

Am Commerce 2/22 Do Pass 3/25 (p 1018)

Senate File 2242

Commerce: Halvorson of Clayton, Chair; Chiodo and Shull.

SENATE FILE 2242

BY COMMITTEE ON COMMERCE

(FORMERLY SSB 2015)

Approved (p. 636)

SIXED MAR

Passed Senate, Date 3-19-82 (p 830) Passed House, Date 4-5-82 (p 1227)

Vote: Ayes 43 Nays 0 Vote: Ayes 93 Nays 2

Approved April 22, 1982

A BILL FOR

1 An Act relating to a life insurance company's investment of
2 funds for legal reserve purposes.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 508.6, Code 1981, is amended to read
2 as follows:

3 508.6 DEPOSIT OF SECURITIES--CERTIFICATE. Such securities
4 shall be deposited with the commissioner of insurance and
5 ~~when-sueh~~ or at such places as the commissioner may designate.
6 When the deposit is made and evidence furnished, by affidavit
7 or otherwise, satisfactory to the commissioner, that the
8 capital stock is all fully paid and the company possessed
9 of the surplus required and that the company is the actual
10 and unqualified owner of the securities representing the paid-
11 up capital stock or other funds of the company, and all laws
12 have been complied with, ~~he~~ the commissioner shall issue ~~to~~
13 ~~sueh~~ the company the certificate hereinafter provided for
14 in this chapter.

15 Sec. 2. Section 511.8, subsection 14, Code 1981, is amended
16 to read as follows:

17 14. URBAN REAL ESTATE AND PERSONAL PROPERTY. Personal
18 or real property or both ~~personal-or-real-property~~ located
19 within the United States or the Dominion of Canada, other
20 than real property used or to be used primarily for
21 agricultural, horticultural, ranching or mining purposes,
22 which produces income or which by suitable improvement will
23 produce income, ~~provided, however, that.~~ However, personal
24 property acquired under ~~the-provisions-of~~ this subsection
25 ~~is~~ shall be acquired for the purpose of entering into a
26 contract for the sale or for a use thereof under which the
27 contractual payments may reasonably be expected to result
28 in the recovery of the investment and an investment return
29 within the anticipated useful life of the property. Legal
30 title to ~~sueh~~ the real property may be acquired subject to
31 a contract of sale. ~~The-term-"real"~~ "Real property" as used
32 in this subsection ~~shall-include~~ includes a leasehold of real
33 estate, an undivided interest in a leasehold of real estate,
34 and an undivided interest in the fee title of real estate.
35 Investments ~~made-in-accordance-with-the-provisions-of~~ under

1 this subsection ~~shall~~ are not be eligible in excess of ten
2 percent of the legal reserve.

3 Sec. 3. Section 511.8, subsection 16, unnumbered paragraph
4 1, Code 1981, is amended to read as follows:

5 Securities in an amount not less than the legal reserve
6 as defined in this section shall be deposited and ~~sueh~~ the
7 deposit maintained with the commissioner of insurance, ~~and~~
8 ~~it shall be the duty of the commissioner to designate such~~
9 ~~places for the keeping of said deposits~~ or at such places
10 as the commissioner may designate as will properly safeguard
11 ~~the same~~ them. There may be included in the deposit an amount
12 of cash on hand not in excess of five percent of the deposit
13 required, ~~sueh~~ that deposit to be evidenced by a certified
14 check, certificate of deposit, or other evidence satisfactory
15 to the commissioner of insurance. Deposits of securities
16 may be made in excess of the amounts required ~~hereby~~ by this
17 section. ~~No~~ A stock company organized under the laws of this
18 state shall not be required to make ~~sueh~~ a deposit until the
19 legal reserve, as ascertained by the commissioner, exceeds
20 the amount deposited by it as capital. Real estate may be
21 made a part of the deposit by furnishing evidence of ownership
22 satisfactory to the commissioner and by conveying the real
23 estate to the commissioner or ~~his~~ the commissioner's successors
24 in office by warranty deed, ~~said real estate to be held by~~
25 ~~the~~. The commissioner and his the successors in office shall
26 hold the real estate in trust for the benefit of the
27 policyholders of the company or members of the association.
28 Real estate mortgage loans and policy loans may be made a
29 part of the deposit by filing a verified statement of the
30 loans with the commissioner, which statement ~~shall be~~ is
31 subject to check at the discretion of the commissioner.

32 Sec. 4. Section 511.8, subsection 18, Code 1981, is amended
33 by striking the section and inserting in lieu thereof the
34 following:

35 18. COMMON STOCKS OR SHARES.

1 a. Common stocks or shares issued by solvent corporations
2 or institutions are eligible if the total investment in stocks
3 or shares in the corporations or institutions does not exceed
4 ten percent of legal reserve provided not more than one-half
5 percent of the legal reserve is invested in stocks or shares
6 of any one corporation. However, the stocks or shares shall
7 be listed or admitted to trading on a securities exchange
8 in the United States or shall be publicly held and traded
9 in the "over-the-counter market" and market quotations shall
10 be readily available, and further, the investment shall not
11 create a conflict of interest for an officer or director of
12 the company between the insurance company and the corporation
13 whose stocks or shares are purchased.

14 b. Common stocks or shares in a subsidiary corporation,
15 the acquisition or purchase of which is authorized by section
16 508.33 are eligible if the total investment in these stocks
17 or shares does not exceed five percent of the legal reserve.
18 These stocks or shares are eligible even if the stocks or
19 shares are not listed or admitted to trading on a securities
20 exchange in the United States and are not publicly held and
21 have not been traded in the "over-the-counter market". The
22 stocks or shares shall be valued at their book value.

23 Sec. 5. Section 511.8, Code 1981, is amended by adding
24 the following new subsection:

25 NEW SUBSECTION. Use of custodian banks, clearing
26 corporations and the federal reserve book-entry system.

27 a. As used in this subsection:

28 (1) "Clearing corporation" means a corporation as defined
29 in section 554.8102, subsection 3.

30 (2) "Custodian bank" means a federal or state bank or
31 trust company regulated under the Iowa banking laws or the
32 federal reserve system, which maintains an account in its
33 name in a clearing corporation and acts as custodian of
34 securities owned by a domestic insurer.

35 (3) "Federal reserve book-entry system" means the

1 computerized system sponsored by the United States department
2 of the treasury and certain agencies and instrumentalities
3 of the United States for holding and transferring securities
4 of the United States government and its agencies and
5 instrumentalities, in the federal reserve banks through
6 national banks, state banks, or trust companies, which either
7 are members of the federal reserve system or otherwise have
8 access to the computerized systems.

9 b. Securities deposited by a domestic insurance company
10 with a custodian bank, or redeposited by a custodian bank
11 with a clearing corporation, or held in the federal reserve
12 book-entry system may be used to meet the deposit requirements
13 of subsection 16. The commissioner shall adopt rules necessary
14 to implement this section which:

15 (1) Establish guidelines on which the commissioner deter-
16 mines whether a custodian bank qualifies as a bank in which
17 securities owned by an insurer may be deposited for the purpose
18 of satisfying the requirements of subsection 16.

19 (2) Designate those clearing corporations in which
20 securities owned by insurers may be deposited.

21 (3) Set forth provisions that custodian agreements executed
22 between custodian banks and insurers shall contain. These
23 shall include provisions stating that minimum deposit levels
24 shall be maintained and that the parties agree securities
25 in deposits with custodian banks shall vest in the state in
26 accordance with sections 508.17 and 508.18 whenever proceedings
27 under those sections are instituted.

28 (4) Establish other safeguards applicable to the use of
29 custodian banks and clearing corporations by insurers which
30 the commissioner believes necessary to protect the
31 policyholders of the insurers.

32 c. A security owned by a domestic insurer and deposited
33 in a custodian bank or clearing corporation does not qualify
34 for purposes of its legal reserve deposit unless the custodian
35 bank and clearing corporation are approved by the commissioner

1 for that purpose.

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EXPLANATION

3 This bill makes certain changes in the life insurance
4 investment provisions of section 511.8. Section 2 expressly
5 allows a life insurance company to hold an undivided interest
6 in the fee title or an undivided interest in a leasehold in
7 real estate for legal reserve purposes. Section 4 allows
8 a company's investment in stock of its subsidiaries to qualify
9 for legal reserve purposes even if the stock is neither
10 publicly held nor traded. These investments qualify only
11 to the extent of five percent of the company's legal reserve.
12 Section 5 allows a life insurance company to use systems which
13 do not require physical delivery of security certificates
14 for holding and transferring securities. Sections 1 and 3
15 provide that the commissioner of insurance may designate
16 places, other than with the commissioner, where securities
17 may be deposited. The bill takes effect July 1 following
18 its enactment.

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SENATE FILE 2242

AN ACT
RELATING TO A LIFE INSURANCE COMPANY'S INVESTMENT OF FUNDS
FOR LEGAL RESERVE PURPOSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 508.6, Code 1981, is amended to read as follows:

508.6 DEPOSIT OF SECURITIES--CERTIFICATE. Such securities shall be deposited with the commissioner of insurance ~~and when such or at such places as the commissioner may designate.~~ When the deposit is made and evidence furnished, by affidavit or otherwise, satisfactory to the commissioner, that the capital stock is all fully paid and the company possessed of the surplus required and that the company is the actual and unqualified owner of the securities representing the paid-up capital stock or other funds of the company, and all laws have been complied with, he the commissioner shall issue to such the company the certificate hereinafter provided for in this chapter.

Sec. 2. Section 511.8, subsection 14, Code 1981, is amended to read as follows:

14. URBAN REAL ESTATE AND PERSONAL PROPERTY. Personal or real property or both ~~personal-or-real-property~~ located within the United States or the Dominion of Canada, other than real property used or to be used primarily for agricultural, horticultural, ranching or mining purposes, which produces income or which by suitable improvement will produce income, ~~provided, however, that.~~ However, personal property acquired under ~~the provisions of~~ this subsection ~~is shall be~~ acquired for the purpose of entering into a contract for the sale or for a use thereof under which the contractual payments may reasonably be expected to result

in the recovery of the investment and an investment return within the anticipated useful life of the property. Legal title to ~~such~~ the real property may be acquired subject to a contract of sale. ~~The term "real~~ "Real property" as used in this subsection ~~shall include~~ includes a leasehold of real estate, an undivided interest in a leasehold of real estate, and an undivided interest in the fee title of real estate. ~~Investments made in accordance with the provisions of under~~ this subsection ~~shall~~ are not be eligible in excess of ten percent of the legal reserve.

Sec. 3. Section 511.8, subsection 16, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Securities in an amount not less than the legal reserve as defined in this section shall be deposited and ~~such the~~ the deposit maintained with the commissioner of insurance, ~~and it shall be the duty of the commissioner to designate such places for the keeping of said deposits or at such places as the commissioner may designate~~ as will properly safeguard the same then. There may be included in the deposit an amount of cash on hand not in excess of five percent of the deposit required, ~~such that~~ that deposit to be evidenced by a certified check, certificate of deposit, or other evidence satisfactory to the commissioner of insurance. Deposits of securities may be made in excess of the amounts required ~~hereby by this~~ section. ~~No A~~ No stock company organized under the laws of this state shall not be required to make ~~such a~~ a deposit until the legal reserve, as ascertained by the commissioner, exceeds the amount deposited by it as capital. Real estate may be made a part of the deposit by furnishing evidence of ownership satisfactory to the commissioner and by conveying the real estate to the commissioner or ~~his~~ the commissioner's successors in office by warranty deed, ~~said real estate to be held by~~ the. ~~The~~ The commissioner and ~~his~~ the successors in office shall hold the real estate in trust for the benefit of the policyholders of the company or members of the association.

Real estate mortgage loans and policy loans may be made a part of the deposit by filing a verified statement of the loans with the commissioner, which statement ~~shall be~~ is subject to check at the discretion of the commissioner.

Sec. 4. Section 511.8, subsection 18, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

18. COMMON STOCKS OR SHARES.

a. Common stocks or shares issued by solvent corporations or institutions are eligible if the total investment in stocks or shares in the corporations or institutions does not exceed ten percent of legal reserve provided not more than one-half percent of the legal reserve is invested in stocks or shares of any one corporation. However, the stocks or shares shall be listed or admitted to trading on a securities exchange in the United States or shall be publicly held and traded in the "over-the-counter market" and market quotations shall be readily available, and further, the investment shall not create a conflict of interest for an officer or director of the company between the insurance company and the corporation whose stocks or shares are purchased.

b. Common stocks or shares in a subsidiary corporation, the acquisition or purchase of which is authorized by section 508.33 are eligible if the total investment in these stocks or shares does not exceed five percent of the legal reserve. These stocks or shares are eligible even if the stocks or shares are not listed or admitted to trading on a securities exchange in the United States and are not publicly held and have not been traded in the "over-the-counter market". The stocks or shares shall be valued at their book value.

Sec. 5. Section 511.8, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. Use of custodian banks, clearing corporations and the federal reserve book-entry system.

a. As used in this subsection:

(1) "Clearing corporation" means a corporation as defined in section 554.8102, subsection 3.

(2) "Custodian bank" means a federal or state bank or trust company regulated under the Iowa banking laws or the federal reserve system, which maintains an account in its name in a clearing corporation and acts as custodian of securities owned by a domestic insurer.

(3) "Federal reserve book-entry system" means the computerized system sponsored by the United States department of the treasury and certain agencies and instrumentalities of the United States for holding and transferring securities of the United States government and its agencies and instrumentalities, in the federal reserve banks through national banks, state banks, or trust companies, which either are members of the federal reserve system or otherwise have access to the computerized systems.

b. Securities deposited by a domestic insurance company with a custodian bank, or redeposited by a custodian bank with a clearing corporation, or held in the federal reserve book-entry system may be used to meet the deposit requirements of subsection 16. The commissioner shall adopt rules necessary to implement this section which:

(1) Establish guidelines on which the commissioner determines whether a custodian bank qualifies as a bank in which securities owned by an insurer may be deposited for the purpose of satisfying the requirements of subsection 16.

(2) Designate those clearing corporations in which securities owned by insurers may be deposited.

(3) Set forth provisions that custodian agreements executed between custodian banks and insurers shall contain. These shall include provisions stating that minimum deposit levels shall be maintained and that the parties agree securities in deposits with custodian banks shall vest in the state in accordance with sections 508.17 and 508.18 whenever proceedings under those sections are instituted.

(4) Establish other safeguards applicable to the use of custodian banks and clearing corporations by insurers which the commissioner believes necessary to protect the policyholders of the insurers.

c. A security owned by a domestic insurer and deposited in a custodian bank or clearing corporation does not qualify for purposes of its legal reserve deposit unless the custodian bank and clearing corporation are approved by the commissioner for that purpose.

TERRY E. BRANSTAD
President of the Senate

DELWYN STROMER
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2242, Sixty-ninth General Assembly.

K. MARIE THAYER
Secretary of the Senate

Approved April 22, 1982

ROBERT D. RAY
Governor