

"ONE YEAR (~~(TWENTY-FIVE)~~) CENTS PER THOUSAND DOLLARS OF ASSESSED VALUE LEVY

"Shall the mosquito control district, if formed, levy a general tax of ((twenty-five)) cents per thousand dollars of assessed value for one year upon all the taxable property within said district in excess of the constitutional and/or statutory tax limits for authorized purposes of the district?

YES
NO

Such proposition to be effective must be approved by a majority of at least three-fifths of the persons voting on the proposition to levy such tax in the manner set forth in Article VII, section 2(a) of the Constitution of this state, as amended by Amendment 59 and as thereafter amended.

Passed the Senate February 16, 1982.
Passed the House March 6, 1982.
Approved by the Governor April 3, 1982.
Filed in Office of Secretary of State April 3, 1982.

CHAPTER 218

[Engrossed Senate Bill No. 4569]

DOMESTIC INSURERS—INVESTMENTS AS ASSETS

AN ACT Relating to investments as assets of domestic insurers; amending section .12.02, chapter 79, Laws of 1947 as amended by section 12, chapter 195, Laws of 1963 and RCW 48.12.020; amending section .13.02, chapter 79, Laws of 1947 as amended by section 11, chapter 95, Laws of 1967 ex. sess. and RCW 48.13.020; amending section .13.22, chapter 79, Laws of 1947 as last amended by section 4, chapter 151, Laws of 1973 and RCW 48.13.220; amending section .13.24, chapter 79, Laws of 1947 and RCW 48.13.240; amending section .13.27, chapter 79, Laws of 1947 and RCW 48.13.270; amending section .13.29, chapter 79, Laws of 1947 as amended by section 5, chapter 151, Laws of 1973 and RCW 48.13.290; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section .12.02, chapter 79, Laws of 1947 as amended by section 12, chapter 195, Laws of 1963 and RCW 48.12.020 are each amended to read as follows:

In addition to assets impliedly excluded under RCW 48.12.010, the following expressly shall not be allowed as assets in any determination of the financial condition of an insurer:

- (1) Goodwill, except in accordance with regulations prescribed by the commissioner, trade names, agency plants and other like intangible assets.
(2) Prepaid or deferred charges for expenses and commissions paid by the insurer.

(3) Advances to officers (other than policy loans or loans made pursuant to RCW 48.07.130), whether secured or not, and advances to employees, agents and other persons on personal security only.

(4) Stock of such insurer, owned by it, or any equity therein or loans secured thereby, or any proportionate interest in such stock through the ownership by such insurer of an interest in another firm, corporation or business unit.

(5) Furniture, furnishings, fixtures, safes, equipment, vehicles, library, stationery, literature, and supplies; except, electronic and mechanical machines authorized by subsection (11) of RCW 48.12.010, or such personal property as the insurer is permitted to hold pursuant to paragraph (e) of subsection (2) of RCW 48.13.160, or which is acquired through foreclosure of chattel mortgages acquired pursuant to RCW 48.13.150, or which is reasonably necessary for the maintenance and operation of real estate lawfully acquired and held by the insurer other than real estate used by it for home office, branch office, and similar purposes.

(6) The amount, if any, by which the aggregate book value of investments as carried in the ledger assets of the insurer exceeds the aggregate value thereof as determined under this code.

Sec. 2. Section 48.13.02, chapter 79, Laws of 1947 as amended by section 11, chapter 95, Laws of 1967 ex. sess. and RCW 48.13.020 are each amended to read as follows:

(1) No security or other investment shall be eligible for purchase or acquisition under this chapter unless it is interest bearing or interest accruing or dividend or income paying, is not then in default in any respect, and the insurer is entitled to receive for its exclusive account and benefit, the interest or income accruing thereon; except,

(a) that an insurer may acquire real property as provided in RCW 48.13.160, and

(b) that this section shall not prevent participation by an insurer in a mortgage loan if the insurer holds a senior participation in such mortgage or deed of trust giving it substantially the rights of a first mortgagee as to its interest in that loan.

(2) No security shall be eligible for purchase at a price above its market value except voting stock of a corporation being acquired as a subsidiary.

(3) No provision of this chapter shall prohibit the acquisition by an insurer of other or additional securities or property if received as a dividend or as a lawful distribution of assets, or if acquired pursuant to a lawful and bona fide agreement of bulk reinsurance or consolidation. Any investments so acquired through bulk reinsurance or consolidation, which are not otherwise eligible under this chapter, shall be disposed of pursuant to RCW 48.13.290 if personal property or securities, or pursuant to RCW 48.13.170 if real property.

Sec. 3. Section .13.22, chapter 79, Laws of 1947 as last amended by section 4, chapter 151, Laws of 1973 and RCW 48.13.220 are each amended to read as follows:

(1) After satisfying the requirements of RCW 48.13.260, an insurer may invest any of its funds in common shares of stock in solvent United States corporations that qualify as a sound investment; except, that as to life insurers such investments shall further not aggregate an amount in excess of fifty percent of the insurer's surplus over its minimum required surplus.

(2) The insurer shall not invest in or loan upon the security of more than ten percent of the outstanding common shares of any one such corporation, subject further to the aggregate investment limitation of RCW 48.13.030.

(3) The limitations of subsection (2) of this section shall not apply to investment in the securities of any subsidiary corporations of the insurer which are engaged or organized to engage exclusively in one or more of the following businesses:

(a) Acting as an insurance agent for its parent or for any of its parent's insurer subsidiaries or affiliates;

(b) Investing, reinvesting, or trading in securities or acting as a securities broker or dealer for its own account, that of its parent, any subsidiary of its parent, or any affiliate or subsidiary;

(c) Rendering management, sales, or other related services to any investment company subject to the Federal Investment Company Act of 1940, as amended;

(d) Rendering investment advice;

(e) Rendering services related to the functions involved in the operation of an insurance business including, but not limited to, actuarial, loss prevention, safety engineering, data processing, accounting, claims appraisal, and collection services;

(f) Acting as administrator of employee welfare benefit and pension plans for governments, government agencies, corporations, or other organizations or groups;

(g) Ownership and management of assets which the parent could itself own and manage: PROVIDED, That the aggregate investment by the insurer and its subsidiaries acquired pursuant to this paragraph shall not exceed the limitations otherwise applicable to such investments by the parent;

(h) Acting as administrative agent for a government instrumentality which is performing an insurance function or is responsible for a health or welfare program;

(i) Financing of insurance premiums;

(j) Any other business activity reasonably ancillary to an insurance business;

(k) Owning (~~(a corporation or corporations engaged or organized to engage exclusively in either, or both (i) owning an insurer or~~) one or more subsidiary (i) insurers to the extent permitted by this chapter, or (ii) (~~one or more of the~~) businesses specified in paragraphs (a) through (k) of this subsection inclusive, or (iii) other businesses the stock of which is eligible under RCW 48.13.240 or 48.13.250, or any combination of such insurers and businesses.

(4) No acquisition of a majority of the total outstanding common shares of any corporation shall be made pursuant to this section unless a notice of intention of such proposed acquisition shall have been filed with the commissioner not less than ninety days, or such shorter period as may be permitted by the commissioner, in advance of such proposed acquisition, nor shall any such acquisition be made if the commissioner at any time prior to the expiration of the notice period finds that the proposed acquisition is contrary to law, or determines that such proposed acquisition would be contrary to the best interests of the parent insurer's policyholders or of the people of this state. The following shall be the only factors to be considered in making the foregoing determination:

- (a) The availability of the funds or assets required for such acquisition;
- (b) The fairness of any exchange of stock, assets, cash, or other consideration for the stock or assets to be received;
- (c) The impact of the new operation on the parent insurer's surplus and existing insurance business and the risks inherent in the parent insurer's investment portfolio and operations;
- (d) The fairness and adequacy of the financing proposed for the subsidiary;
- (e) The likelihood of undue concentration of economic power;
- (f) Whether the effect of the acquisition may be substantially to lessen competition in any line of commerce in insurance or to tend to create a monopoly therein; and
- (g) Whether the acquisition might result in an excessive proliferation of subsidiaries which would tend to unduly dilute management effectiveness or weaken financial strength or otherwise be contrary to the best interests of the parent insurer's policyholders or of the people of this state. At any time after an acquisition, the commissioner may order its disposition if he finds, after notice and hearing, that its continued retention is hazardous or prejudicial to the interests of the parent insurer's policyholders. The contents of each notice of intention of a proposed acquisition filed hereunder and information pertaining thereto shall be kept confidential, shall not be subject to subpoena, and shall not be made public unless after notice and hearing the commissioner determines that the interests of policyholders, stockholders, or the public will be served by the publication thereof.

(5) A domestic insurance company may, provided that it maintains books and records which separately account for such business, engage directly in any business referred to in paragraphs (d), (e), (h), and (j) of subsection (3) of this section either to the extent necessarily or properly incidental to the insurance business the insurer is authorized to do in this state or to the extent approved by the commissioner and subject to any limitations he may prescribe for the protection of the interests of the policyholders of the insurer after taking into account the effect of such business on the insurer's existing insurance business and its surplus, the proposed allocation of the estimated cost of such business, and the risks inherent in such business as well as the relative advantages to the insurer and its policyholders of conducting such business directly instead of through a subsidiary.

Sec. 4. Section .13.24, chapter 79, Laws of 1947 and RCW 48.13.240 are each amended to read as follows:

(1) An insurer may loan or invest its funds in an aggregate amount not exceeding the lesser of the following sums: ~~((Five))~~ Ten percent of its assets, or fifty percent of its surplus over its capital and other liabilities, or if a mutual or reciprocal insurer fifty percent of its surplus over minimum required surplus, in ~~((kinds of))~~ loans or investments not otherwise ~~((specifically made))~~ eligible for investment and not specifically prohibited ~~((or made ineligible by this or other provisions of this code))~~ by RCW 48.13.270.

(2) No such loan or investment shall be ~~((represented by~~
~~(a))~~ any item described in RCW 48.12.020~~((; or~~
~~(b) any loan or investment of a kind specifically made eligible under any other provision of this code; or~~
~~(c) any loan, investment, or asset theretofore acquired or held by the insurer under any other category of loans or investments)).~~

(3) No ~~((one))~~ such investment in or loan upon the security of any one person or entity shall exceed the amount specified in subsection (1) of this section or one percent of the insurer's assets, whichever is the lesser, except that this subsection (3) shall not apply to an investment in the stock of a subsidiary company.

(4) The insurer shall keep a separate record of all investments acquired under this section.

Sec. 5. Section .13.27, chapter 79, Laws of 1947 and RCW 48.13.270 are each amended to read as follows:

~~((In addition to investments excluded under other provisions of this code;))~~ An insurer shall not, except with the commissioner's approval in advance, invest in or loan its funds upon the security of, or hold:

(1) Issued shares of its own capital stock, except for the purpose of mutualization in accordance with RCW 48.08.080;

(2) Securities issued by any corporation, except as specifically authorized by this chapter directly or by exception, if a majority of the outstanding stock of such corporation, or a majority of its stock having voting powers, is or will be after such acquisition, directly or indirectly owned by the insurer, or by any combination of the insurer and the insurer's directors, officers, parent corporation, and subsidiaries;

(3) Securities issued by any corporation if a majority of its stock having voting power is owned directly or indirectly by or for the benefit of any one or more of the insurer's officers and directors;

(4) Any investment or loan ineligible under the provisions of RCW 48.13.030;

(5) Securities issued by any insolvent corporation;

(6) Any investment or security which is found by the commissioner to be designed to evade any prohibition of this code.

Sec. 6. Section .13.29, chapter 79, Laws of 1947 as amended by section 5, chapter 151, Laws of 1973 and RCW 48.13.290 are each amended to read as follows:

(1) Any ineligible personal property or securities acquired by an insurer may be required to be disposed of within the time not less than six months specified by order of the commissioner, unless before that time it attains the standard of eligibility, if retention of such property or securities would be contrary to the policyholders or public interest in that it tends to substantially lessen competition in the insurance business or threatens impairment of the financial condition of the insurer.

(2) Any ((prohibited)) personal property or securities acquired by an insurer contrary to RCW 48.13.270 shall be disposed of forthwith or within any period specified by order of the commissioner.

(3) Any property or securities ineligible only because of being excess of the amount permitted under this chapter to be invested in the category to which it belongs shall be ineligible only to the extent of such excess.

NEW SECTION. Sec. 7. If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate February 16, 1982.

Passed the House March 6, 1982.

Approved by the Governor April 3, 1982.

Filed in Office of Secretary of State April 3, 1982.