

HOUSE BILL No. 2066

AN ACT concerning insurance companies; relating to investments; amending K.S.A. 40-2a05, 40-2a12, 40-2a16, 40-2a25, 40-2a26, 40-2b04, 40-2b05, 40-2b09, 40-2b13, 40-2b26 and 40-2b27 and K.S.A. 2014 Supp. 40-2a27, 40-2a28, 40-2b28 and 40-2b29 and repealing the existing sections.

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

Section 1. K.S.A. 40-2a05 is hereby amended to read as follows: 40-2a05. Any insurance company other than life heretofore or hereafter organized under any law of this state may invest by loans or otherwise, with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof in bonds or other evidences of indebtedness issued, assumed or guaranteed by a ~~corporation or trust~~ *business entity* organized under the laws of the United States of America, or of any state, district, insular or territorial possession thereof, or of the Dominion of Canada or any province thereof which are designated “1” or “2” by the ~~national association of insurance commissioners in their most recently published Valuations of Securities Manual SVO or are rated investment grade in Standard & Poor’s (at least BBB-) or Moody’s (at least Baa3) corporate bond guides~~ *its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO* at the time of acquisition; or which meet the following qualifications:

(a) If fixed-interest bearing obligations, the average fixed charges shall have been covered at least 1½ times by the average net earnings available for fixed charges of the last five years, and the ~~company~~ *business entity* shall have earnings in two of the last three fiscal years immediately preceding the date of acquisition. In the case of obligations of finance companies, the coverage shall be at least 1¼ times;

(b) if income, or other contingent interest obligations, the net earnings available for fixed charges of the ~~corporation~~ *business entity* for the five fiscal years next preceding the date of acquisition of the obligations shall have averaged per year not less than 1½ times the sum of the fixed charges and the maximum contingent interest to which the ~~corporation~~ *business entity* is subject as of the date of acquisition, and the company shall have earnings in two of the last three fiscal years immediately preceding the date of acquisition. In the case of obligations of finance companies, the coverage shall be at least 1¼ times;

(c) the ~~corporation~~ *business entity* or a predecessor thereof must have been in existence for a period of not less than five years;

(d) investments in any ~~corporate~~ obligations under this act shall not be eligible if the ~~corporation~~ *business entity* is in default on any fixed obligations as of the date of acquisition. Statements adjusted to show the actual condition at the time of acquisition or at effect of new financing (known commercially as pro forma statements) may be used when determining investments in this act or in compliance with requirements.

(e) As used in this section:

(1) The term “fixed charges” ~~shall include~~ *includes* actual interest incurred in each year on funded and unfunded debt. In the testing of obligations where interest is partially or entirely contingent upon earnings, fixed charges shall include contingent interest payments; ~~and~~

(2) the term “net earnings available for fixed charges” ~~shall mean~~ *means* income, before deducting interest on funded and unfunded debt and after deducting operating and maintenance expenses, taxes other than income taxes, depreciation and depletion. Extraordinary, nonrecurring items of income or expense shall be excluded;

(3) *the term “business entity” includes a sole proprietorship, corporation, limited liability company, association partnership, joint stock company, joint venture, mutual fund, trust, joint tenancy or similar form of business organization, whether organized for profit or not-for-profit;*

(4) *the term “NAIC” means the national association of insurance commissioners; and*

(5) *the term “SVO” means the securities valuation office of the NAIC or any successor office established by the NAIC.*

Sec. 2. K.S.A. 40-2a12 is hereby amended to read as follows: 40-2a12. Any insurance company other than life heretofore or hereafter organized under any law of this state may invest with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof in:

(a) Bonds, notes, obligations or other evidences of indebtedness *di-*

rectly or indirectly secured by mortgages or deeds of trust which are a first or second lien upon *otherwise* unencumbered real property and appurtenances thereto within the United States of America or any insular or territorial possession of the United States of America, or the Dominion of Canada, and upon leasehold estates in real property wherein the term of such including any options to extend is not less than 15 years beyond the maturity of the loan as made or extended. At the date of acquisition the total indebtedness secured by such lien shall not exceed ~~80%~~ 90% of the market value of the property upon which it is a lien. These limitations shall not apply to obligations described in subsections (b), (c), (d) and (e) of this section. For the purpose of this section a mortgage or deed of trust shall not be deemed to be other than a first or second lien upon property within the meaning of this section by reason of the existence of taxes or assessments against real property and appurtenances thereto that are not delinquent, instruments creating or reserving mineral, oil or timber rights, rights of way, joint driveways, sewer rights, rights in walls or by reason of building restrictions or other like restrictive covenants, or when such real estate is subject to lease in whole or in part whereby rents or profits are reserved to the owner or when there is in existence a fixed obligation or lien against the property where an escrow account or indemnification bond is or has been established or obtained sufficient to cover the maximum liability created by such obligation or lien;

(b) bonds, notes or other evidences of indebtedness representing loans and advances of credit that have been issued, guaranteed or insured by the United States government or any agency or instrumentality thereof. Any uninsured or nonguaranteed portion shall not exceed 75% of the total amount;

(c) contracts of sale, purchase money mortgages or deeds of trust secured by property obtained through foreclosure or in settlement or satisfaction of any indebtedness;

(d) bonds, notes, obligations or other evidences of indebtedness *directly or indirectly* secured by mortgages or deeds of trust which are a first or second lien upon *otherwise* unencumbered personal and real property, including a leasehold of real estate, under lease, purchase contract or lease purchase contract to any governmental body or instrumentality whose obligations qualify under K.S.A. 40-2a01, 40-2a02 or 40-2a03, and amendments to those sections *thereto*, or to a corporation whose obligations qualify under K.S.A. 40-2a05, and amendments thereto, if there is adequate rental, after making allowances of lessors' or sellers' obligations and liabilities, if any, under the terms of the lease or contract, to retire the loan as to payment of principal and interest and such rentals are pledged or assigned to the lender;

(e) bonds, notes or other evidences of indebtedness representing loans and advances of credit that have been issued, guaranteed or insured, in accordance with the terms and provisions of an act of the federal parliament of the Dominion of Canada approved March 18, 1954, cited as the "national housing act, 1954," as heretofore and hereafter amended;

(f) ~~first~~ mortgages or deeds of trust upon improved real property to be occupied as a personal residence by an officer of the insurer, if the mortgage is at an interest rate that is no less than the prevailing rate of the insurer's existing portfolio of mortgage loans. Mortgages or deeds of trust entered into pursuant to this subsection shall be subject to the conditions set forth in subsection (a) of this section relating to mortgages or deeds of trust generally.

Sec. 3. K.S.A. 40-2a16 is hereby amended to read as follows: 40-2a16. Any insurance company other than life heretofore or hereafter organized under any law of this state may invest with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof in investments whether or not qualified and permitted under this act and notwithstanding any conditions or limitations prescribed therein, in an aggregate amount not more than 10% of its admitted assets as shown by the company's last annual report as filed with the commissioner of insurance *or a more recent quarterly financial statement filed with the commissioner*, except that investments shall not be permitted in insolvent organizations or organizations in default with respect to the payment of principal or interest.

Sec. 4. K.S.A. 40-2a25 is hereby amended to read as follows: 40-2a25.

Any insurance company other than life heretofore or hereafter organized under any law of this state may invest with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof in:

(a) Mortgage related securities issued or guaranteed by the federal home loan mortgage corporation and federal national mortgage association but the amount invested in any one such issue shall not exceed the greater of \$750,000 or two percent of the admitted assets of the company as shown by its last annual report or a more recent quarterly financial statement filed with the commissioner of insurance;

(b) mortgage related securities issued by or in the name of any private entity which are designated “1” or “2” by the ~~national association of insurance commissioners in their most recently published valuations of securities manual or supplement thereto~~ SVO or are rated investment grade by Standard and Poor’s (at least BBB-) or Moody’s (at least Baa3) ~~its~~ *equivalent rating by a nationally recognized statistical rating organization recognized by the SVO* at the time of acquisition. The investment in any one such issue shall not exceed two percent of the admitted assets of the company as shown by its last annual report or a more recent quarterly financial statement filed with the commissioner of insurance.

(c) For purposes of this section, “mortgage related securities” shall mean a security that either:

(1) Represents ownership of one or more promissory notes or certificates of interest or participation in such notes—(, including any rights designed to assure servicing of, or the receipt or timeliness of receipt by the holders of such notes, certificates, or participations of amounts payable under, such notes, certificates, or participations), which notes:

(A) Are directly secured by a first lien on a single parcel of real estate, including stock allocated to a dwelling unit in a residential cooperative housing corporation, upon which is located a dwelling or mixed residential and commercial structure, or on a residential manufactured home as defined in U.S.C. § 5402(6) of title 42, whether such manufactured home is considered real or personal property under the laws of the state in which it is to be located; and

(B) were originated by a savings and loan association, savings bank, commercial bank, credit union, insurance company, or similar institution which is supervised and examined by a federal or state authority, or by a mortgagee approved by the secretary of housing and urban development pursuant to U.S.C. §§ 1709 and 1715b of title 12, or, where such notes involve a lien on the manufactured home, by any such institution or by any financial institution approved for insurance by the secretary of housing and urban development pursuant to U.S.C. § 1703 of title 12; or

(2) is secured by one or more promissory notes or certificates of interest or participations in such notes—(, with or without recourse to the issuer thereof), and, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, on notes meeting the requirements of subparagraphs (1)(A) and (B) or certificates of interest or participations in promissory notes meeting such requirements.

For the purposes of this paragraph, the term “promissory note,” when used in connection with a manufactured home, shall also include a loan, advance, or credit sale as evidenced by a retail installment sales contract or other instrument; or

(3) involve offers or sales of one or more promissory notes directly secured by a first lien on a single parcel of real estate upon which is located a dwelling or other residential or commercial structure, and participation interests in such notes:

(A) Where such securities are originated by a savings and loan association, savings bank, commercial bank, or similar banking institution which is supervised and examined by a federal or state authority, and are offered and sold subject to the following conditions:

(i) The minimum aggregate sales price per purchaser shall not be less than \$250,000;

(ii) the purchaser shall pay cash either at the time of the sale or within 60 days thereof; and

(iii) each purchaser shall buy for such purchaser’s own account only;

or

(B) where such securities are originated by a mortgagee approved by

the secretary of housing and urban development pursuant to U.S.C. §§ 1709 and 1715b of title 12 and are offered or sold subject to the three conditions specified in subparagraph (3)(A) to any institution described in such subparagraph or to any insurance company subject to the supervision of the insurance commissioner, or any agency or officer performing like function, of any state or territory of the United States or the District of Columbia, or the federal home loan mortgage corporation, the federal national mortgage association, or the government national mortgage association.

Transactions between any of the entities described in subparagraph (3)(A) or (3)(B) involving nonassignable contracts to buy or sell the foregoing securities which are to be completed within two years, where the seller of the foregoing securities pursuant to any such contract is one of the parties described in subparagraph (3)(A) or (3)(B) who may originate such securities and the purchaser of such securities pursuant to any such contract is any institution described in subparagraph (3)(A) or any insurance company described in subparagraph (3)(B), the federal home loan mortgage corporation, federal national mortgage association, or the government national mortgage association and where the foregoing securities are subject to the three conditions for sale set forth in subparagraphs (3)(A)(i) through (iii).

Sec. 5. K.S.A. 40-2a26 is hereby amended to read as follows: 40-2a26. As used in K.S.A. 40-2a27 of this act:

(a) “Medium grade obligations” means obligations which are designated “3” by the ~~national association of insurance commissioners in its most recently published valuations of securities manual~~ SVO or its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO.

(b) “Lower grade obligations” means obligations which are designated “4,” “5” or “6” by the ~~national association of insurance commissioners in its most recently published valuations of securities manual~~ SVO or its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO.

(c) “Admitted assets” means the amount shown on the insurer’s last annual report as filed with the state commissioner of insurance or a more recent quarterly financial statement filed with the commissioner.

(d) “Aggregate amount” of medium grade and lower grade obligations means the aggregate statutory statement value thereof.

(e) “Institution” means a corporation, a joint-stock company, an association, a trust, a business partnership, a business joint venture or similar entity.

(f) “Insurance company” or “insurer” means an insurance company other than life organized under the laws of this state.

Sec. 6. K.S.A. 2014 Supp. 40-2a27 is hereby amended to read as follows: 40-2a27. (a) No insurance company shall acquire, directly or indirectly, any medium grade or lower grade obligation of any institution if, after giving effect to any such acquisition, the aggregate amount of all medium grade and lower grade obligations then held by such insurer would exceed 20% of its admitted assets. Within this limitation no more than 10% of its admitted assets shall consist of lower grade obligations; no more than three percent of its admitted assets shall consist of obligations designated “5” or “6” ~~in the valuations of securities manual by the SVO or its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO~~; and, no more than one percent of its admitted assets shall consist of obligations designated “6” ~~in the valuations of securities manual by the SVO or its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO~~. Attaining or exceeding the limit of any one category shall not preclude an insurer from acquiring obligations in other categories subject to the specific and multi-category limits.

(b) No insurer organized under the laws of this state may invest more than one percent of its admitted assets in medium grade obligations issued, guaranteed or insured by any one institution, nor may it invest more than one-half of one percent of its admitted assets in lower grade obligations issued, guaranteed or insured by any one institution. In no event, shall such insurer invest more than one percent of its admitted assets in

any medium or lower grade obligations issued, guaranteed or insured by any one institution.

(c) Nothing contained in this act shall prohibit an insurer from acquiring any obligations which it has committed to acquire if the insurer would have been permitted to acquire that obligation pursuant to this act on the date on which such insurer committed to purchase that obligation.

(d) Notwithstanding the limitations of subsection (b), an insurer may acquire an obligation of an institution in which the insurer already has one or more obligations, if the obligation is acquired in order to protect an investment previously made in the obligations of the institution, except all such acquired obligations shall not exceed one-half of one percent of the insurer's admitted assets.

(e) Nothing contained in this act shall prohibit an insurer to which this act applies from acquiring an obligation as a result of a restructuring of a medium or lower grade obligation already held or require such insurer to sell or otherwise dispose of any obligation legally acquired prior to the effective date of this act.

(f) Nothing contained in this act shall permit or be construed as permitting an insurer to exceed, alter or otherwise circumvent any of the limitations or restrictions applicable to the investments authorized by article 2a of chapter 40 of the Kansas Statutes Annotated, and amendments thereto.

(g) The board of directors of any insurance company organized under the laws of this state which acquires or invests, directly or indirectly, more than two percent of its admitted assets in medium grade and lower grade obligations, shall adopt a written plan for the making of such investments. The plan, in addition to guidelines with respect to the quality of the issues invested in, shall contain diversification standards acceptable to the commissioner which may include, but not be limited to, standards for issuer, industry, duration, liquidity and geographic location.

Sec. 7. K.S.A. 2014 Supp. 40-2a28 is hereby amended to read as follows: 40-2a28. (a) Any insurance company other than life organized under any law of this state may invest, by loans or otherwise, with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof, in asset-backed securities, subject to the following:

(1) To be an admitted asset under this section, an asset-backed security must, at the time of acquisition, be designated "1" or "2" by the ~~national association of insurance commissioners in its most recently published valuations of securities manual or supplement thereto~~ SVO or its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO;

(2) the investment in any one issue of asset-backed securities shall not exceed 2% of the admitted assets of the investing insurance company as shown by its last annual report or a more recent quarterly financial statement filed with the commissioner. Each issue designated as provided in paragraph (1) shall constitute a single issue regardless of any other obligations or securities issued by the same or any affiliated issuer.

(b) As used in this section:

(1) "Asset-backed security" means any security or other instrument representing or evidencing an interest in, a loan to, a participation in a loan to, or any other right to receive payments from a business entity of any type or form, which has as its primary business activity the acquisition and holding of financial assets, directly or through a trustee, for the benefit of such business entity's debt or equity holders; ~~and~~

(2) "financial asset" means a single asset or a pool of assets consisting of interest-bearing obligations or other contractual obligations representing or constituting the right to receive payment from the asset or pool of assets;

(3) "NAIC" means the national association of insurance commissioners; and

(4) "SVO" means the securities valuation office of the NAIC or any successor office established by the NAIC.

Sec. 8. K.S.A. 40-2b04 is hereby amended to read as follows: 40-2b04.

(a) As used in this section:

(1) "Business entity" means a sole proprietorship, corporation, limited liability company, association, partnership, joint-stock company, joint

venture, mutual fund, trust, joint tenancy or other similar form of business organization, whether organized for-profit or not-for-profit.

(2) “Domestic jurisdiction” means the United States, Canada, and a state or political subdivision of the United States or Canada.

(3) “Foreign currency” means a currency other than that of the United States or Canada.

(4) “Foreign investment” means an investment in a foreign jurisdiction or in an asset domiciled in a foreign jurisdiction. An investment shall not be deemed to be foreign if the issuing business entity, qualified primary credit source or qualified guarantor is a domestic jurisdiction or a business entity domiciled in a domestic jurisdiction, unless:

(A) The issuing business entity is a shell business entity; and

(B) the investment is not assumed, accepted, guaranteed or insured or otherwise backed by a domestic jurisdiction or a business entity, that is not a shell business entity, domiciled in a domestic jurisdiction.

(5) “Foreign jurisdiction” means a jurisdiction outside of the United States or Canada.

(6) “Qualified guarantor” means a guarantor against which an insurer has a direct claim for full and timely payment evidenced by a contractual right for which an enforcement action can be brought in a domestic jurisdiction.

(7) “Qualified primary credit source” means the credit source to which an insurer looks for payment as to an investment and against which an insurer has a direct claim for full and timely payment evidenced by a contractual right for which an enforcement action can be brought in a domestic jurisdiction.

(8) “Shell business entity” means a business entity having no economic substance except as a vehicle for owning interests in assets issued, owned or previously owned by a business entity domiciled in a foreign jurisdiction.

(9) “SVO” means the securities valuation office of the national association of insurance commissioners or any successor office established by the national association of insurance commissioners.

(b) Any life insurance company organized under any law of this state may invest, by loans or otherwise, with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof, in foreign investments of the same types as those that an insurer is permitted to acquire under ~~K.S.A. 40-2b01, 40-2b02, 40-2b03, 40-2b05, 40-2b06, 40-2b07, 40-2b24, 40-2b26, 40-2b27 and 40-2b28 and K.S.A. 40-2b29~~ *article 2b of chapter 40 of the Kansas Statutes Annotated*, and amendments thereto, if:

(1) The aggregate amount of foreign investments then held by the insurer does not exceed 20% of its admitted assets; and

(2) the aggregate amount of foreign investments then held by the insurer in a single foreign jurisdiction does not exceed 10% of its admitted assets for jurisdictions that have a sovereign debt rating of SVO 1, or 3% of its admitted assets for ~~all any other jurisdictions~~ *foreign jurisdiction*.

(c) Any life insurance company organized under any law of this state may invest, by loans or otherwise, with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof, in investments of the same types as those that an insurer is permitted to acquire under ~~K.S.A. 40-2b01, 40-2b02, 40-2b03, 40-2b05, 40-2b06, 40-2b07, 40-2b24, 40-2b26, 40-2b27 and 40-2b28 and K.S.A. 40-2b29~~ *article 2b of chapter 40 of the Kansas Statutes Annotated*, and amendments thereto, which are denominated in foreign currencies, whether or not they are foreign investments acquired under subsection (b), if:

(1) The aggregate amount of investments then held by the insurer denominated in foreign currencies does not exceed 10% of its admitted assets; and

(2) the aggregate amount of investments then held by the insurer denominated in the foreign currency of a single foreign jurisdiction does not exceed 10% of its admitted assets for jurisdictions that have a sovereign debt rating of SVO 1, or 3% of its admitted assets for ~~all any other jurisdictions~~ *foreign jurisdiction*.

(d) Notwithstanding the provisions of K.S.A. 40-2b13, and amendments thereto, the insurer’s total foreign investments and investments

denominated in foreign currencies shall not exceed the limitations set forth in subsections (b) and (c).

(e) The investment limitations in subsections (b) and (c) computed on the basis of an insurer's admitted assets shall relate to the amount as shown on the insurer's last annual report as filed with the commissioner of insurance or a more recent quarterly financial statement as filed with the commissioner, on a form prescribed by the national association of insurance commissioners, within 45 days following the end of the calendar quarter to which the interim statement pertains.

(f) Investments acquired under this section shall be aggregated with investments of the same types made under ~~K.S.A. 40-2b01, 40-2b02, 40-2b03, 40-2b05, 40-2b06, 40-2b07, 40-2b24, 40-2b26, 40-2b27 and 40-2b28 and K.S.A. 40-2b29~~ *all other sections of article 2b of chapter 40 of the Kansas Statutes Annotated*, and amendments thereto, and in a similar manner, for purposes of determining compliance with the limits, if any, contained in the other sections.

Sec. 9. K.S.A. 40-2b05 is hereby amended to read as follows: 40-2b05. Any life insurance company heretofore or hereafter organized under any law of this state may invest by loans or otherwise, with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof in bonds or other evidences of indebtedness issued, assumed, or guaranteed by a ~~corporation incorporated~~ *business entity organized* under the laws of the United States of America, or of any state, district, insular or territorial possession thereof; or of the Dominion of Canada or any province thereof which are designated "1" or "2" by the ~~national association of insurance commissioners in their most recently published Valuations of Securities Manual SVO or are rated investment grade in Standard & Poor's (at least BBB-) or Moody's (at least Baa3) corporate bond guides its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO~~ at the time of acquisition; or which meet the following qualifications:

(a) If fixed-interest bearing obligations, the average fixed charges shall have been covered at least 1½ times by the average net earnings available for fixed charges of the last five years, and the ~~company~~ *business entity* shall have earnings in two of the last three fiscal years immediately preceding the date of acquisition. In the case of obligations of finance companies, the coverage shall be at least 1¼ times;

(b) if income, or other contingent interest obligations, the net earnings available for fixed charges of the ~~corporation~~ *business entity* for the five fiscal years next preceding the date of acquisition of the obligations shall have averaged per year not less than 1½ times the sum of the fixed charges and the maximum contingent interest to which the ~~corporation~~ *business entity* is subject as of the date of acquisition, and the ~~company~~ *business entity* shall have earnings in two of the last three fiscal years immediately preceding the date of acquisition. In the case of obligations of finance companies, the coverage shall be at least 1¼ times;

(c) the ~~corporation~~ *business entity* or a predecessor thereof must have been in existence for a period of not less than five years;

(d) investments in any ~~corporate~~ obligations under this act shall not be eligible if the ~~corporation~~ *business entity* is in default on any fixed obligations as of the date of acquisition. Statements adjusted to show the actual condition at the time of acquisition or at effect of new financing (known commercially as pro forma statements) may be used when determining investments in this act or in compliance with requirements.

(e) (1) The term "fixed charges" ~~shall include~~ *includes* actual interest incurred in each year on funded and unfunded debt. In the testing of obligations where interest is partially or entirely contingent upon earnings fixed charges shall include contingent interest payments; ~~and~~

(2) the term "net earnings available for fixed charges" ~~shall mean~~ *means* income, before deducting interest on funded and unfunded debt and after deducting operating and maintenance expenses, taxes other than income taxes, depreciation and depletion. Extraordinary, nonrecurring items of income or expense shall be excluded;

(3) *the term "business entity" includes a sole proprietorship, corporation, limited liability company, association, partnership, joint stock company, joint venture, mutual fund, trust, joint tenancy or similar form of business organization, whether organized for profit or not-for-profit;*

(4) *the term “NAIC” means the national association of insurance commissioners;*

(5) *the term “SVO” means the securities valuation office of the NAIC or any successor office established by the NAIC.*

Sec. 10. K.S.A. 40-2b09 is hereby amended to read as follows: 40-2b09. Any life insurance company heretofore or hereafter organized under any law of this state may invest by loans or otherwise with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof in:

(a) Bonds, notes, obligations or other evidences of indebtedness *directly or indirectly* secured by mortgages or deeds of trust which are a first or second lien upon *otherwise* unencumbered real property and appurtenances thereto within the United States of America, or any insular or territorial possession of the United States, or the Dominion of Canada, and upon leasehold estates in real property wherein the term of such including any options to extend is not less than 15 years beyond the maturity of the loan as made or extended. At the date of acquisition the total indebtedness secured by such lien shall not exceed ~~80%~~ 90% of the market value of the property upon which it is a lien, unless that portion of the total indebtedness in excess of ~~80%~~ 90% of market value is insured by a mortgage insurance company authorized by the commissioner of insurance to do business in this state. These limitations shall not apply to obligations described in subsections (b), (c), (d), (e) and (f). For the purpose of this section a mortgage or deed of trust shall not be deemed to be other than a first or second lien upon property within the meaning of this section by reason of the existence of taxes or assessments against real property and appurtenances thereto that are not delinquent, instruments creating or reserving mineral, oil, or timber rights, rights of way, joint driveways, sewer rights, rights in walls or by reason of building restrictions or other like restrictive covenants, or when such real estate is subject to lease in whole or in part whereby rents or profits are reserved to the owner or when there is in existence a fixed obligation or lien against the property where an escrow account or indemnification bond is or has been established or obtained sufficient to cover the maximum liability created by such obligation or lien;

(b) bonds, notes, or other evidences of indebtedness representing loans and advances of credit that have been issued, guaranteed or insured by the United States government or any agency or instrumentality thereof or insured by any insurance company authorized to transact such business in this state. Any uninsured or nonguaranteed portion shall not exceed 75% of the total amount;

(c) contracts of sale, purchase money mortgages or deeds of trust secured by property obtained through foreclosure, or in settlement or satisfaction of any indebtedness;

(d) bonds, notes, obligations, or other evidences of indebtedness *directly or indirectly* secured by mortgages or deeds of trust which are a first or second lien upon *otherwise* unencumbered personal or real or both personal and real property, including a leasehold of real estate, under lease, purchase contract, or lease purchase contract to any governmental body or instrumentality whose obligations qualify under K.S.A. 40-2b01, 40-2b02 or 40-2b03, and amendments thereto, or to a corporation whose obligations qualify under K.S.A. 40-2b05, and amendments thereto, if there is adequate rental, after making allowance of lessors' or sellers' obligations and liabilities, if any, under the terms of the lease or contract, to retire the loan as to payments of principal and interest and such rentals are pledged or assigned to the lender;

(e) bonds, notes or other evidences of indebtedness representing loans and advances of credit that have been issued, guaranteed or insured, in accordance with the terms and provisions of an act of the federal parliament of the Dominion of Canada approved March 18, 1954, cited as the national housing act, 1954, as heretofore and hereafter amended;

(f) participation in mortgage lending, *including, without limitation, the types of mortgage lending set forth in subsections (a) and (d)*, is specifically permitted in this section as between Kansas domiciled life insurance companies, or, between Kansas domiciled life insurance companies and life insurance companies organized under the laws of another country, state, or territory ~~and authorized to do business in the state of Kansas,~~

or, between a Kansas domiciled life insurance company and its affiliates, or, between Kansas domiciled life insurance companies and banks, trust companies or savings and loan associations ~~located within the state of Kansas~~, upon unencumbered real property and appurtenances thereto. At the date of acquisition the total indebtedness assumed by such lien shall not exceed ~~80%~~ 90% of the market value of the property upon which it is a lien, unless that portion of the total indebtedness in excess of ~~80%~~ 90% of market value is insured by a mortgage insurance company authorized by the commissioner of insurance to do business in this state;

(g) ~~first~~ mortgages or deeds of trust upon improved real property to be occupied as a personal residence by an officer of the insurer, if the mortgage is at an interest rate that is no less than the prevailing rate of the insurer's existing portfolio of mortgage loans. Mortgages or deeds of trust entered into pursuant to this subsection shall be subject to the conditions set forth in subsection (a) relating to mortgages or deeds of trust generally;

(h) tax lien certificates issued by local taxing authorities, which for reporting in the annual statement may be pooled by state and year of issue, but the amount invested shall not exceed 10% of the admitted assets of the company as shown by its last annual report or a more recent quarterly financial statement filed with the commissioner of insurance.

Sec. 11. K.S.A. 40-2b13 is hereby amended to read as follows: 40-2b13. Any life insurance company heretofore or hereafter organized under any law of this state may invest by loans or otherwise, with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof in investments whether or not qualified and permitted under this act and notwithstanding any conditions or limitations prescribed therein, in an aggregate amount not more than 10% of its admitted assets as shown by the company's last annual report as filed with the insurance commissioner or a more recent quarterly financial statement filed with the commissioner, except that investments shall not be permitted in insolvent organizations or organizations in default with respect to the payment of principal or interest.

Sec. 12. K.S.A. 40-2b26 is hereby amended to read as follows: 40-2b26. Any life insurance company heretofore or hereafter organized under any law of this state may invest with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof in:

(a) Mortgage related securities issued or guaranteed by the federal home loan mortgage corporation and federal national mortgage association but the amount invested in any one such issue shall not exceed the greater of \$750,000 or two percent of the admitted assets of the company as shown by its last annual report or a more recent quarterly financial statement filed with the commissioner of insurance;

(b) mortgage related securities issued by or in the name of any private entity which are designated "1" or "2" by the ~~national association of insurance commissioners in their most recently published valuations of securities manual or supplement thereto~~ SVO or are rated investment grade by Standard and Poor's (at least BBB-) or Moody's (at least Baa3) ~~its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO~~ at the time of acquisition. The investment in any one such issue shall not exceed two percent of the admitted assets of the company as shown by its last annual report or a more recent quarterly financial statement filed with the commissioner of insurance;

(c) for purposes of this section "mortgage related securities" shall mean a security that either:

(1) Represents ownership of one or more promissory notes or certificates of interest or participation in such notes ~~(, including any rights designed to assure servicing of, or the receipt or timeliness of receipt by the holders of such notes, certificates, or participations of amounts payable under, such notes, certificates, or participations)~~, which notes:

(A) Are directly secured by a first lien on a single parcel of real estate, including stock allocated to a dwelling unit in a residential cooperative housing corporation, upon which is located a dwelling or mixed residential and commercial structure, or on a residential manufactured home as defined in U.S.C. § 5402(6) of title 42, whether such manufactured home

is considered real or personal property under the laws of the state in which it is to be located; and

(B) were originated by a savings and loan association, savings bank, commercial bank, credit union, insurance company, or similar institution which is supervised and examined by a federal or state authority, or by a mortgagee approved by the secretary of housing and urban development pursuant to U.S.C. §§ 1709 and 1715b of title 12, or, where such notes involve a lien on the manufactured home, by any such institution or by any financial institution approved for insurance by the secretary of housing and urban development pursuant to U.S.C. § 1703 of title 12; or

(2) is secured by one or more promissory notes or certificates of interest or participations in such notes, with or without recourse to the issuer thereof, and, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, on notes meeting the requirements of subparagraphs (1)(A) and (B) or certificates of interest or participations in promissory notes meeting such requirements.

For the purposes of this paragraph, the term “promissory note,” when used in connection with a manufactured home, shall also include a loan, advance, or credit sale as evidenced by a retail installment sales contract or other instrument; or

(3) involve offers or sales of one or more promissory notes directly secured by a first lien on a single parcel of real estate upon which is located a dwelling or other residential or commercial structure, and participation interests in such notes:

(A) Where such securities are originated by a savings and loan association, savings bank, commercial bank, or similar banking institution which is supervised and examined by a federal or state authority, and are offered and sold subject to the following conditions:

(i) The minimum aggregate sales price per purchaser shall not be less than \$250,000;

(ii) the purchaser shall pay cash either at the time of the sale or within 60 days thereof; and

(iii) each purchaser shall buy for such purchaser’s own account only; or

(B) where such securities are originated by a mortgagee approved by the secretary of housing and urban development pursuant to U.S.C. §§ 1709 and 1715b of title 12 and are offered or sold subject to the three conditions specified in subparagraph (3)(A) to any institution described in such subparagraph or to any insurance company subject to the supervision of the insurance commissioner, or any agency or officer performing like function, of any state or territory of the United States or the District of Columbia, or the federal home loan mortgage corporation, the federal national mortgage association; or the government national mortgage association.

Transactions between any of the entities described in subparagraph (3)(A) or (3)(B) involving nonassignable contracts to buy or sell the foregoing securities which are to be completed within two years, where the seller of the foregoing securities pursuant to any such contract is one of the parties described in subparagraph (3)(A) or (3)(B) who may originate such securities and the purchaser of such securities pursuant to any such contract is any institution described in subparagraph (3)(A) or any insurance company described in subparagraph (3)(B), the federal home loan mortgage corporation, federal national mortgage association, or the government national mortgage association and where the foregoing securities are subject to the three conditions for sale set forth in subparagraphs (3)(A)(i) through (iii);

(d) *for purposes of this section:*

(1) “NAIC” means the national association of insurance commissioners; and

(2) “SVO” means the securities valuation office of the NAIC or any successor office established by the NAIC.

Sec. 13. K.S.A. 40-2b27 is hereby amended to read as follows: 40-2b27. As used in K.S.A. 40-2b28:

(a) “Medium grade obligations” means obligations which are designated “3” by the national association of insurance commissioners in its most recently published valuations of securities manual SVO or its equiv-

alent rating by a nationally recognized statistical rating organization recognized by the SVO.

(b) “Lower grade obligations” means obligations which are designated “4,” “5” or “6” by the ~~national association of insurance commissioners in its most recently published valuations of securities manual~~ SVO or its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO.

(c) “Admitted assets” means the amount shown on the insurer’s last annual report as filed with the state commissioner of insurance or a more recent quarterly financial statement filed with the commissioner.

(d) “Aggregate amount” of medium grade and lower grade obligations means the aggregate statutory statement value thereof.

(e) “Institution” means a corporation, a joint-stock company, an association, a trust, a business partnership, a business joint venture or similar entity.

(f) “Insurance company” or “insurer” means any life insurance company organized under the laws of this state.

(g) “NAIC” means the national association of insurance commissioners.

(h) “SVO” means the securities valuation office of the NAIC or any successor office established by the NAIC.

Sec. 14. K.S.A. 2014 Supp. 40-2b28 is hereby amended to read as follows: 40-2b28. (a) No insurance company shall acquire, directly or indirectly, any medium grade or lower grade obligation of any institution if, after giving effect to any such acquisition, the aggregate amount of all medium grade and lower grade obligations then held by such insurer would exceed 20% of its admitted assets. Within this limitation no more than 10% of its admitted assets shall consist of lower grade obligations; no more than three percent of its admitted assets shall consist of obligations designated “5” or “6” ~~in the valuations of securities manual by the SVO or its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO~~; and, no more than one percent of its admitted assets shall consist of obligations designated “6” ~~in the valuations of securities manual by the SVO or its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO~~. Attaining or exceeding the limit of any one category shall not preclude an insurer from acquiring obligations in other categories subject to the specific and multi-category limits.

(b) No insurer organized under the laws of this state may invest more than one percent of its admitted assets in medium grade obligations issued, guaranteed or insured by any one institution nor may it invest more than one-half of one percent of its admitted assets in lower grade obligations issued, guaranteed or insured by any one institution. In no event, shall such insurer invest more than one percent of its admitted assets in any medium or lower grade obligations issued, guaranteed or insured by any one institution.

(c) Nothing contained in this act shall prohibit an insurer from acquiring any obligations which it has committed to acquire if the insurer would have been permitted to acquire that obligation pursuant to this act on the date on which such insurer committed to purchase that obligation.

(d) Notwithstanding the limitations of subsection (b), an insurer may acquire an obligation of an institution in which the insurer already has one or more obligations, if the obligation is acquired in order to protect an investment previously made in the obligations of the institution, except that all such acquired obligations shall not exceed one-half of one percent of the insurer’s admitted assets.

(e) Nothing contained in this act shall prohibit an insurer to which this act applies from acquiring an obligation as a result of a restructuring of a medium or lower grade obligation already held or require such insurer to sell or otherwise dispose of any obligation legally acquired prior to the effective date of this act.

(f) Nothing contained in this act shall permit or be construed as permitting an insurer to exceed, alter or otherwise circumvent any of the limitations or restrictions applicable to the investments authorized by article 2b of chapter 40 of the Kansas Statutes Annotated, and amendments thereto.

(g) The board of directors of any insurance company organized under

the laws of this state which acquires or invests, directly or indirectly, more than two percent of its admitted assets in medium grade and lower grade obligations, shall adopt a written plan for the making of such investments. The plan, in addition to guidelines with respect to the quality of the issues invested in, shall contain diversification standards acceptable to the commissioner which may include, but not be limited to, standards for issuer, industry, duration, liquidity and geographic location.

Sec. 15. K.S.A. 2014 Supp. 40-2b29 is hereby amended to read as follows: 40-2b29. (a) Any life insurance company organized under any law of this state may invest, by loans or otherwise, with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof, in asset-backed securities, subject to the following:

(1) To be an admitted asset under this section, an asset-backed security must, at the time of acquisition, be designated “1” or “2” by the ~~national association of insurance commissioners in its most recently published valuations of securities manual or supplement thereto~~ *SVO or its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO*; and

(2) the investment in any one issue of asset-backed securities shall not exceed 2% of the admitted assets of the life insurance company as shown by its last annual report or a more recent quarterly financial statement filed with the commissioner. Each issue designated as provided in paragraph (1) shall constitute a single issue regardless of any other obligations or securities issued by the same or any affiliated issuer.

(b) As used in this section:

(1) “Asset-backed security” means any security or other instrument representing or evidencing an interest in, a loan to, a participation in a loan to, or any other right to receive payments from a business entity of any type or form, which has as its primary business activity the acquisition and holding of financial assets, directly or through a trustee, for the benefit of such business entity’s debt or equity holders; ~~and~~

(2) “financial asset” means a single asset or a pool of assets consisting of interest-bearing obligations or other contractual obligations representing or constituting the right to receive payment from the asset or pool of assets;

(3) “NAIC” means *the national association of insurance commissioners*; and

(4) “SVO” means *the securities valuation office of the NAIC or any successor office established by the NAIC*.

Sec. 16. K.S.A. 40-2a05, 40-2a12, 40-2a16, 40-2a25, 40-2a26, 40-2b04, 40-2b05, 40-2b09, 40-2b13, 40-2b26 and 40-2b27 and K.S.A. 2014 Supp. 40-2a27, 40-2a28, 40-2b28 and 40-2b29 are hereby repealed.

Sec. 17. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.