

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1614 Session of
2007INTRODUCED BY NICKOL, DeLUCA, MICOZZIE AND KILLION,
JUNE 25, 2007AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
JULY 5, 2007

AN ACT

1 Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An
2 act relating to insurance; amending, revising, and
3 consolidating the law providing for the incorporation of
4 insurance companies, and the regulation, supervision, and
5 protection of home and foreign insurance companies, Lloyds
6 associations, reciprocal and inter-insurance exchanges, and
7 fire insurance rating bureaus, and the regulation and
8 supervision of insurance carried by such companies,
9 associations, and exchanges, including insurance carried by
10 the State Workmen's Insurance Fund; providing penalties; and
11 repealing existing laws," further providing for additional
12 investment authority for subsidiaries AND FOR REAL ESTATE
13 WHICH MAY BE ACQUIRED, HELD AND CONVEYED. <—

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. Section 405.2(c) of the act of May 17, 1921
17 (P.L.682, No.284), known as The Insurance Company Law of 1921,
18 amended December 21, 1995 (P.L.714, No.79), is amended to read:

19 Section 405.2. Additional Investment Authority for
20 Subsidiaries.--* * *

21 (c) (1) At no time shall a domestic life insurance company
22 make an investment in any subsidiary which will bring the

1 aggregate value of its investments, as determined for annual
2 statement purposes but not in excess of cost, in all
3 subsidiaries under this subsection to an amount in excess of ten
4 per centum (10%) of its total admitted assets as of the
5 immediately preceding thirty-first day of December. In
6 determining the amount of investments of any domestic life
7 insurance company in subsidiaries for purposes of this
8 subsection, there shall be included investments made directly by
9 such insurance company and, if such investment is made by
10 another subsidiary, then to the extent that funds for such
11 investments are provided by the insurance company for such
12 purpose. A domestic life insurance company may increase the
13 aggregate value of its investments, as determined for annual
14 statement purposes but not in excess of cost, in all
15 subsidiaries in excess of ten per centum (10%) but at no time in
16 excess of fifteen per centum (15%) of its total admitted assets
17 as of the immediately preceding thirty-first day of December if
18 the increase has been approved in writing by the Insurance
19 Department prior to making the investment. If the Insurance
20 Department does not approve or disapprove the increased
21 investment limit within thirty (30) days of receipt of a request
22 for approval, the increased investment shall be deemed approved.

23 (2) The limitations set forth in clause (1) of this
24 subsection shall not apply to investments in any subsidiary
25 which is:

26 (i) An insurance company or a health maintenance
27 organization holding a certificate of authority under the act of
28 December 29, 1972 (P.L.1701, No.364), known as the "Health
29 Maintenance Organization Act."

30 (ii) A holding company to the extent its business consists

1 of the holding of the stock of, or otherwise controlling, its
2 own subsidiaries.

3 (iii) A corporation whose business primarily consists of
4 direct or indirect ownership, operation or management of assets
5 authorized as investments pursuant to sections 404.1 and 406.

6 (iv) A company engaged in any combination of the activities
7 described in subclauses (i), (ii) and (iii) of this clause.

8 Investments made pursuant to subclause (i) shall not be
9 restricted in amount provided that after such investment, as
10 calculated for NAIC annual statement purposes, the insurer's
11 surplus will be reasonable in relation to the insurer's
12 outstanding liabilities and adequate to its financial needs.
13 Investments made pursuant to subclause (ii), or to the extent
14 applicable in this subclause, shall in addition not be subject
15 to any limitations on the amount of a domestic life insurance
16 company's assets provided for under any other provision of this
17 act and which might otherwise be applicable: Provided, however,
18 That such life insurance company's investments, to the extent
19 that such life insurance company provided the funds therefor, in
20 each of the subsidiaries of such holding company shall be
21 subject to the limitations, if any, applicable to such
22 investment as if the holding company's interest in each such
23 subsidiary were instead owned directly by the life insurance
24 company. Investments made pursuant to subclause (iii), or, to
25 the extent applicable, this clause, shall be counted in
26 determining the limitations contained in applicable subsections
27 of sections 404.2 and 406: Provided, however, That the value as
28 calculated for annual statement purposes, but not in excess of
29 the cost thereof, of such investment shall include only funds
30 provided by the insurance company therefor. Investments made in

1 other subsidiaries of such life insurance company by any
2 subsidiary described in subclauses (i), (ii), (iii) and this
3 subclause or by a person whose business primarily consists of
4 direct or indirect ownership, operation or management of real
5 property and interest therein under section 406 shall be deemed
6 investments made by the insurance company only to the extent the
7 funds for such investment were provided by such insurance
8 company.

9 * * *

10 SECTION 2. SECTION 519(E) OF THE ACT, AMENDED DECEMBER 18, <—
11 1992 (P.L.1519, NO.178), IS AMENDED TO READ:

12 SECTION 519. REAL ESTATE WHICH MAY BE ACQUIRED, HELD, AND
13 CONVEYED.--A DOMESTIC STOCK FIRE, STOCK MARINE, OR STOCK FIRE
14 AND MARINE INSURANCE COMPANY MAY, DIRECTLY OR INDIRECTLY, ALONE
15 OR IN COMBINATION WITH ONE OR MORE OTHER PERSONS OR ENTITIES
16 (EXCEPT THAT NO DOMESTIC STOCK FIRE, STOCK MARINE, OR STOCK FIRE
17 AND MARINE INSURANCE COMPANY MAY PARTICIPATE IN A GENERAL
18 PARTNERSHIP), ACQUIRE BY PURCHASE, LEASE OR OTHERWISE OR
19 RECEIVE, HOLD, OR CONVEY REAL ESTATE, OR ANY INTEREST THEREIN:

20 * * *

21 (E) AS AN INVESTMENT FOR THE PRODUCTION OF INCOME OR CAPITAL
22 APPRECIATION, OR SO ACQUIRED FOR DEVELOPMENT, IMPROVEMENT,
23 MAINTENANCE OR CONSTRUCTION AND MAINTENANCE FOR SUCH INVESTMENT
24 PURPOSES, PROVIDED THAT THE AGGREGATE COST OF INVESTMENTS IN
25 UNIMPROVED REAL ESTATE UNDER THIS SUBSECTION SHALL NOT EXCEED
26 THE LESSER OF TEN PER CENTUM (10%) OF THE COMPANY'S ADMITTED
27 ASSETS OR FORTY-FIVE PER CENTUM (45%) OF ITS CAPITAL AND
28 SURPLUS. INVESTMENTS UNDER THIS SUBSECTION, INCLUDING
29 INVESTMENTS IN LIMITED PARTNERSHIP INTERESTS OR OTHER ENTITIES
30 WHERE THE ENTITIES ARE ENGAGED PRIMARILY IN HOLDING REAL ESTATE

OR INTERESTS IN REAL ESTATE UNDER THIS SUBSECTION AND
CORPORATIONS THAT ARE ENGAGED PRIMARILY IN HOLDING REAL ESTATE
OR INTERESTS IN REAL ESTATE AS DEFINED IN THIS SUBSECTION AND
THE MAJORITY OF WHOSE VOTING SECURITIES ARE OWNED DIRECTLY OR
INDIRECTLY THROUGH ONE OR MORE INTERMEDIARIES, SHALL NOT EXCEED
TWENTY-FIVE PER CENTUM (25%) OF THE COMPANY'S ADMITTED ASSETS.

SECTION 3. SECTION 519.1(C)(1) OF THE ACT, AMENDED FEBRUARY
17, 1994 (P.L.92, NO.9), IS AMENDED TO READ:

SECTION 519.1. ADDITIONAL INVESTMENT AUTHORITY FOR
SUBSIDIARIES.--* * *

(C) (1) AT NO TIME SHALL A DOMESTIC STOCK FIRE, STOCK
MARINE OR STOCK FIRE AND MARINE INSURANCE COMPANY MAKE AN
INVESTMENT IN ANY SUBSIDIARY WHICH WILL BRING THE AGGREGATE
VALUE OF ITS INVESTMENTS, AS DETERMINED FOR ANNUAL STATEMENT
PURPOSES BUT NOT IN EXCESS OF COST, IN ALL SUBSIDIARIES UNDER
THIS SUBSECTION TO AN AMOUNT IN EXCESS OF TEN PER CENTUM (10%)
OF ITS TOTAL ADMITTED ASSETS AS OF THE IMMEDIATELY PRECEDING
THIRTY-FIRST DAY OF DECEMBER. IN DETERMINING THE AMOUNT OF
INVESTMENTS OF ANY DOMESTIC STOCK FIRE, STOCK MARINE OR STOCK
FIRE AND MARINE INSURANCE COMPANY IN SUBSIDIARIES FOR PURPOSES
OF THIS SUBSECTION, THERE SHALL BE INCLUDED INVESTMENTS MADE
DIRECTLY BY SUCH INSURANCE COMPANY AND, IF SUCH INVESTMENT IS
MADE BY ANOTHER SUBSIDIARY, THEN TO THE EXTENT THAT FUNDS FOR
SUCH INVESTMENTS ARE PROVIDED BY THE INSURANCE COMPANY FOR SUCH
PURPOSE. A DOMESTIC STOCK FIRE, STOCK MARINE OR STOCK FIRE AND
MARINE INSURANCE COMPANY MAY INCREASE THE AGGREGATE VALUE OF ITS
INVESTMENTS, AS DETERMINED FOR ANNUAL STATEMENT PURPOSES BUT NOT
IN EXCESS OF COST, IN ALL SUBSIDIARIES IN EXCESS OF TEN PER
CENTUM (10%) BUT AT NO TIME IN EXCESS OF FIFTEEN PER CENTUM(15%)
OF ITS TOTAL ADMITTED ASSETS AS OF THE IMMEDIATELY PRECEDING

1 THIRTY-FIRST DAY OF DECEMBER IF THE INCREASE HAS BEEN APPROVED
2 IN WRITING BY THE INSURANCE DEPARTMENT PRIOR TO MAKING THE
3 INVESTMENT. IF THE INSURANCE DEPARTMENT DOES NOT APPROVE OR
4 DISAPPROVE THE INCREASED INVESTMENT LIMIT WITHIN THIRTY (30)
5 DAYS OF RECEIPT OF A REQUEST FOR APPROVAL, THE INCREASED
6 INVESTMENT SHALL BE DEEMED APPROVED.

7 * * *

8 Section 2 4. This act shall take effect in 60 days.

<—