

CHAPTER 1051**REGULATION OF INSURANCE COMPANIES OTHER THAN LIFE***H.F. 2358*

AN ACT relating to the regulation of insurance to the extent of amending or repealing provisions in Code sections 515.34, 515.35, 515B.5, 521A.2 and 521A.3 to provide for the regulation of the investments of insurance companies other than life, to modify the maximum liability of the Iowa insurance guaranty association, and to remove certain provisions regulating insurance holding companies.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 515.35, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 169, section 1, is amended by striking the section and inserting in lieu thereof the following:

515.35 INVESTMENTS.

1. **GENERAL CONSIDERATIONS.** The following considerations apply in the interpretation of this section:

a. This section applies to the investments of insurance companies other than life insurance companies.

b. The purpose of this section is to protect and further the interests of policyholders, claimants, creditors, and the public by providing standards for the development and administration of programs for the investment of the assets of companies organized under this chapter. These standards, and the investment programs developed by companies, shall take into account the safety of the company's principal, investment yield and growth, stability in the value of the investment, and liquidity necessary to meet the company's expected business needs, and investment diversification.

c. Financial terms relating to insurance companies have the meanings assigned to them under statutory accounting methods. Financial terms relating to companies other than insurance companies have the meanings assigned to them under generally accepted accounting principles.

d. Investments shall be valued in accordance with the valuation procedures established by the national association of insurance commissioners, unless the commissioner requires or finds another method of valuation reasonable under the circumstances.

e. If an investment qualifies under more than one subsection, a company may elect to hold the investment under the subsection of its choice. This section does not prevent a company from electing to hold an investment under a subsection different from the one under which it previously held the investment.

2. **DEFINITIONS.** For purposes of this section:

a. "Admitted assets", for purposes of computing percentage limitations on particular types of investments, means the assets which are authorized to be shown on the national association of insurance commissioner's annual statement blank as admitted assets as of the December 31 immediately preceding the date the company acquires the investment.

b. "Clearing corporation" means as defined in section 554.8102, subsection 3.

c. "Custodian bank" means as defined in section 554.8102, subsection 4.

d. "Issuer" means as defined in section 554.8201.

e. "Member bank" means a national bank, state bank, or trust company which is a member of the United States federal reserve system.

f. "National securities exchange" means an exchange registered under section 6 of the Securities Exchange Act of 1934 or an exchange regulated under the laws of the Dominion of Canada.

g. "Obligations" includes bonds, notes, debentures, transportation equipment certificates, domestic repurchase agreements, and obligations for the payment of money not in default as to payments of principal and interest on the date of investment, which constitute general obligations of the issuer or payable only out of certain revenues or certain funds pledged or otherwise dedicated for payment of principal and interest on the obligations. A lease is an obligation if the lease is assigned to the insurer and is nonterminable by the lessee upon foreclosure of any lien upon the leased property, and if rental payments are sufficient to amortize the investment over the primary lease term.

3. INVESTMENTS IN NAME OF COMPANY OR NOMINEE AND PROHIBITIONS.

a. A company's investments shall be held in its own name or the name of its nominee, except as follows:

(1) Investments may be held in the name of a clearing corporation or of a custodian bank or in the name of the nominee of either on the following conditions:

(i) The clearing corporation, custodian bank, or nominee must be legally authorized to hold the particular investment for the account of others.

(ii) When the investment is evidenced by a certificate and held in the name of a custodian bank or the nominee of a custodian bank, a written agreement shall provide that certificates so deposited shall at all times be kept separate and apart from other deposits with the depository, so that at all times they may be identified as belonging solely to the company making the deposit.

(iii) If a clearing corporation is to act as depository, the investment may be merged or held in bulk in the name of the clearing corporation or its nominee with other investments deposited with the clearing corporation by any other person, if a written agreement between the clearing corporation and the company provides that adequate evidence of the deposit is to be obtained and retained by the company or a custodian bank.

(2) A company may loan stocks or obligations held by it under this chapter to a broker-dealer registered under the Securities and Exchange Act of 1934 or a member bank. The loan must be evidenced by a written agreement which provides all of the following:

(i) That the loan will be fully collateralized by cash or obligations issued or guaranteed by the United States or an agency or an instrumentality of the United States, and that the collateral will be adjusted as necessary each business day during the term of the loan to maintain the required collateralization in the event of market value changes in the loaned securities or collateral.

(ii) That the loan may be terminated by the company at any time, and that the borrower will return the loaned stocks or obligations or equivalent stocks or obligations within five business days after termination.

(iii) That the company has the right to retain the collateral or use the collateral to purchase investments equivalent to the loaned securities if the borrower defaults under the terms of the agreement, and that the borrower remains liable for any losses and expenses incurred by the company due to default that are not covered by the collateral.

(3) A company may participate through a member bank in the United States federal reserve book-entry system, and the records of the member bank shall at all times show that the investments are held for the company or for specific accounts of the company.

(4) An investment may consist of an individual interest in a pool of obligations or a fractional interest in a single obligation if the certificate of participation or interest or the confirmation of participation or interest in the investment is issued in the name of the company or the name of the custodian bank or the nominee of either and if the interest as evidenced by the certificate or confirmation is, if held by a custodian bank, kept separate and apart from the investments of others so that at all times the participation may be identified as belonging solely to the company making the investment.

(5) Transfers of ownership of investments held as described in paragraph a, subparagraph (1), subdivision (iii), and subparagraphs (3) and (4) may be evidenced by bookkeeping entry on the books of the issuer of the investment, its transfer or recording agent, or the clearing corporation without physical delivery of certificate, if any, evidencing the company's investment.

b. Except as provided in paragraph a, subparagraph (5), if an investment is not evidenced by a certificate, adequate evidence of the company's investment shall be obtained from the issuer or its transfer or recording agent and retained by the company, a custodian bank, or clearing corporation. Adequate evidence, for purposes of this paragraph, means a written receipt or other verification issued by the depository or issuer or a custodian bank which shows that the investment is held for the company.

4. INVESTMENTS. Except as otherwise permitted by this section, a company organized under this chapter may invest in the following and no other:

a. UNITED STATES GOVERNMENT OBLIGATIONS. Obligations issued or guaranteed by the United States or an agency or instrumentality of the United States.

b. CERTAIN DEVELOPMENT BANK OBLIGATIONS. Obligations issued or guaranteed by the international bank for reconstruction and development, the Asian development bank, the inter-American development bank, the export-import bank, the world bank, or any United States government-sponsored organization of which the United States is a member, if the principal and interest is payable in United States dollars. A company shall not invest more than five percent of its total admitted assets in the obligations of any one of these banks or organizations, and shall not invest more than a total of ten percent of its total admitted assets in the obligations authorized by this paragraph.

c. STATE OBLIGATIONS. Obligations issued or guaranteed by a state of the United States, or a political subdivision of a state, or an instrumentality of a state or political subdivision of a state.

d. CANADIAN GOVERNMENT OBLIGATIONS. Obligations issued or guaranteed by the Dominion of Canada, or by an agency or province of Canada, or by a political subdivision of a province, or by an instrumentality of any of those provinces or political subdivisions.

e. CORPORATE AND BUSINESS TRUST OBLIGATIONS. Obligations issued, assumed, or guaranteed by a corporation or business trust organized under the laws of the United States or a state of the United States, or the laws of Canada or a province of Canada, provided that a company shall not invest more than five percent of its admitted assets in the obligations of any one corporation or business trust.

f. STOCKS. A company may invest in common stocks, common stock equivalents, mutual fund shares, securities convertible into common stocks or common stock equivalents, or preferred stocks issued or guaranteed by a corporation incorporated under the laws of the United States or a state of the United States, or the laws of Canada or a province of Canada.

(1) Stocks purchased under this section shall not exceed one hundred percent of capital and surplus. With the approval of the commissioner, a company may invest any amount in common stocks, preferred stocks, or other securities of one or more subsidiaries provided that after such investments the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(2) A company shall not invest more than ten percent of its capital and surplus in the stocks of any one corporation.

g. REAL ESTATE MORTGAGES. Mortgages and other interest-bearing securities that are first liens upon real estate located within this state or any other state of the United States. However, a mortgage or other security does not qualify as an investment under this paragraph if at the date of acquisition the total indebtedness secured by the lien exceeds seventy-five percent of the value of the property that is subject to the lien. Improvements shall not be considered in estimating value unless the owner contracts to keep them insured during the life of the loan in one or more reliable fire insurance companies authorized to transact business in this state and for a sum at least equal to the excess of the loan above seventy-five percent of the value of the ground, exclusive of improvements, and unless this insurance is payable in case of loss to the company investing its funds as its interest may appear at the time of loss. For the purpose of this section, a lien upon real estate shall not be held or construed to be other than a first lien by reason of the fact that drainage or other improvement assessments have been levied against the real estate covered by the lien, whether or not the installment of the assessments have matured, but in determining the value of the real estate for loan purposes the amount of drainage or other assessment tax that is unpaid shall be first deducted.

h. REAL ESTATE.

(1) Except as provided in subparagraphs (2), (3) and (4) of this paragraph, a company may acquire, hold, and convey real estate only as follows:

(i) Real estate mortgaged to it in good faith as security for loans previously contracted, or for moneys due.

(ii) Real estate conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

(iii) Real estate purchased at sales on judgments, decrees, or mortgages obtained or made for debts previously contracted in the course of its dealings.

(iv) Real estate subject to a contract for deed under which the company holds the vendor's interest to secure the payments the vendee is required to make under the contract.

All real estate specified in subdivisions (i), (ii), and (iii) of this subparagraph shall be sold and disposed of within three years after the company acquires title to it, or within three years after the real estate ceases to be necessary for the accommodation of the company's business, and the company shall not hold any of those properties for a longer period unless the company elects to hold the property under another paragraph of this section, or unless the company procures a certificate from the commissioner of insurance that its interest will suffer materially by the forced sale of those properties and that the time for the sale is extended to the time the commissioner directs in the certificate.

(2) A company may acquire, hold, and convey real estate as required for the convenient accommodation and transaction of its business.

(3) A company may acquire real estate or an interest in real estate as an investment for the production of income, and may hold, improve, or otherwise develop, subdivide, lease, sell, and convey real estate so acquired directly or as a joint venture or through a limited or general partnership in which the company is a partner.

(4) A company may also acquire and hold real estate if the purpose of the acquisition is to enhance the sale value of real estate previously acquired and held by the company under this paragraph, and if the company expects the real estate so acquired to qualify under subparagraph (2) or (3) of this paragraph within three years after acquisition.

(5) A company may, after securing the written approval of the commissioner, acquire and hold real estate for the purpose of providing necessary living quarters for its employees. However, the company shall dispose of the real estate within three years after it has ceased to be necessary for that purpose unless the commissioner agrees to extend the holding period upon application by the company.

(6) A company shall not invest more than twenty-five percent of its total admitted assets in real estate. The cost of a parcel of real estate held for both the accommodation of business and for the production of income shall be allocated between the two uses annually. A company shall not invest more than ten percent of its total admitted assets in real estate held under subparagraph (3) of this paragraph.

(7) A company is not required to divest itself of real estate assets owned or contracted for prior to the effective date of this Act in order to comply with the limitations established under this paragraph.

i. **FOREIGN INVESTMENTS.** Obligations of and investments in foreign countries, as follows:

(1) A company may acquire and hold other investments in foreign countries that are required to be held as a condition of doing business in those countries.

(2) A company may invest not more than two percent of its admitted assets in the obligations of foreign governments, corporations, or business trusts, or in the stocks or stock equivalents of foreign corporations or business trusts and then only if the obligations, stocks, or stock equivalents are regularly traded on the New York, London, Paris, Zurich, Hong Kong, Toronto, or Tokyo stock exchange, or a similar exchange approved by the commissioner by rule or order.

j. **PERSONAL PROPERTY UNDER LEASE.** Personal property for intended lease or rental by the company in the United States or Canada. A company shall not invest more than five percent of its admitted assets under this paragraph.

k. **COLLATERAL LOANS.** Obligations secured by the pledge of an investment authorized by paragraphs a through j, subject to the following conditions:

(1) The pledged investment shall be legally assigned or delivered to the company.

(2) The pledged investment shall at the time of purchase have a market value of at least one hundred ten percent of the amount of the unpaid balance of the obligations.

(3) The company shall reserve the right to declare the obligation immediately due and payable if at any time after purchase the security depreciates to the point where the investment would not qualify under subparagraph (2) of this paragraph. However, additional qualifying security may be pledged to allow the investment to remain qualified.

l. **OPTIONS TRANSACTIONS.**

(1) A domestic fire and casualty company may only engage in the following transactions in options on an exchange and only when in accordance with the rules of the exchange on which the transactions take place:

(i) The sale of exchange-traded covered options.

(ii) The purchase of exchange-traded covered options solely in closing purchase transactions.

(2) The commissioner shall adopt rules pursuant to chapter 17A regulating option sales under this subparagraph.

m. **OTHER INVESTMENTS.**

(i) A company organized under this chapter may invest up to one percent of its admitted assets in securities or property of any kind, without restrictions or limitations except those imposed on business corporations in general.

(ii) A company organized under this chapter may invest its assets in any additional forms not specifically included in paragraphs a through n when authorized by rules adopted by the commissioner.

n. RULES. The commissioner may adopt rules pursuant to chapter 17A to carry out the purposes and provisions of this section.

Sec. 2. Section 515B.5, subsection 1, paragraph a, Code 1981, is amended to read as follows:

a. Be obligated to the extent of the covered claims existing prior to the determination of insolvency and arising within thirty days after the determination of insolvency, or before the policy expiration date if less than thirty days after the determination, or before the insured replaces the policy or on request effects cancellation if ~~he~~ the insured does so within thirty days of the determination. ~~Such~~ This obligation shall include only that amount of each covered claim which is in excess of one hundred dollars and less than ~~three~~ five hundred thousand dollars, except that the association shall pay the full amount of any covered claim arising out of a workers' compensation policy. In no event shall the association be obligated to a policyholder or claimant in an amount in excess of the ~~face amount~~ specified limits of the policy from which the claim arises.

Sec. 3. Section 521A.2, subsection 3, paragraph a, Code 1981, is amended to read as follows:

a. Invest, in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries, amounts which do not exceed ~~the lesser of ten percent of such insurer's assets or fifty percent of such~~ the insurer's surplus as regards policyholders, provided that after such investments the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs. In calculating the amount of such investments both of the following shall be included:

Sec. 4. Section 521A.3, subsection 4, paragraph a, subparagraph (3), Code 1981, is amended to read as follows:

(3) The financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders ~~or the interests of any remaining securityholders who are unaffiliated with such acquiring party.~~

Sec. 5. Section 521A.3, subsection 4, paragraph a, subparagraph (4), Code 1981, is amended by striking the subparagraph.

Sec. 6. Section 521A.3, subsection 6, paragraph a, Code 1981, is amended by striking the paragraph.

Sec. 7. Section 515.34, Code 1981, is repealed.

Approved March 26, 1982