion as follows:

10-3-215. Evidences of indebtedness. (1) A domestic insurance ~~companies~~ **COMPANY** may invest in lawfully issued interest-bearing ~~bonds, including bonds which~~ **EVIDENCES OF INDEBTEDNESS, INCLUDING INTEREST-BEARING BONDS, BONDS THAT provide for imputed interest payable at maturity, revenue bonds, and debentures, and other evidences of indebtedness** INSTRUMENTS EVIDENCING INDEBTEDNESS FOR THE PAYMENT OF MONEY:

(a) ~~OF ISSUED BY the United States, or any~~ **ISSUED BY** AN agency or instrumentality ~~thereof OF THE UNITED STATES, or of~~ BY any state, territory, district, or political subdivision of the United States;

(d) ~~OF the Dominion of~~ **ISSUED BY** Canada, ~~and~~ BY provinces ~~and~~ OR districts ~~thereof and~~ OF CANADA, OR BY counties, districts, townships, municipalities, ~~and~~ OR political subdivisions ~~thereof~~ OF CANADA, or guaranteed or insured as to the payment of principal and interest by ~~the dominion of~~ Canada or by ~~any~~ A province or district ~~thereof~~ OF CANADA;

(e) ~~Of solvent~~ **ISSUED BY** institutions created under the laws of the United States, ~~or of any state, territory, or district thereof OF THE UNITED STATES, or of the dominion of Canada or any~~ A province ~~thereof~~ OF CANADA, which institutions are not referenced in ~~paragraph (a), (b), (c), or (d) of this subsection (1) and which are~~

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

~~not in default in the payment of interest on any of their bonds at the time the investment is made~~ SUBSECTION (1)(a), (1)(b), (1)(c), OR (1)(d) OF THIS SECTION; but the aggregate value of all bonds and other evidences of indebtedness of any one ~~such institution which~~ THAT may be admitted assets under this section ~~shall~~ MUST not exceed three percent of the domestic insurance company's admitted assets except as:

(I) To those bonds and other evidences of indebtedness of insurance companies admitted to do business in ~~any~~ A state of the United States or in the District of Columbia, for coinsurance or reinsurance purposes, in which case ~~they shall~~ THE BONDS OR OTHER EVIDENCES OF INDEBTEDNESS MUST not exceed the greater of three percent of the domestic insurance company's admitted assets or five percent of the debtor insurance company's admitted assets OR LOANS; or

(II) ~~except as~~ May be otherwise authorized under section 10-3-802;

(2) A domestic insurance ~~companies~~ COMPANY may invest in mortgage-backed securities, including ~~without limitation~~; collateralized mortgage obligations and other obligations for the payment of money secured by participation certificates or loans secured, directly or indirectly, by real estate mortgages or deeds of trust if: ~~at the time the investment is made, the entity issuing the obligation is not in default in the payment of interest on the obligation and:~~

SECTION 2. In Colorado Revised Statutes, 10-3-216, **amend** (1) introductory portion, (1)(a)(II), (1)(d), (1)(e), (1)(f) introductory portion, (1)(i), and (1)(j); **repeal** (1)(c); and **add** (2) as follows:

10-3-216. Mortgage loans. (1) A domestic insurance ~~companies~~ COMPANY may ~~invest in loans secured by first liens on real property~~ ACQUIRE, EITHER DIRECTLY OR INDIRECTLY, OBLIGATIONS SECURED BY MORTGAGES ON REAL ESTATE located in the United States or Canada, BUT THE COMPANY SHALL NOT ACQUIRE A MORTGAGE LOAN THAT IS NOT SECURED BY A FIRST LIEN UNLESS THE COMPANY IS THE HOLDER OF THE FIRST LIEN. AUTHORITY TO ACQUIRE A MORTGAGE LOAN IS subject to the following: ~~provisions:~~

(a) (II) In all cases, value ~~shall~~ MUST be evidenced by the written appraisal of a qualified real estate appraiser, who may be an employee of the company; except that, in the case of property ~~to be qualified under this section by reason of producing~~ USED FOR THE PRODUCTION OF OIL, OF GAS, OR OF OTHER MINERALS, the appraisal must be made by an engineer or geologist qualified in the relevant field. ~~and, in the case of~~ FOR commercial properties of over one hundred thousand dollars in value, the appraiser must be a member of an institute of real estate appraisers, or its equivalent.

(c) ~~The land to which the first lien pertains shall be improved with permanent buildings, or be used for agriculture or pasture, or be income-producing land, including, but not limited to, land used for parking lots or for the production of oil, gas, or other minerals; but loans secured by first liens on land not meeting any of the foregoing requirements of this paragraph (c) may be admitted assets of the company under this part 2 in an amount not exceeding in the aggregate five percent of its admitted assets.~~

(d) Any improvements ~~shall~~ MUST be insured against ~~loss or damage by fire~~ CASUALTY LOSS, for the benefit of the lending company, by ~~some~~ A reliable ~~fire~~ PROPERTY AND CASUALTY insurance company for an amount not less than the unpaid balance of the obligation or the insurable value of the property, whichever is less.

(e) The company ~~shall~~ MUST hold ~~such~~ THE documents ~~as are~~ necessary to evidence ~~its~~ THE COMPANY'S ownership of ~~such first~~ THE COMPANY'S liens. If, under the law of the jurisdiction ~~in which~~ WHERE the real property is situated, it is necessary to the validity of the lien to record a mortgage or assignment ~~thereof~~ OF THE LIEN, the company ~~shall~~ MUST record ~~such~~ THE mortgage or assignment in compliance with such law.

(f) The entire ~~obligation secured by a first lien on real estate shall~~ MORTGAGE LOAN OBLIGATION MUST be owned by the company; except that the company may own ~~such an~~ THIS TYPE OF obligation in common with other participants if, at the time of the company's investment, each participant is:

(i) The maximum amount of a loan ~~or loans~~ made, directly or indirectly, to any one obligor ~~which~~ THAT may be an admitted asset of a THE company under this section ~~shall~~ MUST not exceed two percent of ~~such~~ THE company's admitted assets. If, on April 5, 1973, a company has outstanding a loan to any one obligor ~~which~~, except for the provisions of this paragraph (i) would be admitted assets under this section, or a binding commitment for any such loan, any such loan outstanding on such date shall continue to be admitted assets under this section, and any such loan made on or after April 5, 1973, pursuant to any such binding commitment shall be admitted assets under this section.

(j) The aggregate amount of investments of a company ~~which~~ THAT may be admitted assets under this section ~~shall~~ MUST not exceed fifty percent of the company's admitted assets. If a company has outstanding investments ~~which~~, in the aggregate, exceed fifty percent of the company's admitted assets on July 1, 1993, the company shall reduce the excess amount invested in first liens on real property at the rate of at least twenty percent of the July 1, 1993, excess each year for five years until the first liens on the real property portfolio do not exceed fifty percent of the company's admitted assets. If a fraternal benefit society has outstanding investments ~~which~~, in the aggregate, exceed sixty percent of the society's admitted assets on July 1, 1993, the society shall reduce the excess amount invested in first liens on real property at the rate of at least twenty percent of the July 1, 1993, excess each year for five years until the first liens on the real property portfolio do not exceed sixty percent of the society's admitted assets. Thereafter, a fraternal benefit society shall, over a five-year period, further reduce its outstanding aggregate investments in first liens on real property to fifty percent of its admitted assets by twenty percent per year, unless an exemption is granted by the commissioner. Such exemption shall be based on an analysis of the financial condition of the fraternal society.

(2) (a) A DOMESTIC INSURANCE COMPANY MAY ACQUIRE A MORTGAGE LOAN SECURED BY A MORTGAGE ON REAL ESTATE LOCATED IN A FOREIGN JURISDICTION HAVING A SOVEREIGN DEBT RATING OF "1" FROM THE SECURITIES VALUATION OFFICE OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS IF THE MORTGAGE LOAN OTHERWISE MEETS THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION;

EXCEPT THAT THE AGGREGATE AMOUNT OF FOREIGN MORTGAGE LOANS THAT MAY BE ADMITTED ASSETS UNDER THIS SUBSECTION (2)(a) MUST NOT EXCEED TEN PERCENT OF THE COMPANY'S ADMITTED ASSETS.

(b) THIS SUBSECTION (2) DOES NOT APPLY TO A JURISDICTION DESCRIBED IN SUBSECTION (1) OF THIS SECTION.

SECTION 3. In Colorado Revised Statutes, 10-3-220, **amend** (2) as follows:

10-3-220. Real estate for production of income - definition. (2) (a) "Real estate", as used in this section, means ~~lands held in fee simple or under leasehold estates, and improvements thereon or to be placed thereon, consisting only of store or other business buildings, or of dwellings, apartment houses, tenements, or other housing accommodations~~ REAL PROPERTY; INTERESTS IN REAL PROPERTY, SUCH AS LEASEHOLDS; MINERALS AND OIL AND GAS THAT HAVE NOT BEEN SEVERED FROM THE FEE INTEREST; AND IMPROVEMENTS AND FIXTURES LOCATED ON OR IN REAL PROPERTY.

(b) "REAL ESTATE" DOES NOT INCLUDE MINERAL ESTATES THAT HAVE BEEN SEVERED FROM THE FEE INTEREST.

SECTION 4. In Colorado Revised Statutes, 10-3-226, **amend** (1), (3) introductory portion, and (3)(d); **repeal** (3)(a) and (3)(b); and **add** (3)(f), (4), and (5) as follows:

10-3-226. Equity interests - definition. (1) A domestic insurance ~~companies~~ COMPANY may invest in ~~preferred and common stocks issued by any solvent corporation~~ EQUITY INTERESTS IN BUSINESS ENTITIES created under the laws of the United States, ~~or of any~~ A state of the United States OR the District of Columbia, or of Canada or any province ~~thereof~~ OF CANADA, but the aggregate value of all ~~such stocks which~~ EQUITY INTERESTS THAT may be admitted assets under this section ~~shall~~ MUST not exceed ten percent of the company's admitted assets. For the purpose of ~~such~~ THIS limitation on aggregate value, a company may ~~if it so elects,~~ determine the value of all its ~~stocks which~~ EQUITY INTERESTS THAT may be admitted assets under this section on the basis of the aggregate initial cost of the ~~stocks~~ EQUITY INTERESTS in lieu of determining the value of all of ~~such stocks~~ THE EQUITY INTERESTS as provided in section 10-3-214.

(3) ~~All~~ Investments authorized by subsections (1) and (2) of this section are subject to the following restrictions ~~and limitations~~ at the time of investment:

(a) ~~The corporation issuing such preferred stock shall meet the following qualifications:~~

(f) ~~If the class of preferred stock is cumulative preferred, the corporation must not be in arrears as to its dividends, or, if the class of preferred stock is noncumulative preferred, the corporation must have paid full dividends on that class of preferred stock in each of the last three years, or, if that class of noncumulative preferred stock has been outstanding less than three years, the commissioner of insurance must have approved the purchase thereof.~~

~~(H) If there is a sinking fund for that class of preferred stock, the corporation's sinking fund payments shall be on a current basis.~~

~~(III) (Deleted by amendment, L. 81, p. 529, § 5, effective July 1, 1981.)~~

~~(b) The corporation issuing such common stock shall meet the following qualifications:~~

~~(I) The corporation shall have had net earnings available for dividends on its outstanding common stock in each of the three fiscal years next preceding the date of acquisition.~~

~~(II) The stock shall be registered on a national securities exchange or regularly traded on a national or regional basis.~~

~~(III) (Deleted by amendment, L. 81, p. 529, § 5, effective July 1, 1981.)~~

(d) (I) Investments in common stock in any one corporation, at the time of investment, shall MUST not exceed two percent of the admitted assets of the investing insurance company, and, at the time of investment, an insurance company shall not purchase more than five percent of the outstanding shares of common stock of any one corporation.

(II) THIS SUBSECTION (3)(d) DOES NOT APPLY TO INVESTMENTS IN MUTUAL FUNDS, OPEN-END INDEX FUNDS, OR EXCHANGE-TRADED INDEX FUNDS.

(f) INVESTMENTS IN EQUITY INTERESTS THAT ARE NOT LISTED ON A NATIONALLY REGISTERED SECURITIES EXCHANGE OR A SECURITIES MARKET REGULATED UNDER THE "SECURITIES EXCHANGE ACT OF 1934", 15 U.S.C. SEC. 78a ET SEQ., AS AMENDED, MUST NOT EXCEED FIVE PERCENT OF THE ADMITTED ASSETS OF THE INVESTING COMPANY.

(4) AS USED IN THIS SECTION, "EQUITY INTEREST" MEANS:

(a) COMMON STOCK;

(b) PREFERRED STOCK;

(c) A TRUST CERTIFICATE;

(d) EQUITY INVESTMENTS IN AN INVESTMENT COMPANY OTHER THAN A QUALIFIED MONEY MARKET FUND, AS DEFINED IN SECTION 10-3-242 (1);

(e) INVESTMENTS IN A COMMON TRUST FUND OF A BANK REGULATED BY A FEDERAL OR STATE AGENCY;

(f) AN OWNERSHIP INTEREST IN A MINERAL ESTATE THAT HAS BEEN SEVERED FROM THE FEE INTEREST;

(g) INSTRUMENTS THAT ARE OR MUST BE, AT THE OPTION OF THE ISSUER, CONVERTIBLE TO EQUITY;

(h) PARTNERSHIP INTERESTS;

(i) MEMBERSHIP INTERESTS IN LIMITED LIABILITY COMPANIES;

(j) INVESTMENTS IN MUTUAL FUNDS, OTHER THAN QUALIFIED MONEY MARKET FUNDS AS DEFINED IN SECTION 10-3-242 (1); OR

(k) INVESTMENTS IN OPEN-END INDEX FUNDS OR EXCHANGE-TRADED INDEX FUNDS.

(5) (a) A DOMESTIC INSURANCE COMPANY MAY INVEST IN EQUITY INTERESTS IN BUSINESS ENTITIES CREATED UNDER THE LAWS OF A FOREIGN JURISDICTION HAVING A SOVEREIGN DEBT RATING OF "1" FROM THE SECURITIES VALUATION OFFICE OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS IF THE EQUITY INTERESTS OTHERWISE MEET THE REQUIREMENTS OF SUBSECTIONS (1) TO (3) OF THIS SECTION; EXCEPT THAT THE AGGREGATE AMOUNT OF THE FOREIGN EQUITY INTERESTS THAT MAY BE ADMITTED ASSETS UNDER THIS SUBSECTION (5)(a) MUST NOT EXCEED THREE PERCENT OF THE COMPANY'S ADMITTED ASSETS.

(b) THIS SUBSECTION (5) DOES NOT APPLY TO A JURISDICTION DESCRIBED IN SUBSECTION (1) OF THIS SECTION.

SECTION 5. In Colorado Revised Statutes, 10-3-230, **amend** (1) introductory portion and (1)(d) as follows:

10-3-230. Additional investments. (1) A domestic insurance ~~companies~~ COMPANY may invest in any additional investments, except items specifically defined as nonadmitted assets in this ~~title (except article 15)~~ TITLE 10, OTHER THAN ARTICLE 15 OF THIS TITLE 10, and article 14 of title 24, ~~C.R.S.~~, without regard to any limitation, condition, restriction, or exclusion set forth in sections 10-3-215 to 10-3-229 and 10-3-242, and regardless of whether the same or a similar type of investment has been included in or omitted from ~~any such section~~ THESE SECTIONS, subject to the following: ~~provisions:~~

(d) ~~In no event shall~~ The admitted asset value of investments in MORTGAGE loans ~~secured by first liens on real property~~ MUST NOT exceed the value limitations as set forth in section 10-3-216 (1)(i), ~~and~~ (1)(j), AND (2).

SECTION 6. In Colorado Revised Statutes, **amend** 10-3-236 as follows:

10-3-236. Assets acquired through merger, consolidation, or reinsurance. Any investments acquired ~~after May 31, 1969,~~ through merger, consolidation, or reinsurance that are not admitted assets under this ~~title (except article 15)~~ TITLE 10, OTHER THAN ARTICLE 15 OF THIS TITLE 10, and article 14 of title 24 ~~C.R.S.~~, ~~shall not be~~ ARE NOT deemed admitted assets by reason of their acquisition through merger, consolidation, or reinsurance.

SECTION 7. In Colorado Revised Statutes, 10-3-237, **amend** (1) as follows:

10-3-237. Assets acquired under prior law. (1) Notwithstanding any condition, restriction, or exclusion set forth in sections 10-3-215 to 10-3-229, any asset held

by a DOMESTIC INSURANCE company on May 31, 1969, ~~which~~ THAT met the requirements of the law in effect immediately prior to ~~such~~ THAT date for an investment of the company's reserves, paid-up capital stock, and other liabilities ~~shall be~~ IS an admitted asset of the company, but, if any such asset is in a category for which a limitation expressed in terms of a percentage of admitted assets is prescribed in section ~~10-3-216 (1)(c)~~, 10-3-218, 10-3-220, 10-3-225, or 10-3-226, ~~such~~ THE asset shall be taken into account in determining whether any additional investment in ~~such~~ THAT category made after May 31, 1969, may be an admitted asset under the section prescribing ~~such~~ THE limitation.

SECTION 8. In Colorado Revised Statutes, 10-3-240, **amend** (1) as follows:

10-3-240. Approval of investments. (1) Except for investments made pursuant to UNDER sections 10-3-802 and 10-7-402, ~~no~~ A domestic insurance company ~~may~~ SHALL NOT, directly or indirectly, invest more than two percent of the company's admitted assets in stocks, bonds, debentures, notes, or other securities of its affiliates, as defined in section 10-3-801, without the prior approval of the commissioner. ~~This section shall apply only to investments made on or after July 1, 1975.~~

SECTION 9. In Colorado Revised Statutes, 10-3-242, **amend** (1) as follows:

10-3-242. Qualified money market funds - definition. (1) For the purposes of this section, "QUALIFIED money market fund" means ~~an open-end, diversified management type of~~ A mutual fund THAT COMPLIES WITH 17 CFR 270.2a-7, AS AMENDED, AND THAT IS registered under the federal "Investment Company Act of 1940", 15 U.S.C. SEC. 80a-1 et seq., as amended. ~~objectives of which include the maintenance of a stable net asset value of a specified dollar amount per share and the shareholders of which may withdraw the value of their shares by check, telephone, or mail.~~ A domestic insurance ~~companies~~ COMPANY may invest in the shares of any one or more QUALIFIED money market funds subject to the following limitations:

(a) (I) A domestic insurance ~~companies~~ COMPANY may invest in QUALIFIED money market funds that, at the time the investment is made, are either: ~~listed or meet the eligibility conditions for listing on the U.S. direct obligations exempt list, U.S. direct obligations/full faith and credit exempt list, or class 1 list, in the~~

(A) QUALIFIED MONEY MARKET FUNDS THAT INVEST ONLY IN OBLIGATIONS ISSUED, GUARANTEED, OR INSURED BY THE FEDERAL GOVERNMENT OF THE UNITED STATES OR IN COLLATERALIZED REPURCHASE AGREEMENTS COMPOSED OF THESE OBLIGATIONS, AND THAT QUALIFY FOR INVESTMENT WITHOUT A RESERVE UNDER THE purposes and procedures manual of the securities valuation office of the National Association of Insurance Commissioners; OR

(B) QUALIFIED MONEY MARKET FUNDS THAT QUALIFY FOR INVESTMENT USING THE BOND CLASS ONE RESERVE FACTOR UNDER THE PURPOSES AND PROCEDURES MANUAL OF THE SECURITIES VALUATION OFFICE OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

(II) Investments in the shares of any one QUALIFIED money market fund

qualifying under this ~~paragraph (a) shall~~ SUBSECTION (1)(a) MUST not exceed ten percent of the domestic insurance company's total admitted assets.

(b) Investments in shares of any one QUALIFIED money market fund not qualified under ~~paragraph (a) of this subsection (1) shall~~ SUBSECTION (1)(a) OF THIS SECTION MUST not exceed five percent of the domestic insurance company's total admitted assets. The aggregate value of all shares that may be admitted assets under this ~~paragraph (b) shall~~ SUBSECTION (1)(b) MUST not exceed ten percent of the ~~domestic insurance~~ company's total admitted assets.

(c) At the time of an investment in a QUALIFIED money market fund under this section, the aggregate value of a domestic ~~insurer's~~ INSURANCE COMPANY'S investment in ~~such money market~~ THE fund ~~shall~~ MUST not exceed five percent of the shares of ~~such money market~~ THE fund.

SECTION 10. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) (a) This act applies to investments made on or after the applicable effective date of this act; and

(b) On or after January 1, 2021, this act applies to all investments of an insurer.

Approved: March 24, 2020