

**SUBSTITUTE FOR
HOUSE BILL NO. 5927**

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 901, 912, 916, 917a, 918, 922, 938, 942, and
943 (MCL 500.901, 500.912, 500.916, 500.917a, 500.918, 500.922,
500.938, 500.942, and 500.943), sections 901 and 943 as amended
and section 917a as added by 1994 PA 226, section 922 as amended
by 1991 PA 79, and section 942 as amended by 1984 PA 90, and by
adding section 902.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 901. (1) Each insurer authorized to transact the busi-
2 ness of insurance in this state, and each person approved for
3 placement of business by a surplus lines agent pursuant to
4 chapter 19, may loan or invest its funds in any investment, and
5 may buy, sell, hold title to, possess, occupy, pledge, convey,
6 manage, protect, insure, and deal with respect to its

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1 investments, property, and money to the same extent as any other
2 person or corporation under the laws of this state or of the
3 United States if the insurer has assets in cash or as defined in
4 this chapter in a total amount at least equal to the sum of its
5 liabilities including its reserves as required by this act, plus
6 an amount equal to the lesser of the minimum capital and surplus
7 required to be maintained by sections 408 and 410 or
8 [~~\$1,000,000.00~~ \$7,000,000.00].

9 (2) For purposes of meeting the assets required by subsec-
10 tion (1), the following apply:

11 (a) The value of all computers shall not exceed 2% of the
12 assets required by subsection (1) and the value of each computer
13 shall not exceed the original cost of the computer amortized over
14 a period not to exceed ~~5~~ 3 years. For purposes of this sec-
15 tion, "computer" means an electronic data processing system, com-
16 posed of 1 or more components, that utilizes storage and process-
17 ing mechanization and has a direct automatic means of input and
18 output, including, but not limited to, central processing units,
19 data input/output channels, main storage or memory, and periph-
20 eral devices for systems control, data input, output, or tempo-
21 rary or permanent storage of information, and associated reusable
22 media required by these devices and operating systems software.

23 (b) Title insurers may include their net investment in their
24 title plant.

25 (c) Assets described in sections 946 and 947 that are encum-
26 bered with prior liens that affect the salability of the asset to
27 a material extent shall not be used to satisfy the requirements

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1 of subsection (1). For purposes of this subdivision, liens that
2 do not affect the salability of the asset to a material extent
3 are real estate taxes or assessments that are not delinquent,
4 liens against an asset for which an insurer is insured against
5 loss by title insurance, and any other liens that in the aggre-
6 gate are not in excess of 5% of the fair market value of the
7 asset. Assets described in sections 946 and 947 shall not be
8 used to satisfy more than 20% of the requirements of subsection
9 (1). This subdivision does not apply to assets described in sec-
10 tion 942.

11 (d) Amounts receivable from broker/dealers registered under
12 the securities exchange act of 1934, chapter 404, 48 Stat. 881,
13 or from the issuer of a security or asset in connection with the
14 disposition of assets qualified to satisfy subsection (1) may be
15 included, provided the amount is not more than 5 business days
16 past the date of disposition.

17 (e) Assets not otherwise defined in this chapter may be used
18 as qualified assets for purposes of subsection (1) if the assets
19 are rated investment grade by a securities rating organization
20 approved by the commissioner.

21 (F) NO MORE THAN 20% OF THE ASSETS REQUIRED BY SUBSECTION
22 (1) SHALL BE HIGH-YIELD, HIGH-RISK OBLIGATIONS. AS USED IN THIS
23 SUBDIVISION, "HIGH-YIELD, HIGH-RISK OBLIGATIONS" MEANS OBLIGA-
24 TIONS THAT ARE NOT IN 1 OF THE TOP 2 NUMBERED CLASSIFICATIONS OF
25 BONDS REPORTED IN THE INSURER'S ANNUAL FINANCIAL STATEMENT ON A
26 FORM APPROVED BY THE COMMISSIONER.

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1 (3) The sum of the liabilities and reserves computed for
2 purposes of this section may be reduced by 1 or more of the
3 following:

4 (a) A reinsurance balance recoverable or other credit due
5 from a reinsurer that complies with existing or other applicable
6 rules or orders promulgated or issued by the commissioner, to the
7 extent that the balance recoverable or other credit due may be
8 used to offset a liability as authorized in an insurer's annual
9 statement concerning its affairs filed pursuant to section 438.

10 (b) Policy loans secured by policies included in the liabil-
11 ities and reserves but not in excess of the cash surrender value
12 of the policies.

13 (c) Premium notes secured by letters of credit, security
14 trust funds, or unearned premium reserves.

15 (d) The net amount of insurance premiums and annuity consid-
16 erations booked but deferred and not yet due. Reduction under
17 this subdivision shall not be allowed for credit life and credit
18 accident and health premiums deferred and uncollected, whether
19 individual or group, except as allowed pursuant to
20 subdivision (e).

21 (e) Amounts receivable from an agent, agency, policyholder,
22 or other person that does not have control of more than 10% of
23 all the insurer's agents' balances, and that is not affiliated
24 with the insurer on policies with an effective date not more than
25 1 month old to the extent that the amounts are offset by unearned
26 premium reserves on the same policies.

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1 (f) Amounts receivable from a person to the extent the
2 amounts offset liabilities or amounts payable to that person.
3 Receivables and payables with respect to reinsurance may be
4 allowed so long as the reinsurance contract has a right of offset
5 provision. A reduction under this subdivision shall not be
6 allowed for agents' balances or uncollected premiums as defined
7 by subdivision (e).

8 (4) Assets, liabilities, and reserves under subsection (1)
9 shall exclude assets, liabilities, and reserves included in sepa-
10 rate accounts established in accordance with section 925. The
11 value of income due and accrued in respect to assets required by
12 subsection (1) may be included in the total amount. The assets
13 shall not be valued at more than the actual value as ascertained
14 in a manner approved by the commissioner, except those assets
15 described in sections 912, 914, 918, 934, 938, and 942 that have
16 a fixed term and rate, if amply secured and not in default as to
17 principal and interest which may be valued as follows: if pur-
18 chased at par, the par value; if purchased above or below par, on
19 the basis of the purchase price adjusted so as to bring the value
20 to par at maturity and so as to yield in the meantime the effec-
21 tive rate of interest at which the purchase was made. The pur-
22 chase price shall not be taken at a higher figure than the actual
23 market value at the time of purchase.

24 (5) The commissioner may permit other assets not specifi-
25 cally described in this section to be used as qualified assets
26 for purposes of subsection (1), as long as the assets are
27 financially equivalent to those assets described in sections 910

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1 to 947, are approved by the commissioner as adequate as to
2 quality and liquidity to secure the liabilities they support, and
3 are valued in a manner approved by the commissioner.

4 (6) No more than 5% of the assets required by subsection (1)
5 shall be invested in, loaned to, receivable from, secured by,
6 leased or rented to, or deposited with 1 person or 1 group of
7 affiliated persons or invested in 1 parcel of real estate. In
8 calculating this restriction, the following apply:

9 (a) For purposes of this section, each issue of
10 mortgage-backed securities secured by residential mortgage pools
11 and rated investment grade by a securities rating organization
12 approved by the commissioner, and each issue of asset-backed
13 security rated investment grade by a securities rating organiza-
14 tion approved by the commissioner, shall be considered a separate
15 person regardless of other obligations issued by the same or
16 affiliated issuer.

17 (b) This restriction does not apply to mortgage-related
18 securities issued by the federal home loan mortgage corporation
19 or the federal national mortgage association.

20 (c) This restriction does not apply to the extent that the
21 principal and interest are fully guaranteed by the United States
22 or any state.

23 (d) This restriction does not apply to assets invested in,
24 loaned to, receivable from, secured by, leased or rented to, or
25 deposited with an affiliate of the insurer that is authorized to
26 transact insurance in any state or Canada.

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1 (e) For an alien insurer that is an insurer authorized to
2 transact the business of life insurance, for purposes of this
3 subsection the 5% restriction applies to the total assets of the
4 insurer, excluding assets included in separate accounts, as
5 reported in the total business annual statement filed by the
6 insurer with its domiciliary authority.

7 (f) This restriction does not apply to the value of a nonin-
8 surance affiliate that is owned solely by the insurer as
9 described in subsection (7)(c).

10 (g) This restriction does not apply to the value of a nonin-
11 surance affiliate that is not owned solely by the insurer if the
12 value of the noninsurance affiliate is determined in accordance
13 with procedures approved by the commissioner and if the invest-
14 ment in the noninsurance affiliate is approved by the commis-
15 sioner as adequate in quality and liquidity to secure the liabil-
16 ities of the insurer.

17 (7) The assets referred to in subsection (1) shall not
18 include assets invested in, loaned to, receivable from, secured
19 by, leased or rented to, or deposited with a person that is,
20 directly or indirectly, owned or controlled by the insurer or
21 that, directly or indirectly, owns, controls, or is affiliated
22 with the insurer as control is defined in section 115, except as
23 follows:

24 (a) Amounts receivable from, secured by, leased or rented
25 to, or deposited with an insurer affiliated with the insurer may
26 be included if the amount receivable is not more than 90 days
27 past due and its affiliated insurer complies with this section.

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1 (b) Amounts invested in an affiliated publicly traded
2 investment company that is registered and regulated under the
3 investment company act of 1940, title I of chapter 686, 54
4 Stat. 789, 15 U.S.C. ~~80a-1 to 80a-64~~ 80a-1 TO 80a-3 AND 80a-4
5 TO 80a-64, may be included.

6 (c) The value of a noninsurance affiliate that is owned
7 solely by the insurer may be included. The value of the nonin-
8 surance affiliate shall be the value of all assets qualifying
9 under this section in excess of the assets required by this sec-
10 tion, but shall not exceed the value determined by the securities
11 valuation office of the national association of insurance
12 commissioners. In support of the noninsurance affiliate's value,
13 the insurer shall submit to the commissioner an audited financial
14 statement for the noninsurance affiliate supplemented with a list
15 of qualifying assets and associated values.

16 (d) Amounts invested in a noninsurance affiliate that is not
17 owned solely by the insurer may be included if the investment in
18 the noninsurance affiliate is approved by the commissioner as
19 adequate in quality and liquidity to secure the liabilities of
20 the insurer. The value of the noninsurance affiliate shall be
21 the value determined in accordance with procedures adopted by the
22 commissioner.

23 (e) The assets required by subsection (1) may include the
24 value of amounts invested in or loaned to an affiliate authorized
25 to transact insurance in any state or in Canada in an amount
26 equal to the assets that would qualify for compliance with this
27 section that are held by the affiliate and are in excess of the

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1 amount of assets that would be required for the affiliate by this
2 section, prorated to reflect the extent of the insurer's invest-
3 ment in or loans to the affiliate. QUALIFIED ASSETS FOR PURPOSES
4 OF SUBSECTION (1) INCLUDE LOANS, OTHER THAN SURPLUS NOTES, TO AN
5 AFFILIATE AUTHORIZED TO TRANSACT INSURANCE IN ANY STATE OR IN
6 CANADA PROVIDED THAT THE AFFILIATE HAS ASSETS IN EXCESS OF THE
7 AMOUNT OF ASSETS THAT ARE REQUIRED FOR THE AFFILIATE UNDER SUB-
8 SECTION (1). WITH THE COMMISSIONER'S APPROVAL, SURPLUS NOTES MAY
9 BE TREATED AS AN INVESTMENT FOR PURPOSES OF THIS SECTION.

10 (f) Amounts loaned to a noninsurance affiliate ~~that is~~
11 ~~owned solely by the insurer~~ may be included if the loans are
12 rated investment grade by a securities rating organization
13 approved by the commissioner. The insurer shall submit documen-
14 tation satisfactory to the commissioner in support of the invest-
15 ment grade rating.

16 (8) An insurer may comply with this section if the insurer
17 elects to provide alternative security to Michigan policyholders
18 and claimants satisfactory to the commissioner or elects to
19 deposit funds or securities of the kind described in section 912,
20 or other securities acceptable to the commissioner, registered in
21 the name of the state treasurer of Michigan, designated as exclu-
22 sively held and deposited for the sole benefit of Michigan poli-
23 cyholders, claimants, and creditors pursuant to section 8141a, in
24 an amount, at market value, considered adequate by the commis-
25 sioner to secure Michigan policyholders, but not less than the
26 greater of the aggregate sum of 100% of Michigan direct unpaid
27 losses and unpaid loss adjustment expense plus 100% of Michigan

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1 direct unearned premiums and policy and contract reserves or the
2 direct premiums written in Michigan during the most recent 12
3 months available in filed statements. Direct unpaid losses and
4 unpaid loss adjustment expenses shall include a provision for
5 incurred but not reported losses and associated loss adjustment
6 expense. The deposit shall be a special deposit and shall be
7 subject to special deposit claims for the benefit of Michigan
8 policyholders and claimants pursuant to section 8141a. The
9 deposit of funds required by this subsection shall be increased
10 by adjustment each quarter. A decrease to the deposited fund may
11 be made annually only upon a satisfactory showing by the insurer
12 to the commissioner that a decrease in the deposit is justified.
13 The commissioner may require the special deposits set forth in
14 this subsection as a condition for any insurer to transact insur-
15 ance in this state if the commissioner finds that a special
16 deposit is necessary for the protection of Michigan policyholders
17 and claimants.

18 (9) Compliance with subsection (1) is the obligation of each
19 insurer, fund, or fraternal benefit society authorized to trans-
20 act the business of insurance in this state. Failure to comply
21 shall limit the insurer, fund, or fraternal benefit society under
22 the remainder of this act. If, at any time following compliance
23 with the requirements of this section, an insurer, fund, or fra-
24 ternal benefit society fails to maintain compliance, the commis-
25 sioner shall notify the insurer, fund, or fraternal benefit soci-
26 ety that it has failed to maintain compliance with this section.
27 Within 30 business days after notification by the commissioner of

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1 noncompliance with the provisions of this section, an insurer
2 shall file a plan to restore compliance with this section.
3 Failure of the insurer to file a plan shall create a presumption
4 that the insurer is not safe, reliable, and entitled to public
5 confidence. The commissioner, upon written request by the insurer,
6 may grant a period of time within which to restore
7 compliance. The period of time may be granted only if the commissioner
8 is satisfied the insurer is safe, reliable, and entitled to public confidence;
9 is satisfied the insurer would suffer
10 a material financial loss from an immediate forced conversion of
11 its assets; and approves the plan filed by the insurer for
12 restoring compliance within the time granted. If the plan is not
13 approved by the commissioner, or if the plan is approved, and, at
14 the end of 1 year the insurer still does not comply with the
15 requirements of this section, the commissioner may grant additional
16 time to comply, or the commissioner may suspend, revoke,
17 or limit the certificate of authority of the insurer pursuant to
18 section 436.

19 (10) The requirements of this section constitute a discrete
20 determination of financial solidity and liquidity and are not
21 intended to apply to other provisions of this act with respect to
22 financial condition or to the accounting practices and procedures
23 governing the preparation of financial statements pursuant to
24 section 438.

25 SEC. 902. (1) EXCEPT AS OTHERWISE PROVIDED IN
26 SECTIONS 942(7), (10), AND (11), 943(2), AND 946(4), THIS CHAPTER
27 DOES NOT PROHIBIT THE INVESTMENT OF A DOMESTIC INSURER'S CAPITAL

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1 AND SURPLUS IN ANY ASSET OTHERWISE PERMITTED TO BE HELD BY ANY
2 OTHER PERSON OR CORPORATION UNDER THE LAWS OF THIS STATE, PRO-
3 VIDED THE DOMESTIC INSURER MAINTAINS QUALIFIED ASSETS AS
4 DESCRIBED IN THIS CHAPTER IN THE AMOUNTS SPECIFIED IN
5 SECTION 901.

6 (2) AS USED IN THIS SECTION, "QUALIFIED ASSETS" MEANS CASH
7 AND THOSE ASSETS DESCRIBED IN SECTIONS 910 TO 947.

8 Sec. 912. (1) An insurer may invest its funds AS FOLLOWS:

9 (a) In the bonds or other evidences of indebtedness of the
10 United States, or of the dominion of Canada, or any state,
11 province, or territory or public instrumentality of the United
12 States, or the dominion of Canada, or in the valid public debt,
13 bonds, or other evidence of indebtedness of any city, county,
14 township, village, school district, or any other political subdi-
15 vision having the power to levy taxes, of any state or territory
16 of the United States or province of the dominion of Canada, if
17 the state, province, municipality, or other political subdivision
18 has not, in the 3 years preceding the time of such investment,
19 failed to pay its debt or any part ~~thereof~~ OF ITS DEBT or the
20 interest due ~~thereon~~ ON THE DEBT, or any part ~~thereof~~ OF THE
21 INTEREST DUE ON THE DEBT. Delay, not exceeding 6 months, in the
22 payment of any installment of principal or interest shall not be
23 construed as failure to pay.

24 (b) In the bonds or other evidences of indebtedness of any
25 political subdivision of the United States, or any state or
26 county ~~therein~~ IN THE UNITED STATES, or any agency, public
27 instrumentality, or authority created by the United States, or

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1 any state or county ~~therein~~ IN THE UNITED STATES, or any
2 political subdivision ~~thereof~~ OF THE STATE OR COUNTY, if, by
3 statutory or other legal requirements, ~~such~~ THOSE obligations
4 are payable, as to both principal and interest, from adequate
5 special revenues pledged or otherwise appropriated or by law
6 required to be provided for the purpose of ~~such~~ payment.

7 (c) In ~~such~~ governmental securities of this or any foreign
8 government, or governmental subdivisions or authorities or
9 instrumentalities, ~~thereof~~ not otherwise provided for ~~herein~~,
10 ~~as may be first approved by the commissioner and~~ IN THIS SECTION
11 subject to ~~such~~ THE limitations ~~as are herein~~ IN
12 SUBDIVISIONS (A) AND (B) prescribed for other ~~government and~~
13 ~~municipal~~ GOVERNMENTAL securities.

14 (2) A DOMESTIC INSURER'S INVESTMENT IN GOVERNMENTAL SECURI-
15 TIES IS SUBJECT TO THE LIMITATIONS IN SECTION 901(2)(F).

16 Sec. 916. ~~Whenever~~ IF any agency or corporation ~~shall~~
17 ~~be~~ IS established by the federal government ~~—~~ with authority
18 to purchase, discount, or loan money upon the security of real
19 estate mortgages but ~~requires~~ REQUIRING membership or ownership
20 of capital stock in ~~such~~ THAT federal agency or corporation ~~in~~
21 ~~order that~~ FOR any insurer organized under the laws of this
22 state ~~may~~ TO avail itself of the full privileges of selling,
23 rediscounting, or borrowing money upon ~~such~~ THOSE mortgages,
24 then ~~such insurer shall be authorized to buy not exceeding such~~
25 QUALIFIED ASSETS FOR PURPOSES OF SECTION 901 INCLUDE THE amount
26 of ~~such~~ capital stock ~~as~~ THAT is required by ~~such~~ THE

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1 federal law or the rules of the governing body of ~~such~~ THE
2 federal agency or corporation.

3 Sec. 917a. (1) As used in this section:

4 (a) "Asset-backed securities" means securities, other than
5 those governed by section 917, representing loans to, participa-
6 tions in loans to, or equity interests in a person that has as
7 its primary activity the acquisition and holding of assets,
8 directly or through a trustee, for the benefit of its debt or
9 equity holders and includes, but is not limited to, structured
10 securities, pass-through certificates, and other securitized
11 obligations.

12 (b) "Assets" means pools of assets consisting of either
13 interest bearing obligations or contractual obligations repre-
14 senting the right to receive payment from the assets.

15 (c) "Structured securities" means asset-backed securities
16 that have been divided into 2 or more classes where the payment
17 of interest on or principal of any class of the securities has
18 been allocated in a manner that may not be directly proportional
19 to interest or principal received by the issuer of the securities
20 on the underlying assets.

21 (d) "Pass-through certificate" means an asset-backed securi-
22 ty, whether or not mortgage-related, where the payment of inter-
23 est or principal on the security is directly proportional to
24 interest or principal received by the issuer of the security on
25 the underlying assets.

26 (2) ~~Subject to the limitations prescribed in~~
27 ~~section 901(6), an insurer may invest in~~ QUALIFIED ASSETS FOR

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1 PURPOSES OF SECTION 901 INCLUDE asset-backed securities that are
2 rated investment grade by a securities rating organization
3 approved by the commissioner. Asset-backed securities that are
4 secured by or represent an undivided interest in a single asset
5 or pool of assets or in the cash flows generated by those assets,
6 including without limitation, structured securities and
7 pass-through certificates, are subject to all the limitations
8 prescribed by this chapter for investments not guaranteed by the
9 full faith and credit of the United States.

10 Sec. 918. ~~An insurer may invest in~~ QUALIFIED ASSETS FOR
11 PURPOSES OF SECTION 901 INCLUDE lawfully authorized obligations
12 issued, assumed, or guaranteed by any solvent institution created
13 or existing under the laws of the United States or of any state,
14 district, or territory ~~thereof~~ OF THE UNITED STATES, or of ~~the~~
15 ~~Dominion of~~ Canada or any province ~~thereof, which~~ OF CANADA,
16 THAT are not in default as to principal or interest and ~~which~~
17 THAT are qualified under any of the following clauses:

18 (A) ~~(1)~~ Obligations secured by the mortgage of property or
19 the pledge of adequate collateral if, during any 3, including the
20 last 2, of the 5 fiscal years next preceding the time of invest-
21 ment, the net earnings of the issuing, assuming, or guaranteeing
22 institution available for fixed charges, as determined in accord-
23 ance with standard accounting practice, ~~shall~~ have been not
24 less than the total of its fixed charges for such year on an
25 overall basis nor less than 1-1/2 times its fixed charges for
26 such year on a priority basis after excluding interest

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1 requirements on obligations junior to such issue as to security.

2 ~~→~~

3 (B) ~~-(2)-~~ In equipment trust certificates of railroad com-
4 panies organized under the laws of any state of the United States
5 or of ~~the Dominion of~~ Canada or of any province ~~thereof~~ OF
6 CANADA, payable within 20 years from their date of issue, in
7 annual or ~~semi-annual~~ SEMIANNUAL installments, beginning not
8 later than the fifth year after such date, and which certificates
9 are a first lien on the specific equipment pledged as security
10 for the payment ~~thereof~~ which are either the direct obligations
11 of ~~such~~ THE railroad companies or guaranteed by them, or are
12 executed by trustees holding title to the equipment. ~~→~~

13 (C) ~~-(3)-~~ Fixed interest bearing obligations other than
14 those described in ~~clauses (1) and (2) above~~ SUBDIVISIONS (A)
15 AND (B), if the net earnings of the issuing, assuming, or guaran-
16 teeing institution available for fixed charges during each of any
17 3, including the last 2, of the 5 fiscal years next preceding the
18 time of investment, shall have been not less than 1-1/2 times the
19 total of its fixed charges for such year.

20 Sec. 922. ~~-(1) Except as otherwise provided in~~
21 ~~subsection (2), an~~ AN insurer may purchase stocks, bonds, and
22 other evidence of indebtedness of solvent corporations as
23 approved by its board of directors or a committee of the board
24 entrusted with the investment of the company's funds. The
25 insurer may hold the stocks, bonds, and other evidences of
26 indebtedness as an investment.

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1 ~~-(2) A domestic life insurer shall not invest more than 20%~~
2 ~~of its assets in high-yield, high-risk obligations.~~

3 ~~(3) As used in this section, "high-yield, high-risk~~
4 ~~obligations" means obligations that are not in 1 of the top 2~~
5 ~~numbered classifications of bonds reported in the domestic life~~
6 ~~insurer's annual financial statement on a form approved by the~~
7 ~~commissioner.~~

8 Sec. 938. ~~An insurer may invest funds~~ QUALIFIED ASSETS
9 FOR PURPOSES OF SECTION 901 INCLUDE ALL OF THE FOLLOWING:

10 (A) ~~-(1) In any~~ ANY negotiable paper or other evidence of
11 indebtedness secured by any of the classes of securities in which
12 ~~such~~ insurance companies may lawfully invest ~~their~~ funds pur-
13 suant to sections 912 ~~-(federal, state, municipal, and foreign~~
14 ~~government obligations)~~ and 918. ~~-(obligations of solvent cor-~~
15 ~~porations and institutions).~~

16 (B) ~~-(2) Upon negotiable~~ NEGOTIABLE notes secured by pledge
17 of stock of national or state banks, which have a surplus equal
18 in amount to 25% of the paid in capital stock ~~:- Provided, That~~
19 ~~such~~ PROVIDED THOSE loans ~~shall~~ DO not exceed 85% of the
20 market value of the stock ~~,~~ and ~~that~~ the total amount of the
21 loan on bank secured collateral ~~shall~~ DOES not exceed 15% of
22 the capital and surplus of the insurance company.

23 (C) ~~-(3) If~~ FOR other than a life insurer, ~~in~~ loans
24 secured as collateral by corporate stocks and securities eligible
25 for investment under section 922 ~~-(corporate stocks, bonds),~~ but
26 no loan shall be made of more than 50% of the fair market value
27 of ~~such~~ THOSE stocks and securities.

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1 Sec. 942. (1) ~~An insurer may invest in~~ QUALIFIED ASSETS
2 FOR PURPOSES OF SECTION 901 INCLUDE real estate loans secured by
3 first liens upon improved or income bearing real estate, includ-
4 ing also improved farmland and improved business and residential
5 properties, ~~— or — which~~ THAT are secured by first mortgages or
6 deeds of trust on leasehold estates having an unexpired term
7 equivalent to the term of the mortgage, inclusive of the term or
8 terms ~~which~~ THAT may be provided by enforceable options of
9 renewal. ~~—; vacant~~ VACANT property, at least 60% of which is
10 under contract of sale and the contract or contracts in connec-
11 tion therewith trusted or pledged as additional collateral,
12 ~~shall be considered~~ IS income bearing real estate within the
13 meaning of this section.

14 (2) Real estate ~~shall not be deemed to be~~ IS NOT encum-
15 bered within the meaning of this section ~~when~~ BECAUSE IT IS
16 subject to lease in whole or in part ~~whereby~~ AND rents or prof-
17 its are reserved to the owner ~~—; or — when~~ BECAUSE IT IS subject
18 to an easement for a right of way.

19 (3) A loan secured by real estate shall be in the form of
20 obligations secured by mortgage, trust deed, or other such
21 instrument upon real estate, and an insurer may purchase an obli-
22 gation so secured when the entire amount of the obligation is
23 sold to the insurer, except that an insurer may purchase a part
24 of an obligation if the investment of each participant is not
25 less than \$50,000.00 at the time of the insurer's investment, if
26 all other participants are insurers, banks, ~~or~~ savings and loan
27 associations, OR ANY OTHER FINANCIAL INSTITUTION AS THAT TERM IS

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1 DEFINED IN THE GRAMM-LEACH-BLILEY ACT, PUBLIC LAW 106-102, 113
2 STAT. 1338, 12 U.S.C. 1811, and if the entire indebtedness of
3 which participation is a part would qualify under the provisions
4 of this section, and either the insurer holds a senior participa-
5 tion, giving it substantially the rights of a first mortgagee, or
6 each participation is of equal rank.

7 (4) ~~The amount~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SUB-
8 SECTION, ANY PORTION of a loan ~~shall not exceed~~ THAT EXCEEDS
9 66-2/3% of the appraised value, at the time of the loan, of the
10 real estate constituting or offered as security and ~~such a loan~~
11 ~~shall not be made for a longer term than 5 years; except that (a)~~
12 ~~a~~ ANY LOAN THE TERM OF WHICH EXCEEDS 5 YEARS IS NOT A QUALIFIED
13 ASSET FOR PURPOSES OF SECTION 901. HOWEVER, THE FOLLOWING LOANS
14 ARE QUALIFIED ASSETS FOR THE PURPOSES OF SECTION 901:

15 (A) A loan on land improved with permanent buildings used
16 for agriculture or pasture ~~may be made~~ in an amount not to
17 exceed 75% of the appraised value, at the time of the loan, of
18 the real estate constituting or offered as security if the loan
19 is secured by an amortized mortgage, deed of trust, or other
20 instrument under the terms of which the installment payments are
21 sufficient to amortize on not to exceed an annual basis of 40% or
22 more of the principal of the loan within a period of not more
23 than 10 years. ~~, (b) a~~

24 (B) A loan on single family residential property ~~may be~~
25 ~~made~~ in an amount not to exceed 80% of the appraised value, at
26 the time of the loan, of the real estate offered as security, if
27 the loan is secured by a mortgage, deed of trust, or other

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1 instrument for a term of not more than 35 years. ~~—, and (c)~~
2 ~~loans may be made~~

3 (C) SUBJECT TO SUBSECTION (6), A LOAN ON MULTIFAMILY RESI-
4 DENTIAL PROPERTY IN AN AMOUNT NOT TO EXCEED 85% OF THE APPRAISED
5 VALUE, AT THE TIME OF THE LOAN, OF THE REAL ESTATE OFFERED AS
6 SECURITY, IF THE LOAN IS SECURED BY A MORTGAGE, DEED OF TRUST, OR
7 OTHER INSTRUMENT FOR A TERM OF NOT MORE THAN 35 YEARS.

8 (D) A LOAN in an amount not to exceed 75% of the appraised
9 value of the real estate offered as security and for a term not
10 longer than 35 years, if the real estate is improved if it is not
11 used for agriculture or pasture, and if the loan is secured by a
12 mortgage, deed of trust, or other instrument for a term of not
13 more than 35 years.

14 (5) The ~~foregoing~~ limitations and restrictions ~~shall~~ IN
15 SUBSECTION (4) DO not apply to real estate loans ~~which~~ THAT are
16 insured under the provisions of title 2 of the national housing
17 act, CHAPTER 847, 48 STAT. 1246, 12 U.S.C. 1707 TO 1709, 1710 TO
18 1715g, 1715k TO 1715r, 1715t TO 1715z-1, by the federal housing
19 administration, ~~or~~ to loans insured under the Canadian national
20 housing act of 1954 by the central mortgage and housing corpora-
21 tion, ~~nor~~ OR to real estate loans ~~which~~ THAT are guaranteed
22 as to principal by the United States government or Canadian gov-
23 ernment or an agency or instrumentality ~~thereof~~ OF THE UNITED
24 STATES OR CANADIAN GOVERNMENT.

25 (6) IF THE TOTAL AMOUNT OF MULTIFAMILY RESIDENTIAL LOANS
26 THAT EXCEED 75% OF THE APPRAISED VALUE OF THE REAL ESTATE OFFERED
27 AS SECURITY FOR THOSE LOANS IS GREATER THAN 20% OF AN INSURER'S

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1 MORTGAGE PORTFOLIO, THE PORTION OF THOSE LOANS THAT EXCEED 75% OF
2 THE APPRAISED VALUE SHALL NOT BE TREATED AS A QUALIFIED ASSET FOR
3 PURPOSES OF SECTION 901.

4 (7) ~~-(5)-~~ An insurer shall not make any such loan unless an
5 appraisal ~~shall have~~ HAS been made in writing by a competent
6 appraiser appointed or employed by the insurer and filed with the
7 investment committee authorized to approve the loan.

8 (8) ~~-(6)-~~ An insurer may purchase QUALIFIED ASSETS FOR THE
9 PURPOSES OF SECTION 901 INCLUDE a loan or certificate of partici-
10 pation secured by a loan made on a single-family residential
11 property in an amount not to exceed 95% of the appraised value,
12 at the time of the loan, of the real estate offered as security,
13 if the loan is secured by a mortgage, deed of trust, or other
14 instrument for a term of not more than 35 years, and the loan is
15 insured by a private mortgage insurer approved by the federal
16 home loan mortgage corporation and the federal national mortgage
17 association and is licensed to do business in the state of
18 Michigan.

19 (9) ~~-(7)-~~ An insurer may invest in QUALIFIED ASSETS FOR THE
20 PURPOSES OF SECTION 901 INCLUDE real estate loans ~~which~~ THAT do
21 not qualify as first mortgages as ~~defined~~ DESCRIBED in
22 subsections (1) and (3). ~~if the total~~ TOTAL investments THAT
23 MAY BE TREATED AS QUALIFIED ASSETS under this subsection ~~do~~
24 SHALL not exceed 25% of the insurer's total investments in real
25 estate loans as ~~defined~~ DESCRIBED in subsections (1) and (3).

26 (10) A DOMESTIC INSURER SHALL NOT INVEST MORE THAN 10% OF
27 ITS SURPLUS IN REAL ESTATE LOANS THAT EXCEED THE APPRAISED VALUE

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1 LIMITATIONS UNDER SUBSECTION (4), (6), OR (8) UNLESS THE REAL
2 ESTATE LOAN IS THE RESULT OF A RESTRUCTURING OF AN EXISTING REAL
3 ESTATE LOAN AND THE INSURER PROVIDES WRITTEN NOTICE TO THE COM-
4 MISSIONER ON OR BEFORE THE DATE OF THE RESTRUCTURING. THE COM-
5 MISSIONER MAY INCREASE THE 10% INVESTMENT LIMIT OF THIS SECTION
6 TO 20% FOR AN INSURER WHO DEMONSTRATES TO THE COMMISSIONER'S SAT-
7 ISFACTION THE SOUNDNESS OF A PARTICULAR INVESTMENT OR INVESTMENT
8 STRATEGY THAT WOULD CAUSE THE INSURER TO EXCEED THE LOWER LIMIT.
9 IF THE LOANS UNDER THIS SUBSECTION EXCEED 5% OF AN INSURER'S
10 ASSETS WITHIN ANY 12-MONTH PERIOD, NO OTHER LOANS MAY BE MADE
11 PURSUANT TO THIS SUBSECTION EXCEPT WITH THE COMMISSIONER'S PRIOR
12 APPROVAL.

13 (11) A DOMESTIC INSURER SHALL NOT INVEST MORE THAN 20% OF
14 ITS MORTGAGE PORTFOLIO IN MULTIFAMILY RESIDENTIAL MORTGAGES THAT
15 EXCEED 75% OF THE APPRAISED VALUE, AT THE TIME OF THE LOAN, OF
16 THE REAL ESTATE OFFERED AS SECURITY.

17 Sec. 943. ~~(1) An insurer may invest in financial futures~~
18 ~~contracts issued under terms and conditions regulated by a fed-~~
19 ~~eral regulatory agency, subject to all of the following:~~

20 ~~(a) The terms and conditions required by the commissioner by~~
21 ~~rules promulgated under subsection (3).~~

22 ~~(b) An insurer shall not enter into a financial futures con-~~
23 ~~tract except as a hedging transaction.~~

24 ~~(c) An insurer shall not have a margin outstanding from~~
25 ~~futures positions authorized under this section of more than 10%~~
26 ~~of the excess of the insurer's total capital and surplus over the~~
27 ~~minimum capital and surplus requirements that must be met by a~~

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1 ~~new stock or mutual company to qualify for a certificate of~~
2 ~~authority to write the kind of insurance that the insurer is~~
3 ~~authorized to write.~~

4 ~~(2) An insurer may invest in put options and call options on~~
5 ~~financial instruments issued under terms and conditions regulated~~
6 ~~by a national securities exchange registered under the securities~~
7 ~~exchange act of 1934, chapter 404, 48 Stat. 881, or any board of~~
8 ~~trade designated as a contract market by the commodity futures~~
9 ~~trading commission subject to all of the following:~~

10 ~~(a) Except as provided in subdivision (b), an insurer shall~~
11 ~~not write a call option on either securities it does not own or~~
12 ~~in an amount greater than securities that it presently owns.~~

13 ~~(b) For call options on financial futures contracts and~~
14 ~~stock or bond index contracts where it is not feasible to own the~~
15 ~~underlying security, an insurer may write a call option only in~~
16 ~~connection with a hedging transaction.~~

17 ~~(c) An insurer shall not write a put option unless its obli-~~
18 ~~gations under the put option are fully secured by a deposit by~~
19 ~~the insurer with a bank or other custodian of cash or cash~~
20 ~~equivalents.~~

21 ~~(d) An insurer shall not maintain as open positions autho-~~
22 ~~rized under this subsection more than 10% of the excess of the~~
23 ~~insurer's total capital and surplus over the minimum capital and~~
24 ~~surplus requirements that must be met by a new stock or mutual~~
25 ~~company to qualify for a certificate or authority to write the~~
26 ~~kind of insurance that the company is authorized to write.~~

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1 (1) QUALIFIED ASSETS FOR PURPOSES OF SECTION 901 INCLUDE
2 DERIVATIVE INSTRUMENTS ONLY IF THE INSURER IS ABLE TO DEMONSTRATE
3 TO THE COMMISSIONER THROUGH CASH FLOW TESTING OR OTHER APPROPRI-
4 ATE ANALYSES BOTH THE INTENDED HEDGING CHARACTERISTICS AND THE
5 ONGOING EFFECTIVENESS OF THE DERIVATIVE TRANSACTION OR COMBINA-
6 TION OF TRANSACTIONS.

7 (2) BEFORE ENGAGING IN A DERIVATIVE TRANSACTION AND WITH
8 BOARD OF DIRECTOR APPROVAL, A DOMESTIC INSURER SHALL DO ALL OF
9 THE FOLLOWING:

10 (A) ESTABLISH WRITTEN GUIDELINES TO BE USED FOR EFFECTING OR
11 MAINTAINING DERIVATIVE TRANSACTIONS. THE GUIDELINES SHALL BE
12 AVAILABLE TO THE COMMISSIONER ON REQUEST AND SHALL MEET ALL OF
13 THE FOLLOWING:

14 (i) ADDRESS INVESTMENT OR, IF APPLICABLE, UNDERWRITING
15 OBJECTIVES AND RISK CONSTRAINTS, SUCH AS CREDIT RISK LIMITS.

16 (ii) ADDRESS PERMISSIBLE DERIVATIVE TRANSACTIONS AND THE
17 RELATIONSHIP OF THOSE TRANSACTIONS TO ITS OPERATIONS.

18 (iii) REQUIRE COMPLIANCE WITH INTERNAL CONTROL PROCEDURES.

19 (B) HAVE A SYSTEM FOR DETERMINING WHETHER A DERIVATIVE
20 INSTRUMENT USED IN A HEDGING OR REPLICATION TRANSACTION IS
21 EFFECTIVE.

22 (C) HAVE A CREDIT RISK MANAGEMENT SYSTEM FOR
23 OVER-THE-COUNTER DERIVATIVE TRANSACTIONS THAT MEASURES CREDIT
24 RISK EXPOSURE USING COUNTER PARTY EXPOSURE AMOUNT.

25 (D) DETERMINE WHETHER THE INSURER HAS ADEQUATE PROFESSIONAL
26 PERSONNEL, TECHNICAL EXPERTISE, AND SYSTEMS TO IMPLEMENT
27 INVESTMENT PRACTICES INVOLVING DERIVATIVES.

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1 (E) DETERMINE THAT THE DERIVATIVE PROGRAM IS PRUDENT AND
2 THAT THE LEVEL OF RISK IS APPROPRIATE FOR THE INSURER GIVEN THE
3 LEVEL OF CAPITALIZATION AND EXPERTISE AVAILABLE TO THE INSURER.

4 (3) EXCEPT AS PROVIDED IN SECTION 222(7), WRITTEN GUIDELINES
5 PREPARED PURSUANT TO SUBSECTION (2), IF FURNISHED TO THE COMMIS-
6 SIONER, ARE CONFIDENTIAL AND PRIVILEGED, ARE NOT SUBJECT TO THE
7 FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246,
8 ARE NOT SUBJECT TO SUBPOENA, AND ARE NOT SUBJECT TO DISCOVERY OR
9 ADMISSIBLE IN EVIDENCE IN ANY PRIVATE CIVIL ACTION.

10 (4) ~~-(3)-~~ The commissioner may promulgate rules pursuant to
11 the administrative procedures act of 1969, ~~Act No. 306 of the~~
12 ~~Public Acts of 1969, being sections 24.201 to 24.328 of the~~
13 ~~Michigan Compiled Laws~~ 1969 PA 306, MCL 24.201 TO 24.328, to
14 implement this section, including, but not limited to, the estab-
15 lishment of all of the following:

16 (a) Financial solvency standards.

17 (b) Valuation standards.

18 (c) Reporting requirements.

19 ~~-(4) Each domestic insurer shall develop written guidelines~~
20 ~~that establish the policy objectives of management in investing~~
21 ~~in financial futures contracts, permissible financial futures~~
22 ~~contract strategies, the relationship of those strategies to the~~
23 ~~insurer's operations, and how such strategies reduce the~~
24 ~~insurer's net investment rate exposure.~~

25 ~~-(5) As used in this section:~~

26 ~~-(a) "Financial futures contract" means an exchange-traded~~
27 ~~agreement to make or take delivery of, or to make a cash~~

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1 ~~settlement instead of delivery of, a specified amount of~~
2 ~~financial instruments on a specified date or period of time,~~
3 ~~under terms and conditions regulated by the commodity futures~~
4 ~~trading commission.~~

5 ~~(b) "Hedging transaction" means bona fide hedging transac-~~
6 ~~tions and positions as defined in section 1.3 of the general reg-~~
7 ~~ulations under the commodity exchange act, C.F.R. 1.3, pursuant~~
8 ~~to section 4a of the commodity exchange act, chapter 369, 49~~
9 ~~Stat. 1492, 7 U.S.C. 6a, and as certified by the commissioner.~~

10 ~~(c) "Margin" means any type of deposit or settlement made or~~
11 ~~required to be made with a futures commission merchant, clearing-~~
12 ~~house, or safekeeping agent to ensure performance of the terms of~~
13 ~~the financial futures contract.~~

14 (5) AN INSURER SHALL INCLUDE ALL COUNTER PARTY EXPOSURE
15 AMOUNTS IN DETERMINING COMPLIANCE WITH THE LIMITATIONS IN
16 SECTION 901(6).

17 (6) IN MEASURING THE NET AMOUNT OF CREDIT RISK EXPOSURE
18 USING COUNTER PARTY EXPOSURE AMOUNT, ALL OF THE FOLLOWING APPLY:

19 (A) THE NET AMOUNT OF CREDIT RISK EQUALS THE MARKET VALUE OF
20 THE OVER-THE-COUNTER DERIVATIVE INSTRUMENT IF THE LIQUIDATION OF
21 THE DERIVATIVE INSTRUMENT WOULD RESULT IN A FINAL CASH PAYMENT TO
22 THE INSURER OR ZERO IF THE LIQUIDATION OF THE DERIVATIVE INSTRU-
23 MENT WOULD NOT RESULT IN A FINAL CASH PAYMENT TO THE INSURER.

24 (B) IF OVER-THE-COUNTER DERIVATIVE INSTRUMENTS ARE ENTERED
25 INTO PURSUANT TO A WRITTEN MASTER AGREEMENT THAT PROVIDES FOR
26 NETTING OF PAYMENTS OWED BY THE RESPECTIVE PARTIES, AND THE
27 DOMICILIARY JURISDICTION OF THE COUNTER PARTY IS EITHER WITHIN

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1 THE UNITED STATES OR, IF NOT WITHIN THE UNITED STATES, WITHIN A
2 FOREIGN JURISDICTION APPROVED AS ELIGIBLE FOR NETTING, THE NET
3 AMOUNT OF CREDIT RISK IS THE GREATER OF ZERO OR THE NET SUM OF
4 THE MARKET VALUE OF THE OVER-THE-COUNTER DERIVATIVE INSTRUMENTS
5 ENTERED INTO PURSUANT TO THE AGREEMENT, THE LIQUIDATION OF WHICH
6 WOULD RESULT IN A FINAL CASH PAYMENT TO THE INSURER AND THE
7 MARKET VALUE OF THE OVER-THE-COUNTER DERIVATIVE INSTRUMENTS
8 ENTERED INTO PURSUANT TO THE AGREEMENT, THE LIQUIDATION OF WHICH
9 WOULD RESULT IN A FINAL CASH PAYMENT BY THE INSURER TO THE BUSI-
10 NESS ENTITY.

11 (7) AS USED IN SUBSECTION (6), MARKET VALUE SHALL BE DETER-
12 MINED FOR OPEN TRANSACTIONS AT THE END OF THE MOST RECENT QUARTER
13 OF THE INSURER'S FISCAL YEAR AND SHALL BE REDUCED BY THE MARKET
14 VALUE OF ACCEPTABLE COLLATERAL HELD BY THE INSURER OR PLACED IN
15 ESCROW BY 1 OR BOTH PARTIES.

16 (8) AS USED IN THIS SECTION:

17 (A) "CAP" MEANS AN AGREEMENT OBLIGATING THE SELLER TO MAKE
18 PAYMENTS TO THE BUYER WITH EACH PAYMENT BASED ON THE AMOUNT BY
19 WHICH A REFERENCE PRICE OR LEVEL OR THE PERFORMANCE OR VALUE OF 1
20 OR MORE UNDERLYING INTERESTS EXCEEDS A PREDETERMINED NUMBER,
21 SOMETIMES CALLED THE STRIKE RATE OR STRIKE PRICE.

22 (B) "COLLAR" MEANS AN AGREEMENT TO RECEIVE PAYMENTS AS THE
23 BUYER OF AN OPTION, CAP, OR FLOOR, AND TO MAKE PAYMENTS AS THE
24 SELLER OF A DIFFERENT OPTION, CAP, OR FLOOR.

25 (C) "COLLATERALIZED MORTGAGE OBLIGATION" MEANS AN
26 ASSET-BACKED SECURITY THAT HAS CASH FLOWS ORIGINATING DIRECTLY OR
27 INDIRECTLY FROM UNDERLYING MORTGAGE ASSETS.

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1 (D) "COUNTER PARTY EXPOSURE AMOUNT" MEANS THE NET AMOUNT OF
2 CREDIT RISK ATTRIBUTABLE TO A DERIVATIVE INSTRUMENT ENTERED INTO
3 WITH A BUSINESS ENTITY OTHER THAN THROUGH A QUALIFIED EXCHANGE OR
4 QUALIFIED FOREIGN EXCHANGE OR CLEARED THROUGH A QUALIFIED CLEAR-
5 INGHOUSE SUCH AS AN OVER-THE-COUNTER DERIVATIVE INSTRUMENT.

6 (E) "DERIVATIVE INSTRUMENT" MEANS ANY AGREEMENT, OPTION, OR
7 INSTRUMENT, OR ANY SERIES OR COMBINATIONS OF AN AGREEMENT,
8 OPTION, OR INSTRUMENT TO MAKE OR TAKE DELIVERY OF, OR ASSUME OR
9 RELINQUISH, A SPECIFIED AMOUNT OF 1 OR MORE UNDERLYING INTERESTS,
10 OR TO MAKE A CASH SETTLEMENT IN LIEU OF 1 OR MORE UNDERLYING
11 INTERESTS, OR THAT HAS A PRICE, PERFORMANCE, VALUE, OR CASH FLOW
12 BASED PRIMARILY UPON THE ACTUAL OR EXPECTED PRICE, YIELD, LEVEL,
13 PERFORMANCE, VALUE, OR CASH FLOW OF 1 OR MORE UNDERLYING
14 INTERESTS. DERIVATIVE INSTRUMENTS INCLUDE OPTIONS, WARRANTS,
15 CAPS, FLOORS, COLLARS, SWAPS, SWAPTIONS, FORWARDS, FUTURES, AND
16 ANY OTHER SUBSTANTIALLY SIMILAR AGREEMENTS, OPTIONS, OR INSTRU-
17 MENTS, OR ANY SERIES OR COMBINATIONS AND ANY FURTHER AGREEMENTS,
18 OPTIONS, OR INSTRUMENTS INCLUDED UNDER RULES PROMULGATED BY THE
19 COMMISSIONER. DERIVATIVE INSTRUMENTS DO NOT INCLUDE COLLATERAL-
20 IZED MORTGAGE OBLIGATIONS, OTHER ASSET-BACKED SECURITIES,
21 PRINCIPAL-PROTECTED STRUCTURED SECURITIES, OR INSTRUMENTS THAT AN
22 INSURER IS OTHERWISE PERMITTED TO INVEST IN OR RECEIVE UNDER THIS
23 CHAPTER OTHER THAN UNDER THIS SECTION. THE SALE OR PURCHASE OF A
24 DERIVATIVE INSTRUMENT BY AN INSURER IN CONNECTION WITH A WRITTEN
25 INVESTMENT POLICY THAT INSULATES THE PURCHASER FROM THE RISK OF
26 DEFAULT OF AN UNDERLYING FINANCIAL INSTRUMENT SHALL BE TREATED AS
27 A DERIVATIVE AND NOT AS INSURANCE FOR PURPOSES OF THIS ACT.

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1 (F) "DERIVATIVE TRANSACTION" MEANS A TRANSACTION INVOLVING
2 THE USE OF 1 OR MORE DERIVATIVE INSTRUMENTS. FOR PURPOSES OF
3 THIS SECTION, DOLLAR ROLL TRANSACTIONS, REPURCHASE TRANSACTIONS,
4 REVERSE REPURCHASE TRANSACTIONS, AND SECURITIES LENDING TRANSAC-
5 TIONS ARE NOT DERIVATIVE TRANSACTIONS.

6 (G) "FLOOR" MEANS AN AGREEMENT OBLIGATING THE SELLER TO MAKE
7 PAYMENTS TO THE BUYER IN WHICH EACH PAYMENT IS BASED ON THE
8 AMOUNT BY WHICH A PREDETERMINED NUMBER, SOMETIMES CALLED THE
9 FLOOR RATE OR PRICE, EXCEEDS A REFERENCE PRICE, LEVEL, PER-
10 FORMANCE, OR VALUE OF 1 OR MORE UNDERLYING INTERESTS.

11 (H) "FORWARD" MEANS AN AGREEMENT, OTHER THAN A FUTURE, TO
12 MAKE OR TAKE DELIVERY IN THE FUTURE OF 1 OR MORE UNDERLYING
13 INTERESTS, OR EFFECT A CASH SETTLEMENT, BASED ON THE ACTUAL OR
14 EXPECTED PRICE, LEVEL, PERFORMANCE, OR VALUE OF THE UNDERLYING
15 INTERESTS. FORWARD INCLUDES SPOT TRANSACTIONS EFFECTED WITHIN
16 CUSTOMARY SETTLEMENT PERIODS, WHEN-ISSUED PURCHASES, OR OTHER
17 SIMILAR CASH MARKET TRANSACTIONS.

18 (I) "FUTURE" MEANS AN AGREEMENT TRADED ON A FUTURES
19 EXCHANGE, TO MAKE OR TAKE DELIVERY OF, OR EFFECT A CASH SETTLE-
20 MENT BASED ON THE ACTUAL OR EXPECTED PRICE, LEVEL, PERFORMANCE,
21 OR VALUE OF 1 OR MORE UNDERLYING INTERESTS.

22 (J) "HEDGING TRANSACTION" MEANS A DERIVATIVE TRANSACTION
23 THAT IS ENTERED INTO AND MAINTAINED TO MANAGE THE RISK OF A
24 CHANGE IN THE VALUE, YIELD, PRICE, CASH FLOW, OR QUANTITY OF
25 ASSETS OR LIABILITIES THAT THE INSURER HAS ACQUIRED OR INCURRED
26 OR ANTICIPATES ACQUIRING OR INCURRING OR THE CURRENCY EXCHANGE

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1 RATE RISK RELATED TO ASSETS OR LIABILITIES THAT AN INSURER HAS
2 ACQUIRED OR INCURRED OR ANTICIPATES ACQUIRING OR INCURRING.

3 (K) "OPTION" MEANS AN AGREEMENT GIVING THE BUYER THE RIGHT
4 TO BUY OR RECEIVE, KNOWN AS A CALL OPTION, SELL OR DELIVER, KNOWN
5 AS A PUT OPTION, ENTER INTO, EXTEND, OR TERMINATE OR EFFECT A
6 CASH SETTLEMENT BASED ON THE ACTUAL OR EXPECTED PRICE, SPREAD,
7 LEVEL, PERFORMANCE, OR VALUE OF 1 OR MORE UNDERLYING INTERESTS.

8 (L) "REPLICATION TRANSACTION" MEANS A DERIVATIVE TRANSACTION
9 OR COMBINATION OF DERIVATIVE TRANSACTIONS EFFECTED EITHER SEPA-
10 Rately OR IN CONJUNCTION WITH CASH MARKET INVESTMENTS INCLUDED IN
11 THE INSURER'S INVESTMENT PORTFOLIO IN ORDER TO REPLICATE THE
12 RISKS AND RETURNS OF ANOTHER AUTHORIZED TRANSACTION, INVESTMENT,
13 OR INSTRUMENT OR TO OPERATE AS A SUBSTITUTE FOR CASH MARKET
14 TRANSACTIONS. A DERIVATIVE TRANSACTION ENTERED INTO BY THE
15 INSURER AS A HEDGING TRANSACTION IS NOT A REPLICATION
16 TRANSACTION.

17 (M) "STRUCTURED SECURITY" MEANS AN OBLIGATION WHOSE PRINCI-
18 PAL OR INTEREST PAYMENTS ARE DETERMINED PARTIALLY OR ENTIRELY BY
19 REFERENCE TO AN INDEX, MARKET, EVENT, OR ASSET UNRELATED TO THE
20 ISSUER'S ABILITY TO PAY.

21 (N) "SWAP" MEANS AN AGREEMENT TO EXCHANGE OR TO NET PAYMENTS
22 AT 1 OR MORE TIMES BASED ON THE ACTUAL OR EXPECTED PRICE, YIELD,
23 LEVEL, PERFORMANCE, OR VALUE OF 1 OR MORE UNDERLYING INTERESTS.

24 (O) "SWAPTION" MEANS AN OPTION TO PURCHASE OR SELL A SWAP AT
25 A GIVEN PRICE AND TIME OR AT A SERIES OF PRICES AND TIMES. A
26 SWAPTION DOES NOT MEAN A SWAP WITH AN EMBEDDED OPTION.

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1 (P) "UNDERLYING INTEREST" MEANS THE ASSETS, LIABILITIES,
2 OTHER INTERESTS, OR A COMBINATION OF ASSETS, LIABILITIES, OR
3 OTHER INTERESTS UNDERLYING A DERIVATIVE INSTRUMENT SUCH AS ANY 1
4 OR MORE SECURITIES, CURRENCIES, RATES, INDICES, COMMODITIES, OR
5 DERIVATIVE INSTRUMENTS.

6 (Q) "WARRANT" MEANS AN INSTRUMENT THAT GIVES THE HOLDER THE
7 RIGHT TO PURCHASE OR SELL THE UNDERLYING INTEREST AT A GIVEN
8 PRICE AND TIME OR AT A SERIES OF PRICES AND TIMES OUTLINED IN THE
9 WARRANT AGREEMENT.

10 (9) THE AMENDATORY ACT THAT ADDED THIS SUBSECTION DOES NOT
11 AFFECT THE VALIDITY OF ANY DERIVATIVE TRANSACTION ENTERED INTO OR
12 DERIVATIVE INSTRUMENT ACQUIRED BY AN INSURER BEFORE THE EFFECTIVE
13 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION.