

17B:20-1

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2005 **CHAPTER:** 193

NJSA: 17B:20-1 (Increases certain investment limits for domestic insurers)

BILL NO: S2173 (Substituted for A3624)

SPONSOR(S): Lesniak and others

DATE INTRODUCED: January 11, 2005

COMMITTEE: **ASSEMBLY:** Financial Institutions and Insurance
SENATE: Commerce

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** June 30, 2005

SENATE: March 14, 2005

DATE OF APPROVAL: August 18, 2005

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Original version of bill enacted)

S2173

[SPONSOR'S STATEMENT:](#) (Begins on page 9 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

A3624

[SPONSOR'S STATEMENT:](#) (Begins on page 9 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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HEARINGS:

No

NEWSPAPER ARTICLES:

No

IS 9/12/07

P.L. 2005, CHAPTER 193, *approved August 18, 2005*

Senate, No. 2173

1 **AN ACT** concerning the investment powers of domestic insurers and
2 amending N.J.S.17B:20-1 and 17B:20-2 and repealing N.J.S.
3 17B:28-13.

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

7
8 1. N.J.S.17B:20-1 is amended to read as follows:

9 17B:20-1. Any domestic insurer may invest its capital, surplus and
10 other funds, or any part thereof, in:

11 a. Bonds, notes, or other evidences of indebtedness or public stock
12 issued, created, insured or guaranteed by the United States, any
13 territory or possession thereof, this or any other state of the United
14 States, the District of Columbia, the Commonwealth of Puerto Rico,
15 Canada, or any of the provinces thereof, or any instrumentality, agency
16 or political subdivision of one or more of the foregoing.

17 b. Real estate which may be improved or which is unimproved but
18 acquired in accordance with a definite plan for development within not
19 more than five years, and in the improvement, development, operation
20 or leasing thereof; provided, that if the commissioner shall determine
21 that the interest of such insurer's policyholders requires that any
22 specific real estate so acquired be disposed of, then such insurer shall
23 dispose of such real estate within such reasonable time as the
24 commissioner shall direct; and provided further, that the sum of (1) the
25 aggregate amount invested in such real estate (including real estate
26 held pursuant to N.J.S.17B:18-45 of this title) and (2) the aggregate
27 amount invested in capital stock of any subsidiary of the insurer
28 pursuant to N.J.S.17B:20-4, engaged in a business primarily involving
29 the owning, improving, developing, operating or leasing of real estate,
30 shall not exceed 10% of the total admitted assets of such insurer as of
31 December 31 next preceding. Real estate used primarily for
32 agricultural, horticultural, ranching, mining, forestry or recreational
33 purposes shall be deemed improved within the meaning of this
34 subsection b. The term "real estate" as used in this chapter shall
35 include any real property and any interest therein, including, without
36 limitation, any interest on, above or below the surface of the land, any
37 leasehold estate therein, and any such interest held or to be held by the
38 insurer in cotenancy with one or more other persons and any
39 partnership interest held by the insurer in any general or limited
40 partnership engaged in a business primarily involving the owning,
41 improving, developing, operating or leasing of real estate. Income

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

Matter underlined thus is new matter.

1 produced by investment in any such leasehold shall be applied in a
2 manner calculated to amortize the amount invested in such leasehold
3 within a period not exceeding eight-tenths of the unexpired term of the
4 leasehold, inclusive of enforceable options, or within 40 years,
5 whichever is the lesser, or where the peculiar nature of the leasehold
6 involved so dictates, within such period and subject to such other
7 reasonable limitations as the commissioner shall by regulation impose.
8 For the purposes of this subsection b., a mortgage loan shall not be
9 deemed to be an investment in real estate, notwithstanding the
10 mortgagor is an institution in which such insurer has an ownership
11 interest as shareholder, partner, or otherwise. The commissioner may
12 promulgate a regulation in connection with investments under this
13 subsection b. which shall, as far as practicable, be consistent with
14 those regulations of the department which treat with securities
15 supported by such interests in real estate.

16 c. Mortgage loans on unencumbered real estate, located within the
17 United States, any territory or possession thereof, the Commonwealth
18 of Puerto Rico or Canada. The amount of any such loan shall not
19 exceed 80% of the value of the real estate mortgaged unless (1) the
20 loan is also secured by the mortgagor's interest in a lease or leases
21 whose aggregate rentals shall be sufficient, after payment of operating
22 expenses and fixed charges, to repay 90% of the loan with interest
23 thereon during the initial term or terms of such lease or leases and
24 shall be payable directly or indirectly by any governmental units,
25 instrumentalities, agencies or political subdivisions or an institution or
26 institutions which meet the credit standards of the insurer for an
27 unsecured loan to such institution or institutions or (2) the loan is
28 secured by a purchase money mortgage or like security received by the
29 insurer upon the sale or exchange of real estate acquired pursuant to
30 any provision of this title or (3) the excess over such 80% is insured
31 or guaranteed or to be insured or guaranteed by the United States, any
32 territory or possession thereof, this or any other state of the United
33 States, the District of Columbia, the Commonwealth of Puerto Rico,
34 Canada or any of the provinces thereof, or any instrumentality, agency
35 or political subdivision of one or more of the foregoing. Any
36 mortgage loan so insured or guaranteed or to be insured or guaranteed
37 shall not be subject to the provisions of any law of this State
38 prescribing or limiting the interest which may be charged or taken
39 upon any such loan.

40 Any such insurer may hold a participation in any such mortgage
41 loan if (1) such participation is senior and gives the holder
42 substantially the rights of a first mortgagee or (2) the interest of such
43 insurer in the evidence or evidences of indebtedness is of equal
44 priority, to the extent of such interest, with other interests therein.

45 Any such mortgage loan which exceeds two-thirds of the value of
46 the real estate mortgaged shall provide for such payments of principal,

1 whatever the period of the loan, that at no time during the period of
2 the loan shall the aggregate payments of principal theretofore required
3 to be made under the terms of the loan be less than would have been
4 necessary to reduce the loan to two-thirds of such value by the end of
5 35 years through payments of interest only for five years and equal
6 payments applicable first to interest and then to principal at the end of
7 each year thereafter. The commissioner may promulgate such
8 supplemental regulations as he deems necessary with regard to
9 particular classes of such investments, taking into consideration the
10 type of security and the ratio of the loan to the value of the real estate
11 mortgaged. No loan may be made on leasehold real estate unless the
12 terms of such loan provide for payments to be made by the borrower
13 on the principal thereof in amounts sufficient to completely repay the
14 loan within a period not exceeding nine-tenths of the term of the
15 leasehold, inclusive of the term or terms which may be provided by any
16 enforceable option or options of extension or of renewal, which is
17 unexpired at the time the loan is made.

18 Real estate shall not be deemed to be encumbered within the
19 meaning of this subsection c. by reason of the existence of taxes or
20 assessments that are not delinquent, or encumbrances that do not
21 adversely affect the salability of the property to a material extent or as
22 to which the insurer is insured against loss by title insurance, or any
23 prior mortgage or mortgages held by such insurer if the aggregate of
24 the mortgages held shall not exceed the amount hereinbefore set forth,
25 nor when such real estate is subject to lease in whole or in part;
26 provided, that the security created by the mortgage on such real estate
27 is a first lien thereon. Real estate shall not be deemed to be
28 encumbered and the security of the mortgage thereon shall be deemed
29 a first lien within the meaning of this subsection c., notwithstanding
30 the mortgagor is an institution in which such insurer has an ownership
31 interest as shareholder, partner or otherwise.

32 No such insurer shall, pursuant to this subsection c., invest more
33 than 2% of its total admitted assets as of December 31 next preceding
34 in any mortgage loan secured by any one property, nor shall its total
35 mortgage investments pursuant to this subsection c., exclusive of any
36 mortgage loans secured by a purchase money mortgage or like security
37 received by the insurer upon the sale or exchange of real estate
38 acquired pursuant to any provision of this title or insured or
39 guaranteed or to be insured or guaranteed as hereinbefore provided,
40 exceed 60% of such admitted assets.

41 d. Tangible personal property, equipment trust obligations or other
42 instruments evidencing an ownership interest or other interest in
43 tangible personal property where there is a right to receive determined
44 portions of rental, purchase or other fixed obligatory payments for the
45 use or purchase of such personal property, provided, that the
46 aggregate of such payments, together with the estimated salvage value

1 of such property at the end of its minimum useful life and the
2 estimated tax benefits to the insurer resulting from ownership of such
3 property, is adequate to return the cost of the investment in such
4 property, and provided further, that the aggregate net investments
5 therein shall not exceed 10% of the total admitted assets of such
6 insurer as of December 31 next preceding; or certificates of receivers
7 of any institution where such purchase is necessary to protect an
8 investment in the securities of such institution theretofore made under
9 authority of this chapter; or the capital stock, beneficial shares or other
10 instruments evidencing an ownership interest, bonds, securities or
11 evidences of indebtedness issued, assumed or guaranteed by any
12 institution created or existing under the laws of the United States, any
13 territory or possession thereof, this or any other state of the United
14 States, the District of Columbia, the Commonwealth of Puerto Rico,
15 Canada or any of the provinces thereof; provided, that no purchase of
16 any evidence of indebtedness which is in default as to interest shall be
17 made by such insurer unless such purchase is necessary to protect an
18 investment theretofore made under statutory authority.

19 The term "institution" as used in this chapter shall include any
20 corporation, joint stock association, business trust, business joint
21 venture, business partnership, savings and loan association, credit
22 union or other mutual savings institution or limited liability company,
23 limited liability partnership or any other similar entity. No purchase
24 shall be made of the stock of any class of any corporation, except a
25 subsidiary of the insurer pursuant to N.J.S.17B:20-4, unless (1) such
26 corporation has paid cash dividends on such class of stock during each
27 of the past five years preceding the time of purchase or (2) such
28 corporation shall have earned during the period of such five years an
29 aggregate sum available for dividends upon such stock which would
30 have been sufficient, after all fixed charges and obligations, to pay
31 dividends upon all shares of such class of stock outstanding during
32 such period averaging 4% per annum computed upon the par value (or
33 in the case of stock having no par value, upon the stated capital in
34 respect thereof) of such stock. In the case of the stock of a
35 corporation resulting from or formed by merger, consolidation,
36 acquisition or otherwise less than five years prior to such purchase,
37 each consecutive year next preceding the effective date of such
38 merger, consolidation or acquisition during which dividends or other
39 distributions of profits shall have been paid by any one or more of its
40 constituent or predecessor institutions shall be deemed a year during
41 which dividends have been paid on such class of stock and the earnings
42 of such constituent or predecessor institutions available for dividends
43 during each of such years may be included as earnings of the existing
44 corporation whose stock is to be purchased for each of such years;
45 provided, however, that nothing herein contained shall prohibit the
46 purchase of stock of any class which is preferred, as to dividends, over

1 any class the purchase of which is not prohibited by this section; and
2 provided further, that no purchase of its own stock shall be made by
3 any insurer except for the purpose of the retirement of such stock or
4 except as specifically permitted by any law of this State applicable by
5 its terms only to insurers.

6 e. Securities, properties and other investments in foreign countries,
7 in addition to those specified in N.J.S.17B:20-5, which are
8 substantially of the same character as prescribed for authorized
9 investments for funds of the insurer under the preceding subsections
10 of this section, to an amount valued at cost, not exceeding in the
11 aggregate at any one time [~~5%~~] 20% of the total admitted assets of
12 such insurer as of December 31 next preceding; provided, however,
13 that the amount invested pursuant to this subsection e. in authorized
14 investments, other than qualified foreign investments, shall not exceed
15 in the aggregate, at any one time, [~~2%~~] 3% of such admitted assets;
16 and provided further that the amount invested in authorized
17 investments in any one foreign country pursuant to this subsection e.
18 shall not exceed in the aggregate, at any one time, [~~2%~~] 10% of such
19 admitted assets. For the purposes of this subsection e., Canada shall
20 not be deemed to be a foreign country.

21 The term "qualified foreign investment" as used in this subsection
22 e. shall include any investment in a foreign country where: (1) the
23 issuer or obligor is (a) a jurisdiction which is rated in one of the two
24 highest rating categories by an independent, nationally recognized
25 United States rating agency, (b) any political subdivision or other
26 governmental unit of any such jurisdiction, or any agency or
27 instrumentality of any such jurisdiction, political subdivision or other
28 governmental unit, or (c) an institution which is organized under the
29 laws of any such jurisdiction, or, in the case of investments which are
30 substantially of the same character as prescribed for investments under
31 subsections b. and c. of this section, the real property is located in any
32 such jurisdiction; and (2) if the investment is denominated in any
33 currency other than United States dollars, the investment is effectively
34 hedged, substantially in its entirety, against the United States dollar
35 pursuant to contracts or agreements which are (a) issued by or traded
36 on a securities exchange or board of trade regulated under the laws of
37 the United States or Canada or a province thereof, (b) entered into
38 with a United States banking institution which has assets in excess of
39 \$5,000,000,000 and which has obligations outstanding, or has a parent
40 corporation which has obligations outstanding, which are rated in one
41 of the two highest rating categories by an independent, nationally
42 recognized United States rating agency, or with a broker-dealer
43 registered with the Securities and Exchange Commission which has net
44 capital in excess of \$250,000,000, or (c) entered into with any other
45 banking institution which has assets in excess of \$5,000,000,000 and
46 which has obligations outstanding, or has a parent corporation which

1 has obligations outstanding, which are rated in one of the two highest
2 rating categories by an independent, nationally recognized United
3 States rating agency and which is organized under the laws of a
4 jurisdiction which is rated in one of the two highest rating categories
5 by an independent, nationally recognized United States rating agency.

6 Any investment qualified pursuant to paragraph (2) of the preceding
7 definition of "qualified foreign investment" shall remain so qualified
8 only at such time or times that the hedging requirements of paragraph
9 (2) are met.

10 f. Bonds, notes, or other evidences of indebtedness, issued, insured
11 or guaranteed or to be insured or guaranteed by the International Bank
12 for Reconstruction and Development, or by the International Finance
13 Corporation, or by the Inter-American Development Bank, or by the
14 Asian Development Bank, or by the African Development Bank.

15 g. Collateral loans secured by a pledge of capital stock, beneficial
16 shares or other instruments evidencing an ownership interest, bonds,
17 securities or evidences of indebtedness qualified or permitted for
18 investment under any of the preceding subsections of this section. The
19 amount of any such loan shall not exceed 80% of the market value of
20 the security pledged at the date of the loan.

21 h. Loans or investments which are not qualified or permitted under
22 any of the preceding subsections of this section or which are not
23 otherwise expressly authorized by law; provided, that the aggregate
24 amount of such loans and investments, valued at cost, shall not exceed
25 at any one time ~~[7%]~~ 10% of the total admitted assets of such insurer
26 as of December 31 next preceding.

27 For the purposes of subsection c. and this subsection h., the portion
28 of a mortgage loan on unencumbered real estate which does not
29 exceed 80% of the value of the real estate mortgaged shall be deemed
30 to be a permitted investment under subsection c. and the remainder of
31 said loan may be deemed to be made under this subsection h. Any
32 investment originally made under this subsection h. which would
33 subsequently, if it were being made, qualify as a permitted investment
34 under another subsection of this section shall thenceforth be deemed
35 to be a permitted investment under such other subsection.

36 (cf: P.L.1994, c.20, s.1)

37

38 2. N.J.S.17B:20-2 is amended to read as follows:

39 17B:20-2. The amount (excluding amounts invested in the common
40 stock of any corporation pursuant to N.J.S.17B:20-3 and
41 N.J.S.17B:20-4) invested by a domestic insurer (a) in the common
42 stock of any one corporation shall not exceed 2% of the total admitted
43 assets of such insurer as of December 31 next preceding, or (b) in the
44 common stock of all corporations valued at cost shall not exceed 15%
45 of such assets except that to the extent that such aggregate investment
46 in common stock exceeds 10% of such assets, further investments shall

1 be subject to regulation by the commissioner under a formula which
2 shall take into consideration the actual mandatory securities valuation
3 reserve, as defined by the Subcommittee on Valuation of Securities of
4 the National Association of Insurance Commissioners, held by a
5 company which is applicable to such common stock in the
6 corresponding annual statement filed with the department. The term
7 "common stock" shall mean any voting stock of any class of a
8 corporation which shall not be limited to a fixed sum or percentage of
9 par value in respect to the rights of the holders thereof to participate
10 in dividends or in the distribution of assets upon the voluntary or
11 involuntary liquidation, dissolution or winding up of the corporation.
12 Neither shall the amount invested in the beneficial shares or other
13 ownership interests (other than common stock), evidences of
14 indebtedness (excluding amounts invested in mortgage loans pursuant
15 to subsection c. of N.J.S.17B:20-1), preferred stock and certificates
16 of receivers of any one institution exceed 5% of such assets of the
17 insurer. Nothing herein contained shall prevent any such insurer from
18 purchasing, or in any other way acquiring the voting stock of, or
19 otherwise investing in certain corporations as hereinafter provided in
20 N.J.S.17B:20-3 and N.J.S.17B:20-4.

21 The total amount of admitted assets invested in the types of
22 investments authorized by subsections b. and c. of N.J.S.17B:20-1
23 shall not, in the aggregate, exceed 60% of the domestic insurer's total
24 admitted assets.

25 All investments made by any such insurer shall be authorized or
26 approved by the board of directors, or by a committee designated by
27 the board of directors and charged with the duty of supervising such
28 investment, or shall be made in conformity with standards or
29 investment objectives approved by such board of directors or such
30 committee.

31 No such insurer shall [enter into any agreement to withhold from
32 sale any of its property or] jointly or severally enter into any
33 agreement to purchase the unsold amount of securities which are the
34 subject of an offering for sale to the public or otherwise to guarantee
35 the sale of such securities.

36 Nothing contained in this section shall prevent any such insurer
37 from distributing shares of an investment company within the meaning
38 of the Investment Company Act of 1940 for which such insurer or its
39 subsidiary is the investment manager or investment adviser.

40 The term "Investment Company Act of 1940" as used in this section
41 shall mean an Act of Congress entitled "Investment Company Act of
42 1940," 54 Stat. 847 (15 U.S.C. s.80a-1 et seq.) as amended from time
43 to time, or any similar statute enacted in substitution therefor.

44 (cf: P.L.1989, c.267, s.2)

45

46 3. N.J.S.17B:28-13 is repealed.

1 4. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 The purpose of this bill is to provide greater flexibility for domestic
7 insurers with respect to their investments. The bill (1) increases the
8 amount of its admitted assets a domestic insurer may invest in a
9 foreign country from 5% to 20%; (2) increases the single country
10 limits for a qualified foreign investment from 2% to 10%; and (3)
11 increases the amount of its admitted assets a domestic insurer may
12 invest in investments that are "not qualified or permitted" under N.J.S.
13 17B:20-1 ("leeway basket assets") from 7% to 10%. These provisions
14 mirror the foreign investment limits and the "not qualified or
15 permitted" investment limits stipulated by the National Association of
16 Insurance Commissioners' "Investments of Insurers Model Act -
17 Defining Limits Version."

18 In addition, the bill amends the definition of "institution" contained
19 in N.J.S.17B:20-1(d) to specifically include a "limited liability
20 company, limited liability partnership or any other similar entity." The
21 bill also removes the current prohibition against a domestic insurer
22 entering into an agreement to withhold its property from sale.

23 Finally, the bill repeals N.J.S.17B:28-13 which limits under certain
24 conditions, the amount that a stock insurer may withdraw from a
25 separate account.

26

27

28

29

30 Increases certain investment limits for domestic insurers.

SENATE, No. 2173

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED JANUARY 11, 2005

Sponsored by:

Senator RAYMOND J. LESNIAK

District 20 (Union)

Senator GERALD CARDINALE

District 39 (Bergen)

Assemblyman NEIL M. COHEN

District 20 (Union)

Assemblyman CHRISTOPHER "KIP" BATEMAN

District 16 (Morris and Somerset)

SYNOPSIS

Increases certain investment limits for domestic insurers.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 7/1/2005)

S2173 LESNIAK, CARDINALE

2

1 AN ACT concerning the investment powers of domestic insurers and
2 amending N.J.S.17B:20-1 and 17B:20-2 and repealing N.J.S.
3 17B:28-13.

4

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

7

8 1. N.J.S.17B:20-1 is amended to read as follows:

9 17B:20-1. Any domestic insurer may invest its capital, surplus and
10 other funds, or any part thereof, in:

11 a. Bonds, notes, or other evidences of indebtedness or public stock
12 issued, created, insured or guaranteed by the United States, any
13 territory or possession thereof, this or any other state of the United
14 States, the District of Columbia, the Commonwealth of Puerto Rico,
15 Canada, or any of the provinces thereof, or any instrumentality, agency
16 or political subdivision of one or more of the foregoing.

17 b. Real estate which may be improved or which is unimproved but
18 acquired in accordance with a definite plan for development within not
19 more than five years, and in the improvement, development, operation
20 or leasing thereof; provided, that if the commissioner shall determine
21 that the interest of such insurer's policyholders requires that any
22 specific real estate so acquired be disposed of, then such insurer shall
23 dispose of such real estate within such reasonable time as the
24 commissioner shall direct; and provided further, that the sum of (1) the
25 aggregate amount invested in such real estate (including real estate
26 held pursuant to N.J.S.17B:18-45 of this title) and (2) the aggregate
27 amount invested in capital stock of any subsidiary of the insurer
28 pursuant to N.J.S.17B:20-4, engaged in a business primarily involving
29 the owning, improving, developing, operating or leasing of real estate,
30 shall not exceed 10% of the total admitted assets of such insurer as of
31 December 31 next preceding. Real estate used primarily for
32 agricultural, horticultural, ranching, mining, forestry or recreational
33 purposes shall be deemed improved within the meaning of this
34 subsection b. The term "real estate" as used in this chapter shall
35 include any real property and any interest therein, including, without
36 limitation, any interest on, above or below the surface of the land, any
37 leasehold estate therein, and any such interest held or to be held by the
38 insurer in cotenancy with one or more other persons and any
39 partnership interest held by the insurer in any general or limited
40 partnership engaged in a business primarily involving the owning,
41 improving, developing, operating or leasing of real estate. Income
42 produced by investment in any such leasehold shall be applied in a
43 manner calculated to amortize the amount invested in such leasehold

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

Matter underlined thus is new matter.

1 within a period not exceeding eight-tenths of the unexpired term of the
2 leasehold, inclusive of enforceable options, or within 40 years,
3 whichever is the lesser, or where the peculiar nature of the leasehold
4 involved so dictates, within such period and subject to such other
5 reasonable limitations as the commissioner shall by regulation impose.
6 For the purposes of this subsection b., a mortgage loan shall not be
7 deemed to be an investment in real estate, notwithstanding the
8 mortgagor is an institution in which such insurer has an ownership
9 interest as shareholder, partner, or otherwise. The commissioner may
10 promulgate a regulation in connection with investments under this
11 subsection b. which shall, as far as practicable, be consistent with
12 those regulations of the department which treat with securities
13 supported by such interests in real estate.

14 c. Mortgage loans on unencumbered real estate, located within the
15 United States, any territory or possession thereof, the Commonwealth
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17 exceed 80% of the value of the real estate mortgaged unless (1) the
18 loan is also secured by the mortgagor's interest in a lease or leases
19 whose aggregate rentals shall be sufficient, after payment of operating
20 expenses and fixed charges, to repay 90% of the loan with interest
21 thereon during the initial term or terms of such lease or leases and
22 shall be payable directly or indirectly by any governmental units,
23 instrumentalities, agencies or political subdivisions or an institution or
24 institutions which meet the credit standards of the insurer for an
25 unsecured loan to such institution or institutions or (2) the loan is
26 secured by a purchase money mortgage or like security received by the
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28 any provision of this title or (3) the excess over such 80% is insured
29 or guaranteed or to be insured or guaranteed by the United States, any
30 territory or possession thereof, this or any other state of the United
31 States, the District of Columbia, the Commonwealth of Puerto Rico,
32 Canada or any of the provinces thereof, or any instrumentality, agency
33 or political subdivision of one or more of the foregoing. Any
34 mortgage loan so insured or guaranteed or to be insured or guaranteed
35 shall not be subject to the provisions of any law of this State
36 prescribing or limiting the interest which may be charged or taken
37 upon any such loan.

38 Any such insurer may hold a participation in any such mortgage
39 loan if (1) such participation is senior and gives the holder
40 substantially the rights of a first mortgagee or (2) the interest of such
41 insurer in the evidence or evidences of indebtedness is of equal
42 priority, to the extent of such interest, with other interests therein.

43 Any such mortgage loan which exceeds two-thirds of the value of
44 the real estate mortgaged shall provide for such payments of principal,
45 whatever the period of the loan, that at no time during the period of
46 the loan shall the aggregate payments of principal theretofore required

1 to be made under the terms of the loan be less than would have been
2 necessary to reduce the loan to two-thirds of such value by the end of
3 35 years through payments of interest only for five years and equal
4 payments applicable first to interest and then to principal at the end of
5 each year thereafter. The commissioner may promulgate such
6 supplemental regulations as he deems necessary with regard to
7 particular classes of such investments, taking into consideration the
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11 on the principal thereof in amounts sufficient to completely repay the
12 loan within a period not exceeding nine-tenths of the term of the
13 leasehold, inclusive of the term or terms which may be provided by any
14 enforceable option or options of extension or of renewal, which is
15 unexpired at the time the loan is made.

16 Real estate shall not be deemed to be encumbered within the
17 meaning of this subsection c. by reason of the existence of taxes or
18 assessments that are not delinquent, or encumbrances that do not
19 adversely affect the salability of the property to a material extent or as
20 to which the insurer is insured against loss by title insurance, or any
21 prior mortgage or mortgages held by such insurer if the aggregate of
22 the mortgages held shall not exceed the amount hereinbefore set forth,
23 nor when such real estate is subject to lease in whole or in part;
24 provided, that the security created by the mortgage on such real estate
25 is a first lien thereon. Real estate shall not be deemed to be
26 encumbered and the security of the mortgage thereon shall be deemed
27 a first lien within the meaning of this subsection c., notwithstanding
28 the mortgagor is an institution in which such insurer has an ownership
29 interest as shareholder, partner or otherwise.

30 No such insurer shall, pursuant to this subsection c., invest more
31 than 2% of its total admitted assets as of December 31 next preceding
32 in any mortgage loan secured by any one property, nor shall its total
33 mortgage investments pursuant to this subsection c., exclusive of any
34 mortgage loans secured by a purchase money mortgage or like security
35 received by the insurer upon the sale or exchange of real estate
36 acquired pursuant to any provision of this title or insured or
37 guaranteed or to be insured or guaranteed as hereinbefore provided,
38 exceed 60% of such admitted assets.

39 d. Tangible personal property, equipment trust obligations or other
40 instruments evidencing an ownership interest or other interest in
41 tangible personal property where there is a right to receive determined
42 portions of rental, purchase or other fixed obligatory payments for the
43 use or purchase of such personal property, provided, that the
44 aggregate of such payments, together with the estimated salvage value
45 of such property at the end of its minimum useful life and the
46 estimated tax benefits to the insurer resulting from ownership of such

1 property, is adequate to return the cost of the investment in such
2 property, and provided further, that the aggregate net investments
3 therein shall not exceed 10% of the total admitted assets of such
4 insurer as of December 31 next preceding; or certificates of receivers
5 of any institution where such purchase is necessary to protect an
6 investment in the securities of such institution theretofore made under
7 authority of this chapter; or the capital stock, beneficial shares or other
8 instruments evidencing an ownership interest, bonds, securities or
9 evidences of indebtedness issued, assumed or guaranteed by any
10 institution created or existing under the laws of the United States, any
11 territory or possession thereof, this or any other state of the United
12 States, the District of Columbia, the Commonwealth of Puerto Rico,
13 Canada or any of the provinces thereof; provided, that no purchase of
14 any evidence of indebtedness which is in default as to interest shall be
15 made by such insurer unless such purchase is necessary to protect an
16 investment theretofore made under statutory authority.

17 The term "institution" as used in this chapter shall include any
18 corporation, joint stock association, business trust, business joint
19 venture, business partnership, savings and loan association, credit
20 union or other mutual savings institution or limited liability company,
21 limited liability partnership or any other similar entity. No purchase
22 shall be made of the stock of any class of any corporation, except a
23 subsidiary of the insurer pursuant to N.J.S.17B:20-4, unless (1) such
24 corporation has paid cash dividends on such class of stock during each
25 of the past five years preceding the time of purchase or (2) such
26 corporation shall have earned during the period of such five years an
27 aggregate sum available for dividends upon such stock which would
28 have been sufficient, after all fixed charges and obligations, to pay
29 dividends upon all shares of such class of stock outstanding during
30 such period averaging 4% per annum computed upon the par value (or
31 in the case of stock having no par value, upon the stated capital in
32 respect thereof) of such stock. In the case of the stock of a
33 corporation resulting from or formed by merger, consolidation,
34 acquisition or otherwise less than five years prior to such purchase,
35 each consecutive year next preceding the effective date of such
36 merger, consolidation or acquisition during which dividends or other
37 distributions of profits shall have been paid by any one or more of its
38 constituent or predecessor institutions shall be deemed a year during
39 which dividends have been paid on such class of stock and the earnings
40 of such constituent or predecessor institutions available for dividends
41 during each of such years may be included as earnings of the existing
42 corporation whose stock is to be purchased for each of such years;
43 provided, however, that nothing herein contained shall prohibit the
44 purchase of stock of any class which is preferred, as to dividends, over
45 any class the purchase of which is not prohibited by this section; and
46 provided further, that no purchase of its own stock shall be made by

1 any insurer except for the purpose of the retirement of such stock or
2 except as specifically permitted by any law of this State applicable by
3 its terms only to insurers.

4 e. Securities, properties and other investments in foreign countries,
5 in addition to those specified in N.J.S.17B:20-5, which are
6 substantially of the same character as prescribed for authorized
7 investments for funds of the insurer under the preceding subsections
8 of this section, to an amount valued at cost, not exceeding in the
9 aggregate at any one time [~~5%~~] 20% of the total admitted assets of
10 such insurer as of December 31 next preceding; provided, however,
11 that the amount invested pursuant to this subsection e. in authorized
12 investments, other than qualified foreign investments, shall not exceed
13 in the aggregate, at any one time, [~~2%~~] 3% of such admitted assets;
14 and provided further that the amount invested in authorized
15 investments in any one foreign country pursuant to this subsection e.
16 shall not exceed in the aggregate, at any one time, [~~2%~~] 10% of such
17 admitted assets. For the purposes of this subsection e., Canada shall
18 not be deemed to be a foreign country.

19 The term "qualified foreign investment" as used in this subsection
20 e. shall include any investment in a foreign country where: (1) the
21 issuer or obligor is (a) a jurisdiction which is rated in one of the two
22 highest rating categories by an independent, nationally recognized
23 United States rating agency, (b) any political subdivision or other
24 governmental unit of any such jurisdiction, or any agency or
25 instrumentality of any such jurisdiction, political subdivision or other
26 governmental unit, or (c) an institution which is organized under the
27 laws of any such jurisdiction, or, in the case of investments which are
28 substantially of the same character as prescribed for investments under
29 subsections b. and c. of this section, the real property is located in any
30 such jurisdiction; and (2) if the investment is denominated in any
31 currency other than United States dollars, the investment is effectively
32 hedged, substantially in its entirety, against the United States dollar
33 pursuant to contracts or agreements which are (a) issued by or traded
34 on a securities exchange or board of trade regulated under the laws of
35 the United States or Canada or a province thereof, (b) entered into
36 with a United States banking institution which has assets in excess of
37 \$5,000,000,000 and which has obligations outstanding, or has a parent
38 corporation which has obligations outstanding, which are rated in one
39 of the two highest rating categories by an independent, nationally
40 recognized United States rating agency, or with a broker-dealer
41 registered with the Securities and Exchange Commission which has net
42 capital in excess of \$250,000,000, or (c) entered into with any other
43 banking institution which has assets in excess of \$5,000,000,000 and
44 which has obligations outstanding, or has a parent corporation which
45 has obligations outstanding, which are rated in one of the two highest
46 rating categories by an independent, nationally recognized United

1 States rating agency and which is organized under the laws of a
2 jurisdiction which is rated in one of the two highest rating categories
3 by an independent, nationally recognized United States rating agency.

4 Any investment qualified pursuant to paragraph (2) of the preceding
5 definition of "qualified foreign investment" shall remain so qualified
6 only at such time or times that the hedging requirements of paragraph
7 (2) are met.

8 f. Bonds, notes, or other evidences of indebtedness, issued, insured
9 or guaranteed or to be insured or guaranteed by the International Bank
10 for Reconstruction and Development, or by the International Finance
11 Corporation, or by the Inter-American Development Bank, or by the
12 Asian Development Bank, or by the African Development Bank.

13 g. Collateral loans secured by a pledge of capital stock, beneficial
14 shares or other instruments evidencing an ownership interest, bonds,
15 securities or evidences of indebtedness qualified or permitted for
16 investment under any of the preceding subsections of this section. The
17 amount of any such loan shall not exceed 80% of the market value of
18 the security pledged at the date of the loan.

19 h. Loans or investments which are not qualified or permitted under
20 any of the preceding subsections of this section or which are not
21 otherwise expressly authorized by law; provided, that the aggregate
22 amount of such loans and investments, valued at cost, shall not exceed
23 at any one time ~~7%~~ 10% of the total admitted assets of such insurer
24 as of December 31 next preceding.

25 For the purposes of subsection c. and this subsection h., the portion
26 of a mortgage loan on unencumbered real estate which does not
27 exceed 80% of the value of the real estate mortgaged shall be deemed
28 to be a permitted investment under subsection c. and the remainder of
29 said loan may be deemed to be made under this subsection h. Any
30 investment originally made under this subsection h. which would
31 subsequently, if it were being made, qualify as a permitted investment
32 under another subsection of this section shall thenceforth be deemed
33 to be a permitted investment under such other subsection.

34 (cf: P.L.1994, c.20, s.1)

35

36 2. N.J.S.17B:20-2 is amended to read as follows:

37 17B:20-2. The amount (excluding amounts invested in the common
38 stock of any corporation pursuant to N.J.S.17B:20-3 and
39 N.J.S.17B:20-4) invested by a domestic insurer (a) in the common
40 stock of any one corporation shall not exceed 2% of the total admitted
41 assets of such insurer as of December 31 next preceding, or (b) in the
42 common stock of all corporations valued at cost shall not exceed 15%
43 of such assets except that to the extent that such aggregate investment
44 in common stock exceeds 10% of such assets, further investments shall
45 be subject to regulation by the commissioner under a formula which
46 shall take into consideration the actual mandatory securities valuation

1 reserve, as defined by the Subcommittee on Valuation of Securities of
2 the National Association of Insurance Commissioners, held by a
3 company which is applicable to such common stock in the
4 corresponding annual statement filed with the department. The term
5 "common stock" shall mean any voting stock of any class of a
6 corporation which shall not be limited to a fixed sum or percentage of
7 par value in respect to the rights of the holders thereof to participate
8 in dividends or in the distribution of assets upon the voluntary or
9 involuntary liquidation, dissolution or winding up of the corporation.
10 Neither shall the amount invested in the beneficial shares or other
11 ownership interests (other than common stock), evidences of
12 indebtedness (excluding amounts invested in mortgage loans pursuant
13 to subsection c. of N.J.S.17B:20-1), preferred stock and certificates
14 of receivers of any one institution exceed 5% of such assets of the
15 insurer. Nothing herein contained shall prevent any such insurer from
16 purchasing, or in any other way acquiring the voting stock of, or
17 otherwise investing in certain corporations as hereinafter provided in
18 N.J.S.17B:20-3 and N.J.S.17B:20-4.

19 The total amount of admitted assets invested in the types of
20 investments authorized by subsections b. and c. of N.J.S.17B:20-1
21 shall not, in the aggregate, exceed 60% of the domestic insurer's total
22 admitted assets.

23 All investments made by any such insurer shall be authorized or
24 approved by the board of directors, or by a committee designated by
25 the board of directors and charged with the duty of supervising such
26 investment, or shall be made in conformity with standards or
27 investment objectives approved by such board of directors or such
28 committee.

29 No such insurer shall [enter into any agreement to withhold from
30 sale any of its property or] jointly or severally enter into any
31 agreement to purchase the unsold amount of securities which are the
32 subject of an offering for sale to the public or otherwise to guarantee
33 the sale of such securities.

34 Nothing contained in this section shall prevent any such insurer
35 from distributing shares of an investment company within the meaning
36 of the Investment Company Act of 1940 for which such insurer or its
37 subsidiary is the investment manager or investment adviser.

38 The term "Investment Company Act of 1940" as used in this section
39 shall mean an Act of Congress entitled "Investment Company Act of
40 1940," 54 Stat. 847 (15 U.S.C. s.80a-1 et seq.) as amended from time
41 to time, or any similar statute enacted in substitution therefor.
42 (cf: P.L.1989, c.267, s.2)

43

44 3. N.J.S.17B:28-13 is repealed.

45

46 4. This act shall take effect immediately.

1 STATEMENT

2

3 The purpose of this bill is to provide greater flexibility for domestic
4 insurers with respect to their investments. The bill (1) increases the
5 amount of its admitted assets a domestic insurer may invest in a
6 foreign country from 5% to 20%; (2) increases the single country
7 limits for a qualified foreign investment from 2% to 10%; and (3)
8 increases the amount of its admitted assets a domestic insurer may
9 invest in investments that are "not qualified or permitted" under N.J.S.
10 17B:20-1 ("leeway basket assets") from 7% to 10%. These provisions
11 mirror the foreign investment limits and the "not qualified or
12 permitted" investment limits stipulated by the National Association of
13 Insurance Commissioners' "Investments of Insurers Model Act -
14 Defining Limits Version."

15 In addition, the bill amends the definition of "institution" contained
16 in N.J.S.17B:20-1(d) to specifically include a "limited liability
17 company, limited liability partnership or any other similar entity." The
18 bill also removes the current prohibition against a domestic insurer
19 entering into an agreement to withhold its property from sale.

20 Finally, the bill repeals N.J.S.17B:28-13 which limits under certain
21 conditions, the amount that a stock insurer may withdraw from a
22 separate account.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO

SENATE, No. 2173

STATE OF NEW JERSEY

DATED: JUNE 9, 2005

The Assembly Financial Institutions and Insurance Committee reports favorably Senate Bill No. 2173.

This bill provides greater flexibility for domestic life and health insurers with respect to their investments. The bill (1) increases the amount of its admitted assets a domestic insurer may invest in a foreign country from 5% to 20%; (2) increases the single country limits for a qualified foreign investment from 2% to 10%; and (3) increases the amount of its admitted assets a domestic insurer may invest in investments that are "not qualified or permitted" under N.J.S. 17B:20-1 ("leeway basket assets") from 7% to 10%. These provisions mirror the foreign investment limits and the "not qualified or permitted" investment limits stipulated by the National Association of Insurance Commissioners' "Investments of Insurers Model Act (Defined Limits Version)."

In addition, the bill amends the definition of "institution" contained in subsection d. of N.J.S.17B:20-1 to specifically include a "limited liability company, limited liability partnership or any other similar entity." The bill also removes the current prohibition against a domestic insurer entering into an agreement to withhold its property from sale.

Finally, the bill repeals N.J.S.17B:28-13, which limits, under certain conditions, the amount that a stock insurer may withdraw from a separate account.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 2173

STATE OF NEW JERSEY

DATED: FEBRUARY 7, 2005

The Senate Commerce Committee reports favorably Senate Bill No. 2173.

The purpose of this bill is to provide greater flexibility for domestic life and health insurers with respect to their investments. The bill (1) increases the amount of its admitted assets a domestic insurer may invest in a foreign country from 5% to 20%; (2) increases the single country limits for a qualified foreign investment from 2% to 10%; and (3) increases the amount of its admitted assets a domestic insurer may invest in investments that are "not qualified or permitted" under N.J.S. 17B:20-1 ("leeway basket assets") from 7% to 10%. These provisions mirror the foreign investment limits and the "not qualified or permitted" investment limits stipulated by the National Association of Insurance Commissioners' "Investments of Insurers Model Act - Defining Limits Version."

In addition, the bill amends the definition of "institution" contained in N.J.S.17B:20-1(d) to specifically include a "limited liability company, limited liability partnership or any other similar entity." The bill also removes the current prohibition against a domestic insurer entering into an agreement to withhold its property from sale.

Finally, the bill repeals N.J.S.17B:28-13 which limits under certain conditions, the amount that a stock insurer may withdraw from a separate account.

ASSEMBLY, No. 3624

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED JANUARY 10, 2005

Sponsored by:

Assemblyman NEIL M. COHEN

District 20 (Union)

Assemblyman CHRISTOPHER "KIP" BATEMAN

District 16 (Morris and Somerset)

SYNOPSIS

Increases certain investment limits for domestic insurers.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/10/2005)

1 AN ACT concerning the investment powers of domestic insurers and
2 amending N.J.S.17B:20-1 and 17B:20-2 and repealing N.J.S.
3 17B:28-13.

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

7
8 1. N.J.S.17B:20-1 is amended to read as follows:

9 17B:20-1. Any domestic insurer may invest its capital, surplus and
10 other funds, or any part thereof, in:

11 a. Bonds, notes, or other evidences of indebtedness or public stock
12 issued, created, insured or guaranteed by the United States, any
13 territory or possession thereof, this or any other state of the United
14 States, the District of Columbia, the Commonwealth of Puerto Rico,
15 Canada, or any of the provinces thereof, or any instrumentality, agency
16 or political subdivision of one or more of the foregoing.

17 b. Real estate which may be improved or which is unimproved but
18 acquired in accordance with a definite plan for development within not
19 more than five years, and in the improvement, development, operation
20 or leasing thereof; provided, that if the commissioner shall determine
21 that the interest of such insurer's policyholders requires that any
22 specific real estate so acquired be disposed of, then such insurer shall
23 dispose of such real estate within such reasonable time as the
24 commissioner shall direct; and provided further, that the sum of (1) the
25 aggregate amount invested in such real estate (including real estate
26 held pursuant to N.J.S.17B:18-45 of this title) and (2) the aggregate
27 amount invested in capital stock of any subsidiary of the insurer
28 pursuant to N.J.S.17B:20-4, engaged in a business primarily involving
29 the owning, improving, developing, operating or leasing of real estate,
30 shall not exceed 10% of the total admitted assets of such insurer as of
31 December 31 next preceding. Real estate used primarily for
32 agricultural, horticultural, ranching, mining, forestry or recreational
33 purposes shall be deemed improved within the meaning of this
34 subsection b. The term "real estate" as used in this chapter shall
35 include any real property and any interest therein, including, without
36 limitation, any interest on, above or below the surface of the land, any
37 leasehold estate therein, and any such interest held or to be held by the
38 insurer in cotenancy with one or more other persons and any
39 partnership interest held by the insurer in any general or limited
40 partnership engaged in a business primarily involving the owning,
41 improving, developing, operating or leasing of real estate. Income
42 produced by investment in any such leasehold shall be applied in a
43 manner calculated to amortize the amount invested in such leasehold

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

Matter underlined thus is new matter.

1 within a period not exceeding eight-tenths of the unexpired term of the
2 leasehold, inclusive of enforceable options, or within 40 years,
3 whichever is the lesser, or where the peculiar nature of the leasehold
4 involved so dictates, within such period and subject to such other
5 reasonable limitations as the commissioner shall by regulation impose.
6 For the purposes of this subsection b., a mortgage loan shall not be
7 deemed to be an investment in real estate, notwithstanding the
8 mortgagor is an institution in which such insurer has an ownership
9 interest as shareholder, partner, or otherwise. The commissioner may
10 promulgate a regulation in connection with investments under this
11 subsection b. which shall, as far as practicable, be consistent with
12 those regulations of the department which treat with securities
13 supported by such interests in real estate.

14 c. Mortgage loans on unencumbered real estate, located within the
15 United States, any territory or possession thereof, the Commonwealth
16 of Puerto Rico or Canada. The amount of any such loan shall not
17 exceed 80% of the value of the real estate mortgaged unless (1) the
18 loan is also secured by the mortgagor's interest in a lease or leases
19 whose aggregate rentals shall be sufficient, after payment of operating
20 expenses and fixed charges, to repay 90% of the loan with interest
21 thereon during the initial term or terms of such lease or leases and
22 shall be payable directly or indirectly by any governmental units,
23 instrumentalities, agencies or political subdivisions or an institution or
24 institutions which meet the credit standards of the insurer for an
25 unsecured loan to such institution or institutions or (2) the loan is
26 secured by a purchase money mortgage or like security received by the
27 insurer upon the sale or exchange of real estate acquired pursuant to
28 any provision of this title or (3) the excess over such 80% is insured
29 or guaranteed or to be insured or guaranteed by the United States, any
30 territory or possession thereof, this or any other state of the United
31 States, the District of Columbia, the Commonwealth of Puerto Rico,
32 Canada or any of the provinces thereof, or any instrumentality, agency
33 or political subdivision of one or more of the foregoing. Any
34 mortgage loan so insured or guaranteed or to be insured or guaranteed
35 shall not be subject to the provisions of any law of this State
36 prescribing or limiting the interest which may be charged or taken
37 upon any such loan.

38 Any such insurer may hold a participation in any such mortgage
39 loan if (1) such participation is senior and gives the holder
40 substantially the rights of a first mortgagee or (2) the interest of such
41 insurer in the evidence or evidences of indebtedness is of equal
42 priority, to the extent of such interest, with other interests therein.

43 Any such mortgage loan which exceeds two-thirds of the value of
44 the real estate mortgaged shall provide for such payments of principal,
45 whatever the period of the loan, that at no time during the period of
46 the loan shall the aggregate payments of principal theretofore required

1 to be made under the terms of the loan be less than would have been
2 necessary to reduce the loan to two-thirds of such value by the end of
3 35 years through payments of interest only for five years and equal
4 payments applicable first to interest and then to principal at the end of
5 each year thereafter. The commissioner may promulgate such
6 supplemental regulations as he deems necessary with regard to
7 particular classes of such investments, taking into consideration the
8 type of security and the ratio of the loan to the value of the real estate
9 mortgaged. No loan may be made on leasehold real estate unless the
10 terms of such loan provide for payments to be made by the borrower
11 on the principal thereof in amounts sufficient to completely repay the
12 loan within a period not exceeding nine-tenths of the term of the
13 leasehold, inclusive of the term or terms which may be provided by any
14 enforceable option or options of extension or of renewal, which is
15 unexpired at the time the loan is made.

16 Real estate shall not be deemed to be encumbered within the
17 meaning of this subsection c. by reason of the existence of taxes or
18 assessments that are not delinquent, or encumbrances that do not
19 adversely affect the salability of the property to a material extent or as
20 to which the insurer is insured against loss by title insurance, or any
21 prior mortgage or mortgages held by such insurer if the aggregate of
22 the mortgages held shall not exceed the amount hereinbefore set forth,
23 nor when such real estate is subject to lease in whole or in part;
24 provided, that the security created by the mortgage on such real estate
25 is a first lien thereon. Real estate shall not be deemed to be
26 encumbered and the security of the mortgage thereon shall be deemed
27 a first lien within the meaning of this subsection c., notwithstanding
28 the mortgagor is an institution in which such insurer has an ownership
29 interest as shareholder, partner or otherwise.

30 No such insurer shall, pursuant to this subsection c., invest more
31 than 2% of its total admitted assets as of December 31 next preceding
32 in any mortgage loan secured by any one property, nor shall its total
33 mortgage investments pursuant to this subsection c., exclusive of any
34 mortgage loans secured by a purchase money mortgage or like security
35 received by the insurer upon the sale or exchange of real estate
36 acquired pursuant to any provision of this title or insured or
37 guaranteed or to be insured or guaranteed as hereinbefore provided,
38 exceed 60% of such admitted assets.

39 d. Tangible personal property, equipment trust obligations or other
40 instruments evidencing an ownership interest or other interest in
41 tangible personal property where there is a right to receive determined
42 portions of rental, purchase or other fixed obligatory payments for the
43 use or purchase of such personal property, provided, that the
44 aggregate of such payments, together with the estimated salvage value
45 of such property at the end of its minimum useful life and the
46 estimated tax benefits to the insurer resulting from ownership of such

1 property, is adequate to return the cost of the investment in such
2 property, and provided further, that the aggregate net investments
3 therein shall not exceed 10% of the total admitted assets of such
4 insurer as of December 31 next preceding; or certificates of receivers
5 of any institution where such purchase is necessary to protect an
6 investment in the securities of such institution theretofore made under
7 authority of this chapter; or the capital stock, beneficial shares or other
8 instruments evidencing an ownership interest, bonds, securities or
9 evidences of indebtedness issued, assumed or guaranteed by any
10 institution created or existing under the laws of the United States, any
11 territory or possession thereof, this or any other state of the United
12 States, the District of Columbia, the Commonwealth of Puerto Rico,
13 Canada or any of the provinces thereof; provided, that no purchase of
14 any evidence of indebtedness which is in default as to interest shall be
15 made by such insurer unless such purchase is necessary to protect an
16 investment theretofore made under statutory authority.

17 The term "institution" as used in this chapter shall include any
18 corporation, joint stock association, business trust, business joint
19 venture, business partnership, savings and loan association, credit
20 union or other mutual savings institution or limited liability company,
21 limited liability partnership or any other similar entity. No purchase
22 shall be made of the stock of any class of any corporation, except a
23 subsidiary of the insurer pursuant to N.J.S.17B:20-4, unless (1) such
24 corporation has paid cash dividends on such class of stock during each
25 of the past five years preceding the time of purchase or (2) such
26 corporation shall have earned during the period of such five years an
27 aggregate sum available for dividends upon such stock which would
28 have been sufficient, after all fixed charges and obligations, to pay
29 dividends upon all shares of such class of stock outstanding during
30 such period averaging 4% per annum computed upon the par value (or
31 in the case of stock having no par value, upon the stated capital in
32 respect thereof) of such stock. In the case of the stock of a
33 corporation resulting from or formed by merger, consolidation,
34 acquisition or otherwise less than five years prior to such purchase,
35 each consecutive year next preceding the effective date of such
36 merger, consolidation or acquisition during which dividends or other
37 distributions of profits shall have been paid by any one or more of its
38 constituent or predecessor institutions shall be deemed a year during
39 which dividends have been paid on such class of stock and the earnings
40 of such constituent or predecessor institutions available for dividends
41 during each of such years may be included as earnings of the existing
42 corporation whose stock is to be purchased for each of such years;
43 provided, however, that nothing herein contained shall prohibit the
44 purchase of stock of any class which is preferred, as to dividends, over
45 any class the purchase of which is not prohibited by this section; and
46 provided further, that no purchase of its own stock shall be made by

1 any insurer except for the purpose of the retirement of such stock or
2 except as specifically permitted by any law of this State applicable by
3 its terms only to insurers.

4 e. Securities, properties and other investments in foreign countries,
5 in addition to those specified in N.J.S.17B:20-5, which are
6 substantially of the same character as prescribed for authorized
7 investments for funds of the insurer under the preceding subsections
8 of this section, to an amount valued at cost, not exceeding in the
9 aggregate at any one time ~~[5%]~~ 20% of the total admitted assets of
10 such insurer as of December 31 next preceding; provided, however,
11 that the amount invested pursuant to this subsection e. in authorized
12 investments, other than qualified foreign investments, shall not exceed
13 in the aggregate, at any one time, ~~[2%]~~ 3% of such admitted assets;
14 and provided further that the amount invested in authorized
15 investments in any one foreign country pursuant to this subsection e.
16 shall not exceed in the aggregate, at any one time, ~~[2%]~~ 10% of such
17 admitted assets. For the purposes of this subsection e., Canada shall
18 not be deemed to be a foreign country.

19 The term "qualified foreign investment" as used in this subsection
20 e. shall include any investment in a foreign country where: (1) the
21 issuer or obligor is (a) a jurisdiction which is rated in one of the two
22 highest rating categories by an independent, nationally recognized
23 United States rating agency, (b) any political subdivision or other
24 governmental unit of any such jurisdiction, or any agency or
25 instrumentality of any such jurisdiction, political subdivision or other
26 governmental unit, or (c) an institution which is organized under the
27 laws of any such jurisdiction, or, in the case of investments which are
28 substantially of the same character as prescribed for investments under
29 subsections b. and c. of this section, the real property is located in any
30 such jurisdiction; and (2) if the investment is denominated in any
31 currency other than United States dollars, the investment is effectively
32 hedged, substantially in its entirety, against the United States dollar
33 pursuant to contracts or agreements which are (a) issued by or traded
34 on a securities exchange or board of trade regulated under the laws of
35 the United States or Canada or a province thereof, (b) entered into
36 with a United States banking institution which has assets in excess of
37 \$5,000,000,000 and which has obligations outstanding, or has a parent
38 corporation which has obligations outstanding, which are rated in one
39 of the two highest rating categories by an independent, nationally
40 recognized United States rating agency, or with a broker-dealer
41 registered with the Securities and Exchange Commission which has net
42 capital in excess of \$250,000,000, or (c) entered into with any other
43 banking institution which has assets in excess of \$5,000,000,000 and
44 which has obligations outstanding, or has a parent corporation which
45 has obligations outstanding, which are rated in one of the two highest
46 rating categories by an independent, nationally recognized United

1 States rating agency and which is organized under the laws of a
2 jurisdiction which is rated in one of the two highest rating categories
3 by an independent, nationally recognized United States rating agency.

4 Any investment qualified pursuant to paragraph (2) of the preceding
5 definition of "qualified foreign investment" shall remain so qualified
6 only at such time or times that the hedging requirements of paragraph
7 (2) are met.

8 f. Bonds, notes, or other evidences of indebtedness, issued, insured
9 or guaranteed or to be insured or guaranteed by the International Bank
10 for Reconstruction and Development, or by the International Finance
11 Corporation, or by the Inter-American Development Bank, or by the
12 Asian Development Bank, or by the African Development Bank.

13 g. Collateral loans secured by a pledge of capital stock, beneficial
14 shares or other instruments evidencing an ownership interest, bonds,
15 securities or evidences of indebtedness qualified or permitted for
16 investment under any of the preceding subsections of this section. The
17 amount of any such loan shall not exceed 80% of the market value of
18 the security pledged at the date of the loan.

19 h. Loans or investments which are not qualified or permitted under
20 any of the preceding subsections of this section or which are not
21 otherwise expressly authorized by law; provided, that the aggregate
22 amount of such loans and investments, valued at cost, shall not exceed
23 at any one time ~~7%~~ 10% of the total admitted assets of such insurer
24 as of December 31 next preceding.

25 For the purposes of subsection c. and this subsection h., the portion
26 of a mortgage loan on unencumbered real estate which does not
27 exceed 80% of the value of the real estate mortgaged shall be deemed
28 to be a permitted investment under subsection c. and the remainder of
29 said loan may be deemed to be made under this subsection h. Any
30 investment originally made under this subsection h. which would
31 subsequently, if it were being made, qualify as a permitted investment
32 under another subsection of this section shall thenceforth be deemed
33 to be a permitted investment under such other subsection.

34 (cf: P.L.1994, c.20, s.1)

35

36 2. N.J.S.17B:20-2 is amended to read as follows:

37 17B:20-2. The amount (excluding amounts invested in the common
38 stock of any corporation pursuant to N.J.S.17B:20-3 and
39 N.J.S.17B:20-4) invested by a domestic insurer (a) in the common
40 stock of any one corporation shall not exceed 2% of the total admitted
41 assets of such insurer as of December 31 next preceding, or (b) in the
42 common stock of all corporations valued at cost shall not exceed 15%
43 of such assets except that to the extent that such aggregate investment
44 in common stock exceeds 10% of such assets, further investments shall
45 be subject to regulation by the commissioner under a formula which
46 shall take into consideration the actual mandatory securities valuation

1 reserve, as defined by the Subcommittee on Valuation of Securities of
2 the National Association of Insurance Commissioners, held by a
3 company which is applicable to such common stock in the
4 corresponding annual statement filed with the department. The term
5 "common stock" shall mean any voting stock of any class of a
6 corporation which shall not be limited to a fixed sum or percentage of
7 par value in respect to the rights of the holders thereof to participate
8 in dividends or in the distribution of assets upon the voluntary or
9 involuntary liquidation, dissolution or winding up of the corporation.
10 Neither shall the amount invested in the beneficial shares or other
11 ownership interests (other than common stock), evidences of
12 indebtedness (excluding amounts invested in mortgage loans pursuant
13 to subsection c. of N.J.S.17B:20-1), preferred stock and certificates
14 of receivers of any one institution exceed 5% of such assets of the
15 insurer. Nothing herein contained shall prevent any such insurer from
16 purchasing, or in any other way acquiring the voting stock of, or
17 otherwise investing in certain corporations as hereinafter provided in
18 N.J.S.17B:20-3 and N.J.S.17B:20-4.

19 The total amount of admitted assets invested in the types of
20 investments authorized by subsections b. and c. of N.J.S.17B:20-1
21 shall not, in the aggregate, exceed 60% of the domestic insurer's total
22 admitted assets.

23 All investments made by any such insurer shall be authorized or
24 approved by the board of directors, or by a committee designated by
25 the board of directors and charged with the duty of supervising such
26 investment, or shall be made in conformity with standards or
27 investment objectives approved by such board of directors or such
28 committee.

29 No such insurer shall [enter into any agreement to withhold from
30 sale any of its property or] jointly or severally enter into any
31 agreement to purchase the unsold amount of securities which are the
32 subject of an offering for sale to the public or otherwise to guarantee
33 the sale of such securities.

34 Nothing contained in this section shall prevent any such insurer
35 from distributing shares of an investment company within the meaning
36 of the Investment Company Act of 1940 for which such insurer or its
37 subsidiary is the investment manager or investment adviser.

38 The term "Investment Company Act of 1940" as used in this section
39 shall mean an Act of Congress entitled "Investment Company Act of
40 1940," 54 Stat. 847 (15 U.S.C. s.80a-1 et seq.) as amended from time
41 to time, or any similar statute enacted in substitution therefor.
42 (cf: P.L.1989, c.267, s.2)

43

44 3. N.J.S. 17B:28-13 is repealed.

45

46 4. This act shall take effect immediately.

1 STATEMENT

2

3 The purpose of this bill is to provide greater flexibility for domestic
4 insurers with respect to their investments. The bill (1) increases the
5 amount of its admitted assets a domestic insurer may invest in a
6 foreign country from 5% to 20%; (2) increases the single country
7 limits for a qualified foreign investment from 2% to 10%; and (3)
8 increases the amount of its admitted assets a domestic insurer may
9 invest in investments that are "not qualified or permitted" under N.J.S.
10 17B:20-1 ("leeway basket assets") from 7% to 10%. These provisions
11 mirror the foreign investment limits and the "not qualified or
12 permitted" investment limits stipulated by the National Association of
13 Insurance Commissioners' "Investments of Insurers Model Act -
14 Defining Limits Version."

15 In addition, the bill amends the definition of "institution" contained
16 in N.J.S.17B:20-1(d) to specifically include a "limited liability
17 company, limited liability partnership or any other similar entity." The
18 bill also removes the current prohibition against a domestic insurer
19 entering into an agreement to withhold its property from sale.

20 Finally, the bill repeals N.J.S.17B:28-13 which limits under certain
21 conditions, the amount that a stock insurer may withdraw from a
22 separate account.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3624

STATE OF NEW JERSEY

DATED: JUNE 9, 2005

The Assembly Financial Institutions and Insurance Committee reports favorably Assembly Bill No. 3624.

This bill provides greater flexibility for domestic insurers with respect to their investments. The bill (1) increases the amount of its admitted assets a domestic insurer may invest in a foreign country from 5% to 20%; (2) increases the single country limits for a qualified foreign investment from 2% to 10%; and (3) increases the amount of its admitted assets a domestic insurer may invest in investments that are "not qualified or permitted" under N.J.S.17B:20-1 ("leeway basket assets") from 7% to 10%. These provisions mirror the foreign investment limits and the "not qualified or permitted" investment limits stipulated by the National Association of Insurance Commissioners' "Investments of Insurers Model Act (Defined Limits Version)."

In addition, the bill amends the definition of "institution" contained in subsection d. of N.J.S.17B:20-1 to specifically include a "limited liability company, limited liability partnership or any other similar entity." The bill also removes the current prohibition against a domestic insurer entering into an agreement to withhold its property from sale.

Finally, the bill repeals N.J.S.17B:28-13, which limits, under certain conditions, the amount that a stock insurer may withdraw from a separate account.