

CHAPTER 174

H.B. No. 597

An Act relating to certain real estate investments by certain insurers.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Article 2.10, Insurance Code, is amended to read as follows:

Art. 2.10. INVESTMENT OF FUNDS IN EXCESS OF MINIMUM CAPITAL AND MINIMUM SURPLUS.

No company except any writing life, health and accident insurance, organized under the laws of this state, shall invest its funds over and above its *minimum capital* and its *minimum surplus*, as provided in Article 2.02, except as otherwise provided in this Code, in any other manner than as follows:

1. As provided for the investment of its *minimum capital* and its *minimum surplus* in Article 2.08;

2. In bonds or other evidences of debt which at the time of purchase are interest-bearing and are issued by authority of law and are not in default as to principal or interest, of any of the States of the United States or in the stock of any National Bank, in stock of any State Bank of Texas whose deposits are insured by the Federal Deposit Insurance Corporation; provided, however, that if said funds are invested in the stock of a State Bank of Texas that not more than thirty-five per cent (35%) of the total outstanding stock of any one (1) State Bank of Texas may be so purchased by any one (1) insurance company; and provided further, that neither the insurance company whose funds are invested in said bank stock nor any other insurance company may invest its funds in the remaining stock of any such State Bank;

3. In bonds, notes, evidences of indebtedness or participations therein secured by a valid first lien upon real property or leasehold estate therein located in the United States of America, its states, commonwealths, territories, or possessions, provided:

(a) The amount of any such obligation secured by a first lien upon real property or leasehold estate therein shall not exceed ninety per cent (90%) of the value of such real property or leasehold estate therein, but the amount of such obligation:

(1) May exceed ninety per cent (90%) but shall not exceed one hundred per cent (100%) of the value of such real property or leasehold estate therein if the insurer or one or more wholly owned subsidiaries of the insurer own in the aggregate a ten per cent (10%) or greater equity interest in such real property or leasehold estate therein;

(2) May be ninety-five per cent (95%) of the value of such real property if it contains only a dwelling designed exclusively for occupancy by not more than four families for residential purposes, and the portion of the unpaid balance of such obligation which is in excess of an amount equal to ninety per cent (90%) of such value is guaranteed or insured by a mortgage insurance company licensed to do business in the State of Texas; or

(3) May be greater than ninety per cent (90%) of the value of such real property to the extent the obligation is insured or guaranteed by the United States of America, or an agency or instrumentality thereof, the Federal Housing Administration pursuant to the National Housing Act of 1934, as amended (12 U.S.C. Sec. 1701 et seq.), or the State of Texas; and

(b) The term of an obligation secured by a first lien upon a leasehold estate in real property and improvements situated thereon shall not exceed a period equal to four-fifths (4/5) of the then unexpired term of such leasehold estate, provided:

(1) The unexpired term of the leasehold estate must extend at least ten (10) years beyond the term of the obligation; and

(2) Each obligation shall be payable in equal monthly, quarterly, semi-annual, or annual payments of principal plus accrued interest to the date of such principal payment, so that under either method of repayment such obligation will fully amortize during a period of time not to exceed four-fifths (4/5) of the then unexpired term of the security leasehold estate; and

(c) The amount of any one such obligation may not exceed ten per cent (10%) of the insurer's capital and surplus; and

(d) The aggregate of investments made under this Section 3 may not exceed thirty per cent (30%) of the insurer's assets;

4. In bonds or other interest-bearing evidences of debt of any county, municipality, road district, turnpike district or authority, water district, any subdivision of a county, incorporated city, town, school district, sanitary or navigation district, any municipally owned revenue water system, sewer system or electric utility company where special revenues to meet the principal and interest payments of such municipally owned revenue water system, sewer system or electric utility company bonds or other evidences of debt shall have been appropriated, pledged or otherwise provided for by such municipality. Provided, before bonds or other evidences of debt of navigation districts shall be eligible investments such navigation district shall be located in whole or in part in a county containing a population of not less than 100,000 according to the last preceding Federal Census; and provided further, that the interest due on such navigation bonds or other evidences of debt of navigation districts must never have been defaulted;

5. In the stocks, bonds, debentures, bills of exchange or other commercial notes or bills and securities of any solvent dividend paying corporation at time of purchase, incorporated under the laws of this state, or of any other State of the United States, or of the United States, which has not defaulted in the payment of any of its obligations for a period of five (5) years, immediately preceding the date of the investment; provided such funds may not be invested in the stock of any oil, manufacturing or mercantile corporation organized under the laws of this state, unless such corporation has at the time of investment a net worth of not less than \$250,000.00 nor in the stock of any oil, manufacturing or mercantile corporation, not organized under the laws of this state, unless such corporation has a combined capital, surplus and undivided profits of not less than \$2,500,000.00; provided further:

(a) Any such insurance company may invest its funds over and above its minimum capital stock, its minimum surplus, and all reserves required by law, in the stocks, bonds or debentures of any solvent corporation organized under the laws of this state, or of any other State of the United States, or of the United States.

(b) No such insurance company shall invest any of its funds in its own stock or in any stock on account of which the holders or owners thereof may, in any event, be or become liable to any assessment, except for taxes.

(c) No such insurance company shall invest any of its funds in stocks, bonds or other securities issued by a corporation if a majority of the stock having voting powers of such issuing corporation is owned, directly or indirectly, by or for the benefit of one or more officers or directors of such insurance company; provided, however, that this Section shall not apply to any insurance company which has been in continuous operation for five (5) years.

6. In loans upon the pledge of any mortgage, stock, bonds or other evidence of indebtedness acceptable as investments under the terms of this Article, if the current value of such mortgage, stock, bonds or other evidence of indebtedness is at least twenty-five per cent (25%) more than the amount loaned thereon;

7. In interest-bearing notes or bonds of The University of Texas issued under and by virtue of Chapter 40, Acts of the 43rd Legislature, Second Called Session;

8. (a) In real estate to the extent [~~only~~] as elsewhere authorized by this Code;

(b) Any such company with admitted assets in excess of \$500,000,000.00 may own other investment real property or participations therein, which must be materially enhanced in value by the construction of durable, permanent type buildings and other improvements costing an amount at least equal to the cost of such real property, exclusive of buildings and improvements at the time of acquisition, or by the construction of such buildings and improvements which must be commenced within two years of the date of acquisition of such real property; provided, however, nothing in this Article shall allow ownership of, development of, or equity interest in any residential property or subdivision, single or multiunit family dwelling property, or undeveloped real estate for the purpose of subdivision for or development of residential, single or multiunit family dwellings, except those properties acquired as provided in Article 6.08 of this Code, and such ownership, development, or equity interests shall be specifically prohibited;

(c) The total amount invested by any such company in all such investment real property and improvements thereof shall not exceed fifteen per cent (15%) of its admitted assets which are in excess of \$500,000,000.00, provided, however, that the amount invested in any one such property and its improvements or interest therein shall not exceed five per cent (5%) of its admitted assets which are in excess of \$500,000,000.00. The admitted assets of the company at any time shall be determined from its annual statements made as of the last preceding December 31 and filed with the State Board of Insurance as required by law. The value of any investment made under this Article shall be subject to the appraisal provision set forth in Paragraph 5 of Article 6.08 of this Code;

(d) The investment authority granted by (b) and (c) of this Paragraph 8 is in addition to and separate and apart from that granted by Article 6.08 of this Code, provided, however, that no such company shall make any investment in such real estate which, when added to those properties described in Paragraph 1 of Article 6.08 of this Code, would be in excess of the limitations provided by Paragraph 5 of Article 6.08 of this Code;

(e) The insurance companies defined in Article 2.01 of this Code and other insurers specifically made subject to the provisions of this Article shall not engage in the business of a real estate broker or a real estate salesman as defined by Chapter 1, page 560, General Laws, Acts of the 46th Legislature, 1939 (Article 6573a, Vernon's Texas Civil Statutes), except that such insurers may hold, improve, maintain, manage, rent, lease, sell, exchange, or convey any of the real property interests legally owned as investments under this Code;

9. In equipment trust obligations or certificates that are adequately secured or in other adequately secured instruments evidencing an interest in transportation equipment in whole or in part within the United States and a right to receive determined portions of rental, purchase, or other fixed obligatory payments for the use or purchase of the transportation equipment;

10. In insured accounts and evidences of indebtedness as defined and limited by Section 1, Chapter 618, page 1356, Acts of the 47th Legislature; in shares or share accounts as authorized in Section 1, page 76, Acts 1939, 46th Legislature; in insured or guaranteed obligations as authorized in Chapter 230, page 315, Acts 1945, 49th Legislature; in bonds issued under the provisions authorized by Section 9, Chapter 231, page 774, Acts 1933, 43rd Legislature; in bonds under authority of Section 1, Chapter 1, page 427, Acts 1939, 46th Legislature; in bonds and other indebtedness as authorized in Section 1, Chapter 3, page 494, Acts 1939, 46th Legislature; in "Municipal Bonds" issued under and by virtue of Chapter 280, Acts 1929, 41st Legislature; or in bonds as authorized by Section 5, Chapter 122, page 219, Acts 1949, 51st Legislature; or in bonds as authorized by Section 10, Chapter 159, page 326, Acts 1949, 51st Legislature; or in bonds as authorized by Section 19, Chapter 340, page 655, Acts 1949, 51st Legislature; or in bonds as authorized by Section 10, Chapter 398, page 737, Acts 1949, 51st Legislature; or in bonds as authorized by Section 18, Chapter 465, page 855, Acts 1949, 51st Legislature; or in shares or share accounts authorized in Chapter 534, page 966, Acts 1949, 51st Legislature; or in bonds as authorized by Section 24, Chapter 110, page 193, Acts 1949, 51st Legislature; together with such other investments as are now or may hereafter be specifically authorized by law.

SECTION 2. Article 8.19, Insurance Code, is amended to read as follows:

Art. 8.19. SALE OF REAL ESTATE. All real estate so acquired, except as is occupied by buildings used in whole or in part for the accommodation of such companies in the transaction of their business, [and except] interests in minerals and royalty reserved upon the sale of land acquired under Subdivisions 2, 3, and 4 of Article 6.08 of this Code, and the other investment real estate acquired under Paragraph 8 of Article 2.10 of this Code, [prior to January 1, 1942,] shall, except as hereinafter provided, be sold and disposed of within ten (10) years after such company shall have acquired title to the same. No such company shall have such real estate for a longer period [longer] than that above mentioned, unless the said company shall procure a certificate from the Board that the interests of the company will suffer materially by a forced sale of such real estate, in which event the time for the sale may be extended to such time as the Board shall direct in said certificate.

SECTION 3. All laws and parts of laws in conflict herewith shall be and the same are hereby repealed, but this Act does not annul or limit any obligation or right previously existing.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on April 16, 1985, by a non-record vote; passed by the Senate on May 9, 1985, by the following vote: Yeas 31, Nays 0.

Approved: May 24, 1985

Effective: August 26, 1985