

40-2a12. Real estate bonds and mortgages. Any insurance company other than life heretofore or hereafter organized under any law of this state may invest with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof in:

(a) Bonds, notes, obligations or other evidences of indebtedness secured by mortgages or deeds of trust which are a first lien upon unencumbered real property and appurtenances thereto within the United States of America or any insular or territorial possession of the United States of America, or the Dominion of Canada, and upon leasehold estates in real property wherein the term of such including any options to extend is not less than 15 years beyond the maturity of the loan as made or extended. At the date of acquisition the total indebtedness secured by such lien shall not exceed 80% of the market value of the property upon which it is a lien. These limitations shall not apply to obligations described in subsections (b), (c), (d) and (e) of this section. For the purpose of this section a mortgage or deed of trust shall not be deemed to be other than a first lien upon property within the meaning of this section by reason of the existence of taxes or assessments against real property and appurtenances thereto that are not delinquent, instruments creating or reserving mineral, oil or timber rights, rights of way, joint driveways, sewer rights, rights in walls or by reason of building restrictions or other like restrictive covenants, or when such real estate is subject to lease in whole or in part whereby rents or profits are reserved to the owner or when there is in existence a fixed obligation or lien against the property where an escrow account or indemnification bond is or has been established or obtained sufficient to cover the maximum liability created by such obligation or lien;

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

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

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

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

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

History: L. 1972, ch. 173, § 12; L. 1983, ch. 156, § 3; July 1.