

1CHAPTER 252

An Act concerning investments by certain domestic insurance companies, amending R.S.17:24-1 and supplementing chapter 24 of Title 17 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. R.S.17:24-1 is amended to read as follows:

Investments by insurance companies generally.

17:24-1. Any insurance company of this State for the purpose of investing its capital, surplus and other funds, or any part thereof, may:

a. Purchase or hold as collateral security or otherwise and sell and transfer any bonds or public stock issued, created or guaranteed by the United States, or any territory or insular possession thereof, or the Commonwealth of Puerto Rico, or by this State, or by any of the other states of the United States or the District of Columbia, or by Canada or any of the provinces thereof, or by any of the incorporated cities, counties, parishes, townships or other municipal corporations situated in any of the places hereinabove mentioned; or bonds authorized to be issued by any commission appointed by the Supreme Court of this State as the said court was constituted prior to September 15, 1948.

b. Purchase or hold real estate for business or residential purposes, other than as provided for in R.S.17:19-8 to 17:19-12, inclusive, as an investment for the production of income, and improve or otherwise develop such real estate; provided, that if the commissioner shall determine, after due hearing upon notice to any such insurance company, that the interests of such insurance company's policyholders require that any specified real estate so purchased or held be disposed of, then such insurance company shall dispose of such real estate within such reasonable time as the commissioner shall direct; and provided further, the aggregate amount of such investments for the production of income, but excluding real estate held as provided for in R.S.17:19-8 to 17:19-12, inclusive, shall not exceed 5% of the total admitted assets of such insurance company as of December 31 next preceding. The term "real estate for business or residential purposes" as used in this subsection b. shall include any real property used or operated as a part of or in connection with a business or a residential development, and shall also include a leasehold of such real estate having an unexpired term of not less than 20 years, inclusive of the term or terms which may be provided by any enforceable option or options of extension or of renewal. Income produced by investment in any such leasehold shall be applied by such insurance company in a manner calculated to amortize the amount invested for acquisition and improvement thereof within a period not exceeding 8/10 of such unexpired term of the leasehold following such acquisition or improvement, or within a period of 40 years thereafter, whichever is less.

c. Invest in bonds or notes secured by mortgages or trust deeds on unencumbered fee simple or leasehold real estate, which shall include areas above the surface of the ground but not contiguous thereto, or any interest therein, located within the United States, any territory or insular possession thereof, the Commonwealth of Puerto Rico, or Canada, worth at least 1/3 more than the sum so invested. No loan may be made on leasehold real estate unless the terms of such loan provide for amortization payments to be made by the borrower on the principal thereof in amounts sufficient to completely amortize the loan within a period not exceeding 9/10 of the term of the leasehold, inclusive of the term or terms which may be provided by any enforceable option or options of extension or of renewal, which is unexpired at the time the loan is made. For the purpose of this subsection c., fee simple or leasehold

real estate or any interest therein shall not be deemed to be encumbered within the meaning of this subsection c. by reason of the existence of taxes or assessments that are not delinquent, easements, profits or licenses, nor by reason of building restrictions or other restrictive covenants, nor when such real estate or interest therein is subject to lease in whole or in part whereby rents or profits are reserved to the owner; provided, that the security created by the mortgage or trust deed on such real estate or interest therein securing such bond or note is a first lien upon such real estate or interest therein. No insurance company shall, pursuant to this subsection c., invest in or loan upon the security of any one property more than \$30,000 or more than 2% of its total admitted assets, whichever is the greater. The total investments of any insurance company made pursuant to this subsection c. shall not exceed 40% of its total admitted assets.

d. Invest in bonds or notes evidencing loans to veterans if the full amount of any such loan is guaranteed by the government of the United States or by the Administrator of Veterans' Affairs pursuant to the "Servicemen's Readjustment Act of 1944," Pub.L.78-346 (38 U.S.C. s.3701 et seq.), as heretofore or hereafter amended; and in the case of loans so guaranteed for less than the full amount thereof, the maximum amount which may be loaned or invested by any such insurance company pursuant to the provisions of any law of this State shall be increased by the amount so guaranteed.

e. Lend on or purchase mortgage or collateral trust bonds of railroad companies organized under the laws of said states, or the District of Columbia, or the Commonwealth of Puerto Rico, or Canada or any province thereof, or operated wholly or partly therein; or equipment trust certificates or obligations which are adequately secured or other adequately secured instruments evidencing an interest in transportation or municipal sanitation equipment wholly or in part within the United States or any territory or insular possession thereof, the Commonwealth of Puerto Rico or Canada and a right to receive determined portions of rental, purchase or other fixed obligatory payments for the use or purchase of such equipment; or certificates of receivers of any corporation where such purchase is necessary to protect an investment in the securities of such corporation theretofore made under authority of chapters 17 to 33, inclusive, of this Title; or the bonds or other evidences of indebtedness of public utility companies organized under the laws of Canada or any province thereof; or the capital stock, bonds, securities or evidences of indebtedness created by any corporation of the United States or of any state, or of the District of Columbia, or of the Commonwealth of Puerto Rico or of Canada or of any province thereof; provided, that no purchase of any bond or evidence of indebtedness which is in default as to interest shall be made by such company unless such purchase is necessary to protect an investment theretofore made under authority of chapters 17 to 33, inclusive, of this Title, in the securities of the corporation which issued, assumed or guaranteed such bond or evidence of indebtedness in default; provided further, that no purchase of the stock of any corporation of a class on which dividends have not been paid during each of the past five years preceding the time of purchase shall be made unless the stock so purchased shall represent a majority in control of all the stock then outstanding, or the corporation shall have earned during the period of such five years an aggregate sum available for dividends upon such stock which would have been sufficient, after all fixed charges and obligations, to pay dividends upon all shares of such class of stock outstanding during such period averaging 4% per annum computed upon the par value of such stock, or in the case of stock having no par value, upon the stated capital in respect thereof; and provided further, that in the case of the stock of a corporation resulting from or formed by merger, consolidation, acquisition or otherwise, less than five years preceding the time of purchase, each consecutive year next preceding the

effective date of such merger, consolidation, acquisition or other action during which dividends or other distributions of profits shall have been paid by any one or more of its constituent or predecessor institutions shall be deemed a year during which dividends have been paid on such class of stock and the earnings of such constituent or predecessor institutions available for dividends during each of such years may be included as earnings of the existing corporation whose stock is to be purchased for each such year, and in the case of the stock of a corporation resulting from or formed by merger or consolidation less than five years preceding such purchase, each consecutive year next preceding the effective date of such merger or consolidation during which dividends shall have been paid by any one or more of its constituent corporations on any or all classes of its or their stock in an aggregate amount sufficient to have paid dividends on that class of stock of the existing corporation whose stock is to be purchased, had such corporation then been in existence, shall be deemed a year during which dividends have been paid on such class of stock; provided, however, that nothing herein contained shall prohibit the purchase of stock of any class which is preferred, as to dividends, over any class the purchase of which is not prohibited by this section; and provided further, that no purchase of its own stock shall be made by any insurance company except for the purpose of the retirement of such stock or except as specifically permitted by any law of this State applicable by its terms only to insurance companies. Unless the stock so purchased shall represent a majority in control of all the stock then outstanding, the cost of stock investment pursuant to this section may not exceed more than 25% of the total admitted assets of such insurance company as of December 31 next preceding with no more than 5% in any one stock. Notwithstanding any other provision of R.S.17:24-1 et seq., the cost basis of all stock investment shall be used for the purpose of determining the asset value against which such percentage limitations are to be applied.

The aggregate amount invested at cost, including but not limited to common stock, preferred stock and debt obligations, in one or more subsidiaries shall not exceed the lesser of 10% of such insurance company's assets or 50% of such insurance company's surplus as regards policyholders as of December 31 next preceding. In calculating the amount of such investments, investments in domestic or foreign insurance subsidiaries shall be excluded.

f. Invest in bonds or notes evidencing loans if the full amount of any such loan is insured by the government of the United States, or by the Administrator of the Farmers' Home Administration pursuant to the "Bankhead-Jones Farm Tenant Act," Pub.L.75-210 (7 U.S.C. s.1000 et seq.), as heretofore or hereafter amended.

g. Except as provided in section 3 of P.L.2007, c.252 (C.17:24-1.2), make loans or investments not qualifying or permitted under any subsection of this section to an amount, not including the amount of investments otherwise expressly authorized by law, not exceeding in the aggregate at any one time the greater of 5% of the total admitted assets or 50% of the excess of total admitted assets over the sum of liabilities plus capital and surplus required to transact business, but in any event not to exceed 10% of the total admitted assets of such insurance company as of December 31 next preceding.

C.17:24-1.1 Written plan for acquiring, holding investments, investment practices.

2. a. An insurer's board of directors shall adopt a written plan for acquiring and holding investments and for engaging in investment practices that specifies guidelines as to the quality, maturity, and diversification of investments and other specifications including investment strategies intended to assure that the investments and investment practices are appropriate for the business conducted by the insurer, its liquidity needs, and its capital and surplus. The board shall review and assess the insurer's technical investment and

administrative capabilities and expertise before adopting a written plan concerning an investment strategy or investment practice.

b. Investments acquired and held under R.S.17:24-1 et seq. shall be acquired and held under the supervision and direction of the board of directors of the insurer. The board of directors shall evidence by formal resolution, at least annually, that it has determined whether all investments have been made in accordance with delegations, standards, limitations and investment objectives prescribed by the board or a committee of the board charged with the responsibility to direct its investments.

c. On no less than a quarterly basis, and more often if deemed appropriate, an insurer's board of directors or committee of the board of directors shall:

(1) Receive and review a summary report on the insurer's investment portfolio, its investment activities and investment practices engaged in under delegated authority, in order to determine whether the investment activity of the insurer is consistent with its written plan; and

(2) Review and revise, as appropriate, the written plan.

d. In discharging its duties under this section, the board of directors shall require that records of any authorizations or approvals, other documentation as the board may require and reports of any action taken under authority delegated under the plan referred to in subsection a. of this section shall be made available on a regular basis to the board of directors.

e. If an insurer does not have a board of directors, all references to the board of directors in R.S.17:24-1 et seq. shall be deemed to be references to the governing body of the insurer having authority equivalent to that of a board of directors.

C.17:24-1.2 Actions prohibited by insurer without prior approval; exceptions.

3. a. (1) Except as provided in subsection b. of this section, an insurer shall not, without the prior written approval of the commissioner, directly or indirectly:

(a) make a loan to, or other investment in, an officer or director of the insurer or a person in which the officer or director has any direct or indirect financial interest;

(b) make a guarantee for the benefit of, or in favor of, an officer or director of the insurer or a person in which the officer or director has any direct or indirect financial interest; or

(c) enter into an agreement for the purchase or sale of property from or to an officer or director of the insurer or a person in which the officer or director has any direct or indirect financial interest.

(2) For purposes of this section, an officer or director shall not be deemed to have a financial interest by reason of an interest that is held directly or indirectly through the ownership of equity interests representing less than 5% of all outstanding equity interests issued by a person that is a party to the transaction, or solely by reason of that individual's position as a director or officer of a person that is a party to the transaction.

(3) Nothing in this subsection shall permit an investment that is otherwise prohibited by law.

(4) This subsection shall not apply to a transaction between an insurer and any of its subsidiaries or affiliates entered into in compliance with section 4 of P.L.1970, c.22 (C.17:27A-4) other than a transaction between an insurer and its officer or director.

b. An insurer may make, without the prior written approval of the commissioner:

(1) Advances to officers or directors for expenses reasonably expected to be incurred in the ordinary course of the insurer's business or guarantees associated with credit or debit cards issued or credit extended for the purpose of financing these expenses;

(2) Loans secured by the principal residence of an existing or new officer of the insurer

made in connection with the officer's relocation at the insurer's request, so long as the terms and conditions otherwise are the same as those generally available from unaffiliated third parties;

(3) Secured loans to an existing or new officer of the insurer made in connection with the officer's relocation at the insurer's request, if the loans:

(a) do not have a term exceeding two years;

(b) are required to finance mortgage loans outstanding at the same time on the prior and new residences of the officer;

(c) do not exceed an amount equal to the equity of the officer in the prior residence; and

(d) are required to be fully repaid within two years, or upon the sale of the prior residence whichever first occurs; and

(4) Loans and advances to officers or directors made in compliance with State or federal law specifically related to the loans and advances by a regulated non-insurance subsidiary or affiliate of the insurer in the ordinary course of business and on terms no more favorable than those available to other customers of the entity.

4. This act shall take effect immediately.

Approved January 4, 2008.