

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5927

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 901, 912, 914, 916, 917, 917a, 918, 922,
924, 932, 934, 938, 942, 943, 944, 946, and 947
(MCL 500.901, 500.912, 500.914, 500.916, 500.917, 500.917a,
500.918, 500.922, 500.924, 500.932, 500.934, 500.938, 500.942,
500.943, 500.944, 500.946, and 500.947), sections 901, 917, 943,
and 946 as amended and section 917a as added by 1994 PA 226,
section 922 as amended by 1991 PA 79, and section 942 as amended
by 1984 PA 90, and by adding section 902.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 901. (1) Each DOMESTIC insurer ~~authorized to transact~~
2 ~~the business of insurance in this state, and each person approved~~
3 ~~for placement of business by a surplus lines agent pursuant to~~
4 ~~chapter 19, may loan or invest its funds in any investment, and~~

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1 ~~may buy, sell, hold title to, possess, occupy, pledge, convey,~~
2 ~~manage, protect, insure, and deal with respect to its invest-~~
3 ~~ments, property, and money to the same extent as any other person~~
4 ~~or corporation under the laws of this state or of the United~~
5 ~~States if the insurer has~~ SHALL MAINTAIN assets in cash or as
6 defined in this chapter in a total amount at least equal to the
7 sum of its liabilities including its reserves as required by this
8 act, plus an amount equal to the lesser of the FOLLOWING:

9 (A) THE minimum capital and surplus required to be main-
10 tained by sections 408 and 410. ~~or~~

11 (B) ONE OF THE FOLLOWING:

12 (i) FOR A FRATERNAL BENEFIT SOCIETY REGULATED UNDER
13 CHAPTER 81A, \$1,000,000.00.

14 (ii) \$7,000,000.00.

15 (2) For purposes of meeting the assets required by subsec-
16 tion (1), the following apply:

17 (a) The value of all computers shall not exceed 2% of the
18 assets required by subsection (1) and the value of each computer
19 shall not exceed the original cost of the computer amortized over
20 a period not to exceed ~~5~~ 3 years. For purposes of this sec-
21 tion, "computer" means an electronic data processing system, com-
22 posed of 1 or more components, that utilizes storage and process-
23 ing mechanization and has a direct automatic means of input and
24 output, including, but not limited to, central processing units,
25 data input/output channels, main storage or memory, and periph-
26 eral devices for systems control, data input, output, or
27 temporary or permanent storage of information, and associated

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1 reusable media required by these devices and operating systems
2 software.

3 (b) Title insurers may include their net investment in their
4 title plant.

5 (c) Assets described in sections 946 and 947 that are encum-
6 bered with prior liens that affect the salability of the asset to
7 a material extent shall not be used to satisfy the requirements
8 of subsection (1). For purposes of this subdivision, liens that
9 do not affect the salability of the asset to a material extent
10 are real estate taxes or assessments that are not delinquent,
11 liens against an asset for which an insurer is insured against
12 loss by title insurance, and any other liens that in the aggre-
13 gate are not in excess of 5% of the fair market value of the
14 asset. Assets described in sections 946 and 947 shall not be
15 used to satisfy more than 20% of the requirements of subsection
16 (1). This subdivision does not apply to assets described in sec-
17 tion 942.

18 (d) Amounts receivable from broker/dealers registered under
19 the securities exchange act of 1934, chapter 404, 48 Stat. 881,
20 or from the issuer of a security or asset in connection with the
21 disposition of assets qualified to satisfy subsection (1) may be
22 included, provided the amount is not more than 5 business days
23 past the date of disposition.

24 (e) Assets not otherwise defined in this chapter may be used
25 as qualified assets for purposes of subsection (1) if the assets
26 are rated investment grade by a securities rating organization
27 approved by the commissioner.

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1 (F) NO MORE THAN 20% OF THE ASSETS REQUIRED BY SUBSECTION
2 (1) SHALL BE HIGH-YIELD, HIGH-RISK OBLIGATIONS. AS USED IN THIS
3 SUBDIVISION, "HIGH-YIELD, HIGH-RISK OBLIGATIONS" MEANS OBLIGA-
4 TIONS THAT ARE NOT IN 1 OF THE TOP 2 NUMBERED CLASSIFICATIONS OF
5 BONDS REPORTED IN THE INSURER'S ANNUAL FINANCIAL STATEMENT ON A
6 FORM APPROVED BY THE COMMISSIONER.

7 (3) The sum of the liabilities and reserves computed for
8 purposes of this section may be reduced by 1 or more of the
9 following:

10 (a) A reinsurance balance recoverable or other credit due
11 from a reinsurer that complies with existing or other applicable
12 rules or orders promulgated or issued by the commissioner, to the
13 extent that the balance recoverable or other credit due may be
14 used to offset a liability as authorized in an insurer's annual
15 statement concerning its affairs filed pursuant to section 438.

16 (b) Policy loans secured by policies included in the liabil-
17 ities and reserves but not in excess of the cash surrender value
18 of the policies.

19 (c) Premium notes secured by letters of credit, security
20 trust funds, or unearned premium reserves.

21 (d) The net amount of insurance premiums and annuity consid-
22 erations booked but deferred and not yet due. Reduction under
23 this subdivision shall not be allowed for credit life and credit
24 accident and health premiums deferred and uncollected, whether
25 individual or group, except as allowed pursuant to
26 subdivision (e).

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1 (e) Amounts receivable from an agent, agency, policyholder,
2 or other person that does not have control of more than 10% of
3 all the insurer's agents' balances, and that is not affiliated
4 with the insurer on policies with an effective date not more than
5 1 month old to the extent that the amounts are offset by unearned
6 premium reserves on the same policies.

7 (f) Amounts receivable from a person to the extent the
8 amounts offset liabilities or amounts payable to that person.
9 Receivables and payables with respect to reinsurance may be
10 allowed so long as the reinsurance contract has a right of offset
11 provision. A reduction under this subdivision shall not be
12 allowed for agents' balances or uncollected premiums as defined
13 by subdivision (e).

14 (4) Assets, liabilities, and reserves under subsection (1)
15 shall exclude assets, liabilities, and reserves included in sepa-
16 rate accounts established in accordance with section 925. The
17 value of income due and accrued in respect to assets required by
18 subsection (1) may be included in the total amount. The assets
19 shall not be valued at more than the actual value as ascertained
20 in a manner approved by the commissioner, except those assets
21 described in sections 912, 914, 918, 934, 938, and 942 that have
22 a fixed term and rate, if amply secured and not in default as to
23 principal and interest which may be valued as follows: if pur-
24 chased at par, the par value; if purchased above or below par, on
25 the basis of the purchase price adjusted so as to bring the value
26 to par at maturity and so as to yield in the meantime the
27 effective rate of interest at which the purchase was made. The

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1 purchase price shall not be taken at a higher figure than the
2 actual market value at the time of purchase.

3 (5) The commissioner may permit other assets not specifi-
4 cially described in this section to be used as qualified assets
5 for purposes of subsection (1), as long as the assets are finan-
6 cially equivalent to those assets described in sections 910 to
7 947, are approved by the commissioner as adequate as to quality
8 and liquidity to secure the liabilities they support, and are
9 valued in a manner approved by the commissioner.

10 (6) No more than 5% of the assets required by subsection (1)
11 shall be invested in, loaned to, receivable from, secured by,
12 leased or rented to, or deposited with 1 person or 1 group of
13 affiliated persons or invested in 1 parcel of real estate. In
14 calculating this restriction, the following apply:

15 (a) For purposes of this section, each issue of
16 mortgage-backed securities secured by residential mortgage pools
17 and rated investment grade by a securities rating organization
18 approved by the commissioner, and each issue of asset-backed
19 security rated investment grade by a securities rating organiza-
20 tion approved by the commissioner, shall be considered a separate
21 person regardless of other obligations issued by the same or
22 affiliated issuer.

23 (b) This restriction does not apply to mortgage-related
24 securities issued by the federal home loan mortgage corporation
25 or the federal national mortgage association.

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1 (c) This restriction does not apply to the extent that the
2 principal and interest are fully guaranteed by the United States
3 or any state.

4 (d) This restriction does not apply to assets invested in,
5 loaned to, receivable from, secured by, leased or rented to, or
6 deposited with an affiliate of the insurer that is authorized to
7 transact insurance in any state or Canada.

8 (e) For an alien insurer that is an insurer authorized to
9 transact the business of life insurance, for purposes of this
10 subsection the 5% restriction applies to the total assets of the
11 insurer, excluding assets included in separate accounts, as
12 reported in the total business annual statement filed by the
13 insurer with its domiciliary authority.

14 (f) This restriction does not apply to the value of a nonin-
15 surance affiliate that is owned solely by the insurer as
16 described in subsection (7)(c).

17 (g) This restriction does not apply to the value of a nonin-
18 surance affiliate that is not owned solely by the insurer if the
19 value of the noninsurance affiliate is determined in accordance
20 with procedures approved by the commissioner and if the invest-
21 ment in the noninsurance affiliate is approved by the commis-
22 sioner as adequate in quality and liquidity to secure the liabil-
23 ities of the insurer.

24 (7) The assets referred to in subsection (1) shall not
25 include assets invested in, loaned to, receivable from, secured
26 by, leased or rented to, or deposited with a person that is,
27 directly or indirectly, owned or controlled by the insurer or

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1 that, directly or indirectly, owns, controls, or is affiliated
2 with the insurer as control is defined in section 115, except as
3 follows:

4 (a) Amounts receivable from, secured by, leased or rented
5 to, or deposited with an insurer affiliated with the insurer may
6 be included if the amount receivable is not more than 90 days
7 past due and its affiliated insurer complies with this section.

8 (b) Amounts invested in an affiliated publicly traded
9 investment company that is registered and regulated under the
10 investment company act of 1940, title I of chapter 686, 54
11 Stat. 789, 15 U.S.C. ~~80a-1 to 80a-64~~ 80a-1 TO 80a-3 AND 80a-4
12 TO 80a-64, may be included.

13 (c) The value of a noninsurance affiliate that is owned
14 solely by the insurer may be included. The value of the nonin-
15 surance affiliate shall be the value of all assets qualifying
16 under this section in excess of the assets required by this sec-
17 tion, but shall not exceed the value determined by the securities
18 valuation office of the national association of insurance
19 commissioners. In support of the noninsurance affiliate's value,
20 the insurer shall submit to the commissioner an audited financial
21 statement for the noninsurance affiliate supplemented with a list
22 of qualifying assets and associated values.

23 (d) Amounts invested in a noninsurance affiliate that is not
24 owned solely by the insurer may be included if the investment in
25 the noninsurance affiliate is approved by the commissioner as
26 adequate in quality and liquidity to secure the liabilities of
27 the insurer. The value of the noninsurance affiliate shall be

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1 the value determined in accordance with procedures adopted by the
2 commissioner.

3 (e) The assets required by subsection (1) may include the
4 value of amounts invested in or loaned to an affiliate authorized
5 to transact insurance in any state or in Canada in an amount
6 equal to the assets that would qualify for compliance with this
7 section that are held by the affiliate and are in excess of the
8 amount of assets that would be required for the affiliate by this
9 section, prorated to reflect the extent of the insurer's invest-
10 ment in or loans to the affiliate. QUALIFIED ASSETS FOR PURPOSES
11 OF SUBSECTION (1) INCLUDE LOANS, OTHER THAN SURPLUS NOTES, TO AN
12 AFFILIATE AUTHORIZED TO TRANSACT INSURANCE IN ANY STATE OR IN
13 CANADA PROVIDED THAT THE AFFILIATE HAS ASSETS IN EXCESS OF THE
14 AMOUNT OF ASSETS THAT ARE REQUIRED FOR THE AFFILIATE UNDER SUB-
15 SECTION (1). WITH THE COMMISSIONER'S APPROVAL, SURPLUS NOTES MAY
16 BE TREATED AS AN INVESTMENT FOR PURPOSES OF THIS SECTION.

17 (f) Amounts loaned to a noninsurance affiliate ~~that is~~
18 ~~owned solely by the insurer~~ may be included if the loans are
19 rated investment grade by a securities rating organization
20 approved by the commissioner. The insurer shall submit documen-
21 tation satisfactory to the commissioner in support of the invest-
22 ment grade rating.

23 (8) An insurer may comply with this section if the insurer
24 elects to provide alternative security to Michigan policyholders
25 and claimants satisfactory to the commissioner or elects to
26 deposit funds or securities of the kind described in section 912,
27 or other securities acceptable to the commissioner, registered in

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1 the name of the state treasurer of Michigan, designated as
2 exclusively held and deposited for the sole benefit of Michigan
3 policyholders, claimants, and creditors pursuant to
4 section 8141a, in an amount, at market value, considered adequate
5 by the commissioner to secure Michigan policyholders, but not
6 less than the greater of the aggregate sum of 100% of Michigan
7 direct unpaid losses and unpaid loss adjustment expense plus 100%
8 of Michigan direct unearned premiums and policy and contract
9 reserves or the direct premiums written in Michigan during the
10 most recent 12 months available in filed statements. Direct
11 unpaid losses and unpaid loss adjustment expenses shall include a
12 provision for incurred but not reported losses and associated
13 loss adjustment expense. The deposit shall be a special deposit
14 and shall be subject to special deposit claims for the benefit of
15 Michigan policyholders and claimants pursuant to section 8141a.
16 The deposit of funds required by this subsection shall be
17 increased by adjustment each quarter. A decrease to the depos-
18 ited fund may be made annually only upon a satisfactory showing
19 by the insurer to the commissioner that a decrease in the deposit
20 is justified. The commissioner may require the special deposits
21 set forth in this subsection as a condition for any insurer to
22 transact insurance in this state if the commissioner finds that a
23 special deposit is necessary for the protection of Michigan poli-
24 cyholders and claimants.

25 (9) Compliance with subsection (1) is the obligation of each
26 insurer, fund, or fraternal benefit society authorized to
27 transact the business of insurance in this state. Failure to

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1 comply shall limit the insurer, fund, or fraternal benefit
2 society under the remainder of this act. If, at any time follow-
3 ing compliance with the requirements of this section, an insurer,
4 fund, or fraternal benefit society fails to maintain compliance,
5 the commissioner shall notify the insurer, fund, or fraternal
6 benefit society that it has failed to maintain compliance with
7 this section. Within 30 business days after notification by the
8 commissioner of noncompliance with the provisions of this sec-
9 tion, an insurer shall file a plan to restore compliance with
10 this section. Failure of the insurer to file a plan shall create
11 a presumption that the insurer is not safe, reliable, and enti-
12 tled to public confidence. The commissioner, upon written
13 request by the insurer, may grant a period of time within which
14 to restore compliance. The period of time may be granted only if
15 the commissioner is satisfied the insurer is safe, reliable, and
16 entitled to public confidence; is satisfied the insurer would
17 suffer a material financial loss from an immediate forced conver-
18 sion of its assets; and approves the plan filed by the insurer
19 for restoring compliance within the time granted. If the plan is
20 not approved by the commissioner, or if the plan is approved,
21 and, at the end of 1 year the insurer still does not comply with
22 the requirements of this section, the commissioner may grant
23 additional time to comply, or the commissioner may suspend,
24 revoke, or limit the certificate of authority of the insurer pur-
25 suant to section 436.

26 (10) The requirements of this section constitute a discrete
27 determination of financial solidity and liquidity and are not

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1 intended to apply to other provisions of this act with respect to
2 financial condition or to the accounting practices and procedures
3 governing the preparation of financial statements pursuant to
4 section 438.

5 SEC. 902. (1) EXCEPT AS OTHERWISE PROVIDED IN
6 SECTIONS 942(7), (10), AND (11), 943(2), AND 946(4), THIS CHAPTER
7 DOES NOT PROHIBIT THE INVESTMENT OF A DOMESTIC INSURER'S CAPITAL
8 AND SURPLUS IN ANY ASSET OTHERWISE PERMITTED TO BE HELD BY ANY
9 OTHER PERSON OR CORPORATION UNDER THE LAWS OF THIS STATE, PRO-
10 VIDED THE DOMESTIC INSURER MAINTAINS QUALIFIED ASSETS AS
11 DESCRIBED IN THIS CHAPTER IN THE AMOUNTS SPECIFIED IN
12 SECTION 901.

13 (2) AS USED IN THIS SECTION, "QUALIFIED ASSETS" MEANS CASH
14 AND THOSE ASSETS DESCRIBED IN SECTIONS 910 TO 947.

15 Sec. 912. (1) ~~An insurer may invest its funds~~ QUALIFIED
16 ASSETS FOR PURPOSES OF SECTION 901 INCLUDE ALL OF THE FOLLOWING:

17 (a) In the bonds or other evidences of indebtedness of the
18 United States, or of the dominion of Canada, or any state,
19 province, or territory or public instrumentality of the United
20 States, or the dominion of Canada, or in the valid public debt,
21 bonds, or other evidence of indebtedness of any city, county,
22 township, village, school district, or any other political subdi-
23 vision having the power to levy taxes, of any state or territory
24 of the United States or province of the dominion of Canada, if
25 the state, province, municipality, or other political subdivision
26 has not, in the 3 years preceding the time of such investment,
27 failed to pay its debt or any part ~~thereof~~ OF ITS DEBT or the

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1 interest due ~~thereon~~ ON THE DEBT, or any part ~~thereof~~ OF THE
2 INTEREST DUE ON THE DEBT. Delay, not exceeding 6 months, in the
3 payment of any installment of principal or interest shall not be
4 construed as failure to pay.

5 (b) In the bonds or other evidences of indebtedness of any
6 political subdivision of the United States, or any state or
7 county ~~therein~~ IN THE UNITED STATES, or any agency, public
8 instrumentality, or authority created by the United States, or
9 any state or county ~~therein~~ IN THE UNITED STATES, or any polit-
10 ical subdivision ~~thereof~~ OF THE STATE OR COUNTY, if, by statu-
11 tory or other legal requirements, ~~such~~ THOSE obligations are
12 payable, as to both principal and interest, from adequate special
13 revenues pledged or otherwise appropriated or by law required to
14 be provided for the purpose of ~~such~~ payment.

15 (c) In ~~such~~ governmental securities of this or any foreign
16 government, or governmental subdivisions or authorities or
17 instrumentalities, ~~thereof~~ not otherwise provided for ~~herein,~~
18 ~~as may be first approved by the commissioner and~~ IN THIS SECTION
19 subject to ~~such~~ THE limitations ~~as are herein~~ IN
20 SUBDIVISIONS (A) AND (B) prescribed for other ~~government and~~
21 ~~municipal~~ GOVERNMENTAL securities.

22 (2) A DOMESTIC INSURER'S INVESTMENT IN GOVERNMENTAL SECURI-
23 TIES IS SUBJECT TO THE LIMITATIONS IN SECTION 901(2)(F).

24 Sec. 914. ~~An insurer may invest its funds in~~ QUALIFIED
25 ASSETS FOR PURPOSES OF SECTION 901 INCLUDE bonds or other securi-
26 ties, the interest of which is guaranteed by the United States

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1 government pursuant to any act of congress ~~heretofore or~~
2 ~~hereafter~~ enacted BEFORE, ON, OR AFTER JANUARY 1, 1957.

3 Sec. 916. ~~Whenever~~ IF any agency or corporation ~~shall~~
4 ~~be~~ IS established by the federal government ~~,~~ with authority
5 to purchase, discount, or loan money upon the security of real
6 estate mortgages but ~~requires~~ REQUIRING membership or ownership
7 of capital stock in ~~such~~ THAT federal agency or corporation ~~in~~
8 ~~order that~~ FOR any insurer organized under the laws of this
9 state ~~may~~ TO avail itself of the full privileges of selling,
10 rediscounting, or borrowing money upon ~~such~~ THOSE mortgages,
11 then ~~such insurer shall be authorized to buy not exceeding such~~
12 QUALIFIED ASSETS FOR PURPOSES OF SECTION 901 INCLUDE THE amount
13 of ~~such~~ capital stock ~~as~~ THAT is required by ~~such~~ THE fed-
14 eral law or the rules of the governing body of ~~such~~ THE federal
15 agency or corporation.

16 Sec. 917. (1) ~~An insurer may invest in~~ QUALIFIED ASSETS
17 FOR PURPOSES OF SECTION 901 INCLUDE mortgage-backed securities
18 backed by pools of residential mortgages and rated investment
19 grade by a securities rating organization approved by the
20 commissioner. Any securities described in section 106 of title I
21 of the secondary mortgage market enhancement act of 1984, Public
22 Law 98-440, 15 U.S.C. 77r-1, shall be subject to all the limita-
23 tions prescribed by this chapter for investments not guaranteed
24 by the full faith and credit of the United States.

25 (2) As used in this section, "mortgage-backed securities"
26 means securities representing an ownership interest in, or as to
27 which payments are secured directly or indirectly by, a pool of

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1 mortgages or by the cash flows generated by a pool of mortgages
2 and shall include, but are not limited to, mortgage pass-through
3 securities and collateralized mortgage obligations.

4 Sec. 917a. (1) As used in this section:

5 (a) "Asset-backed securities" means securities, other than
6 those governed by section 917, representing loans to, participa-
7 tions in loans to, or equity interests in a person that has as
8 its primary activity the acquisition and holding of assets,
9 directly or through a trustee, for the benefit of its debt or
10 equity holders and includes, but is not limited to, structured
11 securities, pass-through certificates, and other securitized
12 obligations.

13 (b) "Assets" means pools of assets consisting of either
14 interest bearing obligations or contractual obligations repre-
15 senting the right to receive payment from the assets.

16 (c) "Structured securities" means asset-backed securities
17 that have been divided into 2 or more classes where the payment
18 of interest on or principal of any class of the securities has
19 been allocated in a manner that may not be directly proportional
20 to interest or principal received by the issuer of the securities
21 on the underlying assets.

22 (d) "Pass-through certificate" means an asset-backed securi-
23 ty, whether or not mortgage-related, where the payment of inter-
24 est or principal on the security is directly proportional to
25 interest or principal received by the issuer of the security on
26 the underlying assets.

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1 (2) ~~Subject to the limitations prescribed in~~
2 ~~section 901(6), an insurer may invest in~~ QUALIFIED ASSETS FOR
3 PURPOSES OF SECTION 901 INCLUDE asset-backed securities that are
4 rated investment grade by a securities rating organization
5 approved by the commissioner. Asset-backed securities that are
6 secured by or represent an undivided interest in a single asset
7 or pool of assets or in the cash flows generated by those assets,
8 including without limitation, structured securities and
9 pass-through certificates, are subject to all the limitations
10 prescribed by this chapter for investments not guaranteed by the
11 full faith and credit of the United States.

12 Sec. 918. ~~An insurer may invest in~~ QUALIFIED ASSETS FOR
13 PURPOSES OF SECTION 901 INCLUDE lawfully authorized obligations
14 issued, assumed, or guaranteed by any solvent institution created
15 or existing under the laws of the United States or of any state,
16 district, or territory ~~thereof~~ OF THE UNITED STATES, or of ~~the~~
17 ~~Dominion of~~ Canada or any province ~~thereof, which~~ OF CANADA,
18 THAT are not in default as to principal or interest and ~~which~~
19 THAT are qualified under any of the following clauses:

20 (A) ~~(1)~~ Obligations secured by the mortgage of property or
21 the pledge of adequate collateral if, during any 3, including the
22 last 2, of the 5 fiscal years next preceding the time of invest-
23 ment, the net earnings of the issuing, assuming, or guaranteeing
24 institution available for fixed charges, as determined in accord-
25 ance with standard accounting practice, ~~shall~~ have been not
26 less than the total of its fixed charges for such year on an
27 overall basis nor less than 1-1/2 times its fixed charges for

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1 such year on a priority basis after excluding interest
2 requirements on obligations junior to such issue as to security.
3 ~~;~~

4 (B) ~~(2)~~ In equipment trust certificates of railroad com-
5 panies organized under the laws of any state of the United States
6 or of ~~the Dominion of~~ Canada or of any province ~~thereof~~ OF
7 CANADA, payable within 20 years from their date of issue, in
8 annual or ~~semi-annual~~ SEMIANNUAL installments, beginning not
9 later than the fifth year after such date, and which certificates
10 are a first lien on the specific equipment pledged as security
11 for the payment ~~thereof~~ which are either the direct obligations
12 of ~~such~~ THE railroad companies or guaranteed by them, or are
13 executed by trustees holding title to the equipment. ~~;~~

14 (C) ~~(3)~~ Fixed interest bearing obligations other than
15 those described in ~~clauses (1) and (2) above~~ SUBDIVISIONS (A)
16 AND (B), if the net earnings of the issuing, assuming, or guaran-
17 teeing institution available for fixed charges during each of any
18 3, including the last 2, of the 5 fiscal years next preceding the
19 time of investment, shall have been not less than 1-1/2 times the
20 total of its fixed charges for such year.

21 Sec. 922. ~~(1) Except as otherwise provided in~~
22 ~~subsection (2), an insurer may purchase~~ QUALIFIED ASSETS FOR
23 PURPOSES OF SECTION 901 INCLUDE stocks, bonds, and other evidence
24 of indebtedness of solvent corporations as approved by its board
25 of directors or a committee of the board entrusted with the
26 investment of the company's funds. The insurer may hold the

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1 stocks, bonds, and other evidences of indebtedness as an
2 investment.

3 ~~(2) A domestic life insurer shall not invest more than 20%~~
4 ~~of its assets in high-yield, high-risk obligations.~~

5 ~~(3) As used in this section, "high-yield, high-risk~~
6 ~~obligations" means obligations that are not in 1 of the top 2~~
7 ~~numbered classifications of bonds reported in the domestic life~~
8 ~~insurer's annual financial statement on a form approved by the~~
9 ~~commissioner.~~

10 Sec. 924. ~~An insurer may invest in~~ QUALIFIED ASSETS FOR
11 PURPOSES OF SECTION 901 INCLUDE preferred stocks of any company
12 organized under the laws of the United States, a state of the
13 United States, or the District of Columbia, if ~~such~~ THE company
14 has continuously and regularly paid the dividends provided for by
15 ~~such~~ THE preferred stock during the 5 years preceding the
16 investment; except that with respect to preferred stocks issued
17 within ~~such~~ THE 5-year period, the ~~foregoing requirements as~~
18 ~~to~~ dividend payments ~~shall apply~~ REQUIREMENT APPLIES only from
19 the date of issuance, and in ~~such~~ THOSE cases the net earnings
20 of the company and its subsidiaries available for fixed charges
21 of the company and its subsidiaries and the net earnings of any
22 predecessor organizations and their subsidiaries, if any, avail-
23 able for fixed charges of ~~such~~ THE predecessor organizations
24 and their subsidiaries, must have averaged an amount per annum
25 for the 5 fiscal years preceding the making of the investment at
26 least equal to 2 times the total of the annual interest charges
27 (including amortization of debt discount and expense) and

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1 dividends guaranteed, if any, and the preferred dividend
2 requirement on a pro forma basis.

3 Sec. 932. ~~An insurer may invest in~~ QUALIFIED ASSETS FOR
4 PURPOSES OF SECTION 901 INCLUDE shares of any building and loan
5 association or savings and loan association, either state
6 chartered or federally chartered.

7 Sec. 934. ~~An insurer may invest in the~~ QUALIFIED ASSETS
8 FOR PURPOSES OF SECTION 901 INCLUDE farm loan bonds, consolidated
9 or otherwise, issued by the federal land banks pursuant to the
10 federal farm loan act, as amended; in collateral trust debentures
11 or other similar obligations, consolidated or otherwise, issued
12 by federal intermediate credit banks pursuant to the federal farm
13 loan act, as amended; in debentures, consolidated or otherwise,
14 issued by the central bank for cooperatives or banks for coopera-
15 tives pursuant to the farm credit act of 1933, as amended; in
16 obligations issued pursuant to the provisions of the federal home
17 loan bank act, approved July 22, 1932, as amended; and in
18 interest-bearing obligations of the federal savings and loan
19 insurance corporation issued pursuant to title 4 of the national
20 housing act, approved June 27, 1934, as amended.

21 Sec. 938. ~~An insurer may invest funds~~ QUALIFIED ASSETS
22 FOR PURPOSES OF SECTION 901 INCLUDE ALL OF THE FOLLOWING:

23 (A) ~~(1) In any~~ ANY negotiable paper or other evidence of
24 indebtedness secured by any of the classes of securities in which
25 ~~such~~ insurance companies may lawfully invest ~~their~~ funds pur-
26 suant to sections 912 ~~(federal, state, municipal, and foreign~~

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1 ~~government obligations)~~ and 918. ~~(obligations of solvent~~
2 ~~corporations and institutions).~~

3 (B) ~~(2) Upon negotiable~~ NEGOTIABLE notes secured by pledge
4 of stock of national or state banks, which have a surplus equal
5 in amount to 25% of the paid in capital stock ~~;~~ ~~Provided, That~~
6 ~~such~~ PROVIDED THOSE loans ~~shall~~ DO not exceed 85% of the
7 market value of the stock ~~,~~ and ~~that~~ the total amount of the
8 loan on bank secured collateral ~~shall~~ DOES not exceed 15% of
9 the capital and surplus of the insurance company.

10 (C) ~~(3) If~~ FOR other than a life insurer, ~~in~~ loans
11 secured as collateral by corporate stocks and securities eligible
12 for investment under section 922 ~~(corporate stocks, bonds),~~ but
13 no loan shall be made of more than 50% of the fair market value
14 of ~~such~~ THOSE stocks and securities.

15 Sec. 942. (1) ~~An insurer may invest in~~ QUALIFIED ASSETS
16 FOR PURPOSES OF SECTION 901 INCLUDE real estate loans secured by
17 first liens upon improved or income bearing real estate, includ-
18 ing also improved farmland and improved business and residential
19 properties, ~~;~~ or ~~which~~ THAT are secured by first mortgages or
20 deeds of trust on leasehold estates having an unexpired term
21 equivalent to the term of the mortgage, inclusive of the term or
22 terms ~~which~~ THAT may be provided by enforceable options of
23 renewal. ~~;~~ ~~vacant~~ VACANT property, at least 60% of which is
24 under contract of sale and the contract or contracts in connec-
25 tion therewith trustee or pledged as additional collateral,
26 ~~shall be considered~~ IS income bearing real estate within the
27 meaning of this section.

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1 (2) Real estate ~~shall not be deemed to be~~ IS NOT
2 encumbered within the meaning of this section ~~when~~ BECAUSE IT
3 IS subject to lease in whole or in part ~~whereby~~ AND rents or
4 profits are reserved to the owner ~~or~~ or ~~when~~ BECAUSE IT IS
5 subject to an easement for a right of way.

6 (3) A loan secured by real estate shall be in the form of
7 obligations secured by mortgage, trust deed, or other such
8 instrument upon real estate, and an insurer may purchase an obli-
9 gation so secured when the entire amount of the obligation is
10 sold to the insurer, except that an insurer may purchase a part
11 of an obligation if the investment of each participant is not
12 less than \$50,000.00 at the time of the insurer's investment, if
13 all other participants are insurers, banks, ~~or~~ savings and loan
14 associations, OR ANY OTHER FINANCIAL INSTITUTION AS THAT TERM IS
15 DEFINED IN THE GRAMM-LEACH-BLILEY ACT, PUBLIC LAW 106-102, 113
16 STAT. 1338, 12 U.S.C. 1811, and if the entire indebtedness of
17 which participation is a part would qualify under the provisions
18 of this section, and either the insurer holds a senior participa-
19 tion, giving it substantially the rights of a first mortgagee, or
20 each participation is of equal rank.

21 (4) ~~The amount~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SUB-
22 SECTION, ANY PORTION of a loan ~~shall not exceed~~ THAT EXCEEDS
23 66-2/3% of the appraised value, at the time of the loan, of the
24 real estate constituting or offered as security and ~~such a loan~~
25 ~~shall not be made for a longer term than 5 years; except that (a)~~
26 ~~a~~ ANY LOAN THE TERM OF WHICH EXCEEDS 5 YEARS IS NOT A QUALIFIED

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1 ASSET FOR PURPOSES OF SECTION 901. HOWEVER, THE FOLLOWING LOANS
2 ARE QUALIFIED ASSETS FOR THE PURPOSES OF SECTION 901:

3 (A) A loan on land improved with permanent buildings used
4 for agriculture or pasture ~~may be made~~ in an amount not to
5 exceed 75% of the appraised value, at the time of the loan, of
6 the real estate constituting or offered as security if the loan
7 is secured by an amortized mortgage, deed of trust, or other
8 instrument under the terms of which the installment payments are
9 sufficient to amortize on not to exceed an annual basis of 40% or
10 more of the principal of the loan within a period of not more
11 than 10 years. ~~, (b) a~~

12 (B) A loan on single family residential property ~~may be~~
13 ~~made~~ in an amount not to exceed 80% of the appraised value, at
14 the time of the loan, of the real estate offered as security, if
15 the loan is secured by a mortgage, deed of trust, or other
16 instrument for a term of not more than 35 years. ~~, and (c)~~
17 ~~loans may be made~~

18 (C) SUBJECT TO SUBSECTION (6), A LOAN ON MULTIFAMILY RESI-
19 DENTIAL PROPERTY IN AN AMOUNT NOT TO EXCEED 85% OF THE APPRAISED
20 VALUE, AT THE TIME OF THE LOAN, OF THE REAL ESTATE OFFERED AS
21 SECURITY, IF THE LOAN IS SECURED BY A MORTGAGE, DEED OF TRUST, OR
22 OTHER INSTRUMENT FOR A TERM OF NOT MORE THAN 35 YEARS.

23 (D) A LOAN in an amount not to exceed 75% of the appraised
24 value of the real estate offered as security and for a term not
25 longer than 35 years, if the real estate is improved if it is not
26 used for agriculture or pasture, and if the loan is secured by a

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1 mortgage, deed of trust, or other instrument for a term of not
2 more than 35 years.

3 (5) The ~~foregoing~~ limitations and restrictions ~~shall~~ IN
4 SUBSECTION (4) DO not apply to real estate loans ~~which~~ THAT are
5 insured under the provisions of title ~~2~~ II of the national
6 housing act, CHAPTER 847, 48 STAT. 1247, 12 U.S.C. 1707 TO 1709,
7 1710 TO 1715g, 1715k TO 1715r, AND 1715t TO 1715z-1, by the fed-
8 eral housing administration, ~~or~~ to loans insured under the
9 Canadian national housing act of 1954 by the central mortgage and
10 housing corporation, ~~nor~~ OR to real estate loans ~~which~~ THAT
11 are guaranteed as to principal by the United States government or
12 Canadian government or an agency or instrumentality ~~thereof~~ OF
13 THE UNITED STATES OR CANADIAN GOVERNMENT.

14 (6) IF THE TOTAL AMOUNT OF MULTIFAMILY RESIDENTIAL LOANS
15 THAT EXCEED 75% OF THE APPRAISED VALUE OF THE REAL ESTATE OFFERED
16 AS SECURITY FOR THOSE LOANS IS GREATER THAN 20% OF AN INSURER'S
17 MORTGAGE PORTFOLIO, THE PORTION OF THOSE LOANS THAT EXCEED 75% OF
18 THE APPRAISED VALUE SHALL NOT BE TREATED AS A QUALIFIED ASSET FOR
19 PURPOSES OF SECTION 901.

20 (7) ~~(5)~~ An insurer shall not make any such loan unless an
21 appraisal ~~shall have~~ HAS been made in writing by a competent
22 appraiser appointed or employed by the insurer and filed with the
23 investment committee authorized to approve the loan.

24 (8) ~~(6) An insurer may purchase~~ QUALIFIED ASSETS FOR THE
25 PURPOSES OF SECTION 901 INCLUDE a loan or certificate of partici-
26 pation secured by a loan made on a single-family residential
27 property in an amount not to exceed 95% of the appraised value,

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1 at the time of the loan, of the real estate offered as security,
2 if the loan is secured by a mortgage, deed of trust, or other
3 instrument for a term of not more than 35 years, and the loan is
4 insured by a private mortgage insurer approved by the federal
5 home loan mortgage corporation and the federal national mortgage
6 association and is licensed to do business in the state of
7 Michigan.

8 (9) ~~(7) An insurer may invest in~~ QUALIFIED ASSETS FOR THE
9 PURPOSES OF SECTION 901 INCLUDE real estate loans ~~which~~ THAT do
10 not qualify as first mortgages as ~~defined~~ DESCRIBED in
11 subsections (1) and (3). ~~if the total~~ TOTAL investments THAT
12 MAY BE TREATED AS QUALIFIED ASSETS under this subsection ~~do~~
13 SHALL not exceed 25% of the insurer's total investments in real
14 estate loans as ~~defined~~ DESCRIBED in subsections (1) and (3).

15 (10) A DOMESTIC INSURER SHALL NOT INVEST MORE THAN 10% OF
16 ITS SURPLUS IN REAL ESTATE LOANS THAT EXCEED THE APPRAISED VALUE
17 LIMITATIONS UNDER SUBSECTION (4), (6), OR (8) UNLESS THE REAL
18 ESTATE LOAN IS THE RESULT OF A RESTRUCTURING OF AN EXISTING REAL
19 ESTATE LOAN AND THE INSURER PROVIDES WRITTEN NOTICE TO THE COM-
20 MISSIONER ON OR BEFORE THE DATE OF THE RESTRUCTURING. THE COM-
21 MISSIONER MAY INCREASE THE 10% INVESTMENT LIMIT OF THIS SECTION
22 TO 20% FOR AN INSURER WHO DEMONSTRATES TO THE COMMISSIONER'S SAT-
23 ISFACTION THE SOUNDNESS OF A PARTICULAR INVESTMENT OR INVESTMENT
24 STRATEGY THAT WOULD CAUSE THE INSURER TO EXCEED THE LOWER LIMIT.
25 IF THE LOANS UNDER THIS SUBSECTION EXCEED 5% OF AN INSURER'S
26 ASSETS WITHIN ANY 12-MONTH PERIOD, NO OTHER LOANS MAY BE MADE

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1 PURSUANT TO THIS SUBSECTION EXCEPT WITH THE COMMISSIONER'S PRIOR
2 APPROVAL.

3 (11) A DOMESTIC INSURER SHALL NOT INVEST MORE THAN 20% OF
4 ITS MORTGAGE PORTFOLIO IN MULTIFAMILY RESIDENTIAL MORTGAGES THAT
5 EXCEED 75% OF THE APPRAISED VALUE, AT THE TIME OF THE LOAN, OF
6 THE REAL ESTATE OFFERED AS SECURITY.

7 Sec. 943. ~~(1) An insurer may invest in financial futures~~
8 ~~contracts issued under terms and conditions regulated by a fed-~~
9 ~~eral regulatory agency, subject to all of the following:~~

10 ~~(a) The terms and conditions required by the commissioner by~~
11 ~~rules promulgated under subsection (3).~~

12 ~~(b) An insurer shall not enter into a financial futures con-~~
13 ~~tract except as a hedging transaction.~~

14 ~~(c) An insurer shall not have a margin outstanding from~~
15 ~~futures positions authorized under this section of more than 10%~~
16 ~~of the excess of the insurer's total capital and surplus over the~~
17 ~~minimum capital and surplus requirements that must be met by a~~
18 ~~new stock or mutual company to qualify for a certificate of~~
19 ~~authority to write the kind of insurance that the insurer is~~
20 ~~authorized to write.~~

21 ~~(2) An insurer may invest in put options and call options on~~
22 ~~financial instruments issued under terms and conditions regulated~~
23 ~~by a national securities exchange registered under the securities~~
24 ~~exchange act of 1934, chapter 404, 48 Stat. 881, or any board of~~
25 ~~trade designated as a contract market by the commodity futures~~
26 ~~trading commission subject to all of the following:~~

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1 ~~(a) Except as provided in subdivision (b), an insurer shall~~
2 ~~not write a call option on either securities it does not own or~~
3 ~~in an amount greater than securities that it presently owns.~~

4 ~~(b) For call options on financial futures contracts and~~
5 ~~stock or bond index contracts where it is not feasible to own the~~
6 ~~underlying security, an insurer may write a call option only in~~
7 ~~connection with a hedging transaction.~~

8 ~~(c) An insurer shall not write a put option unless its obli-~~
9 ~~gations under the put option are fully secured by a deposit by~~
10 ~~the insurer with a bank or other custodian of cash or cash~~
11 ~~equivalents.~~

12 ~~(d) An insurer shall not maintain as open positions autho-~~
13 ~~rized under this subsection more than 10% of the excess of the~~
14 ~~insurer's total capital and surplus over the minimum capital and~~
15 ~~surplus requirements that must be met by a new stock or mutual~~
16 ~~company to qualify for a certificate or authority to write the~~
17 ~~kind of insurance that the company is authorized to write.~~

18 (1) QUALIFIED ASSETS FOR PURPOSES OF SECTION 901 INCLUDE
19 DERIVATIVE INSTRUMENTS ONLY IF THE INSURER IS ABLE TO DEMONSTRATE
20 TO THE COMMISSIONER THROUGH CASH FLOW TESTING OR OTHER APPROPRI-
21 ATE ANALYSES BOTH THE INTENDED HEDGING CHARACTERISTICS AND THE
22 ONGOING EFFECTIVENESS OF THE DERIVATIVE TRANSACTION OR COMBINA-
23 TION OF TRANSACTIONS.

24 (2) BEFORE ENGAGING IN A DERIVATIVE TRANSACTION AND WITH
25 BOARD OF DIRECTOR APPROVAL, A DOMESTIC INSURER SHALL DO ALL OF
26 THE FOLLOWING:

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1 (A) ESTABLISH WRITTEN GUIDELINES TO BE USED FOR EFFECTING OR
2 MAINTAINING DERIVATIVE TRANSACTIONS. THE GUIDELINES SHALL BE
3 AVAILABLE TO THE COMMISSIONER ON REQUEST AND SHALL MEET ALL OF
4 THE FOLLOWING:

5 (i) ADDRESS INVESTMENT OR, IF APPLICABLE, UNDERWRITING
6 OBJECTIVES AND RISK CONSTRAINTS, SUCH AS CREDIT RISK LIMITS.

7 (ii) ADDRESS PERMISSIBLE DERIVATIVE TRANSACTIONS AND THE
8 RELATIONSHIP OF THOSE TRANSACTIONS TO ITS OPERATIONS.

9 (iii) REQUIRE COMPLIANCE WITH INTERNAL CONTROL PROCEDURES.

10 (B) HAVE A SYSTEM FOR DETERMINING WHETHER A DERIVATIVE
11 INSTRUMENT USED IN A HEDGING OR REPLICATION TRANSACTION IS
12 EFFECTIVE.

13 (C) HAVE A CREDIT RISK MANAGEMENT SYSTEM FOR
14 OVER-THE-COUNTER DERIVATIVE TRANSACTIONS THAT MEASURES CREDIT
15 RISK EXPOSURE USING COUNTER PARTY EXPOSURE AMOUNT.

16 (D) DETERMINE WHETHER THE INSURER HAS ADEQUATE PROFESSIONAL
17 PERSONNEL, TECHNICAL EXPERTISE, AND SYSTEMS TO IMPLEMENT INVEST-
18 MENT PRACTICES INVOLVING DERIVATIVES.

19 (E) DETERMINE THAT THE DERIVATIVE PROGRAM IS PRUDENT AND
20 THAT THE LEVEL OF RISK IS APPROPRIATE FOR THE INSURER GIVEN THE
21 LEVEL OF CAPITALIZATION AND EXPERTISE AVAILABLE TO THE INSURER.

22 (3) EXCEPT AS PROVIDED IN SECTION 222(7), WRITTEN GUIDELINES
23 PREPARED PURSUANT TO SUBSECTION (2), IF FURNISHED TO THE COMMIS-
24 SIONER, ARE CONFIDENTIAL AND PRIVILEGED, ARE NOT SUBJECT TO THE
25 FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246,
26 ARE NOT SUBJECT TO SUBPOENA, AND ARE NOT SUBJECT TO DISCOVERY OR
27 ADMISSIBLE IN EVIDENCE IN ANY PRIVATE CIVIL ACTION.

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1 (4) ~~(3)~~ The commissioner may promulgate rules pursuant to
2 the administrative procedures act of 1969, ~~Act No. 306 of the~~
3 ~~Public Acts of 1969, being sections 24.201 to 24.328 of the~~
4 ~~Michigan Compiled Laws~~ 1969 PA 306, MCL 24.201 TO 24.328, to
5 implement this section, including, but not limited to, the estab-
6 lishment of all of the following:

7 (a) Financial solvency standards.

8 (b) Valuation standards.

9 (c) Reporting requirements.

10 ~~(4) Each domestic insurer shall develop written guidelines~~
11 ~~that establish the policy objectives of management in investing~~
12 ~~in financial futures contracts, permissible financial futures~~
13 ~~contract strategies, the relationship of those strategies to the~~
14 ~~insurer's operations, and how such strategies reduce the~~
15 ~~insurer's net investment rate exposure.~~

16 ~~(5) As used in this section:~~

17 ~~(a) "Financial futures contract" means an exchange-traded~~
18 ~~agreement to make or take delivery of, or to make a cash settle-~~
19 ~~ment instead of delivery of, a specified amount of financial~~
20 ~~instruments on a specified date or period of time, under terms~~
21 ~~and conditions regulated by the commodity futures trading~~
22 ~~commission.~~

23 ~~(b) "Hedging transaction" means bona fide hedging transac-~~
24 ~~tions and positions as defined in section 1.3 of the general reg-~~
25 ~~ulations under the commodity exchange act, C.F.R. 1.3, pursuant~~
26 ~~to section 4a of the commodity exchange act, chapter 369, 49~~
27 ~~Stat. 1492, 7 U.S.C. 6a, and as certified by the commissioner.~~

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1 ~~(c) "Margin" means any type of deposit or settlement made or~~
2 ~~required to be made with a futures commission merchant, clearing-~~
3 ~~house, or safekeeping agent to ensure performance of the terms of~~
4 ~~the financial futures contract.~~

5 (5) AN INSURER SHALL INCLUDE ALL COUNTER PARTY EXPOSURE
6 AMOUNTS IN DETERMINING COMPLIANCE WITH THE LIMITATIONS IN
7 SECTION 901(6).

8 (6) IN MEASURING THE NET AMOUNT OF CREDIT RISK EXPOSURE
9 USING COUNTER PARTY EXPOSURE AMOUNT, ALL OF THE FOLLOWING APPLY:

10 (A) THE NET AMOUNT OF CREDIT RISK EQUALS THE MARKET VALUE OF
11 THE OVER-THE-COUNTER DERIVATIVE INSTRUMENT IF THE LIQUIDATION OF
12 THE DERIVATIVE INSTRUMENT WOULD RESULT IN A FINAL CASH PAYMENT TO
13 THE INSURER OR ZERO IF THE LIQUIDATION OF THE DERIVATIVE INSTRU-
14 MENT WOULD NOT RESULT IN A FINAL CASH PAYMENT TO THE INSURER.

15 (B) IF OVER-THE-COUNTER DERIVATIVE INSTRUMENTS ARE ENTERED
16 INTO PURSUANT TO A WRITTEN MASTER AGREEMENT THAT PROVIDES FOR
17 NETTING OF PAYMENTS OWED BY THE RESPECTIVE PARTIES, AND THE DOMI-
18 CILIARY JURISDICTION OF THE COUNTER PARTY IS EITHER WITHIN THE
19 UNITED STATES OR, IF NOT WITHIN THE UNITED STATES, WITHIN A FOR-
20 EIGN JURISDICTION APPROVED AS ELIGIBLE FOR NETTING, THE NET
21 AMOUNT OF CREDIT RISK IS THE GREATER OF ZERO OR THE NET SUM OF
22 THE MARKET VALUE OF THE OVER-THE-COUNTER DERIVATIVE INSTRUMENTS
23 ENTERED INTO PURSUANT TO THE AGREEMENT, THE LIQUIDATION OF WHICH
24 WOULD RESULT IN A FINAL CASH PAYMENT TO THE INSURER AND THE
25 MARKET VALUE OF THE OVER-THE-COUNTER DERIVATIVE INSTRUMENTS
26 ENTERED INTO PURSUANT TO THE AGREEMENT, THE LIQUIDATION OF WHICH

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1 WOULD RESULT IN A FINAL CASH PAYMENT BY THE INSURER TO THE
2 BUSINESS ENTITY.

3 (7) AS USED IN SUBSECTION (6), MARKET VALUE SHALL BE DETER-
4 MINED FOR OPEN TRANSACTIONS AT THE END OF THE MOST RECENT QUARTER
5 OF THE INSURER'S FISCAL YEAR AND SHALL BE REDUCED BY THE MARKET
6 VALUE OF ACCEPTABLE COLLATERAL HELD BY THE INSURER OR PLACED IN
7 ESCROW BY 1 OR BOTH PARTIES.

8 (8) AS USED IN THIS SECTION:

9 (A) "CAP" MEANS AN AGREEMENT OBLIGATING THE SELLER TO MAKE
10 PAYMENTS TO THE BUYER WITH EACH PAYMENT BASED ON THE AMOUNT BY
11 WHICH A REFERENCE PRICE OR LEVEL OR THE PERFORMANCE OR VALUE OF 1
12 OR MORE UNDERLYING INTERESTS EXCEEDS A PREDETERMINED NUMBER,
13 SOMETIMES CALLED THE STRIKE RATE OR STRIKE PRICE.

14 (B) "COLLAR" MEANS AN AGREEMENT TO RECEIVE PAYMENTS AS THE
15 BUYER OF AN OPTION, CAP, OR FLOOR, AND TO MAKE PAYMENTS AS THE
16 SELLER OF A DIFFERENT OPTION, CAP, OR FLOOR.

17 (C) "COLLATERALIZED MORTGAGE OBLIGATION" MEANS AN
18 ASSET-BACKED SECURITY THAT HAS CASH FLOWS ORIGINATING DIRECTLY OR
19 INDIRECTLY FROM UNDERLYING MORTGAGE ASSETS.

20 (D) "COUNTER PARTY EXPOSURE AMOUNT" MEANS THE NET AMOUNT OF
21 CREDIT RISK ATTRIBUTABLE TO A DERIVATIVE INSTRUMENT ENTERED INTO
22 WITH A BUSINESS ENTITY OTHER THAN THROUGH A QUALIFIED EXCHANGE OR
23 QUALIFIED FOREIGN EXCHANGE OR CLEARED THROUGH A QUALIFIED CLEAR-
24 INGHOUSE SUCH AS AN OVER-THE-COUNTER DERIVATIVE INSTRUMENT.

25 (E) "DERIVATIVE INSTRUMENT" MEANS ANY AGREEMENT, OPTION, OR
26 INSTRUMENT, OR ANY SERIES OR COMBINATIONS OF AN AGREEMENT,
27 OPTION, OR INSTRUMENT TO MAKE OR TAKE DELIVERY OF, OR ASSUME OR

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1 RELINQUISH, A SPECIFIED AMOUNT OF 1 OR MORE UNDERLYING INTERESTS,
2 OR TO MAKE A CASH SETTLEMENT IN LIEU OF 1 OR MORE UNDERLYING
3 INTERESTS, OR THAT HAS A PRICE, PERFORMANCE, VALUE, OR CASH FLOW
4 BASED PRIMARILY UPON THE ACTUAL OR EXPECTED PRICE, YIELD, LEVEL,
5 PERFORMANCE, VALUE, OR CASH FLOW OF 1 OR MORE UNDERLYING
6 INTERESTS. DERIVATIVE INSTRUMENTS INCLUDE OPTIONS, WARRANTS,
7 CAPS, FLOORS, COLLARS, SWAPS, SWAPTIONS, FORWARDS, FUTURES, AND
8 ANY OTHER SUBSTANTIALLY SIMILAR AGREEMENTS, OPTIONS, OR INSTRU-
9 MENTS, OR ANY SERIES OR COMBINATIONS AND ANY FURTHER AGREEMENTS,
10 OPTIONS, OR INSTRUMENTS INCLUDED UNDER RULES PROMULGATED BY THE
11 COMMISSIONER. DERIVATIVE INSTRUMENTS DO NOT INCLUDE COLLATERAL-
12 IZED MORTGAGE OBLIGATIONS, OTHER ASSET-BACKED SECURITIES,
13 PRINCIPAL-PROTECTED STRUCTURED SECURITIES, OR INSTRUMENTS THAT AN
14 INSURER IS OTHERWISE PERMITTED TO INVEST IN OR RECEIVE UNDER THIS
15 CHAPTER OTHER THAN UNDER THIS SECTION. THE SALE OR PURCHASE OF A
16 DERIVATIVE INSTRUMENT BY AN INSURER IN CONNECTION WITH A WRITTEN
17 INVESTMENT POLICY THAT INSULATES THE PURCHASER FROM THE RISK OF
18 DEFAULT OF AN UNDERLYING FINANCIAL INSTRUMENT SHALL BE TREATED AS
19 A DERIVATIVE AND NOT AS INSURANCE FOR PURPOSES OF THIS ACT.

20 (F) "DERIVATIVE TRANSACTION" MEANS A TRANSACTION INVOLVING
21 THE USE OF 1 OR MORE DERIVATIVE INSTRUMENTS. FOR PURPOSES OF
22 THIS SECTION, DOLLAR ROLL TRANSACTIONS, REPURCHASE TRANSACTIONS,
23 REVERSE REPURCHASE TRANSACTIONS, AND SECURITIES LENDING TRANSAC-
24 TIONS ARE NOT DERIVATIVE TRANSACTIONS.

25 (G) "FLOOR" MEANS AN AGREEMENT OBLIGATING THE SELLER TO MAKE
26 PAYMENTS TO THE BUYER IN WHICH EACH PAYMENT IS BASED ON THE
27 AMOUNT BY WHICH A PREDETERMINED NUMBER, SOMETIMES CALLED THE

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1 FLOOR RATE OR PRICE, EXCEEDS A REFERENCE PRICE, LEVEL,
2 PERFORMANCE, OR VALUE OF 1 OR MORE UNDERLYING INTERESTS.

3 (H) "FORWARD" MEANS AN AGREEMENT, OTHER THAN A FUTURE, TO
4 MAKE OR TAKE DELIVERY IN THE FUTURE OF 1 OR MORE UNDERLYING
5 INTERESTS, OR EFFECT A CASH SETTLEMENT, BASED ON THE ACTUAL OR
6 EXPECTED PRICE, LEVEL, PERFORMANCE, OR VALUE OF THE UNDERLYING
7 INTERESTS. FORWARD INCLUDES SPOT TRANSACTIONS EFFECTED WITHIN
8 CUSTOMARY SETTLEMENT PERIODS, WHEN-ISSUED PURCHASES, OR OTHER
9 SIMILAR CASH MARKET TRANSACTIONS.

10 (I) "FUTURE" MEANS AN AGREEMENT TRADED ON A FUTURES
11 EXCHANGE, TO MAKE OR TAKE DELIVERY OF, OR EFFECT A CASH SETTLE-
12 MENT BASED ON THE ACTUAL OR EXPECTED PRICE, LEVEL, PERFORMANCE,
13 OR VALUE OF 1 OR MORE UNDERLYING INTERESTS.

14 (J) "HEDGING TRANSACTION" MEANS A DERIVATIVE TRANSACTION
15 THAT IS ENTERED INTO AND MAINTAINED TO MANAGE THE RISK OF A
16 CHANGE IN THE VALUE, YIELD, PRICE, CASH FLOW, OR QUANTITY OF
17 ASSETS OR LIABILITIES THAT THE INSURER HAS ACQUIRED OR INCURRED
18 OR ANTICIPATES ACQUIRING OR INCURRING OR THE CURRENCY EXCHANGE
19 RATE RISK RELATED TO ASSETS OR LIABILITIES THAT AN INSURER HAS
20 ACQUIRED OR INCURRED OR ANTICIPATES ACQUIRING OR INCURRING.

21 (K) "OPTION" MEANS AN AGREEMENT GIVING THE BUYER THE RIGHT
22 TO BUY OR RECEIVE, KNOWN AS A CALL OPTION, SELL OR DELIVER, KNOWN
23 AS A PUT OPTION, ENTER INTO, EXTEND, OR TERMINATE OR EFFECT A
24 CASH SETTLEMENT BASED ON THE ACTUAL OR EXPECTED PRICE, SPREAD,
25 LEVEL, PERFORMANCE, OR VALUE OF 1 OR MORE UNDERLYING INTERESTS.

26 (L) "REPLICATION TRANSACTION" MEANS A DERIVATIVE TRANSACTION
27 OR COMBINATION OF DERIVATIVE TRANSACTIONS EFFECTED EITHER

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1 SEPARATELY OR IN CONJUNCTION WITH CASH MARKET INVESTMENTS
2 INCLUDED IN THE INSURER'S INVESTMENT PORTFOLIO IN ORDER TO REPLI-
3 CATE THE RISKS AND RETURNS OF ANOTHER AUTHORIZED TRANSACTION,
4 INVESTMENT, OR INSTRUMENT OR TO OPERATE AS A SUBSTITUTE FOR CASH
5 MARKET TRANSACTIONS. A DERIVATIVE TRANSACTION ENTERED INTO BY
6 THE INSURER AS A HEDGING TRANSACTION IS NOT A REPLICATION
7 TRANSACTION.

8 (M) "STRUCTURED SECURITY" MEANS AN OBLIGATION WHOSE PRINCI-
9 PAL OR INTEREST PAYMENTS ARE DETERMINED PARTIALLY OR ENTIRELY BY
10 REFERENCE TO AN INDEX, MARKET, EVENT, OR ASSET UNRELATED TO THE
11 ISSUER'S ABILITY TO PAY.

12 (N) "SWAP" MEANS AN AGREEMENT TO EXCHANGE OR TO NET PAYMENTS
13 AT 1 OR MORE TIMES BASED ON THE ACTUAL OR EXPECTED PRICE, YIELD,
14 LEVEL, PERFORMANCE, OR VALUE OF 1 OR MORE UNDERLYING INTERESTS.

15 (O) "SWAPTION" MEANS AN OPTION TO PURCHASE OR SELL A SWAP AT
16 A GIVEN PRICE AND TIME OR AT A SERIES OF PRICES AND TIMES. A
17 SWAPTION DOES NOT MEAN A SWAP WITH AN EMBEDDED OPTION.

18 (P) "UNDERLYING INTEREST" MEANS THE ASSETS, LIABILITIES,
19 OTHER INTERESTS, OR A COMBINATION OF ASSETS, LIABILITIES, OR
20 OTHER INTERESTS UNDERLYING A DERIVATIVE INSTRUMENT SUCH AS ANY 1
21 OR MORE SECURITIES, CURRENCIES, RATES, INDICES, COMMODITIES, OR
22 DERIVATIVE INSTRUMENTS.

23 (Q) "WARRANT" MEANS AN INSTRUMENT THAT GIVES THE HOLDER THE
24 RIGHT TO PURCHASE OR SELL THE UNDERLYING INTEREST AT A GIVEN
25 PRICE AND TIME OR AT A SERIES OF PRICES AND TIMES OUTLINED IN THE
26 WARRANT AGREEMENT.

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1 (9) THE AMENDATORY ACT THAT ADDED THIS SUBSECTION DOES NOT
2 AFFECT THE VALIDITY OF ANY DERIVATIVE TRANSACTION ENTERED INTO OR
3 DERIVATIVE INSTRUMENT ACQUIRED BY AN INSURER BEFORE THE EFFECTIVE
4 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION.

5 Sec. 944. ~~An insurer may~~ QUALIFIED ASSETS FOR PURPOSES OF
6 SECTION 901 include ~~as an asset~~ the value of any amounts
7 receivable from insurers authorized to transact insurance in this
8 state.

9 Sec. 946. (1) ~~An insurer may invest in~~ SUBJECT TO THE
10 LIMITATIONS IN SECTION 901, QUALIFIED ASSETS FOR PURPOSES OF
11 SECTION 901 INCLUDE a home office, lands, and buildings ~~—, and~~
12 ~~may continue to hold the same for its own use and as a source of~~
13 ~~revenue,~~ as follows:

14 (a) A building in which the insurer has its principal home
15 office and the land upon which the building stands.

16 (b) Real estate requisite for its accommodation in the con-
17 venient transaction of its business.

18 (c) Other real estate requisite or desirable for the protec-
19 tion or enhancement of the value of real estate described under
20 subdivisions (a) and (b).

21 (2) Any parcel of real estate acquired under this section
22 may include excess space for rental to others or if the excess is
23 reasonably required in order to have a building that would be an
24 economic unit.

25 (3) Real estate under this section may be subject to a
26 mortgage.

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1 (4) Any real estate investment under this section that would
2 result in a total real estate investment in excess of 10% of a
3 domestic insurer's capital and surplus shall not be made until a
4 certificate of permission for the purchase or construction of the
5 property is granted by the commissioner. The commissioner may
6 require an appraisal of the property considered for investment by
7 3 qualified appraisers, appointed by the commissioner for the
8 purpose of the appraisal, and their certification to the commis-
9 sioner of a valuation of the property at least equal to the
10 amount that is proposed to be invested in the property by the
11 insurer.

12 Sec. 947. (1) ~~An insurer may invest in and hold~~ SUBJECT
13 TO THE LIMITATIONS IN SECTION 901, QUALIFIED ASSETS FOR PURPOSES
14 OF SECTION 901 INCLUDE real estate or any interest ~~therein~~ IN
15 REAL ESTATE, acquired by ~~it~~ THE INSURER for the purpose, under
16 its franchise, of construction, development, maintenance,
17 operation, or lease as an investment for the production of
18 income, or for the purpose, under its franchise, of constructing,
19 maintaining, or operating housing projects including incidental
20 retail and service facilities.

21 (2) ~~An insurer may invest in and hold interests in~~ SUBJECT
22 TO THE LIMITATIONS IN SECTION 901, QUALIFIED ASSETS FOR PURPOSES
23 OF SECTION 901 INCLUDE real estate conveyed or mortgaged ~~to it~~
24 in good faith, by way of security for debts or in satisfaction
25 for debts, or purchased at sales on judgments, decrees, or mort-
26 gages in favor of ~~such~~ THE insurer or acquired in the process
27 of settling claims asserted under its policies.