

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

1 SECOND REGULAR SESSION  
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
4

5 Legislative Document

No. 2192

7 S.P. 815

In Senate, March 6, 1984

8 Approved for introduction by the Legislative Council pursuant to Joint  
9 Rule 26.

10 Referred to the Committee on Business Legislation. Sent down for  
concurrence and ordered printed.

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-FOUR  
16

17 AN ACT to Amend the Investment Provisions  
18 and Certain Related Sections of the Maine  
19 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23 Sec. 1. 24-A MRSA §222, sub-§3, ¶A, as repealed  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 in-  
27 vest in or otherwise acquire one or more subsidi-  
28 aries as authorized in section 1115 or section  
29 1157;

30 Sec. 2. 24-A MRSA §902, sub-§4, as enacted by PL  
31 1969, c. 132, §1, is amended to read:

32 4. Furniture, fixtures, furnishings, safes, ve-  
33 hicles, libraries, stationery, literature and sup-

1 plies, other than data processing, recordkeeping and  
2 accounting systems authorized under section 901, sub-  
3 section 13, except in the case of title insurers ~~such~~  
4 those materials and plants as the insurer is expressly  
5 authorized to invest in under section 1129 and ex-  
6 cept, in the case of any insurer, such that personal  
7 property as the insurer is permitted to hold pursuant  
8 to chapter 13 or chapter 13-A, or which is reasonably  
9 necessary for the maintenance and operation of real  
10 estate lawfully acquired and held by the insurer oth-  
11 er than real estate used by it for home office,  
12 branch office and similar purposes.

13 Sec. 3. 24-A MRSA §1101, as enacted by PL 1969,  
14 c. 132, §1, is amended to read:

15 §1101. Scope of chapter

16 Except as provided in section 1137, this chapter  
17 applies only to domestic insurers only which transact  
18 business other than as described in section 702, life  
19 insurance; section 703, annuity; or section 704,  
20 health insurance.

21 Sec. 4. 24-A MRSA §1104, sub-§1, as enacted by  
22 PL 1969, c. 132, §1, is amended to read:

23 1. An insurer shall not make any investment or  
24 loan, ~~other than policy loans or annuity contract~~  
25 ~~loans of a life insurer~~, unless the same is autho-  
26 rized or approved by the insurer's board of directors  
27 or by a committee thereof charged with supervision of  
28 investments and loans.

29 Sec. 5. 24-A MRSA §1105, as amended by PL 1983,  
30 c. 442, §§2 and 3, is repealed.

31 Sec. 6. 24-A MRSA §1122, as enacted by PL 1969,  
32 c. 132, §1, is repealed.

33 Sec. 7. 24-A MRSA §1125, sub-§1, ¶A, as enacted  
34 by PL 1969, c. 132, §1, is amended to read:

35 A. The building in which it has its principal  
36 office, the land upon which the building stands,  
37 and such other real estate as may be requisite  
38 for the insurer's convenient accommodation in the

1 transaction of its business. The amount so in-  
2 vested shall not aggregate more than ~~10%~~ of the  
3 ~~insurer's assets, if a life insurer, or more than~~  
4 ~~15% of the insurer's assets if a property or ca-~~  
5 ~~sualty or surety or other such nonlife insurer.~~

6 Sec. 8. 24-A MRSA §1128, as amended by PL 1973,  
7 c. 585, §12, is repealed.

8 Sec. 9. 24-A MRSA §1130 sub-§1, as enacted by PL  
9 1969, c. 132, §1, is amended to read:

10 1. An insurer authorized to transact insurance  
11 in a foreign country, or which has outstanding insur-  
12 ~~ance, annuity or reinsurance contracts on lives or~~  
13 ~~risks resident or~~ located in a foreign country may  
14 invest in or otherwise acquire or loan upon securi-  
15 ties and investments in such foreign country which  
16 are substantially of the same kinds, classes and in-  
17 vestment grades as those eligible for investment un-  
18 der other sections of this chapter; but the aggregate  
19 amount of such investments in a foreign country and  
20 of cash in the currency of such country shall not,  
21 except as to Canadian investments otherwise autho-  
22 rized under this chapter, exceed 1 1/2 times the  
23 amount of its reserves and other obligations under  
24 such contracts or the amount which the insurer is re-  
25 quired by law to invest in such country, whichever is  
26 the greater.

27 Sec. 10. 24-A MRSA §1131, sub-§1, as repealed  
28 and replaced by PL 1979, c. 458, §12, is amended to  
29 read:

30 1. An insurer may make loans or investments, not  
31 otherwise eligible, qualified or expressly permitted  
32 under this chapter, in aggregate amount not over 5%  
33 ~~of the insurers assets if a life insurer, and in ag-~~  
34 ~~gregate amount not over 10% of the insurer's assets~~  
35 ~~if a property or casualty or surety or other such~~  
36 ~~nonlife insurer, and not over 1% of those assets as~~  
37 ~~to any one such loan or investment. None of the in-~~  
38 ~~vestment limitations contained in this chapter,~~  
39 ~~qualitative or quantitative or otherwise, shall may~~  
40 ~~apply to loans or investments under this section,~~  
41 ~~provided that all loans or investments made or ac-~~  
42 ~~quired hereunder shall meet the following require-~~  
43 ~~ments.~~

1 A. The loan or investment shall fulfill the re-  
2 quirements of section 1103, and otherwise quali-  
3 fies as a sound investment.

4 B. No such loan or investment shall may be  
5 represented by:

6 (1) Any item described in section 902;

7 (2) Any loan or investment expressly pro-  
8 hibited under section 1136; or

9 (3) Agent's balances, or amounts advanced  
10 to or owing by agents, except as to ~~policy~~  
11 ~~loans~~, mortgage loans and collateral loans  
12 to those agents otherwise authorized under  
13 any provision of this chapter.

14 C. No loan or investment shall may cause the in-  
15 surer to exceed the specific diversification re-  
16 quirements enumerated in sections 1105 and 1106.

17 Sec. 11. 24-A MRSA §1136, sub-§1, ¶C, as enacted  
18 by PL 1969, c. 132, §1, is amended to read:

19 C. Any note or other evidence of indebtedness of  
20 any director, officer or controlling stockholder  
21 of the insurer or of the spouse or child of any  
22 of the foregoing, ~~except as to policy loans au-~~  
23 ~~thorized under section 1122.~~

24 Sec. 12. 24-A MRSA c. 13-A is enacted to read:

25 CHAPTER 13-A

26 INVESTMENTS OF LIFE AND LIFE/HEALTH INSURERS

27 §1151. Scope of chapter

28 Except as provided in section 1160, this chapter  
29 applies only to domestic insurers which transact  
30 business of a type described in section 702, life in-  
31 surance; section 703, annuity; section 704, health  
32 insurance; or any combination of those types of busi-  
33 ness.

34 §1152. Eligible investments

1           1. Insurers shall invest in or lend their funds  
2 on the security of and shall hold as eligible invest-  
3 ments only those investments as prescribed or permit-  
4 ted in this chapter.

5           2. Any particular investment held by an insurer  
6 on the effective date of this chapter, which was a  
7 legal investment at the time it was made, and which  
8 the insurer was legally entitled to possess immedi-  
9 ately prior to the effective date of this chapter,  
10 shall be deemed to be an eligible investment.

11           3. Eligibility of an investment shall be deter-  
12 mined as of the date of its making or acquisition,  
13 except as stated in subsection 2, or in section 1153,  
14 subsection 2 or section 1156, subsection 2, paragraph  
15 I, subparagraph (6).

16           4. Any investment limitation or diversification  
17 requirement based upon the amount of the insurer's  
18 assets or particular funds shall relate to such as-  
19 sets or funds as shown by the insurer's annual state-  
20 ment, as of the December 31st next preceding the date  
21 of acquisition of the investment by the insurer, or  
22 as shown by a current applicable financial statement  
23 resulting from merger with another insurer, bulk re-  
24 insurance or change in capitalization.

25           5. Nothing in this chapter may be deemed to pro-  
26 hibit an insurer from advancing funds to another in-  
27 surer upon the type of agreement provided for in sec-  
28 tion 3415, borrowed capital funds, and subject to the  
29 terms of that section.

30           §1153. General qualifications

31           1. No investment, other than real property ac-  
32 quired under section 1156, subsection 2, paragraph D,  
33 and personal property incident thereto, and other  
34 than investments acquired under section 1156, subsec-  
35 tion 2, paragraph H, may be eligible for acquisition  
36 unless it is interest bearing or interest accruing,  
37 or entitled to dividends, if declared, or is other-  
38 wise income entitled and is not then in default in  
39 any respect, and the insurer is entitled to receive  
40 for its exclusive account and benefit the interest  
41 thereon or income therefrom. Subject to the limita-

1 tions in this subsection, nothing in this chapter may  
2 be deemed to prohibit an insurer from effecting or  
3 maintaining bona fide hedging transactions in foreign  
4 currency in connection with the purchase and sale of  
5 investments eligible for acquisition under this chap-  
6 ter, or in contracts for the future delivery or re-  
7 ceipt of, options, calls and other rights to purchase  
8 and puts and other rights to require another person  
9 to purchase, investments eligible for acquisition un-  
10 der this chapter, provided that those contracts, op-  
11 tions, calls, puts and rights are traded on a nation-  
12 al securities exchange or board of trade regulated  
13 under the laws of the United states, and provided  
14 further that the aggregate amount, valued for all  
15 purposes in accordance with generally accepted ac-  
16 counting principles of investments for bona fide  
17 hedging purposes in foreign currency and in those  
18 contracts, options, calls, puts and rights at any one  
19 time shall not exceed 1% of the insurer's total ad-  
20 mitted assets. 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 purpose of offsetting changes in foreign cur-  
25 rency exchange rates or in the market value of an in-  
26 vestment held or proposed to be acquired or sold by  
27 the 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 divi-  
31 dend, or pursuant to a lawful judicial or nonju-  
32 dicial plan of reorganization or dissolution, or  
33 pursuant to a lawful and bona fide agreement of  
34 bulk reinsurance, merger or consolidation, or  
35 through the exercise of rights of conversion,  
36 stock warrants or stock options received by it in  
37 accordance with this subsection or section 1156;

38 B. An investment permitted under section 1156,  
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 be-  
42 cause the 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; or

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

6 If any securities received by any insurer in accord-  
7 ance with paragraph A, consist in whole or in part of  
8 stock or shares of any institution, as defined in  
9 section 1156, or of bonds or other obligations which  
10 do not meet the requirements specified in section  
11 1156, then any of that stock or shares and any bond  
12 or obligation of that type so received shall be dis-  
13 posed of within 5 years from the time of its acquisi-  
14 tion or before the expiration of any further period  
15 or periods of time as may be prescribed in writing by  
16 the superintendent, or treated as a nonadmitted asset  
17 thereafter, unless at any time after acquisition  
18 those securities have met the relevant requirements  
19 and the insurer has notified the superintendent of  
20 that fact.

21 §1154. Authorization; record of investments

22 1. An insurer shall not make any investment or  
23 loan, other than policy loans or annuity contract  
24 loans, unless it is authorized or approved by the  
25 insurer's board of directors or by a committee there-  
26 of charged with supervision of investments and loans.

27 2. The insurer shall maintain a full record of  
28 each investment, showing, among other things, the  
29 name of any officer, director or principal stockhold-  
30 er of the insurer having any direct, indirect or con-  
31 tingent interest in the securities, loan or property  
32 constituting the investment, or in the person in  
33 whose behalf the investment is made, and the nature  
34 of that interest.

35 §1155. Diversification

36 Investments of an insurer shall be subject to the  
37 following diversification requirements and limita-  
38 tions.



1 1. Not more than 40% of the insurer's assets in  
2 aggregate amount may consist of investments described  
3 in the following subdivisions:

4 A. Section 1156, subsection 2, paragraph D, sub-  
5 paragraph (1), real estate;

6 B. Section 1156, subsection 2, paragraph E, per-  
7 sonal property;

8 C. Section 1156, subsection 2, paragraph F, eq-  
9 uity interest; and

10 D. Section 1157, subsidiaries.

11 If, on or after the effective date of this subsec-  
12 tion, the insurer makes investments of those types in  
13 institutions or property located within the State ag-  
14 gregating 1% or more of its assets, the 40% limita-  
15 tion in this subsection shall be increased by an  
16 equal amount up to 45%, exclusive of those invest-  
17 ments in institutions or property located within the  
18 State, thus providing for a maximum limit on the in-  
19 vestments described in those subdivisions of 50% of  
20 the insurer's assets.

21 2. Except as otherwise provided, an insurer may  
22 not invest more than 10% of its assets in the securi-  
23 ties of any one person, other than investments eligi-  
24 ble under the following sections:

25 A. Section 1156, subsection 2, paragraph A, gov-  
26 ernment obligations; and

27 B. Section 1158, policy loans.

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

30 §1156. Reserve and other investments

31 1. Investing the assets of an insurer, the di-  
32 rectors and officers of such insurer shall perform  
33 their duties in good faith and with that degree of  
34 care that an ordinarily prudent person in a like po-  
35 sition would use under similar circumstances.

1           2. Subject to the provisions of section 1155,  
2 the assets of an insurer may be invested in the fol-  
3 lowing classes, subject to the percentage limitations  
4 contained in this subsection:

5           A. Obligations issued, assumed, guaranteed or  
6 insured by the United States or by any state  
7 thereof or by the District of Columbia, or any  
8 other governmental unit in the United States, its  
9 territories or possessions, or by any agency or  
10 instrumentality of any of those, provided that  
11 those obligations are by law payable, as to both  
12 principal and interest, from taxes upon all prop-  
13 erty or income within the jurisdiction of such  
14 governmental unit, or from adequate special reve-  
15 nuues pledged or appropriated or otherwise by law  
16 required to be provided for the purpose of such  
17 payment, but not including special assessments on  
18 properties benefited by local improvements, un-  
19 less adequate security is evidenced by the ratio  
20 of assessment to the value of those properties,  
21 or unless the obligation is additionally secured  
22 by an adequate guaranty fund required by law;

23           B. Obligations issued, assumed, guaranteed or  
24 accepted by domestic institutions, or trustees or  
25 receivers therefor, and preferred shares of any  
26 such institutions;

27           C. Obligations secured by liens on real property  
28 or interests therein located within the United  
29 States and not eligible under paragraph A or B;

30           D. Investments in real property or interests  
31 therein located in the United States, held di-  
32 rectly or evidenced by partnership interests,  
33 stock of corporations, trust certificates or oth-  
34 er instruments and acquired:

35                   (1) As an investment for the production of  
36 income or to be improved or developed for  
37 that investment purpose; or

38                   (2) For the convenient accommodation of the  
39 insurer's business;

1 After giving effect to any of those types of in-  
2 vestments, the aggregate amount of investments  
3 made under subparagraph (1), shall not exceed 20%  
4 of the insurer's total admitted assets; the ag-  
5 gregate amount of investments made under subpara-  
6 graph (2), shall not exceed 10% of the insurer's  
7 total admitted assets; and the aggregate amount  
8 of investments made under this paragraph shall  
9 not exceed 25% of the insurer's total admitted  
10 assets. Investments under subparagraph (1), in  
11 any single property, including improvements  
12 thereon, will not in the aggregate exceed 2% of  
13 the insurer's total admitted assets;

14 E. Investments in personal property or interests  
15 therein located or used wholly or in part within  
16 the United States, held directly or evidenced by  
17 partnership interests, stock of corporations,  
18 trust certificates or other instruments, provided  
19 that, after giving effect to any investment of  
20 that type, the aggregate amount of those invest-  
21 ments will not exceed 10% of the insurer's total  
22 admitted assets, and provided that investments  
23 under this paragraph in any single item of per-  
24 sonal property will not in the aggregate exceed  
25 1% of the insurer's total admitted assets;

26 F. Investments, other than investments described  
27 in paragraph D or E, and in addition to invest-  
28 ments authorized by section 1157, in common  
29 stock, partnership interests, trust certificates  
30 or other equity interests, other than preferred  
31 shares, of domestic institutions, provided that,  
32 after giving effect to any investment of that  
33 type under this paragraph, the aggregate amount  
34 of those investments will not exceed 20% of the  
35 insurer's total admitted assets;

36 G. The following foreign investments:

37 (1) Canadian securities and investments  
38 substantially of the same classes as those  
39 eligible for investment under paragraphs A  
40 to F; but the aggregate amount of those in-  
41 vestments which are held at any time by any  
42 insurer shall not exceed 10% of total admit-  
43 ted assets, except where a greater amount is

1 permitted pursuant to subparagraph (2), in  
2 which case the provisions of this subpara-  
3 graph shall not be applicable;

4 (2) In the case of any insurer which is au-  
5 thorized to do business in a foreign country  
6 or possession of the United States or which  
7 has outstanding insurance, annuity or rein-  
8 surance contracts on lives or risks resident  
9 or located in a foreign country or posses-  
10 sion of the United States, securities and  
11 investments in that foreign country or pos-  
12 session that are substantially of the same  
13 classes as those eligible for investment un-  
14 der paragraphs A to F; but the aggregate  
15 amount of such investments in a foreign  
16 country or a possession of the United States  
17 and of cash in the currency of that country  
18 or possession which is at any time held by  
19 that insurer shall not, except as provided  
20 in paragraph H, exceed 1 1/2 times the  
21 amount of its reserves and other obligations  
22 under those contracts or the amount which  
23 that insurer is required by law to invest in  
24 country or possession, whichever is greater;  
25 and

26 (3) In addition to the foreign investments  
27 permitted under subparagraphs (1) and (2),  
28 securities and investments in foreign coun-  
29 tries which are substantially of the same  
30 classes as those eligible for investment un-  
31 der paragraphs A to F; but the aggregate  
32 amount of those investments made pursuant to  
33 this subparagraph shall not exceed 1% of to-  
34 tal admitted assets; and

35 H. Investments which do not qualify or are not  
36 permitted under any other paragraph of this sub-  
37 section; provided that:

38 (1) After giving effect to any investment  
39 made under this paragraph, the aggregate  
40 amount of those investments shall not exceed  
41 14% of total admitted assets; and, if the  
42 insurer makes investments described in para-  
43 graphs A through G and elects to charge

1 those investments against the quantitative  
2 limits in this paragraph instead of the  
3 quantitative limits in paragraph A through  
4 G, then the aggregate amount invested under  
5 this paragraph in those types of investment  
6 shall not exceed 5% of total admitted assets  
7 for any one of those types of investment;  
8 and

9 (2) Investments that are neither interest  
10 bearing nor income entitled, including the  
11 cost of options and other rights to purchase  
12 securities, made under this paragraph as  
13 provided in section 1153, subsection 1,  
14 shall be subject to all of the provisions of  
15 this paragraph; and the aggregate amount of  
16 those investments held at any one time shall  
17 not exceed 3% of total admitted assets.

18 3. Definitions. For the purposes of this sec-  
19 tion:

20 A. "Aggregate amount of investments" means the  
21 aggregate cost thereof, except that in the case  
22 of investments of the type described in subsec-  
23 tion 2, paragraphs D and E, it means the aggre-  
24 gate depreciated cost thereof;

25 B. The term "domestic institution" means an in-  
26 stitution created or existing under the laws of  
27 the United States or of any state, district or  
28 territory thereof;

29 C. The term "institution," includes corpora-  
30 tions, joint-stock associations, business trusts,  
31 business partnerships, business joint ventures  
32 and any similar entity;

33 D. The term "obligations" includes bonds, deben-  
34 tures, notes and other evidences of indebtedness,  
35 whether or not liability for payment extends be-  
36 yond the security therefor, as well as participa-  
37 tion interests in any of those; and

38 E. The term "United States," when used to signi-  
39 fy place, includes those geographical areas and  
40 the lands and waters adjacent to those geographi-

1           cal areas as are under the jurisdiction of the  
2           United States.

3           The eligibility of any investment under subsection  
4           2, shall be determined at the time of acquisition  
5           thereof, except that investments qualified under  
6           subsection 2, paragraph H may be requalified at a later  
7           date under another paragraph of subsection 2, if  
8           the relevant conditions are satisfied at the time of  
9           such requalification.

10       §1157. Investment in subsidiaries

11           1. Subject to the limitations contained in subsection  
12           5, an insurer may invest in, or otherwise acquire,  
13           subsidiaries engaged or organized to engage in  
14           any businesses lawful under the laws of the jurisdictions  
15           in which those subsidiaries are organized.

16           2. Except as provided in section 1153, subsection  
17           2, investments in subsidiaries authorized by  
18           this section may not be authorized under any other  
19           section of this chapter.

20           3. At any time after the acquisition by the insurer  
21           of any subsidiary, other than a holding company  
22           engaged solely in the ownership or control of other  
23           subsidiaries, or a subsidiary referred to in subsection  
24           5, paragraph B, subparagraph (1) or (2), the superintendent  
25           may order its disposition if he finds, after notice and an  
26           opportunity to be heard, that its continued retention is  
27           materially adverse to the interests of the insurer's  
28           policyholders. The insurer shall have at least 36 months  
29           to effect the disposition. If that disposition is not so  
30           effected, the subsidiary may not be allowed as an asset  
31           of the insurer.  
32

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

35           5. Subject to the exceptions in paragraph B, investments  
36           in subsidiaries of an insurer are limited as follows.  
37

38           A. Such insurer may not make, directly or indirectly,  
39           an investment in any subsidiary if that

1 investment would bring the aggregate net cost of  
2 investments in all subsidiaries to an amount in  
3 excess of 10% of the insurer's total admitted as-  
4 sets, or if that investment would bring the ag-  
5 gregate net investment in that subsidiary to an  
6 amount in excess of 2% of those total admitted  
7 assets.

8 B. Investments made directly or indirectly in  
9 the following subsidiaries are not subject to the  
10 limitations contained in paragraph A, or in sec-  
11 tion 1155, or 1156, nor are these investments to  
12 be counted in determining compliance with those  
13 limitations:

14 (1) Subsidiaries engaged or organized to  
15 engage exclusively in the ownership or in-  
16 vestment management of assets authorized un-  
17 der this chapter as investments for the in-  
18 surer; and

19 (2) Subsidiaries engaged or organized to  
20 engage in the kinds of businesses in which  
21 an insurer may engage.

22 No investment described in section 3415 may be  
23 counted in determining compliance with the limi-  
24 tations of this subsection.

25 C. Subject to paragraph B, the net cost of in-  
26 vestment is defined to be.

27 (1) The sum of:

28 (a) The total moneys or other consid-  
29 eration expended and obligations as-  
30 sumed in the acquisition or formation  
31 of a subsidiary, including all organi-  
32 zational expenses and contributions to  
33 capital and surplus of that subsidiary;  
34 and

35 (b) All amounts expended in acquiring  
36 additional common stock, preferred  
37 stock, debt obligations and other secu-  
38 rities, and all contributions to the  
39 capital or surplus, of a subsidiary

1                   subsequent to its acquisition or forma-  
2                   tion; and

3                   (2) Less returns of capital, repayments of  
4                   principal and any other payments reducing  
5                   the investment in the subsidiary.

6                   D. Investments made or acquired by subsidiaries  
7                   referred to in paragraph B, subparagraph (1),  
8                   shall be deemed for the purposes of this chapter,  
9                   to be made or acquired directly by the insurer,  
10                   pro rata, in the case of a subsidiary not wholly  
11                   owned, and shall, to that extent, be subject to  
12                   all the provisions and limitations on the making  
13                   thereof specified in this chapter with respect to  
14                   investments by the insurer.

15                   E. There shall be excluded from all computations  
16                   under paragraph A, an investment by an insurer in  
17                   any subsidiary, or by one subsidiary in another  
18                   subsidiary, to the extent that that investment is  
19                   reinvested in another subsidiary; but amounts so  
20                   reinvested shall thereafter be included in those  
21                   computations, unless further excluded or exempted  
22                   by any provision of this chapter.

23                   6. In determining the financial condition of an  
24                   insurer, all investments made directly or indirectly  
25                   in the stock of its subsidiaries shall be valued in  
26                   accordance with section 982, subsection 3.

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

31                   8. Except as provided in section 1155, invest-  
32                   ments in subsidiaries made pursuant to this section  
33                   are not subject to any other restrictions or prohibi-  
34                   tions contained to this chapter.

35                   §1158. Policy loans

36                   A life insurer may lend to its policyholder, upon  
37                   pledge of the policy as collateral security, any sum  
38                   not exceeding the cash surrender value of the policy;  
39                   or may lend against pledge or assignment of any of



1 its supplementary contracts or other contracts or ob-  
2 ligations, so long as the loan is adequately secured  
3 by that pledge or assignment. Loans so made are eli-  
4 gible investments of the insurer.

5 §1159. Special investments; separate accounts

6 1. Except as may be provided with respect to re-  
7 erves for guaranteed benefits and funds referred to  
8 in subsection 2:

9 A. Amounts allocated to any separate account es-  
10 ablished by the insurer, pursuant to section  
11 2437, separate accounts and accumulations thereon  
12 may be invested and reinvested without regard to  
13 any requirements or limitations prescribed by  
14 this chapter, except for the provisions of sec-  
15 tion 1156, subsection 1; and

16 B. The investments in that separate account or  
17 accounts may not be taken into account in apply-  
18 ing the investment limitations otherwise applica-  
19 ble to the investments of the insurer.

20 2. Except with the approval of the superintend-  
21 ent and under such conditions as to investments and  
22 other matters as he may prescribe, which shall recog-  
23 nize the guaranteed nature of the benefits provided,  
24 no insurer may guarantee the value of the assets al-  
25 located to a separate account, or any interest there-  
26 in, or the investment results thereof, or the income  
27 thereon, to a contract holder, without limitation of  
28 liability under all those guarantees to the extent of  
29 the interest of the contract holder in assets allo-  
30 cated to that separate account, unless the assets al-  
31 located to that separate account are subject to the  
32 requirements and limitations on investments imposed  
33 by section 1156, as though the aggregate assets allo-  
34 cated to that separate account were the insurer's to-  
35 tal admitted assets.

36 §1160. Prohibited transactions and investment under-  
37 writing

38 1. Except for the purpose of mutualization under  
39 chapter 47; for retirement; or pursuant to a plan for  
40 investment or loan submitted in writing by the insur-

1 er to the superintendent in advance, and which the  
2 superintendent has not, within 20 days after the sub-  
3 mission or within any additional reasonable period as  
4 the superintendent may request, disapproved as being  
5 unfair or inequitable to the insurer's policyholders  
6 or stockholders, a stock insurer may not purchase its  
7 own common stock.

8 2. No insurer may underwrite or participate in  
9 the underwriting of an offering of securities or  
10 property of any person. This provision may not be  
11 deemed to prohibit:

12 A. The acquisition and ownership by the insurer  
13 of its subsidiary corporation acting as an in-  
14 vestment adviser or principal underwriter of a  
15 management company or investment company regis-  
16 tered with the United States Securities and Ex-  
17 change Commission under the Investment Company  
18 Act of 1940, as amended;

19 B. The registration by the insurer, under the  
20 United States Securities Act of 1933 or other ap-  
21 licable law, of restricted or other securities  
22 acquired and owned by it in the regular course of  
23 business; and

24 C. The underwriter by an insurer individually or  
25 on its account jointly with one or more of its  
26 subsidiaries of any company that is engaged pri-  
27 marily in the business of investing in or holding  
28 securities or real property and to which the in-  
29 surer or any of its subsidiaries renders manage-  
30 ment, investment advisory or sales services nor  
31 from participating in sales or purchases of such  
32 securities jointly with any person in the  
33 insurer's holding company system, as defined in  
34 section 222.

35 3. No insurer may purchase the stock of or oth-  
36 erwise invest in or lend its funds upon the security  
37 of any not or other evidence of indebtedness of any  
38 affiliate in the insurer's holding company system, as  
39 defined in section 222, or lend its funds to any di-  
40 rector or officer of the insurer or of the spouse or  
41 child of any director or officer. This provision may  
42 not be deemed to prohibit:

1 A. Policy loans authorized under section 1158;

2 B. Investments in subsidiaries under section  
3 1157; or

4 C. Purchases of stock, investments or loans  
5 made, in accordance with section 222, to control-  
6 ling shareholders or to affiliates, other than  
7 subsidiaries, provided that if those purchases,  
8 investments or loans will in the aggregate exceed  
9 1/2 of 1% of the insurer's admitted assets, those  
10 transactions shall be subject to the prior ap-  
11 proval of the superintendent, which approval  
12 shall be deemed given, unless the superintendent  
13 objects to the transactions within 30 days of re-  
14 ceipt of written notice of the proposed trans-  
15 actions.

16 4. No insurer may pledge or transfer any of its  
17 securities as collateral for a loan if that loan with  
18 all other outstanding loans secured by pledge or de-  
19 posit of its securities aggregates, or will aggregate  
20 if the loan is made, more than 5% of its total admit-  
21 ted assets as shown by its last sworn statement to  
22 the superintendent, unless the superintendent shall  
23 first give his written permission for the loan as  
24 necessary in the conduct of the business of that in-  
25 surer; but in no event may the pledge or transfer of  
26 securities for a loan be made by that insurer if the  
27 insurer does not receive the proceeds of that loan.

28 5. Any insurer may enter into any agreement to  
29 sell or withhold from sale any of its property, so  
30 long as the insurer is not participating in a prohib-  
31 ited underwriting. The disposition of an insurer's  
32 property shall be the responsibility of its board of  
33 directors, in accordance with its charter and by-  
34 laws.

35 §1161. Investments of foreign insurers

36 The investment portfolio of a foreign or alien  
37 insurer shall be as permitted by the laws of its dom-  
38 icile, if of a quality substantially equal to that  
39 required under this chapter for similar funds of like  
40 domestic insurers.

1           Sec. 13. 24-A MRSA §2537, sub-§2, as amended by  
2 PL 1973, c. 560, §4, is further amended to read:

3           2. The amounts allocated to each ~~such~~ account of  
4 that type and accumulations thereon may be invested  
5 and reinvested as provided in section ~~1128~~ 1159 (spe-  
6 cial investments: separate accounts). Amounts allo-  
7 cated to a separate account in the exercise of the  
8 power granted by this section shall be owned by the  
9 insurer, and the insurer shall not be, nor hold it-  
10 self out to be, a trustee with respect to ~~such~~ those  
11 amounts.

12           Sec. 14. 24-A MRSA §2537, sub-§4, as amended by  
13 PL 1973, c. 585, §12, is further amended to read:

14           4. Unless otherwise approved by the superintend-  
15 ent, assets allocated to a separate account shall be  
16 valued at their market value on the date of that val-  
17 uation, or if there is no readily available market,  
18 then in accordance with the terms of the contract or  
19 the rules or other written agreement applicable to  
20 ~~such~~ that separate account; except, that unless oth-  
21 erwise approved by the superintendent, the portion of  
22 the assets of ~~such~~ that separate account at least  
23 equal to the insurer's reserve liability with regard  
24 to the guaranteed benefits and funds referred to in  
25 section ~~1128~~ 1159, if any, shall be valued in accord-  
26 ance with rules otherwise applicable to the insurer's  
27 assets.

28           Sec. 15. 24-A MRSA §3311, sub-§2, as enacted by  
29 PL 1969, c. 132, §1, is amended to read:

30           2. Except that:

31           A. A title insurer may also engage in business  
32 as an escrow agent;

33           B. Any insurer may also engage in business ac-  
34 tivities reasonably related to the management,  
35 supervision, servicing of, and protection of its  
36 interests as to its lawful investments;

37           C. An insurer may own subsidiaries or subsidi-  
38 aries owning other subsidiaries which may engage  
39 in such businesses all as provided for in section

