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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2001



ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 3080

(By Delegates Beane)



Passed April 12, 2001

In Effect from Passage

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FOR

H. B. 3080

(BY DELEGATE BEANE)

[Passed April 12, 2001; in effect from passage.]

AN ACT to amend and reenact sections five, seven, fourteen and fifteen, article eight, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to permissible investments by insurers; allowing insurers to invest in certain securities; and modifying the types and amount of stocks in which insurers may invest.

Be it enacted by the Legislature of West Virginia:

That sections five, seven, fourteen and fifteen, article eight, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 8. INVESTMENTS.

§33-8-5. Limitation of investments in one person.

1 An insurer shall not, except with the consent of the com-
2 missioner, have at one time any combination of investments in
3 or loans upon the security of the obligations, property, or
4 securities of any one person, institution or corporation, aggre-
5 gating an amount exceeding five percent of the insurer's assets.
6 This restriction shall not apply to investments in or loans upon
7 the security of general obligations of the United States or fully
8 guaranteed by the United States or the District of Columbia or
9 any state of the United States or of political subdivisions of the
10 state of West Virginia or other states of the United States, or
11 such other funds or obligations of the United States made
12 pursuant to section seven of this article, or include policy loans
13 made under section nineteen of this article or investments in
14 foreign securities pursuant to section eight of this article.
15 Pursuant to section 106(b) of the "Secondary Mortgage Market
16 Enhancement Act of 1984," an act of the Congress of the
17 United States, this section prohibits domestic insurers from
18 exercising the investment authority granted any person, trust,
19 corporation, partnership, association, business trust or business
20 entity pursuant to section 106(a) (1) or (2) of that act.

§33-8-7. Government obligations.

1 An insurer may invest any of its funds in:

2 (a) Bonds or securities which are the direct obligation of or
3 which are secured or guaranteed in whole or in part as to
4 principal and interest by the United States, any state or territory
5 of the United States or the District of Columbia, where there
6 exists the power to levy taxes for the prompt payment of the
7 principal and interest of such bonds or evidences of indebted-
8 ness, and in bonds issued by the federal land banks or securities
9 issued by the federal home loan bank system. Pursuant to
10 section 106(b) of the "Secondary Mortgage Market Enhance-
11 ment Act of 1984," an act of the Congress of the United States,
12 this section prohibits domestic insurers from exercising the
13 investment authority granted any person, trust, corporation,

14 partnership, association, business trust or business entity
15 pursuant to section 106(a) (1) or (2) of that act, except as
16 provided in subsection (c).

17 (b) Bonds or evidences of indebtedness which are direct
18 general obligations of any county, district, city, town, village,
19 school district, park district or other political subdivision of this
20 state or any other state or territory of the United States or the
21 District of Columbia, which shall not be in default in the
22 payment of any of its general obligation bonds, either principal
23 or interest, at the date of such investment; where they are
24 payable from ad valorem taxes levied on all the taxable
25 property located therein and the total indebtedness after
26 deducting sinking funds and all debts incurred for self-sustain-
27 ing public works does not exceed ten per centum of the actual
28 value of all taxable property therein on the basis of which the
29 last assessment was made before the date of such investment.

30 (c) Securities issued or guaranteed by the Federal Home
31 Loan Mortgage Corporation or the Federal National Mortgage
32 Association aggregating an amount not to exceed twenty
33 percent of the insurer's assets.

§33-8-14. Common stocks.

1 Subject to the limits set forth in sections five and six of this
2 article, an insurer may invest in the nonassessable shares of
3 capital stock of any solvent corporation created under the laws
4 of the United States or of any state: *Provided*, That:

5 (a) The capital stock is one which is included in a nationally
6 recognized index of companies, including, but not limited to,
7 Standard & Poors 500 and Wilshire 2000;

8 (b) The insurer's investment in any one entity under this
9 section would not exceed three percent of its admitted assets;
10 and

11 (c) As a result of and after giving effect to the investment,
12 the aggregate amount of investments then held by the insurer
13 under this section would not exceed twenty percent of its
14 admitted assets.

§33-8-15. Real property mortgages.

1 (a) An insurer may invest in entire first mortgages on
2 improved unencumbered real estate or the entire issue of bonds
3 secured thereby located within any state worth at least
4 thirty-three and one-third per centum more than the amount
5 loaned thereon, based on sound appraisal by a competent
6 appraiser and duly certified by him or her, provided that the
7 investment in any one mortgage or any one issue of bonds or
8 any one contract for deed does not exceed twenty-five thousand
9 dollars or two per centum of the insurer's assets, whichever is
10 the greater.

11 (b) "Improved real estate," as used in this section, means all
12 farmland which has been reclaimed and is used for the purpose
13 of husbandry, whether for tillage or pasture, and all real
14 property on which permanent buildings suitable for residence
15 or commercial use are situated.

16 (c) Real property shall not be considered to be encumbered
17 within the meaning of this section by reason of the existence of
18 instruments reserving or excepting mineral rights and interests,
19 rights-of-way, sewer rights and rights in walls or easements, nor
20 by reason of building restrictions or other restrictive covenants,
21 nor by reason of the fact that it is subject to lease under which
22 rents or profits are reserved to the owners: *Provided*, That the
23 security for such investment is a full and unrestricted first lien
24 upon such real property and that there is no condition nor right
25 of reentry or forfeiture under which such investments can be cut
26 off, subordinated or otherwise disturbed.

27 (d) Notwithstanding the restrictions set forth in this section
28 any insurer may invest: (1) In bonds or notes secured by

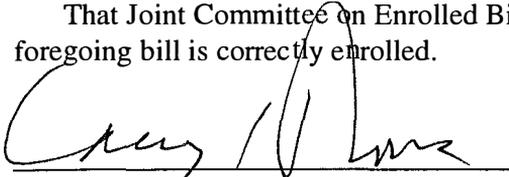
29 mortgage or trust deed insured by the federal housing adminis-
30 tration or in debentures issued by it under the terms of an act of
31 Congress of the United States entitled the "National Housing
32 Act," as heretofore or hereafter amended; (2) in securities
33 issued by national mortgage associations established by or
34 under the authority of the National Housing Act; and (3) in
35 bonds or notes secured by mortgage or trust deed guaranteed as
36 to principal by the administrator of veterans' affairs pursuant to
37 the provisions of Title III of an act of Congress of the United
38 States as of June twenty-two, one thousand nine hundred forty-
39 four, entitled the "Servicemen's Re-Adjustment Act of one
40 thousand nine hundred forty-four," as heretofore or hereafter
41 amended. Pursuant to section 106(b) of the "Secondary Mort-
42 gage Market Enhancement Act of 1984," an act of the Congress
43 of the United States, this section prohibits domestic insurers
44 from exercising the investment authority granted any person,
45 trust, corporation, partnership, association, business trust or
46 business entity pursuant to section 106(a) (1) or (2) of that act,
47 except that the investments as provided in subsection (c) of
48 section seven of this article are considered to be permissible.

49 (e) Notwithstanding the restrictions herein set forth, the
50 amount of any first mortgage investment as limited by subsec-
51 tion (a) of this section may be exceeded if and to the extent that
52 such excess shall be guaranteed by the administrator of veter-
53 ans' affairs pursuant to the provisions of Title III of an act of
54 Congress of the United States of June twenty-two, one thousand
55 nine hundred forty-four, entitled the "Servicemen's Re-Adjust-
56 ment Act of one thousand nine hundred forty-four," as hereto-
57 fore or hereafter amended. Pursuant to section 106(b) of the
58 "Secondary Mortgage Market Enhancement Act of 1984," an
59 act of the Congress of the United States, this section prohibits
60 domestic insurers from exercising the investment authority
61 granted any person, trust, corporation, partnership, association,
62 business trust or business entity pursuant to section 106(a) (1)
63 or (2) of that act, except that the investments as provided in

64 subsection (c) of section seven of this article are considered to
65 be permissible.

66 (f) No such insurer shall in any manner, either directly or
67 indirectly, by means of corporations, holding companies,
68 trustees or otherwise, invest in real estate securities junior to
69 first mortgages unless the first mortgage in its entirety is owned
70 by the insurer.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

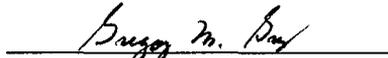

Chairman Senate Committee


Chairman House Committee

Originating in the House.

In effect from passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 21th
day of April, 2001.


Governor

PRESENTED TO THE

GOVERNOR

Date

4/21/01

Time

2:15 pm