

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 236

6
7 S.P. 104

In Senate, January 21, 1983

8 Received by the Secretary of the Senate on January 21, 1983. Referred to
9 the Committee on Business Legislation, and ordered printed pursuant to Joint
10 Rule 14.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Clark of Cumberland.
11

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Amend the Investment Provisions
18 and Certain Related Sections of the
19 Maine Insurance Code.
20

21 Be it enacted by the People of the State of Maine as
22 follows:

23 Sec. 1. 24-A MRSA §222, sub-§3, ¶A, as repealed
24 and replaced by PL 1975, c. 356, §1, is amended to
25 read:

26 A. Authorization: Any domestic insurer may
27 invest in or otherwise acquire one or more sub-
28 sidiaries as authorized in section ~~1115~~ 1108-A;

29 Sec. 2. 24-A MRSA §901, sub-§12, as amended by
30 PL 1981, c. 501, §42, is further amended to read:

31 12. As to a title insurer, its title plant and
32 equipment reasonably necessary for conduct of its ab-

1 stract or title insurance business, as measured by
2 the cost of the plant and equipment to the insurer,
3 but subject to the limitation in section ~~1129~~ 1111-A;

4 Sec. 3. 24-A MRSA §902, sub-§4, as enacted by PL
5 1969, c. 132, §1, is amended to read:

6 4. Furniture, fixtures, furnishings, safes,
7 vehicles, libraries, stationery, literature and sup-
8 plies, other than data processing, recordkeeping and
9 accounting systems authorized under section 901, sub-
10 section 13, except in the case of title insurers ~~such~~
11 those materials and plants as the insurer is
12 expressly authorized to invest in under section ~~1129~~
13 1111-A and except, in the case of any insurer, ~~such~~
14 that personal property as the insurer is permitted to
15 hold pursuant to chapter 13, or which is reasonably
16 necessary for the maintenance and operation of real
17 estate lawfully acquired and held by the insurer
18 other than real estate used by it for home office,
19 branch office and similar purposes.

20 Sec. 4. 24-A MRSA §1101, as enacted by PL 1969,
21 c. 132, §1, is amended to read:

22 §1101. Scope of chapter

23 Except as provided in section ~~1137~~ 1113-A, this
24 chapter applies to domestic insurers only.

25 Sec. 5. 24-A MRSA §1103, as enacted by PL 1969,
26 c. 132, §1, is repealed.

27 Sec. 6. 24-A MRSA §1103-A is enacted to read:

28 §1103-A. General qualifications

29 1. No security or investment, other than real
30 property acquired under section 1107-A, subsection 2,
31 paragraph D, and personal property incident thereto,
32 may be eligible for acquisition unless it is interest
33 bearing or interest accruing or entitled to divi-
34 dends, if declared, or is otherwise income-entitled,
35 is not then in default in any respect, and the
36 insurer is entitled to receive for its exclusive ac-
37 count and benefit the interest or income accruing
38 thereon. Notwithstanding this subsection, an insurer

1 may invest in securities or other investments that
2 are neither interest bearing nor income paying if the
3 aggregate amount of those investments, computed at
4 cost, that are neither interest bearing nor income
5 paying held by that insurer will not exceed 5% of the
6 insurer's total admitted assets as of the last day of
7 the most recent fiscal year. Subject to the limita-
8 tion of this subsection, nothing in this chapter may
9 be deemed to prohibit an insurer from effecting or
10 maintaining bona fide hedging transactions in foreign
11 currency in connection with the purchase and sale of
12 securities eligible for investment under this chapter
13 or in contracts for future delivery of options, calls
14 and other rights to purchase and puts and other
15 rights to require another person to purchase, securi-
16 ties eligible for investment under this chapter, provi-
17 ded that those contracts, options, calls, puts and
18 rights are traded on a national securities exchange
19 or board of trade regulated under the laws of the
20 United States. For purposes of this subsection, a
21 bona fide hedging transaction means a purchase or
22 sale of foreign currency or of a contract, option,
23 call, put or right, as the case may be, entered into
24 for the purchase of offsetting changes in foreign
25 currency exchange rates or in the market value of a
26 security held or proposed to be acquired by the
27 insurer.

28 2. No provision of this chapter may prohibit the
29 acquisition by an insurer of:

30 A. Securities or property received as a dividend
31 or pursuant to a lawful judicial or nonjudicial
32 plan of reorganization or dissolution or pursuant
33 to a lawful and bona fide agreement of bulk
34 reinsurance or consolidation or through the exer-
35 cise of rights of conversion, stock warrants or
36 stock options received by it in accordance with
37 this subsection or section 1107-A;

38 B. An investment permitted under section 1107-A
39 because that investment is convertible into other
40 securities or stock in which the insurer is not
41 permitted to invest under this chapter, or
42 because that insurer receives in connection with
43 that investment stock warrants, whether detach-
44 able or nondetachable, stock options, shares of

1 stock, property interests or other assets of any
2 kind, and anything so received by the insurer
3 shall be carried on its books at no value; or

4 C. Real or personal property or any interest
5 therein received in satisfaction of a debt previ-
6 ously owing to that insurer.

7 If any securities received by any insurer in accor-
8 dance with paragraph A consist in whole or in part of
9 stock or shares of any institution, as defined in
10 section 1107-A, or of bonds or other obligations
11 which do not meet the requirements specified in
12 section 1107-A, then any of that stock or shares and
13 any bond or obligation of that type so received shall
14 be disposed of within 5 years from the time of its
15 acquisition or before the expiration of any further
16 period or periods of time as may be prescribed in
17 writing by the superintendent, or treated as a
18 nonadmitted asset thereafter, unless at any time
19 after acquisition those securities have met the rele-
20 vant requirements and the insurer has notified the
21 superintendent of that fact.

22 Sec. 7. 24-A MRSA §1105, as amended by PL 1969,
23 c. 177, §§18 to 20 , is repealed.

24 Sec. 8. 24-A §1105-A is enacted to read:

25 §1105-A. Diversification -- Life, life/health insur-
26 ers

27 Investments of an insurer transacting life or
28 health insurances, or both, shall as to those
29 insurances be subject to the following
30 diversification requirements and limitations:

31 1. Not less than 60% of the insurer's assets in
32 aggregate amount may consist of cash funds and
33 investments eligible under the following sections:

34 A. 1107-A, subsection 2, paragraph A, (Govern-
35 ment obligations);

36 B. 1107-A, subsection 2, paragraph B, (Obli-
37 gations and preferred shares of domestic insti-
38 tutions);

1 C. 1107-A, subsection 2, paragraph C, (Obliga-
2 tions secured by real property and interests
3 therein);

4 D. 1107-A, subsection 2, paragraph F, (Equity
5 interests), but not including common stock;

6 E. 1107-A, subsection 2, paragraph G, (Foreign
7 investments); and

8 F. 1109-A (Policy loans).

9 2. Except as otherwise expressly provided, an
10 insurer may not invest more than 10% of its assets in
11 the securities of any one person, other than invest-
12 ments eligible under the following sections:

13 A. 1107-A, subsection 2, paragraph A, (Govern-
14 ment obligations); and

15 B. 1109-A (Policy loans).

16 3. Other investment limitations shall be as pro-
17 vided in particular sections of this chapter.

18 Sec. 9. 24-A MRSA §1106, as amended by PL 1969,
19 c. 177, §§21, 22 and 23, is repealed.

20 Sec. 10. 24-A MRSA §1106-A is enacted to read:

21 §1106-A. Diversification; property, casualty and
22 other nonlife insurers

23 Investments of an insurer transacting property,
24 casualty, surety and other such insurances other than
25 life insurance and annuity business, and including
26 health insurance when transacted by an insurer also
27 transacting casualty insurance, shall as to those
28 insurances be subject to the following
29 diversification requirements and limitations:

30 1. Not less than 30% of the insurer's assets in
31 aggregate amount may consist of cash funds, agents'
32 balances less than 90 days past due, and investments
33 eligible under the following sections:

34 A. 1107-A, subsection 2, paragraph A, (Govern-
35 ment obligations);

1 B. 1107-A, subsection 2, paragraph B, (Obliga-
2 gations and preferred shares of domestic insti-
3 tutions;

4 C. 1107-A, subsection 2, paragraph C, (Obliga-
5 gations secured by real property and interests
6 therein); and

7 D. 1107-A, subsection 2, paragraph F, (Equity
8 interest), but not including common stock.

9 2. The insurer may not invest in aggregate
10 amount in excess of its surplus as to policyholders
11 in all investments eligible under the following sec-
12 tions:

13 A. 1107-A, subsection 2, paragraph F, (Equity
14 interests); and

15 B. 1108-A (Investment in subsidiaries).

16 3. Except as otherwise expressly provided, an
17 insurer may not invest more than 10% of its assets in
18 the securities of any one person, other than invest-
19 ments eligible under section 1107-A, subsection 2,
20 paragraph A.

21 4. Other investment limitations shall be as pro-
22 vided in particular sections of this chapter.

23 Sec. 11. 24-A MRSA §1107, as enacted by PL 1969,
24 c. 132, §1, is repealed.

25 Sec. 12. 24-A MRSA §1107-A is enacted to read:
26 §1107-A. Reserve investments

27 1. Investing the assets of an insurer, the
28 directors and officers of that insurer shall:

29 A. Have as their principal objective solvency
30 for the benefit of policyholders;

31 B. Seek a balance of the following objectives
32 with respect to the portfolio as a whole:

33 (1) A reasonable relationship among safety
34 of principal, yield and growth;

1 (2) Sufficient liquidity to avoid the
2 probability in any reasonably expected cir-
3 cumstances of having to sell assets at an
4 undue sacrifice;

5 (3) Reasonable diversification with respect
6 to geographic area, industry, type of
7 investment and other relevant variables;

8 (4) A reasonable relationship between
9 assets and liabilities as to maturity and
10 nature; and

11 (5) Maintenance of a sound social and eco-
12 nomical environment in the areas in which the
13 insurer operates; and

14 C. Perform their duties in good faith and with
15 that degree of care that an ordinarily prudent
16 person in a like position would use under similar
17 circumstances.

18 2. To the extent it is consistent with the re-
19 quirements of subsection 1, the assets of the insurer
20 may be invested in the following classes, subject to
21 the percentage limitations contained in this subsec-
22 tion:

23 A. Obligations issued, assumed, guaranteed or
24 insured by the United States or by any state
25 thereof or by the District of Columbia or by any
26 other governmental unit in the United States, its
27 territories or possessions, or by any agency or
28 instrumentality of any of these;

29 B. Obligations issued, assumed, guaranteed or
30 accepted by domestic institutions, or trustees or
31 receivers therefor, and preferred shares of any
32 of those institutions;

33 C. Obligations, or participations therein,
34 secured by liens on real property or interests
35 therein located within the United States and not
36 eligible under paragraph A or B, provided that
37 obligations acquired under this paragraph and
38 secured by liens on any one property shall not in
39 the aggregate exceed 3% of the insurer's total
40 admitted assets;

1 D. Investments in real property or interests
2 therein located in the United States, held
3 directly or evidenced by partnership interests,
4 trust certificates or other instruments and ac-
5 quired:

6 (1) As an investment for the production of
7 income or to be improved or developed for
8 that investment purpose; or

9 (2) For the convenient accommodation of the
10 insurer's business; provided that, after
11 giving effect to any of that type of invest-
12 ment, the aggregate amount of those invest-
13 ments under this paragraph will not exceed
14 25% of the insurer's total admitted assets
15 and provided that investments under this
16 paragraph in any single property, including
17 improvements thereon, will not in the aggre-
18 gate exceed 2% of the insurer's total admit-
19 ted assets;

20 E. Investments in personal property or interests
21 therein located or used wholly or in part within
22 the United States, held directly or evidenced by
23 partnership interests, trust certificates or
24 other instruments, provided that, after giving
25 effect to any investment of that type, the aggre-
26 gate amount of those investments will not exceed
27 10% of the insurer's total admitted assets, and
28 provided that investments under this paragraph in
29 any single item of personal property will not in
30 the aggregate exceed 1% of the insurer's total
31 admitted assets;

32 F. Investments, other than investments described
33 in paragraph D or E and in addition to invest-
34 ments authorized by section 1108-A, in common
35 stock, partnership interests, trust certificates
36 or other equity interests, other than preferred
37 shares, of domestic institutions, provided that,
38 after giving effect to any investment of that
39 type under this paragraph, the aggregate amount
40 of those investments will not exceed 25% of the
41 insurer's total admitted assets;

42 G. The following foreign investments:

1 (1) Canadian securities and investments
2 substantially of the same classes as those
3 eligible for investment under paragraphs A
4 to F; but the aggregate amount of those
5 investments which are held at any time by
6 any insurer shall not exceed 10% of total
7 admitted assets, except where a greater
8 amount is permitted pursuant to subparagraph
9 2, in which case the provisions of this
10 subparagraph shall not be applicable;

11 (2) In the case of any insurer which is
12 authorized to do business in a foreign coun-
13 try or possession of the United States or
14 which has outstanding insurance, annuity or
15 reinsurance contracts on lives or risks res-
16 ident or located in a foreign country or
17 possession of the United States, securities
18 and investments in that foreign country or
19 possession that are substantially of the
20 same classes as those eligible for invest-
21 ment under paragraphs A to F; but the
22 aggregate amount of those investments in a
23 foreign country or a possession of the
24 United States and of cash in the currency of
25 that country or possession which is at any
26 time held by that insurer shall not, except
27 as provided in paragraph H, exceed 1 1/2
28 times the amount of its reserves and other
29 obligations under those contracts or the
30 amount which that insurer is required by law
31 to invest in country or possession, which-
32 ever is greater; and

33 (3) In addition to the foreign investments
34 permitted under subparagraphs (1) and (2),
35 securities and investments in foreign coun-
36 tries which are substantially of the same
37 classes as those eligible for investment
38 under paragraphs A to F; but the aggregate
39 amount of those investments made pursuant to
40 this subparagraph shall not exceed 1% of
41 total admitted assets; and

42 H. Investments which do not qualify or are not
43 permitted under any other paragraph of this sub-
44 section; provided that:

1 (1) In the case of a life insurance com-
2 pany, after giving effect to any investment
3 made under this paragraph, the aggregate
4 amount of those investments shall not exceed
5 16% of total admitted assets, and, if that
6 insurer makes investments described in para-
7 graphs A to G and elects to charge those
8 investments against the quantitative limits
9 in this paragraph instead of the
10 quantitative limits in paragraphs A to G,
11 then the aggregate amount invested shall not
12 exceed 5% of total admitted assets for
13 investments described in each of those para-
14 graphs;

15 (2) In the case of an insurer of any other
16 class empowered to make investments under
17 the authority of this section after giving
18 effect to any investment made under this
19 paragraph, the aggregate amount of those
20 investments shall not exceed 4% of total
21 admitted assets; and

22 (3) For the purposes of this subsection:

23 (a) The term "United States," when
24 used to signify place, includes those
25 geographical areas and the lands and
26 waters adjacent to those geographical
27 areas which are under the jurisdiction
28 of the United States;

29 (b) The term "institution," includes
30 corporations, joint-stock associations,
31 business trusts, business partnerships
32 and business joint ventures;

33 (c) The term "domestic institution"
34 means an institution created or exist-
35 ing under the laws of the United States
36 or of any state, district or territory
37 thereof;

38 (d) The term "obligations" includes
39 bonds, debentures, notes and other evi-
40 dences of indebtedness, whether or not
41 liability for payment extends beyond
42 the security therefor;

1 (e) "Aggregate amount of investments"
2 means the aggregate cost thereof; and

3 (f) The eligibility of any investment
4 under any paragraph of this subsection
5 shall be determined at the time of ac-
6 quisition thereof, except that invest-
7 ments qualified under this paragraph
8 may be requalified at a later date
9 under an other paragraph of this sub-
10 section, if the relevant conditions are
11 satisfied at the time of the
12 requalification.

13 Sec. 13. 24-A MRSA §1108, as enacted by PL 1969,
14 c. 132, §1, is repealed.

15 Sec. 14. 24-A MRSA §1108-A is enacted to read:

16 §1108-A. Investment in subsidiaries

17 1. Subject to the limitations contained in sub-
18 section 5 and section 1106-A, an insurer may invest
19 in, or otherwise acquire, subsidiaries engaged or
20 organized to engage in any businesses lawful under
21 the laws of the jurisdictions in which those subsid-
22 aries are organized.

23 2. Except as provided in section 1103-A, subsec-
24 tion 2, investments in subsidiaries authorized by
25 this section may not be authorized under any other
26 section of this chapter.

27 3. At any time after the acquisition by the
28 insurer of any subsidiary, other than a holding com-
29 pany, the business of which is solely the ownership
30 or control of other subsidiaries or a subsidiary
31 referred to in subsection 5, paragraph B,
32 subparagraphs 1 and 2, of the superintendent may
33 order its disposition if he finds, after notice and
34 an opportunity to be heard, that its continued reten-
35 tion is materially adverse to the interests of the
36 insurer's policyholders. The insurer shall have at
37 least 36 months to effect the disposition. If that
38 disposition is not so effected, the subsidiary may
39 not be allowed as an asset of the insurer.

1 4. The name of any subsidiary may not be such as
2 to mislead or deceive the public.

3 5. Subject to the exceptions in paragraph B,
4 investments in subsidiaries are limited as follows.

5 A. An insurer transacting life or health
6 insurances, or both, may not make, directly or
7 indirectly, an investment in any subsidiary if
8 that investment would bring the aggregate net
9 cost of investments in all subsidiaries to an
10 amount in excess of 10% of the insurer's total
11 admitted assets or in any one subsidiary, other
12 than a holding company, the business of which is
13 solely the ownership or control of other subsid-
14 aries, to an amount in excess of 2% of those
15 total admitted assets.

16 B. Investment made directly or indirectly in the
17 following subsidiaries is not subject to the
18 limitations contained in paragraph A, nor is that
19 investment to be counted in determining compli-
20 ance with those limitations:

21 (1) Subsidiaries engaged or organized to
22 engage exclusively in the ownership or
23 investment management of assets authorized
24 under this chapter as investments for the
25 insurer; and

26 (2) Subsidiaries engaged or organized to
27 engage in the kinds of businesses in which
28 an insurer may engage.

29 No investment described in section 3415 may be
30 counted in determining compliance with the
31 limitations of this subsection.

32 C. Subject to paragraph B, the net cost of
33 investment is defined to be the sum of:

34 (1) The total moneys or other consideration
35 expended and obligations assumed in the ac-
36 quisition or formation of a subsidiary,
37 including all organizational expenses and
38 contributions to capital and surplus of that
39 subsidiary; and

1 (2) All amounts expended in acquiring addi-
2 tional common stock, preferred stock, debt
3 obligations and other securities, and all
4 contributions to the capital or surplus, of
5 a subsidiary subsequent to its acquisition
6 or formation; less

7 (3) Returns of capital, repayments of prin-
8 cipal, payments of interest, dividends and
9 any other payments reducing the investment
10 in the subsidiary.

11 6. The financial condition of an insurer shall
12 be determined as follows.

13 A. In determining the financial condition of an
14 insurer, all investments made directly or indi-
15 rectly in the stock of its subsidiaries, except
16 for subsidiaries referred to in subsection 5,
17 paragraph B, subparagraph (1), shall be valued in
18 accordance with section 982, subsection 3.
19 Investments made directly or indirectly in the
20 stock of subsidiaries referred to in subsection
21 5, paragraph B, subparagraph (1), shall be disre-
22 garded for this purpose.

23 B. Cash held and investments made by subsid-
24 aries referred to in subsection 5, paragraph B,
25 subparagraph (1), shall be deemed, for the pur-
26 poses of this chapter, to be made directly by the
27 insurer pro rata in accordance with the insurer's
28 investments in those subsidiaries.

29 7. As used in this section, "subsidiary" has the
30 meaning as prescribed in section 222, subsection 2,
31 paragraph F. The term "subsidiary" may not include a
32 separate account established under section 2537.

33 8. Investments in subsidiaries made pursuant to
34 this section may not be subject to any other restric-
35 tions or prohibitions contained in this chapter.

36 Sec. 15. 24-A MRSA §1109, as amended by PL 1979,
37 c. 458, §§2 and 3, is repealed.

38 Sec. 16. 24-A MRSA §1109-A is enacted to read:

1 §1109-A. Policy loans

2 A life insurer may lend to its policyholder, upon
3 pledge of the policy as collateral security, any sum
4 not exceeding the cash surrender value of the policy;
5 or may lend against pledge or assignment of any of
6 its supplementary contracts or other contracts or
7 obligations, so long as the loan is adequately
8 secured by that pledge or assignment. Loans so made
9 are eligible investments of the insurer.

10 Sec. 17. 24-A MRSA §1110, as amended by PL 1979,
11 c. 458, §§4 and 5, is repealed.

12 Sec. 18. 24-A MRSA §1110-A is enacted to read:

13 §1110-A. Special investments; separate accounts

14 1. Except as may be provided with respect to
15 reserves for guaranteed benefits and funds referred
16 to in subsection 2:

17 A. Amounts allocated to any separate account
18 established by the insurer pursuant to section
19 2537, separate accounts, and accumulations
20 thereon may be invested and reinvested without
21 regard to any requirements or limitations pre-
22 scribed by this chapter; and

23 B. The investments in that separate account or
24 accounts may not be taken into account in apply-
25 ing the investment limitations otherwise applica-
26 ble to the investments of the insurer.

27 2. Except with the approval of the superinten-
28 dent and under such conditions as to investments and
29 other matters as he may prescribe, which shall recog-
30 nize the guaranteed nature of the benefits provided,
31 no insurer may guarantee the value of the assets
32 allocated to a separate account, or any interest
33 therein, or the investment results thereof, or the
34 income thereon, to a contract holder, without limita-
35 tion of liability under all those guarantees to the
36 extent of the interest of the contract holder in
37 assets allocated to that separate account, unless the
38 assets allocated to that separate account are subject
39 to the requirements and limitations on investments

1 imposed by section 1107-A, as though the aggregate
2 assets allocated to that separate account were the
3 insurer's total admitted assets.

4 Sec. 19. 24-A MRSA §1111, as enacted by PL 1969,
5 c. 132, §1, is repealed.

6 Sec. 20. 24-A MRSA §1111-A is enacted to read:
7 §1111-A. Special investments of title insurers

8 1. A title insurer may also have invested funds,
9 in an amount not exceeding 50% of its paid-in capital
10 stock and its surplus, in its abstract plant and
11 equipment and in stocks of abstract companies.

12 2. Investments authorized under subsection 1 may
13 not be credited against required reserves.

14 Sec. 21. 24-A MRSA §1112, as enacted by PL 1969,
15 c. 132, §1, is repealed.

16 Sec. 22. 24-A MRSA §1112-A is enacted to read:
17 §1112-A. Prohibited investments and investment
18 underwriting

19 1. Except for the purpose of mutualization under
20 chapter 47; for retirement; or pursuant to a plan for
21 investment or loan submitted in writing by the
22 insurer to the superintendent in advance, and which
23 the superintendent has not, within 20 days after the
24 submission or within any additional reasonable period
25 as the superintendent may request, disapproved as
26 being unfair or inequitable to the insured's policy-
27 holders or stockholders, a stock insurer may not pur-
28 chase its own common stock.

29 2. No insurer may underwrite or participate in
30 the underwriting of an offering of securities or
31 property of any person. This provision may not be
32 deemed to prohibit:

33 A. The acquisition and ownership by the insurer
34 of its subsidiary corporation acting as an
35 investment adviser or principal underwriter of a
36 management company or investment company regis-

1 tered with the United States Securities and
2 Exchange Commission under the Investment Company
3 Act of 1940, as amended;

4 B. The registration by the insurer, under the
5 Securities Act of 1933 or other applicable law,
6 of restricted or other securities acquired and
7 owned by it in the regular course of business;
8 and

9 C. The underwriting by an insurer individually
10 or on its account jointly with one or more of its
11 subsidiaries of any company that is engaged
12 primarily in the business of investing in or
13 holding securities or real property and to which
14 the insurer or any of its subsidiaries renders
15 management, investment advisory or sales services
16 nor from participating in sales or purchases of
17 those securities jointly with any person in the
18 insurer's holding company system, as defined in
19 section 222.

20 3. No insurer may purchase the stock of or
21 otherwise invest in or lend its funds upon the secur-
22 ity of any note or other evidence of indebtedness of
23 any affiliate in the insurer's holding company sys-
24 tem, as defined in section 222, or lend its funds to
25 any director or officer of the insurer or of the
26 spouse or child of any director or officer. This
27 provision may not be deemed to prohibit:

28 A. Policy loans authorized under section 1109-A;

29 B. Investments in subsidiaries under section
30 1108-A; or

31 C. Purchases of stock, investments or loans made
32 in accordance with section 222 to controlling
33 shareholders or to affiliates, other than subsid-
34 aries, provided that if those purchases, invest-
35 ments or loans will in the aggregate exceed 1/2
36 of 1% of the insurer's admitted assets, those
37 transactions shall be subject to the prior
38 approval of the superintendent, which approval
39 shall be deemed given unless the superintendent
40 objects to the transactions within 30 days of
41 receipt of written notice of the proposed trans-
42 actions.

1 4. No insurer may pledge or transfer any of its
2 securities as collateral for a loan if that loan with
3 all other outstanding loans secured by pledge or
4 deposit of its securities aggregates, or will aggre-
5 gate if the loan is made, more than 5% of its total
6 admitted assets as shown by its last sworn statement
7 to the superintendent, unless the superintendent
8 shall first give his written permission for the loan
9 as necessary in the conduct of the business of that
10 insurer; but in no event may the pledge or transfer
11 of securities for a loan be made by that insurer if
12 the insurer does not receive the proceeds of that
13 loan.

14 Sec. 23. 24-A MRSA §1113, as enacted by PL 1969,
15 c. 132, §1, is repealed.

16 Sec. 24. 24-A MRSA §1113-A is enacted to read:

17 §1113-A. Investments of foreign insurers

18 The investment portfolio of a foreign or alien
19 insurer shall be as permitted by the laws of its
20 domicile, if of a quality substantially equal to that
21 required under this chapter for similar funds of like
22 domestic insurers.

23 Sec. 25. 24-A MRSA §1114, as amended by PL 1973,
24 c. 585, §12, is repealed.

25 Sec. 26. 24-A MRSA §§1115-1118, as enacted by PL
26 1969, c. 132, §1, are repealed.

27 Sec. 27. 24-A MRSA §1119, as amended by PL 1969,
28 c. 177, §24, is repealed.

29 Sec. 28. 24-A MRSA §1120-1123, as enacted by PL
30 1969, c. 132, §1, are repealed.

31 Sec. 29. 24-A MRSA §1124, as amended by PL 1981,
32 c. 257, is repealed.

33 Sec. 30. 24-A MRSA §1125, as enacted by PL 1969,
34 c. 132, §1, is repealed.

35 Sec. 31. 24-A MRSA §1126, as amended by PL 1973,
36 c. 585, §12, is repealed.

1 Sec. 32. 24-A MRSA §1127, as repealed and re-
2 places by PL 1979, c. 458, §11, is repealed.

3 Sec. 33. 24-A MRSA §1128, as amended by PL 1973,
4 c. 585, §12, is repealed.

5 Sec. 34. 24-A MRSA §§1129 and 1130, as enacted
6 by PL 1969, c. 132, §1, are repealed.

7 Sec. 35. 24-A MRSA §1131, as repealed and
8 replaced by PL 1979, c. 458, §12, is repealed.

9 Sec. 36. 24-A MRSA §1132, as enacted by PL 1969,
10 c. 132, §1, is repealed.

11 Sec. 37. 24-A MRSA §§1133-1135, as amended by PL
12 1973, c. 585, §12, are repealed.

13 Sec. 38. 24-A MRSA §1136, as amended by PL 1979,
14 c. 458, §13, is repealed.

15 Sec. 39. 24-A MRSA §1137, as enacted by PL 1969,
16 c. 132, §1, is repealed.

17 Sec. 40. 24-A MRSA §2537, sub-§2, as amended by
18 PL 1973, c. 560, §4, is further amended to read:

19 2. The amounts allocated to each such account of
20 that type and accumulations thereon may be invested
21 and reinvested as provided in section ~~1128~~ 1110-A
22 (special investments: separate accounts). Amounts
23 allocated to a separate account in the exercise of
24 the power granted by this section shall be owned by
25 the insurer, and the insurer shall not be, nor hold
26 itself out to be, a trustee with respect to such
27 those amounts.

28 Sec. 41. 24-A MRSA §2537, sub-§4, as amended by
29 PL 1973, c. 585, §12, is further amended to read:

30 4. Unless otherwise approved by the superinten-
31 dent, assets allocated to a separate account shall be
32 valued at their market value on the date of that
33 valuation, or if there is no readily available
34 market, then in accordance with the terms of the con-
35 tract or the rules or other written agreement appli-
36 cable to such that separate account; except, that

1 unless otherwise approved by the superintendent, the
2 portion of the assets of ~~such~~ that separate account
3 at least equal to the insurer's reserve liability
4 with regard to the guaranteed benefits and funds
5 referred to in section ~~1128~~ 1110-A, if any, shall be
6 valued in accordance with rules otherwise applicable
7 to the insurer's assets.

8 Sec. 42. 24-A MRSA §3311, sub-§2, ¶C, as enacted
9 by PL 1969, c. 132, §1, is amended to read:

10 C. An insurer may own subsidiaries or subsid-
11 iaries owning other subsidiaries which may engage
12 in such businesses all as provided for in section
13 ~~1115~~ 1108-A (~~stocks of~~ investment in subsid-
14 iaries); and

15 STATEMENT OF FACT

16 This bill amends the investment provisions of the
17 Maine Insurance Code so as to place greater responsi-
18 bility and accountability on the directors and offi-
19 cers of insurers for the setting and implementation
20 of a prudent and balanced investment policy. It also
21 removes or amends various detailed investment re-
22 strictions (while retaining broad limitations) so at
23 to give insurers greater flexibility in their efforts
24 to achieve maximum investment returns for policyhold-
25 ers, consistent with safety.

26 This bill generally tracks comparable legislation
27 currently under consideration in New York, the indus-
28 try leader in insurance regulation.

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