

HOUSE BILL No. 2066

By Committee on Insurance

1-21

1 AN ACT concerning insurance companies; relating to investments;
2 amending K.S.A. 40-2a05, 40-2a12, 40-2a16, 40-2a25, 40-2a26, 40-
3 2b04, 40-2b05, 40-2b09, 40-2b13, 40-2b26 and 40-2b27 and K.S.A.
4 2014 Supp. 40-2a27, 40-2a28, 40-2b28 and 40-2b29 and repealing the
5 existing sections.
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 40-2a05 is hereby amended to read as follows: 40-
9 2a05. Any insurance company other than life heretofore or hereafter
10 organized under any law of this state may invest by loans or otherwise,
11 with the direction or approval of a majority of its board of directors or
12 authorized committee thereof, any of its funds, or any part thereof in bonds
13 or other evidences of indebtedness issued, assumed or guaranteed by a
14 ~~corporation or trust~~ *business entity* organized under the laws of the United
15 States of America, or of any state, district, insular or territorial possession
16 thereof, or of the Dominion of Canada or any province thereof which are
17 designated "1" or "2" by the ~~national association of insurance~~
18 ~~commissioners in their most recently published Valuations of Securities~~
19 ~~Manual SVO or are rated investment grade in Standard & Poor's (at least~~
20 ~~BBB-) or Moody's (at least Baa3) corporate bond guides its equivalent~~
21 *rating by a nationally recognized statistical rating organization*
22 *recognized by the SVO* at the time of acquisition; or which meet the
23 following qualifications:

24 (a) If fixed-interest bearing obligations, the average fixed charges
25 shall have been covered at least $1\frac{1}{2}$ times by the average net earnings
26 available for fixed charges of the last five years, and the ~~company~~ *business*
27 *entity* shall have earnings in two of the last three fiscal years immediately
28 preceding the date of acquisition. In the case of obligations of finance
29 companies, the coverage shall be at least $1\frac{1}{4}$ times;

30 (b) if income, or other contingent interest obligations, the net earnings
31 available for fixed charges of the ~~corporation~~ *business entity* for the five
32 fiscal years next preceding the date of acquisition of the obligations shall
33 have averaged per year not less than $1\frac{1}{2}$ times the sum of the fixed
34 charges and the maximum contingent interest to which the ~~corporation~~
35 *business entity* is subject as of the date of acquisition, and the company
36 shall have earnings in two of the last three fiscal years immediately

1 preceding the date of acquisition. In the case of obligations of finance
2 companies, the coverage shall be at least 1 1/4 times;

3 (c) ~~the corporation~~ *business entity* or a predecessor thereof must have
4 been in existence for a period of not less than five years;

5 (d) investments in any ~~corporate~~ obligations under this act shall not
6 be eligible if the ~~corporation~~ *business entity* is in default on any fixed
7 obligations as of the date of acquisition. Statements adjusted to show the
8 actual condition at the time of acquisition or at effect of new financing
9 (known commercially as pro forma statements) may be used when
10 determining investments in this act or in compliance with requirements.

11 (e) As used in this section:

12 (1) The term "fixed charges" ~~shall include~~ *includes* actual interest
13 incurred in each year on funded and unfunded debt. In the testing of
14 obligations where interest is partially or entirely contingent upon earnings,
15 fixed charges shall include contingent interest payments; ~~and~~

16 (2) the term "net earnings available for fixed charges" ~~shall mean~~
17 *means* income, before deducting interest on funded and unfunded debt and
18 after deducting operating and maintenance expenses, taxes other than
19 income taxes, depreciation and depletion. Extraordinary, nonrecurring
20 items of income or expense shall be excluded;

21 (3) *the term "business entity" includes a sole proprietorship,*
22 *corporation, limited liability company, association partnership, joint stock*
23 *company, joint venture, mutual fund, trust, joint tenancy or similar form of*
24 *business organization, whether organized for profit or not-for-profit;*

25 (4) *the term "NAIC" means the national association of insurance*
26 *commissioners; and*

27 (5) *the term "SVO" means the securities valuation office of the NAIC*
28 *or any successor office established by the NAIC.*

29 Sec. 2. K.S.A. 40-2a12 is hereby amended to read as follows: 40-
30 2a12. Any insurance company other than life heretofore or hereafter
31 organized under any law of this state may invest with the direction or
32 approval of a majority of its board of directors or authorized committee
33 thereof, any of its funds, or any part thereof in:

34 (a) Bonds, notes, obligations or other evidences of indebtedness
35 *directly or indirectly* secured by mortgages or deeds of trust which are a
36 first *or second* lien upon *otherwise* unencumbered real property and
37 appurtenances thereto within the United States of America or any insular
38 or territorial possession of the United States of America, or the Dominion
39 of Canada, and upon leasehold estates in real property wherein the term of
40 such including any options to extend is not less than 15 years beyond the
41 maturity of the loan as made or extended. At the date of acquisition the
42 total indebtedness secured by such lien shall not exceed ~~80%~~ *90%* of the
43 market value of the property upon which it is a lien. These limitations shall

1 not apply to obligations described in subsections (b), (c), (d) and (e) of this
2 section. For the purpose of this section a mortgage or deed of trust shall
3 not be deemed to be other than a first *or second* lien upon property within
4 the meaning of this section by reason of the existence of taxes or
5 assessments against real property and appurtenances thereto that are not
6 delinquent, instruments creating or reserving mineral, oil or timber rights,
7 rights of way, joint driveways, sewer rights, rights in walls or by reason of
8 building restrictions or other like restrictive covenants, or when such real
9 estate is subject to lease in whole or in part whereby rents or profits are
10 reserved to the owner or when there is in existence a fixed obligation or
11 lien against the property where an escrow account or indemnification bond
12 is or has been established or obtained sufficient to cover the maximum
13 liability created by such obligation or lien;

14 (b) bonds, notes or other evidences of indebtedness representing
15 loans and advances of credit that have been issued, guaranteed or insured
16 by the United States government or any agency or instrumentality thereof.
17 Any uninsured or nonguaranteed portion shall not exceed 75% of the total
18 amount;

19 (c) contracts of sale, purchase money mortgages or deeds of trust
20 secured by property obtained through foreclosure or in settlement or
21 satisfaction of any indebtedness;

22 (d) bonds, notes, obligations or other evidences of indebtedness
23 *directly or indirectly* secured by mortgages or deeds of trust which are a
24 first *or second* lien upon *otherwise* unencumbered personal and real
25 property, including a leasehold of real estate, under lease, purchase
26 contract or lease purchase contract to any governmental body or
27 instrumentality whose obligations qualify under K.S.A. 40-2a01, 40-2a02
28 or 40-2a03, and amendments ~~to those sections~~ *thereto*, or to a corporation
29 whose obligations qualify under K.S.A. 40-2a05, and amendments thereto,
30 if there is adequate rental, after making allowances of lessors' or sellers'
31 obligations and liabilities, if any, under the terms of the lease or contract,
32 to retire the loan as to payment of principal and interest and such rentals
33 are pledged or assigned to the lender;

34 (e) bonds, notes or other evidences of indebtedness representing loans
35 and advances of credit that have been issued, guaranteed or insured, in
36 accordance with the terms and provisions of an act of the federal
37 parliament of the Dominion of Canada approved March 18, 1954, cited as
38 the "national housing act, 1954," as heretofore and hereafter amended;

39 (f) ~~first~~ mortgages or deeds of trust upon improved real property to be
40 occupied as a personal residence by an officer of the insurer, if the
41 mortgage is at an interest rate that is no less than the prevailing rate of the
42 insurer's existing portfolio of mortgage loans. Mortgages or deeds of trust
43 entered into pursuant to this subsection shall be subject to the conditions

1 set forth in subsection (a) of this section relating to mortgages or deeds of
2 trust generally.

3 Sec. 3. K.S.A. 40-2a16 is hereby amended to read as follows: 40-
4 2a16. Any insurance company other than life heretofore or hereafter
5 organized under any law of this state may invest with the direction or
6 approval of a majority of its board of directors or authorized committee
7 thereof, any of its funds, or any part thereof in investments whether or not
8 qualified and permitted under this act and notwithstanding any conditions
9 or limitations prescribed therein, in an aggregate amount not more than
10 10% of its admitted assets as shown by the company's last annual report as
11 filed with the commissioner of insurance *or a more recent quarterly*
12 *financial statement filed with the commissioner*, except that investments
13 shall not be permitted in insolvent organizations or organizations in default
14 with respect to the payment of principal or interest.

15 Sec. 4. K.S.A. 40-2a25 is hereby amended to read as follows: 40-
16 2a25. Any insurance company other than life heretofore or hereafter
17 organized under any law of this state may invest with the direction or
18 approval of a majority of its board of directors or authorized committee
19 thereof, any of its funds, or any part thereof in:

20 (a) Mortgage related securities issued or guaranteed by the federal
21 home loan mortgage corporation and federal national mortgage association
22 but the amount invested in any one such issue shall not exceed the greater
23 of \$750,000 or two percent of the admitted assets of the company as
24 shown by its last annual report or a more recent quarterly financial
25 statement filed with the commissioner of insurance;

26 (b) mortgage related securities issued by or in the name of any private
27 entity which are designated "1" or "2" by the ~~national association of~~
28 ~~insurance commissioners in their most recently published valuations of~~
29 ~~securities manual or supplement thereto SVO or are rated investment grade~~
30 ~~by Standard and Poor's (at least BBB-) or Moody's (at least Baa3) its~~
31 *equivalent rating by a nationally recognized statistical rating organization*
32 *recognized by the SVO* at the time of acquisition. The investment in any
33 one such issue shall not exceed two percent of the admitted assets of the
34 company as shown by its last annual report or a more recent quarterly
35 financial statement filed with the commissioner of insurance.

36 (c) For purposes of this section, "mortgage related securities" shall
37 mean a security that either:

38 (1) Represents ownership of one or more promissory notes or
39 certificates of interest or participation in such notes ~~-, including any rights~~
40 ~~designed to assure servicing of, or the receipt or timeliness of receipt by~~
41 ~~the holders of such notes, certificates, or participations of amounts payable~~
42 ~~under, such notes, certificates, or participations), which notes:~~

43 (A) Are directly secured by a first lien on a single parcel of real

1 estate, including stock allocated to a dwelling unit in a residential
2 cooperative housing corporation, upon which is located a dwelling or
3 mixed residential and commercial structure, or on a residential
4 manufactured home as defined in U.S.C. § 5402(6) of title 42, whether
5 such manufactured home is considered real or personal property under the
6 laws of the state in which it is to be located; and

7 (B) were originated by a savings and loan association, savings bank,
8 commercial bank, credit union, insurance company, or similar institution
9 which is supervised and examined by a federal or state authority, or by a
10 mortgagee approved by the secretary of housing and urban development
11 pursuant to U.S.C. §§ 1709 and 1715b of title 12, or, where such notes
12 involve a lien on the manufactured home, by any such institution or by any
13 financial institution approved for insurance by the secretary of housing and
14 urban development pursuant to U.S.C. § 1703 of title 12; or

15 (2) is secured by one or more promissory notes or certificates of
16 interest or participations in such notes~~—~~, with or without recourse to the
17 issuer thereof~~),~~ and, by its terms, provides for payments of principal in
18 relation to payments, or reasonable projections of payments, on notes
19 meeting the requirements of subparagraphs (1)(A) and (B) or certificates
20 of interest or participations in promissory notes meeting such
21 requirements.

22 For the purposes of this paragraph, the term "promissory note", when
23 used in connection with a manufactured home, shall also include a loan,
24 advance, or credit sale as evidenced by a retail installment sales contract or
25 other instrument; or

26 (3) involve offers or sales of one or more promissory notes directly
27 secured by a first lien on a single parcel of real estate upon which is
28 located a dwelling or other residential or commercial structure, and
29 participation interests in such notes:

30 (A) Where such securities are originated by a savings and loan
31 association, savings bank, commercial bank, or similar banking institution
32 which is supervised and examined by a federal or state authority, and are
33 offered and sold subject to the following conditions:

34 (i) The minimum aggregate sales price per purchaser shall not be less
35 than \$250,000;

36 (ii) the purchaser shall pay cash either at the time of the sale or within
37 60 days thereof; and

38 (iii) each purchaser shall buy for such purchaser's own account only;
39 or

40 (B) where such securities are originated by a mortgagee approved by
41 the secretary of housing and urban development pursuant to U.S.C. §§
42 1709 and 1715b of title 12 and are offered or sold subject to the three
43 conditions specified in subparagraph (3)(A) to any institution described in

1 such subparagraph or to any insurance company subject to the supervision
2 of the insurance commissioner, or any agency or officer performing like
3 function, of any state or territory of the United States or the District of
4 Columbia, or the federal home loan mortgage corporation, the federal
5 national mortgage association, or the government national mortgage
6 association.

7 Transactions between any of the entities described in subparagraph (3)
8 (A) or (3)(B) involving nonassignable contracts to buy or sell the
9 foregoing securities which are to be completed within two years, where the
10 seller of the foregoing securities pursuant to any such contract is one of the
11 parties described in subparagraph (3)(A) or (3)(B) who may originate such
12 securities and the purchaser of such securities pursuant to any such
13 contract is any institution described in subparagraph (3)(A) or any
14 insurance company described in subparagraph (3)(B), the federal home
15 loan mortgage corporation, federal national mortgage association, or the
16 government national mortgage association and where the foregoing
17 securities are subject to the three conditions for sale set forth in
18 subparagraphs (3)(A)(i) through (iii).

19 Sec. 5. K.S.A. 40-2a26 is hereby amended to read as follows: 40-
20 2a26. As used in K.S.A. 40-2a27 of this act:

21 (a) "Medium grade obligations" means obligations which are
22 designated "3" by the ~~national association of insurance commissioners in~~
23 ~~its most recently published valuations of securities manual~~ *SVO* or its
24 *equivalent rating by a nationally recognized statistical rating organization*
25 *recognized by the SVO.*

26 (b) "Lower grade obligations" means obligations which are
27 designated "4," "5" or "6" by the ~~national association of insurance~~
28 ~~commissioners in its most recently published valuations of securities~~
29 ~~manual~~ *SVO* or its *equivalent rating by a nationally recognized statistical*
30 *rating organization recognized by the SVO.*

31 (c) "Admitted assets" means the amount shown on the insurer's last
32 annual report as filed with the state commissioner of insurance *or a more*
33 *recent quarterly financial statement filed with the commissioner.*

34 (d) "Aggregate amount" of medium grade and lower grade
35 obligations means the aggregate statutory statement value thereof.

36 (e) "Institution" means a corporation, a joint-stock company, an
37 association, a trust, a business partnership, a business joint venture or
38 similar entity.

39 (f) "Insurance company" or "insurer" means an insurance company
40 other than life organized under the laws of this state.

41 Sec. 6. K.S.A. 2014 Supp. 40-2a27 is hereby amended to read as
42 follows: 40-2a27. (a) No insurance company shall acquire, directly or
43 indirectly, any medium grade or lower grade obligation of any institution

1 if, after giving effect to any such acquisition, the aggregate amount of all
2 medium grade and lower grade obligations then held by such insurer
3 would exceed 20% of its admitted assets. Within this limitation no more
4 than 10% of its admitted assets shall consist of lower grade obligations; no
5 more than three percent of its admitted assets shall consist of obligations
6 designated "5" or "6" ~~in the valuations of securities manual by the SVO or~~
7 ~~its equivalent rating by a nationally recognized statistical rating~~
8 ~~organization recognized by the SVO~~; and, no more than one percent of its
9 admitted assets shall consist of obligations designated "6" ~~in the valuations~~
10 ~~of securities manual by the SVO or its equivalent rating by a nationally~~
11 ~~recognized statistical rating organization recognized by the SVO~~. Attaining
12 or exceeding the limit of any one category shall not preclude an insurer
13 from acquiring obligations in other categories subject to the specific and
14 multi-category limits.

15 (b) No insurer organized under the laws of this state may invest more
16 than one percent of its admitted assets in medium grade obligations issued,
17 guaranteed or insured by any one institution, nor may it invest more than
18 one-half of one percent of its admitted assets in lower grade obligations
19 issued, guaranteed or insured by any one institution. In no event; shall such
20 insurer invest more than one percent of its admitted assets in any medium
21 or lower grade obligations issued, guaranteed or insured by any one
22 institution.

23 (c) Nothing contained in this act shall prohibit an insurer from
24 acquiring any obligations which it has committed to acquire if the insurer
25 would have been permitted to acquire that obligation pursuant to this act
26 on the date on which such insurer committed to purchase that obligation.

27 (d) Notwithstanding the limitations of subsection (b), an insurer may
28 acquire an obligation of an institution in which the insurer already has one
29 or more obligations, if the obligation is acquired in order to protect an
30 investment previously made in the obligations of the institution, except all
31 such acquired obligations shall not exceed one-half of one percent of the
32 insurer's admitted assets.

33 (e) Nothing contained in this act shall prohibit an insurer to which
34 this act applies from acquiring an obligation as a result of a restructuring
35 of a medium or lower grade obligation already held or require such insurer
36 to sell or otherwise dispose of any obligation legally acquired prior to the
37 effective date of this act.

38 (f) Nothing contained in this act shall permit or be construed as
39 permitting an insurer to exceed, alter or otherwise circumvent any of the
40 limitations or restrictions applicable to the investments authorized by
41 article 2a of chapter 40 of the Kansas Statutes Annotated, and amendments
42 thereto.

43 (g) The board of directors of any insurance company organized under

1 the laws of this state which acquires or invests, directly or indirectly, more
2 than two percent of its admitted assets in medium grade and lower grade
3 obligations, shall adopt a written plan for the making of such investments.
4 The plan, in addition to guidelines with respect to the quality of the issues
5 invested in, shall contain diversification standards acceptable to the
6 commissioner which may include, but not be limited to, standards for
7 issuer, industry, duration, liquidity and geographic location.

8 Sec. 7. K.S.A. 2014 Supp. 40-2a28 is hereby amended to read as
9 follows: 40-2a28. (a) Any insurance company other than life organized
10 under any law of this state may invest, by loans or otherwise, with the
11 direction or approval of a majority of its board of directors or authorized
12 committee thereof, any of its funds, or any part thereof, in asset-backed
13 securities, subject to the following:

14 (1) To be an admitted asset under this section, an asset-backed
15 security must, at the time of acquisition, be designated "1" or "2" by the
16 ~~national association of insurance commissioners in its most recently~~
17 ~~published valuations of securities manual or supplement thereto~~ *SVO or its*
18 *equivalent rating by a nationally recognized statistical rating organization*
19 *recognized by the SVO;*

20 (2) the investment in any one issue of asset-backed securities shall
21 not exceed 2% of the admitted assets of the investing insurance company
22 as shown by its last annual report or a more recent quarterly financial
23 statement filed with the commissioner. Each issue designated as provided
24 in paragraph (1) shall constitute a single issue regardless of any other
25 obligations or securities issued by the same or any affiliated issuer.

26 (b) As used in this section:

27 (1) "Asset-backed security" means any security or other instrument
28 representing or evidencing an interest in, a loan to, a participation in a loan
29 to, or any other right to receive payments from a business entity of any
30 type or form, which has as its primary business activity the acquisition and
31 holding of financial assets, directly or through a trustee, for the benefit of
32 such business entity's debt or equity holders; ~~and~~

33 (2) "financial asset" means a single asset or a pool of assets consisting
34 of interest-bearing obligations or other contractual obligations representing
35 or constituting the right to receive payment from the asset or pool of
36 assets;

37 (3) "NAIC" means the national association of insurance
38 commissioners; and

39 (4) "SVO" means the securities valuation office of the NAIC or any
40 successor office established by the NAIC.

41 Sec. 8. K.S.A. 40-2b04 is hereby amended to read as follows: 40-
42 2b04. (a) As used in this section:

43 (1) "Business entity" means a sole proprietorship, corporation, limited

1 liability company, association, partnership, joint-stock company, joint
2 venture, mutual fund, trust, joint tenancy or other similar form of business
3 organization, whether organized for-profit or not-for-profit.

4 (2) "Domestic jurisdiction" means the United States, Canada, and a
5 state or political subdivision of the United States or Canada.

6 (3) "Foreign currency" means a currency other than that of the United
7 States or Canada.

8 (4) "Foreign investment" means an investment in a foreign
9 jurisdiction or in an asset domiciled in a foreign jurisdiction. An
10 investment shall not be deemed to be foreign if the issuing business entity,
11 qualified primary credit source or qualified guarantor is a domestic
12 jurisdiction or a business entity domiciled in a domestic jurisdiction,
13 unless:

14 (A) The issuing business entity is a shell business entity; and

15 (B) the investment is not assumed, accepted, guaranteed or insured or
16 otherwise backed by a domestic jurisdiction or a business entity, that is not
17 a shell business entity, domiciled in a domestic jurisdiction.

18 (5) "Foreign jurisdiction" means a jurisdiction outside of the United
19 States or Canada.

20 (6) "Qualified guarantor" means a guarantor against which an insurer
21 has a direct claim for full and timely payment evidenced by a contractual
22 right for which an enforcement action can be brought in a domestic
23 jurisdiction.

24 (7) "Qualified primary credit source" means the credit source to
25 which an insurer looks for payment as to an investment and against which
26 an insurer has a direct claim for full and timely payment evidenced by a
27 contractual right for which an enforcement action can be brought in a
28 domestic jurisdiction.

29 (8) "Shell business entity" means a business entity having no
30 economic substance except as a vehicle for owning interests in assets
31 issued, owned or previously owned by a business entity domiciled in a
32 foreign jurisdiction.

33 (9) "SVO" means the securities valuation office of the national
34 association of insurance commissioners or any successor office established
35 by the national association of insurance commissioners.

36 (b) Any life insurance company organized under any law of this state
37 may invest, by loans or otherwise, with the direction or approval of a
38 majority of its board of directors or authorized committee thereof, any of
39 its funds, or any part thereof, in foreign investments of the same types as
40 those that an insurer is permitted to acquire under ~~K.S.A. 40-2b01, 40-~~
41 ~~2b02, 40-2b03, 40-2b05, 40-2b06, 40-2b07, 40-2b24, 40-2b26, 40-2b27~~
42 ~~and 40-2b28 and K.S.A. 40-2b29 article 2b of chapter 40 of the Kansas~~
43 ~~Statutes Annotated~~, and amendments thereto, if:

1 (1) The aggregate amount of foreign investments then held by the
2 insurer does not exceed 20% of its admitted assets; and

3 (2) the aggregate amount of foreign investments then held by the
4 insurer in a single foreign jurisdiction does not exceed 10% of its admitted
5 assets for jurisdictions that have a sovereign debt rating of SVO 1, or 3%
6 of its admitted assets for ~~all any other jurisdictions~~ *foreign jurisdiction*.

7 (c) Any life insurance company organized under any law of this state
8 may invest, by loans or otherwise, with the direction or approval of a
9 majority of its board of directors or authorized committee thereof, any of
10 its funds, or any part thereof, in investments of the same types as those that
11 an insurer is permitted to acquire under ~~K.S.A. 40-2b01, 40-2b02, 40-
12 2b03, 40-2b05, 40-2b06, 40-2b07, 40-2b24, 40-2b26, 40-2b27 and 40-
13 2b28 and K.S.A. 40-2b29~~ *article 2b of chapter 40 of the Kansas Statutes
14 Annotated*, and amendments thereto, which are denominated in foreign
15 currencies, whether or not they are foreign investments acquired under
16 subsection (b), if:

17 (1) The aggregate amount of investments then held by the insurer
18 denominated in foreign currencies does not exceed 10% of its admitted
19 assets; and

20 (2) the aggregate amount of investments then held by the insurer
21 denominated in the foreign currency of a single foreign jurisdiction does
22 not exceed 10% of its admitted assets for jurisdictions that have a
23 sovereign debt rating of SVO 1, or 3% of its admitted assets for ~~all~~ *any
24 other jurisdictions foreign jurisdiction*.

25 (d) Notwithstanding the provisions of K.S.A. 40-2b13, and
26 amendments thereto, the insurer's total foreign investments and
27 investments denominated in foreign currencies shall not exceed the
28 limitations set forth in subsections (b) and (c).

29 (e) The investment limitations in subsections (b) and (c) computed on
30 the basis of an insurer's admitted assets shall relate to the amount as shown
31 on the insurer's last annual report as filed with the commissioner of
32 insurance or a more recent quarterly financial statement as filed with the
33 commissioner, on a form prescribed by the national association of
34 insurance commissioners, within 45 days following the end of the calendar
35 quarter to which the interim statement pertains.

36 (f) Investments acquired under this section shall be aggregated with
37 investments of the same types made under ~~K.S.A. 40-2b01, 40-2b02, 40-
38 2b03, 40-2b05, 40-2b06, 40-2b07, 40-2b24, 40-2b26, 40-2b27 and 40-
39 2b28 and K.S.A. 40-2b29~~ *all other sections of article 2b of chapter 40 of
40 the Kansas Statutes Annotated*, and amendments thereto, and in a similar
41 manner, for purposes of determining compliance with the limits, if any,
42 contained in the other sections.

43 Sec. 9. K.S.A. 40-2b05 is hereby amended to read as follows: 40-

1 2b05. Any life insurance company heretofore or hereafter organized under
2 any law of this state may invest by loans or otherwise, with the direction or
3 approval of a majority of its board of directors or authorized committee
4 thereof, any of its funds, or any part thereof in bonds or other evidences of
5 indebtedness issued, assumed, or guaranteed by a ~~corporation incorporated~~
6 *business entity organized* under the laws of the United States of America,
7 or of any state, district, insular or territorial possession thereof; or of the
8 Dominion of Canada or any province thereof which are designated "1" or
9 "2" by the ~~national association of insurance commissioners in their most~~
10 ~~recently published Valuations of Securities Manual SVO or are rated~~
11 ~~investment grade in Standard & Poor's (at least BBB-) or Moody's (at least~~
12 ~~Baa3) corporate bond guides its equivalent rating by a nationally~~
13 ~~recognized statistical rating organization recognized by the SVO at the~~
14 time of acquisition; or which meet the following qualifications:

15 (a) If fixed-interest bearing obligations, the average fixed charges
16 shall have been covered at least 1 1/2 times by the average net earnings
17 available for fixed charges of the last five years, and the ~~company~~ *business*
18 *entity* shall have earnings in two of the last three fiscal years immediately
19 preceding the date of acquisition. In the case of obligations of finance
20 companies, the coverage shall be at least 1 1/4 times;

21 (b) if income, or other contingent interest obligations, the net earnings
22 available for fixed charges of the ~~corporation~~ *business entity* for the five
23 fiscal years next preceding the date of acquisition of the obligations shall
24 have averaged per year not less than 1 1/2 times the sum of the fixed
25 charges and the maximum contingent interest to which the ~~corporation~~
26 *business entity* is subject as of the date of acquisition, and the ~~company~~
27 *business entity* shall have earnings in two of the last three fiscal years
28 immediately preceding the date of acquisition. In the case of obligations of
29 finance companies, the coverage shall be at least 1 1/4 times;

30 (c) the ~~corporation~~ *business entity* or a predecessor thereof must have
31 been in existence for a period of not less than five years;

32 (d) investments in any ~~corporate~~ obligations under this act shall not
33 be eligible if the ~~corporation~~ *business entity* is in default on any fixed
34 obligations as of the date of acquisition. Statements adjusted to show the
35 actual condition at the time of acquisition or at effect of new financing
36 (known commercially as pro forma statements) may be used when
37 determining investments in this act or in compliance with requirements.

38 (e) (1) The term "fixed charges" ~~shall include~~ *includes* actual interest
39 incurred in each year on funded and unfunded debt. In the testing of
40 obligations where interest is partially or entirely contingent upon earnings
41 fixed charges shall include contingent interest payments; ~~and~~

42 (2) the term "net earnings available for fixed charges" ~~shall mean~~
43 *means* income, before deducting interest on funded and unfunded debt and

1 after deducting operating and maintenance expenses, taxes other than
2 income taxes, depreciation and depletion. Extraordinary, nonrecurring
3 items of income or expense shall be excluded;

4 (3) *the term "business entity" includes a sole proprietorship,*
5 *corporation, limited liability company, association, partnership, joint*
6 *stock company, joint venture, mutual fund, trust, joint tenancy or similar*
7 *form of business organization, whether organized for profit or not-for-*
8 *profit;*

9 (4) *the term "NAIC" means the national association of insurance*
10 *commissioners;*

11 (5) *the term "SVO" means the securities valuation office of the NAIC*
12 *or any successor office established by the NAIC.*

13 Sec. 10. K.S.A. 40-2b09 is hereby amended to read as follows: 40-
14 2b09. Any life insurance company heretofore or hereafter organized under
15 any law of this state may invest by loans or otherwise with the direction or
16 approval of a majority of its board of directors or authorized committee
17 thereof, any of its funds, or any part thereof in:

18 (a) Bonds, notes, obligations or other evidences of indebtedness
19 *directly or indirectly* secured by mortgages or deeds of trust which are a
20 first *or second* lien upon *otherwise* unencumbered real property and
21 appurtenances thereto within the United States of America, or any insular
22 or territorial possession of the United States, or the Dominion of Canada,
23 and upon leasehold estates in real property wherein the term of such
24 including any options to extend is not less than 15 years beyond the
25 maturity of the loan as made or extended. At the date of acquisition the
26 total indebtedness secured by such lien shall not exceed ~~80%~~ 90% of the
27 market value of the property upon which it is a lien, unless that portion of
28 the total indebtedness in excess of ~~80%~~ 90% of market value is insured by
29 a mortgage insurance company authorized by the commissioner of
30 insurance to do business in this state. These limitations shall not apply to
31 obligations described in subsections (b), (c), (d), (e) and (f). For the
32 purpose of this section a mortgage or deed of trust shall not be deemed to
33 be other than a first *or second* lien upon property within the meaning of
34 this section by reason of the existence of taxes or assessments against real
35 property and appurtenances thereto that are not delinquent, instruments
36 creating or reserving mineral, oil, or timber rights, rights of way, joint
37 driveways, sewer rights, rights in walls or by reason of building
38 restrictions or other like restrictive covenants, or when such real estate is
39 subject to lease in whole or in part whereby rents or profits are reserved to
40 the owner or when there is in existence a fixed obligation or lien against
41 the property where an escrow account or indemnification bond is or has
42 been established or obtained sufficient to cover the maximum liability
43 created by such obligation or lien;

1 (b) bonds, notes, or other evidences of indebtedness representing
2 loans and advances of credit that have been issued, guaranteed or insured
3 by the United States government or any agency or instrumentality thereof
4 or insured by any insurance company authorized to transact such business
5 in this state. Any uninsured or nonguaranteed portion shall not exceed 75%
6 of the total amount;

7 (c) contracts of sale, purchase money mortgages or deeds of trust
8 secured by property obtained through foreclosure, or in settlement or
9 satisfaction of any indebtedness;

10 (d) bonds, notes, obligations, or other evidences of indebtedness
11 *directly or indirectly* secured by mortgages or deeds of trust which are a
12 first or second lien upon *otherwise* unencumbered personal or real or both
13 personal and real property, including a leasehold of real estate, under lease,
14 purchase contract, or lease purchase contract to any governmental body or
15 instrumentality whose obligations qualify under K.S.A. 40-2b01, 40-2b02
16 or 40-2b03, and amendments thereto, or to a corporation whose
17 obligations qualify under K.S.A. 40-2b05, and amendments thereto, if
18 there is adequate rental, after making allowance of lessors' or sellers'
19 obligations and liabilities, if any, under the terms of the lease or contract,
20 to retire the loan as to payments of principal and interest and such rentals
21 are pledged or assigned to the lender;

22 (e) bonds, notes or other evidences of indebtedness representing loans
23 and advances of credit that have been issued, guaranteed or insured, in
24 accordance with the terms and provisions of an act of the federal
25 parliament of the Dominion of Canada approved March 18, 1954, cited as
26 the national housing act, 1954, as heretofore and hereafter amended;

27 (f) participation in mortgage lending, *including, without limitation,*
28 *the types of mortgage lending set forth in subsections (a) and (d),* is
29 specifically permitted in this section as between Kansas domiciled life
30 insurance companies, or, between Kansas domiciled life insurance
31 companies and life insurance companies organized under the laws of
32 another country, state, or territory ~~and authorized to do business in the state~~
33 ~~of Kansas, or, between a Kansas domiciled life insurance company and its~~
34 *affiliates,* or, between Kansas domiciled life insurance companies and
35 banks, trust companies or savings and loan associations ~~located within the~~
36 ~~state of Kansas,~~ upon unencumbered real property and appurtenances
37 thereto. At the date of acquisition the total indebtedness assumed by such
38 lien shall not exceed ~~80%~~ 90% of the market value of the property upon
39 which it is a lien, unless that portion of the total indebtedness in excess of
40 ~~80%~~ 90% of market value is insured by a mortgage insurance company
41 authorized by the commissioner of insurance to do business in this state;

42 (g) ~~first~~ mortgages or deeds of trust upon improved real property to
43 be occupied as a personal residence by an officer of the insurer, if the

1 mortgage is at an interest rate that is no less than the prevailing rate of the
2 insurer's existing portfolio of mortgage loans. Mortgages or deeds of trust
3 entered into pursuant to this subsection shall be subject to the conditions
4 set forth in subsection (a) relating to mortgages or deeds of trust generally;

5 (h) tax lien certificates issued by local taxing authorities, which for
6 reporting in the annual statement may be pooled by state and year of issue,
7 but the amount invested shall not exceed 10% of the admitted assets of the
8 company as shown by its last annual report or a more recent quarterly
9 financial statement filed with the commissioner of insurance.

10 Sec. 11. K.S.A. 40-2b13 is hereby amended to read as follows: 40-
11 2b13. Any life insurance company heretofore or hereafter organized under
12 any law of this state may invest by loans or otherwise, with the direction or
13 approval of a majority of its board of directors or authorized committee
14 thereof, any of its funds, or any part thereof in investments whether or not
15 qualified and permitted under this act and notwithstanding any conditions
16 or limitations prescribed therein, in an aggregate amount not more than
17 10% of its admitted assets as shown by the company's last annual report as
18 filed with the insurance commissioner *or a more recent quarterly financial*
19 *statement filed with the commissioner*, except that investments shall not be
20 permitted in insolvent organizations or organizations in default with
21 respect to the payment of principal or interest.

22 Sec. 12. K.S.A. 40-2b26 is hereby amended to read as follows: 40-
23 2b26. Any life insurance company heretofore or hereafter organized under
24 any law of this state may invest with the direction or approval of a
25 majority of its board of directors or authorized committee thereof, any of
26 its funds, or any part thereof in:

27 (a) Mortgage related securities issued or guaranteed by the federal
28 home loan mortgage corporation and federal national mortgage association
29 but the amount invested in any one such issue shall not exceed the greater
30 of \$750,000 or two percent of the admitted assets of the company as
31 shown by its last annual report or a more recent quarterly financial
32 statement filed with the commissioner of insurance;

33 (b) mortgage related securities issued by or in the name of any private
34 entity which are designated "1" or "2" by the ~~national association of~~
35 ~~insurance commissioners in their most recently published valuations of~~
36 ~~securities manual or supplement thereto SVO~~ or are rated investment grade
37 by Standard and Poor's (at least BBB-) or Moody's (at least Baa3) *its*
38 *equivalent rating by a nationally recognized statistical rating organization*
39 *recognized by the SVO* at the time of acquisition. The investment in any
40 one such issue shall not exceed two percent of the admitted assets of the
41 company as shown by its last annual report or a more recent quarterly
42 financial statement filed with the commissioner of insurance;

43 (c) for purposes of this section "mortgage related securities" shall

1 mean a security that either:

2 (1) Represents ownership of one or more promissory notes or
3 certificates of interest or participation in such notes~~-, including any rights~~
4 designed to assure servicing of, or the receipt or timeliness of receipt by
5 the holders of such notes, certificates, or participations of amounts payable
6 under, such notes, certificates, or participations), which notes:

7 (A) Are directly secured by a first lien on a single parcel of real
8 estate, including stock allocated to a dwelling unit in a residential
9 cooperative housing corporation, upon which is located a dwelling or
10 mixed residential and commercial structure, or on a residential
11 manufactured home as defined in U.S.C. § 5402(6) of title 42, whether
12 such manufactured home is considered real or personal property under the
13 laws of the state in which it is to be located; and

14 (B) were originated by a savings and loan association, savings bank,
15 commercial bank, credit union, insurance company, or similar institution
16 which is supervised and examined by a federal or state authority, or by a
17 mortgagee approved by the secretary of housing and urban development
18 pursuant to U.S.C. §§ 1709 and 1715b of title 12, or, where such notes
19 involve a lien on the manufactured home, by any such institution or by any
20 financial institution approved for insurance by the secretary of housing and
21 urban development pursuant to U.S.C. § 1703 of title 12; or

22 (2) is secured by one or more promissory notes or certificates of
23 interest or participations in such notes~~-, with or without recourse to the~~
24 issuer thereof), and, by its terms, provides for payments of principal in
25 relation to payments, or reasonable projections of payments, on notes
26 meeting the requirements of subparagraphs (1)(A) and (B) or certificates
27 of interest or participations in promissory notes meeting such
28 requirements.

29 For the purposes of this paragraph, the term "promissory note", when
30 used in connection with a manufactured home, shall also include a loan,
31 advance, or credit sale as evidenced by a retail installment sales contract or
32 other instrument; or

33 (3) involve offers or sales of one or more promissory notes directly
34 secured by a first lien on a single parcel of real estate upon which is
35 located a dwelling or other residential or commercial structure, and
36 participation interests in such notes:

37 (A) Where such securities are originated by a savings and loan
38 association, savings bank, commercial bank, or similar banking institution
39 which is supervised and examined by a federal or state authority, and are
40 offered and sold subject to the following conditions:

41 (i) The minimum aggregate sales price per purchaser shall not be less
42 than \$250,000;

43 (ii) the purchaser shall pay cash either at the time of the sale or within

1 60 days thereof; and

2 (iii) each purchaser shall buy for such purchaser's own account only;
3 or

4 (B) where such securities are originated by a mortgagee approved by
5 the secretary of housing and urban development pursuant to U.S.C. §§
6 1709 and 1715b of title 12 and are offered or sold subject to the three
7 conditions specified in subparagraph (3)(A) to any institution described in
8 such subparagraph or to any insurance company subject to the supervision
9 of the insurance commissioner, or any agency or officer performing like
10 function, of any state or territory of the United States or the District of
11 Columbia, or the federal home loan mortgage corporation, the federal
12 national mortgage association; or the government national mortgage
13 association.

14 Transactions between any of the entities described in subparagraph (3)
15 (A) or (3)(B) involving nonassignable contracts to buy or sell the
16 foregoing securities which are to be completed within two years, where the
17 seller of the foregoing securities pursuant to any such contract is one of the
18 parties described in subparagraph (3)(A) or (3)(B) who may originate such
19 securities and the purchaser of such securities pursuant to any such
20 contract is any institution described in subparagraph (3)(A) or any
21 insurance company described in subparagraph (3)(B), the federal home
22 loan mortgage corporation, federal national mortgage association, or the
23 government national mortgage association and where the foregoing
24 securities are subject to the three conditions for sale set forth in
25 subparagraphs (3)(A)(i) through (iii);

26 *(d) for purposes of this section:*

27 *(1) "NAIC" means the national association of insurance*
28 *commissioners; and*

29 *(2) "SVO" means the securities valuation office of the NAIC or any*
30 *successor office established by the NAIC.*

31 Sec. 13. K.S.A. 40-2b27 is hereby amended to read as follows: 40-
32 2b27. As used in K.S.A. 40-2b28:

33 (a) "Medium grade obligations" means obligations which are
34 designated "3" by the ~~national association of insurance commissioners in~~
35 ~~its most recently published valuations of securities manual~~ *SVO or its*
36 *equivalent rating by a nationally recognized statistical rating organization*
37 *recognized by the SVO.*

38 (b) "Lower grade obligations" means obligations which are
39 designated "4," "5" or "6" by the ~~national association of insurance~~
40 ~~commissioners in its most recently published valuations of securities~~
41 ~~manual~~ *SVO or its equivalent rating by a nationally recognized statistical*
42 *rating organization recognized by the SVO.*

43 (c) "Admitted assets" means the amount shown on the insurer's last

1 annual report as filed with the state commissioner of insurance *or a more*
2 *recent quarterly financial statement filed with the commissioner.*

3 (d) "Aggregate amount" of medium grade and lower grade
4 obligations means the aggregate statutory statement value thereof.

5 (e) "Institution" means a corporation, a joint-stock company, an
6 association, a trust, a business partnership, a business joint venture or
7 similar entity.

8 (f) "Insurance company" or "insurer" means any life insurance
9 company organized under the laws of this state.

10 (g) *"NAIC" means the national association of insurance*
11 *commissioners.*

12 (h) *"SVO" means the securities valuation office of the NAIC or any*
13 *successor office established by the NAIC.*

14 Sec. 14. K.S.A. 2014 Supp. 40-2b28 is hereby amended to read as
15 follows: 40-2b28. (a) No insurance company shall acquire, directly or
16 indirectly, any medium grade or lower grade obligation of any institution
17 if, after giving effect to any such acquisition, the aggregate amount of all
18 medium grade and lower grade obligations then held by such insurer
19 would exceed 20% of its admitted assets. Within this limitation no more
20 than 10% of its admitted assets shall consist of lower grade obligations; no
21 more than three percent of its admitted assets shall consist of obligations
22 designated "5" or "6" ~~in the valuations of securities manual by the SVO or~~
23 ~~its equivalent rating by a nationally recognized statistical rating~~
24 ~~organization recognized by the SVO; and, no more than one percent of its~~
25 ~~admitted assets shall consist of obligations designated "6" in the valuations~~
26 ~~of securities manual by the SVO or its equivalent rating by a nationally~~
27 ~~recognized statistical rating organization recognized by the SVO.~~ Attaining
28 or exceeding the limit of any one category shall not preclude an insurer
29 from acquiring obligations in other categories subject to the specific and
30 multi-category limits.

31 (b) No insurer organized under the laws of this state may invest more
32 than one percent of its admitted assets in medium grade obligations issued,
33 guaranteed or insured by any one institution nor may it invest more than
34 one-half of one percent of its admitted assets in lower grade obligations
35 issued, guaranteed or insured by any one institution. In no event, shall such
36 insurer invest more than one percent of its admitted assets in any medium
37 or lower grade obligations issued, guaranteed or insured by any one
38 institution.

39 (c) Nothing contained in this act shall prohibit an insurer from
40 acquiring any obligations which it has committed to acquire if the insurer
41 would have been permitted to acquire that obligation pursuant to this act
42 on the date on which such insurer committed to purchase that obligation.

43 (d) Notwithstanding the limitations of subsection (b), an insurer may

1 acquire an obligation of an institution in which the insurer already has one
2 or more obligations, if the obligation is acquired in order to protect an
3 investment previously made in the obligations of the institution, except
4 that all such acquired obligations shall not exceed one-half of one percent
5 of the insurer's admitted assets.

6 (e) Nothing contained in this act shall prohibit an insurer to which
7 this act applies from acquiring an obligation as a result of a restructuring
8 of a medium or lower grade obligation already held or require such insurer
9 to sell or otherwise dispose of any obligation legally acquired prior to the
10 effective date of this act.

11 (f) Nothing contained in this act shall permit or be construed as
12 permitting an insurer to exceed, alter or otherwise circumvent any of the
13 limitations or restrictions applicable to the investments authorized by
14 article 2b of chapter 40 of the Kansas Statutes Annotated, and amendments
15 thereto.

16 (g) The board of directors of any insurance company organized under
17 the laws of this state which acquires or invests, directly or indirectly, more
18 than two percent of its admitted assets in medium grade and lower grade
19 obligations, shall adopt a written plan for the making of such investments.
20 The plan, in addition to guidelines with respect to the quality of the issues
21 invested in, shall contain diversification standards acceptable to the
22 commissioner which may include, but not be limited to, standards for
23 issuer, industry, duration, liquidity and geographic location.

24 Sec. 15. K.S.A. 2014 Supp. 40-2b29 is hereby amended to read as
25 follows: 40-2b29. (a) Any life insurance company organized under any law
26 of this state may invest, by loans or otherwise, with the direction or
27 approval of a majority of its board of directors or authorized committee
28 thereof, any of its funds, or any part thereof, in asset-backed securities,
29 subject to the following:

30 (1) To be an admitted asset under this section, an asset-backed
31 security must, at the time of acquisition, be designated "1" or "2" by the
32 ~~national association of insurance commissioners in its most recently~~
33 ~~published valuations of securities manual or supplement thereto~~ *SVO or its*
34 *equivalent rating by a nationally recognized statistical rating organization*
35 *recognized by the SVO*; and

36 (2) the investment in any one issue of asset-backed securities shall
37 not exceed 2% of the admitted assets of the life insurance company as
38 shown by its last annual report or a more recent quarterly financial
39 statement filed with the commissioner. Each issue designated as provided
40 in paragraph (1) shall constitute a single issue regardless of any other
41 obligations or securities issued by the same or any affiliated issuer.

42 (b) As used in this section:

43 (1) "Asset-backed security" means any security or other instrument

1 representing or evidencing an interest in, a loan to, a participation in a loan
2 to, or any other right to receive payments from a business entity of any
3 type or form, which has as its primary business activity the acquisition and
4 holding of financial assets, directly or through a trustee, for the benefit of
5 such business entity's debt or equity holders; ~~and~~

6 (2) "financial asset" means a single asset or a pool of assets consisting
7 of interest-bearing obligations or other contractual obligations representing
8 or constituting the right to receive payment from the asset or pool of
9 assets;

10 (3) "NAIC" means the national association of insurance
11 commissioners; and

12 (4) "SVO" means the securities valuation office of the NAIC or any
13 successor office established by the NAIC.

14 Sec. 16. K.S.A. 40-2a05, 40-2a12, 40-2a16, 40-2a25, 40-2a26, 40-
15 2b04, 40-2b05, 40-2b09, 40-2b13, 40-2b26 and 40-2b27 and K.S.A. 2014
16 Supp. 40-2a27, 40-2a28, 40-2b28 and 40-2b29 are hereby repealed.

17 Sec. 17. This act shall take effect and be in force from and after its
18 publication in the statute book.