

Reported Recommending
Ind. Postponed.....
Passed Senate.....
Failed to Pass Senate.....
Passed House.....
Failed to Pass House.....

Senate File 109

January 23, 1945.
Passed on File.

By COMMITTEE ON INSURANCE.

A BILL FOR

An Act to amend chapters three hundred ninety-eight (398), four hundred (400), and four hundred one (401) of the Code of Iowa, 1939, relating to investments by life insurance companies and associations and the regulation of said investments, companies and associations under the supervision of the Insurance Commissioner of the State of Iowa, by amending sections eight thousand six hundred fifty-seven (8657), eight thousand six hundred fifty-eight (8658), eight thousand six hundred fifty-nine (8659), eight thousand seven hundred twenty-two (8722), eight thousand seven hundred forty-five (8745), and eight thousand seven hundred forty-six (8746), and repealing sections eight thousand six hundred fifty-five (8655), eight thousand six hundred fifty-six (8656), eight thousand six hundred sixty-four (8664), eight thousand six hundred sixty-five (8665), eight thousand six hundred ninety-eight (8698), eight thousand six hundred ninety-nine (8699), eight thousand seven hundred (8700), eight thousand seven hundred one (8701), eight thousand seven hundred thirty-five (8735), eight thousand seven hundred thirty-six (8736), eight thousand seven hundred thirty-seven (8737), eight thousand seven hundred thirty-eight (8738), eight thousand seven hundred thirty-nine (8739), eight thousand seven hundred forty (8740), eight thousand seven hundred forty-one (8741), eight thousand seven hundred forty-one and one tenth (8741.1), eight thousand seven hundred forty-two (8742), eight thousand seven hundred forty-three (8743), eight

thousand seven hundred forty-four (8744), and eight thousand seven hundred forty-seven (8747) thereof, and enacting substitutes therefor.

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

1 Section 1. Section eight thousand six hundred
2 fifty-seven (8657), Code, 1939, is amended by striking from
3 lines one (1) and two (2) thereof the words "On receipt of such
4 deposit and statement," and substituting in lieu thereof the
5 words "On receipt of the deposit provided in subsection thirteen
6 (13) of section eight thousand seven hundred thirty-seven
7 (8737) and the statement,".

1 Sec. 2. Section eight thousand six hundred fifty-
2 eight (8658), Code, 1939, is amended by inserting after the
3 word "deposit" in line three (3) thereof the words "provided
4 in subsection thirteen (13) of section eight thousand seven
5 hundred thirty-seven (8737)".

1 Sec. 3. Section eight thousand six hundred fifty-
2 nine (8659), Code, 1939, is amended by striking the word
3 "deposit" in line four (4) and substituting therefor the word
4 "investment".

1 Sec. 4. Section eight thousand seven hundred twenty-
2 two (8722), Code, 1939, is amended by striking from line
3 fourteen (14) the words "section 8741," and substituting
4 therefor the words "said section.".

1 Sec. 5. Section eight thousand seven hundred forty-
2 five (8745), Code, 1939, is amended by striking lines five (5)

3 and six (6) thereof and substituting therefor the following:
4 “section eight thousand seven hundred thirty-seven (8737), or
5 for violating the same.”.

1 Sec. 6. Section eight thousand seven hundred forty-
2 six (8746), Code, 1939, is amended by striking from lines three
3 (3) and four (4) thereof the words “life insurance company,
4 assessment life association, or”.

1 Sec. 7. Section eight thousand six hundred fifty-
2 five (8665), Code, 1939, is repealed.

1 Sec. 8. Section eight thousand six hundred fifty-
2 six (8656), Code, 1939, is repealed.

1 Sec. 9. Section eight thousand six hundred sixty-
2 four (8664), Code, 1939, is repealed.

1 Sec. 10. Section eight thousand six hundred sixty-
2 five (8665), Code, 1939, is repealed.

1 Sec. 11. Section eight thousand six hundred ninety-
2 eight (8698), Code, 1939, is repealed.

1 Sec. 12. Section eight thousand six hundred ninety-
2 nine (8699), Code, 1939, is repealed.

1 Sec. 13. Section eight thousand seven hundred (8700),
2 Code, 1939, is repealed.

1 Sec. 14. Section eight thousand seven hundred one
2 (8701), Code, 1939, is repealed.

1 Sec. 15. Section eight thousand seven hundred thirty-
2 five (8735), Code, 1939, is repealed.

1 Sec. 16. Section eight thousand seven hundred thirty-

2 six (8736), Code, 1939, is repealed.

1 Sec. 17. Section eight thousand seven hundred thirty-
2 seven (8737), Code, 1939, is repealed, and the following enacted
3 in lieu thereof:

4 Section 8737. Investment of Funds. Any company, organ-
5 ized under chapter three hundred ninety-eight (398), shall, at
6 all times, have invested in the securities provided in this
7 section, funds equivalent to its legal reserve. Legal reserve
8 shall be the net present value of all outstanding policies, and
9 contracts involving life contingencies. Any association,
10 organized under chapter four hundred (400), accumulating any
11 moneys to be held in trust for the purpose of the fulfilment
12 of its policies or certificates, contracts, or otherwise, shall
13 invest such accumulations in the securities provided in this
14 section. Wherever, in this section, reference is made to
15 "legal reserve", it shall mean the total accumulations in the
16 case of an association organized under chapter four hundred
17 (400). Nothing herein contained shall prohibit a company or
18 association from holding a portion of its legal reserve in
19 cash.

20 1. United States Government Obligations. Bonds or
21 other evidences of indebtedness issued, assumed or guaranteed
22 by the United States of America, or by any agency or instru-
23 mentality thereof.

24 2. State, District of Columbia, Territorial and
25 Municipal Obligations. Bonds or other evidences of indebtedness

26 issued, assumed or guaranteed by the District of Columbia, or
27 by any state, insular or territorial possession of the United
28 States of America, or by any county, city, town, school, road,
29 drainage, or other district located within any state, or insular
30 or territorial possession of the United States of America, or
31 by any civil subdivision or governmental authority of any such
32 state, or insular or territorial possession, or by any
33 instrumentality of any such state, or insular or territorial
34 possession, civil subdivision, or governmental authority;
35 provided that the obligations are valid, legally authorized
36 and issued.

37 3. Canadian Government, Provincial and Municipal
38 Obligations. Bonds or other evidences of indebtedness issued,
39 assumed or guaranteed by the Dominion of Canada, or by any
40 province thereof, or by any municipality or district therein,
41 provided that the obligations are valid, legally authorized
42 and issued.

43 4. Corporate Obligations. Subject to the restrictions
44 contained in subsection seven (7) hereof, bonds or other
45 evidences of indebtedness issued, assumed or guaranteed by a
46 corporation incorporated under the laws of the United States
47 of America, or of any state, district, insular or territorial
48 possession thereof; or of the Dominion of Canada, or any
49 province thereof; and which meet the following qualifications:—

50 A. If fixed interest bearing obligations,—

51 The net earnings available for fixed charges of

52 the corporation for the five (5) fiscal years next preceding
53 the date of acquisition of the obligations shall have averaged
54 per year not less than one and one-half ($1\frac{1}{2}$) times the
55 fixed charges of which the corporation is subject as of the
56 date of acquisition.

57 B. If adjustment, income, or other contingent interest
58 obligations,—

59 The net earnings available for fixed charges of
60 the corporation for the five (5) fiscal years next preceding
61 the date of acquisition of the obligations shall have averaged
62 per year not less than one and one-half ($1\frac{1}{2}$) times the sum of
63 the fixed charges and the maximum contingent interest to which
64 the corporation is subject as of the date of acquisition, and
65 the net earnings available for fixed charges for each of the
66 two (2) fiscal years immediately preceding the date of
67 acquisition shall have been not less than one and one-half
68 ($1\frac{1}{2}$) times the sum of the fixed charges and the maximum
69 contingent interest to which the corporation is subject as
70 of the date of acquisition.

71 The term “net earnings available for fixed
72 charges” as used herein shall mean the net income after deduct-
73 ing all operating and maintenance expenses, taxes other than
74 any income taxes, depreciation and depletion, but non-recurring
75 items of income or expense may be excluded.

76 The term “fixed charges” as used herein shall
77 include interest on all of the fixed interest bearing debt of

78 the corporation outstanding and maturing in more than one (1)
79 year as of the date of acquisition.

80 5. Preferred and Guaranteed Stocks. Subject to the
81 restrictions contained in subsection seven (7) hereof, preferred
82 stocks of, or stocks guaranteed by, a corporation incorporated
83 under the laws of the United States of America, or of any state,
84 district, insular or territorial possession thereof; or of the
85 Dominion of Canada, or any province thereof; and which meet
86 the following qualifications:—

87 A. Preferred Stocks—

88 (a) All of the obligations and preferred stocks of
89 the issuing corporation, if any, prior to the preferred stock
90 acquired must be eligible as investments under this section as
91 of the date of acquisition; and

92 (b) The net earnings available for fixed charges
93 and preferred dividends of the issuing corporation shall have
94 been, for each of the five (5) fiscal years immediately
95 preceding the date of acquisition, not less than one and
96 one-half ($1\frac{1}{2}$) times the sum of the annual fixed charges and
97 contingent interest, if any, and the annual preferred dividend
98 requirements as of the date of acquisition.

99 The term “preferred dividend requirements” shall
100 mean cumulative or non-cumulative dividends whether paid or not.

101 The term “fixed charges” shall be construed in
102 accordance with subsection four (4) above. The term “net
103 earnings available for fixed charges and preferred dividends”

104 as used herein shall mean the net income after deducting all
105 operating and maintenance expenses, taxes, including any income
106 taxes, depreciation and depletion, but non-recurring items may
107 be excluded.

108 B. Guaranteed Stocks—

109 (a) All of the fixed interest bearing obligations
110 of the guaranteeing corporation, if any, must be eligible
111 under this section as of the date of acquisition; and

112 (b) The net earnings available for fixed charges
113 of the guaranteeing corporation shall meet the requirements
114 outlined in subparagraph “A” of subsection four (4) above, except
115 that all guaranteed dividends shall be included in “fixed charges”.

116 6. Equipment Trust Obligations. Subject to the
117 restrictions contained in subsection seven (7) hereof, bonds,
118 certificates, or other evidences of indebtedness secured by
119 any transportation equipment used in the United States of
120 America or Canada, that provide a right to receive determined
121 rental, purchase or other fixed obligatory payments adequate
122 to retire the obligations within twenty (20) years from date of
123 issue, and also provide:

124 a. For vesting of title to such equipment free
125 from incumbrance in a corporate trustee, or

126 b. For creation of a first lien on such equipment.

127 7. Further Restrictions. Securities included under
128 subsections four (4), five (5) and six (6) shall not be eligible:—

129 A. If the corporation is in default on fixed

130 obligations as of the date of acquisition. Securities provided
131 in subparagraph "A" of subsection five (5) shall not be eligible
132 if the issuing corporation is in arrears with respect to the
133 payment of any preferred dividends as of the date of acquisition.

134 B. The investments of any company or association in
135 such securities shall not be eligible in excess of the following
136 percentages of the legal reserve of such company or association:

137 a. Two per cent (2%) of the legal reserve in the
138 securities of any one corporation.

139 b. Fifty per cent (50%) of the legal reserve in
140 the securities described in subsection four (4).

141 c. Ten per cent (10%) of the legal reserve in the
142 securities described in subsection five (5).

143 d. Ten per cent (10%) of the legal reserve in
144 securities described in subsection six (6).

145 C. Statements adjusted to show the actual condition
146 at the time of acquisition or the effect of new financing
147 (known commercially as pro forma statements) may be used in
148 determining whether investments under subsections four (4) and
149 five (5) are in compliance with requirements. Statements so
150 adjusted or consolidated statements may be used in order to
151 include the earnings of all predecessor, merged, consolidated
152 or purchased companies.

153 8. Real Estate Bonds and Mortgages.

154 A. Bonds, notes, or other evidences of indebtedness
155 secured by mortgages or deeds of trust which are a first lien

156 upon unencumbered real property within the United States of
157 America, or the Dominion of Canada, provided that at the date
158 of acquisition the total indebtedness secured by such lien shall
159 not exceed sixty-six and two-thirds per cent ($66 \frac{2}{3}\%$) of the
160 value of the property upon which it is a lien. These limita-
161 tions shall not apply to obligations described in subparagraphs
162 “B”, “C” and “D” of this subsection.

163 Improvements shall not be considered in estimating
164 the value of the property unless the owner shall contract to
165 keep the same adequately insured during the life of the loan
166 in some reliable fire insurance company or companies,
167 association or associations, the insurance to be made payable
168 in case of loss to the mortgagee, trustee, or assigns as its
169 interests may appear at the time of the loss.

170 Provided further that for the purpose of this
171 subsection a mortgage or deed of trust shall not be deemed to
172 be other than a first lien upon property within the meaning
173 of this subsection by reason of the existence of taxes or
174 assessments that are not delinquent, instruments creating or
175 reserving mineral, oil or timber rights, rights of way, joint
176 driveways, sewer rights, rights in walls or by reason of
177 building restrictions or other like restrictive covenants, or
178 when such real estate is subject to lease in whole or in part
179 whereby rents or profits are reserved to the owner.

180 B. Bonds, notes or other evidences of indebtedness
181 representing loans and advances of credit that have been issued,

182 guaranteed or insured, in accordance with the terms and
183 provisions of an Act of Congress of the United States of
184 America approved June twenty-seventh, nineteen hundred thirty-
185 four, entitled the "National Housing Act", as heretofore and
186 hereafter amended.

187 C. Bonds, notes or other evidences of indebtedness
188 representing loans and advances of credit that have been issued
189 or guaranteed, in whole or in part, in accordance with the
190 terms and provisions of Title III of an Act of Congress of
191 the United States of America approved June twenty-second,
192 nineteen hundred forty-four, known as Public Law 346—
193 Seventy-eighth Congress, Chapter 268—2nd Session, cited as
194 the "Servicemen's Readjustment Act of 1944", as heretofore and
195 hereafter amended.

196 D. Contracts of sale, purchase money mortgages or
197 deeds of trust secured by property obtained through foreclosure,
198 or in settlement or satisfaction of any indebtedness.

199 9. Real Estate.

200 A. Any such real estate in this state as is necessary
201 for the accommodation of the company or association as a home
202 office or in the transaction of its business. In the
203 erection of any buildings for such purposes, there may be
204 added thereto rooms for rent. Before the company or association
205 shall invest any of its funds in accordance with the provisions
206 of this subparagraph it shall first obtain the consent of the
207 executive council of this state. The maximum amount which any

208 such company or association shall be permitted to invest in
209 accordance with these provisions shall not exceed ten per cent
210 (10%) of the legal reserve; provided, however, that a stock
211 company may invest such portion of its paid-up capital, in
212 addition to said ten per cent (10%) of the legal reserve as
213 is not held to constitute a part of its legal reserve, under
214 section eight thousand six hundred fifty-four (8654);
215 provided, further, that the total legal reserve of such company
216 shall be equal to or exceed the amount of its paid up capital
217 stock.

218 B. Any real estate acquired through foreclosure, or
219 in settlement or satisfaction of any indebtedness. Any company
220 or association may improve real estate so acquired or remodel
221 existing improvements and exchange such real estate acquired by such
222 real estate or securities, and real estate acquired by such
223 exchange may be improved or the improvements remodeled.

224 Any farm real estate acquired under this
225 subparagraph shall be sold within five (5) years from the date
226 of acquisition unless the commissioner of insurance shall extend
227 the time for such period or periods as seem warranted by the
228 circumstances.

229 10. Certificates of Sale. Certificates of sale
230 obtained through foreclosure of liens on real estate.

231 11. Policy Loans. Loans upon the security of the
232 policies of the company or association and constituting a lien
233 thereon in an amount not exceeding the legal reserve thereon.

234 12. Collateral Loans. Loans secured by collateral
235 consisting of any securities qualified in this section, provided
236 the amount of the loan is not in excess of ninety per cent
237 (90%) of the value of the securities.

238 Provided further that subsection seven (7) of this
239 section shall apply to the collateral securities pledged to
240 the payment of loans authorized in this subsection.

241 13. Deposit of Securities. Securities in an amount
242 not less than the legal reserve as defined in this section
243 shall be deposited and such deposit maintained with the
244 commissioner of insurance, and it shall be the duty of the
245 commissioner to designate such places for the keeping of said
246 deposits as will properly safeguard the same. There may be
247 included in the deposit an amount of cash on hand not in excess
248 of five per cent (5%) of the deposit required, such deposit
249 to be evidenced by a certified check, certificate of deposit
250 or other evidence satisfactory to the commissioner of insurance.
251 Deposits of securities may be made in excess of the amounts
252 required hereby. No stock company organized under the laws
253 of this state shall be required to make such deposit until the
254 legal reserve, as ascertained by the commissioner, exceeds the
255 amount deposited by it as capital. Real estate may be made a
256 part of the deposit by furnishing evidence of ownership
257 satisfactory to the commissioner. Real estate mortgage loans
258 and policy loans may be made a part of the deposit by filing
259 a verified statement of the loans with the commissioner,

260 which statement shall be subject to check at the discretion of
261 the commissioner.

262 The securities comprising the deposit of any company
263 or association against which proceedings are pending under
264 sections eight thousand six hundred sixty-one (8661) and eight
265 thousand six hundred sixty-two (8662) shall vest in the state
266 for the benefit of the policies and contracts for which such
267 deposits were made.

268 Securities on deposit may be withdrawn at any time
269 and other eligible securities may be substituted, provided
270 the amount maintained on deposit is equal to the sum of the
271 legal reserve and Twenty-five Thousand Dollars (\$25,000.00).
272 Any company or association shall, if requested by the
273 commissioner, at the time of withdrawing any securities on
274 deposit, designate for what purpose the same are being
275 withdrawn.

276 Companies or associations having securities on
277 deposit with the commissioner of insurance shall have the
278 right to collect all dividends, interest or other income
279 thereon unless proceedings against such company or association
280 are pending under sections eight thousand six hundred sixty-
281 one (8661) and eight thousand six hundred sixty-two (8662),
282 in which event the commissioner shall collect such interest,
283 dividends or other income and add the same to the deposit.

284 Any company or association receiving payments or
285 partial payments of principal on any securities deposited

286 with the commissioner of insurance shall notify him of such
287 fact at such times and in such manner as the commissioner
288 may prescribe, giving the amount and date of payment.

289 14. Rules of Valuation.

290 A. All bonds or other evidences of debt having a
291 fixed term and rate of interest, if amply secured and not
292 in default as to principal or interest, may be valued as
293 follows:

294 (a) If purchased at par, at the par value.

295 (b) If purchased above or below par, on the basis
296 of the purchase price adjusted so as to bring the value to
297 par at maturity and so as to yield in the meantime the
298 effective rate of interest at which the purchase was made.

299 In applying the above rule, the purchase
300 price shall in no case be taken at a higher figure than
301 the actual market value at the time of purchase.

302 B. (a) Real estate acquired through foreclosure or
303 in settlement or satisfaction of any indebtedness, shall be
304 valued in an amount not greater than the amount of the
305 unpaid principal of the defaulted indebtedness, plus any
306 amounts actually expended for taxes, acquisition costs,
307 (but not including any interest due or subsequently accrued
308 thereon) and the cost of any additions or improvements.

309 (b) Real estate acquired and held under the
310 provisions of subparagraph "A" of subsection nine (9) hereof,
311 shall be valued in an amount not greater than the original

312 cost plus any subsequent additions or improvements.

313 C. Certificates of sale obtained by foreclosure of
 314 lien on real estate shall be valued in an amount not greater
 315 than the unpaid principal of the defaulted indebtedness plus
 316 any amounts actually expended for taxes and acquisition costs.

317 D. All investments, except those for which a
 318 specific rule is provided in this subsection, shall be valued
 319 at their market value, or at their appraised value, or at
 320 prices determined by the commissioner of insurance as
 321 representing their fair market value.

322 The commissioner of insurance shall have full
 323 discretion in determining the method of calculating values
 324 according to the foregoing rules, but no company or
 325 association shall be prevented from valuing any asset at
 326 an amount less than that provided by this subsection.

1 Sec. 18. Section eight thousand seven hundred
 2 thirty-eight (8738), Code, 1939, is repealed.

1 Sec. 19. Section eight thousand seven hundred
 2 thirty-nine (8739), Code, 1939, is repealed.

1 Sec. 20. Section eight thousand seven hundred
 2 forty (8740), Code, 1939, is repealed.

1 Sec. 21. Section eight thousand seven hundred
 2 forty-one (8741), Code, 1939, is repealed.

1 Sec. 22. Section eight thousand seven hundred
 2 forty-one and one-tenth (8741.1), Code, 1939, is repealed.

1 Sec. 23. Section eight thousand seven hundred

2 forty-two (8742), Code, 1939, is repealed.

1 Sec. 24. Section eight thousand seven hundred

2 forty-three (8743), Code, 1939, is repealed.

1 Sec. 25. Section eight thousand seven hundred

2 forty-four (8744), Code, 1939, is repealed.

1 Sec. 26. Section eight thousand seven hundred

2 forty-seven (8747), Code, 1939, is repealed.