
A BILL FOR AN ACT

RELATING TO INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 431:6-101, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) For purposes of this article:

- 4 ~~(1) Obligation includes bonds, debentures, notes, or other~~
5 ~~evidences of indebtedness.~~
- 6 ~~(2) Institution includes corporations, joint stock~~
7 ~~associations, and business trusts.~~
- 8 ~~(3) Net earnings available for fixed charges means net~~
9 ~~income after deducting operating and maintenance~~
10 ~~expenses, taxes other than federal and state income~~
11 ~~taxes, depreciation, and depletion, but excluding~~
12 ~~extraordinary nonrecurring items of income or expense~~
13 ~~appearing in the regular financial statements of such~~
14 ~~institution.~~
- 15 ~~(4) Fixed charges includes interest on funded and unfunded~~
16 ~~debt, amortization of debt discount, and rentals for~~
17 ~~leased properties.]~~

18 "Cash" includes cash equivalents.



1 "Cash equivalents" means highly-rated and highly-liquid
2 investments or securities with a remaining term of ninety days
3 or less and rated in the highest short-term category by a
4 nationally recognized statistical rating organization recognized
5 by the SVO. Cash equivalents include government money market
6 mutual funds and class one money market mutual funds defined by
7 the Purposes and Procedures Manual of the SVO, or its successor
8 publication.

9 "Fixed charges" means interest on funded and unfunded debt,
10 amortization of debt discount, and rentals for leased properties.

11 "Institution" means corporations, joint-stock associations,
12 and business trusts.

13 "Net earnings available for fixed charges" means net income
14 after deducting operating and maintenance expenses, taxes other
15 than federal and state income taxes, depreciation, and depletion,
16 but excluding extraordinary nonrecurring items of income or
17 expense appearing in the regular financial statements of such
18 institution.

19 "Obligation" means bonds, debentures, notes, or other
20 evidence of indebtedness.

21 "Surplus as regards to policyholders" means the excess of the
22 insurer's admitted assets over its liabilities.



1 "SVO" means the Securities Valuation Office of the National
2 Association of Insurance Commissioners.

3 ~~(+5)~~ Value] "Value" means fair value. Market value is the
4 best evidence of fair value."

5 SECTION 2. Section 431:6-103, Hawaii Revised Statutes, is
6 amended by amending subsection (c) to read as follows:

7 "(c) Any limitation based upon the amount of the insurer's
8 assets or surplus shall relate to assets as shown by the
9 insurer's annual statement as of December 31 preceding date of
10 investment."

11 SECTION 3. Section 431:6-104, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) Notwithstanding the provisions of section 431:6-321,
14 no security or other investment shall be eligible for purchase
15 or acquisition under this article unless it is interest bearing
16 or interest accruing or ~~[dividend or]~~ income paying, is not then
17 in default in any respect, and the insurer is entitled to
18 receive for its exclusive account and benefit, the interest or
19 income accruing thereon; except, that it may acquire real
20 property and non-dividend paying securities as provided in this
21 article. An insurer's aggregate investment in non-dividend
22 paying securities shall not exceed the greater of twenty-five



1 per cent of its admitted assets or fifty per cent of its surplus
2 as regards to policyholders as defined in section 431:6-101."

3 SECTION 4. Section 431:6-201, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) In addition to the investments required by subsection
6 (a), an insurer shall [~~invest and keep invested its funds~~]
7 maintain an amount aggregating not less than one hundred per
8 cent of its reserves and one hundred per cent of its ceded
9 reinsurance premium payable required by this code, in the
10 following assets: cash [~~or~~], premiums in course of collection,
11 reinsurance recoverable on paid losses, or [~~in~~] investments
12 eligible in accordance with this article[~~or~~], including interest
13 and dividends receivable on the investments."

14 SECTION 5. Section 431:6-302, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§431:6-302 Corporate obligations.** An insurer may invest
17 any of its funds in obligations other than those eligible for
18 investment under section 431:6-306 if they are [~~issued~~]:

- 19 (1) Issued, assumed, or guaranteed by any solvent
20 institution created or existing under the laws of the
21 United States or of any state, or district thereof[~~or~~];
22 and [~~are qualified under any of the following:~~



1 ~~(1) Obligations which are secured by adequate collateral~~
2 ~~security and bear fixed interest, if during each of~~
3 ~~any three, including the last two, of the five fiscal~~
4 ~~years next preceding the date of acquisition by the~~
5 ~~insurer, the net earnings of the issuing, assuming, or~~
6 ~~guaranteeing institution available for its fixed~~
7 ~~charges, as defined in section 431:6-101, have been~~
8 ~~not less than one and one fourth times the total of~~
9 ~~its fixed charges for such year. In determining the~~
10 ~~adequacy of collateral security, not more than one-~~
11 ~~third of the total value of the required collateral~~
12 ~~shall consist of stock other than stock meeting the~~
13 ~~requirements of section 431:6-303,~~

14 ~~(2) Fixed interest bearing obligations, other than those~~
15 ~~described in item (1), if the net earnings of the~~
16 ~~issuing, assuming, or guaranteeing institution~~
17 ~~available for its fixed charges for a period of five~~
18 ~~fiscal years next preceding the date of acquisition by~~
19 ~~the insurer, have averaged per year not less than one~~
20 ~~and one half times its average annual fixed charges~~
21 ~~applicable to the period, and if during the last year~~
22 ~~of the period, the net earnings have been not less~~



1 ~~than one and one half times its fixed charges for the~~
2 ~~year; or~~

3 ~~(3) Adjustment, income or other contingent interest~~
4 ~~obligations, if the net earnings of the issuing,~~
5 ~~assuming, or guaranteeing institution available for~~
6 ~~its fixed charges for a period of five fiscal years~~
7 ~~next preceding the date of acquisition by the insurer~~
8 ~~have averaged per year not less than one and one half~~
9 ~~times the sum of its annual fixed charges and its~~
10 ~~average maximum contingent interest applicable to the~~
11 ~~period, and if during each of [the] last two years of~~
12 ~~the period, the net earnings have been not less than~~
13 ~~one and one half times the sum of its fixed charges~~
14 ~~and maximum contingent interest for the year.]~~

15 (2) Filed with the SVO or are considered "filing exempt"
16 by the Purposes and Procedures Manual of the SVO, or
17 its successor publication."

18 SECTION 6. Section 431:6-303, Hawaii Revised Statutes, is
19 amended to read as follows:

20 **"§431:6-303 Preferred or guaranteed stocks or shares.** An
21 insurer may invest any of its funds, in an aggregate amount not
22 exceeding fifteen per cent of its assets, in preferred or



1 guaranteed stocks or shares, other than common stocks, of
2 solvent institutions existing under the laws of the United
3 States or of any state, district, or territory thereof, if all
4 of the prior obligations and prior preferred stocks, if any, of
5 ~~such~~ the institution at the date of acquisition by the insurer
6 are eligible:

7 (1) Eligible as investments under this article; and ~~if~~
8 ~~qualified under either of the following:~~

9 ~~(1) Preferred stocks or shares shall be deemed qualified~~
10 ~~if:~~

11 ~~(A) The net earnings of the institution available for~~
12 ~~its fixed charges for a period of five fiscal~~
13 ~~years next preceding the date of acquisition by~~
14 ~~the insurer must have averaged per year not less~~
15 ~~than one and one half times the sum of its~~
16 ~~average annual fixed charges, if any, its average~~
17 ~~annual maximum contingent interest, if any, and~~
18 ~~its average annual preferred dividend~~
19 ~~requirements applicable to the period, and~~

20 ~~(B) During each of the last two years of such period,~~
21 ~~the net earnings must have been not less than one~~
22 ~~and one half times the sum of its fixed charges,~~



1 ~~contingent interest, and preferred dividend~~
2 ~~requirements for such year. The term preferred~~
3 ~~dividend requirements shall be deemed to mean~~
4 ~~cumulative or noncumulative dividends whether~~
5 ~~paid or not.~~

6 ~~(2) Guaranteed stocks or shares shall be deemed qualified~~
7 ~~if the assuming or guaranteeing institution meets the~~
8 ~~requirements of section 431:6-302(1), construed so as~~
9 ~~to include as a fixed charge the amount of guaranteed~~
10 ~~dividends of such issue or the rental covering the~~
11 ~~guarantee of such dividends.]~~

12 (2) Filed with the SVO or are considered "filing exempt"
13 by the Purposes and Procedures Manual of the SVO, or
14 its successor publication."

15 SECTION 7. Section 431:6-313, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§431:6-313 Foreign securities.** (a) An insurer
18 authorized to transact insurance in a foreign country may invest
19 any of its funds, in an aggregate amount not exceeding its
20 deposit and reserve obligations incurred in such country, in
21 securities of or in such country possessing characteristics and



1 of a quality similar to those required pursuant to this article
2 for investments in the United States.

3 (b) An insurer may invest any of its funds, in an
4 aggregate amount not exceeding fifteen per cent of its assets,
5 in addition to any amount permitted pursuant to subsection (a),
6 in obligations of the governments of the Dominion of Canada, or
7 of Canadian provinces, or municipalities, and in obligations of
8 Canadian corporations, which have not been in default during the
9 five years next preceding date of acquisition, and which are
10 otherwise of equal quality to like United States public or
11 corporate securities as prescribed in this article.

12 (c) In addition to investments permitted under subsections
13 (a) and (b), an insurer may acquire foreign investments, including
14 American Depository Receipts, or engage in investment practices
15 with persons of or in foreign jurisdictions of substantially the
16 same types as those permitted under this article, if as a result
17 and given effect to the investment:

18 (1) The aggregate amount of foreign investments then held
19 by the insurer under this subsection shall not exceed
20 twenty per cent of its admitted assets; and

21 (2) The aggregate amount of foreign investments then held
22 by the insurer under this subsection in a single



1 foreign jurisdiction shall not exceed ten per cent of
2 its admitted assets as to a foreign jurisdiction that
3 has a sovereign debt rating of SVO 1 or three per cent
4 of its admitted assets as to any other foreign
5 jurisdiction.

6 (d) Investments acquired under this section shall be
7 aggregated with investments of the same types made under all other
8 sections of this article, and in a similar manner, for the
9 purposes of determining compliance with limitations, if any,
10 contained in the other sections."

11 SECTION 8. Section 431:6-317, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§431:6-317 Common stocks.** [~~After satisfying the~~
14 ~~requirements of section 431:6-201, an insurer may invest any of~~
15 ~~its funds in common shares of stock in solvent United States~~
16 ~~corporations that qualify as a sound investment.] (a) An
17 insurer may invest any of its funds in common shares of stock
18 that are filed with the SVO or are considered "filing exempt" by
19 the Purposes and Procedures Manual of the SVO, or its successor
20 publication. In aggregate, an insurer's amount of investment in
21 common stocks, including investments made pursuant to section
22 431:6-322 and non-dividend paying stocks, shall not exceed the~~



1 greater of twenty-five per cent of its admitted assets or one
2 hundred per cent of its surplus as regards to policyholders as
3 defined in section 431:6-101.

4 (b) An insurer may invest any of its funds in common
5 shares of stock in solvent United States corporations after
6 satisfying the requirements under section 431:6-201.

7 (c) An insurer's aggregate amount of investment in
8 non-dividend paying stocks is subject to the limitations of
9 section 431:6-104."

10 SECTION 9. Section 431:6-322, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§431:6-322 Common trust funds~~[r]~~; mutual funds~~[-]~~; and**
13 **exchanged traded funds.** [An] (a) Subject to the limitations in
14 subsections (b) and (c), an insurer may invest in:

15 (1) A bank's common trust fund as defined in the United
16 States Internal Revenue Code of 1986, Section 584;
17 [~~and~~]

18 (2) The securities of any open-end management type
19 investment company or investment trust registered with
20 the federal Securities and Exchange Commission under
21 the Investment Company Act of 1940, as amended, if the
22 investment company or trust, other than one of which



1 as a subsidiary of the insurer is investment adviser
2 or principal underwriter, has a new value of not less
3 than \$25,000,000 as of the date of investment by the
4 insurer[-]; and

5 (3) An exchange traded fund that is registered with the
6 federal Securities and Exchange Commission under the
7 Investment Company Act of 1940, as amended, and is
8 traded on a public exchange.

9 (b) In aggregate, an insurer's amount of investment in
10 common trust funds, mutual funds, and exchange traded funds,
11 including investments made pursuant to section 431:6-317(a),
12 shall not exceed the greater of twenty-five per cent of its
13 admitted assets or one hundred per cent of its surplus as
14 regards to policyholders as defined in section 431:6-101. This
15 limitation shall not apply to investments approved on the
16 "Mutual Funds List" from the Purposes and Procedures Manual of
17 the SVO, or its successor publication.

18 (c) An insurer may invest any of its funds in common trust
19 funds, mutual funds, and exchange traded funds after satisfying
20 the requirements of section 431:6-201."

21 SECTION 10. Section 431:6-601, Hawaii Revised Statutes, is
22 amended as follows:



1 1. By amending subsection (a) to repeal the definition of
2 "SVO".

3 ["~~SVO~~" means the ~~Securities Valuation Office of the~~
4 ~~National Association of Insurance Commissioners.~~"]

5 2. By amending subsection (b) to read:

6 "(b) An insurer may acquire investments in investment
7 pools that:

8 (1) Invest only in:

9 (A) Obligations that are rated 1 or 2 by the SVO or
10 have an equivalent of an SVO 1 or 2 rating (or,
11 in the absence of a 1 or 2 rating or equivalent
12 rating, the issuer has outstanding obligations
13 with an SVO 1 or 2 or equivalent rating) by a
14 nationally-recognized statistical rating
15 organization recognized by the SVO and have:

16 (i) A remaining maturity of three hundred
17 ninety-seven days or less or a put that
18 entitles the holder to receive the principal
19 amount of the obligation which put may be
20 exercised through maturity at specified
21 intervals not exceeding three hundred
22 ninety-seven days; or



- 1 (ii) A remaining maturity of three years or less
2 and a floating interest rate that resets no
3 less frequently than quarterly on the basis
4 of a current short-term index (federal
5 funds, prime rate, treasury bills, London
6 InterBank Offered Rate [~~+"LIBOR"~~] or
7 commercial paper) and is subject to no
8 maximum limit, if the obligations do not
9 have an interest rate that varies inversely
10 to market interest rate changes;
- 11 (B) Government money market mutual funds or class one
12 money market mutual funds; or
- 13 (C) Securities lending, repurchase, and reverse
14 repurchase transactions that meet all the
15 requirements of section [~~431:6-322,~~] 431:6-318;
16 or
- 17 (2) Invest only in investments which an insurer may
18 acquire under this article, if the insurer's
19 proportionate interest in the amount invested in these
20 investments does not exceed the applicable limits of
21 this article."



1 SECTION 11. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 12. This Act shall take effect on January 1, 2009.



Report Title:

Insurance; Investments

Description:

Amends current provisions of the insurance investment statutes allowing insurers more investment flexibility without significantly lessening protection to insurance policyholders and to reflect more current regulatory standards. (SD1)

