

SENATE BILL 600

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2003 Regular Session
3r1943
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By: **Senator Astle**
Introduced and read first time: February 5, 2003
Assigned to: Rules
Re-referred to: Finance, February 7, 2003

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 18, 2003

CHAPTER _____

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

1 to be Section 5-511(a)(20), (21), (22), and (23), respectively
2 Annotated Code of Maryland
3 (1997 Volume and 2002 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article - Insurance
6 Section 5-505 and 5-511(a)(15) and (16), (d)(1)(vi), and (o)(1)
7 Annotated Code of Maryland
8 (1997 Volume and 2002 Supplement)

9 BY repealing and reenacting, without amendments,
10 Article - Insurance
11 Section 5-511(a)(1)
12 Annotated Code of Maryland
13 (1997 Volume and 2002 Supplement)

14 BY adding to
15 Article - Insurance
16 Section 5-511(a)(15), (16), and (19), (d)(3), and (o)(6)
17 Annotated Code of Maryland
18 (1997 Volume and 2002 Supplement)

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

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

25 **Article - Insurance**

26 5-505.

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

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

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

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

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

34 (1) record its minutes; and

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

2 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

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

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

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

8 (I) ACQUIRING AND HOLDING INVESTMENTS; AND

9 (II) ENGAGING IN INVESTMENT PRACTICES.

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

12 (I) QUALITY, MATURITY, AND DIVERSIFICATION OF INVESTMENTS;
13 AND

14 (II) INVESTMENT STRATEGIES THAT ASSURE THAT INVESTMENTS
15 AND INVESTMENT PRACTICES ARE APPROPRIATE FOR:

16 1. THE BUSINESS CONDUCTED BY THE LIFE INSURER;

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

18 3. THE CAPITAL AND SURPLUS REQUIREMENTS OF THE LIFE
19 INSURER.

20 (3) BEFORE ADOPTING THE PLAN REQUIRED UNDER PARAGRAPH (1) OF
21 THIS SUBSECTION, THE BOARD SHALL REVIEW AND ASSESS THE LIFE INSURER'S
22 TECHNICAL INVESTMENT AND ADMINISTRATIVE CAPABILITIES AND INVESTMENT
23 EXPERTISE.

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

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

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

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

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

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

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

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

10 (II) THE REPORTS OF ANY ACTION TAKEN UNDER THE AUTHORITY
11 DELEGATED UNDER THE PLAN REQUIRED UNDER SUBSECTION (B) OF THIS SECTION;
12 AND

13 (III) ANY OTHER DOCUMENTATION AS THE BOARD MAY REQUIRE;
14 AND

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

17 (I) IN GOOD FAITH;

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

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

22 (F) IF A LIFE INSURER DOES NOT HAVE A BOARD, ALL REFERENCES TO THE
23 BOARD IN THIS SECTION SHALL BE DEEMED TO BE REFERENCES TO THE GOVERNING
24 BODY OF THE LIFE INSURER HAVING AUTHORITY EQUIVALENT TO THAT OF A BOARD.

25 5-511.

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

28 (15) "~~LOWER GRADE OBLIGATION INVESTMENT~~" MEANS AN INVESTMENT
29 OBLIGATION THAT IS RATED FOUR, FIVE, OR SIX BY THE SECURITIES VALUATION
30 OFFICE OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

31 (16) "~~MEDIUM GRADE OBLIGATION INVESTMENT~~" MEANS AN
32 INVESTMENT OBLIGATION THAT IS RATED THREE BY THE SECURITIES VALUATION
33 OFFICE OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

1 [(15)] (17) "Qualified guarantor" means a guarantor against which an
2 insurer has a direct claim for full and timely payment, evidenced by a contractual
3 right for which an enforcement action can be brought in a domestic jurisdiction.

4 [(16)] (18) "Qualified primary credit source" means the credit source to
5 which an insurer looks for payment as to an investment and against which an insurer
6 has a direct claim for full and timely payment, evidenced by a contractual right for
7 which an enforcement action can be brought in a domestic jurisdiction.

8 (19) (I) "REPLICATION TRANSACTION" MEANS A DERIVATIVE
9 TRANSACTION THAT IS INTENDED TO REPLICATE THE PERFORMANCE OF ONE OR
10 MORE ASSETS THAT A LIFE INSURER IS AUTHORIZED TO ACQUIRE UNDER THIS
11 SECTION.

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

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

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

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

21 2. 10% of its total admitted assets in asset backed securities
22 representing an interest in assets or pools of assets other than commercial or
23 residential mortgages; and

24 3.] 3% of its total admitted assets in the asset backed
25 securities of any one issuer; and

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

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

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

37 (III) THE AGGREGATE AMOUNT OF INVESTMENTS RATED FIVE OR
38 SIX BY THE SECURITIES VALUATION OFFICE OF THE NATIONAL ASSOCIATION OF

1 INSURANCE COMMISSIONERS THEN HELD BY THE LIFE INSURER WOULD EXCEED 3%
2 OF THE LIFE INSURER'S ADMITTED ASSETS;

3 (IV) THE AGGREGATE AMOUNT OF INVESTMENTS RATED SIX BY
4 THE SECURITIES VALUATION OFFICE OF THE NATIONAL ASSOCIATION OF
5 INSURANCE COMMISSIONERS THEN HELD BY THE LIFE INSURER WOULD EXCEED 1%
6 OF THE LIFE INSURER'S ADMITTED ASSETS;

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

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

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

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

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

21 1. THE AGGREGATE AMOUNT OF LOWER GRADE
22 INVESTMENTS ISSUED, ASSUMED, GUARANTEED, ACCEPTED, OR INSURED BY ANY
23 ONE PERSON; OR

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

26 (o) (1) The reserve investments of a life insurer may include derivative
27 transactions under this subsection, whether entered into directly or indirectly
28 through an investment subsidiary, under the conditions of paragraphs (2) through
29 [(7)] (6) of this subsection.

30 (6) ANY ASSET BEING REPLICATED IS SUBJECT TO ALL OF THE
31 PROVISIONS AND LIMITATIONS ON THE INVESTMENT AS IF THE REPLICATION
32 TRANSACTION CONSTITUTED A DIRECT INVESTMENT BY THE LIFE INSURER IN THE
33 REPLICATED ASSET.

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

