

17:24-18

May 5, 1971

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LEGISLATIVE NOTES ON R.S. 17:24-18
(Authority of a life insurance company to purchase, sell, or
distribute securities)

Earlier bills introduced (1965-1970):

1969 - A624 (Cafiero & Hurley)

L. 1970, Chapter 162 - A462

Introduced January 29 by Cafiero and Hurley.
Assembly committee amendment adopted April 9, 1970.
(copy enclosed).
Bill had statement (copy enclosed).

No hearings or reports were located.

RSL/PC

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ASSEMBLY, No. 462

STATE OF NEW JERSEY

INTRODUCED JANUARY 29, 1970

By Assemblymen CAFIERO and HURLEY

Referred to Committee on Insurance

AN ACT to clarify the authority of any domestic life insurance company to enter into any transaction for the purchase, sale or distribution of securities and amending chapter 201 of the laws of 1967 (C. 17:24-17 et seq.).

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 2 of P. L. 1967, chapter 201 (C. 17:24-18) is amended
2 to read as follows:

3 2. No domestic life insurance company shall purchase more
3A than 8% of any class of stock which entitled the holder thereof to
4 vote at all elections of directors of any one corporation, unless it
5 be a municipal corporation, *an investment company within the*
6 *meaning of the Investment Company Act of 1940 (15 U.S.C.A.*
7 *80a-1 et seq.) for which such life insurance company or its sub-*
8 *subsidiary is the investment manager or investment adviser, or a*
9 corporation engaged primarily in a business involving the owning,
10 developing or leasing of real property, nor shall the amount in-
11 vested by any such life insurance company in the voting stock of
12 any one corporation exceed 2% of the total admitted assets of such
13 life insurance company as of December 31 next preceding, nor shall
14 the aggregate investment in the common stock of all corporations
15 (exclusive of investments in separate accounts established pursuant
16 to section 17:35A-6 and investments in the common stock of sub-
17 sidiaries pursuant to section 4 hereof) valued at cost exceed 15%
18 of such assets except that to the extent that such aggregate in-
19 vestment in stock exceeds 10% of such assets, further investments
20 shall be subject to regulation by the commissioner under a formula
21 which shall take into consideration the actual mandatory securities
22 valuation reserve, as defined by the Committee on Valuation of
23 Securities of the National Association of Insurance Commissioners,

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24 held by a company which is applicable to such stocks in the corre-
 25 sponding annual statement filed with the department, nor shall
 26 the amount invested in the evidences of indebtedness, preferred
 27 stock and receiver certificates of any one institution exceed 5%
 28 of such assets. Nothing herein contained shall prevent any such
 29 life insurance company from purchasing, investing in or otherwise
 30 acquiring the voting stock of certain corporations as hereinafter
 31 provided in this chapter.

32 No investment shall be made by any such life insurance company
 33 unless the same shall be authorized by the board of directors, or by
 34 a committee thereof charged with the duty of supervising such in-
 35 vestment *or shall be made in conformity with standards approved*
 36 *by the board of directors or by such committee.*

37 No such life insurance company shall [underwrite or participate
 38 in any underwriting of the purchase or sale of securities or prop-
 39 erty, or enter into any transaction for such purchase or sale on
 40 account of any such life insurance company jointly with any other
 41 person, firm or corporation, nor shall any such life insurance com-
 42 pany enter into any agreement to withhold from sale any of its
 43 property, but the disposition of its property shall be at all times
 44 within the control of its board of directors.] *jointly or severally*
 45 *enter into any agreement to purchase the unsold amount of securi-*
 46 *ties which are the subject of an offering for sale to the public or*
 47 *otherwise to guarantee the sale of such securities.*

48 *Nothing contained in this section shall prevent any such life in-*
 48A *surance company from distributing shares of an investment*
 49 *company within the meaning of the Investment Company Act of*
 50 *1940 for which such life insurance company or its subsidiary is the*
 51 *investment manager or investment adviser.*

52 Any life insurance company may enter into an agreement to ac-
 53 quire any investment permitted by law, directly with the issuer
 54 or owner thereof, and may participate with other investors pro-
 55 vided that the obligations of such insurer and such other investors
 56 shall be several and not joint.

1 2. This act shall take effect immediately.

STATEMENT

Under the Federal Securities Act of 1940 the terms "underwrite" and "underwriting" cover transactions which were not within the scope of these terms when they were enacted in 1907. These terms have been eliminated and the new language at the end of the paragraph defines the type of transactions which the underwriting restriction was designed to prohibit.

The new language in the second paragraph is to clarify the existence of the authority implied in the express language of this paragraph.

The language "nor shall any such life insurance company enter into any agreement to withhold from sale any of its property, but the disposition of its property shall be at all times within the control of its board of directors" has been eliminated since the size, scope of its operations and complexities of its investments of the modern insurance company make compliance with these restrictions impractical, unreasonable and unduly restrictive. Under general corporate law the board of directors of an insurance company retains overall control and supervision of the disposition of its assets.

The new language in the first and fourth paragraphs is for the purpose of implementing the authority an insurance company has to sell contracts based upon investments in the shares of an investment company.

ASSEMBLY COMMITTEE AMENDMENTS TO
ASSEMBLY, No. 462

STATE OF NEW JERSEY

ADOPTED APRIL 9, 1970

Amend page 1, section 1, line 5, delete “,” and insert in lieu thereof “;”.

Amend page 1, section 1, lines 5 to 8, after the word “corporation” and before the word “or”, delete the phrase “an investment company within the meaning of the Investment Company Act of 1940 (15 USCA 80a-1 et seq.) for which such life insurance company or its subsidiary is the investment manager or investment adviser,”.

Amend page 1, section 1, line 10, after the word “property” and before the word “shall”, delete “, nor” and insert in lieu thereof “; or an investment company within the meaning of the Investment Company Act of 1940 (15 USCA 80a-1 et seq.) for which such life insurance company or its subsidiary is the investment manager or investment adviser, provided that such investment company shall not own, control or hold in its portfolio any investment which, if added to the other investments of such life insurance company, would result in such life insurance company holding more than 8% of any class of stock which entitles the holder thereof to vote at all elections of directors of any one corporation; nor shall such life insurance company hold more than 8% of any such class of stock of any investment company pursuant to this section at any time when such life insurance company could not purchase such stock pursuant to the foregoing provisions of this section. Neither”.

Amend page 2, section 1, line 42, after “pany” and before the word “enter”, insert “[”.

Amend page 2, section 1, line 43, after the word “property,” and before the word “but”, insert “[”.

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2 to read as follows:

3 2. No domestic life insurance company shall purchase more
3A than 8% of any class of stock which entitled the holder thereof to
4 vote at all elections of directors of any one corporation, unless it
5 be a municipal corporation***[**, an investment company within the
6 meaning of the Investment Company Act of 1940 (15 U.S.C.A.
7 80a-1 et seq.) for which such life insurance company or its sub-
8 sidiary is the investment manager or investment adviser,**]*** *;* or a
9 corporation engaged primarily in a business involving the owning,
10 developing or leasing of real property***[**, nor**]*** *; or an investment
10A company within the meaning of the Investment Company Act of
10B 1940 (15 USCA 80a-1 et seq.) for which such life insurance com-
10C pany or its subsidiary is the investment manager or investment
10D adviser, provided that such investment company shall not own,
10E control or hold in its portfolio any investment which, if added to the
10F other investments of such life insurance company, would result in
10G such life insurance company holding more than 8% of any class of
10H stock which entitles the holder thereof to vote at all elections of
10I directors of any one corporation; nor shall such life insurance
10J company hold more than 8% of any such class of stock of any in-
10K vestment company pursuant to this section at any time when such
10L life insurance company could not purchase such stock pursuant to

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

10M *the foregoing provisions of this section. Neither** shall the amount
11 invested by any such life insurance company in the voting stock of
12 any one corporation exceed 2% of the total admitted assets of such
13 life insurance company as of December 31 next preceding, nor shall
14 the aggregate investment in the common stock of all corporations
15 (exclusive of investments in separate accounts established pursuant
16 to section 17:35A-6 and investments in the common stock of sub-
17 sidiaries pursuant to section 4 hereof) valued at cost exceed 15%
18 of such assets except that to the extent that such aggregate in-
19 vestment in stock exceeds 10% of such assets, further investments
20 shall be subject to regulation by the commissioner under a formula
21 which shall take into consideration the actual mandatory securities
22 valuation reserve, as defined by the Committee on Valuation of
23 Securities of the National Association of Insurance Commissioners,
24 held by a company which is applicable to such stocks in the corre-
25 sponding annual statement filed with the department, nor shall
26 the amount invested in the evidences of indebtedness, preferred
27 stock and receiver certificates of any one institution exceed 5%
28 of such assets. Nothing herein contained shall prevent any such
29 life insurance company from purchasing, investing in or otherwise
30 acquiring the voting stock of certain corporations as hereinafter
31 provided in this chapter.

32 No investment shall be made by any such life insurance company
33 unless the same shall be authorized by the board of directors, or by
34 a committee thereof charged with the duty of supervising such in-
35 vestment *or shall be made in conformity with standards approved*
36 *by the board of directors or by such committee.*

37 No such life insurance company shall [underwrite or participate
38 in any underwriting of the purchase or sale of securities or prop-
39 erty, or enter into any transaction for such purchase or sale on
40 account of any such life insurance company jointly with any other
41 person, firm or corporation, nor shall any such life insurance com-
42 pany]* enter into any agreement to withhold from sale any of its
43 property, *~~but the disposition of its property shall be at all times~~
44 within the control of its board of directors.] *jointly or severally*
45 *enter into any agreement to purchase the unsold amount of securi-*
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53 quire any investment permitted by law, directly with the issuer
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56 shall be several and not joint.

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