

SENATE BILL 600

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2003 Regular Session
3r1943

By: **Senator Astle**

Introduced and read first time: February 5, 2003

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Life Insurers - Board of Directors - Investments Practices**

3 FOR the purpose of repealing a certain provision of law related to investment and
4 loan practices of certain life insurers; requiring the board of directors of a life
5 insurer to adopt a certain plan for acquiring and holding investments and
6 engaging in investment practices; requiring the plan to specify certain
7 guidelines related to certain investment and financial needs of a life insurer;
8 requiring the board to take certain action before adopting the plan; requiring
9 the board to supervise and direct certain investments; requiring the board to
10 determine certain information about certain investments and to make a certain
11 resolution; requiring the board to determine whether certain investment
12 activity is consistent with the plan by reviewing certain documentation and
13 revising the plan as needed; requiring the board in the discharge of its duties to
14 require that certain information be made available to the board; requiring each
15 director of the board or a committee authorized by the board to act in a certain
16 manner; providing that, for purposes of this Act, the governing body of a life
17 insurer that does not have a board of directors shall be deemed to be a board of
18 directors; repealing a certain provision of law related to reserve requirements;
19 providing that a life insurer may not acquire certain investments if the
20 investments would exceed certain admitted assets of a life insurer under certain
21 circumstances; requiring that any replicated asset be subject to certain
22 provisions and limitations; defining certain terms; and generally relating to
23 investment practices by life insurers and the boards of directors of life insurers.

24 BY renumbering

25 Article - Insurance
26 Section 5-511(a)(17), (18), (19), and (20), respectively
27 to be Section 5-511(a)(20), (21), (22), and (23), respectively
28 Annotated Code of Maryland
29 (1997 Volume and 2002 Supplement)

30 BY repealing and reenacting, with amendments,

31 Article - Insurance
32 Section 5-505 and 5-511(a)(15) and (16), (d)(1)(vi), and (o)(1)

1 Annotated Code of Maryland
2 (1997 Volume and 2002 Supplement)

3 BY repealing and reenacting, without amendments,
4 Article - Insurance
5 Section 5-511(a)(1)
6 Annotated Code of Maryland
7 (1997 Volume and 2002 Supplement)

8 BY adding to
9 Article - Insurance
10 Section 5-511(a)(15), (16), and (19), (d)(3), and (o)(6)
11 Annotated Code of Maryland
12 (1997 Volume and 2002 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That Section(s) 5-511(a)(17), (18), (19), and (20), respectively, of Article
15 - Insurance of the Annotated Code of Maryland be renumbered to be Section(s)
16 5-511(a)(20), (21), (22), and (23), respectively.

17 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
18 read as follows:

19 **Article - Insurance**

20 5-505.

21 (a) [This section does not apply to policy loans or annuity contract loans.

22 (b) A life insurer may not make an investment or loan unless the investment
23 or loan is authorized by:

24 (1) the board of directors of the life insurer; or

25 (2) a committee authorized by the board of directors of the life insurer to
26 supervise or make investments and loans.

27 (c) The committee described in subsection (b)(2) of this section shall:

28 (1) record its minutes; and

29 (2) submit regular reports of the committee to the board of directors.]

30 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
31 INDICATED.

32 (2) "BOARD" MEANS THE BOARD OF DIRECTORS OF A LIFE INSURER.

1 (3) "COMMITTEE" MEANS A COMMITTEE AUTHORIZED BY THE BOARD OF
2 DIRECTORS OF A LIFE INSURER.

3 (B) (1) THE BOARD SHALL ADOPT A WRITTEN PLAN FOR:

4 (I) ACQUIRING AND HOLDING INVESTMENTS; AND

5 (II) ENGAGING IN INVESTMENT PRACTICES.

6 (2) THE PLAN REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION
7 SHALL SPECIFY GUIDELINES FOR THE:

8 (I) QUALITY, MATURITY, AND DIVERSIFICATION OF INVESTMENTS;
9 AND

10 (II) INVESTMENT STRATEGIES THAT ASSURE THAT INVESTMENTS
11 AND INVESTMENT PRACTICES ARE APPROPRIATE FOR:

12 1. THE BUSINESS CONDUCTED BY THE LIFE INSURER;

13 2. THE LIQUIDITY NEEDS OF THE LIFE INSURER; AND

14 3. THE CAPITAL AND SURPLUS REQUIREMENTS OF THE LIFE
15 INSURER.

16 (3) BEFORE ADOPTING THE PLAN REQUIRED UNDER PARAGRAPH (1) OF
17 THIS SUBSECTION, THE BOARD SHALL REVIEW AND ASSESS THE LIFE INSURER'S
18 TECHNICAL INVESTMENT AND ADMINISTRATIVE CAPABILITIES AND INVESTMENT
19 EXPERTISE.

20 (C) (1) THE BOARD SHALL SUPERVISE AND DIRECT ANY INVESTMENTS
21 ACQUIRED AND HELD UNDER THIS SUBTITLE.

22 (2) AT LEAST ANNUALLY, THE BOARD BY FORMAL RESOLUTION SHALL
23 DETERMINE THAT ALL INVESTMENTS HAVE BEEN MADE IN ACCORDANCE WITH
24 DELEGATIONS, STANDARDS, LIMITATIONS, AND INVESTMENT OBJECTIVES
25 PRESCRIBED BY THE BOARD OR COMMITTEE CHARGED WITH THE RESPONSIBILITY
26 OF DIRECTING THE LIFE INSURER'S INVESTMENTS.

27 (D) IN ORDER TO DETERMINE WHETHER THE INVESTMENT ACTIVITY OF THE
28 LIFE INSURER IS CONSISTENT WITH THE PLAN REQUIRED UNDER SUBSECTION (B)
29 OF THIS SECTION, ON AT LEAST A QUARTERLY BASIS, THE BOARD OR COMMITTEE
30 SHALL:

31 (1) RECEIVE AND REVIEW A SUMMARY REPORT ON THE LIFE INSURER'S
32 INVESTMENT PORTFOLIO, INVESTMENT ACTIVITIES, AND INVESTMENT PRACTICES
33 ENGAGED IN UNDER DELEGATED AUTHORITY; AND

34 (2) REVIEW AND REVISE AS NEEDED THE PLAN REQUIRED UNDER
35 SUBSECTION (B) OF THIS SECTION.

1 (E) IN THE DISCHARGE OF DUTIES UNDER THIS SECTION:

2 (1) THE BOARD SHALL REQUIRE THAT THE FOLLOWING BE MADE
3 AVAILABLE ON A REGULAR BASIS TO THE BOARD:

4 (I) THE RECORDS OF ANY AUTHORIZATIONS OR APPROVALS;

5 (II) THE REPORTS OF ANY ACTION TAKEN UNDER THE AUTHORITY
6 DELEGATED UNDER THE PLAN REQUIRED UNDER SUBSECTION (B) OF THIS SECTION;
7 AND

8 (III) ANY OTHER DOCUMENTATION AS THE BOARD MAY REQUIRE;
9 AND

10 (2) EACH DIRECTOR SHALL PERFORM THEIR DUTIES AS A DIRECTOR,
11 INCLUDING ANY DUTIES AS A MEMBER OF A COMMITTEE:

12 (I) IN GOOD FAITH;

13 (II) IN A MANNER REASONABLY BELIEVED TO BE IN THE BEST
14 INTERESTS OF THE INSURER; AND

15 (III) WITH THAT DEGREE OF CARE THAT AN ORDINARILY PRUDENT
16 PERSON IN A LIKE POSITION WOULD USE UNDER SIMILAR CIRCUMSTANCES.

17 (F) IF A LIFE INSURER DOES NOT HAVE A BOARD, ALL REFERENCES TO THE
18 BOARD IN THIS SECTION SHALL BE DEEMED TO BE REFERENCES TO THE GOVERNING
19 BODY OF THE LIFE INSURER HAVING AUTHORITY EQUIVALENT TO THAT OF A BOARD.
20 5-511.

21 (a) (1) In this section and in § 5-509 of this subtitle the following words
22 have the meanings indicated.

23 (15) "LOWER GRADE OBLIGATION" MEANS AN OBLIGATION THAT IS
24 RATED FOUR, FIVE, OR SIX BY THE SECURITIES VALUATION OFFICE OF THE
25 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

26 (16) "MEDIUM GRADE OBLIGATION" MEANS AN OBLIGATION THAT IS
27 RATED THREE BY THE SECURITIES VALUATION OFFICE OF THE NATIONAL
28 ASSOCIATION OF INSURANCE COMMISSIONERS.

29 [(15)] (17) "Qualified guarantor" means a guarantor against which an
30 insurer has a direct claim for full and timely payment, evidenced by a contractual
31 right for which an enforcement action can be brought in a domestic jurisdiction.

32 [(16)] (18) "Qualified primary credit source" means the credit source to
33 which an insurer looks for payment as to an investment and against which an insurer
34 has a direct claim for full and timely payment, evidenced by a contractual right for
35 which an enforcement action can be brought in a domestic jurisdiction.

1 (19) (I) "REPLICATION TRANSACTION" MEANS A DERIVATIVE
2 TRANSACTION THAT IS INTENDED TO REPLICATE THE PERFORMANCE OF ONE OR
3 MORE ASSETS THAT A LIFE INSURER IS AUTHORIZED TO ACQUIRE UNDER THIS
4 SECTION.

5 (II) "REPLICATION TRANSACTION" DOES NOT INCLUDE A
6 DERIVATIVE TRANSACTION ENTERED INTO AS A HEDGING TRANSACTION.

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

8 (vi) asset backed securities rated investment grade by at least one
9 of the nationally recognized statistical rating organizations, and which either trade
10 on a regulated nationally recognized exchange or are traded by a minimum of two
11 registered broker-dealers. To the extent necessary to satisfy the reserve requirements
12 of this subtitle, a life insurer may not have more than[:

13 1. 20% of its total admitted assets in asset backed securities;

14 2. 10% of its total admitted assets in asset backed securities
15 representing an interest in assets or pools of assets other than commercial or
16 residential mortgages; and

17 3.] 3% of its total admitted assets in the asset backed
18 securities of any one issuer; and

19 (3) A LIFE INSURER MAY NOT ACQUIRE DIRECTLY OR INDIRECTLY
20 THROUGH AN INVESTMENT SUBSIDIARY AN INVESTMENT UNDER SUBSECTION (D),
21 (E), OR (F) OF THIS SECTION OR § 5-509 OF THIS SUBTITLE, OR COUNTERPARTY
22 EXPOSURE UNDER SUBSECTION (O) OF THIS SECTION, IF AS A RESULT OF AND AFTER
23 GIVING EFFECT TO THE INVESTMENT:

24 (I) THE AGGREGATE AMOUNT OF MEDIUM AND LOWER GRADE
25 INVESTMENTS THEN HELD BY THE LIFE INSURER WOULD EXCEED 20% OF THE LIFE
26 INSURER'S ADMITTED ASSETS;

27 (II) THE AGGREGATE AMOUNT OF LOWER GRADE INVESTMENTS
28 THEN HELD BY THE LIFE INSURER WOULD EXCEED 10% OF THE LIFE INSURER'S
29 ADMITTED ASSETS;

30 (III) THE AGGREGATE AMOUNT OF INVESTMENTS RATED FIVE OR
31 SIX BY THE SECURITIES VALUATION OFFICE OF THE NATIONAL ASSOCIATION OF
32 INSURANCE COMMISSIONERS THEN HELD BY THE LIFE INSURER WOULD EXCEED 3%
33 OF THE LIFE INSURER'S ADMITTED ASSETS;

34 (IV) THE AGGREGATE AMOUNT OF INVESTMENTS RATED SIX BY
35 THE SECURITIES VALUATION OFFICE OF THE NATIONAL ASSOCIATION OF
36 INSURANCE COMMISSIONERS THEN HELD BY THE LIFE INSURER WOULD EXCEED 1%
37 OF THE LIFE INSURER'S ADMITTED ASSETS;

1 (V) THE AGGREGATE AMOUNT OF MEDIUM AND LOWER GRADE
2 INVESTMENTS THEN HELD BY THE LIFE INSURER THAT RECEIVE AS CASH INCOME
3 LESS THAN THE EQUIVALENT YIELD FOR UNITED STATES DEPARTMENT OF THE
4 TREASURY ISSUES WITH A COMPARATIVE AVERAGE LIFE, WOULD EXCEED 1% OF THE
5 LIFE INSURER'S ADMITTED ASSETS;

6 (VI) THE FOLLOWING WOULD EXCEED 1% OF THE LIFE INSURER'S
7 ADMITTED ASSETS:

8 1. THE AGGREGATE AMOUNT OF MEDIUM AND LOWER
9 GRADE INVESTMENTS ISSUED, ASSUMED, GUARANTEED, ACCEPTED, OR INSURED BY
10 ANY ONE PERSON; OR

11 2. ANY ASSET-BACKED SECURITIES SECURED BY OR
12 EVIDENCING AN INTEREST IN A SINGLE ASSET OR POOL OF ASSETS; OR

13 (VII) THE FOLLOWING WOULD EXCEED ONE-HALF OF ONE PERCENT
14 OF THE LIFE INSURER'S ADMITTED ASSETS:

15 1. THE AGGREGATE AMOUNT OF LOWER GRADE
16 INVESTMENTS ISSUED, ASSUMED, GUARANTEED, ACCEPTED, OR INSURED BY ANY
17 ONE PERSON; OR

18 2. ANY ASSET-BACKED SECURITIES SECURED BY OR
19 EVIDENCING AN INTEREST IN A SINGLE ASSET OR POOL OF ASSETS.

20 (o) (1) The reserve investments of a life insurer may include derivative
21 transactions under this subsection, whether entered into directly or indirectly
22 through an investment subsidiary, under the conditions of paragraphs (2) through
23 [(7)] (6) of this subsection.

24 (6) ANY ASSET BEING REPLICATED IS SUBJECT TO ALL OF THE
25 PROVISIONS AND LIMITATIONS ON THE INVESTMENT AS IF THE REPLICATION
26 TRANSACTION CONSTITUTED A DIRECT INVESTMENT BY THE LIFE INSURER IN THE
27 REPLICATED ASSET.

28 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2003.