

By Mr. Fresolo of Worcester, petition of John P. Fresolo relative to investments of certain life insurance companies. Insurance.

The Commonwealth of Massachusetts

In the Year Two Thousand and Three.

AN ACT RELATIVE TO THE INVESTMENT LAWS OF LIFE 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. M.G.L. c.175, §63, subsection 14A shall be  
2 amended by adding a new sentence after the second complete sen-  
3 tence of subsection 14A ending with the words “. . . may be  
4 invested under clause (2).” as follows:

5 Notwithstanding the foregoing provisions of this paragraph,  
6 three fourths of the reserve of any domestic stock or mutual life  
7 company may be invested in obligations issued, assumed or guar-  
8 anteed by companies incorporated under the laws of the United  
9 States, or any state thereof, or for the Dominion of Canada or any  
10 province thereof, or of associations or trusts as defined in section  
11 one of chapter one hundred and eighty-two without regard to the  
12 limitations that appear in the foregoing provisions of this para-  
13 graph, provided that: (a) either the obligation is or the issuing,  
14 assuming or guaranteeing business entity’s or business entities’  
15 long-term obligations are rated highest grades by any of the nation-  
16 ally recognized statistical rating organizations recognized by the  
17 NAIC-SJO or one (1) or two (2) by the NAIC-SVO; and (b) if,  
18 after giving effect to each investment in an obligation that is a for-  
19 eign investment, (1) the aggregate amount of foreign investments  
20 then held by the insurer under this sentence would not exceed ten  
21 percent (10%) of its admitted assets; and (2) the aggregate amount  
22 of foreign investments then held by the insurer under this sentence  
23 in a single foreign jurisdiction would not exceed four percent (4)  
24 of the insurer’s admitted assets with respect to foreign investments

25 that have a transaction rating of NAIC SVO 1 and two percent  
26 (2%) of the insurer's admitted assets with respect to foreign invest-  
27 ments that have a transaction rating of NAIC SVO 2.

1 SECTION 2. M.G.L. c.175, §63, subsection 14A shall be  
2 amended by adding the following after the final sentence in sub-  
3 subsection 14A, ending with the words “. . . not be deemed a fixed  
4 change of such institution.”

5 “Foreign investment” means an investment in a foreign juris-  
6 diction, or an investment in a person, real estate or asset domiciled  
7 in a foreign jurisdiction. An investment shall not be deemed to be  
8 foreign if the issuing person, qualified primary credit source or  
9 qualified guarantor is a domestic jurisdiction or a person domi-  
10 ciled in a domestic jurisdiction, unless:

11 (A) The issuing person is a shell business entity; and

12 (B) The investment is not assumed, accepted, guaranteed or  
13 insured or otherwise backed by a domestic jurisdiction or a  
14 person, that is not a shell business entity, domiciled in a domestic  
15 jurisdiction.

16 For purposes of this definition:

17 (i) “Shell business entity” means a business entity having no  
18 economic substance, except a vehicle for owning interests in  
19 assets issued, owned or previously owned by a person domiciled  
20 in a foreign jurisdiction;

21 (ii) “Qualified guarantor” mean a guarantor against which an  
22 insurer has a direct claim for full and timely payment, evidenced  
23 by a contractual right for which an enforcement action can be  
24 brought in a domestic jurisdiction; and

25 (iii) “Qualified primary credit source” means the credit source  
26 to which an insurer looks for payment as to an investment and  
27 against which an insurer has a direct claim for full and timely pay-  
28 ment, evidenced by a contractual right for which an enforcement  
29 action can be brought in a domestic jurisdiction.

30 “Foreign jurisdiction” means (A) a jurisdiction other than a  
31 domestic jurisdiction or (B) a commonwealth, territory or posses-  
32 sion of the United States.

33 “NAIC-SVO” means the Securities Valuation Office of the  
34 National Association of Insurance Commissioners.

35 “Obligation” means a note, bond, debenture, trust certificate,  
36 equipment trust certificate, production payment, negotiable bank

37 certificate of deposit, bankers' acceptance, asset-backed security,  
38 NAIC-SVO credit tenant loan, loan secured by financing a net  
39 lease or net leases, and other evidence of indebtedness for the  
40 payment of money (or participations, certificates or other evi-  
41 dences of an interest in any of the foregoing), whether constituting  
42 a general obligation of the issuer or payable only out of certain  
43 revenues or certain funds pledged or otherwise dedicated for pay-  
44 ment.

