

CHAPTER 356

INSURANCE

HOUSE BILL 00-1465

BY REPRESENTATIVES Scott, Dean, and Stengel;
also SENATOR Sullivant.

AN ACT

CONCERNING THE FINANCIAL MANAGEMENT OF DOMESTIC INSURANCE COMPANIES.

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

SECTION 1. 10-3-102 (1) (b), Colorado Revised Statutes, is amended to read:

10-3-102. Purpose of organization or admittance. (1) Any domestic insurance company having the required amount of capital or guaranty fund and surplus, when permitted by its articles of incorporation or charter, may be authorized and licensed by the commissioner to make insurance under one of the following paragraphs:

(b) To make insurance or reinsurance upon the lives of persons, and every insurance pertaining thereto or connected therewith, including health and accident insurance, and to grant, purchase, or dispose of annuities, GROUP ANNUITIES, UNALLOCATED ANNUITIES, GUARANTEED INVESTMENT CONTRACTS, AND FUNDING AGREEMENT CONTRACTS;

SECTION 2. 10-3-215 (1) (h) and (1) (i), Colorado Revised Statutes, are amended to read:

10-3-215. Bonds and other evidences of indebtedness. (1) Domestic insurance companies may invest in lawfully issued interest-bearing bonds, including bonds which provide for imputed interest payable at maturity, revenue bonds, and debentures, and other evidences of indebtedness:

(h) Issued by, or guaranteed or insured as to the payment of principal and interest by, any foreign government other than those listed in paragraph (d) of this subsection (1), ~~which bonds and other evidences of indebtedness, at the time the investment is made, have either received a "1" or "2" quality designation by the securities valuation~~

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

~~office of the national association of insurance commissioners as set forth in its most recently published valuations of securities manual or are rated investment grade in Standard & Poor's (at least BBB-) or Moody's (at least Baa3) bond guides, or have received comparable designations or ratings in the event the method of presenting such designations or ratings later changes or such designations or ratings are provided by successor entities, or have received comparable investment grade designations or ratings by any similar organization approved by the commissioner; but EXCEPT THAT~~ the aggregate value of all such bonds and other evidences of indebtedness which may be admitted assets pursuant to this paragraph (h) AND PARAGRAPH (i) OF THIS SUBSECTION (1) shall not exceed ~~five~~ TWENTY percent of the domestic insurance company's admitted assets, AND EXCEPT THAT THE AGGREGATE AMOUNT OF FOREIGN INVESTMENTS THAT MAY BE ADMITTED ASSETS PURSUANT TO THIS PARAGRAPH (h) AND TO PARAGRAPH (i) OF THIS SUBSECTION (1) IN A SINGLE FOREIGN JURISDICTION SHALL NOT EXCEED:

(I) TEN PERCENT OF ITS ADMITTED ASSETS AS TO A FOREIGN JURISDICTION THAT HAS A SOVEREIGN DEBT RATING FROM A NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION RECOGNIZED BY THE SECURITIES VALUATION OFFICE OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS EQUIVALENT TO SECURITIES VALUATION OFFICE RATING 1 IN THE THEN CURRENT PURPOSES AND PROCEDURES MANUAL OF THE SECURITIES VALUATION OFFICE; OR

(II) THREE PERCENT OF ITS ADMITTED ASSETS AS TO ANY OTHER FOREIGN JURISDICTION.

~~(i) Of solvent foreign institutions other than those specified in paragraphs (e) and (j) of this subsection (1) which are not in default in the payment of interest on any of their bonds at the time the investment is made, and which bonds and other evidences of indebtedness, at the time the investment is made, have either received a "1" or "2" quality designation by the securities valuation office of the national association of insurance commissioners as set forth in its most recently published valuations of securities manual or are rated investment grade in Standard & Poor's (at least BBB-) or Moody's (at least Baa3) bond guides, or have received comparable designations or ratings in the event the method of presenting such designations or ratings later changes or such designations or ratings are provided by successor entities, or have received comparable investment grade designations or ratings by any similar organization approved by the commissioner; but EXCEPT THAT~~ the aggregate value of all such bonds and other evidences of indebtedness which may be admitted assets pursuant to this paragraph (i) AND PARAGRAPH (h) OF THIS SUBSECTION (1) shall not exceed ~~five~~ TWENTY percent of the domestic insurance company's admitted assets, AND EXCEPT THAT THE AGGREGATE AMOUNT OF FOREIGN INVESTMENTS THAT MAY BE ADMITTED ASSETS PURSUANT TO THIS PARAGRAPH (i) AND TO PARAGRAPH (h) OF THIS SUBSECTION (1) IN A SINGLE FOREIGN JURISDICTION SHALL NOT EXCEED:

(I) TEN PERCENT OF ITS ADMITTED ASSETS AS TO A FOREIGN JURISDICTION THAT HAS A SOVEREIGN DEBT RATING FROM A NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION RECOGNIZED BY THE SECURITIES VALUATION OFFICE OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS EQUIVALENT TO SECURITIES VALUATION OFFICE RATING 1 IN THE THEN CURRENT PURPOSES AND PROCEDURES MANUAL OF THE SECURITIES VALUATION OFFICE; OR

(II) THREE PERCENT OF ITS ADMITTED ASSETS AS TO ANY OTHER FOREIGN JURISDICTION.

SECTION 3. 10-3-215.5 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

10-3-215.5. Investments in medium- and lower-grade obligations. (1) As used in this section, unless the context otherwise requires:

(a.3) "DOMESTIC OBLIGATION" MEANS AN OBLIGATION DESCRIBED IN SECTION 10-3-215 (1) (a) TO (1) (f).

(a.7) "FOREIGN OBLIGATION" MEANS AN OBLIGATION DESCRIBED IN SECTION 10-3-215 (1) (h) AND (1) (i).

SECTION 4. 10-3-215.5 (2), Colorado Revised Statutes, is amended to read:

10-3-215.5. Investments in medium- and lower-grade obligations. (2) Without the written approval of the commissioner, no domestic insurance company shall acquire, directly or indirectly, any medium-grade or lower-grade obligation of any institution if, at the time of acquisition, after giving effect to any such acquisition:

(a) The aggregate amount of all medium-grade and lower-grade DOMESTIC AND FOREIGN obligations then held by the domestic insurance company would exceed twenty percent of its admitted assets WITH THE AGGREGATE AMOUNT OF SUCH FOREIGN OBLIGATIONS BEING NO MORE THAN TEN PERCENT OF ITS ADMITTED ASSETS; or

(b) The aggregate amount of all lower-grade DOMESTIC AND FOREIGN obligations then held by the domestic insurance company would exceed ten percent of its admitted assets WITH THE AGGREGATE AMOUNT OF SUCH FOREIGN OBLIGATIONS BEING NO MORE THAN FIVE PERCENT OF ITS ADMITTED ASSETS; or

(c) The aggregate amount of all DOMESTIC AND FOREIGN obligations held by the domestic insurance company which were rated five or six by the securities valuation office of the national association of insurance commissioners or by any successor entity would exceed three percent of its admitted assets WITH THE AGGREGATE AMOUNT OF SUCH FOREIGN OBLIGATIONS BEING NO MORE THAN ONE AND ONE-HALF PERCENT OF ITS ADMITTED ASSETS; or

(d) The aggregate amount of all DOMESTIC AND FOREIGN obligations held by the domestic insurance company which were rated six by the securities valuation office of the national association of insurance commissioners or by any successor entity would exceed one percent of its admitted assets WITH THE AGGREGATE AMOUNT OF SUCH FOREIGN OBLIGATIONS BEING NO MORE THAN ONE-HALF PERCENT OF ITS ADMITTED ASSETS.

SECTION 5. 10-3-242, Colorado Revised Statutes, is amended to read:

10-3-242. Money market funds. (1) For the purposes of this section, "money market fund" means an open-end, diversified management type of mutual fund,

registered under the federal "Investment Company Act of 1940", 15 U.S.C. 80a-1 et seq., as amended, ~~the moneys of which are invested only in the following kinds of investments: Securities issued or guaranteed as to principal and interest by the government of the United States or by agencies or instrumentalities thereof; certificates of deposit and bankers' acceptances of banks chartered by the United States or any state thereof or foreign branches of such banks; commercial paper and other obligations of corporations chartered by or under the laws of the United States or any state thereof; and repurchase agreements with respect to such investments: 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. DOMESTIC INSURANCE COMPANIES MAY INVEST IN THE SHARES OF ANY ONE OR MORE MONEY MARKET FUNDS SUBJECT TO THE FOLLOWING LIMITATIONS:~~

(a) ~~DOMESTIC INSURANCE COMPANIES MAY INVEST IN 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 "PURPOSES AND PROCEDURES MANUAL" OF THE SECURITIES VALUATION OFFICE OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS. INVESTMENTS IN THE SHARES OF ANY ONE MONEY MARKET FUND QUALIFYING UNDER THIS PARAGRAPH (a) SHALL NOT EXCEED TEN PERCENT OF THE DOMESTIC INSURANCE COMPANY'S TOTAL ADMITTED ASSETS.~~

(b) ~~INVESTMENTS IN SHARES OF ANY ONE MONEY MARKET FUND NOT QUALIFIED UNDER PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL 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 NOT EXCEED TEN PERCENT OF THE DOMESTIC INSURANCE COMPANY'S TOTAL ADMITTED ASSETS.~~

(c) ~~AT THE TIME OF AN INVESTMENT IN A MONEY MARKET FUND UNDER THIS SECTION, THE AGGREGATE VALUE OF A DOMESTIC INSURER'S INVESTMENT IN SUCH MONEY MARKET FUND SHALL NOT EXCEED FIVE PERCENT OF THE SHARES OF SUCH MONEY MARKET FUND.~~

(2) ~~Domestic insurance companies may invest in the shares of any one or more money market funds the 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.~~

(3) ~~The aggregate value of all such shares which may be admitted assets under this section shall not exceed ten percent of the domestic insurance company's total admitted assets. Investments in the shares of any one money market fund shall not exceed five percent of the domestic insurance company's total admitted assets and, at the time of the investment, no domestic insurance company's investment shall exceed five percent of the outstanding shares of any one money market fund.~~

(4) ~~In all statements of assets and liabilities required by section 10-3-109, or by any other provision of law, shares in money market funds shall be treated as demand deposits in banks and shall be valued at their net asset value.~~

SECTION 6. The introductory portion to 10-3-541 (1) (b) and 10-3-541 (1) (b) (I), Colorado Revised Statutes, are amended to read:

10-3-541. Priority of distribution. (1) The priority of distribution of claims from the insurer's estate shall be in accordance with the order in which each class of claims is set forth in this section. Every claim in each class shall be paid in full, or adequate funds shall be retained for such payment, before the members of the next class receive any payment. No subclasses shall be established within any class. The order of distribution of claims shall be:

(b) **Class 2.** All claims under policies including such claims of the federal or any state or local government including unearned premium claims, third-party claims, and all claims of a guaranty association or foreign guaranty association. That portion of any loss for which indemnification is provided by other benefits or advantages recovered by the claimant, other than benefits or advantages recovered or recoverable in discharge of familial obligation of support or by way of succession at death or as proceeds of life insurance, or as gratuities, shall not be included in this class. No payment by an employer to the employer's employee shall be treated as a gratuity. All claims under life insurance and annuities policies and deposits, whether for death proceeds, annuity proceeds, or values, shall be treated as class 2 claims. ~~except that~~ FOR THE PURPOSE OF THIS PARAGRAPH (b), POLICIES SHALL INCLUDE THOSE INSURANCE COMPANY PRODUCTS THAT ARE AUTHORIZED UNDER THE LAWS OF THIS STATE AS SUCH LAWS EXISTED ON THE DATE OF THE ISSUANCE OF SUCH POLICIES OR ON THE DATE OF THE ENTRY OF AN ORDER OF LIQUIDATION. NOTWITHSTANDING THE PROVISIONS OF THIS PARAGRAPH (b), class 2 claims shall not include:

(I) Claims under annuity and deposit contracts ISSUED ON OR BEFORE AUGUST 15, 2000, however labeled, including labels such as annuity, deposit, financial guarantee, funding agreement, or guaranteed investment contract, unless the contract is:

SECTION 7. Effective date. (1) This act shall take effect August 15, 2000, unless a referendum petition is filed during the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution. If such a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to insurance and reinsurance contracts issued or renewed on or after the applicable effective date of this act.

Approved: June 1, 2000