

Title 4

INVESTMENTS

Sec. 198. No insurance company shall loan any of its money or deposits to any person, corporation or association, except upon first mortgage or deeds of trust of unencumbered, improved or unimproved real estate, including condominiums, in cities and centers of population of municipalities in the Philippines when the amount of such loan is not in excess of seventy per centum of the market value of such real estate; or upon the security of first mortgages or deeds of trust of actually cultivated, improved and unencumbered agricultural lands in the Philippines when the amount of such loan is not in excess of forty per centum of the market value of such land; or upon the purchase money mortgages or like securities received by it upon the sale or exchange of real property acquired pursuant to sections two hundred and two hundred two; or upon bonds or other evidences of debt of the Government of the Philippines or its political subdivisions authorized by law to issue bonds, or upon bonds or other evidences of debt of government-owned or controlled corporations and instrumentalities including the Central Bank or upon obligations issued or guaranteed by the International Bank for Reconstruction and Development; or upon stocks, bonds or other evidences of debt as are specified in section two hundred.

A life insurance company, however, may lend to any of its policyholders upon the security of the value of its policy such sum as may be determined pursuant to the provisions of the policy.

Loans granted upon the security of real estate for a period longer than five years shall be amortized in monthly, quarterly, semi-annual or annual installments; Provided, that no such loans shall have a maturity in excess of twenty years.

The phrase "improved real estate" used above is hereby defined to mean land with permanent building or buildings erected or being erected thereon. Except as otherwise approved by the Commissioner, in case the building or buildings on land do not belong to the owner of the latter, no loan shall be granted on the security of the real estate in question unless both the owner of the building or buildings and the owner of the land sign the deed of mortgage, and unless the owner of the land is the Government of the Philippines or one of its political subdivisions, in which event the owner is not required to sign the deed of mortgage.

Sec. 199. No loan by any insurance company on the security of real estate shall be made unless the title to such real estate shall have first been registered in accordance with the existing Land Registration Act, or shall be a titulo real duly registered, or have been previously registered under the provisions of the existing Mortgage Law.

Sec. 200.

(1) An insurance company may purchase, hold, own and convey such property, real and personal, as may have been mortgaged, pledged, or conveyed to it in good faith in trust for its benefit by reason of money loaned by it in pursuance of the regular business of the company, and such real or personal property as may have been purchased by it at sales under pledges, mortgages or deeds of trust for its benefit on account of money loaned by it; and such real and personal property as may have been conveyed to it by borrowers in satisfaction and discharge of loans made by the company to them: Provided, however, That any real estate purchased by an insurance company in payment or by reason of any loan made by it shall be sold by the company within twenty years after the title thereto has been vested in it.

(2) An insurance company may purchase, hold, own and convey real and personal property as follows:

(a) The lot with building thereon in which the company conducts and carries on its business.

(b) Bonds or other evidences of debt of the Government of the Philippines or its political subdivisions authorized by law to issue bonds at the reasonable market value thereof.

(c) Bonds or other evidences of debt of the government-owned or controlled corporations and entities, including the Central Bank.

(d) Bonds, debentures or other evidences of indebtedness of any solvent corporations or institution created or existing under the laws of the Philippines: Provided, however, That the issuing, assuming or guaranteeing entity or its predecessors shall not have defaulted in the payment of interest on any of its securities and that during each of any three including the last two of the five fiscal years next preceding the date of acquisition by such insurance company of such bonds, debentures, or other evidences of indebtedness, the net earnings of the issuing, assuming or guaranteeing institution available for its fixed charges, as hereinafter defined, shall have been not less than one and one-quarter times the total of its fixed

charges for such year; and Provided, further, that no life insurance company shall invest in or loan upon the obligations of any one institution in the kinds permitted under this sub-section an amount in excess of twenty-five per centum of the total admitted assets of such insurer as of December thirty-first next preceding the date of such investment.

As used in this sub-section the term "net earnings available for fixed charges" shall mean net income after deducting operating and maintenance expenses, taxes other than income taxes, depreciation and depletion; but excluding extraordinary non-recurring items of income or expense appearing in the regular financial statement of the issuing, assuming or guaranteeing institution. The term "fixed charges" shall include interest on funded and unfunded debt, amortization of debt discount, and rentals for leased properties.

(e) Preferred or guaranteed stocks of any solvent corporation or institution created or existing under the laws of the Philippines: Provided, however, That the issuing, assuming or guaranteeing entity or its predecessors has paid regular dividends upon its preferred or guaranteed stocks for a period of at least three years next preceding the date of investment in such preferred or guaranteed stock: Provided, further, That if the stocks are guaranteed, the amount of stocks so guaranteed is not excess of fifty per centum of the amount of the preferred or common stocks, as the case may be, of the guaranteeing corporation: and Provided, finally, That no life insurance company shall invest in or loan upon obligations of any one institution in the kinds permitted under this sub-section an amount in excess of ten per centum of the total admitted assets of such insurer as of December thirty-first next preceding the date of such investment.

(f) Common stocks of any solvent corporation or institution created or existing under the laws of the Philippines upon which regular dividends shall have been paid for the three years next preceding the purchase of such stock: Provided, however, That no life insurance company shall invest in or loan upon the obligations of any one corporation or institution in the kinds permitted under this sub-section an amount in excess of ten per centum of the total admitted assets of such insurer as of December thirty-first next preceding the date of such investment.

(g) Certificates, notes and other obligations issued by the trustees or receivers of any institution created or existing under the laws of the Philippines which, or the assets of which, are being administered under the direction of any court having jurisdiction; Provided, however, That such certificates, notes or other obligations are adequately secured as to principal and interests.

(h) Equipment trust obligations or certificates which are adequately secured or other adequately secured instruments evidencing an interest in equipment wholly or in part within the Philippines: Provided, however, That there is a right to receive determined portions of rental, purchase or other fixed obligatory payments for the use or purchase of such equipment.

(i) Any obligation of any corporation or institution created or existing under the laws of the Philippines which is, on the date of acquisition by the insurer, adequately secured and has qualities and characteristics wherein the speculative elements are not predominant.

(j) Such other securities as may be approved by the Commissioner.

(3) Any domestic insurer which has outstanding insurance, annuity or reinsurance contracts in currencies other than the national currency of the Philippines may invest in, or otherwise acquire or loan upon securities and investments in such currency which are substantially of the same kinds, classes and investment grades as those eligible for investment under the foregoing subdivisions of this section; but the aggregate amount of such investment and of such cash in such currency which is at anytime held by such insurer shall not exceed one and one-half times the amount of its reserves and other obligations under such contracts or the amount which such insurer is required by the law of any country or possession outside the Republic of the Philippines to be invest in such country or possession, whichever shall be greater.

Sec. 201. An insurance company may (1) invest in equities of other financial institutions, and (2) engage in the buying and selling of short-term debt instruments: Provided, that any or all of such investments shall be with the prior approval of the Commissioner.

Sec. 202. Any life insurance company may:

(a) Acquire or construct housing projects and, in connection with any such project, may acquire land or any interest therein by purchase, lease or otherwise, or use land acquired pursuant to any other provision of this Code. Such company may thereafter own, maintain, manage, collect or receive income from, or sell and convey, any land or interest therein so acquired and any improvements thereon. The aggregate book value of the investments of any such company in all such projects shall not exceed at the time of such investments twenty five per centum of the total admitted assets of such company on the thirty-first day of December next preceding;

(b) Acquire real property, other than property to be used primarily for providing housing and property for accommodation of its own business, as an investment for the production of income, or may acquire real property to be improved or developed for such investment purpose pursuant to a program therefor, subject to the condition that the cost of each parcel of real property so acquired under the authority of this paragraph (b), including the estimated cost to the company of the improvement or development thereof, when added to the book value of all other real property held by its pursuant to this paragraph (b), shall not exceed twenty-five per centum of its admitted assets as of the thirty-first day of December next preceding.

Sec. 203. Every domestic insurance company shall, to the extent of an amount equal in value to twenty-five per centum of the minimum paid-up capital required under section one hundred eighty-eight, invest its funds only in securities, satisfactory to the Commissioner, consisting of bonds or other evidences of debt of the Government of the Philippines or its political subdivisions or instrumentalities, or of government-owned or controlled corporations and entities, including the Central Bank of the Philippines: Provided, That such investments shall at all times be maintained free from any lien or encumbrance; and Provided, further, That such securities shall be deposited with and held by the Commissioner for the faithful performance by the depositing insurer of all its obligations under its insurance contracts. The provisions of section one hundred ninety-two shall, so far as practicable, apply to the securities deposited under this section.

Except as otherwise provided in this Code, no judgment creditor or other claimant shall have the right to levy upon any of the securities of the insurer held on deposit under this section or held on deposit pursuant to the requirement of the Commissioner. (As amended by Presidential Decree No. 1455).

~~Sec. 204. After satisfying the requirements contained in the preceding section, any domestic non-life insurance company, shall invest, to an amount prescribed below, its funds in, or otherwise, acquire or loan upon, only the classes of investments described in section two hundred, including securities issued by any "registered enterprise", as this term is defined in Republic Act No. 5186, otherwise known as the Investment Incentives Act, and such other classes of investments as may be authorized by the Commissioner for purposes of this section: Provided, That (a) no more than twenty per centum of the net worth of such company as shown by its latest financial statement approved by the Commissioner shall be invested in the lot and building in which the insurance company conducts its business and (b) the total investment of an insurance company in any registered enterprise shall not exceed twenty per centum of the net worth of said insurance company as shown by its aforesaid financial statement nor twenty per centum of the paid-up capital of the registered enterprise excluding the intended investment, unless previously authorized by the Commissioner: and, Provided, further, That such investments free from any lien or encumbrance, shall be at least equal in amount to the aggregate amount of (a) its legal reserve, as provided in section two hundred thirteen, and (b) its reserve fund held for reinsurance as provided for in the pertinent treaty provision in the case of reinsurance ceded to authorized insurers. (As amended by Presidential Decree No.1455).~~

~~Sec. 205. After satisfying the requirements contained in sections one hundred ninety-one, one hundred ninety-three, two hundred three and two hundred four, any non-life insurance company may invest any portion of its funds representing earned surplus in any of the investments described in sections one hundred ninety-eight, two hundred and two hundred one, or in any securities issued by a "registered enterprise" mentioned in the preceding sections: Provided, That no investment in stocks or bonds of any single entity shall in the aggregate, exceed twenty per centum of the net worth of the insurance company as shown in its latest financial statement approved by the Commissioner or twenty per centum of the paid-up capital of the issuing company, whichever is lesser, unless otherwise approved by the Commissioner.~~

Sec. 206. After satisfying the minimum capital investment required in section two hundred three, any life insurance company may invest its legal policy reserve, as provided in section two hundred eleven or in section two hundred twelve, in any of the classes of securities or types of investments described in sections one hundred ninety-eight, two hundred, two hundred one and two hundred two, subject to the limitations therein contained, and in any securities issued by any "registered enterprise" mentioned in section two hundred four, free from any lien or encumbrance, in such amounts as may be approved by the Commissioner. Such company may likewise invest any portion of its earned surplus in the aforesaid securities or investments subject to the aforesaid limitations.

Sec. 207. Any investment made in violation of the applicable provisions of this title shall be considered non-admitted assets.

Sec. 208.

(1) All bonds or other evidences of indebtedness having a fixed term and rate of interest and held by any life insurance company authorized to do business in this country, if amply secured and if not in default as to principal or interest, shall be valued as follows: If purchased at par, at the par value; if purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made, or in the discretion of the Commissioner, on the basis of the method of calculation commonly known as the pro-rata method. In applying the foregoing rule the purchase price shall in no case be taken at a higher figure than the actual market value at the time of acquisition. The Commissioner shall have the power to determine the eligibility of any such investments for valuation on the basis of amortization, and may by regulation prescribe or limit the classes of securities so eligible for amortization. All bonds or other evidences of indebtedness which in the judgment of the Commissioner are not amply secured shall not be eligible for amortization and shall be valued in accordance with paragraph two. The Commissioner may, if he finds that the interest of policy holders so permit or require, by official regulation permit or require any class or classes of insurers, other than life insurance companies, authorized to do business in this country, to value their bonds or other evidences of indebtedness in accordance with the foregoing rule.

(2) The investments of all insurers authorized to do business in this country, except securities subject to amortization and except as otherwise provided in this chapter, shall be valued, in

the discretion of the Commissioner, at their market value, or at their appraised value, or at prices determined by him as representing their fair market value. If the Commissioner finds that in view of the character of investments of any insurer authorized to do business in this country it would be prudent for such insurer to establish a special reserve for possible losses or fluctuations in the values of its investments, he may require such insurer to establish such reserve, reasonable in amount, and may require that such reserve be maintained and reported in any statement or report of the financial condition of such insurer. The Commissioner may, in connection with any examination or required financial statement of an authorized insurer, require such insurer to furnish him complete financial statements and audited report of the financial condition of any corporation of which the securities are owned wholly or partly by such insurer and may cause an examination to be made of any subsidiary or affiliate of such insurer.

(3) The stock of an insurance company shall be valued at the lesser of its market value or its book value as shown by its last approved annual statement or the last report on examination, whichever is more recent. The book value of a share of common stock of an insurance company shall be ascertained by dividing (a) the amount of its capital and surplus less the value of all of its preferred stock, if any, outstanding, by (b) the number of shares of its common stock issued and outstanding. Notwithstanding the foregoing provisions, an insurer may, at its option, value its holdings of stock in a subsidiary insurance company in an amount not less than acquisition cost if such acquisition cost is less than the value determined as hereinbefore provided.

(4) Real estate required by foreclosure or by deed in lieu thereof, in the absence of a recent appraisal deemed by the Commissioner to be reliable, shall not be valued at an amount greater than the unpaid principal of the defaulted loan at the date of such foreclosure or deed, together with any taxes and expenses paid or incurred by such insurer at such time in connection with such acquisition, and the cost of additions or improvements thereafter paid by such insurer and any amount or amounts thereafter paid by such insurer on any assessments levied for improvements in connection with the property.

(5) Purchase money mortgages received on dispositions of real property held pursuant to section one hundred ninety-eight shall be valued in an amount equivalent to ninety per centum of the value of such real property. Purchase money mortgages received on disposition of real property otherwise held shall be valued in an amount not exceeding ninety per centum of the value of such real property as determined by an appraisal made

by an appraiser at or about the time of disposition of such real property.

(6) The stock of a subsidiary of an insurer shall be valued on the basis of the greater of (i) the value of only such subsidiary of the assets of such subsidiary as would constitute lawful investments for the insurer if acquired or held directly by the insurer or (ii) such other value determined pursuant to standards and cumulative limitations, contained in a regulation to be promulgated by the Commissioner.

(7) Notwithstanding any provision contained in this section or elsewhere in this chapter, if the Commissioner find that the interests of policyholders so permit or require, he may permit or require any class or classes of insurers authorized to do business in this country to value their investments or any class or classes thereof as of any date heretofore or hereafter in accordance with any applicable valuation or method.

Sec. 209. It shall be the duty of the officers of the insurance company to report within the first fifteen days of every month all such investments as may be made by them during the preceding month, and the Commissioner may, if such investments or any of them seem injudicious to him, require the sale or disposal of the same. The report shall also include a list of investments sold or disposed of by the company during the same period.