

# LEGISLATIVE HISTORY CHECKLIST

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## *LAWS of 1999*

**CHAPTER:** 20

**NJSA:** 17:24-28 to 17:24-36

(Investment pools -- property and casualty)

**BILL NO:**A1134

**SPONSOR(S):**Garrett

**DATE INTRODUCED:** Pre-filed

**COMMITTEE:**

*ASSEMBLY:*Banking and Insurance

*SENATE:*Commerce

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**

*ASSEMBLY:*May 28, 1998

*SENATE:* December 17, 1998

**DATE OF APPROVAL:**February 8, 1999

### THE FOLLOWING ARE ATTACHED IF AVAILABLE:

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**FINAL TEXT OF BILL:** *Yes* 1<sup>st</sup> Reprint

(Amendments During passage denoted by superscript numbers)

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## **A1134**

**SPONSORS STATEMENT:** *Yes* (Begins on page 6 of original bill.)

**COMMITTEE STATEMENT:**

**ASSEMBLY:***Yes*

**SENATE:***Yes*

**FLOOR AMENDMENT STATEMENTS:** *No*

**LEGISLATIVE FISCAL ESTIMATE:** *No*

**1<sup>st</sup> REPRINT:** (Final version) *Yes*

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## GOVERNOR'S ACTIONS

**VETO MESSAGE:** *No*

**GOVERNOR'S PRESS RELEASE ON SIGNING:** *Yes*

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### THE FOLLOWING WERE PRINTED:

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### REPORTS:

See relevant sections on "Investments of Insurers Model Act" in

#### **KF 1165 N5**

Niars Corporation. Billig, Thomas Clifford, 1894- National Association of Insurance Commissioners. **Official N.A.I.C. model insurance laws, regulations, and guidelines /** Minneapolis : The Corporation, c1977.

**HEARINGS:** *No*

**NEWSPAPER ARTICLES:** *No*

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## CHAPTER 20

AN ACT concerning investments by property and casualty insurers in investment pools.

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

C.17:24-28 Definitions relative to investment pools.

1. As used in this act:

"Business entity" means a corporation, limited liability company, limited liability partnership, association, partnership, joint stock company, joint venture, mutual fund trust, or other legal form of organization, whether organized for-profit or not-for-profit.

"Class one money market mutual fund" means a money market mutual fund that at all times qualifies for investment using the bond class one reserve factor under the published valuation standards of the Securities Valuation Office of the National Association of Insurance Commissioners.

"Commissioner" means the Commissioner of Banking and Insurance.

"Government money market mutual fund" means a money market mutual fund that at all times:

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

(2) Qualifies for investment without a reserve under the published valuation standards of the Securities Valuation Office of the National Association of Insurance Commissioners.

"Money market mutual fund" means a mutual fund that meets the conditions of 17 C.F.R.s.270.2a-7, under the federal "Investment Company Act of 1940," 15 U.S.C.s.80a-1 et seq.

"Obligation" means a bond, note, debenture, trust certificate including an equipment certificate, production payment, negotiable bank certificate of deposit, bankers' acceptance, credit tenant loan, loan secured by financing net leases and other evidence of indebtedness for the payment of money (or participations, certificates or other evidences of an interest in any of the foregoing), whether constituting a general obligation of the issuer or payable only out of certain revenues or certain funds pledged or otherwise dedicated for payment.

"Qualified bank" means a national bank, state bank or trust company that at all times is no less than adequately capitalized as determined by the standards adopted by the United States banking regulators and that is either regulated by state banking laws or is a member of the Federal Reserve System.

"Repurchase transaction" means a transaction in which an insurer purchases securities from a business entity that is obligated to repurchase the purchased securities or equivalent securities from the insurer at a specified price, either within a specified period of time or upon demand.

"Reverse repurchase transaction" means a transaction in which an insurer sells securities to a business entity and is obligated to repurchase the sold securities or equivalent securities from the business entity at a specified price, either within a specified period of time or upon demand.

"Securities lending transaction" means a transaction in which securities are loaned by an insurer to a business entity that is obligated to return the loaned securities or equivalent securities to the insurer, either within a specified period of time or upon demand.

"SVO" means the Securities Valuation Office of the National Association of Insurance Commissioners.

C.17:24-29 Permitted investments, qualifications.

2. An insurer may invest in investment pools that:

a. Invest only in:

(1) Obligations that are rated "1" or "2" by the SVO or have an equivalent of an SVO "1" or "2" rating by a nationally recognized statistical rating organization recognized by the SVO and have:

(a) A remaining maturity of 397 days or less or a put that entitles the holder to receive the principal amount of the obligation, which put may be exercised through maturity at specified intervals, not exceeding 397 days; or

(b) A remaining maturity of three years or less and a floating interest rate that resets no less frequently than quarterly on the basis of a current short-term index (federal funds, prime rate, treasury bills, London InterBank Offered Rate (LIBOR) or commercial paper) and is subject to

no maximum limit, if the obligations do not have an interest rate that varies inversely to market interest rate changes;

(2) Government money market mutual funds or class one money market mutual funds; or

(3) Securities lending, repurchase and reverse repurchase transactions on investments in which an insurer is permitted to invest pursuant to the provisions of R.S.17:24-1; or

b. Invest only in investments which an insurer may acquire under subsection a. of this section if the insurer's proportionate interest in the amount invested in these investments does not exceed the applicable limits of section 4 of this act.

C.17:24-30 Qualified investment pools.

3. For an investment in an investment pool to be qualified under this act, the investment pool shall not:

a. Acquire securities issued, assumed, guaranteed or insured by the insurer or an affiliate of the insurer;

b. Borrow or incur any indebtedness for borrowed money, except for securities lending and reverse repurchase transactions that meet the requirements of this act; or

c. Permit the aggregate value of securities then loaned or sold to, purchased from or invested in any one business entity under this act to exceed ten percent of the total assets of the investment pool.

C.17:24-31 Limits on permitted investments.

4. Notwithstanding the provisions of R.S.17:24-1 to the contrary, an insurer may invest in an investment pool, however, an insurer shall not acquire an investment in an investment pool under this act if, as a result of and after giving effect to the investment, the aggregate amount of investments then held by the insurer:

a. in any one investment pool would exceed ten percent of its admitted assets; or

b. In all investment pools, investing in investments permitted under section 2 of this act, would exceed thirty-five percent of its admitted assets.

C.17:24-32 Requirements of manager of investment pool.

5. For an investment in an investment pool to be qualified under this act, the manager of the investment pool shall:

a. Be organized under the laws of the United States or a state and designated as the pool manager in a pooling agreement;

b. Be the insurer, an affiliated insurer or a business entity affiliated with the insurer, a qualified bank, a business entity registered under the federal "Investment Advisors Act of 1940," 15 U.S.C.s.80A-1 et seq., or, in the case of a reciprocal insurer or interinsurance exchange, its attorney-in-fact, or in the case of a United States branch of an alien insurer, its United States manager or affiliated or subsidiaries of its United States manager;

c. Compile and maintain detailed accounting records setting forth:

(1) The cash receipts and disbursements reflecting each participant's proportionate investment in the investment pool;

(2) A complete description of all underlying assets of the investment pool (including amount, interest rate, maturity date (if any) and other appropriate designations); and

(3) Other records which, on a daily basis, allow third parties to verify each participant's investment in the investment pool; and

d. Maintain the assets of the investment pool in one or more accounts, in the name of or on behalf of the investment pool, under a custody agreement with a qualified bank. The custody agreement shall:

(1) State and recognize the claims and rights of each participant;

(2) Acknowledge that the underlying assets of the investment pool are held solely for the benefit of each participant in proportion to the aggregate amount of its investments in the investment pool;

(3) Contain an agreement that the underlying assets of the investment pool shall not be commingled with the general assets of the custodian qualified bank or any other person ; and

(4) Conform with guidelines established by the National Association of Insurance Commissioners and regulations governing custodial or safeguard agreements promulgated by the commissioner.

C.17:24-33 Written pooling agreement, terms.

6. The pooling agreement for each investment pool shall be in writing and shall provide that:

a. An insurer and its affiliated insurers or, in the case of an investment pool investing solely in investments permitted under section 2 of this act, the insurer and its subsidiaries, affiliates or any pension or profit sharing plan of the insurer, its subsidiaries and affiliates or, in the case of a United States branch of an alien insurer, affiliates or subsidiaries of its United States manager, shall, at all times, hold one hundred percent of the interests in the investments pool;

b. The underlying assets of the investment pool shall not be commingled with the general assets of the pool manager or any other person;

c. In proportion to the aggregate amount of each pool participant's interest in the investment pool:

(1) Each participant owns an undivided interest in the underlying assets of the investment pool; and

(2) The underlying assets of the investment pool are held solely for the benefit of each participant;

d. A participant, or in the event of the participant's insolvency, bankruptcy or receivership, its trustee, receiver or other successor-in-interest, may withdraw all or any portion of its investment from the pool under the terms of the pooling agreement;

e. Withdrawals may be made on demand without penalty or other assessment on any business day, but settlement of funds shall occur within a reasonable and customary period thereafter not to exceed five business days. Distributions under this paragraph shall be calculated in each case net of all then applicable fees and expenses of the investment pool. The pooling agreement shall provide that the pool manager shall distribute to a participant, at the discretion of the pool manager:

(1) In cash, the then fair market value of the participant's pro rata share of each underlying asset of the investment pool;

(2) In kind, a pro rata share of each underlying asset; or

(3) In a combination of cash and in kind distributions, a pro rata share in each underlying asset;

f. The pool manager shall make the records of the investment pool available for inspection by the commissioner, and an audit of the pool accounting records shall be conducted at least annually by an independent certified public accountant; and

g. Valuation of the assets of the investment pool shall be in conformance with valuation standards established by the National Association of Insurance Commissioners and regulations promulgated by the commissioner.

C.17:24-34 Investment pool, organized as business entity.

7. An investment pool established pursuant to the provisions of this act shall be a business entity and shall be a subsidiary organized to engage exclusively in the acquisition, ownership or management of investments, provided that the subsidiary is wholly-owned by two or more insurers domiciled in the United States, who are members of the same holding company system.

C.17:24-35 Authority of commissioner.

8. The commissioner shall have the authority to:

a. Review any investment pool agreement and disapprove that agreement if it does not comply with the provisions of this act;

b. Review the operation of any investment pool and order compliance with this act; and

c. Disallow, as an admitted asset, any investment not in compliance with the provisions of this act.

C.17:24-36 Inapplicability of C.17:27A-4 as to transaction standards.

9. The provisions of section 4 of P.L.1970, c.22 (C.17:27A-4) shall not apply to transactions between the pool and its participants, provided, however, that the investment activities of the pool and transactions between an insurer investment pool and its participants shall be reported annually in the registration statement required pursuant to section 3 of P.L.1970, c.22 (C.17:27A-3).

10. This act shall take effect immediately.

Approved February 8, 1999.

# ASSEMBLY, No. 1134

## STATE OF NEW JERSEY 208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

**Sponsored by:**

**Assemblyman E. SCOTT GARRETT**

**District 24 (Sussex, Hunterdon and Morris)**

**SYNOPSIS**

Establishes criteria for investment pools of property and casualty insurers.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



A1134 GARRETT

2

1 AN ACT concerning investments by property and casualty insurers in  
2 investment pools.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. As used in this act:

8 "Business entity" means a corporation, limited liability company,  
9 limited liability partnership, association, partnership, joint stock  
10 company, joint venture, mutual fund trust, or other legal form of  
11 organization, whether organized for-profit or not-for-profit.

12 "Class one money market mutual fund" means a money market  
13 mutual fund that at all times qualifies for investment using the bond  
14 class one reserve factor under the published valuation standards of the  
15 Securities Valuation Office of the National Association of Insurance  
16 Commissioners.

17 "Commissioner" means the Commissioner of Banking and  
18 Insurance.

19 "Government money market mutual fund" means a money market  
20 mutual fund that at all times:

21 (1) Invests only in obligations issued, guaranteed or insured by the  
22 federal government of the United States or collateralized and  
23 repurchase agreements composed of these obligations; and

24 (2) Qualifies for investment without a reserve under the published  
25 valuation standards of the Securities Valuation Office of the National  
26 Association of Insurance Commissioners.

27 "Money market mutual fund" means a mutual fund that meets the  
28 conditions of 17 C.F.R. §270.2a-7, under the federal "Investment  
29 Company Act of 1940," 15 U.S.C. §80a-1 et seq.

30 "Obligation" means a bond, note, debenture, trust certificate  
31 including an equipment certificate, production payment, negotiable  
32 bank certificate of deposit, bankers' acceptance, credit tenant loan,  
33 loan secured by financing net leases and other evidence of  
34 indebtedness for the payment of money (or participations, certificates  
35 or other evidences of an interest in any of the foregoing), whether  
36 constituting a general obligation of the issuer or payable only out of  
37 certain revenues or certain funds pledged or otherwise dedicated for  
38 payment.

39 "Qualified bank" means a national bank, state bank or trust  
40 company that at all times is no less than adequately capitalized as  
41 determined by the standards adopted by the United States banking  
42 regulators and that is either regulated by state banking laws or is a  
43 member of the Federal Reserve System.

44 "Repurchase transaction" means a transaction in which an insurer  
45 purchases securities from a business entity that is obligated to  
46 repurchase the purchased securities or equivalent securities from the



1 insurer at a specified price, either within a specified period of time or  
2 upon demand.

3 "Reverse repurchase transaction" means a transaction in which an  
4 insurer sells securities to a business entity and is obligated to  
5 repurchase the sold securities or equivalent securities from the  
6 business entity at a specified price, either within a specified period of  
7 time or upon demand.

8 "Securities lending transaction" means a transaction in which  
9 securities are loaned by an insurer to a business entity that is obligated  
10 to return the loaned securities or equivalent securities to the insurer,  
11 either within a specified period of time or upon demand.

12 "SVO" means the Securities Valuation Office of the National  
13 Association of Insurance Commissioners.

14

15 2. An insurer may invest in investment pools that:

16 a. Invest only in:

17 (1) Obligations that are rated "1" or "2" by the SVO or have an  
18 equivalent of an SVO "1" or "2" rating by a nationally recognized  
19 statistical rating organization recognized by the SVO and have:

20 (a) A remaining maturity of 397 days or less or a put that entitles  
21 the holder to receive the principal amount of the obligation, which put  
22 may be exercised through maturity at specified intervals, not exceeding  
23 397 days; or

24 (b) A remaining maturity of three years or less and a floating  
25 interest rate that resets no less frequently than quarterly on the basis  
26 of a current short-term index (federal funds, prime rate, treasury bills,  
27 London InterBank Offered Rate (LIBOR) or commercial paper) and  
28 is subject to no maximum limit, if the obligations do not have an  
29 interest rate that varies inversely to market interest rate changes;

30 (2) Government money market mutual funds or class one money  
31 market mutual funds; or

32 (3) Securities lending, repurchase and reverse repurchase  
33 transactions in accordance with the provisions of R.S.17:24-1; or

34 b. Invest only in investments which an insurer may acquire under  
35 subsection a. of this section if the insurer's proportionate interest in the  
36 amount invested in these investments does not exceed the applicable  
37 limits of section 4 of this act.

38

39 3. For an investment in an investment pool to be qualified under  
40 this act, the investment pool shall not:

41 a. Acquire securities issued, assumed, guaranteed or insured by the  
42 insurer or an affiliate of the insurer;

43 b. Borrow or incur any indebtedness for borrowed money, except  
44 for securities lending and reverse repurchase transactions that meet the  
45 requirements of this act; or

46 c. Permit the aggregate value of securities then loaned or sold to,

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1 purchased from or invested in any one business entity under this act to  
2 exceed ten percent of the total assets of the investment pool.

3

4 4. Notwithstanding the provisions of R.S.17:24-1 to the contrary,  
5 an insurer may invest in an investment pool, however, an insurer shall  
6 not acquire an investment in an investment pool under this act if, as a  
7 result of and after giving effect to the investment, the aggregate  
8 amount of investments then held by the insurer:

9 a. In any one investment pool would exceed ten percent of its  
10 admitted assets; or

11 b. In all investment pools, investing in investments permitted under  
12 section 2 of this act, would exceed thirty-five percent of its admitted  
13 assets.

14

15 5. For an investment in an investment pool to be qualified under  
16 this act, the manager of the investment pool shall:

17 a. Be organized under the laws of the United States or a state and  
18 designated as the pool manager in a pooling agreement;

19 b. Be the insurer, an affiliated insurer or a business entity affiliated  
20 with the insurer, a qualified bank, a business entity registered under  
21 the federal "Investment Advisors Act of 1940," 15 U.S.C. §80A-1 et  
22 seq., or, in the case of a reciprocal insurer or interinsurance exchange,  
23 its attorney-in-fact, or in the case of a United States branch of an alien  
24 insurer, its United States manager or affiliated or subsidiaries of its  
25 United States manager;

26 c. Compile and maintain detailed accounting records setting forth:

27 (1) The cash receipts and disbursements reflecting each  
28 participant's proportionate investment in the investment pool;

29 (2) A complete description of all underlying assets of the  
30 investment pool (including amount, interest rate, maturity date (if any)  
31 and other appropriate designations); and

32 (3) Other records which, on a daily basis, allow third parties to  
33 verify each participant's investment in the investment pool; and

34 d. Maintain the assets of the investment pool in one or more  
35 accounts, in the name of or on behalf of the investment pool, under a  
36 custody agreement with a qualified bank. The custody agreement  
37 shall:

38 (1) State and recognize the claims and rights of each participant;

39 (2) Acknowledge that the underlying assets of the investment pool  
40 are held solely for the benefit of each participant in proportion to the  
41 aggregate amount of its investments in the investment pool;

42 (3) Contain an agreement that the underlying assets of the  
43 investment pool shall not be commingled with the general assets of the  
44 custodian qualified bank or any other person ; and

45 (4) Conform with guidelines established by the National  
46 Association of Insurance Commissioners and regulations governing

1 custodial or safeguard agreements promulgated by the commissioner.

2

3 6. The pooling agreement for each investment pool shall be in  
4 writing and shall provide that:

5 a. An insurer and its affiliated insurers or, in the case of an  
6 investment pool investing solely in investments permitted under  
7 section 2 of this act, the insurer and its subsidiaries, affiliates or any  
8 pension or profit sharing plan of the insurer, its subsidiaries and  
9 affiliates or, in the case of a United States branch of an alien insurer,  
10 affiliates or subsidiaries of its United States manager, shall, at all  
11 times, hold one hundred percent of the interests in the investments  
12 pool;

13 b. The underlying assets of the investment pool shall not be  
14 commingled with the general assets of the pool manager or any other  
15 person;

16 c. In proportion to the aggregate amount of each pool participant's  
17 interest in the investment pool:

18 (1) Each participant owns an undivided interest in the underlying  
19 assets of the investment pool; and

20 (2) The underlying assets of the investment pool are held solely for  
21 the benefit of each participant;

22 d. A participant, or in the event of the participant's insolvency,  
23 bankruptcy or receivership, its trustee, receiver or other successor-in-  
24 interest, may withdraw all or any portion of its investment from the  
25 pool under the terms of the pooling agreement;

26 e. Withdrawals may be made on demand without penalty or other  
27 assessment on any business day, but settlement of funds shall occur  
28 within a reasonable and customary period thereafter not to exceed five  
29 business days. Distributions under this paragraph shall be calculated  
30 in each case net of all then applicable fees and expenses of the  
31 investment pool. The pooling agreement shall provide that the pool  
32 manager shall distribute to a participant, at the discretion of the pool  
33 manager:

34 (1) In cash, the then fair market value of the participant's pro rata  
35 share of each underlying asset of the investment pool;

36 (2) In kind, a pro rata share of each underlying asset; or

37 (3) In a combination of cash and in kind distributions, a pro rata  
38 share in each underlying asset;

39 f. The pool manager shall make the records of the investment pool  
40 available for inspection by the commissioner, and an audit of the pool  
41 accounting records shall be conducted at least annually by an  
42 independent certified public accountant; and

43 g. Valuation of the assets of the investment pool shall be in  
44 conformance with valuation standards established by the National  
45 Association of Insurance Commissioners and regulations promulgated  
46 by the commissioner.



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- 1 well as disallow any pool investment, in order to ensure compliance
- 2 with the provisions of the bill.

# ASSEMBLY BANKING AND INSURANCE COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 1134

# STATE OF NEW JERSEY

DATED: JANUARY 29, 1998

The Assembly Banking and Insurance Committee reports favorably and with committee amendments, Assembly Bill No. 1134.

As amended by the committee, this bill provides that property-casualty insurers may pool investments among affiliates and establishes criteria for these investment pools. The bill is based upon a model formulated by the National Association of Insurance Commissioners (NAIC).

The bill provides that those investment pools may only invest in short-term, high quality obligations, government money market mutual funds, class one money market mutual funds or securities lending, repurchase and reverse repurchase transactions on investments in which an insurer is permitted to invest pursuant to the provisions of R.S.17:24-1. The bill prohibits an investment pool from: acquiring securities insured or guaranteed by the insurer or an affiliate of the insurer; borrowing money except for certain securities lending and reverse repurchase transactions; and investing more than ten percent of its total assets in any one business entity.

The bill specifies requirements for the managers of investment pools; requires, among other things, a pooling agreement for each investment pool to be in writing; requires the investment pool to be a business entity; and subjects investment activities of the pool and transactions between pools and participants to be reported on the annual registration statement required under section 3 of P.L.1970, c.22 (C.17:27A-3).

The bill provides that an insurer may not invest more than ten percent of its admitted assets in an investment pool nor more than thirty-five percent of its admitted assets in all investment pools and that custodial agreements and the valuation of investments in investment pools must conform to the standards established by the NAIC. Additionally, the bill provides that an independent certified public accountant must audit the accounting records of the investment pool at least annually; that the investment pool be a subsidiary wholly owned by two or more domestic insurers who are members of the same holding company system; and that the Commissioner of Banking and Insurance has the authority to review any pool agreement and the operation of an investment pool, as well as disallow any pool

investment, in order to ensure compliance with the provisions of the bill.

This bill was prefiled for introduction in the 1998 legislative session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 1134**

# **STATE OF NEW JERSEY**

DATED: SEPTEMBER 24, 1998

The Senate Commerce Committee reports favorably Assembly Bill No. 1134 (1R).

This bill provides that property-casualty insurers may pool investments among affiliates and establishes criteria for these investment pools. The bill is based upon a model formulated by the National Association of Insurance Commissioners (NAIC). The bill provides that these insurers may invest in investment pools that invest in short term, high quality obligations, government money market mutual funds, class one money market mutual funds and securities lending, repurchase and reverse repurchase transactions on investments in which an insurer is permitted to invest.

An insurer investment pool is prohibited from: acquiring securities issued or guaranteed by the insurer or any affiliate of the insurer; borrowing money except for certain securities lending and reverse repurchase transactions; and investing more than 10% of its total assets in any one business entity.

The bill provides that an insurer may not invest more than 10% of its admitted assets in an investment pool nor more than 35% of its admitted assets in two or more investment pools and that custodial agreements and the valuation of investments in investment pools must conform to the standards established by the NAIC. Additionally, the bill provides that an independent certified public accountant must audit the accounting records of the investment pool at least annually.

The insurer investment pool must be a subsidiary wholly-owned by two or more insurers who are members of the same holding company system and must be managed by the insurer, an affiliate insurer, a business entity affiliated with the insurer, a qualified bank, a business entity registered under the federal "Investment Advisors Act of 1940" or certain others.

The pooling agreement for an insurer investment pool must be in writing; provide the insurer and its affiliates hold 100% of the interests in the investment pool; and provide that the underlying assets of the investment pool shall not be commingled with the general assets of the pool manager or any other person.

The bill requires investment activities of the pool and transactions



between pools and participants to be reported on the annual registration statement required under section 3 of P.L.1970, c.22 (C.17:27A-3).

The Commissioner of Banking and Insurance may review any investment pool agreement and disapprove that agreement if it does not comply with the provisions of the bill; review the operation of any investment pool and order compliance with the provisions of this bill; and disallow, as an admitted asset, any investment not in compliance with the provisions of this bill.

[First Reprint]

**ASSEMBLY, No. 1134**

**STATE OF NEW JERSEY**  
**208th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

**Sponsored by:**

**Assemblyman E. SCOTT GARRETT**

**District 24 (Sussex, Hunterdon and Morris)**

**SYNOPSIS**

Establishes criteria for investment pools of property and casualty insurers.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Banking and Insurance Committee on January 29, 1998, with amendments.



1 AN ACT concerning investments by property and casualty insurers in  
2 investment pools.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. As used in this act:

8 "Business entity" means a corporation, limited liability company,  
9 limited liability partnership, association, partnership, joint stock  
10 company, joint venture, mutual fund trust, or other legal form of  
11 organization, whether organized for-profit or not-for-profit.

12 "Class one money market mutual fund" means a money market  
13 mutual fund that at all times qualifies for investment using the bond  
14 class one reserve factor under the published valuation standards of the  
15 Securities Valuation Office of the National Association of Insurance  
16 Commissioners.

17 "Commissioner" means the Commissioner of Banking and  
18 Insurance.

19 "Government money market mutual fund" means a money market  
20 mutual fund that at all times:

21 (1) Invests only in obligations issued, guaranteed or insured by the  
22 federal government of the United States or collateralized and  
23 repurchase agreements composed of these obligations; and

24 (2) Qualifies for investment without a reserve under the published  
25 valuation standards of the Securities Valuation Office of the National  
26 Association of Insurance Commissioners.

27 "Money market mutual fund" means a mutual fund that meets the  
28 conditions of 17 C.F.R. §270.2a-7, under the federal "Investment  
29 Company Act of 1940," 15 U.S.C. §80a-1 et seq.

30 "Obligation" means a bond, note, debenture, trust certificate  
31 including an equipment certificate, production payment, negotiable  
32 bank certificate of deposit, bankers' acceptance, credit tenant loan,  
33 loan secured by financing net leases and other evidence of  
34 indebtedness for the payment of money (or participations, certificates  
35 or other evidences of an interest in any of the foregoing), whether  
36 constituting a general obligation of the issuer or payable only out of  
37 certain revenues or certain funds pledged or otherwise dedicated for  
38 payment.

39 "Qualified bank" means a national bank, state bank or trust  
40 company that at all times is no less than adequately capitalized as  
41 determined by the standards adopted by the United States banking  
42 regulators and that is either regulated by state banking laws or is a

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

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

**<sup>1</sup> Assembly ABI committee amendments adopted January 29, 1998.**

1 member of the Federal Reserve System.

2 "Repurchase transaction" means a transaction in which an insurer  
3 purchases securities from a business entity that is obligated to  
4 repurchase the purchased securities or equivalent securities from the  
5 insurer at a specified price, either within a specified period of time or  
6 upon demand.

7 "Reverse repurchase transaction" means a transaction in which an  
8 insurer sells securities to a business entity and is obligated to  
9 repurchase the sold securities or equivalent securities from the  
10 business entity at a specified price, either within a specified period of  
11 time or upon demand.

12 "Securities lending transaction" means a transaction in which  
13 securities are loaned by an insurer to a business entity that is obligated  
14 to return the loaned securities or equivalent securities to the insurer,  
15 either within a specified period of time or upon demand.

16 "SVO" means the Securities Valuation Office of the National  
17 Association of Insurance Commissioners.

18

19 2. An insurer may invest in investment pools that:

20 a. Invest only in:

21 (1) Obligations that are rated "1" or "2" by the SVO or have an  
22 equivalent of an SVO "1" or "2" rating by a nationally recognized  
23 statistical rating organization recognized by the SVO and have:

24 (a) A remaining maturity of 397 days or less or a put that entitles  
25 the holder to receive the principal amount of the obligation, which put  
26 may be exercised through maturity at specified intervals, not exceeding  
27 397 days; or

28 (b) A remaining maturity of three years or less and a floating  
29 interest rate that resets no less frequently than quarterly on the basis  
30 of a current short-term index (federal funds, prime rate, treasury bills,  
31 London InterBank Offered Rate (LIBOR) or commercial paper) and  
32 is subject to no maximum limit, if the obligations do not have an  
33 interest rate that varies inversely to market interest rate changes;

34 (2) Government money market mutual funds or class one money  
35 market mutual funds; or

36 (3) Securities lending, repurchase and reverse repurchase  
37 transactions <sup>1</sup>**[in accordance with]** on investments in which an insurer  
38 is permitted to invest pursuant to<sup>1</sup> the provisions of R.S.17:24-1; or

39 b. Invest only in investments which an insurer may acquire under  
40 subsection a. of this section if the insurer's proportionate interest in the  
41 amount invested in these investments does not exceed the applicable  
42 limits of section 4 of this act.

43

44 3. For an investment in an investment pool to be qualified under  
45 this act, the investment pool shall not:

46 a. Acquire securities issued, assumed, guaranteed or insured by the

1 insurer or an affiliate of the insurer;

2 b. Borrow or incur any indebtedness for borrowed money, except  
3 for securities lending and reverse repurchase transactions that meet the  
4 requirements of this act; or

5 c. Permit the aggregate value of securities then loaned or sold to,  
6 purchased from or invested in any one business entity under this act to  
7 exceed ten percent of the total assets of the investment pool.

8

9 4. Notwithstanding the provisions of R.S.17:24-1 to the contrary,  
10 an insurer may invest in an investment pool, however, an insurer shall  
11 not acquire an investment in an investment pool under this act if, as a  
12 result of and after giving effect to the investment, the aggregate  
13 amount of investments then held by the insurer:

14 a. In any one investment pool would exceed ten percent of its  
15 admitted assets; or

16 b. In all investment pools, investing in investments permitted under  
17 section 2 of this act, would exceed thirty-five percent of its admitted  
18 assets.

19

20 5. For an investment in an investment pool to be qualified under  
21 this act, the manager of the investment pool shall:

22 a. Be organized under the laws of the United States or a state and  
23 designated as the pool manager in a pooling agreement;

24 b. Be the insurer, an affiliated insurer or a business entity affiliated  
25 with the insurer, a qualified bank, a business entity registered under  
26 the federal "Investment Advisors Act of 1940," 15 U.S.C. §80A-1 et  
27 seq., or, in the case of a reciprocal insurer or interinsurance exchange,  
28 its attorney-in-fact, or in the case of a United States branch of an alien  
29 insurer, its United States manager or affiliated or subsidiaries of its  
30 United States manager;

31 c. Compile and maintain detailed accounting records setting forth:

32 (1) The cash receipts and disbursements reflecting each  
33 participant's proportionate investment in the investment pool;

34 (2) A complete description of all underlying assets of the  
35 investment pool (including amount, interest rate, maturity date (if any)  
36 and other appropriate designations); and

37 (3) Other records which, on a daily basis, allow third parties to  
38 verify each participant's investment in the investment pool; and

39 d. Maintain the assets of the investment pool in one or more  
40 accounts, in the name of or on behalf of the investment pool, under a  
41 custody agreement with a qualified bank. The custody agreement  
42 shall:

43 (1) State and recognize the claims and rights of each participant;

44 (2) Acknowledge that the underlying assets of the investment pool  
45 are held solely for the benefit of each participant in proportion to the  
46 aggregate amount of its investments in the investment pool;

1 (3) Contain an agreement that the underlying assets of the  
2 investment pool shall not be commingled with the general assets of the  
3 custodian qualified bank or any other person ; and

4 (4) Conform with guidelines established by the National  
5 Association of Insurance Commissioners and regulations governing  
6 custodial or safeguard agreements promulgated by the commissioner.  
7

8 6. The pooling agreement for each investment pool shall be in  
9 writing and shall provide that:

10 a. An insurer and its affiliated insurers or, in the case of an  
11 investment pool investing solely in investments permitted under  
12 section 2 of this act, the insurer and its subsidiaries, affiliates or any  
13 pension or profit sharing plan of the insurer, its subsidiaries and  
14 affiliates or, in the case of a United States branch of an alien insurer,  
15 affiliates or subsidiaries of its United States manager, shall, at all  
16 times, hold one hundred percent of the interests in the investments  
17 pool;

18 b. The underlying assets of the investment pool shall not be  
19 commingled with the general assets of the pool manager or any other  
20 person;

21 c. In proportion to the aggregate amount of each pool participant's  
22 interest in the investment pool:

23 (1) Each participant owns an undivided interest in the underlying  
24 assets of the investment pool; and

25 (2) The underlying assets of the investment pool are held solely for  
26 the benefit of each participant;

27 d. A participant, or in the event of the participant's insolvency,  
28 bankruptcy or receivership, its trustee, receiver or other successor-in-  
29 interest, may withdraw all or any portion of its investment from the  
30 pool under the terms of the pooling agreement;

31 e. Withdrawals may be made on demand without penalty or other  
32 assessment on any business day, but settlement of funds shall occur  
33 within a reasonable and customary period thereafter not to exceed five  
34 business days. Distributions under this paragraph shall be calculated  
35 in each case net of all then applicable fees and expenses of the  
36 investment pool. The pooling agreement shall provide that the pool  
37 manager shall distribute to a participant, at the discretion of the pool  
38 manager:

39 (1) In cash, the then fair market value of the participant's pro rata  
40 share of each underlying asset of the investment pool;

41 (2) In kind, a pro rata share of each underlying asset; or

42 (3) In a combination of cash and in kind distributions, a pro rata  
43 share in each underlying asset;

44 f. The pool manager shall make the records of the investment pool  
45 available for inspection by the commissioner, and an audit of the pool  
46 accounting records shall be conducted at least annually by an

1 independent certified public accountant; and

2 g. Valuation of the assets of the investment pool shall be in  
3 conformance with valuation standards established by the National  
4 Association of Insurance Commissioners and regulations promulgated  
5 by the commissioner.

6

7 7. An investment pool established pursuant to the provisions of this  
8 act shall be a business entity and shall be a subsidiary organized to  
9 engage exclusively in the acquisition, ownership or management of  
10 investments, provided that the subsidiary is wholly-owned by two or  
11 more insurers domiciled in the United States, who are members of the  
12 same holding company system.

13

14 8. The commissioner shall have the authority to:

15 a. Review any investment pool agreement and disapprove that  
16 agreement if it does not comply with the provisions of this act;

17 b. Review the operation of any investment pool and order  
18 compliance with this act; and

19 c. Disallow, as an admitted asset, any investment not in compliance  
20 with the provisions of this act.

21

22 9. The provisions of section 4 of P.L.1970, c.22 (C.17:27A-4) shall  
23 not apply to transactions between the pool and its participants,  
24 provided, however, that the investment activities of the pool and  
25 transactions between an insurer investment pool and its participants  
26 shall be reported annually in the registration statement required  
27 pursuant to section 3 of P.L.1970, c,22 (C.17:27A-3).

28

29 10. This act shall take effect immediately.