

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 COMMITTEE SUBSTITUTE
4 FOR

HOUSE BILL NO. 3646

By: Sneed

7 COMMITTEE SUBSTITUTE

8 An Act relating to insurance; amending 36 O.S. 2011,
9 Section 1622, as amended by Section 3, Chapter 287,
O.S.L. 2017 (36 O.S. Supp. 2019, Section 1622), which
10 relates to mortgage on real estate; modifying
percentages of company's admitted assets that may be
11 invested in certain mortgage loans, money mortgages
and real property; providing exception; amending 36
12 O.S. 2011, Section 1624, as amended by Section 4,
Chapter 287, O.S.L. 2017 (36 O.S. Supp. 2019, Section
1624), which relates to acquiring or holding real
13 property; modifying percentage of company's admitted
assets that may be invested in real property; and
14 providing an effective date.

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17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. AMENDATORY 36 O.S. 2011, Section 1622, as
19 amended by Section 3, Chapter 287, O.S.L. 2017 (36 O.S. Supp. 2019,
20 Section 1622), is amended to read as follows:

21 Section 1622. A. An insurer may invest any of its funds in
22 bonds, notes or other evidences of indebtedness which are secured by
23 first mortgages or deeds of trust upon improved, unencumbered real
24 property located in the United States, or which are secured by first

1 mortgages or deeds of trust upon leasehold estates having an expired
2 term of not less than twenty-one (21) years, inclusive of the term
3 which may be provided by an enforceable option of renewal, in
4 improved, unencumbered real property located in the United States.

5 B. Real property shall not be deemed to be encumbered within
6 the meaning of this section by reason of the existence of
7 instruments reserving mineral, oil or timber rights, rights-of-way,
8 sewer rights, rights in walls, nor by reason of any liens for taxes
9 or assessments not delinquent, nor by reason of building
10 restrictions or other restrictive covenants, nor when such real
11 property is subject to lease under which rents or profits are
12 reserved to the owner, if in any event the security for such loan
13 is a first lien upon such real property and if there is no
14 condition or right of reentry or forfeiture under which, in the
15 case of real property other than leaseholds, such lien can be cut
16 off, subordinated, or otherwise disturbed or under which, in the
17 case of leaseholds, the insurer is unable to continue the lease in
18 force for the duration of the loan.

19 C. No such mortgage loan or loans made or acquired by an
20 insurer on any one property shall, at the time of investment by the
21 insurer, exceed eighty percent (80%) of the value, or if the loan
22 is for purchase money, the lesser of eighty percent (80%) of the
23 value or purchase price of the real property or leasehold securing
24 the same, except that such loan or loans may equal the amount of

1 any guaranty by the United States of America or by any agency or
2 instrumentality of the United States of America or by any private
3 insurance company licensed as an authorized insurer by the
4 Insurance Department of the State of Oklahoma to write mortgage
5 insurance. Additionally, no single mortgage loan to any individual
6 shall exceed ~~four percent (4%)~~ three percent (3%) of the company's
7 admitted assets, with no more than thirty-five percent (35%) of the
8 company's admitted assets invested in total aggregate amount in
9 mortgage loans. However, an insurer may exceed this limitation by:

10 1. Five percent (5%) if the increased amount is invested only
11 in mortgage loans made or acquired by the insurer at the time of
12 investments and are less than seventy-five percent (75%) of the
13 fair market value; and

14 2. Five percent (5%) if the increased amount is invested only
15 in mortgage loans made or acquired by the insurer at the time of
16 investment and are less than seventy percent (70%) of the fair
17 market value.

18 The calculation of admitted assets is based on the insurer's
19 annual statement as of December 31 last preceding the date of
20 investment, or as shown by a current financial statement on file
21 with the Commissioner.

22 Mortgage loans made or acquired by an insurer prior to December
23 31, 1992, shall be in compliance with the limitation provided in
24 this subsection for total aggregate investment of admitted assets

1 in mortgage loans by December 31, 1997. Mortgage loans made or
2 acquired by an insurer on or after December 31, 1992, but prior to
3 September 1, 1993, shall be in compliance with the limitations for
4 investment of admitted assets in single mortgage loans to
5 individuals and total aggregate investments of admitted assets in
6 mortgage loans provided in this subsection by December 31, 1997.
7 Insurers shall maintain accurate and adequate records reflecting
8 the provisions of this section and submit such records with
9 quarterly and annual statements.

10 D. No such mortgage loan or loans shall be made or acquired by
11 an insurer except after an appraisal made by a qualified appraiser
12 for the purpose of such investment. No change or modification
13 shall be made to such appraisal by any mortgage underwriter unless
14 such person is licensed or certified as an appraiser pursuant to
15 the Oklahoma Certified Real Estate Appraisers Act or unless such
16 person has been provided by the person who made the appraisal
17 written consent to make the modification. Such modification shall
18 be disclosed to the seller and buyer and/or the seller's agent.

19 E. No such mortgage loan or loans made or acquired by an
20 insurer after July 1, 2006, shall be made or acquired by an insurer
21 unless the mortgages or mortgage loans are upon improved,
22 unencumbered real property permitted as an investment pursuant to
23 Section 1624 of this title.
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1 F. No mortgage loan upon a leasehold shall be made or acquired
2 pursuant to this section unless the terms thereof shall provide for
3 amortization payments to be made by the borrower on the principal
4 thereof at least once in each year in amounts sufficient completely
5 to amortize the loan within a period of four-fifths (4/5) of the
6 term of the leasehold, inclusive of the term which may be provided
7 by an enforceable option of renewal, which is unexpired at the time
8 the loan is made, but in no event exceeding thirty-five (35) years.

9 G. Subject to specific limitations otherwise applicable, no
10 more than an aggregate of ~~thirty-five percent (35%)~~ forty-five
11 percent (45%) of the company's admitted assets may be invested in
12 mortgage loans pursuant to this section, purchase money mortgages
13 pursuant to Section 1623 of this title, and real property pursuant
14 to Section 1624 of this title.

15 SECTION 2. AMENDATORY 36 O.S. 2011, Section 1624, as
16 amended by Section 4, Chapter 287, O.S.L. 2017 (36 O.S. Supp. 2019,
17 Section 1624), is amended to read as follows:

18 Section 1624. No insurance company, foreign, alien or domestic,
19 doing business in Oklahoma, may acquire or hold real property
20 therein, except as follows:

21 1. Such as shall be requisite for the convenient accommodation
22 of the transaction of its own business; the amount invested in such
23 real property shall not exceed ten percent (10%) of the investing
24 company's admitted assets but the Insurance Commissioner may grant

1 permission to the company to invest in real property for such
2 purpose in such increased amount as the Insurance Commissioner may
3 deem proper on the showing made, if upon a hearing held the
4 Insurance Commissioner finds that the amount represented by such
5 percentage of its admitted assets is insufficient to provide
6 convenient accommodation for the company's business. Real estate
7 maintained for the convenient accommodation of the transaction of
8 its own business, permitted to be carried as an admitted asset of
9 the company pursuant to this section shall be carried at an amount
10 equal to its cost at the time of acquisition together with the
11 actual cost of improvements made thereon, less encumbrances and less
12 depreciation; provided, however, any real estate carried at fair
13 market value as an admitted asset of the company on the effective
14 date of this act shall be excluded from this provision;

15 2. Such as shall have been mortgaged to it in good faith by way
16 of security for loans previously contracted for monies due;

17 3. Such as shall have been conveyed to it in satisfaction of
18 debts previously contracted in course of its dealings;

19 4. Such as shall have been purchased at sales on judgments,
20 decrees, or mortgages obtained or made for such debts;

21 5. Such real property as shall have been acquired in whole or
22 in part, in exchange for real property of approximately the same
23 value theretofore legally acquired and held by it;

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1 6. Real property and improvements thereon located in
2 incorporated cities and towns and as additions thereto or real
3 property and improvements wherever located acquired for sale or
4 lease, if such lessee or purchaser could have legally acquired the
5 same in the first instance, and may make improvements thereon for
6 commercial and industrial purposes as an investment for the
7 production of income. The phrase "commercial and industrial
8 purposes" shall not include real property primarily intended for use
9 or valued as agricultural, horticultural, farm, and ranch, unless
10 adjacent to other real property the ownership of which is permitted
11 under this section and was acquired prior to July 1, 2006. The
12 total amount invested in such real property and improvements thereon
13 shall not exceed the company's capital and/or surplus, or ten
14 percent (10%) of its admitted assets whichever is the lesser;
15 provided, however, the amount invested in any one investment shall
16 not exceed four percent (4%) of the company's admitted assets. The
17 admitted assets shall be determined by the company's last annual
18 report made as of December 31, immediately preceding and which has
19 been filed with the Insurance Commissioner as required by law, or as
20 shown by a current financial statement on file with the
21 Commissioner;

22 7. Real property acquired and held under Section 1612.1 of this
23 title; and
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1 8. Subject to specific limitations otherwise applicable, no
2 more than an aggregate of ~~thirty-five percent (35%)~~ forty-five
3 percent (45%) of the company's admitted assets may be invested in
4 real property pursuant to this section, purchase money mortgages
5 pursuant to Section 1623 of this title, and mortgage loans pursuant
6 to Section 1622 of this title.

7 SECTION 3. This act shall become effective November 1, 2020.

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