

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

454A0498

SENATE COMMERCE COMMITTEE ENGROSSED

NO. **SB216** - 2/14/97

Introduced by: Senator Munson (David) and Representative Roe

1 FOR AN ACT ENTITLED, An Act to revise certain insurance investment provisions.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 58-27-3 be amended to read as follows:

4 58-27-3. Eligibility of an investment shall be determined as of the date of its making or
5 acquisition, except as stated in § 58-27-4, and shall at all times be subject to the aggregate
6 investment limitations set forth in this chapter.

7 Section 2. That § 58-27-4 be amended to read as follows:

8 58-27-4. Any particular investment held by an insurer on July 1, ~~1966~~ 1997, and which was
9 a legal investment at the time it was made, and which the insurer was legally entitled to possess
10 immediately prior to July 1, ~~1966~~ 1997 shall be deemed to be an eligible investment.

11 Section 3. That § 58-27-6 be amended to read as follows:

12 58-27-6. ~~Any~~ Unless otherwise specified, any investment limitation based upon the amount
13 of the insurer's admitted assets or particular funds, risk based capital, or capital and surplus, shall
14 relate to such admitted assets or funds, risk based capital, or capital and surplus as shown by the
15 insurer's annual statement as of the December thirty-first next preceding date of acquisition of

1 the investment by the insurer, or as shown by a current financial statement filed with the director.
 2 For purposes of computing any limitation based upon admitted assets, the insurer shall deduct
 3 the following to the extent included in the insurer's admitted assets, from the amount of its
 4 admitted assets:

- 5 (1) Collateral received in a reverse repurchase transaction or a securities lending
- 6 transaction;
- 7 (2) Cash received in a dollar roll transaction; and
- 8 (3) The assets in any separate accounts maintained by the insurer.

9 Section 4. That § 58-27-7 be amended to read as follows:

10 58-27-7. No security or investment, other than real and personal property acquired under
 11 § 58-27-50 ~~or~~; common ~~stocks~~ shares of solvent ~~corporations~~ institutions acquired under § 58-
 12 27-23, 58-27-25, 58-27-26, or 58-27-51; investments acquired under § 58-27-103, 58-27-104,
 13 or 58-27-111; and mutual funds acquired under subdivision 58-27-17(4) that invest less than
 14 ninety percent in bonds, is eligible for acquisition unless it is interest-bearing or interest-accruing
 15 or dividend- or income-paying, ~~is not then in default in any respect~~, and the insurer is entitled to
 16 receive for its exclusive account and benefit the interest or income accruing thereon. The director
 17 of the Division of Insurance may promulgate rules regarding the acquisition of over-the-counter
 18 and exchange listed options and financial futures, including the exemption of these securities
 19 from the operation of this section.

20 Section 5. That § 58-27-15 be amended to read as follows:

21 58-27-15. To the extent that such an account is insured by the ~~federal savings and loan~~
 22 ~~insurance corporation~~ Savings Association Insurance Fund (SAIF), or any successor
 23 organizations, an insurer may invest in share or savings accounts of savings and loan and building
 24 and loan associations. ~~However, if the association is located in and authorized to do business~~
 25 ~~within the State of South Dakota, the insurer may invest up to one hundred thousand dollars in~~

1 ~~the association.~~

2 Section 6. That chapter 58-27 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 To the extent that such an account is insured by the National Credit Union Share Insurance
5 Fund (NCUSIF), or any successor organizations, an insurer may invest in member accounts of
6 federal or state-chartered credit unions.

7 Section 7. That § 58-27-17 be amended to read as follows:

8 58-27-17. An insurer may invest in:

- 9 (1) Bonds, debentures, notes, and other evidences of indebtedness, or participations
10 thereon, issued, assumed, or guaranteed by any solvent institution existing under the
11 laws of the United States of America or Canada, or any state or province thereof,
12 ~~which are not in default as to principal or interest and which are secured and bear~~
13 fixed or accrue interest at a fixed or floating rate;
- 14 (2) Secured and unsecured obligations of institutions described in subdivision (1) of this
15 section, bearing or accruing interest at a fixed or floating rate, with mandatory
16 principal and interest due at specified times;
- 17 (3) Adjustment, income, or other contingent interest obligations of institutions described
18 in subdivision (1) of this section;
- 19 (4) Securities of any (a) open-end or closed-end management type investment company
20 or investment trust fund registered under the ~~Federal~~ Investment Company Act of
21 ~~Congress~~ of 1940, as adopted by the director pursuant to rules promulgated pursuant
22 to chapter 1-26; or (b) issuer meeting the requirements of Section 3(c)(1) of the
23 Investment Company Act of 1940, as adopted by the director pursuant to rules
24 promulgated pursuant to chapter 1-26; and
- 25 (5) Preferred ~~or guaranteed stocks or shares~~ of any solvent institution existing under the

1 laws of the United States of America or Canada, or of any state or province thereof;
2 if all of the prior obligations and prior preferred stocks, if any, of such institution at
3 the date of acquisition of the investment by such insurer are eligible as investments
4 under this chapter.

5 If a company an insurer has an investment in violation of this section, it shall divest itself of
6 the investment pursuant to § 58-27-74.

7 ~~No investment pursuant to subdivisions (1), (2), (3), and (5) may be unrated by the securities~~
8 ~~valuation office of the national association of insurance commissioners unless purchased pursuant~~
9 ~~to § 58-27-108.~~

10 Section 8. That § 58-27-23 be amended to read as follows:

11 58-27-23. An insurer may invest in nonassessable common ~~stocks, other than~~ shares, trust
12 certificates, or other equity interests, excluding preferred shares, insurance stocks, or acquisitions
13 subject to subdivision 58-27-17(5) or § 58-27-111, of any solvent ~~corporation~~ institution existing
14 under the laws of the United States of America or Canada, or any state or province thereof, if
15 cash or stock dividends have been earned and paid on its common stock in each of the five fiscal
16 years preceding such acquisition; and if, further, all prior obligations or preference stock of such
17 corporation, if any, are eligible for investment under this chapter. If the issuing corporation has
18 not been in legal existence for the whole of the five preceding fiscal years but was formed as a
19 consolidation or merger of two or more businesses, the test of eligibility for investment in its
20 common stock under this section shall be based upon consolidated pro forma statements of the
21 predecessor or constituent institutions.

22 Section 9. That § 58-27-50 be amended to read as follows:

23 58-27-50. An insurer may invest in real estate only if used for the purposes or acquired in the
24 manners and within the limits as follows:

25 (1) The land and the building thereon in which it has its principal office and such other

1 real estate including regional home offices as shall be requisite for its convenient
2 accommodation in the transaction of its business. Except with the consent of the
3 director of the Division of Insurance, all such investments ~~shall~~ may not aggregate
4 more than fifteen percent of the insurer's admitted assets;

5 (2) Real estate acquired in satisfaction of loans, mortgages, liens, judgments, decrees, or
6 debts previously owing to the insurer in the course of its business;

7 (3) Real estate acquired in part payment of the consideration on the sale of other real
8 estate owned by it, if such transaction does not increase the insurer's investment in
9 real estate;

10 (4) Real estate acquired by gift or devise, or through merger, consolidation, or bulk
11 reinsurance of another insurer under this title;

12 (5) The seller's interest in real property subject to an agreement of purchase or sale, but
13 the sum invested in any such parcel of real estate ~~shall~~ may not exceed three-fourths
14 of the market value of such parcel;

15 (6) Real estate, or any interest therein acquired or held by purchase, lease, or otherwise,
16 other than real estate to be used primarily for agricultural, ranch, mining, development
17 of oil or mineral resources, recreational, amusement, or club purposes, acquired as an
18 investment for the production of income, or acquired to be improved or developed for
19 investment purposes pursuant to an existing program therefor; ~~the.~~ The insurer may
20 hold, improve, develop, maintain, manage, lease, sell, and convey real estate acquired
21 by it under this section; ~~no.~~ No insurer may have at any one time invested in real
22 estate under this ~~paragraph~~ subdivision an amount exceeding fifteen percent of its
23 admitted assets, nor in any single parcel of real estate under this subdivision, an
24 amount in excess of ~~two~~ five percent of its admitted assets; or

25 (7) Additional real estate and equipment incident to real estate, if necessary or convenient

1 for the purpose of enhancing the sale or other value of real estate previously acquired
2 or held by the insurer under subdivision (2), (3), (4), or (6). Such real estate and
3 equipment shall be included, together with the real estate for the enhancement of
4 which it was acquired, for the purpose of applicable investment limits, and shall be
5 subject to disposal at the same time and under the same conditions as applying to such
6 enhanced real estate under §§ 58-27-70 to 58-27-72, inclusive.

7 Except with the director's consent, all real estate owned by the insurer under this section,
8 except a seller's interest specified in subdivision (5) may not at any one time exceed twenty
9 percent of the insurer's admitted assets.

10 Section 10. That § 58-27-51 be amended to read as follows:

11 58-27-51. ~~Any domestic company~~ Notwithstanding the aggregate limitations set forth in
12 chapter 58-27, an insurer may exceed such limitations if it does not invest, in the aggregate, an
13 amount not to exceed in the aggregate five percent of its admitted assets, exclusive of capital and
14 surplus, or an amount not to exceed in the aggregate in excess of fifty percent of its capital and
15 surplus in excess of four hundred thousand dollars, whichever is greater, providing if such
16 investment otherwise complies with § 58-27-7, does not violate § 58-27-8 and does not include
17 any item described in § 58-26-10, except as provided in § 58-26-10.1, or any investment
18 otherwise expressly prohibited. Limitations on the maximum amount of investment in categories
19 enumerated under this chapter may be exceeded pursuant to this section with the prior consent
20 of the director of the Division of Insurance. Any increase in investment authority granted by the
21 director pursuant to statute shall reduce in that amount the investment authorization provided
22 under this section chapter 58-27.

23 Section 11. That chapter 58-27 be amended by adding thereto a NEW SECTION to read as
24 follows:

25 In addition to the authority provided under § 58-27-51, an insurer authorized to write life or

1 health insurance, or both, may invest a percentage of the amount by which the insurer's total
2 adjusted capital equals or exceeds two hundred percent of its company action level risk-based
3 capital in investments of any kind, in the discretion of the insurer, without regard to any
4 condition of, restriction in, or exclusion prescribed in chapter 58-27, and regardless of whether
5 the same or a similar type of investment has been included in, or omitted from, any such section,
6 subject to an aggregate limitation equal to the greatest of:

7 (1) Fifty percent of the excess of total adjusted capital over the risk-based capital
8 threshold if the insurer has total adjusted capital that equals or exceeds two hundred
9 percent of its company action level risk-based capital;

10 (2) Seventy-five percent of the excess of total adjusted capital over the risk-based capital
11 threshold if the insurer has total adjusted capital that equals or exceeds two hundred
12 twenty-five percent of its company action level risk-based capital; or

13 (3) One hundred percent of the excess of total adjusted capital over the risk-based capital
14 threshold if the insurer has total adjusted capital that equals or exceeds two hundred
15 fifty percent of its company action level risk-based capital.

16 For the purpose of this section, risk-based capital threshold means two hundred percent of
17 an insurer's company action level risk-based capital. The director shall promulgate rules pursuant
18 to chapter 1-26 to define company action level risk-based capital and total adjusted capital.

19 Section 12. That chapter 58-27 be amended by adding thereto a NEW SECTION to read as
20 follows:

21 In addition to the authority provided under § 58-27-51, an insurer authorized to write
22 property and casualty insurance may invest a percentage of the amount by which the insurer's
23 total adjusted capital equals or exceeds two hundred percent of its company action level risk-
24 based capital in investments of any kind, in the discretion of the insurer, without regard to any
25 condition of, restriction in, or exclusion prescribed in chapter 58-27, and regardless of whether

1 the same or a similar type of investment has been included in, or omitted from, any such section,
2 subject to an aggregate limitation equal to the greatest of:

- 3 (1) Fifty percent of the excess of total adjusted capital over the risk-based capital
4 threshold if the insurer has total adjusted capital that equals or exceeds two hundred
5 twenty five percent of its company action level risk-based capital;
- 6 (2) Seventy-five percent of the excess of total adjusted capital over the risk-based capital
7 threshold if the insurer has total adjusted capital that equals or exceeds two hundred
8 fifty percent of its company action level risk-based capital; or
- 9 (3) One hundred percent of the excess of total adjusted capital over the risk-based capital
10 threshold if the insurer has total adjusted capital that equals or exceeds two hundred
11 seventy-five percent of its company action level risk-based capital.

12 For the purpose of this section, risk-based capital threshold means two hundred percent of
13 an insurer's company action level risk-based capital. The director shall promulgate rules pursuant
14 to chapter 1-26 to define company action level risk-based capital and total adjusted capital.

15 Section 13. That chapter 58-27 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 Any investment purchased and held pursuant to § 58-27-51.1 or 58-27-51.2 shall be valued
18 in accordance with chapters 58-26 and 58-27 or in accordance with the methods established by
19 the National Association of Insurance Commissioners. If valuation methods are not prescribed
20 by chapter 58-26 or 58-27, or the National Association of Insurance Commissioners has not
21 established a valuation method for any investment, the investment must be valued at the lower
22 of cost or market.

23 Section 14. That § 58-27-52 be amended to read as follows:

24 58-27-52. ~~An~~ Except as otherwise provided in this chapter, an insurer shall invest in or hold
25 as admitted assets categories of investments only within applicable limits as prescribed by

1 §§ 58-27-53 to 58-27-60, inclusive.

2 Section 15. That § 58-27-53 be amended to read as follows:

3 58-27-53. An insurer may not, except with the consent of the director, have any combination
4 of investments in or loans upon the security of the obligations, property, or securities of any one
5 person, institution, corporation, or municipal corporation, ~~or in the obligations provided for in~~
6 ~~§ 58-27-83 or any collateralized pool under § 58-27-103~~, aggregating an amount exceeding five
7 percent of the insurer's assets. This restriction does not apply to the following: (1) bonds, notes,
8 debentures, certificates, participations, or interest or other obligations issued by, or the payment
9 of which is guaranteed or insured by, the United States Government or any agency or
10 instrumentality or subdivision thereof; (2) obligations of the Federal National Mortgage
11 Association or the Federal Home Loan Mortgage Corporation; (3) bonds, notes, debentures, or
12 other obligations issued by, or the payment of which is guaranteed by, the State of South Dakota
13 or any state as defined in subdivision 58-1-2(16); or (4) policy loans made under § 58-27-31 or
14 investments made pursuant to § 58-27-25 or 58-27-26, or both.

15 Section 16. That § 58-27-57 be amended to read as follows:

16 58-27-57. Except with the director's consent, no insurer may have invested at any one time
17 more than forty percent of its assets in the class of securities described in subdivisions
18 58-27-17(1), (2) ~~and~~, (3), and (4) and in § 58-27-28, exclusive of obligations of public utilities
19 and securities described in §§ 58-27-103 and 58-27-104 and obligations guaranteed or insured
20 by the United States Government or any instrumentality or subdivision thereof, or any state as
21 defined in subdivision 58-1-2(16). For purposes of determining compliance with this section, the
22 investments under subdivision 58-27-17(4) are limited to those mutual funds that are investing
23 at least ninety percent in bonds defined in subdivisions 58-27-17(1), (2), and (3) and §§ 58-27-9
24 to 58-27-13, inclusive.

25 Section 17. That § 58-27-58 be amended to read as follows:

1 58-27-58. An insurer may invest and have invested at any one time in aggregate amount not
2 more than twenty percent of its assets in all ~~stocks~~ investments under §§ 58-27-23 and 58-27-24
3 and not more than twenty-five percent of its assets in all ~~securities~~ investments under
4 subdivisions 58-27-17(4) and (5) and §§ 58-27-23 and 58-27-24; ~~determination.~~ Determination
5 of the amount which an insurer has invested ~~in common stocks~~ for the purposes of this section
6 shall be based on the cost of such ~~stocks~~ investments to the insurer; ~~this.~~ This section does not
7 apply to stock of a controlled or subsidiary insurance corporation or other corporation under
8 §§ 58-27-25 and 58-27-26. This section does not apply to § 58-27-101. For purposes of
9 determining compliance with this section, the investments under subdivision 58-27-17(4) are
10 limited to those mutual funds investing less than ninety percent in bonds defined in subdivisions
11 58-27-17(1), (2), and (3) and §§ 58-27-9 to 58-27-13, inclusive.

12 Section 18. That § 58-27-59 be repealed.

13 ~~—58-27-59. Except with the consent of the director of the Division of Insurance, an~~
14 ~~insurer may not have invested at any one time more than twenty percent of its assets in each of~~
15 ~~the classes of securities described in subdivisions 58-27-17 (4) and (5) or not more than~~
16 ~~twenty-five percent of its assets in the class of securities described in subdivisions 58-27-17 (4)~~
17 ~~and (5) and §§ 58-27-23 and 58-27-24. This section does not apply to § 58-27-101.~~

18 Section 19. That § 58-27-69 be amended to read as follows:

19 58-27-69. An insurer ~~shall~~ may not make any investment or loan, other than policy loans or
20 annuity contract loans of a life insurer, unless the same is authorized ~~or~~ approved, or ratified by
21 the insurer's board of directors or by a committee authorized by such board and charged with the
22 supervision or making of such investment or loan. The minutes of any such committee shall be
23 recorded and regular reports of such committee shall be submitted to the board of directors.

24 Section 20. That § 58-27-78 be amended to read as follows:

25 58-27-78. Terms used in §§ 58-27-78 to 58-27-84, inclusive, ~~unless the context otherwise~~

1 ~~clearly requires~~, mean:

2 (1) "Clearing corporation," a corporation as defined in subdivision 57A-8-102(3);

3 (2) "Custodian bank," any bank or trust company which is supervised or examined by a
4 state or federal authority having supervision over banks and which may act as
5 custodian for an insurer; ~~and~~

6 (3) "Member bank," a national bank, state bank, or trust company which is a member of
7 the United States federal reserve system;

8 (4) "Securities lending transaction," a transaction in which securities are loaned by an
9 insurer to an institution that is obligated to return equivalent or substantially similar
10 securities to the insurer, either within a specified period of time or upon demand;

11 (5) "Reverse repurchase transaction," a transaction in which an insurer sells securities to
12 an institution and is obligated to repurchase equivalent or substantially similar
13 securities from the institution at a specified price, either within a specified period of
14 time or upon demand;

15 (6) "Repurchase transaction," a transaction in which an insurer purchases securities from
16 an institution that is obligated to repurchase equivalent or substantially similar
17 securities from the insurer at a specified price, either within a specified period of time
18 or upon demand;

19 (7) "Dollar roll transaction," two simultaneous transactions with different settlement dates
20 no more than ninety-six days apart, so that in the transaction with the earlier
21 settlement date, an insurer sells to an institution, and in the other transaction, the
22 insurer is obligated to purchase from the same institution, substantially similar
23 securities of the following type:

24 (a) Securities issued, assumed, or guaranteed by the Government National
25 Mortgage Association, the Federal National Mortgage Association, or the

1 Federal Home Loan Mortgage Corporation, or their respective successors;

2 (b) Securities referred to in Section 106 of Title I of the Secondary Mortgage
3 Market Enhancement Act of 1984(15 U.S.C.§77r-1), as adopted by the
4 director pursuant to rules promulgated pursuant to chapter 1-26; and

5 (c) Any other securities approved by the director;

6 (8) "Substantially similar securities," securities of the same issuer having similar features
7 that meet all criteria for substantially similar or equivalent securities specified in the
8 National Association of Insurance Commissioners Accounting Practices and
9 Procedures Manual, as adopted by the director pursuant to rules promulgated
10 pursuant to chapter 1-26; and

11 (9) "Securities," any investment of the type authorized or permitted under chapter 58-27.

12 Section 21. That § 58-27-81 be amended to read as follows:

13 58-27-81. ~~A company~~ An insurer ~~may loan stocks or obligations held by it under §§ 58-27-78~~
14 ~~to 58-27-84, inclusive, to a broker-dealer registered under the Securities and Exchange Act of~~
15 ~~1934 or a member bank. The loan shall be evidenced by a written agreement which provides~~
16 enter into securities lending, repurchase, reverse repurchase, and dollar roll transactions subject
17 to the following requirements:

18 ~~— (1) — That the loan will be fully collateralized by cash or obligations issued or guaranteed~~
19 ~~by the United States or an agency or an instrumentality thereof and that the collateral~~
20 ~~shall be adjusted each business day during the term of the loan to maintain the~~
21 ~~required collateralization in the event of market value changes in the loaned securities~~
22 ~~or collateral;~~

23 ~~— (2) — That the loan may be terminated by the company at any time and that the borrower~~
24 ~~shall return the loaned stocks or obligations or their equivalent within five business~~
25 ~~days after termination; and~~

1 ~~(3) That the company has the right to retain the collateral or use the collateral to purchase~~
2 ~~investments equivalent to the loaned securities if the borrower defaults under the~~
3 ~~terms of the agreement and that the borrower remains liable for any losses and~~
4 ~~expenses incurred by the company due to default that are not covered by the~~
5 ~~collateral:~~

6 (1) A written plan or investment policy that specifies guidelines and objectives relating
7 to such transactions shall be adopted by the insurer's board of directors or a
8 committee authorized and charged by such board with the supervision or making of
9 investments or loans;

10 (2) All transactions entered into pursuant to this section, other than dollar roll
11 transactions, shall be subject to a written agreement, including a master agreement for
12 a series of transactions or an agreement with an agent acting on behalf of the insurer,
13 which provides that:

14 (a) Transactions authorized in this section shall be fully collateralized by cash or
15 eligible securities as permitted or authorized under chapter 58-27 excluding any
16 investments acquired under § 58-27-51.1 or 58-27-51.2;

17 (b) The collateral shall be marked to market each business day and adjusted as
18 needed to comply with subsection (a) of this subdivision;

19 (c) For purposes of this agreement, market value shall include accrued interest;
20 and

21 (d) The insurer may retain the collateral or use the collateral to purchase
22 investments equivalent to the loaned securities if the borrower defaults under
23 the terms of the agreement and the borrower remains liable for any losses and
24 expenses incurred by the insurer due to default that are not covered by the
25 collateral;

1 (3) Any transaction entered into pursuant to this section may be terminated at a specified
2 time or upon the earlier demand of the insurer;

3 (4) Any cash received by an insurer in a transaction under this section shall be invested
4 in accordance with chapter 58-27 and in a manner that recognizes the liquidity needs
5 of the transaction or used by the insurer for its general corporate purposes;

6 (5) An insurer is limited to no more than five percent of its admitted assets being subject
7 to securities lending, repurchase, or reverse repurchase transactions outstanding with
8 any one institution under this section;

9 (6) No more than forty percent of an insurer's admitted assets in the aggregate may be
10 subject to securities lending, repurchase, and reverse repurchase transactions.

11 The director of the Division of Insurance may promulgate rules pursuant to chapter 1-26 to
12 establish financial solvency standards, valuation standards, and reporting requirements for
13 investments and transactions under this section.

14 Section 22. That § 58-27-84 be amended to read as follows:

15 58-27-84. If an investment is not evidenced by a certificate, except as provided in
16 § 58-27-82, adequate evidence of the ~~company's~~ insurer's investment shall be obtained and
17 retained by the ~~company~~ insurer, a custodian bank, or clearing corporation. Adequate evidence,
18 for purposes of this section, means a written receipt or other verification issued by the depository
19 or issuer or a custodian bank which shows that the investment is held for the ~~company~~ insurer,
20 or if applicable under § 58-27-111, limited partnership or joint venture documentation. Transfers
21 of ownership of investments held as described in subdivision 58-27-80(3), §§ 58-27-82 and
22 58-27-83 may be evidenced by bookkeeping entry on the books of the issuer of the investment
23 or its transfer or recording agent or the clearing corporation without physical delivery of
24 certificates, if any, evidencing the ~~company's~~ insurer's investment.

25 Section 23. That § 58-27-89 be amended to read as follows:

1 58-27-89. Terms used in §§ 58-27-89 to 58-27-102, inclusive, mean:

2 (1) "Admitted assets," ~~the amount as of the last day of the most recently concluded~~
3 ~~annual statement year~~ assets as shown by the insurer's annual statement as of the
4 December thirty-first next preceding date of acquisition of the investment by the
5 insurer, or as shown by a current financial statement filed with the director, computed
6 in the same manner as "admitted assets" in chapter 58-26, and for purposes of
7 computing any limitation based upon admitted assets, the insurer shall deduct from
8 the amount of its admitted assets the amounts specified in subdivisions (1) to (3) of
9 § 58-27-6;

10 (2) "Aggregate amount of medium to lower quality obligations," the aggregate statutory
11 statement value thereof;

12 (3) "Lower grade obligations," obligations and preferred ~~or guaranteed stocks or shares~~
13 which are rated four, five, or six by the Securities Valuation Office of the National
14 Associations of Insurance Commissioners;

15 (4) "Medium grade obligations," obligations and preferred ~~or guaranteed stocks or shares~~
16 which are rated three by the Securities Valuation Office of the National Association
17 of Insurance Commissioners.

18 Section 24. That § 58-27-101 be amended to read as follows:

19 58-27-101. The term, money market fund, means any open end, diversified management type
20 of mutual fund registered under the ~~federal~~ Investment Company Act of 1940, 15 U.S.C. 80a-1
21 et seq., as adopted by the director pursuant to rules promulgated pursuant to chapter 1-26, the
22 moneys of which are invested only in the following kinds of investments, none of which shall
23 mature more than three hundred ninety-seven days from the date of acquisition by the mutual
24 fund:

25 (1) Securities issued or guaranteed as to principal and interest by the government of the

1 United States or by agencies, government sponsored enterprises, or instrumentalities
2 thereof;

3 (2) Certificates of deposit and bankers' acceptances of banks chartered by the United
4 States or any state thereof or foreign branches of such banks;

5 (3) Commercial paper and other obligation of corporations chartered by or under the laws
6 of the United States or any state thereof; ~~and~~

7 (4) Repurchase agreements with respect to those investments; and

8 (5) Dollar-denominated unsecured promissory obligations of foreign corporations which
9 have an investment grade rating from at least one rating agency recognized by the
10 Securities Valuation Office of the National Association of Insurance Commissioners.

11 Insurance companies may invest in the shares of any one or more money market funds the
12 objectives of which include the maintenance of a stable net asset value of a specified dollar
13 amount per share and the shareholders of which may withdraw the value of their shares by check,
14 telephone, or mail.

15 In addition to the forty percent investment limitation available for money-market fund
16 investments pursuant to § 58-27-57, an insurer may acquire additional money market funds
17 pursuant to this section not to exceed ten percent of its admitted assets. The aggregate value of
18 all money market shares which may be ~~admitted assets~~ acquired under this section and § 58-27-
19 57 may not exceed ~~ten~~ fifty percent of the insurance company's total admitted assets. At the time
20 of the investment, no insurance company's investment may exceed five percent of the outstanding
21 shares of any one money market fund. No investment may exceed the lesser of the amount in this
22 section or the amount in § 58-27-53.

23 The limitations set forth in this section do not apply to investments in money market funds
24 in which portfolio assets are invested entirely in the type of securities permitted pursuant to
25 §§ 58-27-9 to 58-27-13, inclusive.

1 Section 25. That § 58-27-103 be amended to read as follows:

2 58-27-103. In addition to investment in mortgages in §§ 58-27-32 to 58-27-48, inclusive, an
3 insurer may invest in obligations or certificates entitled to receive both principal and interest, or
4 both principal and implied interest, from a pool collateralized by one or more commercial and
5 residential mortgages. The collateral for the investments shall have been sold to and be currently
6 owned by either a trust or ~~corporation~~ institution established solely for the purpose of holding
7 the mortgages or certificates for the benefit of the obligee. Any investment authorized under this
8 section shall have a minimum quality rating of ~~one~~ or two by the Securities Valuation Office of
9 the National Association of Insurance Commissioners and shall meet volatility standards. If at
10 any time thereafter the quality rating drops below a rating of ~~three~~ two the insurer is subject to
11 § ~~58-27-106~~ 58-27-90. The director shall promulgate rules pursuant to chapter 1-26 to set
12 volatility standards and reporting requirements for investments under this section.

13 An insurer's investments authorized under this section may not exceed forty percent of its
14 admitted assets. This restriction does not apply to obligations of the Federal National Mortgage
15 Association or the Federal Home Loan Mortgage Corporation and those issued, assumed,
16 guaranteed, or insured by the United States or a government sponsored enterprise of the United
17 States, if the instruments of the government sponsored enterprise are assumed, guaranteed, or
18 insured by the United States or are otherwise backed or supported by the full faith and credit of
19 the United States.

20 Any particular investment held by an insurer on February 7, 1995, under this section, which
21 was a legal investment at the time it was made, and which is the type of investment the insurer
22 was legally entitled to possess under this section immediately prior to February 7, 1995, is
23 considered an eligible investment under this section. Any additional investment pursuant to this
24 section may not be made if the total amount invested would at any time exceed forty percent of
25 admitted assets.

1 Section 26. That § 58-27-104 be amended to read as follows:

2 58-27-104. An insurer may invest in an interest in a collateralized pool whose underlying
3 assets are not addressed or may be prohibited by chapter 58-26 or 58-27. An insurer may invest
4 in interest-bearing obligations entitled to receive both principal and interest, or both principal and
5 implied interest, from a pool collateralized by one or more assets other than those authorized in
6 § 58-27-103. The collateral for the investments shall have been sold to and be currently owned
7 by a trust or corporation established solely for the purpose of holding the assets for the benefit
8 of the obligee. Any investment authorized under this section shall have a minimum quality rating
9 of ~~one~~ two by the Securities Valuation Office of the National Association of Insurance
10 Commissioners. If at any time thereafter the quality rating drops below a rating of two the
11 insurer is subject to § ~~58-27-106~~ 58-27-90.

12 An insurer's investments authorized under this section may not exceed forty percent of its
13 admitted assets.

14 If the underlying investment of the pool is an investment set forth in chapters 58-26 and
15 58-27, any requirement or limitation for that investment shall apply. This section is subject to the
16 five percent limitation of § 58-27-53.

17 Section 27. That § 58-27-105 be amended to read as follows:

18 58-27-105. An insurer may invest in securities or other investments which are issued or
19 denominated in the currency of countries other than the United States or whose obligor is
20 domiciled in another country. The securities and investments shall meet the limitation, quality,
21 and quantity requirements of chapters 58-26 and 58-27.

22 The investments in other countries may not exceed in the aggregate ~~ten~~ twenty percent of
23 the insurer's admitted assets or one hundred percent of capital and surplus, whichever is less.

24 Section 28. That § 58-27-106 be repealed.

25 ~~58-27-106. Any investment set forth in §§ 58-27-103, 58-27-104 and 58-27-105 which~~

1 ~~exceeds the investment limitation or falls below the established rating is subject to the provisions~~
2 ~~of § 58-27-97.~~

3 Section 29. That § 58-27-107 be amended to read as follows:

4 58-27-107. Any investment satisfying the provisions of §§ 58-27-53, 58-27-57, 58-27-103,
5 58-27-104, or 58-27-105 ~~and 58-27-106~~ entered into before January 1, 1993, is hereby ratified.

6 Section 30. That § 58-27-108 be amended to read as follows:

7 58-27-108. ~~At the time of purchase, any~~ Any investment shall be rated and valued in
8 accordance with standards promulgated by the Securities Valuation Office of the National
9 Association of Insurance Commissioners as adopted by the director pursuant to rules
10 promulgated pursuant to chapter 1-26. The rating of the investment must comply with the
11 statutory requirement for the investment.

12 Any insurer may purchase any investment not rated by the Securities Valuation Office of the
13 National Association of Insurance Commissioners if the investment has received an equivalent
14 rating by an independent rating agency which is recognized by the Securities Valuation Office.
15 If the insurer purchases an investment not previously rated and valued by the Securities
16 Valuation Office, application for a rating and valuation shall be filed with in accordance with the
17 standards promulgated by the Securities Valuation Office ~~within sixty days of the purchase~~. If
18 the investment, when rated by the Securities Valuation Office, does not comply with the
19 statutory requirement, the ~~company~~ insurer must divest of the investment pursuant to §
20 ~~58-27-106~~ 58-27-97.

21 Nothing in this section is applicable to the assets in any separate accounts maintained by the
22 insurer.

23 Section 31. That § 58-28-30 be amended to read as follows:

24 58-28-30. Except for §§ 58-15-13, 58-15-14, 58-15-15, 58-15-17, 58-15-18, 58-15-19,
25 58-15-21, 58-15-22, 58-15-29, 58-15-31, 58-15-33, 58-15-34, 58-15-35, 58-15-36, 58-15-38

1 ~~and~~, 58-15-39, and 58-27-108, as in the case of a variable life insurance policy, §§ 58-15-57,
2 58-15-62, 58-15-64, 58-15-65, 58-15-66, ~~and~~ §§ 58-15-72 to 58-15-81, inclusive, and § 58-27-
3 108, as in the case of a variable annuity contract and except as is otherwise provided in this
4 chapter, all pertinent provisions of the insurance code shall apply to separate accounts and
5 contracts relating thereto.

6 Section 32. That chapter 58-27 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 A domestic title insurer may make investments in title plants in an aggregate amount not
9 exceeding twenty-five percent of the insurer's assets.

10 Section 33. That chapter 58-27 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 Notwithstanding direct investment limitations applicable to real estate, securities, and other
13 assets as provided in this chapter, an insurer may become a limited partner in a limited
14 partnership or invest in a joint venture with equity interests in real estate, securities, or other
15 assets. Investments made under this section are treated as a permitted investment under §§ 58-
16 27-51, 58-27-51.1, and 58-27-51.2, and within the limitations imposed by those sections. An
17 insurer may not invest more than five percent of its admitted assets in any one limited partnership
18 or joint venture. Determination of the amount an insurer has invested in limited partnerships or
19 joint ventures for the purposes of this section shall be based on the cost of such investments to
20 the insurer. Any investment satisfying the provisions of this section and entered into before
21 July 1, 1997, is hereby ratified.

22 Section 34. That § 58-28-15 be amended to read as follows:

23 58-28-15. Except as may be provided with respect to reserves for guaranteed benefits and
24 funds referred to in § 58-28-14, amounts allocated to any separate account and accumulations
25 thereon may be invested and reinvested;

- 1 (1) In any class of investments which are authorized by chapter 58-27, except as provided
2 in § 58-27-51 or 58-27-51.1, and except that limitations on the amount of assets
3 which may be invested in the various classes of investments imposed in chapter 58-27
4 ~~shall~~ does not apply;
- 5 (2) In shares registered on a national securities exchange, although the same do not meet
6 the dividend paying requirements of § 58-27-23;
- 7 (3) In the securities of an open-end investment company or companies registered under
8 the ~~Federal~~ Investment Company Act of 1940 ~~as amended~~.

9 The investments in such separate account or accounts ~~shall~~ may not be taken into account
10 in applying the investment limitations otherwise applicable to the investments of the ~~company~~
11 insurer.

1 **BILL HISTORY**

2 1/31/97 First read in Senate and referred to Commerce. S.J. 260

3 2/13/97 Scheduled for Committee hearing on this date.

4 2/13/97 Commerce Do Pass Amended, AYES 6, NAYS 0. S.J. 421