

CHAPTER 61A

LIFE INSURANCE

61A.25 Standard valuation law.
 61A.28 Domestic companies, investments.
 61A.281 Investments; subsidiaries.

61A.283 Admitted assets.
 61A.29 Foreign investments.
 61A.31 Real estate holdings.

61A.25 STANDARD VALUATION LAW.

[For text of subs 1 and 2, see M.S.1990]

Subd. 2a. Actuarial opinion of reserves; general. (a) Every life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rule are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The commissioner may by rule define the specifics of this opinion and add any other items considered to be necessary to its scope. The opinion must be included in the company's annual statement.

(b) The requirement to annually submit the opinion of a qualified actuary applies to service plan corporations licensed under chapter 62C, to legal service plans licensed under chapter 62G, and to all fraternal benefit societies except those societies paying only sick benefits not exceeding \$250 in any one year, or paying funeral benefits of not more than \$350, or aiding those dependent on a member not more than \$350, nor any subordinate lodge or council which is, or whose members are, assessed for benefits which are payable by a grand body.

(c) The opinion applies to all business in force, including individual and group health insurance plans, and must be based on standards adopted by the Actuarial Standards Board. The opinion must be acceptable to the commissioner in both form and substance.

(d) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(e) For the purposes of this section, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirements specified in the regulations.

(f) The board of directors of every insurer subject to this section shall appoint a qualified actuary to sign its actuarial opinion. The appointment of the qualified actuary shall be approved by the commissioner. The qualified actuary so appointed may be an employee of the insurer. Notice of the appointment, including a copy of the board of directors' resolution, and the date of appointment shall be filed with the commissioner. The notice may be filed before or at the time the actuarial opinion is submitted. The notice shall state the qualifications of the actuary. If the board appoints a new actuary to sign actuarial opinions during the year, the commissioner shall be notified of the new appointment and the reason for change.

(g) Except in cases of fraud or willful misconduct, the qualified actuary is not liable for damages to any person, other than the insurance company and the commissioner, for any act, error, omission, decision, or conduct with respect to the actuary's opinion.

(h) A memorandum, in form and substance acceptable to the commissioner based on standards adopted by the Actuarial Standards Board and on additional standards as the commissioner may by rule prescribe, must be prepared to support each actuarial opinion.

(i) If the insurance company fails to provide a supporting memorandum at the

request of the commissioner within a period specified by the commissioner, or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards based on standards adopted by the Actuarial Standards Board and on additional standards as the commissioner may by rule prescribe or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the required supporting memorandum.

(j) Any memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection with the memorandum, must be kept confidential by the commissioner and must not be made public and is not subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section or by rules promulgated under this section. The memorandum or other material may otherwise be released by the commissioner (1) with the written consent of the company or (2) to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum are no longer confidential.

Subd. 2b. Actuarial analysis. (a) Every life insurance company, except as exempted by or pursuant to regulation, shall also annually include in the opinion required under subdivision 2a, paragraph (a), an opinion of the same qualified actuary as to whether the reserves and related actuarial items, including page 3, line 10, of the annual statement, held in support of the policies and contracts specified by the commissioner, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

(b) The commissioner may provide by rule for a transition period for establishing any higher reserves which the qualified actuary may consider necessary in order to give the opinion required under subdivision 2a.

[For text of subs 3 to 4a, see M.S.1990]

Subd. 5. Minimum aggregate reserves. A company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after the operative date of Laws 1947, chapter 182, shall not be less than the aggregate reserves calculated in accordance with the methods set forth in subdivisions 4, 4a, 7, and 8, and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for the policies.

In no event shall the aggregate reserves for all policies, contracts, and benefits be less than the aggregate reserves determined by the qualified actuary to be necessary to render the opinion required under subdivision 2a.

Subd. 6. Calculation of reserves. (1) Reserves for all policies and contracts issued prior to the operative date of Laws 1947, chapter 182, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date.

(2) Reserves for any category of policies, contracts or benefits as established by the commissioner, issued on or after the operative date of Laws 1947, chapter 182, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and

contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein.

(3) Any such company which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided. For purposes of this section, the holding of additional reserves previously determined by a qualified actuary to be necessary to give the opinion required under subdivision 2a shall not be considered the adoption of a higher standard of valuation.

[For text of subs 7 and 8, see M.S.1990]

Subd. 9. Minimum standards for health, disability, accident, and sickness plans. The commissioner may adopt a rule containing the minimum standards applicable to the valuation of health, disability, accident, and sickness plans.

History: 1991 c 325 art 7 s 1-5

61A.28 DOMESTIC COMPANIES, INVESTMENTS.

Subdivision 1. Investment guidelines and procedures. Each domestic life insurance company must comply with section 60A.112.

No investment or loan, except policy loans, shall be made by a domestic life insurance company unless authorized or approved by the board of directors or by a committee of directors, officers, or employees of the company designated by the board and charged with the duty of supervising the investment or loan. Accurate records of all authorizations and approvals must be maintained.

The capital, surplus and other funds of every domestic life insurance company, whether incorporated by special act or under the general law (in addition to investments in real estate as otherwise permitted by law) may be invested only in one or more of the following kinds of securities or property. An investment may not be made under this section if the required interest obligation is in default.

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 the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association; 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 African Development Bank, the Export-Import Bank, or any other United States government sponsored organization of which the United States is a member. The life insurance company may not invest in the obligations of these banks or organizations if the investment causes the company's aggregate investments in the obligations of any one of these banks or organizations to exceed five percent of its admitted assets or if the investment causes the company's aggregate investments in the obligations of all banks or organizations described in clause (e) to exceed 15 percent of its admitted assets.

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, if 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 does 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, paragraph (e), 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 may the loan exceed the market value of the property. No improvement may be included in estimating the market value of the real estate unless it is 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 has 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 may exceed (a) $66\frac{2}{3}$ percent of the market value thereof at the time of the loan, or (b) 80 percent of the market value thereof at the time of the loan if the loan is to be fully amortized by installment payments of principal which begin within five years from the date of the loan if the leasehold estate is to be used for commercial purposes, interest is payable at least annually over the period of the loan which may not exceed 40 years and the market value of the leasehold estate is shown by the sworn certificate of a competent appraiser, or (c) 90 percent of the market value of the leasehold 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. 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 may 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 if the amount of the loan is not in excess of $66\frac{2}{3}$ 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 does not exceed (a) 80 percent of the market value of the real estate at the time of the loan, or (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. 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 may 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 does 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 does not exceed 80 percent of the market value of the real estate at the date of the loan.

A company may not invest in a mortgage loan authorized under this subdivision, if the investment causes the company's aggregate investments in mortgages secured by a single property to exceed one percent of its admitted assets.

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 must 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 qualifies as a loan secured by mortgage for the purposes of this subdivision.

Subd. 4. [Repealed, 1991 c 325 art 9 s 13]

Subd. 5. [Repealed, 1991 c 325 art 9 s 13]

Subd. 6. Stocks, obligations, and other investments. (a) Common stocks, common stock equivalents, or securities convertible into common stock or common stock equivalents of a business entity 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 business entity 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, has averaged not less than $1\frac{1}{4}$ times its average annual fixed charges applicable to the period.

(b) Preferred stock of, or common or preferred stock guaranteed as to dividends by a business entity organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof, under the following conditions: (1) No investment may be made under this paragraph in a stock upon which any dividend, current or cumulative, is in arrears; (2) the company may not invest in stocks under this paragraph and in common stocks under paragraph (a) if the investment causes the company's aggregate investments in the common or preferred stocks to exceed 25 percent of the company's total admitted assets, provided that no more than 20 percent of the company's admitted assets may be invested in common stocks under paragraph (a); and (3) the company may not invest in any preferred stock or common stock guaranteed as to dividends, which is rated in the four lowest categories established by the securities valuation office of the National Association of Insurance Commissioners, if the investment causes the company's aggregate investment in the lower

rated preferred or common stock guaranteed as to dividends to exceed five percent of its total admitted assets.

(c) 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) or (b), whichever is applicable. A company shall not invest in a warrant, option, or right to purchase stock if, upon purchase and immediate exercise thereof, the acquisition of the stock violates any of the concentration limitations contained in paragraphs (a) and (b).

(d) In addition to amounts that may be invested under subdivision 8 and without regard to the percentage limitation applicable to stocks, warrants, options, and rights to purchase, 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 Investment Company Act of 1940 as from time to time amended. 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. A company may not invest in a security authorized under this paragraph if the investment causes the company's aggregate investments in the securities to exceed five percent of its total admitted assets, except that for a health service plan corporation operating under chapter 62C, and for a health maintenance organization operating under chapter 62D, the company's aggregate investments may not exceed 20 percent of its total admitted assets. No more than five percent of the allowed investment by health service plan corporations or health maintenance organizations may be invested in funds that invest in assets not backed by the federal government. When investing in money market mutual funds, nonprofit health service plans regulated under chapter 62C, and health maintenance organizations regulated under chapter 62D, shall establish a trustee custodial account for the transfer of cash into the money market mutual fund.

(e) Investment grade obligations that are:

(1) bonds, obligations, notes, debentures, repurchase agreements, or other evidences of indebtedness of a business entity, organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof; and

(2) rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization, or are rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners.

(f) Noninvestment grade obligations: A company may acquire noninvestment grade obligations as defined in subclause (i) (hereinafter noninvestment grade obligations) which meet the earnings test set forth in subclause (ii). A company may not acquire a noninvestment grade obligation if the acquisition will cause the company to exceed the limitations set forth in subclause (iii).

(i) A noninvestment grade obligation is an obligation of a business entity, organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof, that is not rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization, or is not rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners.

(ii) Noninvestment grade obligations authorized by this subdivision may be acquired by a company if the business entity issuing or assuming the obligation, or the business entity securing or guaranteeing the obligation, has had net earnings 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 of less than five years, has averaged not less than 1-1/4 times its average annual fixed charges applicable to the period; provided, however, that if a business entity issuing or assuming the obligation, or the business entity securing or guaranteeing the obligation, has undergone an acquisition, recapitalization, or reorganization within the immediately preceding 12 months, or will use the proceeds of the

obligation for an acquisition, recapitalization, or reorganization, then such business entity shall also have, on a pro forma basis, for the next succeeding 12 months, net earnings averaging 1-1/4 times its average annual fixed charges applicable to such period after elimination of extraordinary nonrecurring items of income and expense and before taxes and fixed charges; no investment may be made under this section upon which any interest obligation is in default.

(iii) Limitation on aggregate interest in noninvestment grade obligations. A company may not invest in a noninvestment grade obligation if the investment will cause the company's aggregate investments in noninvestment grade obligations to exceed the applicable percentage of admitted assets set forth in the following table:

Effective Date	Percentage of Admitted Assets
January 1, 1992	20
January 1, 1993	17.5
January 1, 1994	15

Nothing in this paragraph limits the ability of a company to invest in noninvestment grade obligations as provided under subdivision 12.

(g) Obligations for the payment of money under the following conditions: (1) The obligation must be secured, either solely or in conjunction with other security, by an assignment of a lease or leases on property, real or personal; (2) the lease or leases must be nonterminable by the lessee or lessees upon foreclosure of any lien upon the leased property; (3) the rents payable under the lease or leases must 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 business entity, organized under the laws of the United States or any state thereof, or the Dominion of Canada, or any province thereof, that has assumed or guaranteed any lessee's performance thereunder, must be a governmental entity or business entity whose obligations would qualify as an investment under subdivision 2 or paragraph (e) or (f). A company may acquire leases assumed or guaranteed by a noninvestment grade lessee unless the value of the lease, when added to the other noninvestment grade obligations owned by the company, exceeds 15 percent of the company's admitted assets.

(h) A company may sell exchange-traded call options against stocks or 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 (c), 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 or sell other exchange-traded call options, and may sell or purchase exchange-traded put options.

(i) A company may not invest in a security or other obligation authorized under this subdivision if the investment, valued at cost at the date of purchase, causes the company's aggregate investment in any one business entity to exceed two percent of the company's admitted assets.

(j) For nonprofit health service plan corporations regulated under chapter 62C, and for health maintenance organizations regulated under chapter 62D, a company may invest in commercial paper rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization, or rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners, if the investment, valued at cost at the date of purchase, does not cause the company's aggregate investment in any one business entity to exceed six percent of the company's admitted assets.

[For text of subd 7, see M.S.1990]

Subd. 8. Asset backed arrangements. Investments in asset backed arrangements that meet the definitions and credit criteria provided in this subdivision. For purposes of this subdivision, "asset backed arrangement" means a loan participation or loan to or equity investment in a business entity that has as its primary business activity the acquisition and holding of financial assets for the benefit of its debt and equity holders.

In order to qualify for investment under this subdivision:

(a) the investment in the asset backed arrangement must be secured by or represent an undivided interest in a single financial asset or a pool of financial assets; and

(b) either (1) at least 90 percent of the dollar value of the financial assets held under the asset backed arrangement qualifies for direct investment under this section; (2) the investment in the asset backed arrangement is rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization; or (3) the investment in the asset backed arrangement is rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners.

Examples of asset-backed arrangements authorized by this subdivision include, but are not limited to: general and limited partnership interests; participations under unit investment trusts such as collateralized mortgage obligations and collateralized bond obligations; shares in, or obligations of, corporations formed for holding investment assets, and contractual participation interests in a loan or group of loans.

A company may not invest in an asset backed arrangement if the investment causes the company's aggregate investment in the financial assets held under the asset backed arrangement to exceed any of the concentration limits contained in this section.

[For text of subd 9, see M.S.1990]

Subd. 9a. Hedging. A domestic life insurance company may enter into financial transactions solely for the purpose of managing the interest rate risk associated with the company's assets and liabilities and not for speculative or other purposes. For purposes of this subdivision, "financial transactions" include, but are not limited to, futures, options to buy or sell fixed income securities, repurchase and reverse repurchase agreements, and interest rate swaps, caps, and floors. This authority is in addition to any other authority of the insurer.

[For text of subd 10, see M.S.1990]

Subd. 11. Policy loans. Loans on the security of insurance policies issued by itself to an amount not exceeding the loan value thereof; and loans on the pledge of any of the securities eligible for investment under the provisions of subdivisions 2 to 10, with the exception of noninvestment grade obligations as defined in subdivision 6, paragraph (f), but not exceeding 95 percent of the value of securities enumerated in subdivisions 2, 3, and 4 and 80 percent of the value of stocks and other securities; in case of securities enumerated in subdivisions 3, 5, and 10 "value" means principal amount unpaid thereon and in case of other securities market value thereof; in case of securities enumerated in subdivisions 3 and 10 the pledge agreement shall require principal payments by the pledgor at least equal to and concurrent with principal payments on the pledged security; in loans authorized by this subdivision, except as otherwise provided by law in regard to policy loans, the company shall reserve the right at any time to declare the indebtedness due and payable when in excess of such proportions of value or, in case of pledge of securities other than those enumerated in subdivisions 3 and 10, upon depreciation of security.

Subd. 12. Additional investments. Investments of any kind, without regard to the categories, conditions, standards, or other limitations set forth in the foregoing subdivisions and section 61A.31, subdivision 3, except that the prohibitions in clause (d) of subdivision 3 remains applicable, may be made by a domestic life insurance company in an amount not to exceed the lesser of the following:

(1) Five percent of the company's total admitted assets as of the end of the preceding calendar year, or

(2) Fifty percent of the amount by which its capital and surplus as of the end of the preceding calendar year exceeds \$675,000. Except as provided in section 61A.281, a company's total investment under this section in the common stock of any corporation, other than the stock of the types of corporations specified in subdivision 6(a), may

not exceed ten percent of the common stock of the corporation. No investment may be made under the authority of this clause or clause (1) by a company that has not completed five years of actual operation since the date of its first certificate of authority.

If, subsequent to being made under the provisions of this subdivision, an investment is determined to have become qualified or eligible under any of the other provisions of this chapter, the company may consider the investment as being held under the other provision and the investment need no longer be considered as having been made under the provisions of this subdivision.

In addition to the investments authorized by this subdivision, a domestic life insurance company may make qualified investments in any additional securities or property of the type authorized by subdivision 6, paragraph (e), (f), or (g), with the written order of the commissioner. This approval is at the discretion of the commissioner, provided that the additional investments allowed by the commissioner's written order may not exceed five percent of the company's admitted assets. This authorization does not negate or reduce the investment authority granted in subdivision 6, paragraph (e), (f), or (g), or this subdivision.

Subd. 13. Additional limitations. Under the standards and procedures in sections 60G.20 to 60G.22 for individual insurers, the commissioner may impose additional limitations on all insurers on the types and percentages of investments as the commissioner determines necessary to protect and ensure the safety of the general public.

History: 1991 c 325 art 9 s 1-9

61A.281 INVESTMENTS; SUBSIDIARIES.

[For text of subs 1 to 4, see M.S.1990]

Subd. 5. Corporations organized to hold investments. A domestic life insurance company may organize one or more corporations domiciled in the United States and hold the capital stock of them, provided that it shall continuously own all of the capital stock and that the corporations so organized shall limit their activities to acquiring and holding investments, other than under subdivisions 1 to 4, that a domestic life insurance company may acquire and hold. The investments of these corporations are subject to the same restrictions and requirements as apply to domestic life insurance companies, including the applicable percentage limitations for investments in individual properties and entities and limitations on the aggregate amount to be invested in any investment category. For the purposes of calculating the amount of an investment held by the life insurance company, investments in the same property, entity, or investment category that are owned by the company and all corporations qualifying under this subdivision must be aggregated.

History: 1991 c 325 art 9 s 10

61A.283 ADMITTED ASSETS.

For the purpose of applying any investment limitation based on the amount of a domestic life insurance company's admitted assets, the term "admitted assets" has the meaning given in section 60A.02, subdivision 27, with an adjustment in the admitted asset figure to exclude amounts which on the December 31 immediately preceding the date the company acquires an investment are allocated to separate accounts.

History: 1991 c 325 art 10 s 9

61A.29 FOREIGN INVESTMENTS.

Subdivision 1. Authorization. In addition to the Canadian investments permitted by this chapter, a domestic life insurance company may make foreign investments authorized by subdivision 2, subject to the limitations contained in subdivision 3. Investments authorized by this section are restricted to countries where the obligations of the sovereign government are rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization in the United States. All

investments must be made as provided under foreign investment guidelines established and maintained by the company under section 60A.112.

Subd. 2. **Authorized investments.** A company may invest in (i) foreign assets denominated in United States dollars; (ii) foreign assets denominated in foreign currency; and (iii) United States assets denominated in foreign currency. The investments may be made in any combination of the following:

(a) Obligations of sovereign governments and political subdivisions thereof and obligations issued or fully guaranteed by a supranational bank or organization, other than those described in section 61A.28, subdivision 2, paragraph (e), provided that the obligations are rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization in the United States. For purposes of this section, "supranational bank" means a bank owned by a number of sovereign nations and engaging in international borrowing and lending.

(b) Obligations of a foreign business entity, provided that the obligation (i) is rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization in the United States or by a similarly recognized statistical rating organization, as approved by the commissioner, in the country where the investment is made; or (ii) is rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners.

(c) Stock or stock equivalents issued by a foreign entity if the stock or stock equivalents are regularly traded on the Frankfurt, London, Paris, or Tokyo stock exchange or any similar securities exchange as may be approved from time to time by the commissioner and subject to oversight by the government of the country in which the exchange is located.

(d) Financial transactions for the sole purpose of managing the foreign currency risk of investments made under this subdivision, provided that the financial transactions are entered into under a detailed plan maintained by the company. For purposes of this paragraph, "financial transactions" include, but are not limited to, the purchase or sale of currency swaps, forward agreements, and currency futures.

Subd. 3. **Investment limitations.** Investments authorized by subdivision 2 are subject to the following limitations:

(a) A company shall not make an investment under this section if the investment causes the company's aggregate investments authorized under this section to exceed ten percent of its total admitted assets.

(b) Investments made under subdivision 2 must be aggregated with United States investments in determining compliance with percentage concentration limitations, if any, contained in this chapter.

(c) A company shall not invest in the obligations of one issuer under subdivision 2 in an amount greater than authorized for investments of the same class under this chapter. A company shall not invest more than two percent of its total admitted assets in the direct or guaranteed obligations of a sovereign government or political subdivision thereof, or of a supranational bank.

History: 1991 c 325 art 9 s 11

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.

Subd. 2. Building projects. In order to promote and supplement public and private efforts to provide an adequate supply of decent, safe, and sanitary dwelling accommodations for persons of low and moderate income; to relieve unemployment; to alleviate the shortage of rental residences; and to assist in relieving the emergency in the housing situation in this country through investment of funds, any life insurance company may purchase or lease from any owner or owners (including states and political subdivisions thereof), real property in any state in which such company is licensed to transact the business of life insurance; and on any real property so acquired or on real property so located and acquired otherwise in the conduct of its business, such company may erect apartment, or other dwelling houses, not including hotels, but including accommodations for retail stores, shops, offices, and other community services reasonably incident to such projects; or, to provide such housing or accommodations, may construct, reconstruct, improve, or remove any buildings or other improvements thereon. Such company may thereafter own, improve, maintain, manage, collect or receive income from, sell, lease, or convey any such real property and the improvements thereon. A company may not invest in the building projects if the investment causes the company's aggregate investments under this subdivision to exceed ten percent of its total admitted assets.

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

(a) acquire real property or any interest in real property, including oil and gas and other mineral interests, 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. A company may not invest in any real property asset other than property held for the convenience and accommodation of its business if the investment causes: (1) the company's aggregate investments in the real property assets to exceed ten percent of its admitted assets; or (2) the company's investment in any single parcel of real property to exceed one-half of one percent of its admitted assets;

(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 if: (1) either the fair value of the property exceeds the company's investment in it or 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 the useful life of the property, whichever is less. A company may not invest in the personal property if the investment causes the company's aggregate investments in the personal property to exceed three percent of its 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 must 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.

Subd. 4. Convenience and accommodation of business. A company may acquire and hold real estate for the convenience and accommodation of its business. Without the prior approval of the department of commerce, a company may not invest in real estate authorized under this subdivision if the investment causes the company's aggregate investments under this subdivision to exceed five percent of its total admitted assets, except that a health service plan corporation operating under chapter 62C may not

invest in real estate authorized under this subdivision if the investment causes the company's aggregate investments under this subdivision to exceed 25 percent of its total admitted assets.

History: *1991 c 325 art 9 s 12*