

**40-2a25. Mortgage related securities.** 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) Mortgage related securities issued or guaranteed by the federal home loan mortgage corporation and federal national mortgage association but the amount invested in any one such issue shall not exceed the greater of \$750,000 or two percent of the admitted assets of the company as shown by its last annual report or a more recent quarterly financial statement filed with the commissioner of insurance;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**History:** L. 1992, ch. 118, § 1; July 1.