

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2809

By: Sneed

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to insurance; amending 36 O.S. 2011,
10 Section 1622, as amended by Section 3, Chapter 287,
11 O.S.L. 2017 (36 O.S. Supp. 2020, Section 1622), which
12 relates to mortgage on real estate; modifying
13 percentages of company's admitted assets that may be
14 invested in certain mortgage loans, money mortgages
15 and real property; providing exception; calculating
16 portfolio average loan to value; amending 36 O.S.
17 2011, Section 1624, as amended by Section 4, Chapter
18 287, O.S.L. 2017 (36 O.S. Supp. 2020, Section 1624),
19 which relates to acquiring or holding real property;
20 modifying percentage of company's admitted assets
21 that may be invested in real property; and providing
22 an effective date.

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

24 SECTION 1. AMENDATORY 36 O.S. 2011, Section 1622, as
 amended by Section 3, Chapter 287, O.S.L. 2017 (36 O.S. Supp. 2020,
 Section 1622), is amended to read as follows:

 Section 1622. A. An insurer may invest any of its funds in
 bonds, notes or other evidences of indebtedness which are secured by

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

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

21 C. No such mortgage loan or loans made or acquired by an
22 insurer on any one property shall, at the time of investment by the
23 insurer, exceed eighty percent (80%) of the value, or if the loan
24 is for purchase money, the lesser of eighty percent (80%) of the

1 value or purchase price of the real property or leasehold securing
2 the same, except that such loan or loans may equal the amount of
3 any guaranty by the United States of America or by any agency or
4 instrumentality of the United States of America or by any private
5 insurance company licensed as an authorized insurer by the
6 Insurance Department of the State of Oklahoma to write mortgage
7 insurance. Additionally, no single mortgage loan to any individual
8 shall exceed ~~four percent (4%)~~ three percent (3%) of the company's
9 admitted assets, with no more than thirty-five percent (35%) of the
10 company's admitted assets invested in total aggregate amount in
11 mortgage loans. However, an insurer may invest up to forty-five
12 percent (45%) of its admitted assets invested in total aggregate
13 amount in mortgage loans if the portfolio average loan to value is
14 seventy-five percent (75%) or less of fair market value.

15 The calculation of admitted assets and portfolio average loan
16 to value is based on the insurer's annual statement as of December
17 31 last preceding the date of investment, or as shown by a current
18 financial statement on file with the Commissioner.

19 Mortgage loans made or acquired by an insurer prior to December
20 31, 1992, shall be in compliance with the limitation provided in
21 this subsection for total aggregate investment of admitted assets
22 in mortgage loans by December 31, 1997. Mortgage loans made or
23 acquired by an insurer on or after December 31, 1992, but prior to
24 September 1, 1993, shall be in compliance with the limitations for

1 investment of admitted assets in single mortgage loans to
2 individuals and total aggregate investments of admitted assets in
3 mortgage loans provided in this subsection by December 31, 1997.
4 Insurers shall maintain accurate and adequate records reflecting
5 the provisions of this section and submit such records with
6 quarterly and annual statements.

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

16 E. No such mortgage loan or loans made or acquired by an
17 insurer after July 1, 2006, shall be made or acquired by an insurer
18 unless the mortgages or mortgage loans are upon improved,
19 unencumbered real property permitted as an investment pursuant to
20 Section 1624 of this title.

21 F. No mortgage loan upon a leasehold shall be made or acquired
22 pursuant to this section unless the terms thereof shall provide for
23 amortization payments to be made by the borrower on the principal
24 thereof at least once in each year in amounts sufficient completely

1 to amortize the loan within a period of four-fifths (4/5) of the
2 term of the leasehold, inclusive of the term which may be provided
3 by an enforceable option of renewal, which is unexpired at the time
4 the loan is made, but in no event exceeding thirty-five (35) years.

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

11 SECTION 2. AMENDATORY 36 O.S. 2011, Section 1624, as
12 amended by Section 4, Chapter 287, O.S.L. 2017 (36 O.S. Supp. 2020,
13 Section 1624), is amended to read as follows:

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

17 1. Such as shall be requisite for the convenient accommodation
18 of the transaction of its own business; the amount invested in such
19 real property shall not exceed ten percent (10%) of the investing
20 company's admitted assets but the Insurance Commissioner may grant
21 permission to the company to invest in real property for such
22 purpose in such increased amount as the Insurance Commissioner may
23 deem proper on the showing made, if upon a hearing held the
24 Insurance Commissioner finds that the amount represented by such

1 percentage of its admitted assets is insufficient to provide
2 convenient accommodation for the company's business. Real estate
3 maintained for the convenient accommodation of the transaction of
4 its own business, permitted to be carried as an admitted asset of
5 the company pursuant to this section shall be carried at an amount
6 equal to its cost at the time of acquisition together with the
7 actual cost of improvements made thereon, less encumbrances and less
8 depreciation; provided, however, any real estate carried at fair
9 market value as an admitted asset of the company on the effective
10 date of this act shall be excluded from this provision;

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

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

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

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

20 6. Real property and improvements thereon located in
21 incorporated cities and towns and as additions thereto or real
22 property and improvements wherever located acquired for sale or
23 lease, if such lessee or purchaser could have legally acquired the
24 same in the first instance, and may make improvements thereon for

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

17 7. Real property acquired and held under Section 1612.1 of this
18 title; and

19 8. Subject to specific limitations otherwise applicable, no
20 more than an aggregate of ~~thirty-five percent (35%)~~ forty-five
21 percent (45%) of the company's admitted assets may be invested in
22 real property pursuant to this section, purchase money mortgages
23 pursuant to Section 1623 of this title, and mortgage loans pursuant
24 to Section 1622 of this title.

SECTION 3. This act shall become effective November 1, 2021.

COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 02/23/2021 - DO
PASS, As Amended.