

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL NO. 1013

By: Quinn

6 AS INTRODUCED

7 An Act relating to insurance; amending 36 O.S. 2011,
8 Section 1622, as amended by Section 3, Chapter 287,
9 O.S.L. 2017 (36 O.S. Supp. 2018, Section 1622), which
relates to mortgages on real estate; defining term;
and providing an effective date .

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

13 SECTION 1. AMENDATORY 36 O.S. 2011, Section 1622, as
14 amended by Section 3, Chapter 287, O.S.L. 2017 (36 O.S. Supp. 2018,
15 Section 1622), is amended to read as follows:

16 Section 1622. A. An insurer may invest any of its funds in
17 bonds, notes or other evidences of indebtedness which are secured by
18 first mortgages or deeds of trust upon improved, unencumbered real
19 property located in the United States, or which are secured by first
20 mortgages or deeds of trust upon leasehold estates having an expired
21 term of not less than twenty-one (21) years, inclusive of the term
22 which may be provided by an enforceable option of renewal, in
23 improved, unencumbered real property located in the United States.

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

15 C. No such mortgage loan or loans made or acquired by an
16 insurer on any one property shall, at the time of investment by the
17 insurer, exceed eighty percent (80%) of the value, or if the loan
18 is for purchase money, the lesser of eighty percent (80%) of the
19 value or purchase price of the real property or leasehold securing
20 the same, except that such loan or loans may equal the amount of
21 any guaranty by the United States of America or by any agency or
22 instrumentality of the United States of America or by any private
23 insurance company licensed as an authorized insurer by the
24 Insurance Department of the State of Oklahoma to write mortgage

1 insurance. Additionally, no single mortgage loan to any individual
2 shall exceed four percent (4%) of the company's admitted assets,
3 with no more than thirty-five percent (35%) of the company's
4 admitted assets invested in total aggregate amount in mortgage
5 loans. The calculation of admitted assets is based on the
6 insurer's annual statement as of December 31 last preceding the
7 date of investment, or as shown by a current financial statement on
8 file with the Commissioner.

9 Mortgage loans made or acquired by an insurer prior to December
10 31, 1992, shall be in compliance with the limitation provided in
11 this subsection for total aggregate investment of admitted assets
12 in mortgage loans by December 31, 1997. Mortgage loans made or
13 acquired by an insurer on or after December 31, 1992, but prior to
14 September 1, 1993, shall be in compliance with the limitations for
15 investment of admitted assets in single mortgage loans to
16 individuals and total aggregate investments of admitted assets in
17 mortgage loans provided in this subsection by December 31, 1997.
18 Insurers shall maintain accurate and adequate records reflecting
19 the provisions of this section and submit such records with
20 quarterly and annual statements.

21 D. No such mortgage loan or loans shall be made or acquired by
22 an insurer except after an appraisal made by a qualified appraiser
23 for the purpose of such investment. No change or modification
24 shall be made to such appraisal by any mortgage underwriter unless

1 such person is licensed or certified as an appraiser pursuant to
2 the Oklahoma Certified Real Estate Appraisers Act or unless such
3 person has been provided by the person who made the appraisal
4 written consent to make the modification. Such modification shall
5 be disclosed to the seller and buyer and/or the seller's agent.

6 E. No such mortgage loan or loans made or acquired by an
7 insurer after July 1, 2006, shall be made or acquired by an insurer
8 unless the mortgages or mortgage loans are upon improved,
9 unencumbered real property permitted as an investment pursuant to
10 Section 1624 of this title.

11 F. No mortgage loan upon a leasehold shall be made or acquired
12 pursuant to this section unless the terms thereof shall provide for
13 amortization payments to be made by the borrower on the principal
14 thereof at least once in each year in amounts sufficient completely
15 to amortize the loan within a period of four-fifths (4/5) of the
16 term of the leasehold, inclusive of the term which may be provided
17 by an enforceable option of renewal, which is unexpired at the time
18 the loan is made, but in no event exceeding thirty-five (35) years.

19 G. Subject to specific limitations otherwise applicable, no
20 more than an aggregate of thirty-five percent (35%) of the
21 company's admitted assets may be invested in mortgage loans
22 pursuant to this section, purchase money mortgages pursuant to
23 Section 1623 of this title, and real property pursuant to Section
24 1624 of this title.

1 H. For purposes of this section, "improved" may be determined
2 by the definition in Section 2802.1 of Title 68 of the Oklahoma
3 Statutes, the ownership status and location of the property, the
4 ownership status or development of adjacent property, the
5 permanence of the improvement, whether the improvement enhances the
6 value of the realty or the intention of the owner to make
7 improvement to the realty.

8 SECTION 2. This act shall become effective November 1, 2019.

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10 57-1-432 CB 4/1/2019 8:16:27 AM