

SENATE BILL No. 306

By Committee on Financial Institutions and Insurance

1-27

1 AN ACT concerning insurance companies; relating to investments;
2 amending K.S.A. 40-2a08, 40-2a14, 40-2a28, 40-2b07, 40-2b12 and
3 40-2b29 and K.S.A. 2013 Supp. 40-2a27 and 40-2b28 and repealing the
4 existing sections.
5

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

7 Section 1. K.S.A. 40-2a08 is hereby amended to read as follows: 40-
8 2a08. Any insurance company other than life heretofore or hereafter
9 organized under any law of this state may invest by loans or otherwise,
10 with the direction or approval of a majority of its board of directors or
11 authorized committee thereof, any of its funds, or any part thereof in the
12 ~~common stock equity interests~~ of any ~~corporation~~ *business entity* organized
13 and doing business under the laws of the United States of America, or of
14 any state, district, insular or territorial possession thereof; or of the
15 Dominion of Canada or any province thereof; or of any other country or
16 subdivision thereof; in an amount, based upon cost, not exceeding 15% of
17 its admitted assets ~~or not exceeding the combined capital and surplus,~~
18 ~~whichever is the lesser,~~ as shown by the company's last annual report as
19 filed with the state commissioner of insurance or a more recent quarterly
20 financial statement as filed with the commissioner, on a form prescribed
21 by the national association of insurance commissioners, within 45 days
22 following the end of the calendar quarter to which the interim statement
23 pertains. Such insurance company may write exchange traded, covered call
24 options on ~~shares equity interests~~ it owns and may purchase call options
25 for the sole purpose of closing out a position taken previously with respect
26 to one or more options having been written. The purchase of a call option
27 for any reason other than as a closing transaction and the writing of naked
28 (uncovered) call options are hereby prohibited. Investments in ~~common~~
29 ~~stocks equity interests~~ and the writing of call options shall be further
30 limited as ~~follows: provided in subsections (a) through (e) except that~~
31 ~~subsections (a) through (e) shall only apply to an amount that exceeds~~
32 *7.5% of any insurance company's admitted assets.*

33 (a) The obligations, if any, shown on the last published annual
34 statement of such ~~corporation~~ *business entity* must be eligible for
35 investment under K.S.A. 40-2a05, and amendments thereto;

36 (b) cash dividends have been paid during each of the last three years

1 preceding the date of acquisition;

2 (c) the ~~stock~~ *equity interest* is registered with a national securities
3 exchange regulated under the securities exchange act of 1934, as amended,
4 or is regularly traded on a national or regional basis;

5 (d) the ~~company~~ *business entity* shall have earnings in three of the
6 last five years preceding the date of acquisition;

7 (e) ~~investments in common stock in any one corporation shall at no~~
8 ~~time exceed 2% of the admitted assets of the investing insurance company~~
9 ~~determined on the basis of the cost of such shares to the insurance~~
10 ~~company at time of purchase, and at no time shall an insurance company~~
11 ~~purchase more than 5% of the outstanding shares of stock of any one given~~
12 ~~corporation at no time shall an insurance company invest in more than~~
13 ~~5% of the outstanding equity interests of any one such business entity, nor~~
14 ~~an amount more than 2% of the investing insurance company's admitted~~
15 ~~assets in the outstanding equity interests of any one such business entity,~~
16 ~~determined on the basis of the cost of such equity interests to the insurance~~
17 ~~company at the time of purchase;~~

18 (f) ~~stock~~ *equity interest* owned by an insurance company that is
19 obligated under an unexpired written call option shall be valued at the
20 lesser of the striking price or current market value. For the purposes of this
21 subsection, "striking price" means the price per ~~share~~ *equity interest*,
22 exclusive of selling costs, the company would receive should the call
23 option be exercised by the holder;

24 (g) the provisions of subsections (b) and (d) shall not apply, if at the
25 time of acquisition:

26 (1) The issuing ~~corporation~~ *business entity* has net assets of
27 \$10,000,000 or more;

28 (2) the issuing ~~corporation~~ *business entity* has a net worth of
29 \$1,000,000 or more; and

30 (3) the issuing ~~corporation~~ *business entity* has an aggregate market
31 value of \$500,000,000 or more.

32 (h) *As used in this section:*

33 (1) *"Business entity" includes a sole proprietorship, corporation,*
34 *limited liability company, association, partnership, joint stock company,*
35 *joint venture, mutual fund, trust, joint tenancy or other similar form of*
36 *business organization, whether organized for profit or not-for-profit.*

37 (2) *"Equity interest" means any of the following:*

38 (A) *Common stock;*

39 (B) *trust certificate;*

40 (C) *equity investment in an investment company other than a money*
41 *market mutual fund permitted under K.S.A. 40-2a22, and amendments*
42 *thereto;*

43 (D) *investment in a common trust fund of a bank regulated by a*

1 *federal or state agency;*

2 (E) *an ownership interest in minerals, oil or gas, the rights to which*
3 *have been separated from the underlying fee interest in the real estate*
4 *where the minerals, oil or gas are located;*

5 (F) *instruments which are mandatorily, or at the option of the issuer,*
6 *convertible to equity;*

7 (G) *limited partnership interests;*

8 (H) *member interests in limited liability companies;*

9 (I) *warrants or other rights to acquire equity interests that are*
10 *created by the person that owns or would issue the equity to be acquired;*
11 *or*

12 (J) *any other security representing an ownership interest in a*
13 *business entity.*

14 Sec. 2. K.S.A. 40-2a14 is hereby amended to read as follows: 40-
15 2a14. Any insurance company other than life heretofore or hereafter
16 organized under any law of this state may invest with the direction or
17 approval of a majority of its board of directors or authorized committee
18 thereof, any of its funds, or any part thereof in loans secured by collateral
19 consisting of a pledge of bonds, securities, stock or evidences of
20 indebtedness qualified in ~~K.S.A. 40-2a01 to 40-2a08, inclusive:~~ *article 2a*
21 *of chapter 40 of the Kansas Statutes Annotated, and amendments thereto.*
22 ~~Provided~~ *Except, That* the amount of the loan ~~is not in excess of eighty~~
23 ~~percent (80%) shall not exceed 80%~~ *shall not exceed 80%* of the market value of the
24 ~~securities~~ *asset securing the loan.* ~~Provided further, That~~ *In addition,* all
25 ~~restrictions, limitations or conditions~~ *restrictions, limitations or conditions* placed on any ~~security investment~~
26 authorized within ~~K.S.A. 40-2a01 to 40-2a08, inclusive~~ *article 2a*
27 *of chapter 40 of the Kansas Statutes Annotated, and amendments thereto,*
28 shall apply to the collateral ~~securities~~ pledged to the payment of loans
29 authorized in this section.

30 Sec. 3. K.S.A. 2013 Supp. 40-2a27 is hereby amended to read as
31 follows: 40-2a27. (a) No insurance company shall acquire, directly or
32 indirectly, any medium grade or lower grade obligation of any institution
33 if, after giving effect to any such acquisition, the aggregate amount of all
34 medium grade and lower grade obligations then held by such insurer
35 would exceed 20% of its admitted assets. Within this limitation no more
36 than 10% of its admitted assets shall consist of lower grade obligations; no
37 more than three percent of its admitted assets shall consist of obligations
38 designated "5" or "6" in the valuations of securities manual; and, no more
39 than one percent of its admitted assets shall consist of obligations
40 designated "6" in the valuations of securities manual. Attaining or
41 exceeding the limit of any one category shall not preclude an insurer from
42 acquiring obligations in other categories subject to the specific and multi-
43 category limits.

1 (b) No insurer organized under the laws of this state may invest more
2 than one percent of its admitted assets in medium grade obligations issued,
3 guaranteed or insured by any one institution nor may it invest more than
4 one-half of one percent of its admitted assets in lower grade obligations
5 issued, guaranteed or insured by any one institution. In no event, shall such
6 insurer invest more than one percent of its admitted assets in any medium
7 or lower grade obligations issued, guaranteed or insured by any one
8 institution.

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

13 (d) Notwithstanding the limitations of subsection (b) an insurer may
14 acquire an obligation of an institution in which the insurer already has one
15 or more obligations, if the obligation is acquired in order to protect an
16 investment previously made in the obligations of the institution, except all
17 such acquired obligations shall not exceed one-half of one percent of the
18 insurer's admitted assets.

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

24 (f) Nothing contained in this act shall permit or be construed as
25 permitting an insurer to exceed, alter or otherwise circumvent any of the
26 limitations or restrictions applicable to the investments authorized by
27 ~~K.S.A. 40-2a01 et seq.~~ *article 2a of chapter 40 of the Kansas Statutes*
28 *Annotated*, and amendments thereto.

29 ~~(g) Notwithstanding the provisions of K.S.A. 40-2a16, and~~
30 ~~amendments thereto, the total investment in medium and lower grade~~
31 ~~securities shall not exceed the limitations set forth in this section.~~

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

40 Sec. 4. K.S.A. 40-2a28 is hereby amended to read as follows: 40-
41 2a28. (a) Any insurance company other than life organized under any law
42 of this state may invest, by loans or otherwise, with the direction or
43 approval of a majority of its board of directors or authorized committee

1 thereof, any of its funds, or any part thereof, in asset-backed securities,
2 subject to the following:

3 (1) To be an admitted asset under this section, an asset-backed
4 security must, at the time of acquisition, be designated "1" or "2" by the
5 national association of insurance commissioners in its most recently
6 published valuations of securities manual or supplement thereto;

7 (2) the investment in any one issue of asset-backed securities shall
8 not exceed 2% of the admitted assets of the investing insurance company
9 as shown by its last annual report or a more recent quarterly financial
10 statement filed with the commissioner. Each issue designated as provided
11 in paragraph (1) shall constitute a single issue regardless of any other
12 obligations or securities issued by the same or any affiliated issuer; ~~and.~~

13 ~~(3) the investing company's aggregate investment in asset-backed~~
14 ~~securities as provided in this section shall not exceed 20% of the admitted~~
15 ~~assets of such company, as shown by such company's last annual report as~~
16 ~~filed with the commissioner of insurance or a more recent quarterly~~
17 ~~financial statement as filed with the commissioner, on a form prescribed~~
18 ~~by the national association of insurance commissioners, within 45 days~~
19 ~~following the end of the calendar quarter to which the interim statement~~
20 ~~pertains.~~

21 (b) As used in this section:

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

28 (2) "financial asset" means a single asset or a pool of assets consisting
29 of interest-bearing obligations or other contractual obligations representing
30 or constituting the right to receive payment from the asset or pool of
31 assets.

32 Sec. 5. K.S.A. 40-2b07 is hereby amended to read as follows: 40-
33 2b07. Any life insurance company organized under any law of this state
34 may invest by loans or otherwise, with the direction or approval of a
35 majority of its board of directors or authorized committee thereof, any of
36 its funds, or any part thereof in the ~~common stock equity interests~~ of any
37 ~~corporation~~ *business entity* organized and doing business under the laws of
38 the United States or any state, or of the District of Columbia, or of the
39 Dominion of Canada or any province of the Dominion of Canada, in an
40 amount, based upon cost, not exceeding 15% of its admitted assets ~~or not~~
41 ~~exceeding the combined capital and surplus, whichever is the lesser,~~ as
42 shown by the company's last annual report as filed with the state
43 commissioner of insurance or a more recent quarterly financial statement

1 as filed with the commissioner, on a form prescribed by the national
2 association of insurance commissioners, within 45 days following the end
3 of the calendar quarter to which the interim statement pertains. Such life
4 insurance company may write exchange traded, covered call options on
5 ~~shares~~ *equity interests* it owns and may purchase call options for the sole
6 purpose of closing out a position taken previously with respect to one or
7 more options having been written. The purchase of a call option for any
8 reason other than as a closing transaction and the writing of naked,
9 uncovered, call options are hereby prohibited. Investments in ~~common~~
10 ~~stocks~~ *equity interests* and the writing of call options shall be further
11 limited as ~~follows~~: *provided in subsections (a) through (e) except that*
12 *subsections (a) through (e) shall only apply to an amount that exceeds*
13 *7.5% of a life insurance company's admitted assets.*

14 (a) The obligations, if any, shown on the last published annual
15 statement of such ~~corporation~~ *business entity* must be eligible for
16 investment under K.S.A. 40-2b05, and amendments thereto;

17 (b) cash dividends have been paid during each of the last three years
18 preceding the date of acquisition;

19 (c) the ~~stock~~ *equity interest* is registered with a national securities
20 exchange regulated under the securities exchange act of 1934, as amended,
21 or is regularly traded on a national or regional basis;

22 (d) the ~~company~~ *business entity* shall have earnings in three of the
23 last five years preceding the date of acquisition;

24 (e) at no time shall an insurance company invest in more than 5% of
25 the ~~total number of the outstanding shares of any one such corporation~~
26 *outstanding equity interests of any one such business entity*, nor an amount
27 more than 2% of the investing insurance company's admitted assets in
28 ~~shares~~ *the outstanding equity interests* of any one such ~~corporation~~
29 *business entity*, determined on the basis of the cost of such ~~shares~~ *equity*
30 *interests* to the insurance company at time of purchase;

31 (f) ~~stock~~ *equity interest* owned by an insurance company that is
32 obligated under an unexpired written call option shall be valued at the
33 lesser of the striking price or current market value. For the purposes of this
34 subsection, "striking price" means the price per ~~share~~ *equity interest*,
35 exclusive of selling costs, the company would receive should the call
36 option be exercised by the holder;

37 (g) the provisions of subsections (b) and (d) shall not apply if at the
38 time of acquisition:

39 (1) The issuing ~~corporation~~ *business entity* has net assets of
40 \$10,000,000 or more;

41 (2) the issuing ~~corporation~~ *business entity* has a net worth of
42 \$1,000,000 or more; and

43 (3) the issuing ~~corporation~~ *business entity* has an aggregate market

1 value of \$500,000,000 or more.

2 (h) *As used in this section:*

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

7 (2) *"Equity interest" means any of the following:*

8 (A) *Common stock;*

9 (B) *trust certificate;*

10 (C) *equity investment in an investment company other than a money*
11 *market mutual fund permitted under K.S.A. 40-2b24, and amendments*
12 *thereto;*

13 (D) *investment in a common trust fund of a bank regulated by a*
14 *federal or state agency;*

15 (E) *an ownership interest in minerals, oil or gas, the rights to which*
16 *have been separated from the underlying fee interest in the real estate*
17 *where the minerals, oil or gas are located;*

18 (F) *instruments which are mandatorily, or at the option of the issuer,*
19 *convertible to equity;*

20 (G) *limited partnership interests;*

21 (H) *member interests in limited liability companies;*

22 (I) *warrants or other rights to acquire equity interests that are*
23 *created by the person that owns or would issue the equity to be acquired;*
24 *or*

25 (J) *any other security representing an ownership interest in a*
26 *business entity.*

27 Sec. 6. K.S.A. 40-2b12 is hereby amended to read as follows: 40-
28 2b12. Any life insurance company heretofore or hereafter organized under
29 any law of this state may invest by loans or otherwise, with the direction or
30 approval of a majority of its board of directors or authorized committee
31 thereof, any of its funds, or any part thereof in loans secured by collateral
32 consisting of a pledge of bonds, mortgages, securities, stock or evidence of
33 indebtedness qualified in ~~K.S.A. 40-2b01 to 40-2b09, inclusive:~~ *article 2b*
34 *of chapter 40 of the Kansas Statutes Annotated, and amendments thereto.*
35 ~~Provided, That Except,~~ the amount of the loan ~~is not in excess of eighty~~
36 ~~percent (80%) shall not exceed 80%~~ of the market value of the securities-
37 ~~asset securing the loan. And provided further, That~~ *In addition,* all
38 ~~restrictions, limitations or conditions~~ placed on any ~~security investment~~
39 ~~authorized within K.S.A. 40-2b01 to 40-2b09, inclusive~~ *article 2b of*
40 *chapter 40 of the Kansas Statutes Annotated, and amendments thereto,*
41 *shall apply to the collateral securities pledged to the payment of loans*
42 *authorized in this section.*

43 Sec. 7. K.S.A. 2013 Supp. 40-2b28 is hereby amended to read as

1 follows: 40-2b28. (a) No insurance company shall acquire, directly or
2 indirectly, any medium grade or lower grade obligation of any institution
3 if, after giving effect to any such acquisition, the aggregate amount of all
4 medium grade and lower grade obligations then held by such insurer
5 would exceed 20% of its admitted assets. Within this limitation no more
6 than 10% of its admitted assets shall consist of lower grade obligations; no
7 more than three percent of its admitted assets shall consist of obligations
8 designated "5" or "6" in the valuations of securities manual; and, no more
9 than one percent of its admitted assets shall consist of obligations
10 designated "6" in the valuations of securities manual. Attaining or
11 exceeding the limit of any one category shall not preclude an insurer from
12 acquiring obligations in other categories subject to the specific and multi-
13 category limits.

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

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

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

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

37 (f) Nothing contained in this act shall permit or be construed as
38 permitting an insurer to exceed, alter or otherwise circumvent any of the
39 limitations or restrictions applicable to the investments authorized by
40 ~~K.S.A. 40-2b01 et seq.,~~ *article 2b of chapter 40 of the Kansas Statutes*
41 *Annotated,* and amendments thereto.

42 ~~(g) Notwithstanding the provisions of K.S.A. 40-2b13, and~~
43 ~~amendments thereto, the total investment in medium and lower grade~~

1 securities shall not exceed the limitations set forth in this section.

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

10 Sec. 8. K.S.A. 40-2b29 is hereby amended to read as follows: 40-
11 2b29. (a) Any life insurance company organized under any law of this state
12 may invest, by loans or otherwise, with the direction or approval of a
13 majority of its board of directors or authorized committee thereof, any of
14 its funds, or any part thereof, in asset-backed securities, subject to the
15 following:

16 (1) To be an admitted asset under this section, an asset-backed
17 security must, at the time of acquisition, be designated "1" or "2" by the
18 national association of insurance commissioners in its most recently
19 published valuations of securities manual or supplement thereto; and

20 (2) the investment in any one issue of asset-backed securities shall
21 not exceed 2% of the admitted assets of the life insurance company as
22 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; and

26 ~~(3) the life insurance company's aggregate investment in asset-backed~~
27 ~~securities as provided in this section shall not exceed 20% of the admitted~~
28 ~~assets of such company, as shown by such company's last annual report as~~
29 ~~filed with the commissioner of insurance or a more recent quarterly~~
30 ~~financial statement as filed with the commissioner, on a form prescribed~~
31 ~~by the national association of insurance commissioners, within 45 days~~
32 ~~following the end of the calendar quarter to which the interim statement~~
33 ~~pertains.~~

34 (b) As used in this section:

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

41 (2) "financial asset" means a single asset or a pool of assets consisting
42 of interest-bearing obligations or other contractual obligations representing
43 or constituting the right to receive payment from the asset or pool of

1 assets.

2 Sec. 9. K.S.A. 40-2a08, 40-2a14, 40-2a28, 40-2b07, 40-2b12 and 40-
3 2b29 and K.S.A. 2013 Supp. 40-2a27 and 40-2b28 are hereby repealed.

4 Sec. 10. This act shall take effect and be in force from and after its
5 publication in the statute book.