

## No. 1982-112

## AN ACT

## SB 710

Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An act relating to insurance; amending, revising, and consolidating the law providing for the incorporation of insurance companies, and the regulation, supervision, and protection of home and foreign insurance companies, Lloyds associations, reciprocal and inter-insurance exchanges, and fire insurance rating bureaus, and the regulation and supervision of insurance carried by such companies, associations, and exchanges, including insurance carried by the State Workmen's Insurance Fund; providing penalties; and repealing existing laws," changing the loan-to-value ratio on real estate and leasehold loans, and the admitted assets limitation on real estate investments, allowing Pennsylvania life insurance companies to invest in additional types of interest-bearing deposits or certificates of deposit and imposing limitations.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Clause (5) of subsection (g), clause (2) of subsection (l) and the first paragraph of subsection (y) of section 404, act of May 17, 1921 (P.L.682, No.284), known as "The Insurance Company Law of 1921," clause (5) of subsection (g) and clause (2) of subsection (l) added or amended December 18, 1959 (P.L.1938, No.706) and subsection (y) added July 9, 1976 (P.L.936, No.181), are amended and the section is amended by adding subsections to read:

Section 404. Investment of Capital and Reserves.—Subject to the provisions of section four hundred six, point one, the capital and not less than three-fourths (3/4) of the reserves of any life insurance company, organized under the laws of this Commonwealth, shall be invested in the following classes of investment:

\* \* \*

(g) Real Estate Loans. Ground rents and bonds, notes or other evidences of indebtedness, secured by mortgages or trust deeds upon unencumbered real property located in any state, district or territory of the United States, and in investments in the equity of the seller under contracts for deeds covering the entire balance due on bona fide sales of such real property: Provided, That a loan guaranteed or insured in full by the Administrator of Veterans' Affairs pursuant to the provisions of the Federal Servicemen's Readjustment Act of 1944, as heretofore or hereafter amended, may be subject to a prior encumbrance. Real property shall not be considered to be encumbered within the meaning of this section by reason of the existence of instruments reserving mineral, oil, water or timber rights, rights of way, sewer rights, rights in walls or driveways, by reason of liens inferior to the lien securing the loan of the insurance company, or liens for taxes or assessments not yet delinquent, or by reason of building restrictions or other restrictive covenants, or by

reason of any lease under which rents or profits are reserved to the owner if, in any event, the security for such loan is a first lien upon such real property, and if there is no condition or right of re-entry or forfeiture under which such lien can be cut off, subordinated or otherwise disturbed. No mortgage or trust deed, loan or investment in a seller's equity under a contract for deed made or acquired by the insurance company on any one property shall at the date of investment exceed two-thirds (2/3) of the value of the real property securing the loan, or subject to such contract: Provided, That such limitation in respect to value shall not apply to a loan which is—

\* \* \*

(5) Upon such terms that the principal thereof will be amortized by repayments of principal at least once in each year in amounts sufficient to repay the loan within a period of not more than thirty years, and such loan is upon improved real estate, and at the date of investment does not exceed [~~three-fourths (3/4)] *nine-tenths (9/10)*] of the value of the real estate securing the loan.~~

\* \* \*

(l) Loans Upon Leaseholds. Loans upon leasehold estates on unencumbered real estate located in any state, district or territory of the United States: Provided, That no such loan shall exceed two-thirds (2/3) of the value of the leasehold at the date of investment, unless

\* \* \*

(2) Such leasehold is of improved real estate and such loan provides for amortization by repayments of principal at least once in each year in amounts sufficient to repay the loan within a period of four-fifths (4/5) of the unexpired term of the leasehold, but within a period of not more than thirty years, and does not exceed [~~three-fourths (3/4)] *nine-tenths (9/10)*] of the value of the leasehold at the date of investment.~~

\* \* \*

(y) Investments in Interest-bearing Accounts of Banks. An interest-bearing deposit or a certificate of deposit in any bank, bank and trust company, savings bank, or national banking association, [~~located within the Commonwealth,~~] *organized under the laws of the United States or any state or district thereof* shall be an authorized investment if it is not made or deposited in any bank, bank and trust company, savings bank or national banking association or any other financial institution, or any savings association or Federal savings and loan association [~~wherever located~~] which is directly or indirectly through a holding company or in any other manner whatsoever affiliated with any insurance company, association or exchange making or depositing such interest-bearing deposits or certificates of deposit. No funds invested in certificates of deposit shall be encumbered directly or indirectly as security, collateral or as counterbalance funds for any subsidiary, affiliate, or associated concern as defined in section 337.6 of this act or any other person except as specifically approved by written order of the Insurance Commissioner.

\* \* \*

*(aa) Junior Mortgages and Trust Deeds. Mortgage loans and trust deeds as defined in subsections (g) and (l) may be made upon real estate and upon leaseholds which are then encumbered by mortgage liens thereon; provided that the holder of such junior mortgage shall have the right at its option to do the following:*

*(1) to make all payments required to be made by the obligor under the terms of all senior mortgages;*

*(2) to cure any default under senior mortgages; and*

*(3) to acquire at any time by prepayment the entire interest of the holders of such senior mortgages: Provided, however, That the instrument evidencing the lien or mortgage by which the obligation of the borrower to the insurer under the loan is secured is recorded and the lien is insured under a policy of title insurance in an amount not less than the total amount of the obligations of the borrower to the insurer under the loan: And provided, That the loan when added to the unpaid principal amount of such senior mortgages shall not exceed the applicable amounts provided in subsections (g) and (l) and shall otherwise conform to the applicable requirements of these subsections: And provided, further, That such investments may not exceed the aggregate of five per centum (5%) of such company's admitted assets.*

*(bb) Foreign Obligations. Bonds, notes, obligations, or other investments of or in any business or governmental unit in or of any foreign country which are of the same kinds, classes and investment grades as those eligible for investment under this section in the United States.*

Section 2. Section 405 of the act is amended by adding subsections to read:

Section 405. Investment of Surplus and Balance of Reserve.— Except as provided in section four hundred five point one, and subject to the provisions of section four hundred six point one, any surplus funds and the balance of the reserves of any life insurance company, organized under the laws of this Commonwealth, may be invested in the following classes of investment:

\* \* \*

*(i) Foreign Obligations and Securities. Bonds, notes, obligations, stocks, shares, or other investments of or in any business or governmental unit in or of any foreign country which are of the same kinds, classes and investment grades as those eligible for investment under this section.*

*(j) Mortgage Pass-through Certificates. Certificates evidencing an undivided interest in a pool of conventional mortgage loans secured by first mortgages or deeds of trust on improved residential one-to-four family properties located in the United States where:*

*(1) such mortgage loans are originated by a savings and loan association, savings bank, commercial bank or similar banking institution which is supervised and examined by a Federal or State authority or are originated by a mortgagee approved by the Secretary of Housing and Urban Development pursuant to sections 203 and 211 of the National Housing Act;*

*(2) such mortgage loans are assigned to a bank as trustee for the benefit of the holders of such certificates; and*

*(3) such certificates are rated within the three highest grades by a nationally recognized investment rating service or, if not so rated, the mortgage loans comprising the pool are insured under a pool mortgage guaranty insurance policy or policies in an original aggregate amount of not less than five per centum (5%) of the initial aggregate principal amount of the mortgage loans in the pool.*

Section 3. Subsection (b) and clause (3) of subsection (g) of section 406.1 of the act, subsection (b) amended March 21, 1968 (P.L.68, No.24) and subsection (g) amended June 1, 1972 (P.L.321, No.88), are amended and the section is amended by adding subsections to read:

Section 406.1. General Investment Provisions and Restrictions.— Investment under authority of section four hundred four, or four hundred five and holding of real estate under authority of section four hundred six by any life insurance company, organized under the laws of this Commonwealth, shall be subject to the following provisions:

\* \* \*

(b) No investment shall be made in any unincorporated business or enterprise other than a business trust or **[limited]** partnership in which a life insurance company acts as a limited partner. *A subsidiary of a life insurance company may act as a general partner.*

\* \* \*

(g) Exclusive of investments in subsidiaries as provided in section four hundred five point one no investment shall be made which would result in the cost of total investments in, or in loans upon, any of the following classes of investment exceeding the percentage of such company's admitted assets on the thirty-first day of December next preceding the date of investment, which is specified in the class.

\* \* \*

(3) Stock or shares of corporations, incorporated for a purpose stated in subsection (e) or (f) of section four hundred six, and real estate or interests therein, purchased, leased or owned, under authority of such subsections, **[ten per cent (10%)] fifteen per cent (15%)**.

\* \* \*

*(t) Investments permitted under sections 404(bb) and 405(i) shall be limited to five per cent (5%) of such company's admitted assets: Provided, however, That the limitation for a company having a surplus of less than five million dollars (\$5,000,000) shall be the lesser of (i) the amount of such company's surplus or (ii) five per cent (5%) of such company's admitted assets. For purposes of calculating these limitations, the investments referred to under subsection (g)(4) shall ~~not be taken into account.~~*

*(u) Investments permitted under section 405(j) shall be limited to five per cent (5%) of such company's admitted assets.*

Section 4. This act shall take effect immediately.

APPROVED—The 7th day of May, A. D. 1982.

DICK THORNBURGH