

**40-2a07. Preferred and guaranteed stocks; definitions.** 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 preferred stocks of, or stocks guaranteed by, a corporation incorporated 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, in an amount not to exceed 25% of its admitted assets as shown by the company's last annual report, as filed with the state 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, and which meets the following qualifications:

(a) All bonds or other evidences of indebtedness and preferred stocks shown on the last published annual statement of the issuing corporation, if any, senior to the preferred stock acquired must be eligible as investments under K.S.A. 40-2a05 or 40-2a07, and amendments thereto, as of the date of acquisition;

(b) if cumulative preferred, not in arrears as to dividends, or if noncumulative, has paid full dividends in each of the last three years;

(c) sinking fund payments are on a current basis;

(d) if net earnings available for fixed charges for the most recently completed three fiscal year period is at least equal to 1 1/4 times the aggregate fixed charges, plus full contingent interest and preferred dividend requirements of the preferred stock under consideration and those on a parity therewith or having a priority thereto, for the same period; and

(e) the corporation or a predecessor thereof, must have been in existence for a period of not less than five years.

(f) As used in this section:

(1) "Fixed charges" shall include actual interest incurred in each year on funded and unfunded debt; and

(2) "net earnings" shall mean income, before deducting interest on funded and unfunded debt, and after deducting operating and maintenance expenses, depreciation and depletion, and all taxes (including income taxes). Extraordinary, nonrecurring items of income or expense shall be excluded.

**History:** L. 1972, ch. 173, § 7; L. 1987, ch. 160, § 3; July 1.