ENROLLED

COMMITTEE SUBSTITUTE FOR
House Bill No. 3080

(By Delegates 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.
An insurer shall not, except with the consent of the commissioner, have at one time any combination of investments in or loans upon the security of the obligations, property, or securities of any one person, institution or corporation, aggregating an amount exceeding five percent of the insurer’s assets. This restriction shall not apply to investments in or loans upon the security of general obligations of the United States or fully guaranteed by the United States or the District of Columbia or any state of the United States or of political subdivisions of the state of West Virginia or other states of the United States, or such other funds or obligations of the United States made pursuant to section seven of this article, or include policy loans made under section nineteen of this article or investments in foreign securities pursuant to section eight of this article.

Pursuant to section 106(b) of the “Secondary Mortgage Market Enhancement Act of 1984,” an act of the Congress of the United States, this section prohibits domestic insurers from exercising the investment authority granted any person, trust, corporation, partnership, association, business trust or business entity pursuant to section 106(a) (1) or (2) of that act.

§33-8-7. Government obligations.

An insurer may invest any of its funds in:

(a) Bonds or securities which are the direct obligation of or which are secured or guaranteed in whole or in part as to principal and interest by the United States, any state or territory of the United States or the District of Columbia, where there exists the power to levy taxes for the prompt payment of the principal and interest of such bonds or evidences of indebtedness, and in bonds issued by the federal land banks or securities issued by the federal home loan bank system. Pursuant to section 106(b) of the “Secondary Mortgage Market Enhancement Act of 1984,” an act of the Congress of the United States, this section prohibits domestic insurers from exercising the investment authority granted any person, trust, corporation, partnership, association, business trust or business entity pursuant to section 106(a) (1) or (2) of that act.
partnership, association, business trust or business entity pursuant to section 106(a) (1) or (2) of that act, except as provided in subsection (c).  

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

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


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

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

(b) The insurer’s investment in any one entity under this section would not exceed three percent of its admitted assets; and
(c) As a result of and after giving effect to the investment, the aggregate amount of investments then held by the insurer under this section would not exceed twenty percent of its admitted assets.

§33-8-15. Real property mortgages.

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

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

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

(d) Notwithstanding the restrictions set forth in this section any insurer may invest: (1) In bonds or notes secured by
mortgage or trust deed insured by the federal housing administration or in debentures issued by it under the terms of an act of Congress of the United States entitled the "National Housing Act," as heretofore or hereafter amended; (2) in securities issued by national mortgage associations established by or under the authority of the National Housing Act; and (3) in bonds or notes secured by mortgage or trust deed guaranteed as to principal by the administrator of veterans' affairs pursuant to the provisions of Title III of an act of Congress of the United States as of June twenty-two, one thousand nine hundred forty-four, entitled the "Servicemen's Re-Adjustment Act of one thousand nine hundred forty-four," as heretofore or hereafter amended. Pursuant to section 106(b) of the "Secondary Mortgage Market Enhancement Act of 1984," an act of the Congress of the United States, this section prohibits domestic insurers from exercising the investment authority granted any person, trust, corporation, partnership, association, business trust or business entity pursuant to section 106(a) (1) or (2) of that act, except that the investments as provided in subsection (c) of section seven of this article are considered to be permissible.

(e) Notwithstanding the restrictions herein set forth, the amount of any first mortgage investment as limited by subsection (a) of this section may be exceeded if and to the extent that such excess shall be guaranteed by the administrator of veterans' affairs pursuant to the provisions of Title III of an act of Congress of the United States of June twenty-two, one thousand nine hundred forty-four, entitled the "Servicemen's Re-Adjustment Act of one thousand nine hundred forty-four," as heretofore or hereafter amended. Pursuant to section 106(b) of the "Secondary Mortgage Market Enhancement Act of 1984," an act of the Congress of the United States, this section prohibits domestic insurers from exercising the investment authority granted any person, trust, corporation, partnership, association, business trust or business entity pursuant to section 106(a) (1) or (2) of that act, except that the investments as provided in
subsection (c) of section seven of this article are considered to be permissible.

(f) No such insurer shall in any manner, either directly or indirectly, by means of corporations, holding companies, trustees or otherwise, invest in real estate securities junior to first mortgages unless the first mortgage in its entirety is owned 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 21st day of April, 2001.

Governor