

2021 Regular Session

SENATE BILL NO. 73

BY SENATOR MILLIGAN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INSURERS. Provides relative to investment of domestic insurers. (1/1/22)

AN ACT

To enact Subpart B-1 of Part III of Chapter 2 of Title 22 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 22:601.1 through 601.21, and to repeal Subpart B of Part III of Chapter 2 of Title 22 of the Louisiana Revised Statutes of 1950, comprised of R.S. 22:581 through 601, relative to investments of domestic insurers; to provide for definitions; to provide for qualified investments for insurers; to provide for a written investment policy; to provide for the authorization of investments; to provide for a valuation method for investments; to provide for limitations on investments; to provide for investments in bonds, equity interests, mortgage loans, and real estate; to provide for transactions involving the lending, repurchase, and reverse repurchase of securities; to provide for dollar roll transactions; to provide for foreign investments and currency exposure; to provide for insurer investment pools; to provide for derivative transactions; to provide for collateral loans; to provide for other assets; to provide for authority to invest in certain assets beyond percentage limitations; to provide for prohibited investments; to provide for restrictions on the pledging of assets; to provide for limitations on loans to and investments involving officers and directors; to provide for judicial

1 review and mandamus; and to provide for related matters.

2 Be it enacted by the Legislature of Louisiana:

3 Section 1. Subpart B-1 of Part III of Chapter 2 of Title 22 of the Louisiana Revised
4 Statutes of 1950, to be comprised of R.S. 22:601.1 through 601.21 is hereby enacted to read
5 as follows:

6 **SUBPART B-1. DOMESTIC INSURER INVESTMENTS**

7 **§601.1. Definitions**

8 **As used in this Subpart, the following terms have the following**
9 **meanings:**

10 **(1) "Acceptable collateral" means any of the following:**

11 **(a) As to securities lending transactions, and for the purpose of**
12 **calculating counterparty exposure amount, cash, cash equivalents, letters of**
13 **credit, direct obligations of, or securities that are fully guaranteed as to**
14 **principal and interest by, the government of the United States or any agency of**
15 **the United States, or by the Federal National Mortgage Association or the**
16 **Federal Home Loan Mortgage Corporation, or any state or territory of the**
17 **United States or the District of Columbia and as to lending foreign securities,**
18 **sovereign debt rated one by the SVO.**

19 **(b) As to reverse repurchase transactions, cash, cash equivalents and**
20 **direct obligations of, or securities that are fully guaranteed as to principal and**
21 **interest by, the government of the United States or an agency of the United**
22 **States, or by the Federal National Mortgage Association or the Federal Home**
23 **Loan Mortgage Corporation, or any state or territory of the United States or**
24 **the District of Columbia.**

25 **(c) As to reverse repurchase transactions, cash, or cash equivalents.**

26 **(2) "Admitted assets" means assets permitted to be reported as admitted**
27 **assets on the statutory financial statement of the insurer most recently required**
28 **to be filed with the commissioner, but excluding assets of separate accounts, the**
29 **investments of which are not subject to the provisions of this Subpart.**

1 **(3) "Affiliate" means, as to any person, another person that, directly or**
2 **indirectly through one or more intermediaries, controls, is controlled by, or is**
3 **under common control with the person.**

4 **(4) "Asset-backed security" means a security or other instrument,**
5 **excluding a mutual fund and mortgage-backed securities, evidencing an interest**
6 **in, or the right to receive payments from, or payable from distributions on, an**
7 **asset, a pool of assets or specifically divisible cash flows which are legally**
8 **transferred to a trust or another special purpose bankruptcy-remote business**
9 **entity, on both of the following conditions:**

10 **(a) The trust or other business entity is established solely for the purpose**
11 **of acquiring specific types of assets or rights to cash flows, issuing securities and**
12 **other instruments representing an interest in or right to receive cash flows from**
13 **those assets or rights, and engaging in activities required to service the assets or**
14 **rights and any credit enhancement or support features held by the trust or**
15 **other business entity.**

16 **(b) The assets of the trust or other business entity consist solely of**
17 **interest bearing obligations or other contractual obligations representing the**
18 **right to receive payment from the cash flows from the assets or rights. The**
19 **existence of credit enhancements, such as letters of credit or guarantees, or**
20 **support features such as swap agreements, shall not cause a security or other**
21 **instrument to be ineligible as an asset-backed security.**

22 **(5) "Bonds" means any securities representing a creditor relationship**
23 **whereby there is a fixed legal maturity date or fixed schedule for one or more**
24 **future payments. The term "bonds" includes the following:**

25 **(a) United States Treasury securities.**

26 **(b) United States government agency securities.**

27 **(c) Obligations issued by a municipality or political subdivision in this**
28 **state or any other state or territory of the United States or the District of**
29 **Columbia.**

1 (d) Corporate bonds, including Yankee bonds and zero-coupon bonds.

2 (e) Convertible bonds, including mandatory convertible bonds.

3 (f) Listed bond funds.

4 (g) Fixed-income instruments specifically identified as follows:

5 (i) Certifications of deposit that have a fixed schedule of payments and
6 a maturity date in excess of one year from the date of acquisition.

7 (ii) Bank loans issued directly by a reporting entity or acquired through
8 a participation, syndication, or assignment.

9 (iii) Hybrid securities, excluding surplus notes, subordinated debt issues
10 which have no coupon deferral features, and traditional preferred stocks.

11 (iv) Debt instruments in a certified capital company.

12 (6) "Business entity" includes a sole proprietorship, corporation, limited
13 liability company, association, partnership, joint stock company, joint venture,
14 mutual fund, trust, joint tenancy, or other similar form of business
15 organization, whether organized for-profit or not-for-profit.

16 (7) "Cap" means an agreement obligating the seller to make payments
17 to the buyer, with each payment based on the amount by which a reference
18 price or level or the performance or value of one or more underlying interests
19 exceeds a predetermined number, sometimes called the strike rate or strike
20 price.

21 (8) "Capital and surplus" means the sum of the capital and surplus of
22 the insurer required to be shown on the statutory financial statement of the
23 insurer most recently required to be filed with the commissioner.

24 (9) "Cash equivalents" means short-term, highly rated, and highly liquid
25 investments or securities readily convertible to known amounts of cash without
26 penalty and so near maturity that they present insignificant risk of change in
27 value. Cash equivalents include money market mutual funds. For purposes of
28 this definition:

29 (a) "Short-term" means investments with a remaining term to maturity

1 of ninety days or less.

2 (b) "Highly rated" means an investment rated "P-1" by Moody's
3 Investors Service, Inc., or "A-1" by Standard and Poor's division of The
4 McGraw Hill Companies, Inc. or its equivalent rating by a nationally
5 recognized statistical rating organization recognized by the SVO.

6 (10) "Collar" means an agreement to receive payments as the buyer of
7 an option, cap, or floor and to make payments as the seller of a different option,
8 cap, or floor.

9 (11) "Control" as defined by R.S. 22:691.2.

10 (12) "Counterparty exposure amount" means:

11 (a) The net amount of credit risk attributable to a derivative instrument
12 executed with a business entity other than through a qualified exchange,
13 qualified foreign exchange, or cleared through a qualified clearinghouse, also
14 referred to as an "over-the-counter derivative instrument". The amount of
15 credit risk equals:

16 (i) The market value of the over-the-counter derivative instrument if the
17 liquidation of the derivative instrument would result in a final cash payment to
18 the insurer.

19 (ii) Zero if the liquidation of the derivative instrument would not result
20 in a final cash payment to the insurer.

21 (b) If over-the-counter derivative instruments are executed under a
22 written master agreement which provides for netting of payments owed by the
23 respective parties, and the domiciliary jurisdiction of the counterparty is either
24 within the United States or if not within the United States, within a foreign
25 jurisdiction listed in the Purposes and Procedures Manual of the NAIC
26 Investment Analysis Office as eligible for netting, the net amount of credit risk
27 shall be the greater of zero or the net sum of:

28 (i) The market value of the over-the-counter derivative instruments
29 executed under the agreement, the liquidation of which would result in a final

1 cash payment to the insurer.

2 (ii) The market value of the over-the-counter derivative instruments
3 executed under the agreement, the liquidation of which would result in a final
4 cash payment by the insurer to the business entity.

5 (c) For open transactions, market value shall be determined at the end
6 of the most recent quarter of the insurer's fiscal year and shall be reduced by
7 the market value of acceptable collateral held by the insurer or placed in escrow
8 by one or both parties.

9 (13) "Covered" means that an insurer owns or can immediately acquire,
10 through the exercise of options, warrants or conversion rights already owned,
11 the underlying interest in order to fulfill or secure its obligations under a call
12 option, cap, or floor it has written, or has set aside under a custodial or escrow
13 agreement cash or cash equivalents with a market value equal to the amount
14 required to fulfill its obligations under a put option it has written, in an income
15 generation transaction.

16 (14)(a) "Derivative instrument" means an agreement, option,
17 instrument, or a series or combination thereof:

18 (i) To make or take delivery of, or assume or relinquish, a specified
19 amount of one or more underlying interests, or to make a cash settlement in lieu
20 thereof.

21 (ii) That has a price, performance, value, or cash flow based primarily
22 upon the actual or expected price, level, performance, value, or cash flow of one
23 or more underlying interests.

24 (b) Derivative instruments may include options, or warrants used in a
25 hedging transaction and not attached to another financial instrument, caps,
26 floors, collars, swaps, forwards, futures, and any other agreements, options, or
27 instruments substantially similar thereto or any series or combination thereof
28 and any agreements, options, or instruments permitted under regulations
29 adopted pursuant to the Administrative Procedure Act. Derivative instruments

1 shall not include an investment authorized by R.S. 22:601.7 through 601.9,
2 601.11 through 601.13, and 601.16(3).

3 (15) "Derivative transaction" means a transaction involving the use of
4 one or more derivative instruments.

5 (16) "Direct" or "directly", when used in connection with an obligation,
6 means that the designated obligor is primarily liable on the instrument
7 representing the obligation.

8 (17) "Dollar roll transaction" means two simultaneous transactions with
9 different settlement dates no more than ninety-six days apart, so that in the
10 transaction with the earlier settlement date, an insurer sells to a business entity,
11 and in the other transaction the insurer is obligated to purchase from the same
12 business entity, substantially similar securities of any of the following types:

13 (a) Asset-backed securities issued, assumed, or guaranteed by the
14 Government National Mortgage Association, the Federal National Mortgage
15 Association, the Federal Home Loan Mortgage Corporation, or their respective
16 successors.

17 (b) Other asset-backed securities referred to in 15 U.S.C. 77r-1, as
18 amended.

19 (18) "Equity interest" means any of the following that are not bonds:

20 (a) Common stock.

21 (b) Mutual fund.

22 (c) Exchange-traded fund.

23 (d) American Depository Receipt.

24 (e) Real Estate Investment Trust.

25 (f) Trust certificate.

26 (g) Investment in a common trust fund of a bank regulated by a federal
27 or state agency.

28 (h) Shares of insured state-chartered building and loan or homestead
29 associations and federal savings and loan associations, if such shares are insured

1 by the Federal Savings and Loan Insurance Corporation as specifically set forth
2 under the terms of Title IV of "The National Housing Act," 12 U.S.C.A. 1701
3 et seq.

4 (i) Warrants or other rights to acquire equity interests that are created
5 by the person that owns or would issue the equity to be acquired.

6 (19) "Equivalent securities" means:

7 (a) In a securities lending transaction, securities that are identical to the
8 loaned securities in all features including the amount of the loaned securities,
9 except as to certificate number if held in physical form, but if any different
10 security shall be exchanged for a loaned security by recapitalization, merger,
11 consolidation, or other corporate action, the different security shall be deemed
12 to be the loaned security.

13 (b) In a repurchase transaction, securities that are identical to the sold
14 securities in all features including the amount of the sold securities, except as to
15 the certificate number if held in physical form.

16 (c) In a reverse repurchase transaction, securities that are identical to the
17 purchased securities in all features including the amount of the purchased
18 securities, except as to the certificate number if held in physical form.

19 (20) "Exchange-traded fund" means funds registered as open-end
20 investment companies or unit investment trusts under 15 U.S.C. 80a-1 et seq.,
21 as amended.

22 (21) "Floor" means an agreement obligating the seller to make payments
23 to the buyer in which each payment is based on the amount by which a
24 predetermined number, sometimes called the floor rate or price, exceeds a
25 reference price, level, performance, or value of one or more underlying
26 interests.

27 (22) "Foreign currency" means a currency other than that of a domestic
28 jurisdiction.

29 (23) "Foreign investment" means an investment in a foreign jurisdiction,

1 or an investment in a person, real estate, or asset domiciled in a foreign
2 jurisdiction, that is substantially of the same type as those eligible for
3 investment pursuant to this Subpart, except as provided in R.S. 22:601.12. An
4 investment shall not be deemed to be foreign if the issuing person, qualified
5 primary credit source, or qualified guarantor is a domestic jurisdiction or a
6 person domiciled in a domestic jurisdiction, unless:

7 (a) The issuing person is a shell business entity.

8 (b) The investment is not assumed, accepted, guaranteed, or insured or
9 otherwise backed by a domestic jurisdiction or a person that is not a shell
10 business entity, domiciled in a domestic jurisdiction.

11 (c) For purposes of this definition:

12 (i) "Shell business entity" means a business entity having no economic
13 substance, except as a vehicle for owning interests in assets issued, owned, or
14 previously owned by a person domiciled in a foreign jurisdiction.

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

18 (iii) "Qualified primary credit source" means the credit source to which
19 an insurer looks for payment as to an investment and against which an insurer
20 has a direct claim for full and timely payment, evidenced by a contractual right
21 for which an enforcement action can be brought in a domestic jurisdiction.

22 (24) "Foreign jurisdiction" means a jurisdiction other than a domestic
23 jurisdiction.

24 (25) "Forward" means an agreement, other than a future, to make or
25 take delivery of or effect a cash settlement based on the actual or expected price,
26 level, performance, or value of one or more underlying interests.

27 (26) "Future" means an agreement, traded on a qualified exchange or
28 qualified foreign exchange, to make or take delivery of, or effect a cash
29 settlement based on the actual or expected price, level, performance, or value

1 of, one or more underlying interests.

2 (27) "Government money market mutual fund" means a money market
3 mutual fund that at all times:

4 (a) Invests only in obligations issued, guaranteed, or insured by the
5 United States or collateralized repurchase agreements composed of these
6 obligations.

7 (b) Qualifies for investment without a reserve under the Purposes and
8 Procedures Manual of the NAIC Investment Analysis Office or any successor
9 publication.

10 (28) "Government sponsored enterprise" means a:

11 (a) Governmental agency.

12 (b) Corporation, limited liability company, association, partnership, joint
13 stock company, joint venture, trust, or other entity or instrumentality organized
14 under the laws of any domestic jurisdiction to accomplish a public policy or
15 other governmental purpose.

16 (29) "Guaranteed or insured," when used in connection with an
17 obligation acquired pursuant to this Subpart, means that the guarantor or
18 insurer has agreed to one of the following:

19 (a) Perform or insure the obligation of the obligor or purchase the
20 obligation.

21 (b) Be unconditionally obligated until the obligation is repaid to maintain
22 in the obligor a minimum net worth, fixed charge coverage, stockholders'
23 equity, or sufficient liquidity to enable the obligor to pay the obligation in full.

24 (30) "Hedging transaction" means a derivative transaction which is
25 entered into and maintained to reduce one of the following:

26 (a) The risk of a change in the value, yield, price, cash flow, or quantity
27 of assets or liabilities which the insurer has acquired or incurred or anticipates
28 acquiring or incurring.

29 (b) The currency exchange rate risk or the degree of exposure as to assets

1 or liabilities which an insurer has acquired or incurred or anticipates acquiring
2 or incurring.

3 (31) "Income" means, as to a security, interest, accrual of discount,
4 dividends, or other distributions, such as rights, tax or assessment credits,
5 warrants and distributions in kind.

6 (32) "Income generation transaction" means a derivative transaction
7 involving the writing of covered call options, covered put options, covered caps,
8 or covered floors that is intended to generate income or enhance return.

9 (33) "Insurance future" means a future relating to an index or pool that
10 is based on insurance-related items.

11 (34) "Insurance futures option" means an option on an insurance future.

12 (35) "Investment company" means an investment company as defined
13 in 15 U.S.C. 80a-3(a), as amended, and a person described in 15 U.S.C. 80a-3(c).

14 (36) "Investment company series" means an investment portfolio of an
15 investment company that is organized as a series company and to which assets
16 of the investment company have been specifically allocated.

17 (37) "Investment practices" means transactions of the types described
18 in R.S. 22:601.11 and 601.14.

19 (38) "Investment subsidiary" means a subsidiary of an insurer engaged
20 or organized to engage exclusively in the ownership and management of assets
21 authorized as investments for the insurer if each subsidiary agrees to limit its
22 investment in any asset so that its investments will not cause the amount of the
23 total investment of the insurer to exceed any of the investment limitations or
24 avoid any other provisions of this Subpart applicable to the insurer. As used in
25 this Subsection, the total investment of the insurer shall include all of the
26 following:

27 (a) Direct investment by the insurer in an asset.

28 (b) The insurer's proportionate share of an investment in an asset by an
29 investment subsidiary of the insurer, which shall be calculated by multiplying

1 the amount of the subsidiary's investment by the percentage of the insurer's
2 ownership interest in the subsidiary.

3 (39) "Limited liability company" means a business organization,
4 excluding partnerships and ordinary business corporations, organized or
5 operating under the laws of the United States or any state thereof that limits the
6 personal liability of investors to the equity investment of the investor in the
7 business entity.

8 (40) "Listed bond fund" means a mutual fund, or an exchange-traded
9 fund, that at all times is listed as eligible for reporting as a long-term bond
10 within the Purposes and Procedures of the NAIC Investment Analysis Office or
11 any successor publication.

12 (41) "Market value" means:

13 (a) As to cash and letters of credit, the amounts thereof.

14 (b) As to a security as of any date, the price for the security on that date
15 obtained from a generally recognized source or the most recent quotation from
16 a generally recognized source or, to the extent no generally recognized source
17 exists, the price for the security as determined in good faith by the parties to a
18 transaction, plus accrued but unpaid income thereon to the extent not included
19 in the price as of that date.

20 (42) "Money market mutual fund" means a mutual fund that meets the
21 conditions of 17 CFR Part 270.2a-7, under 15 U.S.C. 80a-1 et seq., as amended
22 or renumbered.

23 (43) "Mortgage loan" means an obligation secured by a mortgage, deed
24 of trust, trust deed, or other consensual lien on real estate.

25 (44) "Mortgage-backed security" means debt obligations, including
26 collateralized mortgage obligations, which represent claims to the cash flows
27 from pools of mortgage loans made by financial institutions.

28 (45) "Multilateral development bank" means an international
29 development organization of which the United States is a member.

1 **(46) "Mutual fund" means an investment company or, in the case of an**
2 **investment company that is organized as a series company, an investment**
3 **company series, that, in either case, is registered with the United States**
4 **Securities and Exchange Commission under 15 U.S.C. 80a-1 et seq., as**
5 **amended.**

6 **(47) "NAIC" means the National Association of Insurance**
7 **Commissioners.**

8 **(48) "Obligation" means a bond, note, debenture, trust certificate**
9 **including an equipment certificate, production payment, negotiable bank**
10 **certificate of deposit, bankers' acceptance, and other evidence of indebtedness**
11 **for the payment of money, or participations, certificates, or other evidences of**
12 **an interest in any of the foregoing, whether constituting a general obligation of**
13 **the issuer or payable only out of certain revenues or certain funds pledged or**
14 **otherwise dedicated for payment.**

15 **(49) "Option" means an agreement giving the buyer the right to buy or**
16 **receive, known as a "call option", sell or deliver, known as a "put option", enter**
17 **into, extend or terminate or effect a cash settlement based on the actual or**
18 **expected price, level, performance, or value of one or more underlying interests.**

19 **(50) "Person" means an individual, a business entity, a multilateral**
20 **development bank, or a government or quasi-governmental body, such as a**
21 **political subdivision or a government-sponsored enterprise.**

22 **(51) "Potential exposure" means the amount determined in accordance**
23 **with the NAIC Annual Statement Instructions.**

24 **(52) "Preferred stock" means preferred, preference, or guaranteed stock**
25 **of a business entity authorized to issue the stock, that has a preference in**
26 **liquidation over the common stock of the business entity.**

27 **(53) "Qualified bank" means any of the following:**

28 **(a) A national bank, state bank, or trust company that at all times is no**
29 **less than adequately capitalized as determined by standards adopted by United**

1 States banking regulators and that is either regulated by state banking laws or
2 is a member of the Federal Reserve System.

3 (b) A bank or trust company incorporated or organized under the laws
4 of a country other than the United States that is regulated as a bank or trust
5 company by that country's government or an agency thereof and that at all
6 times is no less than adequately capitalized as determined by the standards
7 adopted by international banking authorities.

8 (54) "Qualified business entity" means a business entity that is one of the
9 following:

10 (a) An issuer of obligations or preferred stock that are rated one or two
11 by the SVO or an issuer of obligations, preferred stock or derivative
12 instruments that are rated the equivalent of one or two by the SVO, or by a
13 nationally recognized statistical rating organization recognized by the SVO.

14 (b) A primary dealer in United States government securities, recognized
15 by the Federal Reserve Bank of New York.

16 (55) "Qualified exchange" means any of the following:

17 (a) A securities exchange registered as a national securities exchange or
18 a securities market regulated under 15 U.S.C. 78 et seq., as amended.

19 (b) A board of trade or commodities exchange designated as a contract
20 market by the Commodity Futures Trading Commission or any successor
21 thereof.

22 (c) Private Offerings, Resales, and Trading through Automated Linkages
23 (PORTAL).

24 (d) A designated offshore securities market as defined in 17 CFR Part
25 230.902(b), as amended.

26 (e) A qualified foreign exchange.

27 (56) "Qualified foreign exchange" means a foreign exchange, board of
28 trade, or contract market located outside the United States, its territories, or
29 possessions:

1 (a) That has received regulatory comparability relief under Commodity
2 Futures Trading Commission Rule 30.10, as set forth in Appendix C to Part 30
3 of the Commodity Futures Trading Commission's Regulations, 17 CFR Part 30.

4 (b) That is, or its members are, subject to the jurisdiction of a foreign
5 futures authority that has received regulatory comparability relief under
6 Commodity Futures Trading Commission Rule 30.10, as set forth in Appendix
7 C to Part 30 of the Commodity Futures Trading Commission's Regulations, 17
8 CFR Part 30, as to futures transactions in the jurisdiction where the exchange,
9 board of trade, or contract market is located.

10 (c) Upon which foreign stock index futures contracts are listed that are
11 the subject of no-action relief issued by the Commodity Futures Trading
12 Commission's Office of General Counsel, provided that an exchange, board of
13 trade, or contract market that qualifies as a "qualified foreign exchange" only
14 pursuant to this Subparagraph shall only be a "qualified foreign exchange" as
15 to foreign stock index futures contracts that are the subject of no-action relief.

16 (57) "Real estate" means:

17 (a) Any of the following:

18 (i) Real property.

19 (ii) Interests in real property, such as leaseholds, minerals, and oil and
20 gas that have not been separated from the underlying fee interest of the
21 property.

22 (iii) Improvements and fixtures located on or in real property.

23 (iv) The seller's equity in a contract providing for a deed of real estate.

24 (b) As to a mortgage on a leasehold estate, real estate shall include the
25 leasehold estate only if it has an unexpired term, including renewal options
26 exercisable at the option of the lessee, extending beyond the scheduled maturity
27 date of the obligation that is secured by a mortgage on the leasehold estate by
28 a period equal to at least twenty percent of the original term of the obligation
29 or ten years, whichever is greater.

1 **(58) "Replication transaction" means a derivative transaction that is**
2 **intended to replicate the performance of one or more assets that an insurer is**
3 **authorized to acquire pursuant to this Subpart. A derivative transaction that**
4 **is entered into as a hedging transaction shall not be considered a replication**
5 **transaction.**

6 **(59) "Repurchase transaction" means a transaction in which an insurer**
7 **sells securities to a business entity and is obligated to repurchase the sold**
8 **securities or equivalent securities from the business entity at a specified price,**
9 **either within a specified period or upon demand.**

10 **(60) "Reverse repurchase transaction" means a transaction in which an**
11 **insurer purchases securities from a business entity that is obligated to**
12 **repurchase the purchased securities or equivalent securities from the insurer**
13 **at a specified price, either within a specified period or upon demand.**

14 **(61) "Secured location" means the contiguous real estate owned by one**
15 **person.**

16 **(62) "Securities lending transaction" means a transaction in which**
17 **securities are loaned by an insurer to a business entity that is obligated to return**
18 **the loaned securities or equivalent securities to the insurer, either within a**
19 **specified period or upon demand.**

20 **(63) "Series company" means an investment company that is organized**
21 **as a series company, as defined in 17 CFR 270.18f-2(a) adopted pursuant to 15**
22 **U.S.C. 80a-1 et seq., as amended.**

23 **(64) "State" means a state, territory, or possession of the United States**
24 **of America, the District of Columbia, or the Commonwealth of Puerto Rico.**

25 **(65) "Substantially similar securities" means securities that meet all**
26 **criteria for substantially similar specified in the NAIC Accounting Practices and**
27 **Procedures Manual, as amended, and in an amount that constitutes good**
28 **delivery form as determined from time-to-time by the Public Securities**
29 **Administration.**

1 (66) "SVO" means the Securities Valuation Office of the NAIC or any
2 successor office established by the NAIC.

3 (67) "Swap" means an agreement to exchange or to net payments at one
4 or more times based on the actual or expected price, level, performance, or
5 value of one or more underlying interests.

6 (68) "Underlying interest" means the assets, liabilities, other interests,
7 or a combination thereof underlying a derivative instrument, such as any one
8 or more securities, currencies, rates, indices, commodities, or derivative
9 instruments.

10 (69) "Warrant" means an instrument that gives the holder the right to
11 purchase an underlying financial instrument at a given price and time or at a
12 series of prices and times outlined in the warrant agreement. Warrants may be
13 issued alone or in connection with the sale of other securities, for example, as
14 part of a merger or recapitalization agreement, or to facilitate divestiture of the
15 securities of another business entity.

16 §601.2. General investment qualifications

17 A. Insurers may acquire, hold, or invest in investments or engage in
18 investment practices as set forth in this Subpart only. Investments not
19 conforming to this Subpart shall not be admitted assets.

20 B. No security or other investment shall be eligible for purchase or
21 acquisition pursuant to this Subpart unless it is interest bearing or interest
22 accruing or dividend or income paying or eligible for dividends or income, is not
23 then in default in any respect, and the insurer is entitled to receive for its
24 exclusive account and benefit, the interest or income accruing thereon; except
25 that it may acquire real property for occupancy by the insurer for home and
26 branch office purposes. No security shall be eligible for purchase at a price
27 above its market value.

28 C. Except as provided in Subsections D and E of this Section, an
29 investment shall qualify pursuant to this Subpart if, on the date the insurer

1 committed to acquire the investment or on the date of its acquisition, it would
2 have qualified pursuant to this Subpart. For the purposes of determining
3 limitations contained in this Subpart, an insurer shall give appropriate
4 recognition to any commitments to acquire investments.

5 D.(1) An investment held as an admitted asset by an insurer on
6 August 1, 2021, which qualified pursuant to this Title shall remain qualified as
7 an admitted asset pursuant to this Subpart.

8 (2) Each specific transaction constituting an investment practice of the
9 type described in this Subpart that was lawfully executed by an insurer and was
10 in effect on January 1, 2021, shall continue to be permitted pursuant to this
11 Subpart until its expiration or termination under its terms.

12 E. An investment qualified, in whole or in part, for acquisition or holding
13 as an admitted asset may be qualified or requalified at the time of acquisition
14 or a later date, in whole or in part, pursuant to any other section in this
15 Subpart, if the relevant conditions contained in the other section are satisfied
16 at the time of qualification or requalification.

17 F. An insurer may acquire or hold as admitted assets any of the following
18 investments that do not otherwise qualify as provided in this Subpart if the
19 insurer has not acquired them for the purpose of circumventing any limitations
20 contained in this Subpart, if the insurer acquires the investments in the
21 following circumstances, and the insurer complies with the provisions of R.S.
22 22:601.5 and 601.18 as to the investments:

23 (1) As payment on account of existing indebtedness or in connection with
24 the refinancing, restructuring, or workout of existing indebtedness, if taken to
25 protect the insurer's interest in that investment.

26 (2) As realization on collateral for an obligation.

27 (3) In connection with an otherwise qualified investment or investment
28 practice, as interest on or a dividend or other distribution related to the
29 investment or investment practice or in connection with the refinancing of the

1 investment, in each case for no additional or only nominal consideration.

2 (4) Under a lawful and bona fide agreement of recapitalization or
3 voluntary or involuntary reorganization in connection with an investment held
4 by the insurer.

5 (5) Under a bulk reinsurance, merger, or consolidation transaction
6 approved by the commissioner if the assets constitute admissible investments for
7 the ceding, merged, or consolidated companies.

8 G. An investment or portion of an investment acquired by an insurer
9 pursuant to Subsection F of this Section shall become a nonadmitted asset three
10 years, or five years in the case of mortgage loans and real estate, from the date
11 of its acquisition, unless within that period the investment has become a
12 qualified investment pursuant to this Subpart, except as provided in Subsection
13 F of this Section, but an investment acquired under an agreement of bulk
14 reinsurance, merger, or consolidation may be qualified for a longer period if
15 provided in the plan for reinsurance, merger, or consolidation as approved by
16 the commissioner. Upon application by the insurer and a showing that the
17 nonadmission of an asset held pursuant to Subsection F of this Section would
18 materially injure the interests of the insurer, the commissioner may extend the
19 period for admissibility for an additional reasonable period. An aggrieved party
20 affected by the commissioner's decision, act, or order may demand a hearing in
21 accordance with R.S. 22:2191 et seq.

22 H. The investments of a foreign or alien insurer shall be as permitted by
23 the laws of its domicile but shall be of a quality substantially as high as those
24 required pursuant to this Subpart for similar funds of like domestic insurers.

25 I. Unless otherwise specified, an investment limitation computed on the
26 basis of an insurer's admitted assets or capital and surplus shall relate to the
27 amount required to be shown on the statutory balance sheet of the insurer most
28 recently required to be filed with the commissioner.

29 J. An insurer shall maintain documentation demonstrating that

1 investments were acquired in accordance with this Subpart and specifying the
2 section of this Subpart under which they were acquired.

3 K. An insurer shall not execute an agreement to purchase securities in
4 advance of their issuance for resale to the public as part of a distribution of the
5 securities by the issuer or otherwise guarantee the distribution, except that an
6 insurer may acquire privately placed securities with registration rights.

7 L. Notwithstanding the provisions of this Subpart, the commissioner, for
8 good cause, may order, pursuant to rules or regulations promulgated and
9 adopted in accordance with the Administrative Procedure Act, an insurer to
10 nonadmit, limit, dispose of, withdraw from, or discontinue an investment or
11 investment practice. The authority of the commissioner under to this Subsection
12 shall be in addition to any other authority of the commissioner.

13 M. Insurance futures and insurance futures options shall not be
14 considered investments or investment practices for purposes of this Subpart.

15 N. The commissioner may retain at the insurer's expense attorneys,
16 actuaries, accountants, and other experts not otherwise a part of the
17 commissioner's staff as may be reasonably necessary to assist in reviewing the
18 insurer's investments. These persons retained shall be under the direction and
19 control of the commissioner and shall act in a purely advisory capacity.

20 O. If the commissioner determines that an insurer's investment practices
21 do not comply with the provisions of this Subpart, the commissioner may, after
22 notification to the insurer of the commissioner's findings, order the insurer to
23 make changes necessary to comply with the provisions of this Subpart.

24 P. If the commissioner determines that by reason of the financial
25 condition, current investment practice, or current investment plan of an
26 insurer, the interests of insureds, creditors, or the general public are or may be
27 endangered, the commissioner may impose reasonable additional restrictions
28 upon the admissibility or valuation of investments or may impose restrictions
29 on the investment practices of an insurer, including prohibition or divestment.

1 **Q. The commissioner may count toward satisfaction of the minimum**
2 **asset requirement any assets in which an insurer is required to invest under the**
3 **laws of a country other than the United States as a condition for doing business**
4 **in that country if the commissioner determines that counting them does not**
5 **endanger the interests of insureds, creditors, or the general public.**

6 **§601.3. Insurer investment policy**

7 **A. In acquiring, investing, exchanging, holding, selling, or managing**
8 **investments, an insurer shall follow a written investment policy established by**
9 **its board of directors which shall be reviewed and approved annually. There is**
10 **no requirement for the form and substance of the investment policy, but it shall**
11 **include written guidelines appropriate to the insurer's business as to all of the**
12 **following items:**

13 **(1) The policies, procedures, and controls covering all aspects of the**
14 **investing function, including compliance with this Subpart.**

15 **(2) Quantified goals and objectives regarding the composition of classes**
16 **of investments, including maximum internal limits.**

17 **(3) Periodic evaluation of the investment portfolio as to risk and reward**
18 **characteristics.**

19 **(4) Professional standards for the individuals making day-to-day**
20 **investment decisions to assure that investments are managed in an ethical and**
21 **competent manner.**

22 **(5) The types of investments to be made and those to be avoided based**
23 **on their risk and reward characteristics and the insurer's level of experience**
24 **with the investments.**

25 **(6) The relationship of classes of investments to the insurer's insurance**
26 **products and liabilities.**

27 **(7) The level of risk appropriate for the insurer given the level of**
28 **capitalization and expertise available to the insurer.**

29 **(8) The evaluation and consideration of the following factors in**

1 **determining whether an investment portfolio or investment policy is**
2 **appropriate:**

3 **(a) General economic conditions.**

4 **(b) Effects of inflation or deflation.**

5 **(c) Tax consequences of investment decisions or strategies.**

6 **(d) Fairness and reasonableness of the terms of an investment**
7 **considering its probable risk and reward characteristics and relationship to the**
8 **entire investment portfolio.**

9 **(e) The diversification of the insurer's investments among the following**
10 **items:**

11 **(i) Individual investments.**

12 **(ii) Classes of investments.**

13 **(iii) Industry concentrations.**

14 **(iv) Dates of maturity.**

15 **(v) Geographic areas.**

16 **(f) The quality and liquidity of investments in affiliates.**

17 **(g) The exposure to the following investment risks, quantified in a**
18 **manner consistent with the insurer's acceptable risk level identified in**
19 **Paragraph (7) of this Subsection:**

20 **(i) Liquidity.**

21 **(ii) Credit and default.**

22 **(iii) Systemic (market).**

23 **(iv) Interest rate.**

24 **(v) Call, prepayment, and extension.**

25 **(vi) Currency.**

26 **(vii) Foreign sovereign.**

27 **(h) The amount of the insurer's assets, capital and surplus, premium**
28 **writings, insurance in force, and other appropriate characteristics.**

29 **(i) The amount and adequacy of the insurer's reported liabilities.**

1 (j) The relationship of the expected cash flows of the insurer's assets and
2 liabilities, and the risk of adverse changes in the insurer's assets and liabilities.

3 (k) The adequacy of the insurer's capital and surplus to secure the risks
4 and liabilities of the insurer.

5 (l) Any other factors relevant to whether an investment is appropriate.

6 B. The investment policy or information related to the investment policy
7 provided to the commissioner for review pursuant to this Subpart shall be
8 considered confidential and exempt from the provisions of law relative to public
9 records as provided in R.S. 44:4.1(B)(11) and shall not be subject to subpoena
10 pursuant to R.S. 22:1984(D).

11 §601.4. Authorization of investments by the board of directors

12 A. Except as to the policy loans of a life insurer, investments acquired
13 and held under this Subpart shall be acquired and held under the supervision
14 and direction of the board of directors of the insurer. The board of directors
15 shall evidence by formal resolution, at least annually, that it has determined
16 whether all investments have been made in accordance with delegations,
17 standards, limitations, and investment objectives prescribed by the board or a
18 committee of the board charged with the responsibility to direct its investments.

19 B. At least quarterly, and more frequent if deemed appropriate, the
20 insurer's board of directors or a committee of the board of directors shall
21 receive and review a summary report on the insurer's investment portfolio, its
22 investment activities, and investment practices engaged in under its authority,
23 in order to determine whether the investment activity of the insurer is consistent
24 with its written plan.

25 C. In discharging its duties pursuant to this Section, the board of
26 directors shall require that records of any authorizations or approvals, other
27 documentation as the board may require, and reports of any action taken under
28 authority delegated under the plan referred to in Subsection A of this Section
29 shall be made available on a regular basis to the board of directors.

1 **D. In discharging their duties pursuant to this Section, the board of**
2 **directors of an insurer shall perform their duties in good faith and with the**
3 **degree of care that ordinarily prudent individuals in like positions would use**
4 **under similar circumstances.**

5 **E. Investments shall be sufficient in value, liquidity, and diversity to**
6 **assure the insurer's ability to meet its outstanding obligations based on**
7 **reasonable assumptions as to new business production for current lines of**
8 **business.**

9 **F. The insurer shall establish and implement internal controls and**
10 **procedures to assure compliance with investment policies and procedures to**
11 **assure that all the following occur:**

12 **(1) The insurer's investment staff and consultants are reputable and**
13 **capable.**

14 **(2) Periodic evaluation and monitoring occur for assessing the**
15 **effectiveness of investment policy and strategies.**

16 **(3) Management's performance is assessed in meeting the stated**
17 **objectives of the investment policy.**

18 **(4) Appropriate analyses are undertaken of the degree to which asset**
19 **cash flows are adequate to meet liability cash flows under different economic**
20 **environments.**

21 **G. As to each such investment or loan, the insurer's records shall contain**
22 **all the following:**

23 **(1) In the case of loans:**

24 **(a) The name of the borrower.**

25 **(b) The location and legal description of the property.**

26 **(c) A physical description and the appraised value of the security.**

27 **(d) The amount of the loan, rate of interest, and terms of repayment.**

28 **(2) In the case of securities:**

29 **(a) The name of the obligor and a description of the security.**

1 **(b) The amount invested.**

2 **(c) The rate of interest or dividend.**

3 **(d) The maturity and yield based upon the purchase price.**

4 **(3) In the case of real estate:**

5 **(a) The location and legal description of the property.**

6 **(b) A physical description and the appraised value.**

7 **(c) The purchase price and terms.**

8 **(4) In the case of all investments:**

9 **(a) The amount of expenses estimated, if details are not available, and**
10 **commissions, if any are incurred on account of any investment or loan, and by**
11 **whom and to whom payable if not covered by contracts with mortgage loan**
12 **representatives or correspondents which are part of the insurer's records.**

13 **(b) The name of any officer or director of the insurer having any direct,**
14 **indirect, or contingent interest in the securities or loan representing the**
15 **investment, or in the assets of the person on whose behalf the investment or loan**
16 **is made, and the nature of such interest.**

17 **§601.5. Valuation of investments**

18 **The value or amount of an investment acquired or held, or an investment**
19 **practice engaged in, pursuant to this Subpart, unless otherwise specified in this**
20 **Title, shall be the value at which assets of an insurer are required to be reported**
21 **for statutory accounting purposes as determined in accordance with procedures**
22 **prescribed in published accounting and valuation standards of the NAIC,**
23 **including the Purposes and Procedures Manual of the NAIC Investment**
24 **Analysis Office, the Valuation of Securities manual, the Accounting Practices**
25 **and Procedures manual, the Annual Statement Instructions, or any successor**
26 **valuation procedures officially adopted by the NAIC.**

27 **§601.6. General limitation on investment in obligations of a single person**

28 **A. Except as otherwise specified in this Subpart, no insurer shall acquire,**
29 **except with the consent of the commissioner, an investment pursuant to this**

1 Subpart if, as a result of and after giving effect to the investment, the insurer
2 would hold more than five percent of its admitted assets in investments of all
3 kinds issued, assumed, accepted, insured, or guaranteed by a single person.

4 B. The limitations of Subsection A of this Section shall not apply to the
5 following items:

6 (1) Investments issued, assumed, guaranteed, or insured by the United
7 States, or a government sponsored enterprise of the United States, if the
8 instruments are otherwise backed or supported by the full faith and credit of
9 the United States.

10 (2) Investments in, or loans upon the security of, general obligations of
11 any state or territory of the United States, or the District of Columbia.

12 (3) Investments issued by a listed bond fund.

13 (4) Investments issued by a multilateral development bank pursuant to
14 R.S. 22:601.12(E).

15 (5) Mortgage loans as provided in R.S. 22:601.9.

16 (6) Investments in foreign securities pursuant to R.S. 22:601.12(D).

17 (7) Policy loans made pursuant to R.S. 22:601.16(3).

18 (8) Subsidiaries authorized under R.S. 22:691.3.

19 (9) Mutual funds and exchange-traded funds pursuant to R.S.
20 22:601.8(C)(2).

21 C. Asset-backed securities shall not be subject to the limitations of
22 Subsection A of this Section. No insurer shall acquire an asset-backed security
23 if, as a result of and after giving effect to the investment, the aggregate amount
24 of asset-backed securities secured by or evidencing an interest in a single asset
25 or single pool of assets held by a trust or other business entity, then held by the
26 insurer would exceed five percent of its admitted assets.

27 §601.7. Bonds

28 A. Notwithstanding the limitations contained in R.S. 22:601.6, an insurer
29 may acquire obligations issued, assumed, guaranteed, or insured by the

1 following:

2 (1) The United States.

3 (2) A government sponsored enterprise of the United States, if the
4 instruments of the government-sponsored enterprise are assumed, guaranteed,
5 or insured by the United States or are otherwise backed or supported by the full
6 faith and credit of the United States.

7 (3) Mortgage-backed securities, including collateralized mortgage
8 obligations, backed by mortgages guaranteed by federal and federally
9 sponsored agencies such as the Government National Mortgage Association,
10 Federal National Mortgage Association, or Federal Home Loan Mortgage
11 Corporation and loans against manufactured or mobile homes or collateralized
12 debt obligations backed by mortgage-backed securities. Mortgage-backed
13 securities includes prime, subprime, and Alt-A mortgages, as well as
14 home-equity loans, home-equity lines of credit and Re-REMICs. Included
15 herein are bonds issued and guaranteed by, or only guaranteed by, the
16 respective agency, and loans guaranteed by the United States Department of
17 Veteran Affairs or the United States Department of Agriculture's Rural
18 Development Housing and Community Facilities Programs.

19 (4) A state, if the instruments are general obligations of the state.

20 (5) Student loan notes or other obligations which are guaranteed or
21 insured as to principal by the Louisiana Student Financial Assistance
22 Commission or any other authorized agency or instrumentality of the state of
23 Louisiana or by any authorized agency or instrumentality of the United States
24 government.

25 (6) Federal farm loan bonds issued by federal land banks.

26 (7) Federal intermediate credit banks.

27 (8) Banks for cooperatives.

28 (9) Listed bond funds.

29 B. An insurer may acquire mortgage-backed securities, not backed by

1 federal and federally sponsored agencies, originated in the United States, where
2 the collateral consists of loans pertaining to nonmultifamily homes, including
3 prime, subprime, and Alt-A mortgages, as well as home-equity loans,
4 home-equity lines of credit and Re-REMICs. The acquisition of any one security
5 shall not exceed ten percent of admitted assets, nor shall an insurer invest in
6 aggregate more than forty-five percent of its admitted assets in securities
7 described in this Subsection and R.S. 22:601.10(B).

8 C. An insurer may acquire equipment trust obligations or certificates,
9 or pass-through certificates, which are adequately secured evidencing an
10 interest in equipment operated wholly or in part within the United States and
11 have a right to receive determined portions of rental, purchase, or other fixed
12 obligatory payments for the use or purchase of the equipment. Obligations,
13 certificates, or pass-through certificates hereunder shall have a minimum
14 quality rating by the NAIC's SVO of one or two.

15 D. Any insurer may acquire asset-backed securities having a current and
16 continuing minimum quality rating of NAIC one or two by one or more of the
17 nationally recognized securities rating organizations or a rating by the NAIC's
18 SVO. No domestic insurer shall invest in excess of five percent of its admitted
19 assets in any one issue of asset-backed obligations.

20 E. In addition to those investments eligible pursuant to Subsections A,
21 B, C, and D of this Section, an insurer may acquire bond obligations that are
22 not foreign investments.

23 §601.8. Equity interests

24 A. An insurer may acquire preferred stocks in any United States
25 business entity if, as a result of and after giving effect to the investment:

26 (1) Securities of a single issuer and its affiliates, other than the
27 government of the United States and subsidiaries authorized pursuant to R.S.
28 22:691.3, shall not exceed three percent of admitted assets.

29 (2) The aggregate amount of preferred stocks then held by the insurer

1 under this Subsection does not exceed twenty-five percent of its admitted assets.

2 B. An insurer may acquire equity interests in solvent business entities
3 meeting any of the following criteria:

4 (1) Domiciled in the United States.

5 (2) Domiciled in a foreign jurisdiction if listed on a qualified exchange.

6 (3) Permitted pursuant to R.S. 22:601.12.

7 C. An insurer shall not acquire an investment pursuant to this Section
8 if, as a result of and after giving effect to the investment:

9 (1) The aggregate amount of investments then held by the insurer under
10 this Section, excluding exchange-traded funds and mutual funds, would exceed
11 fifty percent of its admitted assets, or the amount of equity interests then held
12 by the insurer that are not listed on a qualified exchange would exceed five
13 percent of its admitted assets.

14 (2) The aggregate amount of exchange-traded fund and mutual fund
15 investments then held by the insurer under this Section would exceed the
16 greater of fifty percent of its admitted assets or one hundred percent of its
17 surplus as regards policyholders. The investment in any one fund shall be
18 limited to ten percent of admitted assets.

19 D. If the commissioner considers it desirable in order to properly
20 evaluate the investment portfolio of an insurer, the commissioner may require
21 that investments in exchange-traded funds, mutual funds, pooled investment
22 vehicles, or other investment companies be treated for purposes of this Subpart
23 as if the investor owned directly its proportional share of the assets owned by
24 the exchange-traded fund, mutual fund, pooled investment vehicle, or
25 investment company.

26 §601.9. Mortgage loans

27 A. An insurer may acquire, either directly, indirectly through limited
28 partnership interests and general partnership interests not otherwise
29 prohibited, joint ventures, stock of an investment subsidiary or membership

1 interests in a limited liability company, trust certificates, or other similar
2 instruments, obligations secured by mortgages on real estate, including
3 leasehold estates in improved unencumbered real property having an unexpired
4 term of not less than twenty-one years inclusive of the term which may be
5 provided by an enforceable option of renewal, situated within the United States.
6 A mortgage loan which is secured by other than a first lien is authorized under
7 this Section if the insurer is the holder of the first lien. The obligations held by
8 the insurer and any obligations with an equal lien priority, shall not, at the time
9 of acquisition of the obligation, exceed:

10 (1) Eighty percent of the fair market value of the real estate, if the
11 mortgage loan requires immediate scheduled payment in periodic installments
12 of principal and interest, has an amortization period of thirty years or less and
13 periodic payments made no less frequently than annually. Each periodic
14 payment shall be sufficient to assure that at all times the outstanding principal
15 balance of the mortgage loan shall be not greater than the outstanding principal
16 balance that would be outstanding under a mortgage loan with the same
17 original principal balance, with the same interest rate and requiring equal
18 payments of principal and interest with the same frequency over the same
19 amortization period. Mortgage loans permitted pursuant to this Subsection are
20 permitted notwithstanding the fact that they provide for a payment of the
21 principal balance prior to the end of the period of amortization of the loan.

22 (a) The fair market value of the real estate shall be substantiated with an
23 appraisal by a recognized and experienced real estate appraiser who is a
24 member of a recognized appraisal organization, which the commissioner of
25 insurance may accept if he is satisfied that the appraiser is competent and
26 disinterested.

27 (b) The amount of an obligation required to be included in the
28 calculation of the loan-to-value ratio may be reduced to the extent the obligation
29 is insured by the Federal Housing Administration or guaranteed by the

1 Administrator of Veterans Affairs, or their successors.

2 (2) As used in this Subsection, "improved unencumbered real property"
3 means all farmland which has been reclaimed and is used for the purpose of
4 husbandry, whether for tillage, pasture, or improved forestation, and all other
5 real property on which permanent buildings suitable for residence or
6 commercial use are situated, including but not limited to condominium
7 property, as defined in R.S. 9:1122.101 et seq.

8 B. These structures shall be insured for an amount not less than the
9 appraised value of the structures, and the proceeds of the policy shall be
10 payable to and held by the company or a trustee for its benefit. The insurance
11 shall be continued in force for the duration of the loan.

12 C. A mortgage loan that is held by an insurer under R.S. 22:601.2(D) or
13 acquired pursuant to this Section and is restructured in a manner that meets the
14 requirements of a restructured mortgage loan in accordance with the NAIC
15 Accounting Practices and Procedures Manual or its successor publication shall
16 continue to qualify as a mortgage loan under this Subpart.

17 D. An insurer shall not acquire an investment pursuant to this Section
18 if, as a result of and after giving effect to the investment, the aggregate amount
19 of all investments then held by the insurer pursuant to this Section would exceed
20 five percent of its admitted assets in mortgage loans covering any one secured
21 location.

22 E. No insurer shall acquire an investment pursuant to this Section or
23 R.S. 22:601.10(B) if, as a result of and after giving effect to the investment and
24 any guarantees made by the insurer in connection with the investment, the
25 aggregate amount of all investments then held by the insurer pursuant to this
26 Section and R.S. 22:601.10(B) plus the guarantees then outstanding would
27 exceed forty-five percent of its admitted assets.

28 F. Notwithstanding any other provision of law to the contrary, a
29 domestic insurer is entitled to the same benefits and exemptions relative to state

1 usury laws, specifically R.S. 9:3500 and 3503, granted to banks and savings and
2 loan associations pursuant to the 1980 Depository Institutions Deregulation and
3 Monetary Control Act, 12 U.S.C.A. 1735f-7, as amended. The rate of interest
4 shall be fixed in writing, and testimonial proof of it shall not be admitted in any
5 case.

6 §601.10. Real estate

7 A. An insurer may acquire, manage, and dispose of real estate for the
8 convenient accommodation of the insurer's business operations, which may
9 include its affiliates, including home office, branch office, and field office
10 operations.

11 (1) An insurer authorized to transact insurance in a foreign country may
12 acquire and hold real property required for the convenient accommodation of
13 the transacting of its own business in any such country and the property may
14 include additional space to be rented or leased to third parties for the purpose
15 of producing income to help defray the cost of acquisition, construction, and
16 maintenance of the building, as well as a return on the investment in addition
17 to that derived from the company's own use of a portion of the property. The
18 investment in a building shall not exceed ten percent of the company's assets in
19 that country.

20 (2) No insurer shall acquire real estate if, as a result of and after giving
21 effect to the acquisition, the aggregate amount of all real estate then held by the
22 insurer pursuant to this Section would exceed ten percent of its admitted assets.

23 (3) Upon approval by the commissioner, additional amounts of real
24 estate may be acquired pursuant to this Section upon a determination by the
25 commissioner that the amount represented by the percentage of its admitted
26 assets is insufficient to provide convenient accommodation for the insurer's
27 business and would not render the insurer in hazardous financial condition.

28 B.(1) An insurer may acquire real estate situated in the United States
29 that is income producing or after suitable improvement within five years from

1 acquisition can reasonably be expected to produce income.

2 (2) The insurer may thereafter own, hold, maintain, and manage the real
3 estate so acquired and the improvements thereon and collect or receive income
4 therefrom and may grant, sell, or convey the same in whole or in part.
5 Ownership, management, and control shall be entire and complete by one
6 insurer unless shared by two or more insurers subject to this Title or unless the
7 insurer is a general partner under agreements that will assure concerted action
8 in the management and control of the property and in case of the insolvency of
9 any participating insurer.

10 C.(1) No insurer shall acquire an investment pursuant to this Section if,
11 as a result of and after giving effect to the investment and any outstanding
12 guarantees made by the insurer in connection with the investment, the
13 aggregate amount of investments then held by the insurer plus the guarantees
14 then outstanding would exceed one of the following:

15 (a) Five percent of its admitted assets in any one parcel or group of
16 contiguous parcels of real estate.

17 (b) Fifteen percent of its admitted assets in the aggregate, but not more
18 than five percent of its admitted assets as to properties that are to be improved
19 or developed.

20 (2) No insurer shall acquire an investment pursuant to R.S. 22:601.9 or
21 Subsection B of this Section if, as a result of and after giving effect to the
22 investment and any guarantees it has made in connection with the investment,
23 the aggregate amount of all investments then held by the insurer pursuant to
24 R.S. 22:601.9 and Subsection B of this Section plus the guarantees then
25 outstanding would exceed forty-five percent of its admitted assets.

26 D. Orders or decisions of the commissioner of insurance shall be subject
27 to review as provided in R.S. 22:2191 et seq.

28 §601.11. Securities transactions; lending, repurchase, reverse repurchase,
29 dollar roll

1 An insurer may execute securities lending, repurchase, reverse
2 repurchase, and dollar roll transactions with business entities having a net
3 worth of at least one hundred million dollars, subject to the following
4 requirements:

5 (1) The insurer's board of directors shall adopt a written plan that is
6 consistent with the requirements of the written plan in R.S. 22:601.3(A) that
7 specifies guidelines and objectives to be followed, like the following:

8 (a) A description of how cash received will be invested or used for
9 general corporate purposes of the insurer.

10 (b) Operational procedures to manage interest rate risk, counterparty
11 default risk, the conditions under which proceeds from repurchase transactions
12 may be used in the ordinary course of business, and the use of acceptable
13 collateral in a manner that reflects the liquidity needs of the transaction.

14 (c) The extent to which the insurer may engage in these transactions.

15 (2) The insurer shall execute a written agreement for all transactions
16 authorized in this Section other than dollar roll transactions. The written
17 agreement shall require that each transaction terminate no more than one year
18 from its inception or upon the earlier demand of the insurer. The agreement
19 shall be with the business entity counterparty, but for securities lending
20 transactions, the agreement may be with an agent acting on behalf of the
21 insurer, if the agent is a qualified business entity, and if the agreement does all
22 of the following:

23 (a) Requires the agent to execute separate agreements with each
24 counterparty that are consistent with the requirements of this Section.

25 (b) Prohibits securities lending transactions under the agreement with
26 the agent or its affiliates.

27 (3) Cash received in a transaction under this Section shall be invested in
28 accordance with this Subpart and in a manner that recognizes the liquidity
29 needs of the transaction or used by the insurer for its general corporate

1 purposes. While the transaction remains outstanding, the insurer, its agent, or
2 custodian shall maintain, as to acceptable collateral received in a transaction
3 under this Section, either physically or through the book entry systems of the
4 Federal Reserve, Depository Trust Company, Participants Trust Company, or
5 other securities depositories approved by the commissioner:

6 (a) Possession of the acceptable collateral.

7 (b) A perfected security interest in the acceptable collateral.

8 (c) In the case of a jurisdiction outside of the United States, title to, or
9 rights of a secured creditor to, the acceptable collateral.

10 (4) The limitations of R.S. 22:601.6 and 601.12 shall not apply to the
11 business entity counterparty exposure created by transactions under this
12 Section. For purposes of calculations made to determine compliance with this
13 Subsection, no effect will be given to the insurer's future obligation to resell
14 securities, in the case of a reverse repurchase transaction, or to repurchase
15 securities, in the case of a repurchase transaction. No insurer shall execute a
16 transaction under this Section if, as a result of and after giving effect to the
17 transaction, any of the following occur:

18 (a) The aggregate amount of securities then loaned, sold to, or purchased
19 from any one business entity counterparty under this Section would exceed five
20 percent of its admitted assets. In calculating the amount sold to or purchased
21 from a business entity counterparty under repurchase or reverse repurchase
22 transactions, effect may be given to netting provisions under a master written
23 agreement.

24 (b) The aggregate amount of all securities then loaned, sold to, or
25 purchased from all business entities under this Section would exceed forty
26 percent of its admitted assets, but the limitation of this Paragraph shall not
27 apply to reverse repurchase transactions if the borrowing is used to meet
28 operational liquidity requirements resulting from an officially declared
29 catastrophe and subject to a plan approved by the commissioner.

1 (5) In a securities lending transaction, the insurer shall receive
2 acceptable collateral having a market value as of the transaction date at least
3 equal to one hundred two percent of the market value of the securities loaned
4 by the insurer in the transaction as of that date. If at any time the market value
5 of the acceptable collateral is less than the market value of the loaned securities,
6 the business entity counterparty shall be obligated to deliver additional
7 acceptable collateral, the market value of which, together with the market value
8 of all acceptable collateral then held in connection with the transaction, at least
9 equals one hundred two percent of the market value of the loaned securities.

10 (6) In a repurchase transaction, other than a dollar roll transaction, the
11 insurer shall receive acceptable collateral having a market value as of the
12 transaction date at least equal to ninety-five percent of the market value of the
13 securities transferred by the insurer in the transaction as of that date. If at any
14 time the market value of the acceptable collateral is less than ninety-five percent
15 of the market value of the securities so transferred, the business entity
16 counterparty shall be obligated to deliver additional acceptable collateral, the
17 market value of which, together with the market value of all acceptable
18 collateral then held in connection with the transaction, at least equals
19 ninety-five percent of the market value of the transferred securities.

20 (7) In a dollar roll transaction, the insurer shall receive cash in an
21 amount at least equal to the market value of the securities transferred by the
22 insurer in the transaction as of the transaction date.

23 (8) In a reverse repurchase transaction, the insurer shall receive as
24 acceptable collateral transferred securities having a market value at least equal
25 to one hundred two percent of the purchase price paid by the insurer for the
26 securities. If at any time the market value of the acceptable collateral is less
27 than one hundred percent of the purchase price paid by the insurer, the
28 business entity counterparty shall be obligated to provide additional acceptable
29 collateral, the market value of which, together with the market value of all

1 acceptable collateral then held in connection with the transaction, at least equals
2 one hundred two percent of the purchase price. No securities acquired by an
3 insurer in a reverse repurchase transaction shall be sold in a repurchase
4 transaction, loaned in a securities lending transaction or otherwise pledged.

5 §601.12. Foreign investments and foreign currency exposure

6 A. An insurer may acquire obligations of the government of the
7 Dominion of Canada or of Canadian provinces or municipalities, and in
8 obligations of Canadian corporations as follows:

9 (1) Obligations issued, assumed, guaranteed, or insured by Canada, or
10 a government sponsored enterprise of Canada, if the instruments of the
11 government sponsored enterprise are assumed, guaranteed, or insured by
12 Canada or are otherwise backed or supported by the full faith and credit of
13 Canada. No insurer shall acquire an instrument under this Subsection if, as a
14 result of and after giving effect to the investment, the aggregate amount of
15 investments then held by the insurer under this Subsection would exceed forty
16 percent of its admitted assets.

17 (2) No insurer shall acquire a Canadian investment authorized by this
18 Subsection, if as a result of and after giving effect to the investment, the
19 aggregate amount of Canadian investments not acquired under Paragraph (1)
20 of this Subsection then held by the insurer would exceed twenty-five percent of
21 its admitted assets.

22 B. In addition to the investments acquired under Subsection A of this
23 Section, an insurer may acquire foreign investments, or engage in investment
24 practices with persons of or in foreign jurisdictions, of substantially the same
25 types as those that an insurer is permitted to acquire under this Subpart, other
26 than of the type permitted pursuant to R.S. 22:601.13, if, as a result and after
27 giving effect to the investment, both of the following conditions are met:

28 (1) The aggregate amount of foreign investments then held by the insurer
29 under this Subsection does not exceed twenty percent of its admitted assets.

1 **(2) The aggregate amount of foreign investments then held by the insurer**
2 **under this Subsection in a single foreign jurisdiction does not exceed ten percent**
3 **of its admitted assets as to a foreign jurisdiction that has a sovereign debt rating**
4 **of SVO one or five percent of its admitted assets as to any other foreign**
5 **jurisdiction.**

6 **C. An insurer may acquire investments, or engage in investment**
7 **practices denominated in foreign currencies, whether or not they are foreign**
8 **investments acquired pursuant to Subsections A and B of this Section, or**
9 **additional foreign currency exposure as a result of the termination or expiration**
10 **of a hedging transaction with respect to investments denominated in a foreign**
11 **currency, if all of the following apply:**

12 **(1) The aggregate amount of investments then held by the insurer under**
13 **this Subsection denominated in foreign currencies does not exceed ten percent**
14 **of its admitted assets.**

15 **(2) The aggregate amount of investments then held by the insurer under**
16 **this Subsection denominated in the foreign currency of a single foreign**
17 **jurisdiction does not exceed ten percent of its admitted assets as to a foreign**
18 **jurisdiction that has a sovereign debt rating of SVO one or three percent of its**
19 **admitted assets as to any other foreign jurisdiction.**

20 **(3) No investment shall be considered denominated in a foreign currency**
21 **if the acquiring insurer enters into one or more contracts in transactions**
22 **permitted pursuant to R.S. 22:601.14 and the business entity counterparty**
23 **agrees under the contract or contracts to exchange all payments made on the**
24 **foreign currency denominated investment for United States currency at a rate**
25 **which effectively insulates the investment cash flows against future changes in**
26 **currency exchange rates during the period the contract or contracts are in**
27 **effect.**

28 **D. In addition to investments permitted pursuant to Subsections A, B,**
29 **and C of this Section, an insurer authorized to do business in a foreign**

1 jurisdiction, or that has outstanding insurance, annuity, or reinsurance
2 contracts on lives or risks resident or located in that foreign jurisdiction and
3 denominated in foreign currency of that jurisdiction, may acquire foreign
4 investments respecting that foreign jurisdiction, and may acquire investments
5 denominated in the currency of that jurisdiction; however, investments made
6 pursuant to this Subsection in obligations of foreign governments, their political
7 subdivisions and government sponsored enterprises shall not be subject to the
8 limitations of R.S. 22:601.6. The aggregate amount of investments acquired by
9 the insurer pursuant to this Subsection shall not exceed the greater of either of
10 one of the following:

11 (1) The amount the insurer is required by the law of the foreign
12 jurisdiction to invest in the foreign jurisdiction.

13 (2) One hundred twenty percent of the amount of its reserves, net of
14 reinsurance, and other obligations under the contracts on lives or risks resident
15 or located in the foreign jurisdiction.

16 E.(1) An insurer may acquire obligations issued by the following
17 international development organizations. No insurer shall acquire an
18 instrument of any one of the following organizations if, as a result of and after
19 giving effect to the investment, the aggregate amount of investments then held
20 in any one organization pursuant to this Subsection would exceed ten percent
21 of its admitted assets:

22 (a) African Development Bank.

23 (b) Asian Development Bank.

24 (c) Inter-American Development Bank.

25 (d) International Bank for Reconstruction and Development.

26 (2) A domestic insurer may invest any of its funds in bonds, debentures,
27 notes, or other similar obligations that are not in default and are issued in the
28 United States market, denominated in United States dollars, and are the direct
29 legal obligation of a foreign nation that is a member of the Organisation for

1 Economic Co-operation and Development, for which investments in or business
2 transactions with are not prohibited or restricted by any law, regulation, or rule
3 of the United States or this state, and for which the full faith and credit of such
4 nation has been pledged for the payment of principal and interest, but only if
5 the foreign nation has not defaulted and has met its payment obligations in a
6 timely manner on all similar obligations for a period of at least twenty-five
7 years immediately preceding. Additionally, the debt of the issuing country shall
8 be rated at least A- or better by Standard & Poor's Corporation or A3 or better
9 by Moody's, Inc. or an equivalent investment grade by a securities ratings
10 organization accepted by the National Association of Insurance Commissioners.
11 The total investment in such foreign securities at any one time shall not exceed
12 five percent of an insurer's admitted assets.

13 F. Investments acquired pursuant to this Section shall be aggregated
14 with investments of the same types made under all other Sections of this
15 Subpart, and in a similar manner, for purposes of determining compliance with
16 the limitations, if any, contained in the other Sections.

17 §601.13. Insurer investment pools

18 A. An insurer may acquire investments in investment pools that:

19 (1) Invest only in one of the following:

20 (a) Obligations that are rated one or two by the SVO or have an
21 equivalent of an SVO one or two rating, or, in the absence of a one or two rating
22 or equivalent rating, the issuer has outstanding obligations with an SVO one or
23 two or equivalent rating, by a nationally recognized statistical rating
24 organization recognized by the SVO and have either of the following:

25 (i) A remaining maturity of three hundred ninety-seven days or less or
26 a put option that entitles the holder to receive the principal amount of the
27 obligation which put option may be exercised through maturity at specified
28 intervals not exceeding three hundred ninety-seven days.

29 (ii) A remaining maturity of three years or less and a floating interest

1 rate that resets at least quarterly on the basis of a current short-term index,
2 such as federal funds, prime rate, treasury bills, London InterBank Offered
3 Rate, or commercial paper, and is subject to no maximum limit, if the
4 obligations do not have an interest rate that varies inversely to market interest
5 rate changes.

6 (b) Government money market mutual funds.

7 (c) Securities lending, repurchase, and reverse repurchase transactions
8 that meet all the requirements of R.S. 22:601.11, except the quantitative
9 limitations of R.S. 22:601.11(4).

10 (2) Invest only in investments which an insurer may acquire pursuant to
11 this Subpart, if the insurer's proportionate interest in the amount invested in
12 these investments does not exceed the applicable limits of this Subpart.

13 B. For an investment in an investment pool to be qualified under this
14 Subpart, the investment pool shall not do any of the following:

15 (1) Acquire securities issued, assumed, guaranteed or insured by the
16 insurer or an affiliate of the insurer.

17 (2) Borrow or incur any indebtedness for borrowed money, except for
18 securities lending and repurchase transactions that meet the requirements of
19 R.S. 22:601.11, except the quantitative limitations of R.S. 22:601.11(4).

20 (3) Permit the aggregate value of securities then loaned or sold to,
21 purchased from, or invested in any one business entity pursuant to this Section
22 to exceed ten percent of the total assets of the investment pool.

23 C. The limitations of R.S. 22:601.6 shall not apply to an insurer's
24 investment in an investment pool. No insurer shall acquire an investment in an
25 investment pool under this Section if, as a result of and after giving effect to the
26 investment, the aggregate amount of investments then held by the insurer
27 pursuant to this Section would do any of the following:

28 (1) In any one investment pool would exceed ten percent of its admitted
29 assets.

1 **(2) In all investment pools investing in investments permitted pursuant**
2 **to Paragraph (A)(2) of this Section would exceed twenty-five percent of its**
3 **admitted assets.**

4 **(3) In all investment pools would exceed thirty-five percent of its**
5 **admitted assets.**

6 **D. For an investment in an investment pool to be qualified under this**
7 **Subpart, the manager of the investment pool shall meet all of the following**
8 **requirements:**

9 **(1) Be organized under the laws of the United States or a state and**
10 **designated as the pool manager in a pooling agreement.**

11 **(2) Be the insurer, an affiliated insurer or a business entity affiliated with**
12 **the insurer, a qualified bank, a business entity registered pursuant to 15 U.S.C.**
13 **80b-1 et seq., as amended or, in the case of a reciprocal insurer or**
14 **interinsurance exchange, its attorney-in-fact, or in the case of a United States**
15 **branch of an alien insurer, its United States manager or affiliates or subsidiaries**
16 **of its United States manager.**

17 **(3) Compile and maintain detailed accounting records setting forth all**
18 **of the following:**

19 **(a) The cash receipts and disbursements reflecting each participant's**
20 **proportionate investment in the investment pool.**

21 **(b) A complete description of all underlying assets of the investment pool,**
22 **including amount, interest rate, maturity date, if any, and other appropriate**
23 **designations.**

24 **(c) Other records that allow third parties to daily verify each**
25 **participant's investment in the investment pool.**

26 **(4) Maintain the assets of the investment pool in one or more accounts,**
27 **in the name of or on behalf of the investment pool, under a custody agreement**
28 **with a qualified bank. The custody agreement shall do all of the following:**

29 **(a) State and recognize the claims and rights of each participant.**

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

4 **(c) Contain an agreement that the underlying assets of the investment**
5 **pool shall not be commingled with the general assets of the custodian qualified**
6 **bank or any other person.**

7 **E. The pooling agreement for each investment pool shall be in writing**
8 **and shall provide all of the following items:**

9 **(1) An insurer and its affiliated insurers or, in the case of an investment**
10 **pool investing solely in investments permitted pursuant to Paragraph (A)(1) of**
11 **this Section, the insurer and its subsidiaries, affiliates, or any pension or profit**
12 **sharing plan of the insurer, its subsidiaries, and affiliates or, in the case of a**
13 **United States branch of an alien insurer, affiliates, or subsidiaries of its United**
14 **States manager, shall, at all times, hold one hundred percent of the interests in**
15 **the investment pool.**

16 **(2) No underlying assets of the investment pool shall be commingled with**
17 **the general assets of the pool manager or any other person.**

18 **(3) In proportion to the aggregate amount of each pool participant's**
19 **interest in the investment pool, the following shall apply:**

20 **(a) Each participant owns an undivided interest in the underlying assets**
21 **of the investment pool.**

22 **(b) The underlying assets of the investment pool are held solely for the**
23 **benefit of each participant.**

24 **(4) A participant, or in the event of the participant's insolvency,**
25 **bankruptcy or receivership, its trustee, receiver, or other successor-in-interest,**
26 **may withdraw all or any portion of its investment from the investment pool**
27 **under the terms of the pooling agreement. The investment shall be considered**
28 **an asset pursuant to R.S. 22:2034.**

29 **(5) Withdrawals may be made on demand without penalty or other**

1 assessment on any business day, but settlement of funds shall occur within a
2 reasonable and customary period thereafter, not to exceed five business days.
3 Distributions under this Paragraph shall be calculated in each case net of all
4 then applicable fees and expenses of the investment pool. The pooling agreement
5 shall provide that the pool manager shall distribute to a participant, at the
6 discretion of the pool manager, any of the following:

7 (a) In cash, the then fair market value of the participant's pro rata share
8 of each underlying asset of the investment pool.

9 (b) In kind, a pro rata share of each underlying asset.

10 (c) In a combination of cash and in-kind distributions, a pro rata share
11 in each underlying asset.

12 (6) The pool manager shall make the records of the investment pool
13 available for inspection by the commissioner.

14 F. Transactions between the pool and its participants shall not be subject
15 to R.S. 22:691.7(A)(2). Investment activities of pools and transactions between
16 pools and participants shall be reported annually in the registration statement
17 required by R.S. 22:691.6.

18 §601.14. Derivative transactions

19 An insurer may, directly or indirectly through an investment subsidiary,
20 engage in derivative transactions pursuant to this Section by meeting all of the
21 following conditions:

22 (1) An insurer may use derivative instruments under this Section to
23 engage in hedging transactions and certain income generation transactions, as
24 these terms may be further defined in regulations promulgated by the
25 commissioner.

26 (2) An insurer shall be able to demonstrate to the commissioner the
27 intended hedging characteristics and the ongoing effectiveness of the derivative
28 transaction or combination of the transactions through cash flow testing or
29 other appropriate analyses.

1 **(3) The counterparty shall have a minimum quality rating of one or two**
2 **by the SVO.**

3 **(4) Before engaging in a derivative transaction, an insurance company**
4 **shall establish written guidelines, approved by the commissioner that shall be**
5 **used for effecting and maintaining derivative transactions. The guidelines shall**
6 **do all of the following:**

7 **(a) Specify insurance company objectives for engaging in derivative**
8 **transactions and derivative strategies and all applicable risk constraints,**
9 **including credit risk limits.**

10 **(b) Establish counterparty exposure limits and credit quality standards.**

11 **(c) Identify permissible derivative transactions and the relationship of**
12 **those transactions to insurance company operations, including but not limited**
13 **to a precise identification of the risks being hedged by a derivative transaction.**

14 **(d) Require compliance with internal control procedures.**

15 **(5) An insurance company shall have a written methodology for**
16 **determining whether a derivative instrument used for hedging has been**
17 **effective.**

18 **(6) An insurance company shall have written policies and procedures**
19 **describing the credit risk management process and a credit risk management**
20 **system for over-the-counter derivative transactions that measures credit risk**
21 **exposure using the counterparty exposure amount.**

22 **(7) An insurance company's board of directors shall, in accordance with**
23 **R.S. 22:601.4, do all of the following:**

24 **(a) Approve the written guidelines, methodology, and policies and**
25 **procedures required by Paragraphs (4), (5), and (6) of this Section and the**
26 **systems required by Paragraphs (5) and (6) of this Section.**

27 **(b) Determine whether the insurance company has adequate professional**
28 **personnel, technical expertise, and systems to implement investment practices**
29 **involving derivatives.**

1 (c) Review whether derivative transactions have been made in
2 accordance with the approved guidelines and consistent with stated objectives.

3 (d) Take action to correct any deficiencies in internal controls relative
4 to derivative transactions.

5 (8) Written documentation explaining the insurance company's internal
6 guidelines and controls governing derivative transactions shall be submitted for
7 approval to the commissioner. The commissioner may disapprove the guidelines
8 and controls proposed by the company if the insurance company cannot
9 demonstrate the proposed internal guidelines and controls would be adequate
10 to manage the risks associated with the derivative transactions the insurance
11 company intends to engage in.

12 (9) An insurance company shall maintain all of the following
13 documentation and records relating to each derivative transaction:

14 (a) The purpose or purposes of the transaction.

15 (b) The assets or liabilities to which the transaction relates.

16 (c) The specific derivative instrument used in the transaction.

17 (d) For over-the-counter derivative instrument transactions, the name
18 of the counterparty and the market value.

19 (e) For exchange-traded derivative instruments, the name of the
20 exchange and the name of the firm that handled the trade and the market value.

21 (10) Each derivative instrument shall be any of the following:

22 (a) Traded on a qualified exchange.

23 (b) Entered into with, or guaranteed by, a business entity.

24 (c) Issued or written with the issuer of the underlying interest on which
25 the derivative instrument is based.

26 (d) Entered into with a qualified foreign exchange.

27 (11) An insurer may enter into hedging transactions pursuant to this
28 Section if, as a result of and after giving effect to the transaction, all of the
29 following requirements are met:

1 (a) The aggregate statement value of options, caps, floors, and warrants
2 not attached to another financial instrument purchased and used in hedging
3 transactions does not exceed seven and one-half percent of its admitted assets.

4 (b) The aggregate statement value of options, caps, and floors written in
5 hedging transactions does not exceed three percent of its admitted assets.

6 (c) The aggregate potential exposure of collars, swaps, forwards, and
7 futures used in hedging transactions does not exceed six and one-half percent
8 of its admitted assets.

9 (12) An insurer may only enter into any of the following types of income
10 generation transactions if as a result of and after giving effect to the
11 transactions, the aggregate statement value of the fixed income assets that are
12 subject to call or that generate the cash flows for payments under the caps or
13 floors, plus the face value of fixed income securities underlying a derivative
14 instrument subject to call, plus the amount of the purchase obligations under
15 the puts, does not exceed ten percent of its admitted assets:

16 (a) Sales of covered call options on non-callable fixed income securities,
17 callable fixed income securities if the option expires by its terms prior to the end
18 of the noncallable period, or derivative instruments based on fixed income
19 securities.

20 (b) Sales of covered call options on equity securities, if the insurer holds
21 in its portfolio, or can immediately acquire through the exercise of options,
22 warrants or conversion rights already owned, the equity securities subject to
23 call during the complete term of the call option sold.

24 (c) Sales of covered puts on investments that the insurer is permitted to
25 acquire under this Subpart, if the insurer has escrowed, or entered into a
26 custodian agreement segregating, cash or cash equivalents with a market value
27 equal to the amount of its purchase obligations under the put during the
28 complete term of the put option sold.

29 (d) Sales of covered caps or floors, if the insurer holds in its portfolio the

1 investments generating the cash flow to make the required payments under the
2 caps or floors during the complete term that the cap or floor is outstanding.

3 (13) An insurer shall include all counterparty exposure amounts in
4 determining compliance with the limitations of R.S. 22:601.6.

5 (14) The commissioner may approve additional transactions involving
6 the use of derivative instruments in excess of the limits of Paragraph (11) of this
7 Section or for other risk management purposes under regulations promulgated
8 by the commissioner, but replication transactions shall not be permitted for
9 other than risk management purposes upon approval by the commissioner.

10 (15)(a) Before engaging in a transaction authorized pursuant to this
11 Section, an insurer that has a statutory net capital and surplus of less than ten
12 million dollars shall file a written notice with the commissioner describing the
13 need to engage in the transaction, the lack of acceptable alternatives, and the
14 insurer's plan to engage in the transaction. If the commissioner fails to issue an
15 order prohibiting the insurer from engaging in the transaction within ninety
16 days after the date of receipt of the insurer's notice, the insurer may engage in
17 the transaction described in the notice.

18 (b) An insurer that has a statutory net capital and surplus of ten million
19 dollars or greater shall file a written notice with the commissioner describing
20 the need to engage in the transaction and the lack of acceptable alternatives
21 within ninety days of initiating the transaction.

22 (c) The commissioner may at any time issue an order prohibiting an
23 insurer or insurers from engaging in transactions otherwise authorized
24 pursuant to this Section if the transactions are deemed likely to subject the
25 insurance company to a hazardous financial condition.

26 (d) An insurer with a statutory net capital and surplus less than the
27 minimum amount of capital and surplus required for a new charter and
28 certificate of authority for the same type of insurer may not engage in the
29 transactions authorized under this Section.

1 **§601.15. Collateral loans**

2 Loans upon the pledge of investments provided for pursuant to the terms
3 of this Title are subject to the same limits as to each investment as is provided
4 in this Title for investment, if the face or current market value, whichever is
5 less, of the investments is more than the amount loaned thereon, and the current
6 market value of the investments is at least twenty percent more than the amount
7 loaned thereon. This limitation shall not apply to loans on the pledge of bonds
8 or securities of the United States.

9 **§601.16. Other admitted assets**

10 For the purposes of this Subpart, the following assets are admitted
11 assets:

12 (1) Cash in the direct possession of the insurer or in transit under its
13 control, and including cash on deposit with a financial institution regulated by
14 any federal or state agency of the United States.

15 (2) Loans secured by first liens on interest in oil, gas, or condensate
16 properties or leaseholds in the United States and Canada on which there are
17 fully completed commercially producing wells. The present value of the proved
18 oil and gas reserves, as determined by a registered petroleum engineer, shall not
19 be less than one hundred fifty percent of the loans thereon. Notwithstanding the
20 provisions of R.S. 22:601.17, the total of loans and investments made pursuant
21 to this Paragraph shall not exceed five percent of the insurer's admitted assets.

22 (3) A life insurer may lend to a policyholder on the security of the cash
23 surrender value of the policyholder's policy a sum not exceeding the legal
24 reserve that the insurer is required to maintain on the policy.

25 (4) A domestic insurer may invest in venture or seed capital investments
26 offered by a professionally managed capital company which are certified under
27 R.S. 51:1921 et seq., in a small business investment company (SBIC), or in a
28 minority small business investment company (MSBIC) domiciled in this state,
29 or in any such company itself, investments of bonds or investments provided

1 through the Louisiana Science and Technology Foundation as provided in R.S.
2 22:832(E), any university research or incubator venture and opportunity, the
3 Louisiana Small Business Development Corporation, the Louisiana Small
4 Business Equity Corporation, and the rural relief fund, or any combination of
5 investments and companies thereof. No insurer shall invest in excess of one
6 percent of its available admitted assets, nor more than ten percent of the
7 allowable one percent investment in any one venture, investment, offering, or
8 company. No insurer shall make any such investment under this Subsection
9 unless its statutorily mandated capitalization and surplus level is one million
10 dollars or more, or if it is under any supervisory action or administration of the
11 Department of Insurance. Any investment authorized by this Paragraph shall
12 be eligible for a reduction of taxes as stipulated by R.S. 22:832 provided that
13 either the investment or the company is in Louisiana.

14 (5) A domestic insurer may purchase for its own benefit life insurance
15 policies, which comply with Section 7702 of the Internal Revenue Code, in
16 which the insurer is the owner and beneficiary.

17 (6) Investments, securities, properties, and loans acquired, or held, in
18 accordance with this Subpart and in connection therewith the following items:

19 (a) Interest due or accrued on any bond or evidence of indebtedness
20 which is not in default and which is not valued on a basis including accrued
21 interest.

22 (b) Declared and unpaid dividends on stock and shares, unless such
23 amount has otherwise been allowed as an asset.

24 (c) Interest due or accrued upon a collateral loan in an amount not to
25 exceed one year of interest thereon.

26 (d) Interest due or accrued on deposits in solvent banks and trust
27 companies, and interest due or accrued on other assets, if such interest is in the
28 judgment of the commissioner a collectible asset.

29 (e) Interest due or accrued on a mortgage loan, in an amount not

1 exceeding in any event the amount, if any, of the excess of the value of the
2 property less delinquent taxes thereon over the unpaid principal, but in no event
3 shall interest accrued for a period in excess of twelve months be allowed as an
4 asset.

5 (f) Rent due or accrued on real property, if such rent is not in arrears for
6 more than three months, and rent more than three months in arrears, if the
7 payment of such rent is adequately secured by property held in the name of the
8 tenant and conveyed to the insurer as collateral.

9 (g) The unaccrued portion of taxes paid prior to the due date on real
10 property.

11 (7) Premium notes, except as specifically excluded by R.S. 22:601.18(9),
12 policy loans, and other policy assets and liens on policies and certificates of life
13 insurance and annuity contracts, and accrued interest thereon, in an amount
14 not exceeding the legal reserve and other policy liabilities carried on each
15 individual policy.

16 (8) The net amount of uncollected and deferred premiums and annuity
17 considerations in the case of a life insurer.

18 (9) Premiums in the course of collection, other than for life insurance,
19 not more than three months due, less commissions payable thereon. The
20 foregoing limitation shall not apply to premiums payable, directly or indirectly,
21 by the United States government or by any of its instrumentalities.

22 (10) Installment premiums, other than life insurance premiums, to the
23 extent of the unearned premium reserve carried on the policy to which
24 premiums apply.

25 (11) Notes and life written obligations not past due taken for premiums,
26 other than life insurance premiums, on policies permitted to be issued on such
27 basis, to the extent of the unearned premium reserves carried thereon.

28 (12) The full amount of reinsurance recoverable by a ceding insurer from
29 a solvent reinsurer and which reinsurance is authorized pursuant to this Title.

1 **(13) Amounts receivable by an assuming insurer representing funds**
2 **withheld by a solvent ceding insurer under a reinsurance agreement.**

3 **(14) Deposits or equities recoverable from underwriting associations,**
4 **syndicates and reinsurance funds, or from any suspended banking institution,**
5 **to the extent deemed by the commissioner, available for the payment of losses**
6 **and claims and at values to be determined by him.**

7 **(15) Electronic data processing equipment as defined by the NAIC**
8 **Accounting Practices and Procedures Manual.**

9 **(16) Other assets, not inconsistent with the provisions of this Section,**
10 **deemed by the commissioner to be available for the payment of losses and**
11 **claims, at values to be determined by him.**

12 **(17) Goodwill purchased by a domestic life insurance company**
13 **possessing twice the required capital and surplus. Goodwill shall be the same**
14 **as defined in the Accounting Practices and Procedures Manual of the NAIC.**
15 **Goodwill shall be amortized in accordance with the instructions set forth in the**
16 **same manual, and amounts in excess of ten percent of an insurer's capital and**
17 **surplus shall be written off immediately by a direct charge to surplus.**

18 **(18) Except as provided elsewhere in this Subpart, an insurer may invest**
19 **in, acquire debt obligations of, or otherwise acquire and hold an interest in any**
20 **limited partnership, limited liability company, or master limited partnership,**
21 **which is formed pursuant to the laws of any state of the United States and which**
22 **invests in assets otherwise permitted pursuant to this Subpart subject to the**
23 **same limits applicable to each investment within the limited partnership,**
24 **limited liability company, or master limited partnership as is provided in this**
25 **Title for investment.**

26 **§601.17. Additional investment authority**

27 **A. Any domestic insurer, in addition to the other investments permitted**
28 **by this Subpart, may invest in an amount equal to twenty-five percent of its**
29 **capital and surplus if a stock company, and if a company other than stock,**

1 twenty-five percent of its surplus, or five percent of its admitted assets,
2 whichever is the greater, in an admitted asset pursuant to this Subpart without
3 regard to the percentage limitations.

4 B. In addition to the authority provided pursuant to Subsection A of this
5 Section, an insurer may acquire investments not otherwise permitted by this
6 Subpart, and not specifically prohibited by statute, to the extent of not more
7 than five percent of the first five hundred million dollars of the insurer's
8 admitted assets plus ten percent of the insurer's admitted assets exceeding five
9 hundred million dollars. No investment shall be permitted under this Section
10 unless it meets the definition of an asset in the NAIC Accounting Practices and
11 Procedures Manual.

12 §601.18. Prohibited investments

13 An insurer shall not, directly or indirectly, do any of the following:

14 (1) Engage on its own behalf or through one or more affiliates in a
15 transaction or series of transactions designed to evade the prohibitions of this
16 Subpart.

17 (2) Invest in a partnership as a general partner, except that an insurer
18 may make an investment as a general partner:

19 (a) If all other partners in the partnership are subsidiaries of the insurer.

20 (b) For the purpose of any of the following:

21 (i) Meeting cash calls committed to prior to August 1, 2021.

22 (ii) Completing those specific projects or activities of the partnership in
23 which the insurer was a general partner as of August 1, 2021, that had been
24 undertaken as of August 1, 2021.

25 (iii) Making capital improvements to property owned by the partnership
26 on August 1, 2021, if the insurer was a general partner as of August 1, 2021.

27 (c) This Paragraph shall not prohibit a subsidiary or other affiliate of the
28 insurer from becoming a general partner.

29 (3) Invest in or lend its funds upon the security of shares of its own stock,

1 except that an insurer may acquire shares of its own stock for the following
2 purposes, but the shares shall not be admitted assets of the insurer:

3 (a) Conversion of a stock insurer into a mutual or reciprocal insurer or
4 a mutual or reciprocal insurer into a stock insurer.

5 (b) Issuance to the insurer's officers, employees or agents in connection
6 with a plan approved by the commissioner for converting a publicly held
7 insurer into a privately held insurer or in connection with other stock option
8 and employee benefit plans.

9 (c) In accordance with any other plan approved by the commissioner.

10 (4) Goodwill, trade names, and other intangible assets, except as
11 provided for pursuant to R.S. 22:601.16(17).

12 (5) Stock of the insurer owned by it, or any equity therein, or loans
13 secured thereby or any material proportionate interest in the stock acquired,
14 or held, through the ownership by the insurer of an interest in another firm,
15 corporation, or business unit.

16 (6) Furniture, fixtures, furnishings, safes, vehicles, libraries, stationery,
17 literature, and supplies, except:

18 (a) The personal property as is required through foreclosure of chattel
19 mortgages under loans insured or guaranteed under provisions of the National
20 Housing Act or any act of congress relating to veterans benefits.

21 (b) That which is reasonably necessary for the maintenance and
22 operation of real estate held by it other than real estate for home office, branch
23 office, and similar purposes.

24 (c) In the case of title insurers, abstract plant and equipment not to
25 exceed fifty percent of the paid-in capital stock of such title insurer.

26 (7) The amount, if any, by which the aggregate book value of
27 investments, as carried in the assets of the insurer, exceeds the aggregate value,
28 as determined under the provisions of this Title.

29 (8) Rental assets, which for the purposes of this Section shall include but

1 not be limited to the following:

2 (a) Any item carried as an asset on the insurer's balance sheet, which is
3 not, in fact, owned by the insurer.

4 (b) Any item carried as an asset on the insurer's balance sheet, the
5 ownership of which is subject to resolution, rescission, or revocation upon the
6 insurer's insolvency, receivership, bankruptcy, statutory supervision,
7 rehabilitation, liquidation, or upon the occurrence of any other contingency.

8 (c) Any item carried as an asset on the insurer's balance sheet for which
9 the insurer pays a regular or periodic fee for the right to carry such items as an
10 asset, whether or not such fee is characterized as a rental, a management fee,
11 or an extraordinary dividend not previously approved by the commissioner, or
12 other periodic payment for such right.

13 (d) Any asset purchased by the insurer on credit whereby the interest
14 rate paid by the insurer on its credit instrument is greater than the interest rate
15 or yield generated by the purchased asset.

16 (e) Any asset received by the company as a contribution to capital from
17 any affiliate, holding company, or control person, or from any affiliate of any
18 such affiliate, holding company, or control person, which meets any of the
19 criteria set forth in Subparagraphs (a) through (d) of this Paragraph while in
20 the hands of such contributing party, or at the moment of such contribution to
21 capital, or thereafter.

22 (9) Premium notes on policies and certificates of life insurance and
23 annuity contracts, and accrued interest thereon, except when the insurer, issuer,
24 or noteholder agrees to an examination by the department to determine whether
25 any inflation or duplication of assets exists.

26 (10) No domestic insurer shall pay any commission or brokerage for the
27 purchase or sale of property in excess of that usual and customary at the time
28 and in the locality where such purchases or sales are made, and information
29 regarding all payments of commissions and brokerage shall be reported in the

1 next annual statement.

2 §601.19. Pledging of assets restricted

3 A. No insurance company domiciled in this state shall pledge its assets
4 solely to secure a personal loan, other than a policy loan based on the
5 contractual terms of a policy of insurance issued by the company, if the loan is
6 solely for the personal benefit of any officer, director, or employee. Nothing
7 herein shall be construed to limit the right of an insurance company to pledge
8 any or all of its assets to secure loans in the ordinary course of its business and
9 for the company's business purposes and to obtain, as further security therefor,
10 the guarantee, personal or otherwise, of any officer, director, or employee. The
11 commissioner may bring an action to recover and conserve any asset pledged
12 in violation of this Section.

13 B. Any company or any officer, director, or employee violating the
14 provisions of this Section may be fined not more than ten thousand dollars for
15 each violation, and the officer, director, or employee may be removed from such
16 office, position, capacity, or relationship with the company.

17 §601.20. Loans to officers and directors

18 A. An insurer shall not, directly or indirectly do any of the following:

19 (1) Invest in an obligation or security or make a guarantee for the benefit
20 of or in favor of an officer, director, or controlling stockholder of the insurer.

21 (2) Invest in or loan upon any real estate which is owned or partly owned
22 by any officer, director, or controlling stockholder of the insurer, nor shall any
23 such insurer invest in or loan upon any bond or note secured by mortgage or
24 trust deed on real estate if an officer, director, or controlling stockholder of
25 such insurer is owner or part owner of the real estate upon which the loan is
26 made.

27 (3) Invest in an obligation or security, make a guarantee for the benefit
28 of or in favor of, or make other investments in a business entity of which ten
29 percent or more of the voting securities or equity interests are owned directly

1 or indirectly by or for the benefit of one or more officers, directors, or
2 controlling stockholders of the insurer, except as authorized in R.S. 22:691.7.

3 B. No insurer shall, without the prior written approval from the
4 commissioner of insurance, directly or indirectly do any of the following:

5 (1) Make a loan to or other investment in an officer, director, or
6 controlling stockholder of the insurer or a person in which the officer, director,
7 or controlling stockholder has any direct or indirect financial interest.

8 (2) Make a guarantee for the benefit of or in favor of an officer, director,
9 or controlling stockholder of the insurer or a person in which the officer,
10 director, or controlling stockholder has any direct or indirect financial interest.

11 (3) Enter into an agreement for the purchase or sale of property from or
12 to an officer, director, or controlling stockholder of the insurer or a person in
13 which the officer, director, or controlling stockholder has any direct or indirect
14 financial interest.

15 C. An insurer may make, without the prior written approval of the
16 commissioner, policy loans in accordance with the terms of the policy or
17 contract issued to an officer, director, or controlling stockholder.

18 D. This Section shall not apply to a transaction between an insurer and
19 any of its subsidiaries or affiliates that is entered into in compliance with R.S.
20 22:691.7, other than a transaction between an insurer and its officers, directors,
21 or controlling stockholders.

22 E. Any officer, director, or controlling stockholder knowingly
23 participating in or abetting the violation of any provision of this Section where
24 fraud is shown to exist shall be fined not less than one thousand dollars nor
25 more than ten thousand dollars, or imprisoned not more than ten years, or both.

26 §601.21. Judicial review; mandamus

27 A. Any person aggrieved by any act, determination, rule, regulation, or
28 order or any other action of the commissioner pursuant to this Subpart may
29 appeal to the Nineteenth Judicial District Court in and for the parish of East

1 **Baton Rouge. The court shall conduct its review without a jury and by trial de**
 2 **novo, except that if all parties, including the commissioner, so stipulate, the**
 3 **review shall be confined to the record. Portions of the record may be introduced**
 4 **by stipulation into evidence in a trial de novo as to those parties so stipulating.**

5 **B. The filing of an appeal pursuant to this Section shall stay the**
 6 **application of any rule, regulation, order, or other action of the commissioner**
 7 **to the appealing party unless the court, after giving the party notice and an**
 8 **opportunity to be heard, determines that a stay would be detrimental to the**
 9 **interest of policyholders, shareholders, creditors, or the public.**

10 **C. Any person aggrieved by any failure of the commissioner to act or**
 11 **make a determination required by this Subpart may petition the Nineteenth**
 12 **Judicial District Court in and for the parish of East Baton Rouge for a writ of**
 13 **mandamus directing the commissioner to act or make a determination**
 14 **forthwith.**

15 Section 2. Subpart B of Part III of Chapter 2 of Title 22 of the Louisiana Revised
 16 Statutes of 1950, comprised of R.S. 22:581 through 601, is hereby repealed.

17 Section 3. This Act shall become effective on January 1, 2022.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Thomas L. Tyler.

DIGEST

SB 73 Original

2021 Regular Session

Milligan

Proposed law repeals and replaces provisions involving investments of domestic insurers.

Proposed law defines various investment terms including "acceptable collateral" and "admitted asset" and authorizes insurers to acquire, hold, or invest in investments or engage in investment practices as provided in proposed law and those not conforming to proposed law are not admitted assets.

Proposed law prohibits the purchase or acquisition of a security or other investment unless it is interest bearing or interest accruing or dividend or income paying or eligible for dividends or income and not in default.

Proposed law provides for qualifications for general investments by insurers; insurer investment policies; authorizations by an insurer's board of directors of investments; the valuation of certain investments by an insurer; the acquisition of bonds by an insurer as investments; equity interests, mortgage loans, real estate, acquired by insurer; lending, repurchase, reverse repurchase, and dollar roll of securities by an insurer; foreign investments and currency exposure; insurer investment pools; derivative transactions

involving insurers; collateral loans; admitted assets; additional investment authority; prohibited investments; restrictions on pledging assets; loans to an insurer's officers and directors; and judicial review of investment rules, regulations, and actions of the commissioner.

Effective January 1, 2022.

(Adds R.S. 22:601.1 - 601.21; repeals R.S. 22:581 - 601)