

CHAPTER 61A

LIFE INSURANCE GENERALLY

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| 61A.031 | Suicide provisions. | 61A.284 | Investments; capital stock of other insurance companies. |
| 61A.28 | Domestic companies, investments. | 61A.29 | Investments; authorization; foreign investments. |
| 61A.282 | Investments in name of company or nominee and prohibitions. | 61A.30 | Joint investments. |
| | | 61A.31 | Real estate holdings. |
| | | 61A.315 | Investments and holdings; limitations. |

61A.031 SUICIDE PROVISIONS.

The sanity or insanity of a person shall not be a factor in determining whether a person committed suicide within the terms of an individual or group life insurance policy regulating the payment of benefits in the event of the insured's suicide. This section shall not be construed to alter present law but is intended to clarify present law.

History: 1981 c 286 s 1

61A.28 DOMESTIC COMPANIES, INVESTMENTS.

[For text of subd 1, see M.S.1980]

Subd. 2. **Government obligations.** Bonds or other obligations of, or bonds or other obligations insured or guaranteed by, (a) the United States or any state thereof; (b) the Dominion of Canada or any province thereof; (c) any county, city, town, statutory city formerly a village, organized school district, municipality, or other civil or political subdivision of this state, or of any state of the United States or of any province of the Dominion of Canada; (d) any agency or instrumentality of the foregoing, including but not limited to, debentures issued by the federal housing administrator, obligations of national mortgage associations; and (e) obligations payable in United States dollars issued or fully guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the Export-Import Bank, or any other United States government sponsored organization of which the United States is a member; provided, that the life insurance company may not invest more than five percent of its total admitted assets in the obligations of any one of these banks or organizations and may not invest more than 15 percent of its total admitted assets in the obligations of all banks or organizations described in paragraph (e).

As used in this subdivision with respect to the United States or any agency or instrumentality of the United States, "bonds or other obligations" shall include rights or options to purchase the obligations if those rights or options are traded upon a contract market designated and regulated by a federal agency.

Subd. 3. **Loans or obligations secured by mortgage.** Loans or obligations (hereinafter loans) secured by a first mortgage, or deed of trust (hereinafter mortgage), on improved real estate in the United States, provided the amount of the loan secured thereby is not in excess of 66 2/3 percent of the market value of the real estate at the time of the loan, or, when the loan is to be fully amortized by installment payments of principal, which may begin up to five years from the date of the loan if the real estate is to be used for commercial purposes, and interest at least annually over a period of not to exceed 40 years, the amount of the loan shall not exceed (a) 80 percent of the market value of the real estate at the time of the

loan; (b) 90 percent of the market value of the real estate at the time of the loan if the loan is secured by a purchase money mortgage made in connection with the disposition of real estate acquired pursuant to section 61A.31, subdivision 1, or, if (1) the real estate is used for commercial purposes, and (2) the loan is additionally secured by an assignment of lease or leases, and (3) the lessee or lessees under the lease or leases, or a guarantor or guarantors of the lessee's obligations, is a corporation whose obligations would qualify as an investment under subdivision 6(f), and (4) the rents payable during the primary term of the lease or leases are sufficient to amortize at least 60 percent of the loan. In calculating the ratio of the amount of the loan to the value of the property, no part of the amount of any loan is to be included which the United States or any agency or instrumentality thereof or other mortgage insurer as may be approved by the commissioner has insured or guaranteed or made a commitment to insure or guarantee; provided, in no event shall the loan exceed the market value of the property. No improvement shall be included in estimating the market value of the real estate unless the same shall be insured against fire by policies payable to the security holder or a trustee for its benefit. This requirement may be met by a program of self-insurance established and maintained by a corporation whose debt obligations would qualify for purchase under subdivision 6, paragraph (g), clause (4). Also loans secured by mortgage, upon leasehold estates in improved real property where at the date of investment the lease shall have an unexpired term of at least five years longer than the term of the loan secured thereby, and where the leasehold estate is unencumbered except by the lien reserved in the lease for the payment of rentals and the observance of the other covenants, terms and conditions of the lease and where the mortgagee, upon default, is entitled to be subrogated to, or to exercise, all the rights and to perform all the covenants of the lessee, provided that no loan on the leasehold estate shall exceed, 80 percent of the market value thereof at the time of the loan if the real property is to be used for commercial purposes, and the loan must be fully amortized by installment payments of principal, which may begin up to five years from the date of the loan, and interest at least annually over a period of not to exceed 40 years and the market value thereof shall be shown by the sworn certificate of a competent appraiser. In calculating the ratio of the amount of the loan to the value of the leasehold estate, no part of the amount of any loan is to be included which the United States or any agency or instrumentality thereof or other mortgage insurer approved by the commissioner has insured or guaranteed or made a commitment to insure or guarantee; provided, in no event shall the loan exceed the market value of the leasehold estate. Also loans secured by mortgage, which the United States or any agency or instrumentality thereof or other mortgage insurer approved by the commissioner has insured or guaranteed or made a commitment to insure or guarantee. Also loans secured by mortgage, on improved real estate in the Dominion of Canada provided the amount of the loan is not in excess of 66 2/3 percent of the market value of the real estate at the time of the loan, or, when the loan is to be fully amortized by installment payments of principal, which may begin up to five years from the date of the loan if the real estate is used for commercial purposes, and interest at least annually over a period of not to exceed 40 years, the amount of the loan shall not exceed, 80 percent of the market value of the real estate at the time of the loan. In calculating the ratio of the amount of the loan to the value of the property, no part of the amount of any loan is to be included which the Dominion of Canada or any agency or instrumentality thereof has insured or guaranteed or made a commitment to insure or guarantee; provided in no event shall the loan exceed the market value of the property. Also loans secured by mortgage, on real estate in the United States which may be unimproved provided there exists a definite plan

for commencement of development for commercial purposes within not more than five years where the amount of the loan does not exceed 80 percent of the market value of the unimproved real estate at the time of the loan and the loan is to be fully amortized by installment payments of principal, which may begin up to five years from the date of the loan, and interest at least annually over a period of not to exceed 40 years. Also loans secured by second mortgage on improved or unimproved real estate used, or to be used, for commercial purposes; provided, that if unimproved real estate there exists a definite plan for commencement of development within not more than five years, in the United States or the Dominion of Canada under the following conditions: (a) the amount of the loan secured by the second mortgage is equal to the sum of the amount disbursed by the company and the then outstanding indebtedness under the first mortgage loan; and (b) the company has control over the payments under the first mortgage indebtedness; and (c) the total amount of the loan shall not exceed $66 \frac{2}{3}$ percent of the market value of the real estate at the date of the loan or, when the note or bond is to be fully amortized by installment payments of principal, beginning not more than five years from the date of the loan, and interest at least annually over a period of not to exceed 40 years, the amount of the loan shall not exceed 80 percent of the market value of the real estate at the date of the loan.

For purposes of this subdivision, improved real estate includes real estate improved with permanent buildings, used for agriculture or pasture, or income producing real estate, including but not limited to, parking lots and leases, royalty or other mineral interests in properties producing oil, gas, or other minerals and interests in properties for the harvesting of forest products.

A loan or obligation otherwise permitted under this subdivision shall be permitted notwithstanding the fact that it provides for a payment of the principal balance prior to the end of the period of amortization of the loan.

The vendor's equity in a contract for deed shall qualify as a loan secured by mortgage for the purposes of this subdivision.

A mortgage participation certificate evidencing an interest in a loan secured by mortgage or pools of the same shall qualify under this subdivision, provided the loan secured by mortgage, and in the case of pools of the same that each loan, would otherwise qualify under this subdivision.

[For text of subs 4 and 5, see M.S.1980]

Subd. 6. **Stocks, obligations, and other investments.** Stocks, warrants or options to purchase stocks, bonds, notes, evidences of indebtedness, or other investments as set forth in this subdivision, provided that no investment may be made which will increase the aggregate investment in all common stocks under paragraphs (a) and (b) beyond 20 percent of admitted assets as of the end of the preceding calendar year. In applying the standards prescribed in paragraphs (b), (c), and (d), (f) and (g) of this subdivision to the stocks, bonds, notes, evidences of indebtedness, or other obligations of a corporation which in the qualifying period preceding purchase of the stocks, bonds, notes, evidences of indebtedness, or other obligations acquired its property or a substantial part thereof through consolidation, merger, or purchase, the earnings of the several predecessors or constituent corporations shall be consolidated. In applying any percentage limitations of this subdivision the value of the stock, or warrant or option to purchase stock, shall be based on cost. For purposes of this subdivision, National Securities Exchange means an exchange registered under section 6 of the Securities Exchange Act of 1934 or an exchange regulated under the laws of the Dominion of Canada.

MINNESOTA STATUTES 1981 SUPPLEMENT

(a) Stocks of banks, insurance companies, and municipal corporations organized under the laws of the United States or any state thereof; but not more than 15 percent of the admitted assets of any domestic life insurance company may be invested in stocks of other insurance corporations and banks.

(b) Common stocks, common stock equivalents, or securities convertible into common stock or common stock equivalents of any corporation or business trust not designated in paragraph (a) of this subdivision, organized under the laws of the United States or any state thereof, or of the Dominion of Canada or any province thereof, or those traded on a National Securities Exchange, if the net earnings of the corporation after the elimination of extraordinary nonrecurring items of income and expense and before income taxes and fixed charges over the five immediately preceding completed fiscal years, or its period of existence if less than five years, shall have averaged not less than one and one-fourth times its average annual fixed charges applicable to the period.

(c) Preferred stock of, or common or preferred stock guaranteed as to dividends by, any corporation not designated in paragraph (a) of this subdivision, organized under the laws of the United States or any state thereof, or of the Dominion of Canada or any province thereof, or those traded on a National Securities Exchange, under the following conditions: (1) No investment shall be made under this paragraph in a stock upon which any dividend, current or cumulative, is in arrears; and (2) the aggregate investment in stocks under this paragraph and in common stocks under paragraphs (a) and (b) shall not exceed 25 percent of the life insurance company's admitted assets, provided that no more than 20 percent of the company's admitted assets shall be invested in common stocks under paragraphs (a) and (b); and (3) if the net earnings of the corporation after the elimination of extraordinary nonrecurring items of income and expenses and before income taxes and fixed charges over the five immediately preceding completed fiscal years, or its period of existence if less than five years, shall have averaged not less than one and one-fourth times its average annual fixed charges applicable to the period.

(d) Warrants, options, and rights to purchase stock if the stock, at the time of the acquisition of the warrant, option, or right to purchase, would qualify as an investment under paragraph (a), (b), or (c), whichever is applicable. A domestic life insurance company shall not invest more than two percent of its assets under this paragraph. Any stock actually acquired through the exercise of a warrant or option, or rights to purchase may be included in paragraph (a), (b), or (c), whichever is applicable, only if the stock then meets the standards prescribed in the paragraph at the time of acquisition of the stock.

(e) The securities of any face amount certificate company, unit investment trust, or management type investment company, registered or in the process of registration under the federal Investment Company Act of 1940 as from time to time amended, provided that the aggregate of the investments, determined at cost, by the life insurance company shall not exceed five percent of its admitted assets, and the investments may be made without regard to the percentage limitations applicable to stocks, and warrants or options or rights to purchase stock. In addition, the company may transfer assets into one or more of its separate accounts for the purpose of establishing, or supporting its contractual obligations under, the accounts in accordance with the provisions of sections 61A.13 to 61A.21.

(f) Bonds, notes, debentures, repurchase agreements, or other evidences of indebtedness (1) secured by letters of credit issued by a national bank, state bank

or trust company which is a member of the federal reserve system or by a bank organized under the laws of the Dominion of Canada or (2) traded on a national securities exchange or (3) issued, assumed, or guaranteed by a corporation or business trust, other than a corporation designated in subdivision 4, organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof, if the net earnings of the corporation after the elimination of extraordinary nonrecurring items of income and expense and before income taxes and fixed charges over the five immediately preceding completed fiscal years, or its period of existence if less than five years, shall have averaged not less than one and one-fourth times its average annual fixed charges applicable to the period. No investment shall be made under this paragraph upon which any interest obligation is in default.

(g) Obligations for the payment of money under the following conditions: (1) The obligation shall be secured, either solely or in conjunction with other security, by an assignment of a lease or leases on property, real or personal; and (2) the lease or leases shall be nonterminable by the lessee or lessees upon foreclosure of any lien upon the leased property; and (3) the rents payable under the lease or leases shall be sufficient to amortize at least 90 percent of the obligation during the primary term of the lease; and (4) the lessee or lessees under the lease or leases, or a governmental entity or corporation which has assumed or guaranteed any lessee's performance thereunder, shall be a governmental entity or corporation whose obligations would qualify as an investment under subdivision 2 or paragraph (f).

(h) A company may sell exchange-traded call options against stocks of other securities owned by the company and may purchase exchange-traded call options in a closing transaction against a call option previously written by the company. In addition to the authority granted by paragraph (d) of this subdivision, to the extent and on the terms and conditions the commissioner determines to be consistent with the purposes of this chapter, a company may purchase other exchange-traded call options, and may sell or purchase exchange-traded put options.

[For text of subs 7 to 12, see M.S.1980]

History: 1981 c 211 s 32-34

61A.282 INVESTMENTS IN NAME OF COMPANY OR NOMINEE AND PROHIBITIONS.

Subdivision 1. **Requirements.** A company's investments shall be held in its corporate name or its nominee name, except that:

(a) Investments may be held in the name of a clearing corporation or of a custodian bank or in the name of the nominee of either under the following conditions:

(1) The clearing corporation, custodian bank, or nominee must be legally authorized to hold the particular investment for the account of others;

(2) Where the investment is evidenced by a certificate and held in the name of a custodian bank or the nominee of a custodian bank, a written agreement shall provide that certificates so deposited shall at all times be kept separate and apart from other deposits with the depository, so that at all times they may be identified as belonging solely to the company making the deposit; or

(3) Where a clearing corporation is to act as depository, the investment may be merged or held in bulk in the clearing corporation's name, or in the name of its

nominee, together with any other investments deposited with the clearing corporation by any other person, if a written agreement provides that adequate evidence of the deposit will be obtained and retained by the company or a custodian bank.

As used in this subdivision, "clearing corporation" means The Depository Trust Company and, with the approval of the commissioner, any other clearing corporation as defined in section 336.8-102; the term "custodian bank" means a bank or trust company licensed by the United States or any state thereof.

(b) A company may participate, through a bank or trust company which is a member of the Federal Reserve System, in the Federal Reserve's book-entry system, if the records of the member bank or trust company at all times show that the investments are held for the company and/or for specific accounts of the company.

(c) If an investment consists of an individual interest in a pool of obligations, or of a fractional interest in a single obligation, the certificate of participation or interest, or the confirmation of participation or interest in the investment, shall be held in the manner set forth in paragraph (a) or held in the name of the company.

(d) Where an investment is not evidenced by a certificate, except as provided in paragraph (b), adequate evidence of the company's investment shall be obtained from the issuer or its transfer or recording agent and retained by the company, a custodian bank, or clearing corporation. Adequate evidence, for purposes of this section, shall mean a written receipt or other verification issued by the depository or issuer or a custodian bank which shows that the investment is held for the company. Transfers of ownership of investments held as described in paragraphs (a) (3), (b), and (c) may be evidenced by bookkeeping entry on the books of the issuer of the investment or its transfer or recording agent or the clearing corporation without physical delivery of certificates, if any, evidencing the company's investment.

Subd. 2. Lending of securities. A company may loan securities held by it under this chapter to a broker-dealer registered under the Securities and Exchange Act of 1934 or to a bank which is a member of the Federal Reserve System. The market value of loaned securities outstanding at any one time, excluding securities held in a separate account established pursuant to section 61A.14, subdivision 1, shall not exceed 50 percent of the company's capital and surplus as of the December 31 immediately preceding. Each loan must be evidenced by a written agreement which provides:

(a) That the loan will be fully collateralized by cash or obligations issued or guaranteed by the United States or an agency or an instrumentality thereof, and that the collateral will be adjusted each business day during the term of the loan to maintain the required collateral in the event of market value changes in the loaned securities or collateral;

(b) That the loan may be terminated by the company at any time, and that the borrower must return the loaned securities or their equivalent within five business days after termination;

(c) That the company has the right to retain the collateral or to use the collateral to purchase securities equivalent to the loaned securities if the borrower defaults under the terms of the agreement; and

(d) That the borrower remains liable for any losses and expenses, not covered by the collateral, which are incurred by the company due to default.

Subd. 3. Conflicts of interest. No officer, director, or member of any committee passing on investments shall borrow any of the funds, or become,

directly or indirectly, liable as a surety or endorser for or on account of loans thereof to others, or receive to his own use any fee, brokerage, commission, gift or other consideration for, or on account of, any loan made by or on behalf of the company.

History: 1981 c 211 s 35

61A.284 INVESTMENTS; CAPITAL STOCK OF OTHER INSURANCE COMPANIES.

Subdivision 1. **Purchase of insurance company.** A domestic life insurance company may acquire and hold all or part of the capital stock of another insurance company whether or not in the same line of insurance for cash or through the issuance of its own stock in payment of all or part of the purchase price. The limits contained in the other investment provisions shall not apply to these holdings providing the acquiring company secures the prior approval of the purchase agreement by the commissioner.

Subd. 2. **Organization of subsidiary insurance company.** A domestic life insurance company may organize and hold all or part of the capital stock of another insurance company whether or not in the same line of insurance. The limits contained in the other investment provisions shall not apply to these holdings providing the organizing company secures the prior approval of the commissioner.

History: 1981 c 211 s 36

61A.29 INVESTMENTS; AUTHORIZATION; FOREIGN INVESTMENTS.

[For text of subd 1, see M.S.1980]

Subd. 2. **Foreign investments.** Any domestic life insurance company may invest in obligations of and investments in foreign countries, other than the Dominion of Canada, on the following conditions:

(a) A company may acquire and hold other investments in foreign countries which are required as a condition of doing business in the foreign country; and

(b) A company may also invest not more than a total of two percent of its admitted assets in the obligations of foreign governments, corporations, or business trusts, or in the stocks or stock equivalents of foreign corporations or business trusts not qualifying for investment under section 61A.28, subdivision 6, if the obligations, stocks, or stock equivalents are regularly traded on the London, Paris, Zurich, or Tokyo stock exchange or any similar exchange approved by the commissioner.

History: 1981 c 211 s 37

61A.30 JOINT INVESTMENTS.

No domestic life insurance company shall subscribe to or participate in any underwriting of the purchase or sale of securities or other property, enter into any transactions for the purchase or sale on account of the company jointly with any other person, firm, or corporation, nor enter into any agreement to withhold from sale any of its property, unless the disposition of the property shall be, at all times, within the control of its board of directors. Nothing contained herein shall be construed to invalidate or prohibit an agreement by two or more investors to join and share in the purchase of investments for bona fide investment purposes. In the investments secured by mortgage or deed of trust, provisions shall be made for a method of resolving any matters relating thereto as to which the investors are not in agreement.

History: 1981 c 211 s 38

61A.31 REAL ESTATE HOLDINGS.

Subdivision 1. **Purposes.** Except as provided in subdivisions 2, 3, and 4, every domestic life insurance company may acquire, hold and convey real property only for the following purposes and in the following manner:

(1) Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted, or for moneys due;

(2) Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings;

(3) Such as shall have been purchased at sales on judgments, decrees or mortgages obtained or made for such debts;

(4) Such as shall have been subject to a contract for deed under which the company held the vendor's interest to secure the payment by the vendee.

All the real property specified in clauses (1), (2), (3), and (4), which shall not be necessary for its accommodation in the convenient transaction of its business, shall be sold and disposed of within five years after the company shall have acquired title to the same, or within five years after the same shall have ceased to be necessary for the accommodation of its business, and it shall not hold this property for a longer period unless it shall hold real property pursuant to subdivision 3, or shall procure a certificate from the commissioner of insurance that its interest will suffer materially by the forced sale thereof, in which event the time for the sale may be extended to such time as the commissioner shall direct in the certificate.

[For text of subd 2, see M.S.1980]

Subd. 3. **Acquisition of property.** Any domestic life insurance company may:

(a) acquire real property or any interest in real property in the United States or any state thereof, or in the Dominion of Canada or any province thereof, as an investment for the production of income, and hold, improve or otherwise develop, and lease, sell, and convey the same either directly or as a joint venturer or through a limited or general partnership in which the company is a partner, subject to the following conditions and limitations: (1) The cost to the company of each parcel of real property acquired pursuant to this paragraph, including the estimated cost to the company of the improvement or development thereof, when added to the book value of all other real property then held by it pursuant to this clause, shall not exceed 15 percent of its admitted assets as of the end of the preceding calendar year, and (2) the cost to the company of each parcel of real property acquired pursuant to this paragraph, including the estimated costs to the company of the improvement or development thereof, shall not exceed two percent of its admitted assets as of the end of the preceding calendar year;

(b) acquire personal property in the United States or any state thereof, or in the Dominion of Canada or any province thereof, under lease or leases or commitment for lease or leases provided that: (1) The lessee, or at least one of the lessees, or a guarantor, or at least one of the guarantors, of the lease is a corporation with a net worth of \$1,000,000 or more; and (2) the lease provides for rent sufficient to amortize the investment with interest over the primary term of the lease or 40 years, whichever is less; and (3) in no event shall the total investment in personal property under this paragraph exceed three percent of the domestic life insurance company's admitted assets.

(c) acquire and hold real estate (1) if the purpose of the acquisition is to enhance the sale value of real estate previously acquired and held by the company under this section and (2) if the company expects the real estate so acquired to qualify and be held by the company under paragraph (a) within five years after acquisition; and

(d) not acquire real property under paragraphs (a) to (c) if the property is to be used primarily for agricultural, horticultural, ranch, mining, or church purposes.

All real property acquired or held under this subdivision shall be carried at a value equal to the lesser of (1) cost plus the cost of capitalized improvements, less normal depreciation, or (2) market value.

[For text of subd 4, see M.S.1980]

History: 1981 c 211 s 39,40

61A.315 INVESTMENTS AND HOLDINGS; LIMITATIONS.

The sum of the value of assets permitted to be acquired pursuant to sections 61A.31, subdivision 3 and 61A.28, subdivision 6, paragraphs (a) and (b) shall not exceed 30 percent of admitted assets as of the end of the preceding calendar year.

History: 1981 c 211 s 41