

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1839

Chapter 92, Laws of 1993

53rd Legislature
1993 Regular Session

DOMESTIC INSURERS--LIMITATIONS ON ALLOWABLE INVESTMENTS

EFFECTIVE DATE: 7/25/93

Passed by the House March 10, 1993
Yeas 98 Nays 0

BRIAN EBERSOLE
**Speaker of the
House of Representatives**

Passed by the Senate April 5, 1993
Yeas 40 Nays 0

R. LORRAINE WOJAHN
President of the Senate

Approved April 21, 1993

MIKE LOWRY
Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1839** as passed by the House of Representatives and the Senate on the dates hereon set forth.

ALAN THOMPSON
Chief Clerk

FILED

April 21, 1993 - 2:26 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1839

Passed Legislature - 1993 Regular Session

State of Washington 53rd Legislature 1993 Regular Session

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives R. Johnson, Mielke, R. Meyers, Jones and Wang; by request of Insurance Commissioner)

Read first time 03/01/93.

1 AN ACT Relating to investments of domestic insurers; amending RCW
2 48.13.030, 48.13.050, 48.13.060, 48.13.270, and 48.13.120; and adding
3 new sections to chapter 48.13 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 48.13.030 and 1947 c 79 s .13.03 are each amended to
6 read as follows:

7 Except as set forth in section 5 of this act, an insurer shall not,
8 except with the consent of the commissioner, have at any time any
9 combination of investments in or loans upon the security of the
10 obligations, property, and securities of any one person, institution,
11 or municipal corporation aggregating an amount exceeding four percent
12 of the insurer's assets. This section shall not apply to investments
13 in, or loans upon the security of general obligations of the government
14 of the United States or of any state of the United States, nor to
15 investments in foreign securities pursuant to subsection (1) of RCW
16 48.13.180, nor include policy loans made pursuant to RCW 48.13.190.

17 **Sec. 2.** RCW 48.13.050 and 1947 c 79 s .13.05 are each amended to
18 read as follows:

1 Except as set forth in section 5 of this act, an insurer may invest
2 any of its funds in obligations other than those eligible for
3 investment under RCW 48.13.110 if they are issued, assumed, or
4 guaranteed by any solvent institution created or existing under the
5 laws of the United States or of any state, district or territory
6 thereof, and are qualified under any of the following:

7 (1) Obligations which are secured by adequate collateral security
8 and bear fixed interest if during each of any three, including the last
9 two, of the five fiscal years next preceding the date of acquisition by
10 the insurer, the net earnings of the issuing, assuming or guaranteeing
11 institution available for its fixed charges, as defined in RCW
12 48.13.060, have been not less than one and one-fourth times the total
13 of its fixed charges for such year. In determining the adequacy of
14 collateral security, not more than one-third of the total value of such
15 required collateral shall consist of stock other than stock meeting the
16 requirements of RCW 48.13.080.

17 (2) Fixed interest bearing obligations, other than those described
18 in subdivision (1) of this section, if the net earnings of the issuing,
19 assuming or guaranteeing institution available for its fixed charges
20 for a period of five fiscal years next preceding the date of
21 acquisition by the insurer have averaged per year not less than one and
22 one-half times its average annual fixed charges applicable to such
23 period and if during the last year of such period such net earnings
24 have been not less than one and one-half times its fixed charges for
25 such year.

26 (3) Adjustment, income or other contingent interest obligations if
27 the net earnings of the issuing, assuming or guaranteeing institution
28 available for its fixed charges for a period of five fiscal years next
29 preceding the date of acquisition by the insurer have averaged per year
30 not less than one and one-half times the sum of its average annual
31 fixed charges and its average annual maximum contingent interest
32 applicable to such period and if during each of the last two years of
33 such period such net earnings have been not less than one and one-half
34 times the sum of its fixed charges and maximum contingent interest for
35 such year.

36 **Sec. 3.** RCW 48.13.060 and 1947 c 79 s .13.06 are each amended to
37 read as follows:

1 (1) Certain terms used are defined for the purposes of this chapter
2 as follows:

3 (a) "Obligation" includes bonds, debentures, notes or other
4 evidences of indebtedness.

5 (b) (~~("Institution" includes corporations, joint stock~~
6 ~~associations, and business trusts.~~

7 ~~(c))~~ "Net earnings available for fixed charges" means net income
8 after deducting operating and maintenance expenses, taxes other than
9 federal and state income taxes, depreciation and depletion, but
10 excluding extraordinary nonrecurring items of income or expense
11 appearing in the regular financial statements of such institution.

12 (~~(d))~~ (c) "Fixed charges" includes interest on funded and
13 unfunded debt, amortization of debt discount, and rentals for leased
14 properties.

15 (d) "Admitted assets" means the amount as of the last day of the
16 most recently concluded annual statement year, computed in the same
17 manner as "assets" in RCW 48.12.010.

18 (e) "Aggregate amount" of medium grade and lower grade obligations
19 means the aggregate statutory statement value of those obligations
20 thereof.

21 (f) "Institution" means a corporation, a joint stock company, an
22 association, a trust, a business partnership, a business joint venture,
23 or similar entity.

24 (2) If net earnings are determined in reliance upon consolidated
25 earnings statements of parent and subsidiary institutions, such net
26 earnings shall be determined after provision for income taxes of
27 subsidiaries and after proper allowance for minority stock interest, if
28 any; and the required coverage of fixed charges shall be computed on a
29 basis including fixed charges and preferred dividends of subsidiaries
30 other than those payable by such subsidiaries to the parent corporation
31 or to any other of such subsidiaries, except that if the minority
32 common stock interest in the subsidiary corporation is substantial, the
33 fixed charges and preferred dividends may be apportioned in accordance
34 with regulations prescribed by the commissioner.

35 **Sec. 4.** RCW 48.13.270 and 1982 c 218 s 5 are each amended to read
36 as follows:

37 An insurer shall not, except with the commissioner's approval in
38 advance, invest in or loan its funds upon the security of, or hold:

1 (1) Issued shares of its own capital stock, except for the purpose
2 of mutualization in accordance with RCW 48.08.080;

3 (2) Securities issued by any corporation, except as specifically
4 authorized by this chapter directly or by exception, if a majority of
5 the outstanding stock of such corporation, or a majority of its stock
6 having voting powers, is or will be after such acquisition, directly or
7 indirectly owned by the insurer, or by any combination of the insurer
8 and the insurer's directors, officers, parent corporation, and
9 subsidiaries;

10 (3) Securities issued by any corporation if a majority of its stock
11 having voting power is owned directly or indirectly by or for the
12 benefit of any one or more of the insurer's officers and directors;

13 (4) Any investment or loan ineligible under the provisions of RCW
14 48.13.030;

15 (5) Securities issued by any insolvent corporation;

16 (6) Obligations contrary to the provisions of section 5 of this
17 act; or

18 (7) Any investment or security which is found by the commissioner
19 to be designed to evade any prohibition of this code.

20 NEW SECTION. Sec. 5. A new section is added to chapter 48.13 RCW
21 to read as follows:

22 (1) As used in this section:

23 (a) "Lower grade obligations" means obligations that are rated
24 four, five, or six by the securities valuation office.

25 (b) "Medium grade obligations" means obligations that are rated
26 three by the securities valuation office.

27 (c) "Securities valuation office" means the entity created by the
28 national association of insurance commissioners in part, to assign
29 rating categories for bond obligations acquired by insurers.

30 (2) No insurer may acquire directly or indirectly, any medium grade
31 or lower grade obligation if, after giving effect to the acquisition,
32 the aggregate amount of all medium grade and lower grade obligations
33 then held by the insurer would exceed twenty percent of its admitted
34 assets provided that:

35 (a) No more than ten percent of an insurer's admitted assets may be
36 invested in lower grade obligations;

1 (b) No more than three percent of an insurer's admitted assets may
2 be invested in lower grade obligations rated five or six by the
3 securities valuation office;

4 (c) No more than one percent of an insurer's admitted assets may be
5 invested in lower grade obligations rated six by the securities
6 valuation office;

7 (d) No more than one percent of an insurer's admitted assets may be
8 invested in medium and lower grade obligations issued, guaranteed, or
9 insured by any one institution; and

10 (e) No more than one-half of one percent of an insurer's admitted
11 assets may be invested in lower grade obligations issued, guaranteed,
12 or insured by any one institution.

13 (3) This section does not require an insurer to sell or otherwise
14 dispose of any obligation lawfully acquired before the effective date
15 of this act, or in accordance with this chapter. The commissioner
16 shall adopt rules identifying the circumstances under which the
17 commissioner may approve an investment in obligations exceeding the
18 limitations of this section as necessary to mitigate financial loss by
19 an insurer.

20 (4) The board of directors of any domestic insurance company which
21 acquires or invests, directly or indirectly, more than two percent of
22 its admitted assets in medium grade and lower grade obligations of any
23 institution, shall adopt a written plan for making those investments.
24 The plan, in addition to guidelines with respect to the quality of the
25 issues invested in, shall contain diversification standards including,
26 but not limited to, standards for issuer, industry, duration,
27 liquidity, and geographic location.

28 NEW SECTION. **Sec. 6.** A new section is added to chapter 48.13 RCW
29 to read as follows:

30 Notwithstanding the provisions of RCW 48.13.050, an insurer may
31 invest its funds in obligations rated by the securities valuation
32 office. Investments in obligations that are rated one or two by the
33 securities valuation office shall be subject to the limitations
34 contained in RCW 48.13.030.

35 **Sec. 7.** RCW 48.13.120 and 1969 ex.s. c 241 s 5 are each amended to
36 read as follows:

1 (1) An investment made pursuant to the provisions of RCW 48.13.110
2 shall not exceed seventy-five percent of the fair value of the
3 particular property at the time of investment. However, if the loan is
4 secured by a first mortgage or other first lien upon real property
5 improved with a single-family residential building, the terms of such
6 loan provide for monthly payments of principal and interest sufficient
7 to effect full repayment of the loan within the remaining useful life
8 of the building as estimated in the appraisal for the loan, or thirty
9 years and two months, whichever is less, the principal so loaned or the
10 entire note or bond issue so secured, plus the amount of the liens of
11 any public bond, assessment, or tax assessed upon the property, may not
12 exceed eighty percent of the market value of the real property, or of
13 the real property together with the improvements which are taken as
14 security. This restriction shall not apply to purchase money mortgages
15 or like securities received by an insurer upon the sale or exchange of
16 real property acquired pursuant to RCW 48.13.160.

17 (2) The extent to which a mortgage loan made under ((subdivision
18 ~~(3) or (4) of~~) RCW 48.13.110(3) or (4) is guaranteed or insured by the
19 Federal Housing Administration or guaranteed by the Administrator of
20 Veterans' Affairs may be deducted before application of the limitations
21 contained in subsection (1) of this section.

Passed the House March 10, 1993.

Passed the Senate April 5, 1993.

Approved by the Governor April 21, 1993.

Filed in Office of Secretary of State April 21, 1993.