

## **518A.12 Investments.**

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

- a. This section applies to the investments of state mutual insurance associations.
- 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 associations organized under this chapter. These standards, and the investment programs developed by companies, shall take into account the safety of the association's principal, investment yield and growth, stability in the value of the investment, and liquidity necessary to meet the association's expected business needs, and investment diversification.

All investments made pursuant to this section shall have investment qualities and characteristics such that the speculative elements of the investments are not predominant.

- c. Financial terms relating to state mutual insurance associations have the meanings assigned to them under statutory accounting methods. Financial terms relating to companies other than state mutual insurance associations 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, an association may elect to hold the investment under the subsection of its choice. This section does not prevent an association 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 association acquires the investment.
- b. "*Clearing corporation*" means as defined in section 554.8102.
- c. "*Custodian bank*" means as defined in section 515.35.
- 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 federal Securities Exchange Act of 1934 or an exchange regulated under the laws 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.

*h. "Surplus"*, for purposes of computing percentage limitations on particular types of investments, means the surplus that is authorized to be shown on the commissioner's annual statement blank as surplus as of the December 31 immediately preceding the date the association acquires the investment.

*3. Investments in name of association or nominee and prohibitions.*

*a.* An association'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:

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

(b) 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 association making the deposit.

(c) 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 association provides that adequate evidence of the deposit is to be obtained and retained by the association or a custodian bank.

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

(a) 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.

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

(c) That the association 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 association due to default that are not covered by the collateral.

(3) An association 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 association or for specific accounts of the association.

(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 association, 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 association making the investment.

(5) Transfers of ownership of investments held as described in paragraph "a", subparagraph (1), subparagraph subdivision (c), 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 a certificate evidencing the association's investment.

b. Except as provided in paragraph "a", subparagraph (5), if an investment is not evidenced by a certificate, adequate evidence of the association's investment shall be obtained from the issuer or its transfer or recording agent and retained by the association, 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 association.

4. *Investments.* Except as otherwise permitted by this section, an association organized under this chapter shall only invest in the following:

a. *United States government obligations.* Bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by any agency or instrumentality of the United States of America, including investments in an open-end management investment company registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a) and operated in accordance with 17 C.F.R. § 270.2a-7, the portfolio of which is limited to the United States obligations described in this paragraph, and which are included in the national association of insurance commissioners' securities valuation office's United States direct obligationfull faith and credit list.

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. An association 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, a political subdivision of a state, or an instrumentality of a state.

d. *Canadian government obligations.* Obligations issued or guaranteed by Canada, by an agency or province of Canada, by a political subdivision of such 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, or the laws of Canada or a province of Canada, provided that an association shall not invest more than five percent of its admitted assets in the obligations of any one corporation or business trust. Investments shall be made only in investment grade bonds.

f. *Stocks.* 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, or the laws of Canada or a province of Canada. Aggregate investments in nondividend paying stocks shall not exceed five percent of surplus.

(1) Stocks purchased under this lettered paragraph shall not exceed fifty percent of surplus. With the approval of the commissioner, an association may invest any amount in common stocks, preferred stocks, or other

securities of one or more subsidiaries provided that after such investments the association's surplus as regards policyholders will be reasonable in relation to the association's outstanding liabilities and adequate to its financial needs.

(2) An association shall not invest more than ten percent of its surplus in the stocks of any one corporation.

*g. Home office real estate.* Funds may be invested in a home office building, at the direction of the board of directors and with the prior approval of the commissioner of insurance. An association shall not invest more than twenty-five percent of its total admitted assets in such real estate. With the prior approval of the commissioner, an association may exceed the real estate investment limitation to effectuate a merger with, or the acquisition of, another association.

[C24, 27, 31, 35, 39, § **9040**; C46, 50, 54, 58, 62, § 518.12; C66, 71, 73, 75, 77, 79, 81, § 518A.12]

95 Acts, ch 185, §33; 96 Acts, ch 1138, § 4, 84; 2000 Acts, ch 1023, §45; 2005 Acts, ch 70, §46; 2006 Acts, ch 1010, §142; 2007 Acts, ch 137, §19