

[First Reprint]

SENATE, No. 3409

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED DECEMBER 19, 2022

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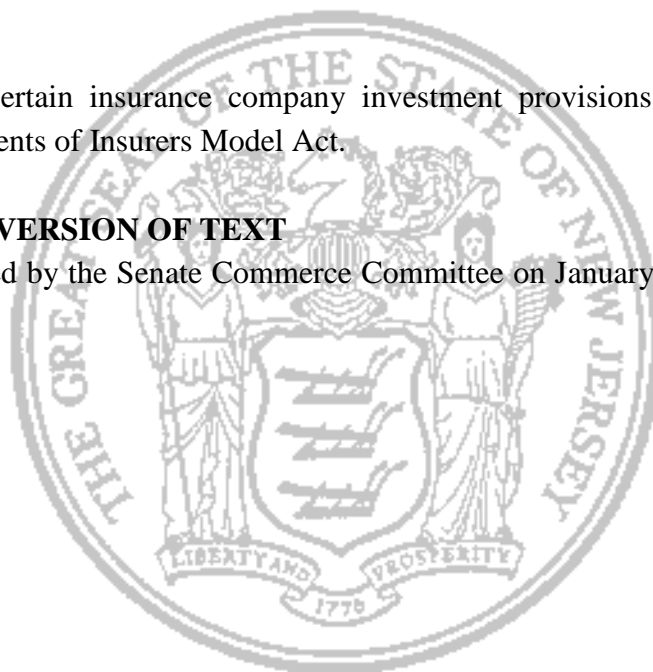
Senator Durr, Assemblywoman Sawyer and Assemblyman Freiman

SYNOPSIS

Updates certain insurance company investment provisions in accordance with Investments of Insurers Model Act.

CURRENT VERSION OF TEXT

As reported by the Senate Commerce Committee on January 26, 2023, with amendments.



(Sponsorship Updated As Of: 12/7/2023)

1 AN ACT concerning foreign investments by certain insurance
2 companies and amending R.S.17:24-10,

3

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

6

7 ¹[1. R.S.17:24-10 is amended to read as follows:

8 17:24-10. a. Any insurance company of this State lawfully
9 doing business in any foreign country may also invest its funds, to
10 an amount not exceeding the value of its outstanding policies of
11 insurance issued or delivered in the foreign country, in securities
12 issued by any governing body or agency or any corporation of the
13 foreign country or in obligations secured upon property therein,
14 otherwise of the same character as that prescribed for authorized
15 investments for the funds of the company under the laws of this
16 State; provided, that any loan secured by first mortgage on
17 unencumbered real estate in the Dominion of Canada, authorized
18 and placed under any act of that Dominion by virtue of which it
19 assumes liability for all or a substantial portion of any loss resulting
20 from the liquidation of such investment after the foreclosure of the
21 mortgage securing the same, or by virtue of which it guarantees the
22 payment of such loan, shall be construed as being of such character.
23 Any investment hereby authorized shall be subject to all other
24 limitations imposed by the laws of this State.

25 b. Any insurance company of this State may invest in foreign
26 obligations and investments:

27 (1) up to 10 percent of admitted assets in any foreign country or
28 jurisdiction rated in one of the two highest rating categories by an
29 independent, nationally recognized United States rating agency; and

30 (2) up to two percent of admitted assets in any other foreign
31 country and up to 15 percent of admitted assets in the aggregate in
32 all such other foreign countries. The aggregate foreign obligations
33 and investments shall not exceed 30 percent of admitted assets. All
34 such foreign obligations and investments made within the
35 limitations of this subsection shall also be subject to the percentage
36 limitations in R.S.17:24-1 set seq., as applicable to the investment
37 class, but this subsection shall not apply to investments that
38 otherwise constitute an ownership interest in a subsidiary or
39 affiliate of the insurance company.

40 (cf: P.L.1945, c.23, p.80, s.1)¹

41

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

43 17:24-1. Any insurance company of this State for the purpose of

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCM committee amendments adopted January 26, 2023.

1 investing its capital, surplus and other funds, or any part thereof,
2 may:

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

14 b. Purchase or hold real estate for business or residential
15 purposes, other than as provided for in R.S.17:19-8 to 17:19-12,
16 inclusive, as an investment for the production of income, and
17 improve or otherwise develop such real estate; provided, that if the
18 commissioner shall determine, after due hearing upon notice to any
19 such insurance company, that the interests of such insurance
20 company's policyholders require that any specified real estate so
21 purchased or held be disposed of, then such insurance company
22 shall dispose of such real estate within such reasonable time as the
23 commissioner shall direct; and provided further, the aggregate
24 amount of such investments for the production of income, but
25 excluding real estate held as provided for in R.S.17:19-8 to 17:19-
26 12, inclusive, shall not exceed 5% of the total admitted assets of
27 such insurance company as of December 31 next preceding. The
28 term "real estate for business or residential purposes" as used in this
29 subsection b. shall include any real property used or operated as a
30 part of or in connection with a business or a residential
31 development, and shall also include a leasehold of such real estate
32 having an unexpired term of not less than 20 years, inclusive of the
33 term or terms which may be provided by any enforceable option or
34 options of extension or of renewal. Income produced by investment
35 in any such leasehold shall be applied by such insurance company
36 in a manner calculated to amortize the amount invested for
37 acquisition and improvement thereof within a period not exceeding
38 8/10 of such unexpired term of the leasehold following such
39 acquisition or improvement, or within a period of 40 years
40 thereafter, whichever is less.

41 c. Invest in bonds or notes secured by mortgages or trust deeds
42 on unencumbered fee simple or leasehold real estate, which shall
43 include areas above the surface of the ground but not contiguous
44 thereto, or any interest therein, located within the United States, any
45 territory or insular possession thereof, the Commonwealth of Puerto
46 Rico, or Canada, worth at least 1/3 more than the sum so invested.
47 No loan may be made on leasehold real estate unless the terms of
48 such loan provide for amortization payments to be made by the

1 borrower on the principal thereof in amounts sufficient to
2 completely amortize the loan within a period not exceeding 9/10 of
3 the term of the leasehold, inclusive of the term or terms which may
4 be provided by any enforceable option or options of extension or of
5 renewal, which is unexpired at the time the loan is made. For the
6 purpose of this subsection c., fee simple or leasehold real estate or
7 any interest therein shall not be deemed to be encumbered within
8 the meaning of this subsection c. by reason of the existence of taxes
9 or assessments that are not delinquent, easements, profits or
10 licenses, nor by reason of building restrictions or other restrictive
11 covenants, nor when such real estate or interest therein is subject to
12 lease in whole or in part whereby rents or profits are reserved to the
13 owner; provided, that the security created by the mortgage or trust
14 deed on such real estate or interest therein securing such bond or
15 note is a first lien upon such real estate or interest therein. No
16 insurance company shall, pursuant to this subsection c., invest in or
17 loan upon the security of any one property more than \$30,000 or
18 more than 2% of its total admitted assets, whichever is the greater.
19 The total investments of any insurance company made pursuant to
20 this subsection c. shall not exceed 40% of its total admitted assets.

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

30 e. Lend on or purchase mortgage or collateral trust bonds of
31 railroad companies organized under the laws of said states, or the
32 District of Columbia, or the Commonwealth of Puerto Rico, or
33 Canada or any province thereof, or operated wholly or partly
34 therein; or equipment trust certificates or obligations which are
35 adequately secured or other adequately secured instruments
36 evidencing an interest in transportation or municipal sanitation
37 equipment wholly or in part within the United States or any
38 territory or insular possession thereof, the Commonwealth of Puerto
39 Rico or Canada and a right to receive determined portions of rental,
40 purchase or other fixed obligatory payments for the use or purchase
41 of such equipment; or certificates of receivers of any corporation
42 where such purchase is necessary to protect an investment in the
43 securities of such corporation theretofore made under authority of
44 chapters 17 to 33, inclusive, of this Title; or the bonds or other
45 evidences of indebtedness of public utility companies organized
46 under the laws of Canada or any province thereof; or the capital
47 stock, bonds, securities or evidences of indebtedness created by any
48 corporation of the United States or of any state, or of the District of

1 Columbia, or of the Commonwealth of Puerto Rico or of Canada or
2 of any province thereof; provided, that no purchase of any bond or
3 evidence of indebtedness which is in default as to interest shall be
4 made by such company unless such purchase is necessary to protect
5 an investment theretofore made under authority of chapters 17 to
6 33, inclusive, of this Title, in the securities of the corporation which
7 issued, assumed or guaranteed such bond or evidence of
8 indebtedness in default; provided further, that no purchase of the
9 stock of any corporation of a class on which dividends have not
10 been paid during each of the past five years preceding the time of
11 purchase shall be made unless the stock so purchased shall
12 represent a majority in control of all the stock then outstanding, or
13 the corporation shall have earned during the period of such five
14 years an aggregate sum available for dividends upon such stock
15 which would have been sufficient, after all fixed charges and
16 obligations, to pay dividends upon all shares of such class of stock
17 outstanding during such period averaging 4% per annum computed
18 upon the par value of such stock, or in the case of stock having no
19 par value, upon the stated capital in respect thereof; and provided
20 further, that in the case of the stock of a corporation resulting from
21 or formed by merger, consolidation, acquisition or otherwise, less
22 than five years preceding the time of purchase, each consecutive
23 year next preceding the effective date of such merger,
24 consolidation, acquisition or other action during which dividends or
25 other distributions of profits shall have been paid by any one or
26 more of its constituent or predecessor institutions shall be deemed a
27 year during which dividends have been paid on such class of stock
28 and the earnings of such constituent or predecessor institutions
29 available for dividends during each of such years may be included
30 as earnings of the existing corporation whose stock is to be
31 purchased for each such years, and in the case of the stock of a
32 corporation resulting from or formed by merger or consolidation
33 less than five years preceding such purchase, each consecutive year
34 next preceding the effective date of such merger or consolidation
35 during which dividends shall have been paid by any one or more of
36 its constituent corporations on any or all classes of its or their stock
37 in an aggregate amount sufficient to have paid dividends on that
38 class of stock of the existing corporation whose stock is to be
39 purchased, had such corporation then been in existence, shall be
40 deemed a year during which dividends have been paid on such class
41 of stock; provided, however, that nothing herein contained shall
42 prohibit the purchase of stock of any class which is preferred, as to
43 dividends, over any class the purchase of which is not prohibited by
44 this section; and provided further, that no purchase of its own stock
45 shall be made by any insurance company except for the purpose of
46 the retirement of such stock or except as specifically permitted by
47 any law of this State applicable by its terms only to insurance
48 companies. Unless the stock so purchased shall represent a majority

1 in control of all the stock then outstanding, the cost of stock
2 investment pursuant to this section may not exceed more than 25%
3 of the total admitted assets of such insurance company as of
4 December 31 next preceding with no more than 5% in any one
5 stock. Notwithstanding any other provision of R.S.17:24-1 et seq.,
6 the cost basis of all stock investment shall be used for the purpose
7 of determining the asset value against which such percentage
8 limitations are to be applied.

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

16 f. Invest in bonds or notes evidencing loans if the full amount
17 of any such loan is insured by the government of the United States,
18 or by the Administrator of the Farmers' Home Administration
19 pursuant to the " Bankhead-Jones Farm Tenant Act," Pub.L.75-210
20 (7 U.S.C. s.1000 et seq.), as heretofore or hereafter amended.

21 g. Invest in securities, properties and other investments in
22 foreign countries, in addition to those specified in R.S.17:24-10,
23 which are substantially of the same character as prescribed for
24 authorized investments for funds of the insurance company under
25 the preceding subsections of this section, to an amount valued at
26 cost, not exceeding in the aggregate at any one time 20% of the
27 total admitted assets of the insurance company as of December 31
28 next preceding; provided, however, that the amount invested
29 pursuant to this subsection in authorized investments, other than
30 qualified foreign investments, shall not exceed in the aggregate, at
31 any one time, 5% of such admitted assets; and provided further that
32 the amount invested in authorized investments in any one foreign
33 country pursuant to this subsection shall not exceed in the
34 aggregate, at any one time, 10% of such admitted assets. For the
35 purposes of this subsection, Canada shall not be deemed to be a
36 foreign country.

37 The term "qualified foreign investment" as used in this
38 subsection shall include any investment in a foreign country where:

39 (1) the issuer or obligor is:

40 (a) a jurisdiction which is rated in one of the two highest rating
41 categories by an independent, nationally recognized United States
42 rating agency;

43 (b) any political subdivision or other governmental unit of any
44 such jurisdiction, or any agency or instrumentality of any such
45 jurisdiction, political subdivision or other governmental unit; or

46 (c) an institution that is organized under the laws of any such
47 jurisdiction, or, in the case of investments which are substantially of
48 the same character as prescribed for investments under subsections

1 b. and c. of this section, the real property is located in any such
2 jurisdiction; and

3 (2) if the investment is denominated in any currency other than
4 United States dollars, the investment is effectively hedged,
5 substantially in its entirety, against the United States dollar pursuant
6 to contracts or agreements which are:

7 (a) issued by or traded on a securities exchange or board of trade
8 regulated under the laws of the United States or Canada or a
9 province thereof;

10 (b) entered into with a United States banking institution which
11 has assets in excess of \$5 billion and which has obligations
12 outstanding, or has a parent corporation which has obligations
13 outstanding, which are rated in one of the two highest rating
14 categories by an independent, nationally recognized United States
15 rating agency, or with a broker-dealer registered with the Securities
16 and Exchange Commission which has net capital in excess of \$250
17 million; or

18 (c) entered into with any other banking institution which has
19 assets in excess of \$5 billion and which has obligations outstanding,
20 or has a parent corporation which has obligations outstanding,
21 which are rated in one of the two highest rating categories by an
22 independent, nationally recognized United States rating agency and
23 which is organized under the laws of a jurisdiction which is rated in
24 one of the two highest rating categories by an independent,
25 nationally recognized United States rating agency.

26 Any investment qualified pursuant to paragraph (2) of the
27 preceding definition of "qualified foreign investment" shall remain
28 so qualified only at such time or times that the hedging
29 requirements of paragraph (2) are met.

30 **[g.]** h. Except as provided in section 3 of P.L.2007, c.252
31 (C.17:24-1.2), make loans or investments not qualifying or
32 permitted under any subsection of this section to an amount, not
33 including the amount of investments otherwise expressly authorized
34 by law, not exceeding in the aggregate at any one time the greater
35 of 5% of the total admitted assets or 50% of the excess of total
36 admitted assets over the sum of liabilities plus capital and surplus
37 required to transact business, but in any event not to exceed 10% of
38 the total admitted assets of such insurance company as of December
39 31 next preceding.¹

40 (cf: P.L.2007, c.252, s.1)

41

42 2. This act shall take effect immediately.