



HOUSE BILL No. 5925

June 5, 1996, Introduced by Reps. Rhead, Tesanovich, Llewellyn, DeHart, McNutt, Dolan, Gilmer, Cherry, LaForge, Kelly, Bullard, Gubow, Mathieu, Dobronski, Clack, Bennane, Kilpatrick, Harder, London, Hill, Bush, Hammerstrom, Gustafson, Galloway and Ryan and referred to the Committee on Appropriations.

A bill to amend sections 12, 13, 14, 15, 16, 17, 19, 20, 20a, 20b, 20c, 20d, 20e, 20h, and 20i of Act No. 314 of the Public Acts of 1965, entitled as amended

"An act to authorize the investment of assets of public employee retirement systems or plans created and established by the state or any political subdivision; to provide for the payment of certain costs and investment expenses; to authorize investment in variable rate interest loans; to define and limit the investments which may be made by an investment fiduciary with the assets of a public employee retirement system; and to prescribe the powers and duties of investment fiduciaries and certain state departments and officers,"

section 12 as amended and section 20i as added by Act No. 127 of the Public Acts of 1988 and sections 13, 14, 15, 16, 17, 19, 20, 20a, 20b, 20c, 20d, 20e, and 20h as added by Act No. 55 of the Public Acts of 1982, being sections 38.1132, 38.1133, 38.1134, 38.1135, 38.1136, 38.1137, 38.1139, 38.1140, 38.1140a, 38.1140b, 38.1140c, 38.1140d, 38.1140e, 38.1140h, and 38.1140i of the

Michigan Compiled Laws; and to add sections 12a, 12b, 12c, 12d, 12e, 12f, 20j, 20k, and 20l.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 12, 13, 14, 15, 16, 17, 19, 20, 20a,
2 20b, 20c, 20d, 20e, 20h, and 20i of Act No. 314 of the Public
3 Acts of 1965, section 12 as amended and section 20i as added by
4 Act No. 127 of the Public Acts of 1988 and sections 13, 14, 15,
5 16, 17, 19, 20, 20a, 20b, 20c, 20d, 20e, and 20h as added by Act
6 No. 55 of the Public Acts of 1982, being sections 38.1132,
7 38.1133, 38.1134, 38.1135, 38.1136, 38.1137, 38.1139, 38.1140,
8 38.1140a, 38.1140b, 38.1140c, 38.1140d, 38.1140e, 38.1140h, and
9 38.1140i of the Michigan Compiled Laws, are amended and
10 sections 12a, 12b, 12c, 12d, 12e, 12f, 20j, 20k, and 20l are
11 added to read as follows:

12 Sec. 12. (1) THIS ACT SHALL BE KNOWN AND MAY BE CITED AS
13 THE "PUBLIC EMPLOYEE RETIREMENT SYSTEM INVESTMENT ACT".

14 (2) For the purposes of this act, the ~~following~~ words and
15 phrases ~~shall~~ DEFINED IN SECTIONS 12A TO 12F have the
16 ~~following~~ meanings ~~as~~ ASCRIBED TO THEM IN THOSE SECTIONS.

17 ~~(a) "Accounts receivable" means those receivables of a~~
18 ~~system which presumably will be converted into cash during the~~
19 ~~next 12 months, including but not limited to, employee contribu-~~
20 ~~tions, employer contributions due from other funds, and employer~~
21 ~~contributions due from other units of government.~~

22 ~~(b) "Assets", for the purpose of meeting asset limitations~~
23 ~~contained in this act, means the total of the cash, accounts~~
24 ~~receivable, and investments of a system valued at cost.~~

1 ~~(c) "Equity interests" means limited partnership interests~~
2 ~~and other interests in which the liability of the investor is~~
3 ~~limited to the amount of the investment, but does not mean gen-~~
4 ~~eral partnership interests or other interests involving general~~
5 ~~liability of the investor.~~

6 ~~(d) "Investment fiduciary" means a person who does any of~~
7 ~~the following:~~

8 ~~(i) Exercises any discretionary authority or control in the~~
9 ~~investment of a system's assets.~~

10 ~~(ii) Renders for a fee investment advice for a system.~~

11 ~~(e) "Invest" or "investment" means the utilization of money~~
12 ~~in the expectation of future returns in the form of income or~~
13 ~~capital gain. Investments initially purchased in accordance with~~
14 ~~this act which subsequently do not qualify for purchase for any~~
15 ~~reason, shall be considered to continue to meet the requirements~~
16 ~~of this act. Investment includes a guarantee by an investment~~
17 ~~fiduciary under section 20i.~~

18 ~~(f) "Net earnings available for fixed charges" means net~~
19 ~~income after deducting operating and maintenance expenses, taxes~~
20 ~~other than federal and state income taxes, depreciation, and~~
21 ~~depletion, but excluding extraordinary expenses appearing in the~~
22 ~~regular financial statements of the system.~~

23 ~~(g) "Obligations" means bonds, notes, collateral trust cer-~~
24 ~~tificates, convertible bonds, debentures, equipment trust certif-~~
25 ~~icates, conditional sales agreements, guaranteed mortgage certif-~~
26 ~~icates, pass through certificates, participation certificates,~~
27 ~~mortgages, trust deeds, general obligation bonds, revenue bonds,~~

1 ~~or other similar interest bearing instruments of debt.~~
2 ~~Obligations may be secured or unsecured and may be publicly~~
3 ~~offered or privately placed.~~

4 ~~(h) "Small business" means a corporation, partnership, sole~~
5 ~~proprietorship, or other entity which does not meet the specific~~
6 ~~requirements of investments permitted under this act.~~

7 ~~(i) "Small business investment company" means an incorpo-~~
8 ~~rated body or a limited partnership under section 301 of title~~
9 ~~III of the small business investment act of 1958, 15 U.S.C.~~
10 ~~681.~~

11 ~~(j) "Stock" means capital stock, common stock, preferred~~
12 ~~stock, American depository receipts, or any other evidence of~~
13 ~~residual ownership of a corporation.~~

14 ~~(k) "System" means a public employee retirement system cre-~~
15 ~~ated and established by the state or any political subdivision of~~
16 ~~the state.~~

17 ~~(l) "Venture capital firm" means a corporation, partnership,~~
18 ~~proprietorship, or other entity, the principal business of which~~
19 ~~is or will be the making of investments in small business, either~~
20 ~~directly or indirectly by investing in entities the principal~~
21 ~~business of which is or will be the making of investments in~~
22 ~~small businesses.~~

23 SEC. 12A. (1) "ACCOUNTS RECEIVABLE" MEANS THOSE RECEIVABLES
24 OF A SYSTEM WHICH PRESUMABLY WILL BE CONVERTED INTO CASH DURING
25 THE NEXT 12 MONTHS, INCLUDING BUT NOT LIMITED TO, EMPLOYEE CON-
26 TRIBUTIONS, EMPLOYER CONTRIBUTIONS DUE FROM OTHER FUNDS, AND
27 EMPLOYER CONTRIBUTIONS DUE FROM OTHER UNITS OF GOVERNMENT.

1 (2) "ASSETS", FOR THE PURPOSE OF MEETING ASSET LIMITATIONS
2 CONTAINED IN THIS ACT, MEANS THE TOTAL OF THE CASH, ACCOUNTS
3 RECEIVABLE, AND INVESTMENTS OF A SYSTEM VALUED AT MARKET.

4 SEC. 12B. (1) "DERIVATIVE" MEANS EITHER OF THE FOLLOWING:

5 (A) A CONTRACT OR CONVERTIBLE SECURITY THAT CHANGES IN VALUE
6 IN CONCERT WITH A RELATED OR UNDERLYING SECURITY, FUTURE, OR
7 OTHER INSTRUMENT OR INDEX; OR OBTAINS MUCH OF ITS VALUE FROM
8 PRICE MOVEMENTS IN A RELATED OR UNDERLYING SECURITY, FUTURE, OR
9 OTHER INSTRUMENT OR INDEX; OR BOTH.

10 (B) A CONTRACT OR SECURITY, SUCH AS AN OPTION, FORWARD,
11 SWAP, WARRANT, OR A DEBT INSTRUMENT WITH 1 OR MORE OPTIONS, FOR-
12 WARDS, SWAPS, OR WARRANTS EMBEDDED IN IT OR ATTACHED TO IT, THE
13 VALUE OF WHICH CONTRACT OR SECURITY IS DETERMINED IN WHOLE OR IN
14 PART BY THE PRICE OF 1 OR MORE UNDERLYING INSTRUMENTS OR
15 MARKETS.

16 (2) "EQUITY INTERESTS" MEANS LIMITED PARTNERSHIP INTERESTS
17 AND OTHER INTERESTS IN WHICH THE LIABILITY OF THE INVESTOR IS
18 LIMITED TO THE AMOUNT OF THE INVESTMENT, BUT DOES NOT MEAN GEN-
19 ERAL PARTNERSHIP INTERESTS OR OTHER INTERESTS INVOLVING GENERAL
20 LIABILITY OF THE INVESTOR.

21 (3) "FOREIGN SECURITY" MEANS ANY OF THE FOLLOWING:

22 (A) A FIXED INCOME SECURITY ISSUED BY A GOVERNMENT, A GOV-
23 ERNMENTAL AGENCY, OR A PUBLIC OR PRIVATE COMPANY THAT IS TRADED
24 OUTSIDE OF THE UNITED STATES AND ISSUED IN A CURRENCY OTHER THAN
25 THE UNITED STATES DOLLAR.

26 (B) AN EQUITY POSITION IN A COMPANY TRADED ON AN EXCHANGE
27 OUTSIDE OF THE UNITED STATES OF A SECURITY ISSUED IN A CURRENCY

1 OTHER THAN THE UNITED STATES DOLLAR OR AN UNREGISTERED AMERICAN
2 DEPOSITORY RECEIPT.

3 (C) AN EQUITY OR FIXED INCOME DERIVATIVE THAT DERIVES ITS
4 VALUE FROM AN INVESTMENT DESCRIBED IN SUBDIVISION (A) OR (B) OR A
5 FOREIGN STOCK OR BOND INDEX TRADED ON AN EXCHANGE OUTSIDE OF THE
6 UNITED STATES.

7 SEC. 12C. (1) "INVESTMENT FIDUCIARY" MEANS A PERSON WHO
8 DOES ANY OF THE FOLLOWING:

9 (A) EXERCISES ANY DISCRETIONARY AUTHORITY OR CONTROL IN THE
10 INVESTMENT OF A SYSTEM'S ASSETS.

11 (B) RENDERS INVESTMENT ADVICE FOR A SYSTEM FOR A FEE OR
12 OTHER DIRECT OR INDIRECT COMPENSATION.

13 (2) "INVEST" OR "INVESTMENT" MEANS THE UTILIZATION OF MONEY
14 IN THE EXPECTATION OF FUTURE RETURNS IN THE FORM OF INCOME OR
15 CAPITAL GAIN. INVESTMENTS INITIALLY PURCHASED IN ACCORDANCE WITH
16 THIS ACT WHICH SUBSEQUENTLY DO NOT QUALIFY FOR PURCHASE FOR ANY
17 REASON, SHALL BE CONSIDERED TO CONTINUE TO MEET THE REQUIREMENTS
18 OF THIS ACT. INVESTMENT INCLUDES A GUARANTEE BY AN INVESTMENT
19 FIDUCIARY UNDER SECTION 20I.

20 (3) "INVESTMENT GRADE" MEANS GRADED IN THE TOP 4 MAJOR
21 GRADES AS DETERMINED BY 2 NATIONAL RATING SERVICES.

22 SEC. 12D. (1) "NATIONAL RATING SERVICES" MEANS MOODY'S
23 INVESTORS SERVICE, INC.; STANDARD & POOR'S RATINGS GROUP; FITCH
24 INVESTORS SERVICE INC.; DUFF & PHELPS CREDIT RATING CORP.; OR ANY
25 OTHER FIRM AS DETERMINED BY THE STATE TREASURER.

26 (2) "NET EARNINGS AVAILABLE FOR FIXED CHARGES" MEANS NET
27 INCOME AFTER DEDUCTING OPERATING AND MAINTENANCE EXPENSES, TAXES

1 OTHER THAN FEDERAL AND STATE INCOME TAXES, DEPRECIATION, AND
2 DEPLETION, BUT EXCLUDING EXTRAORDINARY EXPENSES APPEARING IN THE
3 REGULAR FINANCIAL STATEMENTS OF THE SYSTEM.

4 (3) "OBLIGATIONS" MEANS BONDS, NOTES, COLLATERAL TRUST CER-
5 TIFICATES, CONVERTIBLE BONDS, DEBENTURES, EQUIPMENT TRUST CERTIF-
6 ICATES, CONDITIONAL SALES AGREEMENTS, GUARANTEED MORTGAGE CERTIF-
7 ICATES, PASS-THROUGH CERTIFICATES, PARTICIPATION CERTIFICATES,
8 MORTGAGES, TRUST DEEDS, GENERAL OBLIGATION BONDS, REVENUE BONDS,
9 OR OTHER SIMILAR INTEREST BEARING INSTRUMENTS OF DEBT.
10 OBLIGATIONS MAY BE SECURED OR UNSECURED AND MAY BE PUBLICLY
11 OFFERED OR PRIVATELY PLACED.

12 (4) "PARTY IN INTEREST" MEANS, AS IT RELATES TO A SYSTEM,
13 ANY OF THE FOLLOWING:

14 (A) AN INVESTMENT FIDUCIARY, COUNSEL, OR EMPLOYEE OF THE
15 SYSTEM.

16 (B) A PERSON PROVIDING SERVICES TO THE SYSTEM.

17 (C) THE POLITICAL SUBDIVISION SPONSORING THE SYSTEM.

18 (D) AN ORGANIZATION, ANY OF WHOSE MEMBERS ARE COVERED BY THE
19 SYSTEM.

20 (E) A SPOUSE, ANCESTOR, LINEAL DESCENDANT, OR SPOUSE OF A
21 LINEAL DESCENDANT OF AN INDIVIDUAL DESCRIBED IN SUBDIVISION (A)
22 OR (B).

23 (F) AN ENTITY CONTROLLED BY AN INDIVIDUAL OR ORGANIZATION
24 DESCRIBED IN SUBDIVISIONS (A) TO (E).

25 (5) "PORTFOLIO COMPANY" MEANS AN ENTITY IN WHICH THE INVEST-
26 MENT FIDUCIARY HAS INVESTED OR HAS CONSIDERED INVESTING SYSTEM
27 ASSETS.

1 SEC. 12E. (1) "SMALL BUSINESS" MEANS A CORPORATION,
2 PARTNERSHIP, SOLE PROPRIETORSHIP, OR OTHER ENTITY WHICH DOES NOT
3 MEET THE SPECIFIC REQUIREMENTS OF INVESTMENTS PERMITTED UNDER
4 THIS ACT.

5 (2) "SMALL BUSINESS INVESTMENT COMPANY" MEANS AN INCORPO-
6 RATED BODY OR A LIMITED PARTNERSHIP UNDER SECTION 301 OF TITLE
7 III OF THE SMALL BUSINESS INVESTMENT ACT OF 1958, PUBLIC LAW
8 85-699, 15 U.S.C. 681.

9 (3) "STOCK" MEANS CAPITAL STOCK, COMMON STOCK, PREFERRED
10 STOCK, AMERICAN DEPOSITORY RECEIPTS, OR ANY OTHER EVIDENCE OF
11 RESIDUAL OWNERSHIP OF A CORPORATION.

12 (4) "SYSTEM" MEANS A PUBLIC EMPLOYEE RETIREMENT SYSTEM CRE-
13 ATED AND ESTABLISHED BY THIS STATE OR ANY POLITICAL SUBDIVISION
14 OF THIS STATE.

15 SEC. 12F. "VENTURE CAPITAL FIRM" MEANS A CORPORATION, PART-
16 NERSHIP, PROPRIETORSHIP, OR OTHER ENTITY, THE PRINCIPAL BUSINESS
17 OF WHICH IS OR WILL BE THE MAKING OF INVESTMENTS IN SMALL BUSI-
18 NESS, EITHER DIRECTLY OR INDIRECTLY BY INVESTING IN ENTITIES THE
19 PRINCIPAL BUSINESS OF WHICH IS OR WILL BE THE MAKING OF INVEST-
20 MENTS IN SMALL BUSINESSES.

21 Sec. 13. (1) The provisions of this act shall supersede any
22 investment authority previously granted to a system under any
23 other law of this state.

24 (2) The assets of a system may be invested, reinvested, held
25 in nominee form, and managed by an investment fiduciary subject
26 to the terms, conditions, and limitations provided in this act.

1 (3) An investment fiduciary shall discharge his or her
2 duties solely in the interest of the participants and the
3 beneficiaries, and shall DO ALL OF THE FOLLOWING:

4 (a) Act with the same care, skill, prudence, and diligence
5 under the circumstances then prevailing that a prudent person
6 acting in a similar capacity and familiar with those matters
7 would use in the conduct of a similar enterprise with similar
8 aims.

9 (b) Act with due regard for the management, reputation, and
10 stability of the issuer and the character of the particular
11 investments being considered.

12 (c) Make investments for the exclusive purposes of providing
13 benefits to participants and participants' beneficiaries, and of
14 defraying reasonable expenses of investing the assets of the
15 system.

16 (d) Give appropriate consideration to those facts and cir-
17 cumstances that the investment fiduciary knows or should know are
18 relevant to the particular investment or investment course of
19 action involved, including the role the investment or investment
20 course of action plays in that portion of the system's invest-
21 ments for which the investment fiduciary has responsibility; and
22 shall act accordingly. For purposes of this ~~subdivision~~
23 SUBSECTION, "appropriate consideration" ~~shall include,~~ INCLUDES
24 but is not ~~necessarily~~ limited to ~~a~~ a determination by the
25 investment fiduciary that a particular investment or investment
26 course of action is reasonably designed, as part of the
27 investments of the system, to further the purposes of the system,

1 taking into consideration the risk of loss and the opportunity
2 for gain or other return associated with the investment or
3 investment course of action; and consideration of the following
4 factors as they relate to the investment or investment course of
5 action:

6 (i) The diversification of the investments of the system.

7 (ii) The liquidity and current return of the investments of
8 the system relative to the anticipated cash flow requirements of
9 the system.

10 (iii) The projected return of the investments of the system
11 relative to the funding objectives of the system.

12 (e) Give appropriate consideration to investments ~~which~~
13 THAT would enhance the general welfare of this state and its cit-
14 izens if those investments offer the safety and rate of return
15 comparable to other investments permitted under this act and
16 available to the investment fiduciary at the time the investment
17 decision is made.

18 (4) An investment fiduciary may use a portion of the income
19 of the system to defray the costs of investing, managing, and
20 protecting the assets of the system; may retain investment and
21 all other services necessary for the conduct of the affairs of
22 the system; and may pay reasonable compensation for those
23 services. Subject to an annual appropriation by the legislature,
24 a deduction from the income of a state administered system
25 resulting from the payment of those costs shall be made.

26 (5) THE SYSTEM SHALL BE A SEPARATE AND DISTINCT TRUST FUND
27 AND THE ASSETS OF THE SYSTEM SHALL BE FOR THE EXCLUSIVE BENEFIT

1 OF THE PARTICIPANTS AND THEIR BENEFICIARIES AND OF DEFRAYING
2 REASONABLE EXPENSES OF INVESTING THE ASSETS OF THE SYSTEM. WITH
3 RESPECT TO A SYSTEM, AN INVESTMENT FIDUCIARY SHALL NOT CAUSE THE
4 SYSTEM TO ENGAGE IN A TRANSACTION IF HE OR SHE KNOWS OR SHOULD
5 KNOW THAT THE TRANSACTION IS ANY OF THE FOLLOWING, EITHER
6 DIRECTLY OR INDIRECTLY:

7 (A) A SALE OR EXCHANGE OR A LEASING OF ANY PROPERTY FROM THE
8 SYSTEM TO A PARTY IN INTEREST FOR LESS THAN THE FAIR MARKET
9 VALUE, OR FROM A PARTY IN INTEREST TO THE SYSTEM FOR MORE THAN
10 THE FAIR MARKET VALUE.

11 (B) A LENDING OF MONEY OR OTHER EXTENSION OF CREDIT FROM THE
12 SYSTEM TO A PARTY IN INTEREST WITHOUT THE RECEIPT OF ADEQUATE
13 SECURITY AND A REASONABLE RATE OF INTEREST, OR FROM A PARTY IN
14 INTEREST TO THE SYSTEM WITH THE PROVISION OF EXCESSIVE SECURITY
15 OR AT AN UNREASONABLY HIGH RATE OF INTEREST.

16 (C) A TRANSFER TO, OR USE BY OR FOR THE BENEFIT OF, THE
17 POLITICAL SUBDIVISION SPONSORING THE SYSTEM OF ANY ASSETS OF THE
18 SYSTEM FOR LESS THAN ADEQUATE CONSIDERATION.

19 (D) THE FURNISHING OF GOODS, SERVICES, OR FACILITIES FROM
20 THE SYSTEM TO A PARTY IN INTEREST FOR LESS THAN ADEQUATE CONSID-
21 ERATION, OR FROM A PARTY IN INTEREST TO THE SYSTEM FOR MORE THAN
22 ADEQUATE CONSIDERATION.

23 (6) WITH RESPECT TO A SYSTEM ESTABLISHED UNDER THIS ACT, AN
24 INVESTMENT FIDUCIARY SHALL NOT DO ANY OF THE FOLLOWING:

25 (A) DEAL WITH THE ASSETS OF THE SYSTEM IN HIS OR HER OWN
26 INTEREST OR FOR HIS OR HER OWN ACCOUNT.

1 (B) IN HIS OR HER INDIVIDUAL OR ANY OTHER CAPACITY ACT IN
2 ANY TRANSACTION INVOLVING THE SYSTEM ON BEHALF OF A PARTY WHOSE
3 INTERESTS ARE ADVERSE TO THE INTERESTS OF THE SYSTEM OR THE
4 INTEREST OF ITS PARTICIPANTS OR PARTICIPANTS' BENEFICIARIES.

5 (C) RECEIVE ANY CONSIDERATION FOR HIS OR HER OWN PERSONAL
6 ACCOUNT FROM ANY PARTY DEALING WITH THE SYSTEM IN CONNECTION WITH
7 A TRANSACTION INVOLVING THE ASSETS OF THE SYSTEM.

8 (7) THIS SECTION DOES NOT PROHIBIT AN INVESTMENT FIDUCIARY
9 FROM DOING ANY OF THE FOLLOWING:

10 (A) RECEIVING ANY BENEFIT TO WHICH HE OR SHE MAY BE ENTITLED
11 AS A PARTICIPANT OR PARTICIPANT'S BENEFICIARY OF THE SYSTEM.

12 (B) RECEIVING ANY REIMBURSEMENT OF EXPENSES PROPERLY AND
13 ACTUALLY INCURRED IN THE PERFORMANCE OF HIS OR HER DUTIES FOR THE
14 SYSTEM.

15 (C) SERVING AS AN INVESTMENT FIDUCIARY IN ADDITION TO BEING
16 AN OFFICER, EMPLOYEE, AGENT, OR OTHER REPRESENTATIVE OF THE
17 POLITICAL SUBDIVISION SPONSORING THE SYSTEM.

18 (D) RECEIVING AGREED UPON COMPENSATION FOR SERVICES FROM THE
19 SYSTEM.

20 (8) EXCEPT FOR AN EMPLOYEE OF A SYSTEM, THIS STATE, OR THE
21 POLITICAL SUBDIVISION SPONSORING A SYSTEM, WHEN ACTING IN THE
22 CAPACITY AS AN INVESTMENT FIDUCIARY, AN INVESTMENT FIDUCIARY WHO
23 IS QUALIFIED UNDER SECTION 12C(1)(B) SHALL MEET 1 OF THE FOLLOW-
24 ING REQUIREMENTS:

25 (A) BE A REGISTERED INVESTMENT ADVISER UNDER BOTH THE
26 INVESTMENT ADVISERS ACT OF 1940, TITLE II OF CHAPTER 686, 54
27 STAT. 847, 15 U.S.C. 80b-1 TO 80b-21, AND THE UNIFORM SECURITIES

1 ACT, ACT NO. 265 OF THE PUBLIC ACTS OF 1964, BEING
2 SECTIONS 451.501 TO 451.818 OF THE MICHIGAN COMPILED LAWS.

3 (B) BE A BANK AS DEFINED UNDER THE INVESTMENT ADVISERS ACT
4 OF 1940.

5 (C) BE AN INSURANCE COMPANY QUALIFIED UNDER SECTION 16(3).

6 Sec. 14. (1) An investment fiduciary may invest not more
7 than ~~60%~~ 65% of a system's assets in stock. An investment
8 fiduciary shall not invest in more than 5% of the outstanding
9 stock of any 1 corporation, nor invest more than 5% of a system's
10 assets in the stock of any 1 corporation, unless otherwise pro-
11 vided in this act.

12 (2) ~~The stock shall be~~ STOCK INVESTED IN UNDER THIS SEC-
13 TION SHALL MEET 1 OF THE FOLLOWING REQUIREMENTS:

14 (A) BE registered on a national securities exchange regu-
15 lated under title I of the securities exchange act of 1934,
16 CHAPTER 404, 48 STAT. 881, 15 U.S.C. 78a to ~~78d, 78e to 78l,~~
17 78m to 78o, ~~78p~~ 78o-3 to 78dd-1, 78ee to 78hh, and ~~78kk, or~~
18 78kk TO 78ll.

19 (B) BE on the national association of securities dealers
20 automated quotation system OR A SUCCESSOR TO THIS SYSTEM.

21 (C) BE ISSUED PURSUANT TO RULE 144A UNDER THE SECURITIES ACT
22 OF 1933, 17 C.F.R. 230.144A.

23 ~~(3) Except as otherwise provided for in this section, the~~
24 ~~stock shall have paid dividends in at least 3 of the past 5 con-~~
25 ~~secutive years, and during that period aggregate net earnings~~
26 ~~shall have exceeded aggregate dividends paid.~~

1 ~~(4) At least 90% of all stock invested in by an investment~~
2 ~~fiduciary of a system having assets of less than \$250,000,000.00~~
3 ~~shall meet the dividend requirement in subsection (3).~~

4 ~~(5) At least 70% of all stock invested in by an investment~~
5 ~~fiduciary of a system having assets of \$250,000,000.00 or more~~
6 ~~shall meet the dividend requirement in subsection (3).~~

7 ~~(6) At least 50% of all stock invested in by an investment~~
8 ~~fiduciary who is the state treasurer shall meet the dividend~~
9 ~~requirement in subsection (3).~~

10 Sec. 15. An investment fiduciary may invest in
11 ~~diversified~~ investment companies registered under ~~title I of~~
12 the investment company act of 1940, TITLE I OF CHAPTER 686, 54
13 STAT. 789, 15 U.S.C. 80a-1 to 80a-64. The management company of
14 the investment company shall have been in operation for at least
15 5 years and shall have assets under management of more than
16 ~~\$100,000,000.00~~ \$500,000,000.00. An investment in ~~a~~
17 ~~diversified~~ AN investment company shall be considered an invest-
18 ment in THE UNDERLYING ASSETS FOR ALL PURPOSES UNDER THIS ACT.
19 ~~stock under section 14 only for the purpose of determining the~~
20 ~~60% maximum investment limitation. An investment in a diversi-~~
21 ~~fied investment company shall not be considered an investment in~~
22 ~~stock under section 14 if the stated purpose of the diversified~~
23 ~~investment company is investing in fixed income securities or~~
24 ~~other evidences of indebtedness having average maturities of:~~
25 ~~(a) More than 1 year, if 90% of the bonds or other evidences~~
26 ~~of indebtedness in the portfolio of the diversified investment~~
27 ~~company purchased are graded in the top 4 major grades as~~

1 ~~determined by 2 national rating services as determined by the~~
2 ~~state treasurer.~~

3 ~~(b) Less than 1 year, if the fixed income investments or~~
4 ~~other evidence of indebtedness in the portfolio of the investment~~
5 ~~company purchased are limited to obligations of the United States~~
6 ~~government or its agencies, prime commercial paper, or certifi-~~
7 ~~cates of deposit issued by a bank, trust company, or savings and~~
8 ~~loan association.~~

9 Sec. 16. (1) An investment fiduciary may invest in annuity
10 investment contracts or participations in separate real estate,
11 mortgage, bond, stock, or other special investment accounts of a
12 life insurance company authorized to do business in this state.
13 An investment in such a separate account shall be considered an
14 investment in stock under section 14 only to the extent that the
15 separate account's assets include stock, and then only for the
16 purpose of determining the ~~60%~~ 65% maximum investment limit
17 under section 14. An investment in such a separate account shall
18 also be considered an investment in real or personal property
19 under section ~~19(1)~~ 19(2), but only to the extent that the sep-
20 arate account's assets include real or personal property, and
21 then only for the purpose of determining the 5% maximum invest-
22 ment limit under section ~~19~~ 19(2). ~~The life insurance company~~
23 ~~offering participation in the separate account shall have been in~~
24 ~~operation for at least 5 years and have assets under management~~
25 ~~of more than \$100,000,000.00.~~

26 (2) An investment fiduciary may invest in the general
27 account of a life insurer authorized to do business in this state

1 under THE INSURANCE CODE OF 1956, Act No. 218 of the Public Acts
2 of 1956, ~~as amended,~~ being sections 500.100 to 500.8302 of the
3 Michigan Compiled Laws, but the total amount of assets of any 1
4 system invested in any 1 insurer shall not exceed 50% of the cap-
5 ital and surplus of the insurer.

6 (3) A LIFE INSURANCE COMPANY UNDER THIS SECTION SHALL HAVE
7 BEEN IN OPERATION FOR AT LEAST 5 YEARS AND HAVE ASSETS UNDER MAN-
8 AGEMENT OF MORE THAN \$500,000,000.00. THE INSURANCE COMPANY
9 SHALL HAVE A CLAIMS-PAYING ABILITY RATING NO LESS THAN SINGLE A
10 ACCORDING TO A.M. BEST & COMPANY OR AA- ACCORDING TO DUFF &
11 PHELPS CREDIT RATING CORP., AND OVERALL COMPANY FINANCIAL
12 STRENGTH RATING NO LESS THAN Aa3 ACCORDING TO MOODY'S INVESTORS
13 SERVICES, INC. OR AA- ACCORDING TO STANDARD & POOR'S RATINGS
14 GROUP.

15 Sec. 17. (1) An investment fiduciary may invest in ANY OF
16 THE FOLLOWING:

17 (a) Obligations issued, assumed, or guaranteed by a solvent
18 entity created or existing under the laws of the United States or
19 of any state, district, or territory of the United States, which
20 are not in default as to principal or interest, including but not
21 limited to the following:

22 (i) Obligations secured by the mortgage of real property or
23 the pledge of adequate collateral if, during any 3, including 1
24 of the last 2, of the 5 fiscal years immediately preceding the
25 time of investment, the net earnings of the issuing, assuming, or
26 guaranteeing entity available for fixed charges, as determined in
27 accordance with standard accounting practice, shall have been not

1 less than the total of its fixed charges for the year on an
2 overall basis, nor less than 1-1/2 times its fixed charges for
3 the year on a priority basis after excluding interest require-
4 ments on obligations subordinate to the issue as to security.

5 (ii) Equipment trust certificates of railroad companies
6 organized under the laws of any state of the United States or of
7 Canada or any of its provinces, payable within 20 years from
8 their date of issue, in annual or semiannual installments, begin-
9 ning not later than the fifth year after the date of issue, which
10 certificates are a first lien on the specific equipment pledged
11 as security for the payment of the certificates, and which cer-
12 tificates are either the direct obligations of the railroad com-
13 panies or are guaranteed by the railroad companies, or are exe-
14 cuted by trustees holding title to the equipment.

15 (iii) Obligations other than those described in subpara-
16 graphs (i) and (ii), if the net earnings of the issuing, assum-
17 ing, or guaranteeing entity available for fixed charges during
18 each of any 3, including 1 of the last 2, of the 5 fiscal years
19 immediately preceding the time of investment, shall have been not
20 less than 1-1/2 times the total of the entity's fixed charges for
21 such year, or if the obligations are ~~graded in the top 4 major~~
22 ~~grades as determined by 2 national rating services as determined~~
23 ~~by the state treasurer~~ OF INVESTMENT GRADE.

24 (b) Obligations secured by a security interest in real or
25 personal property and a lease obligation given by a solvent
26 entity whose obligations would be qualified investments under the
27 provisions of this act, if the investment does not exceed 100% of

1 the appraised value of the property subject to the lease, and if
2 all of the following requirements are met:

3 (i) The lease has an unexpired term equal to or exceeding
4 the remaining term of the investment.

5 (ii) The lease is noncancelable unless the lessee first pays
6 the sum of all unpaid rents due or to become due during the
7 remaining lease term.

8 (iii) The lease provides for net rental payments equal to or
9 exceeding the periodic payments on the investment.

10 (iv) The lease provides that the net rental payments are to
11 be made without abatement or offset during the full term of the
12 lease.

13 (v) The lease and the lease payments are assigned to the
14 system, an agent of the system, or an independent trustee.

15 (c) Obligations ~~of~~ ISSUED, ASSUMED, OR GUARANTEED BY the
16 United States, its agencies, or United States
17 government-sponsored enterprises.

18 (d) Obligations of a possession, territory, or public
19 instrumentality of the United States, or of any state, city,
20 county, township, village, school district, authority, or any
21 other governmental unit having the power to levy taxes, or in
22 obligations of other similar political units of the United
23 States. These investments shall be ~~graded in the top 4 major~~
24 ~~grades as determined by 2 national rating services as determined~~
25 ~~by the state treasurer~~ OF INVESTMENT GRADE. These investments
26 shall not be permitted if in the 3 preceding years the
27 governmental unit has failed to pay its debt or any part of its

1 debt or the interest on the debt. The aggregate ~~cost of~~
2 investments made under this subdivision shall not exceed 5% of
3 the system's total assets.

4 (e) Banker's acceptances, commercial accounts, certificates
5 of deposit, or depository receipts issued by a bank, trust com-
6 pany, savings and loan association, or a credit union.

7 (f) Commercial paper rated at the time of purchase within
8 the 2 highest classifications established by not less than 2
9 national rating services as determined by the state treasurer,
10 and which matures within 270 days after the date of issue.

11 (g) Repurchase agreements for the purchase of securities
12 issued by the United States government or its agencies and exe-
13 cuted by a bank or trust company or by members of the association
14 of primary dealers or other recognized dealers in United States
15 government securities.

16 (h) Reverse repurchase agreements for the sale of securities
17 issued by the United States government or its agencies and exe-
18 cuted with a bank or trust company or with members of the associ-
19 ation of primary dealers or other recognized dealers in United
20 States government securities.

21 (i) Any investment otherwise permitted by this section in
22 which the interest rate varies from time to time.

23 Notwithstanding a provision of any other act to the contrary, a
24 loan shall not be considered to be in violation of the usury
25 statutes of this state by virtue of the fact that the loan is
26 made on a variable interest rate basis.

1 (j) Obligations secured by any of the obligations described
2 in subdivision (a) or (c).

3 (K) DOLLAR DENOMINATED OBLIGATIONS ISSUED IN THE UNITED
4 STATES BY FOREIGN GOVERNMENTS, SUPRANATIONALS, BANKS, OR
5 CORPORATIONS. THESE INVESTMENTS SHALL BE OF INVESTMENT GRADE.

6 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS ACT AND EXCEPT FOR
7 OBLIGATIONS DESCRIBED IN SUBSECTION (1)(C), AN INVESTMENT FIDU-
8 CIARY SHALL NOT DO ANY OF THE FOLLOWING:

9 (A) INVEST IN MORE THAN 5% OF THE OUTSTANDING OBLIGATIONS OF
10 ANY 1 ISSUER.

11 (B) INVEST MORE THAN 5% OF A SYSTEM'S ASSETS IN THE OBLIGA-
12 TIONS OF ANY 1 ISSUER.

13 Sec. 19. (1) ~~Except as provided in subsection (2),~~ AN
14 INVESTMENT FIDUCIARY MAY INVEST UP TO 5% OF A SYSTEM'S ASSETS IN
15 PUBLICLY OR PRIVATELY ISSUED REAL ESTATE INVESTMENT TRUSTS OR IN
16 REAL OR PERSONAL PROPERTY OTHERWISE QUALIFIED PURSUANT TO
17 SECTION 15, 16, OR 20C.

18 (2) IN ADDITION TO INVESTMENTS AUTHORIZED UNDER
19 SUBSECTION (1), an investment fiduciary of a system having assets
20 of more than ~~-\$250,000,000.00~~ \$100,000,000.00 may ~~invest~~ DO
21 ANY OF THE FOLLOWING:

22 (A) INVEST in, buy, sell, hold, improve, lease, or acquire
23 by foreclosure or an agreement in lieu of foreclosure, real or
24 personal property or an interest in real or personal property ~~and may develop,~~
25 ~~and may develop,~~

26 (B) DEVELOP, maintain, operate, or lease the real or
27 personal property ~~if the purchase price of the investment does~~

1 ~~not exceed the appraised value of the real or personal property.~~
2 ~~The aggregate cost of investments made under this section shall~~
3 ~~not exceed 5% of the assets of the system~~ REFERRED TO IN
4 SUBDIVISION (A).

5 (C) FORM 1 OR MORE LIMITED PARTNERSHIPS, CORPORATIONS,
6 LIMITED LIABILITY COMPANIES, TRUSTS, OR OTHER ORGANIZATIONAL
7 ENTITIES FOR WHICH LIABILITY OF AN INVESTOR CANNOT EXCEED THE
8 AMOUNT OF THE INVESTMENT UNDER THE LAWS OF THE UNITED STATES OR
9 OF ANY STATE, DISTRICT, OR TERRITORY OF THE UNITED STATES TO HOLD
10 TITLE TO, IMPROVE, LEASE, MANAGE, DEVELOP, MAINTAIN, OR OPERATE
11 REAL OR PERSONAL PROPERTY WHETHER CURRENTLY HELD OR ACQUIRED
12 AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
13 SUBDIVISION. AN ENTITY FORMED PURSUANT TO THIS SUBDIVISION HAS
14 THE RIGHT TO EXERCISE ALL POWERS GRANTED TO THE ENTITY BY THE
15 LAWS OF THE JURISDICTION OF FORMATION, INCLUDING, BUT NOT LIMITED
16 TO, THE POWER TO BORROW MONEY IN ORDER TO PROVIDE ADDITIONAL CAP-
17 ITAL TO BENEFIT AND INCREASE THE OVERALL RETURN ON PROPERTY HELD
18 BY THE ENTITY.

19 (D) INVEST IN INVESTMENTS OTHERWISE QUALIFIED PURSUANT TO
20 SUBSECTION (1).

21 (3) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE AGGRE-
22 GATE INVESTMENTS MADE UNDER SUBSECTION (2) SHALL NOT EXCEED 5% OF
23 THE ASSETS OF THE SYSTEM. THE PURCHASE PRICE OF AN INVESTMENT
24 MADE UNDER THIS SECTION SHALL NOT EXCEED THE APPRAISED VALUE OF
25 THE REAL OR PERSONAL PROPERTY.

1 (4) ~~(2)~~ If the investment fiduciary of a system is the
2 state treasurer, investments described in subsection (1) OR (2)
3 may exceed 5% of the assets of the system.

4 (5) AN INVESTMENT QUALIFIED UNDER THIS SECTION IN WHICH THE
5 UNDERLYING ASSET IS AN INTEREST IN REAL OR PERSONAL PROPERTY CON-
6 STITUTES AN INVESTMENT UNDER THIS SECTION FOR THE PURPOSE OF
7 MEETING THE ASSET LIMITATIONS CONTAINED IN THIS ACT. THIS SUB-
8 SECTION APPLIES EVEN THOUGH THE INVESTMENT MAY BE QUALIFIED ELSE-
9 WHERE IN THIS ACT. AN INVESTMENT IN STOCK UNDER THIS SECTION
10 SHALL NOT BE CONSIDERED AN INVESTMENT IN STOCK UNDER SECTION 14.

11 Sec. 20. (1) An investment fiduciary may invest in loans
12 secured by ANY OF THE FOLLOWING:

13 (a) First liens upon improved or income bearing real proper-
14 ty, including but not limited to improved agricultural land, and
15 improved business, industrial, and residential properties.

16 (b) First mortgages or deeds of trust on leasehold estates
17 having an unexpired term equivalent to the term of the mortgage,
18 inclusive of the term or terms ~~which~~ THAT may be provided by
19 enforceable options of renewal.

20 (c) First mortgages on unimproved real property, at least
21 60% of which real property is under contract of sale and that
22 contract or contracts are pledged as additional collateral.

23 (2) Investments made in loans described in subsection (1)
24 shall not exceed 80% of the appraised value of the real property
25 at the time of the loan and shall not have a term longer than 35
26 years, except ~~that~~ UNDER THE FOLLOWING CONDITIONS:

1 (a) A loan on improved land with permanent buildings used
2 for agriculture shall be repayable by annual or more frequent
3 installment payments sufficient to amortize 40% or more of the
4 principal of the loan within a period of not more than 10 years.

5 (b) A loan on single family residential property shall be
6 repayable by installment payments sufficient to amortize the
7 entire principal of the loan within a period of not more than 30
8 years.

9 (3) Real property shall not be considered to be encumbered
10 within the meaning of this section if the real property is
11 subject to lease in whole or in part and under the terms of the
12 lease rents or profits are reserved to the owner.

13 (4) An investment fiduciary may invest in a part of an obli-
14 gation or a participation interest in a loan or a group of loans
15 if the investment of each participant is not less than \$50,000.00
16 at the time of investment, and if the entire indebtedness of
17 which participation is a part would qualify under the provisions
18 of this section.

19 (5) An investment fiduciary shall not invest in a real
20 estate loan unless the investment fiduciary has reviewed a writ-
21 ten appraisal of the real estate securing the loan.

22 (6) An investment fiduciary may invest in a loan or loans or
23 certificates of participation secured by a loan or loans made on
24 single family residential property in an amount not to exceed 95%
25 of the appraised value, at the time of the loan, of the real
26 estate offered as security, if the loan is secured by a mortgage,
27 deed of trust, or other instrument under the terms of which the

1 installment payments are sufficient to amortize the entire
2 principal of the loan within a period of not more than 30 years,
3 and the loan is insured by a private mortgage insurer licensed to
4 do business in this state and approved by the federal home loan
5 mortgage corporation and the federal national mortgage
6 association.

7 (7) An investment fiduciary may invest in certificates rep-
8 resenting an interest in a mortgage or group of mortgages if the
9 certificates are insured or guaranteed by a private mortgage
10 insurance company or the United States government or an agency or
11 instrumentality of the United States government.

12 (8) The limitations and restrictions of subsections (1) to
13 (7) shall not apply to loans ~~which~~ THAT are made pursuant to
14 the servicemen's readjustment act of 1944, CHAPTER 268, 58
15 Stat. 284, insured under the provisions of the national housing
16 act, CHAPTER 847, 48 Stat. 1246, by the federal housing adminis-
17 tration, nor to real estate loans which are guaranteed as to
18 principal by the United States government or an agency or an
19 instrumentality of the United States government.

20 (9) Notwithstanding subsection (1), an investment fiduciary
21 may invest in a second mortgage if ~~sufficient proceeds of the~~
22 ~~second mortgage are at all times retained by the investment fidu-~~
23 ~~ciary to pay the underlying first mortgage in full, and the~~ ALL
24 OF THE FOLLOWING REQUIREMENTS ARE MET:

25 (A) THE TOTAL OF THE BALANCE OWING ON THE FIRST MORTGAGE AND
26 THE AMOUNT OF THE SECOND MORTGAGE DO NOT EXCEED 80% OF THE

1 APPRAISED VALUE OF THE REAL PROPERTY AT THE TIME OF THE SECOND
2 MORTGAGE.

3 (B) THE SECOND MORTGAGE DOES NOT HAVE A TERM LONGER THAN 30
4 YEARS.

5 (C) THE investment fiduciary has the absolute right to pay
6 the underlying first mortgage in part or in full at any time. 7
7 ~~and the~~

8 (D) THE investment fiduciary assumes no liability for pay-
9 ment of the underlying first mortgage.

10 (10) An investment fiduciary may invest in any investment
11 otherwise permitted by this section in which the interest rate
12 varies from time to time. A loan shall not be considered to be
13 in violation of the usury statutes of this state by virtue of the
14 fact that the loan is made on a variable interest rate basis.

15 Sec. 20a. (1) Except as provided in subsection (2), an
16 investment fiduciary of a system having assets of more than
17 \$250,000,000.00 may invest not more than 2% of a system's assets
18 in a debt, warrant, or equity interest in a small business having
19 more than 1/2 of the small business's assets or employees within
20 this state, or in a debt, warrant, or equity interest in a small
21 business investment company or venture capital firm having its
22 principal office or more than 1/2 of its assets within this
23 state, or the system may create, own, hold, buy, sell, operate,
24 manage, and direct 1 or more small business investment companies
25 or venture capital firms designed to invest in small businesses
26 having more than 1/2 of their assets or employees within this
27 state. An investment fiduciary may also join with a group

1 composed of other public employee retirement systems, pension
 2 systems subject to the employee retirement income security act of
 3 1974, ~~29 U.S.C. 1001 to 1461~~ PUBLIC LAW 93-406, 88 STAT. 829,
 4 financial institutions, corporations, or governmental agencies or
 5 instrumentalities to accomplish the purposes of this section. An
 6 investment in stock under this section shall be considered an
 7 investment in stock under section 14 only for the purpose of
 8 determining the ~~60%~~ 65% maximum investment limitation contained
 9 in section 14.

10 (2) If the investment fiduciary of a system is the state
 11 treasurer, investments described in subsection (1) may exceed 2%
 12 of the assets of the system, but shall not exceed 5% of the
 13 assets of the system.

14 Sec. 20b. An investment fiduciary may make INTEREST
 15 BEARING deposits ~~, either interest bearing or noninterest bear-~~
 16 ~~ing,~~ with the treasurer of the political subdivision sponsoring
 17 the system or with the state treasurer, either of whom may then
 18 manage and invest the deposits IN A COLLECTIVE INVESTMENT FUND,
 19 COMMON TRUST FUND, OR POOLED FUND THAT IS ESTABLISHED AND MAIN-
 20 TAINED FOR INVESTMENT OF THOSE ASSETS BY THE TREASURER OF THE
 21 POLITICAL SUBDIVISION SPONSORING THE SYSTEM OR BY THE STATE
 22 TREASURER in accordance with ~~the laws governing the management~~
 23 ~~and investment of surplus funds by the treasurer~~ THIS ACT.

24 Sec. 20c. A state chartered bank, a national bank, ~~or~~ a
 25 trust company, OR A MANAGEMENT COMPANY QUALIFIED UNDER SECTION 15
 26 retained to act as an investment fiduciary may invest the assets
 27 of a system ~~subject to the provisions of this act~~ in any

1 collective investment fund, ~~or~~ common trust fund, ~~which may~~
2 ~~be~~ OR POOLED FUND THAT IS established and maintained for invest-
3 ment of those assets by the bank, ~~or~~ trust company, OR MANAGE-
4 MENT COMPANY pursuant to federal or state statutes or rules or
5 regulations. AN INVESTMENT IN A COLLECTIVE INVESTMENT FUND,
6 COMMON TRUST FUND, OR POOLED FUND SHALL BE CONSIDERED AN INVEST-
7 MENT IN THE UNDERLYING ASSET.

8 Sec. 20d. (1) An investment fiduciary of a system having
9 assets of ~~more than \$10,000,000.00 but~~ less than
10 \$250,000,000.00 may invest not more than 5% of the system's
11 assets in investments not otherwise qualified under this act,
12 whether the investments are similar or dissimilar to those speci-
13 fied in this act.

14 (2) An investment fiduciary of a system having assets of
15 \$250,000,000.00 or more may invest not more than 10% of the
16 system's assets in investments described in subsection (1).

17 (3) An investment fiduciary of a system who is the state
18 treasurer may invest not more than 15% of the system's assets in
19 investments described in subsection (1).

20 (4) If an investment described in subsection (1) is subse-
21 quently determined to be permitted under another section of this
22 act, then the investment shall no longer be included under this
23 section.

24 (5) This section shall not be used to exceed a percentage of
25 total assets limitation for an investment provided in any other
26 section of this act.

1 Sec. 20e. An investment fiduciary may loan bonds, stocks,
2 or other securities if at the time the loan is executed, at least
3 ~~100%~~ 102% of the full market value of the security loaned
4 ~~shall be~~ IS secured by collateral of cash TO BE INVESTED IN
5 INVESTMENT GRADE SECURITIES OR REPURCHASE AGREEMENTS COLLATERAL-
6 IZED BY INVESTMENT GRADE SECURITIES, IRREVOCABLE BANK LETTERS OF
7 CREDIT, or securities issued or guaranteed by the United States
8 government or an agency of the United States government. At all
9 times during the term of each such loan, the collateral shall be
10 equal to not less than ~~95%~~ 100% of the full market value of the
11 security loaned. ~~and the collateral shall not be more than~~
12 ~~\$100,000.00 less than the full market value of the security~~
13 ~~loaned.~~

14 Sec. 20h. In addition to the provisions of this act, a
15 system ~~defined in section 12(k)~~ is subject to the applicable
16 accounting and reporting requirements contained in Act No. 71 of
17 the Public Acts of 1919, ~~as amended,~~ being sections 21.41 to
18 ~~21.54~~ 21.53 of the Michigan Compiled Laws; THE UNIFORM BUDGET-
19 ING AND ACCOUNTING ACT, Act No. 2 of the Public Acts of 1968,
20 ~~as amended,~~ being sections 141.421 to 141.440a of the Michigan
21 Compiled Laws; and section 91 of THE EXECUTIVE ORGANIZATION ACT
22 OF 1965, Act No. 380 of the Public Acts of 1965, ~~as amended,~~
23 being section 16.191 of the Michigan Compiled Laws.

24 Sec. 20i. An investment fiduciary of a public employee
25 retirement system THAT HAS ASSETS OF \$100,000,000.00 OR MORE AND
26 WAS created and established by a city ~~with a population of~~
27 ~~1,000,000 or more and having assets of \$50,000,000.00 or more~~

1 may guarantee the repayment of loans made by a third party to a
2 borrower for a public purpose. The borrower shall pay a fee to
3 the investment fiduciary as determined by the investment fidu-
4 ciary and the borrower. The investment fiduciary may pledge and
5 repledge bonds, stocks, or other securities held by the system as
6 collateral for the guarantee. However, an investment fiduciary
7 of a system eligible to make guarantees under this subsection
8 shall not pledge and repledge more than 15% of the system's
9 bonds, stocks, or other securities as collateral for the
10 guarantees.

11 SEC. 20J. (1) SUBJECT TO QUALIFICATION ELSEWHERE IN THIS
12 ACT, AN INVESTMENT FIDUCIARY MAY INVEST IN ANY OF THE FOLLOWING:

13 (A) A DERIVATIVE THAT HEDGES POSITIONS OF A NONDERIVATIVE
14 COMPONENT OF A PORTFOLIO THAT CLEARLY REDUCES A DEFINED RISK.

15 (B) A DERIVATIVE THAT REPLICATES THE RISK/RETURN PROFILE OF
16 AN ASSET OR ASSET CLASS, PROVIDED THE ASSET OR ASSET CLASS IS
17 PERMITTED IN OTHER SECTIONS OF THIS ACT.

18 (C) A DERIVATIVE THAT REBALANCES THE COUNTRY OR ASSET CLASS
19 EXPOSURE OF A PORTFOLIO.

20 (D) A DERIVATIVE IN WHICH THE INVESTMENT FIDUCIARY HAS
21 EXAMINED THE PRICE, YIELD, AND DURATION CHARACTERISTICS IN ALL
22 MARKET ENVIRONMENTS BOTH AT THE TIME OF INVESTMENT AND ON AN
23 ONGOING BASIS.

24 (E) A COMMINGLED OR POOLED INVESTMENT FUND THAT USES DERIVA-
25 TIVES, IF THE FUND'S USE OF DERIVATIVES IS CONSISTENT WITH THE
26 GUIDELINES OUTLINED IN THIS SECTION.

1 (F) OVER-THE-COUNTER DERIVATIVES IF, IN THE CASE OF AN
2 OVER-THE COUNTER SECURITY, A MINIMUM OF 2 COMPETING BIDS OR
3 OFFERS ARE OBTAINED. ALL COUNTER PARTY RISK IN OVER-THE-COUNTER
4 DERIVATIVE TRANSACTIONS SHALL BE EXAMINED AT THE TIME OF INVEST-
5 MENT AND ON AN ONGOING BASIS.

6 (2) THE AGGREGATE MARKET OF THE UNDERLYING SECURITY, FUTURE,
7 OR OTHER INSTRUMENT OR INDEX MADE UNDER THIS SECTION SHALL NOT
8 EXCEED 15% OF THE ASSETS OF THE SYSTEM. FOR PURPOSES OF THE
9 ASSET LIMITATION IN THIS SECTION ONLY, "DERIVATIVES" DOES NOT
10 INCLUDE:

11 (A) ASSET BACKED POOLS, MORTGAGE BACKED POOLS, OR COLLATER-
12 ALIZED MORTGAGE OBLIGATIONS THAT ARE OTHERWISE QUALIFIED UNDER
13 THIS ACT AND ARE NO MORE EXPOSED TO PREPAYMENT RISK OR INTEREST
14 RATE RISK THAN THE UNDERLYING COLLATERAL INCLUDING PLANNED AMOR-
15 TIZATION CLASSES AND SEQUENTIAL-PAY COLLATERALIZED MORTGAGE
16 OBLIGATIONS.

17 (B) CONVERTIBLE BONDS, CONVERTIBLE PREFERRED STOCK, RIGHTS
18 OR WARRANTS TO PURCHASE STOCK OR BONDS OR NOTES OR PARTNERSHIP
19 INTERESTS, FLOATING RATE NOTES, ZERO COUPON SECURITIES, STRIPPED
20 PRINCIPAL SECURITIES, OR STRIPPED INTEREST SECURITIES, WHICH
21 ITEMS ARE OTHERWISE QUALIFIED UNDER THIS ACT.

22 (C) EXCHANGE-LISTED DERIVATIVES TRADING ON A DAILY BASIS AND
23 SETTING IN CASH DAILY OR HAVING A LIMITED AND FULLY DEFINED RISK
24 PROFILE AT AN IDENTIFIED, FIXED COST, INCLUDING FUTURES CONTRACTS
25 AND PURCHASED OPTIONS.

1 (D) CURRENCY FORWARDS TRADING ON A DAILY BASIS AND SETTLING
2 IN CASH DAILY OR HAVING A LIMITED AND FULLY DEFINED RISK PROFILE
3 AT AN IDENTIFIED, FIXED COST.

4 (3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT TO THE
5 CONTRARY, AN INVESTMENT FIDUCIARY SHALL NOT INVEST IN DERIVATIVES
6 FOR THE PURPOSE OF LEVERAGING A PORTFOLIO OR SHORTING SECURITIES
7 AS A SOLE INVESTMENT.

8 SEC. 20K. (1) NOTWITHSTANDING A PERCENTAGE OF TOTAL ASSETS
9 LIMITATION FOR AN INVESTMENT PROVIDED IN ANY OTHER SECTION OF
10 THIS ACT, AN INVESTMENT FIDUCIARY MAY INVEST NOT MORE THAN 20% OF
11 A SYSTEM'S ASSETS IN FOREIGN SECURITIES. EXCEPT AS OTHERWISE
12 PROVIDED IN THIS ACT, AN INVESTMENT FIDUCIARY SHALL NOT DO ANY OF
13 THE FOLLOWING:

14 (A) INVEST IN MORE THAN 5% OF THE OUTSTANDING FOREIGN SECUR-
15 ITIES OF ANY 1 ISSUER.

16 (B) INVEST MORE THAN 5% OF A SYSTEM'S ASSETS IN THE FOREIGN
17 SECURITIES OF ANY 1 ISSUER.

18 (2) INVESTMENTS IN FOREIGN SECURITIES UNDER THIS SECTION
19 SHALL BE MADE ONLY BY INVESTMENT FIDUCIARIES DESCRIBED IN SECTION
20 13(8) WHO HAVE DEMONSTRATED EXPERTISE IN INVESTMENTS OF THAT
21 TYPE.

22 SEC. 20L. (1) A RECORD OR PORTION OF A RECORD, MATERIAL, OR
23 OTHER DATA RECEIVED, PREPARED, USED, OR RETAINED BY AN INVESTMENT
24 FIDUCIARY IN CONNECTION WITH THE INVESTMENT OF ASSETS OF A SYSTEM
25 THAT RELATES TO FINANCIAL OR PROPRIETARY INFORMATION PERTAINING
26 TO A PORTFOLIO COMPANY IN WHICH THE INVESTMENT FIDUCIARY HAS
27 INVESTED OR HAS CONSIDERED AN INVESTMENT THAT IS CONSIDERED BY

1 THE PORTFOLIO COMPANY AND ACKNOWLEDGED BY THE INVESTMENT
2 FIDUCIARY AS CONFIDENTIAL; OR THAT RELATES TO FINANCIAL OR PRO-
3 PRIETARY INFORMATION WHETHER PREPARED BY OR FOR THE INVESTMENT
4 FIDUCIARY REGARDING LOANS AND ASSETS DIRECTLY OWNED BY THE
5 INVESTMENT FIDUCIARY AND ACKNOWLEDGED BY THE INVESTMENT FIDUCIARY
6 AS CONFIDENTIAL IS NOT SUBJECT TO THE DISCLOSURE REQUIREMENTS OF
7 THE FREEDOM OF INFORMATION ACT, ACT NO. 442 OF THE PUBLIC ACTS OF
8 1976, BEING SECTIONS 15.231 TO 15.246 OF THE MICHIGAN COMPILED
9 LAWS.

10 (2) A DOCUMENT TO WHICH THE INVESTMENT FIDUCIARY IS A PARTY
11 EVIDENCING AN INVESTMENT IS NOT CONSIDERED FINANCIAL OR PROPRI-
12 ETARY INFORMATION THAT MAY BE EXEMPT FROM DISCLOSURE PURSUANT TO
13 SUBSECTION (1).

14 (3) AS USED IN THIS SECTION, "FINANCIAL OR PROPRIETARY
15 INFORMATION" MEANS INFORMATION THAT HAS NOT BEEN PUBLICLY DISSEM-
16 INATED OR THAT IS UNAVAILABLE FROM OTHER SOURCES, THE RELEASE OF
17 WHICH MIGHT CAUSE THE PORTFOLIO COMPANY OR THE INVESTMENT FIDU-
18 CIARY SIGNIFICANT COMPETITIVE HARM. FINANCIAL OR PROPRIETARY
19 INFORMATION INCLUDES BUT IS NOT LIMITED TO FINANCIAL PERFORMANCE
20 DATA AND PROJECTIONS, FINANCIAL STATEMENTS, LIST OF COINVESTORS
21 AND THEIR LEVEL OF INVESTMENT, PRODUCT AND MARKET DATA, RENT
22 ROLLS, AND LEASES.