

CHAPTER 396

INSURANCE

SENATE BILL 14-209

BY SENATOR(S) Heath and Scheffel;
also REPRESENTATIVE(S) Tyler, Priola, Schafer, Williams.

AN ACT**CONCERNING THE REQUIREMENTS FOR PERMISSIBLE INVESTMENTS BY INSURERS IN LOANS
SECURED BY INTERESTS IN REAL ESTATE.**

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

SECTION 1. In Colorado Revised Statutes, 10-3-216, **amend** (1) introductory portion, (1) (a), and (1) (e); and **repeal** (1) (b) and (1) (g) as follows:

10-3-216. First liens on real property. (1) Domestic insurance companies may invest in loans secured by first liens on real property LOCATED IN THE UNITED STATES OR CANADA, subject to the following provisions:

(a) ~~(I) Except as provided in paragraph (b) of this subsection (1)~~ **(I)** AT THE TIME OF ACQUISITION, no such loan shall exceed:

(A) NINETY PERCENT OF THE VALUE OF THE REAL PROPERTY IF THE MORTGAGE LOAN IS SECURED BY A PURCHASE-MONEY MORTGAGE OR LIKE SECURITY RECEIVED BY THE INSURER UPON DISPOSITION OF THE REAL PROPERTY;

~~**(B)** Eighty percent of the value of the real property except that, in the case of property which is improved with~~ **(B)** IF THE MORTGAGE LOAN IS SECURED BY COMMERCIAL REAL PROPERTY OR BY REAL PROPERTY THAT IS IMPROVED WITH A RESIDENTIAL BUILDING DESIGNED FOR OCCUPANCY BY FIVE OR MORE DWELLING UNITS AND IF THE MORTGAGE LOAN: REQUIRES IMMEDIATE SCHEDULED PAYMENT IN PERIODIC INSTALLMENTS OF PRINCIPAL AND INTEREST; HAS AN AMORTIZATION PERIOD OF THIRTY YEARS OR LESS; AND REQUIRES PERIODIC PAYMENTS TO BE MADE NO LESS FREQUENTLY THAN ANNUALLY. IN ADDITION, EACH PERIODIC PAYMENT MUST BE SUFFICIENT TO ASSURE THAT, AT ALL TIMES, THE OUTSTANDING PRINCIPAL BALANCE OF THE MORTGAGE LOAN DOES NOT EXCEED THE OUTSTANDING PRINCIPAL

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

BALANCE THAT WOULD BE OUTSTANDING UNDER A MORTGAGE LOAN WITH THE SAME ORIGINAL PRINCIPAL BALANCE, WITH THE SAME INTEREST RATE, AND REQUIRING EQUAL PAYMENTS OF PRINCIPAL AND INTEREST WITH THE SAME FREQUENCY OVER THE SAME AMORTIZATION PERIOD. MORTGAGE LOANS PERMITTED UNDER THIS SUB-SUBPARAGRAPH (B) ARE PERMITTED NOTWITHSTANDING THE FACT THAT THEY PROVIDE FOR A PAYMENT OF THE PRINCIPAL BALANCE PRIOR TO THE END OF THE PERIOD OF AMORTIZATION OF THE LOAN. IF THE LOAN MEETS ALL OTHER REQUIREMENTS OF THIS SUB-SUBPARAGRAPH (B), ACCEPTABLE PRIVATE MORTGAGE INSURANCE HAS BEEN OBTAINED, AND THE MORTGAGE LOAN IS SECURED BY REAL PROPERTY THAT IS IMPROVED WITH a residential building, ~~(which for the purposes of this paragraph (a) shall be deemed to include~~ INCLUDING a condominium, unit) designed for occupancy by not more than four dwelling units, the loan ~~shall not exceed ninety~~ MAY BE UP TO NINETY-SEVEN percent of the value of the real property.

(C) SEVENTY-FIVE PERCENT OF THE VALUE OF THE REAL PROPERTY IF THE MORTGAGE LOAN IS SECURED BY A MORTGAGE THAT DOES NOT MEET THE REQUIREMENTS SET FORTH IN SUB-SUBPARAGRAPH (A) OR (B) OF THIS SUBPARAGRAPH (I).

(II) In all cases, value shall 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 oil, gas, or other minerals, the appraisal must be made by an engineer or geologist qualified in the relevant field, and, in the case of 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.

~~(b) If a company sells any real property which is an admitted asset at the time of sale, the company may upon such sale make a purchase money loan, secured by a lien upon the property up to one hundred percent of the appraised value thereof, but any excess of the amount of the loan over the admitted asset value of the property at the time of sale shall not be taken into account in valuing the loan. Profits on any such sale shall not be deemed surplus until realized in cash or equivalent.~~

(e) The company shall hold such documents as are necessary to evidence its ownership of such first liens. If, under the law of the ~~state~~ JURISDICTION in which the real property is situated, it is necessary to the validity of the lien to record a mortgage or assignment thereof, the company shall record such mortgage or assignment in compliance with such law.

(g) The instrument evidencing the loan secured by a first lien on real property shall provide for annual or more frequent periodic payments of principal and interest, so as to amortize the obligation over a specific period of time, and shall ~~require that repayment of principal commence on a date not later than five years after the date the loan is made. In the case of a loan secured by a lien on a leasehold estate, the fixed payments under the loan instrument shall be sufficient to repay the indebtedness within the unexpired term of the lease. As to all loans made on or after July 1, 1973, except those made pursuant to binding commitments made prior to such date, the instrument evidencing the loan secured by a first lien on real property shall provide for payment of interest, which interest may be at a variable rate, at regular intervals no less frequent than annual, commencing on a date not later than~~

~~one year from the date the loan is made, and for repayment of principal as follows: In the case of a loan secured by a lien on a fee simple interest in real property, the instrument shall provide for repayment of principal at least as rapidly as would be required under a repayment schedule calling for repayment of the entire principal within thirty-five years after the date the loan is made or within the actual term of the loan if shorter than thirty-five years, and calling for payment in equal installments at regular intervals not less frequent than annually, commencing no later than five years from the date the loan is made; in the case of a loan secured by a lien on a leasehold estate, the instrument shall provide for repayment of principal at least as rapidly as would be required under a repayment schedule calling for repayment of the entire principal within thirty-five years from the date the loan is made, or within the unexpired term of the lease if such unexpired term is less than thirty-five years, or within the actual term of the loan if shorter than either thirty-five years or the unexpired term of the lease, and calling for payment in equal installments at regular intervals not less frequent than annually, commencing no later than five years from the date the loan is made.~~

SECTION 2. Act subject to petition - effective date. 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 6, 2014, if adjournment sine die is on May 7, 2014); 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 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 6, 2014