

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 675

S.P. 243

In Senate, March 9, 1987

Reference to the Committee on Banking and Insurance suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate  
Presented by Senator CLARK of Cumberland.

Cosponsored by Senator BRANNIGAN of Cumberland,  
Representative CLARK of Millinocket, Representative CURRAN of  
Westbrook.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT to Amend the Investment Provisions and  
2 Certain Related Sections of the Maine  
3 Insurance Code.  
4

5 Be it enacted by the People of the State of Maine as  
6 follows:

7 Sec. 1. 24-A MRSA §222, sub-§3, ¶A, as repealed  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

10 A. Authorization. Any domestic insurer may in-  
11 vest in or otherwise acquire one or more subsidi-  
12 aries as authorized in section 1115, or section  
13 1157.

14 Sec. 2. 24-A MRSA §902, sub-§4, as enacted by PI  
15 1969, c. 132, §1, is amended to read:

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

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

17           §1101. Scope of chapter

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

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

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

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

33           Sec. 6. 24-A MRSA §1115, sub-§3, as enacted by  
34 PL 1983, c. 759, §2, is repealed.

35           Sec. 7. 24-A MRSA §1122, as enacted by PL 1969,  
36 c. 132, §1, is repealed.

37           Sec. 8. 24-A MRSA §1125, sub-§1, ¶A, as enacted  
38 by PL 1969, c. 132, §1, is amended to read:

1 A. The building in which it has its principal  
2 office, the land upon which the building stands,  
3 and such other real estate as may be requisite  
4 for the insurer's convenient accommodation in the  
5 transaction of its business. The amount so in-  
6 vested shall not aggregate more than ~~10%~~ of the  
7 insurer's assets, ~~if a life insurer, or more than~~  
8 ~~15% of the insurer's assets if a property or ca-~~  
9 ~~sualty or surety or other such nonlife insurer.~~

10 Sec. 9. 24-A MRSA §1128, as amended by PL 1973,  
11 c. 585, §12, is repealed.

12 Sec. 10. 24-A MRSA §1130, sub-§1, as enacted by  
13 PL 1969, c. 132, §1, is amended to read:

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

31 Sec. 11. 24-A MRSA §1131, sub-§1, ~~¶B~~, as re-  
32 pealed and replaced by PL 1979, c. 458, §12, is  
33 amended to read:

34 B. No such loan or investment ~~shall~~ may be  
35 represented by:

36 (1) Any item described in section 902;

37 (2) Any loan or investment expressly pro-  
38 hibited under section 1136; or

1 (3) Agent's balances, or amounts advanced  
2 to or owing by agents, except as to policy  
3 loans, mortgage loans and collateral loans  
4 to those agents otherwise authorized under  
5 any provision of this chapter.

6 Sec. 12. 24-A MRSA §1136, sub-§1, ¶C, as enacted  
7 by PL 1969, c. 132, §1, is amended to read:

8 C. Any note or other evidence of indebtedness of  
9 any director, officer or controlling stockholder  
10 of the insurer or of the spouse or child of any  
11 of the foregoing, except as to policy loans au-  
12 thorized under section 1122.

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

14 CHAPTER 13-A

15 INVESTMENTS OF LIFE INSURERS AND LIFE AND HEALTH INSURERS

16 §1151. Scope of chapter

17 Except as provided in section 1161, this chapter  
18 applies only to domestic insurers which transact  
19 business of a type described in section 702, life in-  
20 surance; section 703, annuity; section 704, health  
21 insurance; or any combination of those types of busi-  
22 ness.

23 §1152. Eligible investments

24 1. Insurers shall invest in or lend their funds  
25 on the security of and shall hold as eligible invest-  
26 ments only those as prescribed or permitted in this  
27 chapter.

28 2. Any particular investment held by an insurer  
29 on the effective date of this chapter, which was a  
30 legal investment at the time it was made, and which  
31 the insurer was legally entitled to possess immedi-  
32 ately before the effective date of this chapter,  
33 shall be considered an eligible investment.

34 3. Eligibility of an investment shall be deter-  
35 mined as of the date of its making or acquisition,  
36 except as stated in subsection 2, or in section 1153,

1 subsection 2, or in section 1156, subsection 2, para-  
2 graph H, subparagraph (4).

3 4. Any investment limitation or diversification  
4 requirement based upon the amount of the insurer's  
5 assets or particular funds shall relate to such as-  
6 sets or funds as shown by the insurer's annual state-  
7 ment as of the December 31st next preceding the date  
8 of acquisition of the investment by the insurer, or  
9 as shown by a current applicable financial statement  
10 resulting from merger with another insurer, bulk re-  
11 insurance of change in capitalization.

12 5. Nothing in this chapter prohibits an insurer  
13 from advancing funds to another insurer upon the type  
14 of agreement provided for in section 3415, borrowed  
15 capital funds, and subject to the terms of that sec-  
16 tion.

17 §1153. General qualifications

18 1. No investment, other than real property ac-  
19 quired under section 1156, subsection 2, paragraph D,  
20 and personal property incident to the investment or  
21 acquired under section 1156, subsection 2, paragraph  
22 E, and other than investments acquired under section  
23 1156, subsection 2, paragraph H, subparagraph (2),  
24 may be eligible for acquisition unless it is interest  
25 bearing or interest accruing, or entitled to divi-  
26 dends, if declared, or is otherwise income entitled,  
27 and is not then in default in any respect, and the  
28 insurer is entitled to receive for its exclusive ac-  
29 count and benefit the interest on the account or in-  
30 come on the account from the interest. Nothing in  
31 this chapter may be considered to prohibit an insurer  
32 from effecting or maintaining bona fide hedging  
33 transactions in foreign currency in connection with  
34 investments eligible for acquisition under this chap-  
35 ter or in contracts for the future delivery or re-  
36 ceipt of, or in options, calls and other rights to  
37 purchase and puts and other rights to require another  
38 person to purchase, or in options or future contracts  
39 relating to market value indices of, investments eli-  
40 gible for acquisition under this chapter, provided  
41 that those contracts, options, calls, puts and rights  
42 are traded on a national securities exchange or board  
43 of trade regulated under the laws of the United

1 States, or are directly negotiated with the issuers  
2 of those investments or with a qualified broker or  
3 dealer or bank, and provided that the aggregate  
4 amount of investments for bona fide hedging purposes  
5 in foreign currency and in those contracts, options,  
6 calls, puts and rights outstanding at any one time,  
7 valued for all purposes in accordance with generally  
8 accepted accounting principles, shall not exceed 1%  
9 of the issuer's total admitted assets. For purposes  
10 of this subsection, a "bona fide hedging transaction"  
11 means a purchase or sale of foreign currency or of a  
12 contract, option, call, put or right, as the case may  
13 be, entered into for the purpose of offsetting  
14 changes in foreign currency exchange rates, or in the  
15 market value of investments held or proposed to be  
16 acquired by the insurer, or in the market value of  
17 liabilities which the insurer has or expects to in-  
18 cur; a "qualified broker or dealer" means a broker or  
19 dealer that is organized under the laws of a state,  
20 is registered under the United States Securities Ex-  
21 change Act of 1954, United States Code, Title 15,  
22 Sections 78a to 78kk, and has net capital in excess  
23 of \$250,000,000; and a "qualified bank" means a bank  
24 or trust company that is organized under the laws of  
25 a state or the United States, has assets in excess of  
26 \$5,000,000,000, has, or its parent corporation has,  
27 senior obligations outstanding rated AA or better,  
28 and has a ratio of primary capital to total assets of  
29 at least 5 1/2% and a ratio of total capital to total  
30 assets of at least 6%.

31 2. Nothing in this chapter prohibits the acqui-  
32 sition by an insurer of:

33 A. Securities or property received as a divi-  
34 dend, or pursuant to a lawful judicial or nonju-  
35 dicial plan of reorganization or dissolution, or  
36 pursuant to a lawful and bona fide agreement of  
37 bulk reinsurance, merger or consolidation, or  
38 through the exercise of rights of conversion,  
39 stock warrants or stock options received by it in  
40 accordance with this subsection or section 1156;

41 B. An investment permitted under section 1156  
42 because that investment is convertible into other  
43 securities or stock in which the insurer is not  
44 permitted to invest under this chapter, or be-

1 cause the insurer receives in connection with  
2 that investment stock warrants, whether detach-  
3 able or nondetachable, stock options, shares of  
4 stock, property interests or other assets of any  
5 kind; or

6 C. Real or personal property or any interest in  
7 the property received in satisfaction of a debt  
8 previously owing to that insurer. If any securi-  
9 ties received by any insurer in accordance with  
10 paragraph A consist in whole or in part of stock  
11 or shares of any institution, as defined in sec-  
12 tion 1156, or of bonds or other obligations which  
13 do not meet the requirements specified in section  
14 1156, then any of that stock or shares and any  
15 bond or obligation of that type so received shall  
16 be disposed of within 5 years from the time of  
17 its acquisition or before the expiration of any  
18 further period or periods of time as may be pre-  
19 scribed in writing by the superintendent, or  
20 treated as a nonadmitted asset thereafter, unless  
21 at any time after acquisition those securities  
22 have met the relevant requirements and the insur-  
23 er has notified the superintendent of that fact.

24 §1154. Authorization; record of investments

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

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

38 §1155. Diversification

39 Investments of an insurer shall be subject to the  
40 following diversification requirements and limita-  
41 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. Real estate, section 1156, subsection 2, par-  
5 agraph D, subparagraph (1);

6           B. Personal property, section 1156, subsection  
7 2, paragraph E;

8           C. Equity interests, section 1156, subsection 2,  
9 paragraph F; and

10           D. Subsidiaries, section 1157, except as pro-  
11 vided in that section.

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

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

26           A. Government obligations, section 1156, subsec-  
27 tion 2, paragraph A; and

28           B. Policy loans, section 1158.

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

31 §1156. Reserve and other investments

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

1           2. Subject to section 1155, the assets of an in-  
2 surer may be invested in the following classes, sub-  
3 ject to the percentage limitations contained in this  
4 subsection:

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

23           B. Obligations issued, assumed, guaranteed or  
24 accepted by domestic institutions, or trustees or  
25 receivers of those obligations, and preferred  
26 shares of any of those institutions; provided  
27 that, without the prior approval of the superin-  
28 tendent, no domestic insurer may acquire any  
29 high-yield obligations of any institution if:

30           (1) The aggregate amount of publicly-traded  
31 high-yield obligations of that institution  
32 then held by the insurer would exceed 1/2 of  
33 1% of the insurer's admitted assets;

34           (2) The aggregate amount of all high-yield  
35 obligations of that institution, other than  
36 substantially directly negotiated high-yield  
37 obligations, then held by the insurer would  
38 exceed 1% of its admitted assets;

39           (3) The aggregate amount of all  
40 publicly-traded high-yield obligations then  
41 held by the insurer would exceed 10% of its  
42 admitted assets;

1                   (4) The aggregate amount of all high-yield  
2                   obligations, other than substantially di-  
3                   rectly negotiated high-yield obligations,  
4                   then held by the insurer, would exceed 15%  
5                   of its admitted assets; or

6                   (5) The aggregate amount of all high-yield  
7                   obligations then held by the insurer would  
8                   exceed 20% of its admitted assets;

9                   For purposes of this paragraph, "high-yield obliga-  
10                   tions" means obligations which are either  
11                   publicly-traded obligations or obligations issued in  
12                   a transaction involving the acquisition of substan-  
13                   tially all the stock or assets of a corporation or  
14                   substantially all of the assets of a division of that  
15                   division, and are not investment grade obligations;  
16                   "publicly-traded obligations" means obligations, oth-  
17                   er than substantially directly negotiated high-yield  
18                   obligations, which are not acquired by the insurer  
19                   from an issuer, underwriter or dealer or which are  
20                   qualified for public sale at the time of the  
21                   insurer's acquisition; "substantially directly nego-  
22                   tiated high-yield obligations" means high-yield obli-  
23                   gations which the insurer and its subsidiaries and  
24                   affiliates that are insurers or subsidiaries de-  
25                   scribed by section 1157, subsection 5, paragraph B,  
26                   subparagraph (1), acquire at an aggregate cost of not  
27                   less than \$50,000,000 in a single transaction direct-  
28                   ly from the issuer or from an underwriter that ac-  
29                   quired the obligations directly from the issuer; "not  
30                   acquired by the insurer from an issuer, underwriter  
31                   or dealer" means acquired by the insurer in an exempt  
32                   transaction described in the United States Securities  
33                   Act of 1933, Section 4(1) or Section 4(3), United  
34                   States Code, Title 15, Section 77d(1) or Section  
35                   77d(3), as from time to time amended; "qualified for  
36                   public sale" means registered under that Act; and  
37                   "investment grade obligation" means an obligation  
38                   which at the time of acquisition by the insurer has  
39                   been placed in one of the top 4 rating categories by  
40                   an independent nationally recognized rating agency  
41                   acceptable to the superintendent or, if the obliga-  
42                   tion has not been rated by any such rating agency, on  
43                   which the average annual yield to maturity at the  
44                   time of acquisition by the insurer is not more than  
45                   300 basis points higher than that of obligations of  
46                   comparable maturity issued by the United States;

1 C. Obligations secured by liens on real property  
2 or interests located within the United States and  
3 not eligible under paragraph A or B;

4 D. Investments in real property or interests  
5 therein located in the United States, held di-  
6 rectly or evidenced by partnership interests,  
7 stock of corporations, trust certificates or oth-  
8 er instruments and acquired:

9 (1) As an investment for the production of  
10 income or to be improved or developed for  
11 that investment purpose; or

12 (2) For the convenient accommodation of the  
13 insurer's business.

14 After giving effect to any of those types of in-  
15 vestment, the aggregate amount of investments  
16 made under subparagraph (1) shall not exceed 20%  
17 of the insurer's total admitted assets; the ag-  
18 gregate amount of investments made under subpara-  
19 graph (2) shall not exceed 10% of the insurer's  
20 total admitted assets; and the aggregate amount  
21 of investments made under this paragraph shall  
22 not exceed 25% of the insurer's total admitted  
23 assets. Investments under subparagraph (1) in  
24 any single property, including improvements on  
25 that property, will not in the aggregate exceed  
26 2% of the insurer's total admitted assets;

27 E. Investments in personal property or interests  
28 in property or in investments located or used  
29 wholly or in part within the United States, held  
30 directly or evidenced by partnership interests,  
31 stock of corporations, trust certificates or oth-  
32 er instruments, provided that, after giving ef-  
33 fect to any investment of that type, the aggre-  
34 gate amount of those investments will not exceed  
35 10% of the insurer's total admitted assets, and  
36 provided that investments under this paragraph in  
37 any single item of personal property will not in  
38 the aggregate exceed 1% of the insurer's total  
39 admitted assets;

40 F. Investments, other than investments described  
41 in paragraph D or E and in addition to invest-

1 ments authorized by section 1157, in common  
2 stock, partnership interests, trust certificates  
3 or other equity interests, other than preferred  
4 shares, of domestic institutions, provided that,  
5 after giving effect to any investment of that  
6 type under this paragraph, the aggregate amount  
7 of those investments will not exceed 20% of the  
8 insurer's total admitted assets;

9 G. The following foreign investments:

10 (1) Canadian securities and investments  
11 substantially of the same classes as those  
12 eligible for investment under paragraphs A  
13 to F, but the aggregate amount of those in-  
14 vestments which are held at any time by any  
15 insurer shall not exceed 10% of total admit-  
16 ted assets, except where a greater amount is  
17 permitted pursuant to subparagraph (2), in  
18 which case this subparagraph shall not be  
19 applicable;

20 (2) In the case of any insurer which is au-  
21 thorized to do business in a foreign country  
22 or possession of the United States or which  
23 has outstanding insurance, annuity or rein-  
24 surance contracts on lives or risks, resi-  
25 dent or located in a foreign country or pos-  
26 session of the United States, securities and  
27 investments in that foreign country or pos-  
28 session that are substantially of the same  
29 classes as those eligible for investment un-  
30 der paragraphs A to F; but the aggregate  
31 amount of such investments in a foreign  
32 country or a possession of the United States  
33 and of cash in the currency of that country  
34 or possession which is at any time held by  
35 that insurer shall not, except as provided  
36 in paragraph H, exceed 1 1/2 times the  
37 amount of its reserves and other obligations  
38 under those contracts or the amount which  
39 that insurer is required by law to invest in  
40 country or possession, whichever is greater;  
41 and

42 (3) The foreign investments permitted under  
43 subparagraphs (1) and (2), securities and

1 investments in foreign countries which are  
2 substantially of the same classes as those  
3 eligible for investment under paragraphs A  
4 to F, but the aggregate amount of those in-  
5 vestments made pursuant to this subparagraph  
6 shall not exceed 1% of total admitted as-  
7 sets; and

8 H. Investments which do not qualify or are not  
9 permitted under any other paragraph of this sub-  
10 section; provided that.

11 (1) After giving effect to any investment  
12 made under this paragraph, the aggregate  
13 amount of those investments shall not exceed  
14 14% of total admitted assets, except that  
15 investments made under this paragraph in in-  
16 stitutions or property not located within  
17 the State shall not exceed 10% of total ad-  
18 mitted assets; and, if the insurer makes in-  
19 vestments described in paragraphs A to G and  
20 elects to charge those investments against  
21 the quantitative limits in this paragraph  
22 instead of the quantitative limits in para-  
23 graphs A to G, then the aggregate amount in-  
24 vested under this paragraph in those types  
25 of investment shall not exceed 5% of total  
26 admitted assets for any one of those types  
27 of investment.

28 (2) Investments that are neither interest  
29 bearing nor income entitled, including the  
30 cost of outstanding bona fide hedging trans-  
31 actions made under section 1153, subsection  
32 1, shall be subject to all of the provisions  
33 of this paragraph; and the aggregate amount  
34 of those investments held at any one time  
35 shall not exceed 3% of total admitted as-  
36 sets.

37 (3) None of the investment limitations con-  
38 tained in this chapter, qualitative or oth-  
39 erwise, may apply to loans or investments  
40 made or acquired under this paragraph, pro-  
41 vided that no loan or investment made or ac-  
42 quired under this paragraph may be repre-  
43 sented by any item described in section 902;

1 any loan or investment expressly prohibited  
2 under section 1160; or agent's balances, or  
3 amounts advanced to or owing by agents, ex-  
4 cept as to policy loans, mortgage loans and  
5 collateral loans to those agents otherwise  
6 authorized under this chapter.

7 (4) The insurer shall keep a separate  
8 record of all loans and investments made or  
9 acquired under this paragraph. Any such  
10 loan or investment that subsequent to the  
11 date of making or acquisition attained the  
12 standard of eligibility and qualifies under  
13 any other provision of this chapter may be  
14 considered to have been made or acquired  
15 under and in compliance with that provision  
16 and shall no longer be considered to have  
17 been made or acquired under this paragraph.

18 3. Definitions. As used in this chapter, unless  
19 the context indicates otherwise, the following terms  
20 have the following meanings.

21 A. Except as provided in section 1157, subsec-  
22 tion 5, "aggregate amount of investments" means  
23 the aggregate value, as determined under sections  
24 981 to 984.

25 B. "Domestic institution" means an institution  
26 created or existing under the laws of the United  
27 States or of any state, district or territory.

28 C. "Institution" means corporations, joint-stock  
29 associations, business trusts, business partner-  
30 ships, business joint ventures and any similar  
31 entity.

32 D. "Obligations" means bonds, debentures, notes  
33 and other evidences of indebtedness, whether or  
34 not liability for payment extends beyond the se-  
35 curity, as well as participation interests in any  
36 of those.

37 E. "United States," when used to signify place,  
38 includes those geographical areas and the lands  
39 and waters adjacent to those geographical areas  
40 as are under the jurisdiction of the United  
41 States.

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

8 §1157. Investment in subsidiaries

9 1. Subject to the limitations contained in sub-  
10 section 5, an insurer may invest in, or otherwise ac-  
11 quire, subsidiaries engaged or organized to engage in  
12 any businesses lawful under the laws of the jurisdic-  
13 tions in which those subsidiaries are organized.

14 2. Except as provided in section 1153, subsec-  
15 tion 2, investments in subsidiaries authorized by  
16 this section may not be authorized under any other  
17 section of this chapter.

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

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

33 5. Subject to the exceptions in paragraph B, in-  
34 vestments in subsidiaries of an insurer are limited  
35 as follows.

36 A. Except with the approval of the superintend-  
37 ent, such insurer may not make, directly or indi-  
38 rectly, an investment in any subsidiary if that  
39 investment would bring the aggregate net costs of  
40 investments in all subsidiaries to an amount in



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

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

12 (1) Subsidiaries engaged or organized to  
13 engage exclusively in the ownership or man-  
14 agement of assets authorized under this  
15 chapter as investments for the insurer; and

16 (2) Subsidiaries engaged or organized to  
17 engage in the kinds of business in which the  
18 insurer may engage.

19 No investment described in section 3415 may be  
20 counted as an investment in a subsidiary in de-  
21 termining compliance with the limitations of this  
22 subsection.

23 C. Subject to paragraph B, the "net cost of in-  
24 vestment" is defined to be the sum of:

25 (1) The total money or other consideration  
26 expended and obligations assumed in the ac-  
27 quisition or formation of a subsidiary, in-  
28 cluding all organizational expenses and con-  
29 tributions to capital and surplus of that  
30 subsidiary;

31 (2) All amounts expended in acquiring addi-  
32 tional common stock, preferred stock, debt  
33 obligations and other securities, and all  
34 contributions to the capital or surplus, of  
35 a subsidiary subsequent to its acquisition  
36 or formation; and

37 (3) Less returns of capital, repayments of  
38 principal and any other payments reducing  
39 the investment in the subsidiary.

1           D. Investments made or acquired by subsidiaries  
2           referred to in paragraph B, subparagraph (1),  
3           shall be considered to be made or acquired di-  
4           rectly by the insurer, pro rata, in the case of a  
5           subsidiary not wholly owned, and shall, to such  
6           extent, be subject to all the provisions and lim-  
7           itations on the making of investments specified  
8           in this chapter with respect to investments by  
9           the insurer; shall be valued in accordance with  
10           the provisions of sections 981 to 984 and other  
11           applicable provisions of this Title; and shall be  
12           located pursuant to section 3408. Those subsidi-  
13           aries shall be subject to examination by the su-  
14           perintendent under section 221, subsection 1, and  
15           section 222, subsection 1.

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

24           6. In determining the financial condition of an  
25           insurer, all investments made directly or indirectly  
26           in the stock of its subsidiaries shall be valued in  
27           accordance with section 982, subsection 3, and regu-  
28           lations promulgated under that section.

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" does not include  
32           a separate account established under section 2537.

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

37           §1158. Policy loans

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

1 its supplementary contracts or other contracts or ob-  
2 ligations, as 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 tablished by the insurer pursuant to section  
11 2537, separate accounts and accumulations may be  
12 invested and reinvested without regard to any re-  
13 quirements or limitations prescribed by this  
14 chapter except for the provisions of section  
15 1156, subsection 1; and

16 B. Except as provided in subsection 2, paragraph  
17 B, the investments in that separate account or  
18 accounts may not be taken into account in apply-  
19 ing the investment limitations otherwise applica-  
20 ble to the investments of the insurer.

21 2. Except with the approval of the superintend-  
22 ent and under such conditions as to investments and  
23 other matters as he may prescribe, which shall recog-  
24 nize the guaranteed nature of the benefits provided,  
25 no insurer may guarantee the value of the assets al-  
26 located to a separate account, or any interest, or  
27 the investment results, or the income, to a contract  
28 holder, without limitation of liability under all  
29 those guarantees to the extent of the interest of the  
30 contract holder in assets allocated to that separate  
31 account, unless:

32 A. To the extent that the applicable agreements  
33 provide that the assets in that separate account  
34 shall not be chargeable with liabilities arising  
35 out of any other business of the insurer, the as-  
36 sets allocated to that separate account are in-  
37 vested subject to the requirements and limita-  
38 tions on investments imposed by section 1156,  
39 subsection 2, as though the aggregate assets al-  
40 located to that separate account were the  
41 insurer's total admitted assets; or

1           B. The assets allocated to that separate account  
2           are invested subject to the requirements and lim-  
3           itations on investments imposed by section 1156,  
4           subsection 2, as though they were part of the  
5           general assets of the insurer.

6           §1160. Prohibited transactions and investment under-  
7           writing

8           1. Except for the purpose of mutualization under  
9           chapter 47; for retirement; or pursuant to a plan for  
10           investment or loan submitted in writing by the insurer  
11           to the superintendent in advance, and which the  
12           superintendent has not disapproved, within 20 days  
13           after the submission or within any additional reason-  
14           able period as the superintendent may request, as be-  
15           ing unfair or inequitable to the insurer's policy-  
16           holders or stockholders, a stock insurer may not pur-  
17           chase its own common stock.

18           2. No insurer may underwrite or participate in  
19           the underwriting of an offering of securities or  
20           property of any person. This provision may not be  
21           considered to prohibit:

22           A. The acquisition and ownership by the insurer  
23           of its subsidiary corporation acting as an in-  
24           vestment adviser or principal underwriter of a  
25           management company or investment company regis-  
26           tered with the United States Securities and Ex-  
27           change Commission under the Investment Company  
28           Act of 1940, as amended;

29           B. The registration by the insurer, under the  
30           United States Securities Act of 1933 or other ap-  
31           plicable law, of restricted or other securities  
32           acquired and owned by it in the regular course of  
33           business; and

34           C. The underwriting by an insurer individually  
35           or on its account jointly with one or more of its  
36           subsidiaries of the securities of any company  
37           that is engaged primarily in the business of in-  
38           vesting in or holding securities or real property  
39           and to which the insurer or any of its subsidi-  
40           aries renders management, investment advisory or  
41           sales services nor from participating in sales or

1 purchases of those securities jointly with any  
2 person in the insurer's holding company system, as  
3 defined in section 222.

4 3. No insurer may purchase the stock of or oth-  
5 erwise invest in or lend its funds upon the security  
6 of any note or other evidence of indebtedness of any  
7 affiliate in the insurer's holding company system, as  
8 defined in section 222, or lend its funds to any di-  
9 rector or officer of the insurer or of the spouse or  
10 child of any director or officer. This provision may  
11 not be considered to prohibit:

12 A. Policy loans authorized under section 1158;

13 B. Investments in subsidiaries under section  
14 1157; or

15 C. Purchases of stock, investments or loans made  
16 in accordance with section 222 from, in or to  
17 controlling shareholders or affiliates, provided  
18 that any of those purchases, investments or loans  
19 which exceed 1/2 of 1% of the insurer's admitted  
20 assets shall be subject to the prior approval of  
21 the superintendent, which approval shall be con-  
22 sidered given unless the superintendent objects  
23 to that transaction within 30 days of receipt of  
24 written notice of that transaction.

25 4. No insurer may pledge or transfer any of its  
26 securities as collateral for a loan if that loan with  
27 all other outstanding loans secured by pledge or de-  
28 posit of its securities aggregates, or will aggregate  
29 if the loan is made, more than 5% of its total admit-  
30 ted assets as shown by its last sworn statement to  
31 the superintendent, unless the superintendent shall  
32 first give his written permission for the loan as  
33 necessary in the conduct of the business of that in-  
34 surer; but in no event may the pledge or transfer of  
35 securities for a loan be made by that insurer if the  
36 insurer does not benefit from that loan. This sub-  
37 section may not be considered to prohibit an insurer  
38 from selling investments subject to an obligation to  
39 repurchase the investments, upon fair and reasonable  
40 terms.

1           5. An insurer may enter into any agreement to  
2 sell or withhold from sale any of its property, as  
3 long as the insurer is not participating in a prohib-  
4 ited underwriting. The disposition of an insurer's  
5 property shall be the responsibility of its board of  
6 directors, in accordance with its charter and by-  
7 laws.

8           §1161. Investments of foreign insurers

9           The investment portfolio of a foreign or alien  
10 insurer shall be as permitted by the laws of its dom-  
11 icile, if of a quality substantially equal to that  
12 required under this chapter for similar funds of like  
13 domestic insurers.

14           Sec. 14. 24-A MRSA §2537, sub-§2, as amended by  
15 PL 1973, c. 560, §4, is further amended to read:

16           2. The amounts allocated to each such account of  
17 that type and accumulations thereon may be invested  
18 and reinvested as provided in ~~section 1128~~ section  
19 1159 (special investments: separate accounts).  
20 Amounts allocated to a separate account in the exer-  
21 cise of the power granted by this section shall be  
22 owned by the insurer, and the insurer shall not be,  
23 nor hold itself out to be, a trustee with respect to  
24 such those amounts.

25           Sec. 15. 24-A MRSA §2537, sub-§4, as amended by  
26 PL 1973, c. 585, §12, is further amended to read:

27           4. Unless otherwise approved by the superintend-  
28 ent, assets allocated to a separate account shall be  
29 valued at their market value on the date of that val-  
30 uation, or if there is no readily available market,  
31 then in accordance with the terms of the contract or  
32 the rules or other written agreement applicable to  
33 such that separate account; except, that, unless oth-  
34 erwise approved by the superintendent, the portion of  
35 the assets of such that separate account at least  
36 equal to the insurer's reserve liability with regard  
37 to the guaranteed benefits and funds referred to in  
38 ~~section 1128~~ section 1159, if any, shall be valued in  
39 accordance with rules otherwise applicable to the  
40 insurer's assets.

