

HOUSE BILL 978

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2000 Regular Session
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By: ~~Delegate Krysiak~~ Delegates Krysiak and Brown
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Assigned to: Economic Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 22, 2000

CHAPTER _____

1 AN ACT concerning

2 **Life Insurers - Classes of Reserve Investments**

3 FOR the purpose of altering the classes of reserve investments authorized for life
4 insurers; imposing certain limitations on certain classes of reserve investments
5 authorized for life insurers; specifying that the reserve investments of a life
6 insurer may include certain foreign investments; authorizing the Insurance
7 Commissioner to take certain action to rectify or prevent a hazardous financial
8 condition; requiring the board of directors of certain life insurers to adopt or
9 approve certain plans relating to certain types of investments; defining certain
10 terms; and generally relating to investments of life insurers.

11 BY repealing and reenacting, with amendments,
12 Article - Insurance
13 Section 5-509 and 5-511
14 Annotated Code of Maryland
15 (1997 Volume and 1999 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Insurance**

19 5-509.

20 (A) ~~THE APPLICABLE DEFINITIONS OF~~ IN § 5-511 OF THIS SUBTITLE APPLY ~~TO~~
21 IN THIS SECTION.

1 [(a)] (B) This section does not apply to Canadian securities and investments
2 that are eligible for investment under other provisions of this subtitle.

3 [(b)] (C) Subject to the limitations of § 5-511 of this subtitle, a life insurer may
4 acquire foreign investments, or engage in investment practices with persons of or in
5 foreign jurisdictions, of substantially the same types as those that a life insurer is
6 allowed to acquire under this subtitle, other than those of the type prohibited under §
7 5-506 of this subtitle if, as a result of and after giving effect to the investment:

8 (1) the aggregate amount of foreign investments then held by the life
9 insurer under this subsection does not exceed 20% of its admitted assets; and

10 (2) the aggregate amount of foreign investments then held by the life
11 insurer under this subsection in a single foreign jurisdiction does not exceed:

12 (i) 10% of its admitted assets for a foreign jurisdiction that has a
13 sovereign debt rating of investment grade or higher by a nationally recognized
14 statistical rating organization; or

15 (ii) 3% of its admitted assets for any other foreign jurisdiction.

16 [(c)] (D) (1) Subject to the limitations of § 5-511 of this subtitle, a life
17 insurer may acquire investments or engage in investment practices denominated in
18 foreign currencies, whether or not they are foreign investments acquired under
19 subsection [(b)] (C) of this section, or additional foreign currency exposure as a result
20 of the termination or expiration of a hedging transaction with respect to investments
21 denominated in a foreign currency, if:

22 (i) the aggregate amount of investments then held by the life
23 insurer under this subsection denominated in foreign currencies does not exceed 10%
24 of its admitted assets; and

25 (ii) the aggregate amount of investments then held by the life
26 insurer under this subsection denominated in the foreign currency of a single foreign
27 jurisdiction does not exceed:

28 1. 10% of its admitted assets for a foreign jurisdiction that
29 has a sovereign debt rating of investment grade or higher by a nationally recognized
30 statistical rating organization; or

31 2. 3% of its admitted assets for any other foreign jurisdiction.

32 (2) Notwithstanding paragraph (1) of this subsection, an investment is
33 not considered denominated in foreign currency if the acquiring insurer enters into
34 one or more contracts in derivative transactions and the business entity counterparty
35 agrees under the contract or contracts to exchange all payments made on the foreign
36 currency denominated investment for United States currency at a rate that effectively
37 insulates the investment cash flows against future changes in currency exchange
38 rates during the period the contract or contracts are in effect.

1 [(d)] (E) (1) In addition to investments allowed under subsections [(b) and
2 (c)] (C) AND (D) of this section, a life insurer that is authorized to do business in a
3 foreign jurisdiction, and that has outstanding insurance, annuity, or reinsurance
4 contracts on lives or risks resident or located in that foreign jurisdiction and
5 denominated in the foreign currency of that jurisdiction, may acquire foreign
6 investments with respect to that foreign jurisdiction, and may acquire investments
7 denominated in the currency of that jurisdiction, subject to the limitations of § 5-511
8 of this subtitle.

9 (2) Notwithstanding paragraph (1) of this subsection, investments made
10 under this subsection in obligations of foreign governments, their political
11 subdivisions, and government sponsored enterprises are not subject to the limitations
12 of § 5-511 of this subtitle if those investments carry a rating of investment grade or
13 higher by a nationally recognized statistical rating organization.

14 (3) The aggregate amount of investments acquired by the life insurer
15 under this subsection may not exceed the greater of:

16 (i) the amount that the life insurer is required by the law of the
17 foreign jurisdiction to invest in the foreign jurisdiction; and

18 (ii) 115% of the amount of its reserves, net of reinsurance, and other
19 obligations under the contracts on lives or risks resident or located in the foreign
20 jurisdiction.

21 [(e)] (F) (1) In addition to investments allowed under subsections [(b) and
22 (c)] (C) AND (D) of this section, a life insurer that is not authorized to do business in a
23 foreign jurisdiction, but which has outstanding insurance, annuity, or reinsurance
24 contracts on lives or risks resident or located in that foreign jurisdiction and
25 denominated in the foreign currency of that jurisdiction, may acquire foreign
26 investments with respect to that foreign jurisdiction, and may acquire investments
27 denominated in the currency of that jurisdiction, subject to the limitations of § 5-511
28 of this subtitle.

29 (2) Notwithstanding paragraph (1) of this subsection, investments made
30 under this subsection in obligations of foreign governments, their political
31 subdivisions, and government sponsored enterprises are not subject to the limitations
32 of § 5-511 of this subtitle if those investments carry a rating of investment grade or
33 higher by a nationally recognized statistical rating organization.

34 (3) The aggregate amount of investments acquired by the life insurer
35 under this subsection may not exceed 105% of the amount of its reserves, net of
36 reinsurance, and other obligations under the contracts on lives or risks resident or
37 located in the foreign jurisdiction.

38 [(f)] (G) (1) Investments acquired under this section shall be aggregated
39 with investments of the same type made under all other provisions of this subtitle,
40 and in a similar manner, for purposes of determining compliance with the limitations,
41 if any, contained in the other provisions of this subtitle.

1 (2) Investments in obligations of foreign governments, their political
2 subdivisions, and government sponsored enterprises, except for those exempted under
3 subsections [(d) and (e)] (E) AND (F) of this section, are subject to the limitations of §
4 5-511 of this subtitle.

5 5-511.

6 (A) (1) IN THIS SECTION AND IN § 5-509 OF THIS SUBTITLE THE FOLLOWING
7 WORDS HAVE THE MEANINGS INDICATED.

8 (2) "ACCEPTABLE COLLATERAL" MEANS:

9 (I) 1. AS TO SECURITIES LENDING TRANSACTIONS, AND FOR
10 THE PURPOSE OF CALCULATING COUNTERPARTY EXPOSURE AMOUNT, CASH, CASH
11 EQUIVALENTS, LETTERS OF CREDIT, AND DIRECT OBLIGATIONS OF, OR SECURITIES
12 THAT ARE FULLY GUARANTEED AS TO PRINCIPAL AND INTEREST BY, THE
13 GOVERNMENT OF THE UNITED STATES OR AN AGENCY OF THE UNITED STATES, OR
14 BY THE FEDERAL NATIONAL MORTGAGE ASSOCIATION OR THE FEDERAL HOME LOAN
15 MORTGAGE CORPORATION; AND

16 2. AS TO LENDING FOREIGN SECURITIES, SOVEREIGN DEBT
17 RATED I BY THE SECURITIES VALUATION OFFICE OF THE NATIONAL ASSOCIATION OF
18 INSURANCE COMMISSIONERS;

19 (II) AS TO REPURCHASE TRANSACTIONS, CASH, CASH
20 EQUIVALENTS, AND DIRECT OBLIGATIONS OF, OR SECURITIES THAT ARE FULLY
21 GUARANTEED AS TO PRINCIPAL AND INTEREST BY, THE GOVERNMENT OF THE
22 UNITED STATES OR AN AGENCY OF THE UNITED STATES, OR BY THE FEDERAL
23 NATIONAL MORTGAGE ASSOCIATION OR THE FEDERAL HOME LOAN MORTGAGE
24 CORPORATION; AND

25 (III) AS TO REVERSE REPURCHASE TRANSACTIONS, CASH AND CASH
26 EQUIVALENTS.

27 (2) (3) (I) "ASSET-BACKED SECURITY" MEANS A SECURITY OR
28 OTHER INSTRUMENT, EXCLUDING A MUTUAL FUND, EVIDENCING AN INTEREST IN,
29 OR THE RIGHT TO RECEIVE PAYMENTS FROM, OR PAYABLE FROM DISTRIBUTIONS
30 ON, AN ASSET, A POOL OF ASSETS, OR SPECIFICALLY DIVISIBLE CASH FLOWS THAT
31 ARE LEGALLY TRANSFERRED TO A TRUST OR ANOTHER SPECIAL PURPOSE
32 BANKRUPTCY-REMOTE BUSINESS ENTITY, ON THE FOLLOWING CONDITIONS:

33 1. THE TRUST OR OTHER BUSINESS ENTITY IS ESTABLISHED
34 SOLELY FOR THE PURPOSE OF ACQUIRING SPECIFIC TYPES OF ASSETS OR RIGHTS TO
35 CASH FLOWS, ISSUING SECURITIES AND OTHER INSTRUMENTS REPRESENTING AN
36 INTEREST IN OR RIGHT TO RECEIVE CASH FLOWS FROM THOSE ASSETS OR RIGHTS,
37 AND ENGAGING IN ACTIVITIES REQUIRED TO SERVICE THE ASSETS OR RIGHTS AND
38 ANY CREDIT ENHANCEMENT OR SUPPORT FEATURES HELD BY THE TRUST OR OTHER
39 BUSINESS ENTITY; AND

1 2. THE ASSETS OF THE TRUST OR OTHER BUSINESS ENTITY
2 CONSIST SOLELY OF INTEREST BEARING OBLIGATIONS OR OTHER CONTRACTUAL
3 OBLIGATIONS REPRESENTING THE RIGHT TO RECEIVE PAYMENT FROM THE CASH
4 FLOWS FROM THE ASSETS OR RIGHTS.

5 (II) HOWEVER, THE EXISTENCE OF CREDIT ENHANCEMENTS, SUCH
6 AS LETTERS OF CREDIT OR GUARANTEES, OR SUPPORT FEATURES SUCH AS SWAP
7 AGREEMENTS, DO NOT CAUSE A SECURITY OR OTHER INSTRUMENT TO BE
8 INELIGIBLE AS AN ASSET-BACKED SECURITY.

9 (3) (4) "BUSINESS ENTITY" INCLUDES A SOLE PROPRIETORSHIP,
10 CORPORATION, ASSOCIATION, GENERAL OR LIMITED PARTNERSHIP, LIMITED
11 LIABILITY COMPANY, JOINT-STOCK COMPANY, JOINT VENTURE, TRUST, OR ANY
12 OTHER FORM OF BUSINESS ORGANIZATION, WHETHER FOR PROFIT OR NOT FOR
13 PROFIT.

14 (5) (I) "CASH EQUIVALENT" MEANS A HIGHLY LIQUID INVESTMENT OR
15 SECURITY WITH AN ORIGINAL TERM TO MATURITY OF 90 DAYS OR LESS THAT IS:

16 1. READILY CONVERTIBLE TO A KNOWN AMOUNT OF CASH
17 WITHOUT PENALTY;

18 2. SO NEAR MATURITY THAT IT PRESENTS AN
19 INSIGNIFICANT RISK OF CHANGE IN VALUE; AND

20 3. RATED:

21 A. "P-1" BY MOODY'S INVESTORS SERVICES, INC.;

22 B. "A-1" BY STANDARD AND POOR'S DIVISION OF THE
23 MCGRAW HILL COMPANIES, INC.; OR

24 C. EQUIVALENTLY BY A NATIONALLY RECOGNIZED
25 STATISTICAL RATING ORGANIZATION RECOGNIZED BY THE SECURITIES VALUATION
26 OFFICE OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

27 (II) "CASH EQUIVALENT" INCLUDES A GOVERNMENT MONEY
28 MARKET MUTUAL FUND AND A CLASS ONE MONEY MARKET MUTUAL FUND.

29 (4) (6) (I) "COUNTERPARTY EXPOSURE AMOUNT" MEANS:

30 1. FOR AN OVER-THE-COUNTER DERIVATIVE INSTRUMENT
31 NOT ENTERED INTO PURSUANT TO A WRITTEN MASTER AGREEMENT THAT PROVIDES
32 FOR NETTING OF PAYMENTS OWED BY THE RESPECTIVE PARTIES:

33 A. THE MARKET VALUE OF THE OVER-THE-COUNTER
34 DERIVATIVE INSTRUMENT IF THE LIQUIDATION OF THE DERIVATIVE INSTRUMENT
35 WOULD RESULT IN A FINAL CASH PAYMENT TO THE INSURER; OR

1 B. ZERO IF THE LIQUIDATION OF THE DERIVATIVE
2 INSTRUMENT WOULD NOT RESULT IN A FINAL CASH PAYMENT TO THE INSURER;

3 2. FOR OVER-THE-COUNTER DERIVATIVE INSTRUMENTS
4 ENTERED INTO PURSUANT TO A WRITTEN MASTER AGREEMENT THAT PROVIDES FOR
5 NETTING OF PAYMENTS OWED BY THE RESPECTIVE PARTIES, AND THE DOMICILIARY
6 JURISDICTION OF THE COUNTERPARTY IS EITHER WITHIN THE UNITED STATES OR,
7 IF NOT WITHIN THE UNITED STATES, IS WITHIN A FOREIGN (NOT UNITED STATES)
8 JURISDICTION LISTED IN THE PURPOSES AND PROCEDURES MANUAL OF THE
9 SECURITIES VALUATION OFFICE AS ELIGIBLE FOR NETTING, THE GREATER OF ZERO
10 OR THE NET SUM PAYABLE TO THE INSURER IN CONNECTION WITH ALL DERIVATIVE
11 INSTRUMENTS SUBJECT TO THE WRITTEN MASTER AGREEMENT UPON THEIR
12 LIQUIDATION IN THE EVENT OF DEFAULT BY THE COUNTERPARTY PURSUANT TO
13 THE MASTER AGREEMENT (ASSUMING NO CONDITIONS PRECEDENT TO THE
14 OBLIGATIONS OF THE COUNTERPARTY TO MAKE SUCH A PAYMENT AND ASSUMING
15 NO SETOFF OF AMOUNTS PAYABLE PURSUANT TO ANY OTHER INSTRUMENT OR
16 AGREEMENT).

17 (II) FOR PURPOSES OF THIS PARAGRAPH, MARKET VALUE OR THE
18 NET SUM PAYABLE, AS THE CASE MAY BE, SHALL BE DETERMINED AT THE END OF
19 THE MOST RECENT QUARTER OF THE INSURER'S FISCAL YEAR AND SHALL BE
20 REDUCED BY THE MARKET VALUE OF ACCEPTABLE COLLATERAL HELD BY THE
21 INSURER OR A CUSTODIAN ON THE INSURER'S BEHALF.

22 ~~(5)~~ (7) (I) "DERIVATIVE INSTRUMENT" MEANS AN AGREEMENT,
23 OPTION, INSTRUMENT, OR A SERIES OR COMBINATION THEREOF:

24 1. TO MAKE OR TAKE DELIVERY OF, OR ASSUME OR
25 RELINQUISH, A SPECIFIED AMOUNT OF ONE OR MORE UNDERLYING INTERESTS, OR
26 TO MAKE A CASH SETTLEMENT IN LIEU THEREOF; OR

27 2. THAT HAS A PRICE, PERFORMANCE, VALUE, OR CASH
28 FLOW BASED PRIMARILY UPON THE ACTUAL OR EXPECTED PRICE, LEVEL,
29 PERFORMANCE, VALUE, OR CASH FLOW OF ONE OR MORE UNDERLYING INTERESTS.

30 (II) "DERIVATIVE INSTRUMENT" INCLUDES OPTIONS, WARRANTS
31 USED IN A HEDGING TRANSACTION AND NOT ATTACHED TO ANOTHER FINANCIAL
32 INSTRUMENT, CAPS, FLOORS, COLLARS, SWAPS, FORWARDS, FUTURES, AND ANY
33 OTHER AGREEMENTS, OPTIONS, OR INSTRUMENTS SUBSTANTIALLY SIMILAR
34 THERETO OR ANY SERIES OR COMBINATION THEREOF AND ANY AGREEMENTS,
35 OPTIONS, OR INSTRUMENTS PERMITTED UNDER REGULATIONS ADOPTED UNDER
36 THIS SECTION.

37 (III) "DERIVATIVE INSTRUMENT" DOES NOT INCLUDE
38 COLLATERALIZED MORTGAGE OBLIGATIONS, OTHER ASSET-BACKED SECURITIES,
39 PRINCIPAL-PROTECTED STRUCTURED SECURITIES, FLOATING RATE SECURITIES, OR
40 INSTRUMENTS THAT AN INSURER IS OTHERWISE PERMITTED TO INVEST IN OR
41 RECEIVE UNDER THIS ARTICLE OTHER THAN UNDER THIS SUBSECTION, AND ANY
42 DEBT OBLIGATIONS OF THE INSURER.

1 ~~(6)~~ (8) "DERIVATIVE TRANSACTION" MEANS A TRANSACTION
2 INVOLVING THE USE OF ONE OR MORE DERIVATIVE INSTRUMENTS.

3 ~~(7)~~ (9) "DOLLAR ROLL TRANSACTION" MEANS TWO SIMULTANEOUS
4 TRANSACTIONS WITH DIFFERENT SETTLEMENT DATES NO MORE THAN 96 DAYS
5 APART, SO THAT IN THE TRANSACTION WITH THE EARLIER SETTLEMENT DATE, AN
6 INSURER SELLS TO A BUSINESS ENTITY, AND IN THE OTHER TRANSACTION THE
7 INSURER IS OBLIGATED TO PURCHASE FROM THE SAME BUSINESS ENTITY,
8 SUBSTANTIALLY SIMILAR SECURITIES OF THE FOLLOWING TYPES:

9 (I) ASSET-BACKED SECURITIES ISSUED, ASSUMED OR
10 GUARANTEED BY THE GOVERNMENT NATIONAL MORTGAGE ASSOCIATION, THE
11 FEDERAL NATIONAL MORTGAGE ASSOCIATION, OR THE FEDERAL HOME LOAN
12 MORTGAGE CORPORATION OR THEIR RESPECTIVE SUCCESSORS; AND

13 (II) OTHER ASSET-BACKED SECURITIES REFERRED TO IN SECTION
14 106 OF TITLE I OF THE SECONDARY MORTGAGE MARKET ENHANCEMENT ACT OF 1984
15 (15 U.S.C., § 77R-1), AS AMENDED.

16 ~~(8)~~ (10) "DOMESTIC JURISDICTION" MEANS THE UNITED STATES,
17 CANADA, A STATE, A PROVINCE OF CANADA, OR A POLITICAL SUBDIVISION OF THE
18 UNITED STATES, CANADA, A STATE, OR A PROVINCE OF CANADA.

19 ~~(9)~~ "~~EQUITY INTEREST~~" ~~MEANS ANY OF THE FOLLOWING:~~

20 ~~(I) COMMON STOCK;~~

21 ~~(II) PREFERRED STOCK;~~

22 ~~(III) TRUST CERTIFICATE;~~

23 ~~(IV) EQUITY INVESTMENT IN AN INVESTMENT COMPANY OTHER
24 THAN A MONEY MARKET MUTUAL FUND QUALIFYING UNDER SUBSECTION (P) OF
25 THIS SECTION;~~

26 ~~(V) INVESTMENT IN A COMMON TRUST FUND OF A BANK
27 REGULATED BY A FEDERAL OR STATE AGENCY;~~

28 ~~(VI) AN OWNERSHIP INTEREST IN MINERALS, OIL, OR GAS, THE
29 RIGHTS TO WHICH HAVE BEEN SEPARATED FROM THE UNDERLYING FEE INTEREST
30 IN THE REAL ESTATE WHERE THE MINERALS, OIL, OR GAS ARE LOCATED;~~

31 ~~(VII) INSTRUMENTS THAT ARE MANDATORILY, OR AT THE OPTION OF
32 THE ISSUER, CONVERTIBLE TO EQUITY;~~

33 ~~(VIII) LIMITED PARTNERSHIP INTERESTS;~~

34 ~~(IX) MEMBER INTERESTS IN LIMITED LIABILITY COMPANIES;~~

1 ~~(X) WARRANTS OR OTHER RIGHTS TO ACQUIRE EQUITY INTERESTS~~
2 ~~THAT ARE CREATED BY THE PERSON THAT OWNS OR WOULD ISSUE THE EQUITY TO~~
3 ~~BE ACQUIRED; OR~~

4 ~~(XI) A SECURITY THAT HAS A PAR VALUE AND WHOSE TERMS~~
5 ~~PROVIDE THAT THE ISSUER'S NET OBLIGATION TO REPAY ALL OR PART OF THE~~
6 ~~SECURITY'S PAR VALUE IS DETERMINED BY REFERENCE TO THE PERFORMANCE OF~~
7 ~~AN EQUITY, A COMMODITY, A FOREIGN CURRENCY OR AN INDEX OF EQUITIES,~~
8 ~~COMMODITIES, FOREIGN CURRENCIES OR COMBINATIONS THEREOF.~~

9 ~~(+0)~~ (11) "FOREIGN CURRENCY" MEANS A CURRENCY OTHER THAN THAT
10 OF A DOMESTIC JURISDICTION.

11 ~~(+1)~~ (12) (I) "FOREIGN INVESTMENT" MEANS AN INVESTMENT IN A
12 FOREIGN JURISDICTION, OR AN INVESTMENT IN A PERSON, REAL ESTATE, OR ASSET
13 DOMICILED IN A FOREIGN JURISDICTION, THAT IS SUBSTANTIALLY OF THE SAME
14 TYPE AS THOSE ELIGIBLE FOR INVESTMENT UNDER THIS SECTION.

15 (II) AN INVESTMENT MAY NOT BE DEEMED TO BE FOREIGN IF THE
16 ISSUING PERSON, QUALIFIED PRIMARY CREDIT SOURCE, OR QUALIFIED GUARANTOR
17 IS A DOMESTIC JURISDICTION OR A PERSON DOMICILED IN A DOMESTIC
18 JURISDICTION, UNLESS:

19 1. THE ISSUING PERSON IS A SHELL BUSINESS ENTITY; AND

20 2. THE INVESTMENT IS NOT ASSUMED, ACCEPTED,
21 GUARANTEED, OR INSURED OR OTHERWISE BACKED BY A DOMESTIC JURISDICTION
22 OR A PERSON, THAT IS NOT A SHELL BUSINESS ENTITY, DOMICILED IN A DOMESTIC
23 JURISDICTION.

24 ~~(+2)~~ (13) "FOREIGN JURISDICTION" MEANS A JURISDICTION OTHER
25 THAN A DOMESTIC JURISDICTION.

26 ~~(+3)~~ (14) "HEDGING TRANSACTION" MEANS A DERIVATIVE TRANSACTION
27 THAT IS ENTERED INTO AND MAINTAINED TO REDUCE:

28 (I) THE RISK OF A CHANGE IN THE VALUE, YIELD, PRICE, CASH
29 FLOW, OR QUANTITY OF ASSETS OR LIABILITIES THAT THE INSURER HAS ACQUIRED
30 OR INCURRED OR ANTICIPATES ACQUIRING OR INCURRING; OR

31 (II) THE CURRENCY EXCHANGE RATE RISK OR THE DEGREE OF
32 EXPOSURE AS TO ASSETS OR LIABILITIES THAT AN INSURER HAS ACQUIRED OR
33 INCURRED OR ANTICIPATES ACQUIRING OR INCURRING.

34 ~~(14) "OBLIGATION" MEANS A BOND, NOTE, DEBENTURE, ASSET BACKED~~
35 ~~SECURITIES, TRUST CERTIFICATE, INCLUDING AN EQUIPMENT CERTIFICATE,~~
36 ~~PRODUCTION PAYMENT, NEGOTIABLE BANK CERTIFICATE OF DEPOSIT, BANDERS'~~
37 ~~ACCEPTANCE, CREDIT TENANT LOAN, LOAN SECURED BY FINANCING NET LEASES~~
38 ~~AND OTHER EVIDENCE OF INDEBTEDNESS FOR THE PAYMENT OF MONEY (OR~~
39 ~~PARTICIPATIONS, CERTIFICATES, OR OTHER EVIDENCES OF AN INTEREST IN ANY OF~~

~~1 THE FOREGOING), WHETHER CONSTITUTING A GENERAL OBLIGATION OF THE
2 ISSUER OR PAYABLE ONLY OUT OF CERTAIN REVENUES OR CERTAIN FUNDS
3 PLEDGED OR OTHERWISE DEDICATED FOR PAYMENT.~~

4 (15) "QUALIFIED GUARANTOR" MEANS A GUARANTOR AGAINST WHICH
5 AN INSURER HAS A DIRECT CLAIM FOR FULL AND TIMELY PAYMENT, EVIDENCED BY
6 A CONTRACTUAL RIGHT FOR WHICH AN ENFORCEMENT ACTION CAN BE BROUGHT IN
7 A DOMESTIC JURISDICTION.

8 (16) "QUALIFIED PRIMARY CREDIT SOURCE" MEANS THE CREDIT SOURCE
9 TO WHICH AN INSURER LOOKS FOR PAYMENT AS TO AN INVESTMENT AND AGAINST
10 WHICH AN INSURER HAS A DIRECT CLAIM FOR FULL AND TIMELY PAYMENT,
11 EVIDENCED BY A CONTRACTUAL RIGHT FOR WHICH AN ENFORCEMENT ACTION CAN
12 BE BROUGHT IN A DOMESTIC JURISDICTION.

~~13 (17) (I) "REPLICATION TRANSACTION" MEANS A DERIVATIVE
14 TRANSACTION THAT IS INTENDED TO REPLICATE THE PERFORMANCE OF ONE OR
15 MORE ASSETS THAT AN INSURER IS AUTHORIZED TO ACQUIRE UNDER THIS SECTION.~~

~~16 (II) A DERIVATIVE TRANSACTION THAT IS ENTERED INTO AS A
17 HEDGING TRANSACTION MAY NOT BE CONSIDERED A REPLICATION TRANSACTION.~~

18 ~~(18)~~ (17) "REPURCHASE TRANSACTION" MEANS A TRANSACTION IN
19 WHICH AN INSURER PURCHASES SECURITIES FROM A BUSINESS ENTITY THAT IS
20 OBLIGATED TO REPURCHASE THE PURCHASED SECURITIES OR EQUIVALENT
21 SECURITIES FROM THE BUSINESS ENTITY AT A SPECIFIED PRICE, EITHER WITHIN A
22 SPECIFIED PERIOD OF TIME OR ON DEMAND.

23 ~~(19)~~ (18) "REVERSE REPURCHASE TRANSACTION" MEANS A
24 TRANSACTION IN WHICH AN INSURER SELLS SECURITIES TO A BUSINESS ENTITY
25 AND IS OBLIGATED TO REPURCHASE THE SOLD SECURITIES OR EQUIVALENT
26 SECURITIES FROM THE BUSINESS ENTITY AT A SPECIFIED PRICE, EITHER WITHIN A
27 SPECIFIED PERIOD OF TIME OR ON DEMAND.

28 ~~(20)~~ (19) "SECURITIES LENDING TRANSACTION" MEANS A TRANSACTION
29 IN WHICH SECURITIES ARE LOANED BY AN INSURER TO A BUSINESS ENTITY THAT IS
30 OBLIGATED TO RETURN THE LOANED SECURITIES OR EQUIVALENT SECURITIES TO
31 THE INSURER, EITHER WITHIN A SPECIFIED PERIOD OF TIME OR ON DEMAND.

32 ~~(21)~~ (20) "SHELL BUSINESS ENTITY" MEANS A BUSINESS ENTITY HAVING
33 NO ECONOMIC SUBSTANCE, EXCEPT AS A VEHICLE FOR OWNING INTERESTS IN
34 ASSETS ISSUED, OWNED, OR PREVIOUSLY OWNED BY A PERSON DOMICILED IN A
35 FOREIGN JURISDICTION.

36 [(a)] (A-1) Each life insurer shall have and continually maintain an amount
37 equal to its entire reserves, as required by this article, in any combination of the types
38 of assets authorized by subsections [(c) through (l)] (C) THROUGH (P) of this section
39 subject to the limit, if any, set for each type or class of investment.

1 (b) (1) For purposes of this section, the entire reserves of a life insurer is the
2 sum of the amounts listed in paragraph (2) of this subsection less the amount of net
3 uncollected and deferred premiums.

4 (2) The sum to be used in paragraph (1) of this subsection consists of:

5 (i) the net present value of all outstanding policies in force, less
6 reinsurance;

7 (ii) reserves for accidental death benefits and total and permanent
8 disability benefits, less reinsurance;

9 (iii) the present value of supplementary contracts, including
10 dividends left with the life insurer to accumulate at interest;

11 (iv) liabilities on canceled policies that are not included in net
12 reserve and on which a surrender value may be demanded, and outstanding policy
13 claims and losses; and

14 (v) any additional reserves that the Commissioner reasonably
15 requires for the life insurance.

16 (c) The reserve investments of a life insurer may include:

17 (1) cash or deposits in checking or savings accounts, under certificates of
18 deposit, or in any other form in a national or State bank or trust company; or

19 (2) shares or deposits in a savings and loan association or building and
20 loan association to the extent that the investment or account is insured by the Federal
21 Deposit Insurance Corporation.

22 (d) (1) The reserve investments of a life insurer may include:

23 (i) interest bearing bonds, notes, certificates of indebtedness, bills,
24 or other direct interest bearing obligations of the United States or Canada or other
25 interest bearing obligations fully guaranteed both as to principal and interest by the
26 United States or Canada;

27 (ii) interest bearing bonds of a state, a province of Canada, a county
28 or incorporated city of a state, or a municipality of Canada;

29 (iii) interest bearing bonds of a commission, instrumentality,
30 authority, or political subdivision with legal authority to issue interest bearing bonds,
31 of the United States, Canada, a state, a province of Canada, a county or incorporated
32 city of a state, or a municipality of Canada;

33 (iv) {interest bearing bonds, notes, or other interest bearing
34 obligations of a corporation incorporated under the laws of the United States,
35 Canada, a state, or a province of Canada} ~~OBLIGATIONS THAT ARE ISSUED,
36 ASSUMED, GUARANTEED, OR INSURED BY ANY BUSINESS ENTITY THAT IS~~

1 ~~ORGANIZED UNDER THE LAWS OF THE UNITED STATES, ANOTHER STATE, CANADA,~~
 2 ~~OR ANY STATE, DISTRICT, PROVINCE, OR TERRITORY OF CANADA; or;~~

3 (v) subject to paragraph (2) of this subsection, obligations of the
 4 African Development Bank, Asian Development Bank, Inter-American Development
 5 Bank, International Bank for Reconstruction and Development, or International
 6 Finance Corporation;

7 (VI) ASSET BACKED SECURITIES RATED INVESTMENT GRADE BY AT
 8 LEAST ONE OF THE NATIONALLY RECOGNIZED STATISTICAL RATING
 9 ORGANIZATIONS, AND WHICH EITHER TRADE ON A REGULATED NATIONALLY
 10 RECOGNIZED EXCHANGE OR ARE TRADED BY A MINIMUM OF TWO REGISTERED
 11 BROKER-DEALERS. TO THE EXTENT NECESSARY TO SATISFY THE RESERVE
 12 REQUIREMENTS OF THIS SUBTITLE, A LIFE INSURER MAY NOT HAVE MORE THAN:

13 1. 20% OF ITS TOTAL ADMITTED ASSETS IN ASSET BACKED
 14 SECURITIES;

15 2. 10% OF ITS TOTAL ADMITTED ASSETS IN ASSET BACKED
 16 SECURITIES REPRESENTING AN INTEREST IN ASSETS OR POOLS OF ASSETS OTHER
 17 THAN COMMERCIAL OR RESIDENTIAL MORTGAGES; AND

18 3. 3% OF ITS TOTAL ADMITTED ASSETS IN THE ASSET
 19 BACKED SECURITIES OF ANY ONE ISSUER; AND

20 (VII) INTEREST BEARING BONDS, NOTES, OR OTHER INTEREST
 21 BEARING OBLIGATIONS OF REAL ESTATE INVESTMENT TRUSTS RATED INVESTMENT
 22 GRADE BY AT LEAST ONE OF THE NATIONALLY RECOGNIZED STATISTICAL RATING
 23 ORGANIZATIONS, AND WHICH EITHER TRADE ON A REGULATED NATIONALLY
 24 RECOGNIZED EXCHANGE OR ARE TRADED BY A MINIMUM OF TWO REGISTERED
 25 BROKER-DEALERS. TO THE EXTENT NECESSARY TO SATISFY THE RESERVE
 26 REQUIREMENTS OF THIS SUBTITLE, A LIFE INSURER MAY NOT HAVE MORE THAN 3%
 27 OF ITS TOTAL ADMITTED ASSETS IN THE BONDS, NOTES, OR OTHER INTEREST
 28 BEARING OBLIGATIONS OF ANY ONE REAL ESTATE INVESTMENT TRUST.

29 (2) A life insurer may not invest more than 5% of its total admitted
 30 assets in obligations of the African Development Bank, Asian Development Bank,
 31 Inter-American Development Bank, International Bank for Reconstruction and
 32 Development, or International Finance Corporation.

33 (e) The reserve investments of a life insurer may include equipment trust
 34 obligations or certificates or other secured instruments that evidence:

35 (1) an interest in transportation or other equipment located wholly or
 36 partly within the United States or Canada; and

37 (2) a right to receive determined parts of rental, purchases, or other
 38 fixed obligatory payments received for the use or purchase of the transportation or
 39 other equipment.

1 (f) (1) Subject to paragraph (2) of this subsection, the reserve investments
2 of a life insurer may include {dividend-paying stock of a corporation created or
3 existing under the laws of the United States, Canada, a state, or a province of
4 Canada} ~~EQUITY INTERESTS IN ANY BUSINESS ENTITY THAT IS ORGANIZED UNDER
5 THE LAWS OF THE UNITED STATES, ANY OF ITS STATES, CANADA, OR ANY PROVINCE
6 OR TERRITORY OF CANADA.~~

7 (2) To the extent necessary to satisfy the reserve requirements of this
8 subtitle, a life insurer may not have {more than:

9 (i) 10% of its total admitted assets in preferred stock;

10 (ii) 10% of its total admitted assets in common stock; or

11 (iii) 5% of its total admitted assets in the stock of any one
12 corporation} ~~MORE THAN 20% OF ITS TOTAL ADMITTED ASSETS IN EQUITY
13 INTERESTS OR 5% OF ITS TOTAL ADMITTED ASSETS IN THE EQUITY INTERESTS OF
14 ANY ONE BUSINESS ENTITY.~~

15 (g) (1) The reserve investments of a life insurer may include loans secured
16 by first mortgages, or deeds of trust, on unencumbered fee-simple or improved
17 leasehold real estate in a state or a province of Canada in an amount not exceeding
18 85% of the fair market value of the real estate.

19 (2) A life insurer may not include an amount from an investment made
20 under paragraph (1) of this subsection that exceeds 75% of the fair market value of
21 the real estate in reserve and capital stock investments under this subtitle unless the
22 real estate:

23 (i) is primarily improved by a residence; or

24 (ii) is farm property used for farming purposes and the loan amount
25 on any one farm property does not exceed \$500,000.

26 (3) (i) Notwithstanding paragraph (1) of this subsection, but subject to
27 subparagraph (ii) of this paragraph, a life insurer may include an amount from an
28 investment made under paragraph (1) of this subsection not exceeding 95% of the fair
29 market value of the real estate if:

30 1. the real estate is improved by a dwelling primarily
31 intended for occupancy by not more than four families; and

32 2. a mortgage insurance company authorized to do business
33 in this State and not affiliated with the entity making the loan guarantees or insures
34 that part of the loan in excess of 85% of the fair market value of the real estate.

35 (ii) A life insurer may not place more than 3% of its admitted assets
36 in loans in which the amount of the loan exceeds 90% of the fair market value of the
37 security of the loan.

1 (4) A loan authorized by this subsection must provide for the
2 amortization of principal over a period of not more than 30 years, with payments to be
3 made at least annually.

4 (5) (i) If a loan is made on real estate improved by a building, the
5 improvements must be insured against loss by fire.

6 (ii) The fire insurance policy required by subparagraph (i) of this
7 paragraph shall:

8 1. contain the New York or Massachusetts standard
9 mortgage clause or its equivalent; and

10 2. be delivered to the mortgagee as additional security for
11 the loan.

12 (iii) A policy that insures against loss by fire and other coverages
13 satisfies the requirements of this subsection.

14 (6) The requirements of this section and any other law of the State that
15 require security on a loan, prescribe the nature, amount, or form of security on a loan,
16 or limit the interest rate on a loan do not apply if the reserve investments consist of
17 bonds, notes, or other evidences of indebtedness secured by mortgages or deeds of
18 trust that are guaranteed or insured by an instrumentality of the United States
19 under the National Housing Act, Servicemen's Readjustment Act of 1944, or
20 Bankhead-Jones Farm Tenant Act.

21 (h) (1) Subject to paragraphs (2) and (3) of this subsection, the reserve
22 investments of a life insurer may include ground rents in any state.

23 (2) For unexpired redeemable ground rents, any premiums paid must be:

24 (i) amortized over the period between the date of acquisition and
25 the earliest redemption date; or

26 (ii) charged off before the redemption date.

27 (3) For expired redeemable ground rents, any premiums paid must be
28 charged off when acquired.

29 (4) A life insurer shall carry redeemable ground rents purchased at a
30 discount at an amount not greater than the cost of acquisition.

31 (i) (1) The reserve investments of a life insurer may include collateral loans
32 secured by pledge of any security listed in subsections (c) through (h) of this section if
33 the current market value of the pledged security at all times during the term of the
34 loan is at least 10% more than the unpaid balance of the loan amount.

1 (2) Each collateral loan is subject to the power of the life insurer to
2 terminate it if the pledged security depreciates below 10% of the unpaid balance of
3 the loan amount.

4 (j) (1) For purposes of this subsection, real estate sold under a contract of
5 sale in which title is retained in the life insurer shall be classified as real estate.

6 (2) Subject to paragraph (3) of this subsection, the reserve investments
7 of a life insurer may include:

8 (i) real estate for the office and business purposes only of the life
9 insurer, except as authorized by subsections (g) and (h) of this section; or

10 (ii) property primarily for the use of employees or customers of the
11 life insurer for parking with or without charge.

12 (3) The equity value of all real estate held under paragraph (2) of this
13 subsection may not exceed 20% of the life insurer's total admitted assets.

14 (4) A life insurer may purchase and hold real estate under a foreclosure
15 of its own mortgages or a deed in lieu of mortgage foreclosure for not more than 5
16 years.

17 (5) Subject to paragraph (6) of this subsection, the Commissioner may
18 grant extensions for periods not exceeding 5 years each of the period within which
19 real estate may be held under paragraph (4) of this subsection, if the Commissioner
20 considers the extensions necessary to serve the best interest of the life insurer and its
21 policyholders.

22 (6) Before the Commissioner may refuse to grant extensions under
23 paragraph (5) of this subsection, an appraisal of the real estate shall be obtained. If
24 the appraisal shows that the appraised value of the real estate equals or exceeds the
25 book value of the real estate, the Commissioner shall grant extensions for periods not
26 exceeding 5 years each.

27 (7) With the written approval of the Commissioner, a life insurer may
28 acquire property as partial payment of the consideration for the sale of real estate
29 owned by the life insurer if the transaction causes a net reduction in the investment
30 of the life insurer in real estate.

31 (8) With the approval of the Commissioner, a life insurer may acquire
32 other real estate if necessary or convenient to enhance the market value of real estate
33 previously acquired or held by the life insurer in accordance with this subsection.

34 (k) The reserve investments of a life insurer may include interest, rents, or
35 other fixed income due and accrued on:

36 (1) an investment authorized under subsections (c) through (e) and (g)
37 through (j) of this section; or

1 (2) policy loans of the life insurer.

2 (1) (1) The real estate authorized by this subsection to be held as a reserve
3 investment by a life insurer does not include property to be used primarily for mining,
4 recreational, amusement, hotel, or club purposes.

5 (2) Subject to paragraphs (3) through (6) of this subsection, the reserve
6 investments of a life insurer may include fee-simple or improved leasehold real estate
7 or interests in limited partnerships formed for the development or ownership of
8 fee-simple or improved leasehold real estate, if acquired:

9 (i) as an investment for the production of income; or

10 (ii) to be improved or developed as an investment for the production
11 of income.

12 (3) The cost of each parcel of fee-simple or improved leasehold real
13 estate or each limited partnership interest acquired under this subsection, including
14 the cost to the life insurer of improving or developing the real estate, may not exceed:

15 (i) 15% of the admitted assets of the life insurer, when added to the
16 book value of all other fee-simple or improved leasehold real estate or limited
17 partnership interests then held by the life insurer under this subsection; and

18 (ii) 20% of the total admitted assets of the life insurer, when added
19 to the value of all real estate however acquired or held for investment by the life
20 insurer, including home office and branch office properties.

21 (4) The cost of each parcel of fee-simple or improved leasehold real
22 estate or each limited partnership interest acquired under this section, including the
23 cost to the life insurer of improving or developing the real estate, may not exceed 1%
24 of the admitted assets of the life insurer.

25 (5) (i) Except as otherwise required by the Commissioner, each parcel
26 of fee-simple or improved leasehold real estate held by a life insurer directly or
27 through a limited partnership under this subsection shall be valued on the books of
28 the life insurer as of December 31 of each year at an amount that includes a
29 write-down of the cost of the property, excluding the land cost, but including all
30 improvements or development costs, at a rate that averages not less than 2% per year
31 of the cost of the property for each year or part of a year that the property is held.

32 (ii) The admitted values of each parcel of fee-simple or improved
33 leasehold real estate held under this subsection may not exceed the depreciated value
34 of the property.

35 (6) A life insurer may not count towards its cash reserves any more than
36 the lesser of:

37 (i) 75% of the investment value of any limited partnership interest;
38 and

1 (ii) 75% of the current book value of that limited partnership
2 interest.

3 (7) (i) Interests in limited partnerships under this subsection shall be
4 valued at the actual cost of the investment adjusted by any additional capital
5 contributions or capital withdrawals.

6 (ii) The valuation of a limited partnership interest may not exceed
7 the life insurer's proportionate share of the equity of the real estate asset owned by
8 the limited partnership.

9 (M) THE RESERVE INVESTMENTS OF A LIFE INSURER MAY INCLUDE THOSE
10 INVESTMENTS PERMITTED UNDER § 5-509 OF THIS SUBTITLE.

11 (N) (1) THE RESERVE INVESTMENTS OF A LIFE INSURER MAY INCLUDE
12 SECURITIES LENDING, REPURCHASE, REVERSE REPURCHASE, AND DOLLAR ROLL
13 TRANSACTIONS WITH BUSINESS ENTITIES, SUBJECT TO THE REQUIREMENTS OF
14 PARAGRAPHS (2) THROUGH (9) OF THIS SUBSECTION.

15 (2) THE INSURER'S BOARD OF DIRECTORS SHALL ADOPT A WRITTEN
16 PLAN THAT SPECIFIES GUIDELINES AND OBJECTIVES TO BE FOLLOWED, SUCH AS:

17 (I) A DESCRIPTION OF HOW CASH RECEIVED WILL BE INVESTED
18 OR USED FOR GENERAL CORPORATE PURPOSES OF THE INSURER;

19 (II) OPERATIONAL PROCEDURES TO MANAGE INTEREST RATE RISK,
20 COUNTERPARTY DEFAULT RISK, THE CONDITIONS UNDER WHICH PROCEEDS FROM
21 REVERSE REPURCHASE TRANSACTIONS MAY BE USED IN THE ORDINARY COURSE OF
22 BUSINESS, AND THE USE OF ACCEPTABLE COLLATERAL IN A MANNER THAT
23 REFLECTS THE LIQUIDITY NEEDS OF THE TRANSACTION; AND

24 (III) THE EXTENT TO WHICH THE INSURER MAY ENGAGE IN THESE
25 TRANSACTIONS.

26 (3) (I) THE INSURER SHALL ENTER INTO A WRITTEN AGREEMENT FOR
27 ALL TRANSACTIONS AUTHORIZED UNDER THIS SUBSECTION OTHER THAN DOLLAR
28 ROLL TRANSACTIONS.

29 (II) THE WRITTEN AGREEMENT SHALL REQUIRE THAT EACH
30 TRANSACTION TERMINATE NO MORE THAN 1 YEAR FROM ITS INCEPTION OR ON THE
31 EARLIER DEMAND OF THE INSURER.

32 (III) THE AGREEMENT SHALL BE WITH THE BUSINESS ENTITY
33 COUNTERPARTY, BUT FOR SECURITIES LENDING TRANSACTIONS, THE AGREEMENT
34 MAY BE WITH AN AGENT ACTING ON BEHALF OF THE INSURER, IF THE AGENT IS A
35 QUALIFIED BUSINESS ENTITY, AND IF THE AGREEMENT:

36 1. REQUIRES THE AGENT TO ENTER INTO SEPARATE
37 AGREEMENTS WITH EACH COUNTERPARTY THAT ARE CONSISTENT WITH THE
38 REQUIREMENTS OF THIS SECTION; AND

1 2. PROHIBITS SECURITIES LENDING TRANSACTIONS UNDER
2 THE AGREEMENT WITH THE AGENT OR ITS AFFILIATES.

3 (4) (I) CASH RECEIVED IN A TRANSACTION UNDER THIS SUBSECTION
4 SHALL BE INVESTED IN ACCORDANCE WITH THIS SUBTITLE AND IN A MANNER THAT
5 RECOGNIZES THE LIQUIDITY NEEDS OF THE TRANSACTION OR USED BY THE
6 INSURER FOR ITS GENERAL CORPORATE PURPOSES.

7 (II) FOR SO LONG AS THE TRANSACTION REMAINS OUTSTANDING,
8 THE INSURER, ITS AGENT, OR CUSTODIAN SHALL MAINTAIN, AS TO ACCEPTABLE
9 COLLATERAL RECEIVED IN A TRANSACTION UNDER THIS SUBSECTION, EITHER
10 PHYSICALLY OR THROUGH THE BOOK ENTRY SYSTEMS OF THE FEDERAL RESERVE,
11 DEPOSITORY TRUST COMPANY, PARTICIPANTS TRUST COMPANY, OR OTHER
12 SECURITIES DEPOSITORIES APPROVED BY THE COMMISSIONER:

13 1. POSSESSION OF THE ACCEPTABLE COLLATERAL;

14 2. A PERFECTED SECURITY INTEREST IN THE ACCEPTABLE
15 COLLATERAL; OR

16 3. IN THE CASE OF A JURISDICTION OUTSIDE THE UNITED
17 STATES, TITLE TO, OR RIGHTS OF A SECURED CREDITOR TO, THE ACCEPTABLE
18 COLLATERAL.

19 (5) (I) THE LIMITATIONS OF § 5-507 OF THIS SUBTITLE DO NOT APPLY
20 TO THE BUSINESS ENTITY COUNTERPARTY EXPOSURE CREATED BY TRANSACTIONS
21 UNDER THIS SUBSECTION.

22 (II) FOR PURPOSES OF CALCULATIONS MADE TO DETERMINE
23 COMPLIANCE WITH THIS SUBSECTION, NO EFFECT WILL BE GIVEN TO THE
24 INSURER'S FUTURE OBLIGATION TO RESELL SECURITIES, IN THE CASE OF A
25 REPURCHASE TRANSACTION, OR TO REPURCHASE SECURITIES, IN THE CASE OF A
26 REVERSE REPURCHASE TRANSACTION.

27 (III) AN INSURER MAY NOT ENTER INTO A TRANSACTION UNDER
28 THIS SUBSECTION IF, AS A RESULT OF AND AFTER GIVING EFFECT TO THE
29 TRANSACTION:

30 1. A. THE AGGREGATE AMOUNT OF SECURITIES THEN
31 LOANED, SOLD TO, OR PURCHASED FROM ANY ONE BUSINESS ENTITY
32 COUNTERPARTY UNDER THIS SUBSECTION WOULD EXCEED 5% OF ITS ADMITTED
33 ASSETS; AND

34 B. IN CALCULATING THE AMOUNT SOLD TO OR PURCHASED
35 FROM A BUSINESS ENTITY COUNTERPARTY UNDER REPURCHASE OR REVERSE
36 REPURCHASE TRANSACTIONS, EFFECT MAY BE GIVEN TO ~~MEETING~~ NETTING
37 PROVISIONS UNDER A MASTER WRITTEN AGREEMENT; OR

1 2. THE AGGREGATE AMOUNT OF ALL SECURITIES THEN
2 LOANED, SOLD TO, OR PURCHASED FROM ALL BUSINESS ENTITIES UNDER THIS
3 SUBSECTION WOULD EXCEED 40% OF ITS ADMITTED ASSETS.

4 (6) (I) IN A SECURITIES LENDING TRANSACTION, THE INSURER SHALL
5 RECEIVE ACCEPTABLE COLLATERAL HAVING A MARKET VALUE AS OF THE
6 TRANSACTION DATE AT LEAST EQUAL TO 102% OF THE MARKET VALUE OF THE
7 SECURITIES LOANED BY THE INSURER IN THE TRANSACTION AS OF THAT DATE.

8 (II) IF AT ANY TIME THE MARKET VALUE OF THE ACCEPTABLE
9 COLLATERAL IS LESS THAN THE MARKET VALUE OF THE LOANED SECURITIES, THE
10 BUSINESS ENTITY COUNTERPARTY SHALL BE OBLIGATED TO DELIVER ADDITIONAL
11 ACCEPTABLE COLLATERAL, THE MARKET VALUE OF WHICH, TOGETHER WITH THE
12 MARKET VALUE OF ALL ACCEPTABLE COLLATERAL THEN HELD IN CONNECTION
13 WITH THE TRANSACTION, AT LEAST EQUALS 102% OF THE MARKET VALUE OF THE
14 LOANED SECURITIES.

15 (7) (I) IN A REVERSE REPURCHASE TRANSACTION, OTHER THAN A
16 DOLLAR ROLL TRANSACTION, THE INSURER SHALL RECEIVE ACCEPTABLE
17 COLLATERAL HAVING A MARKET VALUE AS OF THE TRANSACTION DATE AT LEAST
18 EQUAL TO 95% OF THE MARKET VALUE OF THE SECURITIES TRANSFERRED BY THE
19 INSURER IN THE TRANSACTION AS OF THAT DATE.

20 (II) IF AT ANY TIME THE MARKET VALUE OF THE ACCEPTABLE
21 COLLATERAL IS LESS THAN 95% OF THE MARKET VALUE OF THE SECURITIES SO
22 TRANSFERRED, THE BUSINESS ENTITY COUNTERPARTY SHALL BE OBLIGATED TO
23 DELIVER ADDITIONAL ACCEPTABLE COLLATERAL, THE MARKET VALUE OF WHICH,
24 TOGETHER WITH THE MARKET VALUE OF ALL ACCEPTABLE COLLATERAL THEN
25 HELD IN CONNECTION WITH THE TRANSACTION, AT LEAST EQUALS 95% OF THE
26 MARKET VALUE OF THE TRANSFERRED SECURITIES.

27 (8) IN A DOLLAR ROLL TRANSACTION, THE INSURER SHALL RECEIVE
28 CASH IN AN AMOUNT AT LEAST EQUAL TO THE MARKET VALUE OF THE SECURITIES
29 TRANSFERRED BY THE INSURER IN THE TRANSACTION AS OF THE TRANSACTION
30 DATE.

31 (9) (I) IN A REPURCHASE TRANSACTION, THE INSURER SHALL
32 RECEIVE AS ACCEPTABLE COLLATERAL TRANSFERRED SECURITIES HAVING A
33 MARKET VALUE AT LEAST EQUAL TO 102% OF THE PURCHASE PRICE PAID BY THE
34 INSURER FOR THE SECURITIES.

35 (II) IF AT ANY TIME THE MARKET VALUE OF THE ACCEPTABLE
36 COLLATERAL IS LESS THAN 100% OF THE PURCHASE PRICE PAID BY THE INSURER,
37 THE BUSINESS ENTITY COUNTERPARTY SHALL BE OBLIGATED TO PROVIDE
38 ADDITIONAL ACCEPTABLE COLLATERAL, THE MARKET VALUE OF WHICH, TOGETHER
39 WITH THE MARKET VALUE OF ALL ACCEPTABLE COLLATERAL THEN HELD IN
40 CONNECTION WITH THE TRANSACTION, AT LEAST EQUALS 102% OF THE PURCHASE
41 PRICE.

1 (III) SECURITIES ACQUIRED BY AN INSURER IN A REPURCHASE
2 TRANSACTION MAY NOT BE SOLD IN A REVERSE REPURCHASE TRANSACTION,
3 LOANED IN A SECURITIES LENDING TRANSACTION, OR OTHERWISE PLEDGED.

4 (O) (1) THE RESERVE INVESTMENTS OF A LIFE INSURER MAY INCLUDE
5 DERIVATIVE TRANSACTIONS UNDER THIS SUBSECTION, WHETHER ENTERED INTO
6 DIRECTLY OR INDIRECTLY THROUGH AN INVESTMENT SUBSIDIARY, UNDER THE
7 CONDITIONS OF PARAGRAPHS (2) THROUGH (7) OF THIS SUBSECTION.

8 (2) (I) AN INSURER MAY USE DERIVATIVE INSTRUMENTS UNDER THIS
9 SUBSECTION TO ENGAGE IN HEDGING TRANSACTIONS ~~AND INCOME GENERATION~~
10 ~~TRANSACTIONS.~~

11 ~~(II) AN INSURER SHALL BE ABLE TO DEMONSTRATE TO THE~~
12 ~~COMMISSIONER THE INTENDED HEDGING CHARACTERISTICS AND THE ONGOING~~
13 ~~EFFECTIVENESS OF THE DERIVATIVE TRANSACTION OR COMBINATION OF THE~~
14 ~~TRANSACTIONS THROUGH CASH FLOW TESTING OR OTHER APPROPRIATE ANALYSES.~~

15 ~~(III) THE COMMISSIONER MAY ADOPT REASONABLE REGULATIONS~~
16 ~~FOR INVESTMENTS AND TRANSACTIONS UNDER THIS SUBSECTION, INCLUDING~~
17 ~~REGULATIONS TO IMPOSE FINANCIAL SOLVENCY STANDARDS, VALUATION~~
18 ~~STANDARDS, AND REPORTING REQUIREMENTS.~~

19 (II) PRIOR TO ENTERING INTO ANY DERIVATIVE TRANSACTION,
20 THE BOARD OF DIRECTORS OF THE INSURER SHALL APPROVE A DERIVATIVE USE
21 PLAN THAT:

22 1. DESCRIBES INVESTMENT OBJECTIVES AND RISK
23 CONSTRAINTS, SUCH AS COUNTERPARTY EXPOSURE AMOUNTS;

24 2. DEFINES PERMISSIBLE TRANSACTIONS IDENTIFYING THE
25 RISKS TO BE HEDGED, THE ASSETS OR LIABILITIES BEING REPLICATED; AND

26 3. REQUIRES COMPLIANCE WITH INTERNAL CONTROL
27 PROCEDURES THAT DEMONSTRATE THE INTENDED HEDGING CHARACTERISTICS
28 AND THE ONGOING EFFECTIVENESS OF THE DERIVATIVE TRANSACTION OR
29 COMBINATION OF THE TRANSACTIONS THROUGH CASH FLOW TESTING OR OTHER
30 APPROPRIATE ANALYSES.

31 ~~(IV) (III) WHENEVER THE DERIVATIVE TRANSACTIONS ENTERED~~
32 ~~INTO UNDER THIS SUBSECTION ARE NOT IN COMPLIANCE WITH THIS SUBSECTION~~
33 ~~OR, IF CONTINUED, MAY NOW OR SUBSEQUENTLY, CREATE A HAZARDOUS FINANCIAL~~
34 ~~CONDITION TO THE INSURER THAT AFFECTS ITS POLICYHOLDERS, CREDITORS, OR~~
35 ~~THE GENERAL PUBLIC, THE COMMISSIONER MAY, AFTER NOTICE AND AN~~
36 ~~OPPORTUNITY FOR A HEARING, ORDER THE INSURER TO TAKE ANY ACTION AS MAY~~
37 ~~BE REASONABLY NECESSARY TO:~~

38 1. RECTIFY A HAZARDOUS FINANCIAL CONDITION; OR

1 2. PREVENT AN IMPENDING HAZARDOUS FINANCIAL
2 CONDITION FROM OCCURRING.

3 (3) AN INSURER MAY ENTER INTO HEDGING TRANSACTIONS UNDER
4 THIS SUBSECTION IF, AS A RESULT OF AND AFTER GIVING EFFECT TO THE
5 TRANSACTION:

6 (I) THE AGGREGATE STATEMENT VALUE OF OPTIONS, CAPS,
7 FLOORS, AND WARRANTS NOT ATTACHED TO ANOTHER FINANCIAL INSTRUMENT
8 PURCHASED AND USED IN HEDGING TRANSACTIONS DOES NOT EXCEED 7.5% OF ITS
9 ADMITTED ASSETS;

10 (II) THE AGGREGATE STATEMENT VALUE OF OPTIONS, CAPS, AND
11 FLOORS WRITTEN IN HEDGING TRANSACTIONS DOES NOT EXCEED 3% OF ITS
12 ADMITTED ASSETS; AND

13 (III) THE AGGREGATE POTENTIAL EXPOSURE OF COLLARS, SWAPS,
14 FORWARDS, AND FUTURES USED IN HEDGING TRANSACTIONS DOES NOT EXCEED
15 6.5% OF ITS ADMITTED ASSETS.

16 (4) (4) AN INSURER MAY ENTER INTO THE FOLLOWING TYPES OF
17 INCOME GENERATION TRANSACTIONS SUBJECT TO THE QUANTITATIVE LIMITS OF
18 SUBPARAGRAPH (H) OF THIS PARAGRAPH:

19 1. ~~SALES OF COVERED CALL OPTIONS ON NONCALLABLE
20 FIXED INCOME SECURITIES, CALLABLE FIXED INCOME SECURITIES IF THE OPTION
21 EXPIRES BY ITS TERMS PRIOR TO THE END OF THE NONCALLABLE PERIOD, OR
22 DERIVATIVE INSTRUMENTS BASED ON FIXED INCOME SECURITIES;~~

23 2. ~~SALES OF COVERED CALL OPTIONS ON EQUITY
24 SECURITIES, IF THE INSURER HOLDS IN ITS PORTFOLIO, OR CAN IMMEDIATELY
25 ACQUIRE THROUGH THE EXERCISE OF OPTIONS, WARRANTS, OR CONVERSION
26 RIGHTS ALREADY OWNED, THE EQUITY SECURITIES SUBJECT TO CALL DURING THE
27 COMPLETE TERM OF THE CALL OPTION SOLD;~~

28 3. ~~SALES OF COVERED PUTS ON INVESTMENTS THAT THE
29 INSURER IS PERMITTED TO ACQUIRE UNDER THIS SUBTITLE, IF THE INSURER HAS
30 ESCROWED, OR ENTERED INTO A CUSTODIAN AGREEMENT SEGREGATING, CASH OR
31 CASH EQUIVALENTS WITH A MARKET VALUE EQUAL TO THE AMOUNT OF ITS
32 PURCHASE OBLIGATIONS UNDER THE PUT DURING THE COMPLETE TERM OF THE
33 PUT OPTION SOLD; OR~~

34 4. ~~SALES OF COVERED CAPS OR FLOORS, IF THE INSURER
35 HOLDS IN ITS PORTFOLIO THE INVESTMENTS GENERATING THE CASH FLOW TO
36 MAKE THE REQUIRED PAYMENTS UNDER THE CAPS OR FLOORS DURING THE
37 COMPLETE TERM THAT THE CAP OR FLOOR IS OUTSTANDING.~~

38 (H) THE TRANSACTIONS DESCRIBED IN SUBPARAGRAPH (I) OF THIS
39 PARAGRAPH ARE SUBJECT TO THE FOLLOWING QUANTITATIVE LIMITS: IF AS A
40 RESULT OF AND AFTER GIVING EFFECT TO THE TRANSACTIONS, THE AGGREGATE

~~1 STATEMENT VALUE OF THE FIXED INCOME ASSETS THAT ARE SUBJECT TO CALL OR
2 THAT GENERATE THE CASH FLOWS FOR PAYMENTS UNDER THE CAPS OR FLOORS,
3 PLUS THE FACE VALUE OF FIXED INCOME SECURITIES UNDERLYING A DERIVATIVE
4 INSTRUMENT SUBJECT TO CALL, PLUS THE AMOUNT OF THE PURCHASE
5 OBLIGATIONS UNDER THE PUTS, DOES NOT EXCEED 10% OF ITS ADMITTED ASSETS.~~

6 ~~(5)~~ (4) AN INSURER SHALL INCLUDE ALL COUNTERPARTY EXPOSURE
7 AMOUNTS IN DETERMINING COMPLIANCE WITH THE LIMITATIONS OF § 5-507 OF
8 THIS SUBTITLE.

9 ~~(6)~~ (4) IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER THIS
10 SUBSECTION, THE COMMISSIONER MAY APPROVE ADDITIONAL TRANSACTIONS
11 INVOLVING THE USE OF DERIVATIVE INSTRUMENTS IN EXCESS OF THE LIMITS OF
12 PARAGRAPH (3) OF THIS SUBSECTION OR FOR OTHER RISK MANAGEMENT PURPOSES
13 UNDER REGULATIONS ADOPTED BY THE COMMISSIONER, BUT REPLICATION
14 TRANSACTIONS MAY NOT BE PERMITTED FOR OTHER THAN RISK MANAGEMENT
15 PURPOSES.

16 ~~(H)~~ AN INSURER MAY PURCHASE OR SELL ONE OR MORE
17 DERIVATIVE INSTRUMENTS TO OFFSET, IN WHOLE OR IN PART, ANY DERIVATIVE
18 INSTRUMENT PREVIOUSLY PURCHASED OR SOLD, AS THE CASE MAY BE, WITHOUT
19 REGARD TO THE QUANTITATIVE LIMITATIONS OF THIS SUBSECTION, PROVIDED
20 THAT THE OFFSETTING TRANSACTION UTILIZES THE SAME TYPE OF DERIVATIVE
21 INSTRUMENT AS THE DERIVATIVE INSTRUMENT BEING OFFSET.

22 ~~(7)~~ (5) EACH DERIVATIVE INSTRUMENT SHALL BE:

23 (I) TRADED ON A SECURITIES EXCHANGE;

24 (II) ENTERED INTO WITH, OR GUARANTEED BY, A BUSINESS
25 ENTITY;

26 (III) ISSUED OR WRITTEN BY OR ENTERED INTO WITH THE ISSUER
27 OF THE UNDERLYING INTEREST ON WHICH THE DERIVATIVE INSTRUMENT IS BASED;
28 OR

29 (IV) IN THE CASE OF FUTURES, TRADED THROUGH A BROKER THAT
30 IS REGISTERED AS A FUTURES COMMISSION MERCHANT UNDER THE COMMODITY
31 EXCHANGE ACT OR THAT HAS RECEIVED EXEMPTIVE RELIEF FROM REGISTRATION
32 UNDER RULE 30.10 ADOPTED UNDER THE COMMODITY EXCHANGE ACT.

33 (P) (1) THE RESERVE INVESTMENTS OF A LIFE INSURER MAY INCLUDE
34 MONEY MARKET MUTUAL FUNDS AS DEFINED BY 17 CFR 270.2A-7 UNDER THE
35 INVESTMENT COMPANY ACT OF 1940 (15 U.S.C. 80A-1 ET SEQ.) THAT MAY BE EITHER
36 OF THE FOLLOWING:

37 (I) GOVERNMENT MONEY MARKET MUTUAL FUND, WHICH IS A
38 MONEY MARKET MUTUAL FUND THAT:

1 1. INVESTS ONLY IN OBLIGATIONS ISSUED, GUARANTEED,
2 OR INSURED BY THE FEDERAL GOVERNMENT OF THE UNITED STATES OR
3 COLLATERALIZED REPURCHASE AGREEMENTS COMPOSED OF THESE OBLIGATIONS;
4 AND

5 2. QUALIFIES FOR INVESTMENT WITHOUT A RESERVE
6 UNDER THE PURPOSES AND PROCEDURES OF THE SECURITIES VALUATION OFFICE
7 OR ANY SUCCESSOR PUBLICATION; OR

8 (II) CLASS ONE MONEY MARKET MUTUAL FUND, WHICH IS A
9 MONEY MARKET MUTUAL FUND THAT QUALIFIES FOR INVESTMENT USING THE
10 BOND CLASS ONE RESERVE FACTOR UNDER THE PURPOSES AND PROCEDURES OF
11 THE SECURITIES VALUATION OFFICE OR ANY SUCCESSOR PUBLICATION.

12 (2) FOR PURPOSES OF DETERMINING WHETHER A MONEY MARKET
13 MUTUAL FUND IS TO BE CLASSIFIED AS AN EQUITY INTEREST OR WITHIN THIS
14 SUBSECTION, MONEY MARKET FUNDS QUALIFYING FOR LISTING WITHIN THIS
15 SUBSECTION MUST CONFORM TO THE PURPOSES AND PROCEDURES OF THE
16 SECURITIES VALUATION OFFICE OR ANY SUCCESSOR PUBLICATION.

17 ~~(Q) THE RESERVE INVESTMENTS OF A LIFE INSURER MAY INCLUDE OTHER OR
18 ADDITIONAL INVESTMENTS AS MAY BE PERMITTED UNDER REGULATIONS ADOPTED
19 BY THE COMMISSIONER.~~

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2000.