

40-3303. Domestic insurer's acquisition of subsidiaries; authorized investments. (a) Any domestic insurer, either by itself or in cooperation with one or more persons, may organize or acquire one or more subsidiaries otherwise permitted under Kansas law.

(b) In addition to investments in common stock, preferred stock, debt obligations and other securities permitted under all other sections of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, a domestic insurer may also:

(1) Invest in common stock, preferred stock, debt obligations and other securities of one or more subsidiaries, amounts which do not exceed the lesser of 10% of the insurer's assets or 50% of the insurer's surplus as regards policyholders, if after such investments, the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to meet its financial needs. In calculating the amount of such investments, investments in domestic or foreign insurance subsidiaries and health maintenance organizations shall be excluded, and there shall be included:

(A) Total net moneys or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of the subsidiary whether or not represented by the purchase of capital stock or issuance of other securities; and

(B) all amounts expended in acquiring additional common stock, preferred stock, debt obligations and other securities; and all contributions to the capital or surplus of a subsidiary subsequent to its acquisition or formation.

(2) Invest any amount in common stock, preferred stock, debt obligations and other securities of one or more subsidiaries engaged or organized to engage exclusively in the ownership and management of assets authorized as investments for the insurer provided that each subsidiary agrees to limit its investments in any asset so that such investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in article 2a or article 2b of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, applicable to the insurer. For the purpose of this paragraph, "the total investment of the insurer" shall include:

(A) Any direct investment by the insurer in an asset; and

(B) the insurer's proportionate share of any investment in an asset by any subsidiary of the insurer, which shall be calculated by multiplying the amount of the subsidiary's investment by the percentage of the ownership of the subsidiary.

(3) With the approval of the commissioner, invest any greater amount in common stock, preferred stock, debt obligations or other securities of one or more subsidiaries; provided that after the investment the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(c) Investments in common stock, preferred stock, debt obligations or other securities of subsidiaries made pursuant to subsection (b) shall not be subject to any of the otherwise applicable restrictions or prohibitions contained in chapter 40 of the Kansas Statutes Annotated, and amendments thereto, applicable to such investments of insurers.

(d) Whether any investment made pursuant to subsection (b) meets the applicable requirements of that subsection is to be determined before the investment is made, by calculating the applicable investment limitations as though the investment had already been made, taking into account the then outstanding principal balance on all previous investments in debt obligations, and the value of all previous investments in equity securities as of the day they were made, net of any return of capital invested, not including dividends.

(e) If an insurer ceases to control a subsidiary, it shall dispose of any investment therein made pursuant to this section within three years from the time of the cessation of control or within such further time as the commissioner may prescribe, unless at any time after the investment shall have been made, the investment shall have met the requirements for investment under any other section of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, including, without limitation, K.S.A. 40-2a16 or K.S.A. 40-2b13, and amendments thereto.

History: L. 1974, ch. 183, § 3; L. 1991, ch. 138, § 1; L. 2007, ch. 79, § 1; July 1.