

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: S3/27/01 S4/03/01

A Bill

SENATE BILL 987

5 By: Senator T. Smith
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS
10 CODE RELATING TO INSURANCE; AND FOR OTHER
11 PURPOSES.
12

Subtitle

14 AN ACT TO AMEND VARIOUS SECTIONS OF THE
15 ARKANSAS CODE RELATING TO INSURANCE.
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code 23-63-825 is amended to read as follows:

21 23-63-825. ~~Miscellaneous investments~~ Additional investment authority.

22 ~~(a) An insurer may make loans or investments not otherwise expressly~~
23 ~~permitted under this subchapter, in aggregate amount not over ten percent~~
24 ~~(10%) of the insurer's assets and not over three percent (3%) of the assets~~
25 ~~as to any one (1) such loan or investment, if that loan or investment~~
26 ~~fulfills the requirements of § 23-63-803 and otherwise qualifies as a sound~~
27 ~~investment. No such loan or investment shall be represented by:-~~

28 ~~(1) Any item described in § 23-63-603 concerning assets not~~
29 ~~allowed, or any loan or investment otherwise expressly prohibited;-~~

30 ~~(2) Any category of loans or investments eligible under any~~
31 ~~other provisions of this subchapter;-~~

32 ~~(3) Any asset theretofore acquired or held by the insurer under~~
33 ~~any other category of loans or investments eligible under this subchapter.-~~

34 ~~(b) The insurer shall keep a separate record of all loans and~~
35 ~~investments made under this section.-~~

36 ~~(c) If, subsequent to its acquisition under this section, an~~

1 ~~investment becomes eligible as an investment under any other section of this~~
2 ~~subchapter, then the insurer may consider the investment as held under that~~
3 ~~other section, and if so considered, the investment shall thereafter not be~~
4 ~~subject to this section.~~

5 (a)(1) An insurer may acquire under this section investments, or
6 engage in investment practices, of any kind that are not specifically
7 prohibited by this subsection or elsewhere in the Code, or engage in
8 investment practices, without regard to any aggregate limitation in this
9 subchapter, but an insurer shall not admit an investment or engage in an
10 investment practice under this section if, as a result of and after giving
11 effect to the transaction, the aggregate amount of the investments then held
12 by the insurer under this section would exceed the lesser of:

13 (A) Ten percent (10%) of its admitted assets; or

14 (B) *Seventy-five percent (75%) of its total capital and*
15 surplus.

16 (2) This additional authority does not apply to the following
17 investments:

18 (A) Medium grade or lower grade bonds, or rated credit
19 instruments;

20 (B) Mortgages or mortgage loans;

21 (C) Total of real estate, both home office and real estate
22 held for investment income, except with the commissioner's advance approval;

23 (D) Foreign investments and foreign currency exposures;
24 and

25 (E) Derivatives.

26 (3) As used in subsection (a) of this section, "insurer" means
27 licensed domestic life insurer, accident and health insurers or other
28 licensed domestic reporting entities which transact life or accident or
29 health contracts or plans in this state.

30 (b)(1) An insurer may acquire under this section investments, or
31 engage in investment practices, of any kind that are not specifically
32 prohibited by this subchapter, or engage in investment practices, without
33 regard to any aggregate limitation in this subchapter, but an insurer shall
34 not admit an investment or engage in an investment practice under this
35 section if, as a result of and after giving effect to the transaction, the
36 aggregate amounts of the investments then held by the insurer under this

1 section would exceed the lesser of:

2 (A) Ten percent (10%) of its admitted assets; or

3 (B) Seventy-five percent (75%) of its total capital and
4 surplus.

5 (2) This additional authority does not apply to the following
6 investments:

7 (A) Medium grade or lower grade bonds, or rated credit
8 instruments;

9 (B) Equity interests;

10 (C) Mortgages or mortgage loans;

11 (D) Total of real estate, both home office and real estate
12 held for investment income, except with the commissioner's advance approval;

13 (E) Foreign investments and foreign currency exposures;

14 and

15 (F) Derivatives.

16 (3) As used in subsection (b) of this section, "insurer" means
17 domestic property, casualty, surety, or marine, financial guaranty, and
18 mortgage guaranty insurers, and domestic insurers transacting title
19 insurance.

20 (c) If, upon enactment, the immediate application of this section
21 would have the effect of reducing the admitted asset value of assets held by
22 a particular insurer, the insurer may continue to reflect as admitted assets
23 those assets that would be admissible but for the enactment of this section
24 until January 1, 2004.

25
26 SECTION 2. Arkansas Code 23-69-134(b), concerning the home office of
27 specified domestic insurers, is amended by adding an additional subdivision
28 to read as follows:

29 (5) Government money market mutual fund or class one money
30 market mutual fund shares held or managed by a securities broker-dealer firm
31 which meets the standards prescribed in subdivision (b)(4)(A) of this section
32 subject to any limitations on domestic insurer investments of this nature
33 which may be otherwise contained in this Code. Provided further that no such
34 money market mutual fund shares owned by the insurer shall be required to be
35 issued in certificated form, nor held by the insurer in a custodian account.
36 For purposes of this subsection:

1 (A) "Class one money market mutual fund" means a money
2 market mutual fund that at all times qualifies for investment using the bond
3 class one reserve factor under the "Purposes and Procedures Manual of the
4 NAI C Securities Valuation Office" or any successor publication;

5 (B) "Government money market mutual fund" means a money
6 market mutual fund that at all times:

7 (i) Invests only in obligations issued, guaranteed
8 or insured by the federal government of the United States or collateralized
9 repurchase agreements composed of these obligations; and

10 (ii) Qualifies for investment without a reserve
11 under the "Purposes and Procedures of the Securities Valuation Office" or any
12 successor publication.

13 (C) "Mutual fund" means an investment company or, in the
14 case of an investment company that is organized as a series company, an
15 investment company series, that, in either case, is registered with the
16 United States Securities and Exchange Commission under the Investment Company
17 Act of 1940 (15 U.S.C. §§ 80a-1 et seq.) as amended; and

18 (D) "Money market mutual fund" means a mutual fund that
19 meets the conditions of 17 Code of Federal Regulations Par. 270.2a-7, under
20 the Investment Company Act of 1940 (15 U.S.C. §§ 80a-1 et seq.), as amended
21 or renumbered.

22
23 SECTION 3. *Arkansas Code 23-62-109(c)(1), concerning funding*
24 *agreements, is amended to read as follows:*

25 (c)(1) *Funding agreements may be issued to:*

26 (A) *Individuals; or*

27 (B) *Entities authorized by this state to engage in an*
28 *insurance business; or*

29 (C) *Entities other than individuals and other than persons*
30 *or entities authorized to engage in an insurance business, but only for the*
31 *purpose of funding benefits under any employee benefit plan as defined in the*
32 *Employee Retirement Income Security Act of 1974, as now or hereafter amended,*
33 *maintained in the United States or in a foreign country; or*

34 (D) *Fund any employee benefit plan or any other program*
35 *sponsored by the Government of the United States, the government of any state*
36 *or foreign country, or political subdivision thereof, or any agency thereof,*

1 and only if such agreement is issued in an amount of no less than five
2 hundred thousand dollars (\$500,000); or

3 (E) Fund a program of an institution which has assets in
4 excess of twenty-five million dollars (\$25,000,000).

5
6 SECTION 4. Arkansas Code 23-63-805(1), concerning domestic insurer
7 investments in any one person, is amended to read as follows:

8 (1) ~~One Person. An insurer shall not, except with the consent of the~~
9 ~~commissioner, have at any one time any combination of investments in or loans~~
10 ~~upon the security of the obligations, property, or securities of any one (1)~~
11 ~~person or issuer aggregating an amount exceeding ten percent (10%) of the~~
12 ~~insurer's assets, except that investments in certificates of deposit and~~
13 ~~savings and loan association deposits in any one (1) person may be the~~
14 ~~greater of ten percent (10%) of the insurer's assets or the maximum amount of~~
15 ~~federal insurance applicable to the deposit. This restriction shall not apply~~
16 ~~as to general obligations of the United States or of any state, or include~~
17 ~~policy loans made under § 23-63-821;~~

18 (A) Except with the consent of the commissioner and except as
19 otherwise specified in this subchapter, an insurer shall not have, directly
20 or indirectly through an investment subsidiary, an investment under this
21 subchapter if, as a result of and after giving effect to the investment, the
22 insurer would hold more than five percent (5%) of its admitted assets in
23 investments of all kinds issued, assumed, accepted, insured or guaranteed by
24 a single person, or five percent (5%) of its admitted assets in investments
25 in the voting securities of a depository institution or any company that
26 controls the institution. The five percent (5%) limitation shall not apply
27 to the aggregate amounts insured by a single financial guaranty insurer with
28 the highest generic rating issued by a nationally recognized statistical
29 rating organization; and investments in certificates of deposit and savings
30 and loan association deposits in any one (1) person may be the greater of ten
31 percent (10%) of the insurer's assets or the maximum amount of federal
32 insurance applicable to the deposit. This restriction shall not apply as to
33 general obligations of the United States or of any state, or include policy
34 loans made under § 23-63-821. Provided further, the applicable limitation
35 shall be twenty percent (20%) rather than five percent (5%) as to direct
36 obligations of certain federal agencies identified in § 23-63-812 of this

1 code.

2 (B) If upon enactment, the immediate application of this
3 provision would have the effect of reducing the admitted asset value of
4 assets held by a particular insurer, the insurer may continue to reflect as
5 admitted those assets that would be admissible but for the enactment of this
6 provision, until the annual statement filing for the year ended December 31,
7 2004.

8
9 SECTION 5. Arkansas Code 23-63-840(a) is amended to read as follows:

10 (a) An insurer may invest in collateralized mortgage obligations
11 ~~without investment limitation~~ provided that the underlying mortgages pledged
12 to the repayment of principal and interest of the collateralized mortgage
13 obligation are in themselves unconditionally guaranteed as to timely
14 repayment of principal and interest by the United States, or by any agency or
15 instrumentality of the United States; and provided that the specific
16 investment right within that collateralized mortgage obligation is not a zero
17 coupon class, residual interest, or a class designated as principal or
18 interest only-, provided that the aggregate amount of collateralized mortgage
19 obligations secured by or evidencing an interest in a single asset or single
20 pool of assets held by a trust or other business entity, then held by the
21 insurer would not exceed five percent (5%) of the insurer's total admitted
22 assets. For purposes of the "one person" diversification restriction found
23 in § 23-63-805(1), collateral mortgage obligations issued by the United
24 States or any agency or instrumentality of the United States shall not be
25 considered investments in or loans upon the security of the obligations,
26 property or securities of the United States or any such agency or
27 instrumentality of the United States. If upon enactment, the immediate
28 application of this provision would have the effect of reducing the admitted
29 asset value of assets held by a particular insurer, the insurer may continue
30 to reflect as admitted those assets that would be admissible but for the
31 enactment of this provision, until the annual statement filing for the year
32 ended December 31, 2004.

33
34 /s/ T. Smith
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