

HOUSE BILL No. 5927

April 17, 2002, Introduced by Rep. Richner and referred to the Committee on Insurance and Financial Services.

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.

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

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 aggregate
6 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 section
10 942.

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 OBLIGATIONS
24 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.

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.

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

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.

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.

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

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

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

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

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

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

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 er, 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 SECTIONS 942,
26 943(2), AND 946(4), THIS CHAPTER DOES NOT PROHIBIT THE INVESTMENT
27 OF A DOMESTIC INSURER'S CAPITAL AND SURPLUS IN ANY ASSET

1 OTHERWISE PERMITTED TO BE HELD BY ANY OTHER PERSON OR CORPORATION
2 UNDER THE LAWS OF THIS STATE, PROVIDED THE DOMESTIC INSURER MAIN-
3 TAINS QUALIFIED ASSETS AS DESCRIBED IN THIS CHAPTER IN THE
4 AMOUNTS SPECIFIED IN SECTION 901.

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (2) ~~Subject to the limitations prescribed in~~
25 ~~section 901(6), an insurer may invest in~~ QUALIFIED ASSETS FOR
26 PURPOSES OF SECTION 901 INCLUDE asset-backed securities that are
27 rated investment grade by a securities rating organization

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

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

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

26 (B) ~~(2)~~ In equipment trust certificates of railroad
27 companies organized under the laws of any state of the United

1 States or of ~~the Dominion of~~ Canada or of any province
 2 ~~thereof~~ OF CANADA, payable within 20 years from their date of
 3 issue, in annual or ~~semi-annual~~ SEMIANNUAL installments, begin-
 4 ning not later than the fifth year after such date, and which
 5 certificates are a first lien on the specific equipment pledged
 6 as security for the payment ~~thereof~~ which are either the direct
 7 obligations of ~~such~~ THE railroad companies or guaranteed by
 8 them, or are executed by trustees holding title to the equipment.
 9 ~~+~~

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

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

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

26 ~~(3) As used in this section, "high-yield, high-risk~~
 27 ~~obligations" means obligations that are not in 1 of the top 2~~

1 ~~numbered classifications of bonds reported in the domestic life~~
 2 ~~insurer's annual financial statement on a form approved by the~~
 3 ~~commissioner.~~

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

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

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

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

24 Sec. 942. (1) An insurer may invest in real estate loans
 25 secured by first liens upon improved or income bearing real
 26 estate, including also improved farmland and improved business
 27 and residential properties, ~~+~~ or ~~which~~ THAT are secured by

1 first mortgages or deeds of trust on leasehold estates having an
2 unexpired term equivalent to the term of the mortgage, inclusive
3 of the term or terms ~~which~~ THAT may be provided by enforceable
4 options of renewal. ~~if vacant~~ VACANT property, at least 60% of
5 which is under contract of sale and the contract or contracts in
6 connection therewith trusted or pledged as additional collateral,
7 ~~shall be considered~~ IS income bearing real estate within
8 the meaning of this section.

9 (2) Real estate ~~shall not be deemed to be~~ IS NOT encum-
10 bered within the meaning of this section ~~when~~ BECAUSE IT IS
11 subject to lease in whole or in part ~~whereby~~ AND rents or profits
12 are reserved to the owner ~~if~~ or ~~when~~ BECAUSE IT IS subject
13 to an easement for a right of way.

14 (3) A loan secured by real estate shall be in the form of
15 obligations secured by mortgage, trust deed, or other such
16 instrument upon real estate, and an insurer may purchase an obligation
17 so secured when the entire amount of the obligation is
18 sold to the insurer, except that an insurer may purchase a part
19 of an obligation if the investment of each participant is not
20 less than \$50,000.00 at the time of the insurer's investment, if
21 all other participants are insurers, banks, or savings and loan
22 associations, and if the entire indebtedness of which participation
23 is a part would qualify under the provisions of this section,
24 and either the insurer holds a senior participation, giving
25 it substantially the rights of a first mortgagee, or each participation
26 is of equal rank.

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

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

(B) A loan on single family residential property ~~may be made~~ in an amount not to exceed 80% of the appraised value, at the time of the loan, of the real estate offered as security, if the loan is secured by a mortgage, deed of trust, or other instrument for a term of not more than 35 years. ~~, and (c)~~ ~~loans may be made~~

(C) SUBJECT TO SUBSECTION (6), A LOAN ON MULTIFAMILY RESIDENTIAL PROPERTY IN AN AMOUNT NOT TO EXCEED 85% OF THE APPRAISED VALUE, AT THE TIME OF THE LOAN, OF THE REAL ESTATE OFFERED AS

1 SECURITY, IF THE LOAN IS SECURED BY A MORTGAGE, DEED OF TRUST, OR
2 OTHER INSTRUMENT FOR A TERM OF NOT MORE THAN 35 YEARS.

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

9 (5) The ~~foregoing~~ limitations and restrictions ~~shall~~ IN
10 SUBSECTION (4) DO not apply to real estate loans ~~which~~ THAT are
11 insured under the provisions of title 2 of the national housing
12 act, CHAPTER 847, 48 STAT. 1246, 12 U.S.C. 1707 TO 1709, 1710 TO
13 1715g, 1715k TO 1715r, 1715t TO 1715z-1, by the federal housing
14 administration, ~~or~~ to loans insured under the Canadian national
15 housing act of 1954 by the central mortgage and housing corpora-
16 tion, ~~nor~~ OR to real estate loans ~~which~~ THAT are guaranteed
17 as to principal by the United States government or Canadian gov-
18 ernment or an agency or instrumentality ~~thereof~~ OF THE UNITED
19 STATES OR CANADIAN GOVERNMENT.

20 (6) IF THE TOTAL AMOUNT OF MULTIFAMILY RESIDENTIAL LOANS
21 THAT EXCEED 75% OF THE APPRAISED VALUE OF THE REAL ESTATE OFFERED
22 AS SECURITY FOR THOSE LOANS IS GREATER THAN 20% OF AN INSURER'S
23 MORTGAGE PORTFOLIO, THE PORTION OF THOSE LOANS THAT EXCEED 75% OF
24 THE APPRAISED VALUE SHALL NOT BE TREATED AS A QUALIFIED ASSET FOR
25 PURPOSES OF SECTION 901.

26 (7) ~~-(5)-~~ An insurer shall not make any such loan unless an
27 appraisal ~~shall have~~ HAS been made in writing by a competent

1 appraiser appointed or employed by the insurer and filed with the
2 investment committee authorized to approve the loan.

3 (8) ~~(6) An insurer may purchase~~ QUALIFIED ASSETS FOR THE
4 PURPOSES OF SECTION 901 INCLUDE a loan or certificate of partici-
5 pation secured by a loan made on a single-family residential
6 property in an amount not to exceed 95% of the appraised value,
7 at the time of the loan, of the real estate offered as security,
8 if the loan is secured by a mortgage, deed of trust, or other
9 instrument for a term of not more than 35 years, and the loan is
10 insured by a private mortgage insurer approved by the federal
11 home loan mortgage corporation and the federal national mortgage
12 association and is licensed to do business in the state of
13 Michigan.

14 (9) ~~(7) An insurer may invest in~~ QUALIFIED ASSETS FOR THE
15 PURPOSES OF SECTION 901 INCLUDE real estate loans ~~which~~ THAT do
16 not qualify as first mortgages as ~~defined~~ DESCRIBED in subsec-
17 tions (1) and (3). ~~if the total~~ TOTAL investments THAT MAY BE
18 TREATED AS QUALIFIED ASSETS under this subsection ~~do~~ SHALL not
19 exceed 25% of the insurer's total investments in real estate
20 loans as ~~defined~~ DESCRIBED in subsections (1) and (3).

21 (10) A DOMESTIC INSURER SHALL NOT INVEST IN ANY REAL ESTATE
22 LOAN THAT EXCEEDS THE APPRAISED VALUE LIMITATIONS UNDER SUBSEC-
23 TION (4), (6), OR (8) UNLESS THE REAL ESTATE LOAN IS THE RESULT
24 OF A RESTRUCTURING OF AN EXISTING REAL ESTATE LOAN AND THE
25 INSURER PROVIDES WRITTEN NOTICE TO THE COMMISSIONER ON OR BEFORE
26 THE DATE OF THE RESTRUCTURING. IF THE LOANS UNDER THIS
27 SUBSECTION EXCEED 5% OF AN INSURER'S ASSETS WITHIN ANY 12-MONTH

1 PERIOD, NO OTHER LOANS MAY BE MADE PURSUANT TO THIS SUBSECTION
2 EXCEPT WITH THE COMMISSIONER'S PRIOR APPROVAL.

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

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

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

12 ~~(b) An insurer shall not enter into a financial futures con=~~
13 ~~tract except as a hedging transaction.~~

14 ~~(c) An insurer shall not have a margin outstanding from~~
15 ~~futures positions authorized under this section of more than 10%~~
16 ~~of the excess of the insurer's total capital and surplus over the~~
17 ~~minimum capital and surplus requirements that must be met by a~~
18 ~~new stock or mutual company to qualify for a certificate of~~
19 ~~authority to write the kind of insurance that the insurer is~~
20 ~~authorized to write.~~

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

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

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

~~(c) An insurer shall not write a put option unless its obligations under the put option are fully secured by a deposit by the insurer with a bank or other custodian of cash or cash equivalents.~~

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

(1) QUALIFIED ASSETS FOR PURPOSES OF SECTION 901 INCLUDE DERIVATIVE INSTRUMENTS ONLY IF THE INSURER IS ABLE TO DEMONSTRATE TO THE COMMISSIONER THROUGH CASH FLOW TESTING OR OTHER APPROPRIATE ANALYSES BOTH THE INTENDED HEDGING CHARACTERISTICS AND THE ONGOING EFFECTIVENESS OF THE DERIVATIVE TRANSACTION OR COMBINATION OF TRANSACTIONS.

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

1 (A) ESTABLISH WRITTEN GUIDELINES TO BE USED FOR EFFECTING OR
2 MAINTAINING DERIVATIVE TRANSACTIONS. THE GUIDELINES SHALL BE
3 AVAILABLE TO THE COMMISSIONER ON REQUEST AND SHALL MEET ALL OF
4 THE FOLLOWING:

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

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

9 (iii) REQUIRE COMPLIANCE WITH INTERNAL CONTROL PROCEDURES.

10 (B) HAVE A SYSTEM FOR DETERMINING WHETHER A DERIVATIVE
11 INSTRUMENT USED IN A HEDGING OR REPLICATION TRANSACTION IS
12 EFFECTIVE.

13 (C) HAVE A CREDIT RISK MANAGEMENT SYSTEM FOR
14 OVER-THE-COUNTER DERIVATIVE TRANSACTIONS THAT MEASURES CREDIT
15 RISK EXPOSURE USING COUNTER PARTY EXPOSURE AMOUNT.

16 (D) DETERMINE WHETHER THE INSURER HAS ADEQUATE PROFESSIONAL
17 PERSONNEL, TECHNICAL EXPERTISE, AND SYSTEMS TO IMPLEMENT INVEST-
18 MENT PRACTICES INVOLVING DERIVATIVES.

19 (E) DETERMINE THAT THE DERIVATIVE PROGRAM IS PRUDENT AND
20 THAT THE LEVEL OF RISK IS APPROPRIATE FOR THE INSURER GIVEN THE
21 LEVEL OF CAPITALIZATION AND EXPERTISE AVAILABLE TO THE INSURER.

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

1 (4) ~~-(3)-~~ The commissioner may promulgate rules pursuant to
2 the administrative procedures act of 1969, ~~Act No. 306 of the~~
3 ~~Public Acts of 1969, being sections 24.201 to 24.328 of the~~
4 ~~Michigan Compiled Laws~~ 1969 PA 306, MCL 24.201 TO 24.328, to
5 implement this section, including, but not limited to, the estab-
6 lishment of all of the following:

7 (a) Financial solvency standards.

8 (b) Valuation standards.

9 (c) Reporting requirements.

10 ~~-(4) Each domestic insurer shall develop written guidelines~~
11 ~~that establish the policy objectives of management in investing~~
12 ~~in financial futures contracts, permissible financial futures~~
13 ~~contract strategies, the relationship of those strategies to the~~
14 ~~insurer's operations, and how such strategies reduce the~~
15 ~~insurer's net investment rate exposure.~~

16 ~~(5) As used in this section:~~

17 ~~(a) "Financial futures contract" means an exchange-traded~~
18 ~~agreement to make or take delivery of, or to make a cash settle-~~
19 ~~ment instead of delivery of, a specified amount of financial~~
20 ~~instruments on a specified date or period of time, under terms~~
21 ~~and conditions regulated by the commodity futures trading~~
22 ~~commission.~~

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

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

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

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

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

(B) IF OVER-THE-COUNTER DERIVATIVE INSTRUMENTS ARE ENTERED INTO PURSUANT TO A WRITTEN MASTER AGREEMENT THAT PROVIDES FOR NETTING OF PAYMENTS OWED BY THE RESPECTIVE PARTIES, AND THE DOMICILIARY JURISDICTION OF THE COUNTER PARTY IS EITHER WITHIN THE UNITED STATES OR, IF NOT WITHIN THE UNITED STATES, WITHIN A FOREIGN JURISDICTION APPROVED AS ELIGIBLE FOR NETTING, THE NET AMOUNT OF CREDIT RISK IS THE GREATER OF ZERO OR THE NET SUM OF THE MARKET VALUE OF THE OVER-THE-COUNTER DERIVATIVE INSTRUMENTS ENTERED INTO PURSUANT TO THE AGREEMENT, THE LIQUIDATION OF WHICH WOULD RESULT IN A FINAL CASH PAYMENT TO THE INSURER AND THE MARKET VALUE OF THE OVER-THE-COUNTER DERIVATIVE INSTRUMENTS ENTERED INTO PURSUANT TO THE AGREEMENT, THE LIQUIDATION OF WHICH

1 WOULD RESULT IN A FINAL CASH PAYMENT BY THE INSURER TO THE
2 BUSINESS ENTITY.

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

8 (8) AS USED IN THIS SECTION:

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

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

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

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

25 (E) "DERIVATIVE INSTRUMENT" MEANS ANY AGREEMENT, OPTION, OR
26 INSTRUMENT, OR ANY SERIES OR COMBINATIONS OF AN AGREEMENT,
27 OPTION, OR INSTRUMENT TO MAKE OR TAKE DELIVERY OF, OR ASSUME OR

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

20 (F) "DERIVATIVE TRANSACTION" MEANS A TRANSACTION INVOLVING
21 THE USE OF 1 OR MORE DERIVATIVE INSTRUMENTS. FOR PURPOSES OF
22 THIS SECTION, DOLLAR ROLL TRANSACTIONS, REPURCHASE TRANSACTIONS,
23 REVERSE REPURCHASE TRANSACTIONS, AND SECURITIES LENDING TRANSAC-
24 TIONS ARE NOT DERIVATIVE TRANSACTIONS.

25 (G) "FLOOR" MEANS AN AGREEMENT OBLIGATING THE SELLER TO MAKE
26 PAYMENTS TO THE BUYER IN WHICH EACH PAYMENT IS BASED ON THE
27 AMOUNT BY WHICH A PREDETERMINED NUMBER, SOMETIMES CALLED THE

1 FLOOR RATE OR PRICE, EXCEEDS A REFERENCE PRICE, LEVEL,
2 PERFORMANCE, OR VALUE OF 1 OR MORE UNDERLYING INTERESTS.

3 (H) "FORWARD" MEANS AN AGREEMENT, OTHER THAN A FUTURE, TO
4 MAKE OR TAKE DELIVERY IN THE FUTURE OF 1 OR MORE UNDERLYING
5 INTERESTS, OR EFFECT A CASH SETTLEMENT, BASED ON THE ACTUAL OR
6 EXPECTED PRICE, LEVEL, PERFORMANCE, OR VALUE OF THE UNDERLYING
7 INTERESTS. FORWARD INCLUDES SPOT TRANSACTIONS EFFECTED WITHIN
8 CUSTOMARY SETTLEMENT PERIODS, WHEN-ISSUED PURCHASES, OR OTHER
9 SIMILAR CASH MARKET TRANSACTIONS.

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

14 (J) "HEDGING TRANSACTION" MEANS A DERIVATIVE TRANSACTION
15 THAT IS ENTERED INTO AND MAINTAINED TO MANAGE THE RISK OF A
16 CHANGE IN THE VALUE, YIELD, PRICE, CASH FLOW, OR QUANTITY OF
17 ASSETS OR LIABILITIES THAT THE INSURER HAS ACQUIRED OR INCURRED
18 OR ANTICIPATES ACQUIRING OR INCURRING OR THE CURRENCY EXCHANGE
19 RATE RISK RELATED TO ASSETS OR LIABILITIES THAT AN INSURER HAS
20 ACQUIRED OR INCURRED OR ANTICIPATES ACQUIRING OR INCURRING.

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

26 (L) "REPLICATION TRANSACTION" MEANS A DERIVATIVE TRANSACTION
27 OR COMBINATION OF DERIVATIVE TRANSACTIONS EFFECTED EITHER

1 SEPARATELY OR IN CONJUNCTION WITH CASH MARKET INVESTMENTS
2 INCLUDED IN THE INSURER'S INVESTMENT PORTFOLIO IN ORDER TO REPLI-
3 CATE THE RISKS AND RETURNS OF ANOTHER AUTHORIZED TRANSACTION,
4 INVESTMENT, OR INSTRUMENT OR TO OPERATE AS A SUBSTITUTE FOR CASH
5 MARKET TRANSACTIONS. A DERIVATIVE TRANSACTION ENTERED INTO BY
6 THE INSURER AS A HEDGING TRANSACTION IS NOT A REPLICATION
7 TRANSACTION.

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

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

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

18 (P) "UNDERLYING INTEREST" MEANS THE ASSETS, LIABILITIES,
19 OTHER INTERESTS, OR A COMBINATION OF ASSETS, LIABILITIES, OR
20 OTHER INTERESTS UNDERLYING A DERIVATIVE INSTRUMENT SUCH AS ANY 1
21 OR MORE SECURITIES, CURRENCIES, RATES, INDICES, COMMODITIES, OR
22 DERIVATIVE INSTRUMENTS.

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

1 (9) THE AMENDATORY ACT THAT ADDED THIS SUBSECTION DOES NOT
2 AFFECT THE VALIDITY OF ANY DERIVATIVE TRANSACTION ENTERED INTO OR
3 DERIVATIVE INSTRUMENT ACQUIRED BY AN INSURER BEFORE THE EFFECTIVE
4 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION.