

SENATE No. 336

Senate, No. 336, — being the Bill printed in Senate, No. 282, as amended and passed to be engrossed.

The Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Twenty-Two.

AN ACT

Relative to the Investments of Insurance Companies.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter one hundred and
2 seventy-five of the General Laws, as amended in
3 section sixty-three by section three of chapter
4 two hundred and fifteen of the acts of nineteen
5 hundred and twenty-one, is hereby further
6 amended by striking out said section sixty-
7 three and inserting in place thereof the fol-
8 lowing: —

9 *Section 63.* The capital stock shall be paid in
10 cash within twelve months after the date of the
11 charter or certificate of organization, but no
12 certificates of full shares and no policies shall be
13 issued until the whole capital is paid in. A
14 majority of the directors shall certify on oath

15 that the money has been paid by the stock-
16 holders for their respective shares, and that the
17 same is held as the capital of the company, in-
18 vested and to be invested as required by this
19 section.

20 The capital of any domestic company, other
21 than life, and three-fourths of the reserve of any
22 domestic stock or mutual life company, shall
23 be invested only as follows:—

24 1. In the public funds of the United States or
25 District of Columbia, or of any state of the
26 United States.

27 2. (a) In the legally authorized bonds or
28 notes of any county, city, town, school or water
29 district in the commonwealth.

30 (b) In the bonds or notes of any county, city,
31 school or water district, or other political sub-
32 division located in any other state in the United
33 States, and having a population, according to
34 the last national or state census preceding the
35 date of such investment, of more than one hun-
36 dred thousand inhabitants, provided that such
37 notes or bonds are legally authorized and are a
38 direct obligation of the county, city, school or
39 water district or political subdivision issuing the
40 same.

41 (c) In the bonds or notes of any county, city,
42 town, school or water district or other political
43 subdivision located in any other state of the
44 United States and having an indebtedness, after
45 deducting the amount of its water debt and
46 securities in the sinking funds available for pay-

47 ment of its bonds, not in excess of five per cent
48 of the valuation of property therein as assessed
49 for taxation next preceding the date of such
50 investment, provided that such bonds or notes
51 are legally authorized and are a direct obliga-
52 tion of the county, city, town, school or water
53 district or other political subdivision issuing the
54 same.

55 3. In securities of the same classes as those
56 described in paragraph one and clauses (b) and
57 (c) of paragraph two, and subject to the limita-
58 tions therein expressed, issued by the Dominion
59 of Canada or any province thereof, or by any
60 municipality or political subdivision thereof.

61 4. In the bonds or notes of any railroad or
62 street railway corporation incorporated or
63 located wholly or in part in the commonwealth,
64 or in the mortgage bonds of any railroad cor-
65 poration located wholly or in part in any state
66 of the United States whose capital stock equals
67 at least one third of its funded indebtedness,
68 which has paid regularly for the five years next
69 preceding the date of such investment all in-
70 terest charges on said funded indebtedness, and
71 which has paid regularly for such period divi-
72 dends of at least four per cent per annum upon
73 all its issues of capital stock, or in the mortgage
74 bonds of any railroad, railway or terminal cor-
75 poration which have been, both as to principal
76 and interest, assumed or guaranteed by any
77 such railroad or railway corporation.

78 5. In the mortgage bonds of any railroad cor-

79 poration located wholly or in part in any state
80 of the United States whose liens junior to such
81 mortgage bonds equal at least one third of the
82 funded indebtedness secured by such mortgage
83 bonds and bonds prior thereto which has paid
84 regularly for the five years next preceding the
85 date of such investment all interest charges on
86 the said funded indebtedness, and which has
87 paid regularly for such period at least four per
88 cent interest on such junior securities.

89 6. In the notes of any equipment trust created
90 in behalf of any railroad coming within the
91 terms of paragraphs four and five, provided that
92 the plan of such trust, in case of any railroad
93 coming within the terms of paragraph four, in-
94 cludes an initial cash payment of at least twenty-
95 five per cent, and, in case of any railroad coming
96 within the terms of paragraph five, of at least
97 forty per cent, and that such notes mature not
98 later than fifteen years from the date of issue.

99 7. In loans upon improved and unencumbered
100 real property in any state of the United States
101 and upon leasehold estates in improved real
102 property for a term of ninety-nine years or more
103 where fifty years or more of the term is unex-
104 pired and where unencumbered except by rentals
105 accruing therefrom to the owner of the fee, and
106 where the mortgagee is entitled to be subrogated
107 to all the rights under the leasehold. No loan
108 on such real property or such leasehold estate
109 shall exceed sixty per cent of the fair market
110 value thereof at the time of such loan, and a

111 certificate of the value of such property shall
112 be executed before making such loan by the
113 persons making or authorizing such loan on
114 behalf of the company, which certificate shall
115 be recorded on the books of the company. Real
116 property shall not be deemed to be encumbered
117 within the meaning of this paragraph by reason
118 of the existence of instruments reserving mineral,
119 oil or timber rights, rights of way, sewer rights,
120 rights in walls, nor by reason of building re-
121 strictions or other restrictive covenants, nor
122 by reason that it is subject to lease under which
123 rents or profits are reserved to the owner, pro-
124 vided that the security for such loan is a first
125 lien upon such real property and that there is
126 no condition or right of re-entry or forfeiture
127 under which such lien can be cut off, subor-
128 dinated or otherwise disturbed.

129 8. In such real property as shall be required
130 for the convenient accommodation in the trans-
131 action of its business, subject to section sixty-
132 four.

133 9. In bonds of the American Telephone and
134 Telegraph Company and first mortgage bonds
135 of its subsidiary operating companies.

136 10. In banker's acceptances and bills of ex-
137 change of the kinds and maturities made eligible
138 by law for rediscount with federal reserve banks,
139 provided that the same are accepted by a bank
140 or trust company incorporated under the laws
141 of the United States or this commonwealth or
142 any other bank or trust company which is a
143 member of the Federal Reserve System.

144 11. In mortgage bonds issued by light and
145 power companies incorporated in states having
146 commissions or other regulating bodies whose
147 approval is necessary to the issue of such securi-
148 ties, provided that such companies have gross
149 earnings for the preceding year in excess of
150 one million dollars and net earnings after de-
151 ducting operating expenses, taxes and deprecia-
152 tion charges of at least one and one half times the
153 interest charges on the bonds in question and all
154 underlying issues, including rentals.

155 12. In loans upon the security of its own
156 policies not exceeding at the time of making the
157 loan the legal reserve on the policy.

158 13. In the capital stock of companies or-
159 ganized under the fourteenth clause of section
160 forty-seven; provided that the above specified
161 proportionate part of the reserve of any domestic
162 stock or mutual life company shall not be in-
163 vested in such capital stock.

164 14. In farm loan bonds lawfully issued by
165 federal land banks incorporated under the act
166 of congress approved July seventeen, nineteen
167 hundred and sixteen, entitled "An Act to pro-
168 vide capital for agricultural development, to
169 create standard forms of investment based upon
170 farm mortgage, to equalize rates of interest upon
171 farm loans, to furnish a market for United States
172 bonds, to create government depositaries and
173 financial agents for the United States, and for
174 other purposes."

175 15. In collateral loans or collateral trust

176 bonds secured by bonds or securities of any of
177 the classes hereinbefore authorized.

1 SECTION 2. Said chapter one hundred and
2 seventy-five is hereby further amended by strik-
3 ing out section sixty-six and inserting in place
4 thereof the following: — *Section 66.* Except as
5 hereinbefore authorized, no domestic life com-
6 pany shall invest any of its funds in any unin-
7 corporated business or enterprise, or in the stocks
8 or evidence of indebtedness of any corporation
9 the owners or holders of which stock or evidence
10 of indebtedness may in any event be or become
11 liable on account thereof to any assessment
12 except for taxes, nor shall such life company in-
13 vest any of its funds in its own stock or in the
14 stock of any other company. No such company
15 shall invest in, acquire or hold directly or indi-
16 rectly more than ten per cent of the capital
17 stock of any corporation, nor shall more than ten
18 per cent of its capital and surplus be invested in
19 the stock of any one corporation. No such
20 company shall subscribe to or participate in any
21 underwriting of the purchase or sale of securities
22 or property, or enter into any transaction for
23 such purchase or sale on account of said company
24 jointly with any other person, nor shall any such
25 company enter into any agreement to withhold
26 from sale any of its property, but the disposition
27 of its property shall be at all times within the
28 control of its board of directors.

29 Nothing in this section or in section sixty-three

30 shall prevent such company from investing or
31 loaning any funds, not required to be invested
32 as provided in section sixty-three, in any manner
33 that the directors may determine; provided,
34 that such funds shall not be invested in the pur-
35 chase of stock or evidence of indebtedness pro-
36 hibited by the preceding paragraph, and provided
37 that no loan of such funds shall be made to an
38 individual or firm unless it is secured by collateral
39 security.

40 Nothing in this section or in section sixty-three
41 shall prevent any such life company from entering
42 into an agreement for the purpose of protecting
43 the interests of the company in securities law-
44 fully held by it, or for the purpose of reorganiza-
45 tion of a corporation which issued securities so
46 held, and from depositing such securities with a
47 committee or depositaries appointed under such
48 agreement, nor from accepting corporate stock
49 or bonds or other securities which may be dis-
50 tributed pursuant to any such agreement, or to
51 any plan of reorganization; and nothing in this
52 section or section sixty-three shall prevent any
53 such life company from acquiring or holding any
54 property acquired in satisfaction of any debt
55 previously contracted, or that shall be obtained
56 by sale or foreclosure of any security held by it;
57 provided, that if the property owned be such as
58 is prohibited for investment by such company,
59 it shall dispose of such property, if personal,
60 within one year, and if real estate, within five
61 years, from the date when it acquired title to

62 the same, unless the commissioner shall extend
63 the time for such disposition for the reason that
64 the interests of the company will suffer materially
65 by a forced sale of such property.

66 A record of such extension shall be made by
67 the commissioner, which shall state the time of
68 the extension, and in that event the sale of said
69 property may be made at any time before the
70 expiration of the time of such extension.

1 SECTION 3. Section sixty-five of said chapter
2 one hundred and seventy-five is hereby amended
3 by striking out the word "fifth", in line four,
4 and inserting in place thereof the word:—
5 seventh, — so as to read as follows:— *Section*
6 *65.* No domestic company shall, except in
7 effecting the sale of real estate owned by it, and
8 then only with the approval of the commis-
9 sioner, invest any of its funds in loans upon
10 mortgages except upon the conditions expressed
11 in the seventh paragraph of section sixty-three.

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