

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 2032

By: O'Donnell

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5
6 AS INTRODUCED

7 An Act relating to insurance; amending 36 O.S. 2011,
8 Section 1622, as amended by Section 3, Chapter 287,
9 O.S.L. 2017 (36 O.S. Supp. 2020, Section 1622), which
10 relates to mortgage on real estate; modifying
11 percentages of company's admitted assets that may be
12 invested in certain mortgage loans, money mortgages
13 and real property; providing exception; amending 36
14 O.S. 2011, Section 1624, as amended by Section 4,
15 Chapter 287, O.S.L. 2017 (36 O.S. Supp. 2020, Section
16 1624), which relates to acquiring or holding real
17 property; updating citation; providing certain
18 investment limit exception; and declaring an
19 emergency.

20 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

21 SECTION 1. AMENDATORY 36 O.S. 2011, Section 1622, as
22 amended by Section 3, Chapter 287, O.S.L. 2017 (36 O.S. Supp. 2020,
23 Section 1622), is amended to read as follows:

24 Section 1622. A. An insurer may invest any of its funds in
bonds, notes or other evidences of indebtedness which are secured by
first mortgages or deeds of trust upon improved, unencumbered real
property located in the United States, or which are secured by first
mortgages or deeds of trust upon leasehold estates having an expired

1 term of not less than twenty-one (21) years, inclusive of the term
2 which may be provided by an enforceable option of renewal, in
3 improved, unencumbered real property located in the United States.

4 B. Real property shall not be deemed to be encumbered within
5 the meaning of this section by reason of the existence of
6 instruments reserving mineral, oil or timber rights, rights-of-way,
7 sewer rights, rights in walls, nor by reason of any liens for taxes
8 or assessments not delinquent, nor by reason of building
9 restrictions or other restrictive covenants, nor when such real
10 property is subject to lease under which rents or profits are
11 reserved to the owner, if in any event the security for such loan
12 is a first lien upon such real property and if there is no
13 condition or right of reentry or forfeiture under which, in the
14 case of real property other than leaseholds, such lien can be cut
15 off, subordinated, or otherwise disturbed or under which, in the
16 case of leaseholds, the insurer is unable to continue the lease in
17 force for the duration of the loan.

18 C. 1. No such mortgage loan or loans made or acquired by an
19 insurer on any one property shall, at the time of investment by the
20 insurer, exceed eighty percent (80%) of the value, or if the loan
21 is for purchase money, the lesser of eighty percent (80%) of the
22 value or purchase price of the real property or leasehold securing
23 the same, except that such loan or loans may equal the amount of
24 any guaranty by the United States of America or by any agency or

1 instrumentality of the United States of America or by any private
2 insurance company licensed as an authorized insurer by the
3 Insurance Department of the State of Oklahoma to write mortgage
4 insurance. Additionally, no single mortgage loan to any individual
5 shall exceed ~~four percent (4%)~~ three percent (3%) of the company's
6 admitted assets, with no more than thirty-five percent (35%) of the
7 company's admitted assets invested in total aggregate amount in
8 mortgage loans, provided, however, that an insurer may invest up to
9 forty-five percent (45%) of the company's admitted assets invested
10 in total aggregate amount in mortgage loans if the portfolio
11 average loan-to-value ratio is seventy-five percent (75%) or less
12 of the fair market value.

13 The calculation of admitted assets and portfolio average loan
14 to value is based on the insurer's annual statement as of December
15 31 last preceding the date of investment, or as shown by a current
16 financial statement on file with the Commissioner.

17 2. Mortgage loans made or acquired by an insurer prior to
18 December 31, 1992, shall be in compliance with the limitation
19 provided in this subsection for total aggregate investment of
20 admitted assets in mortgage loans by December 31, 1997. Mortgage
21 loans made or acquired by an insurer on or after December 31, 1992,
22 but prior to September 1, 1993, shall be in compliance with the
23 limitations for investment of admitted assets in single mortgage
24 loans to individuals and total aggregate investments of admitted

1 assets in mortgage loans provided in this subsection by December
2 31, 1997. Insurers shall maintain accurate and adequate records
3 reflecting the provisions of this section and submit such records
4 with quarterly and annual statements.

5 D. No such mortgage loan or loans shall be made or acquired by
6 an insurer except after an appraisal made by a qualified appraiser
7 for the purpose of such investment. No change or modification
8 shall be made to such appraisal by any mortgage underwriter unless
9 such person is licensed or certified as an appraiser pursuant to
10 the Oklahoma Certified Real Estate Appraisers Act or unless such
11 person has been provided by the person who made the appraisal
12 written consent to make the modification. Such modification shall
13 be disclosed to the seller and buyer and/or the seller's agent.

14 E. No such mortgage loan or loans made or acquired by an
15 insurer after July 1, 2006, shall be made or acquired by an insurer
16 unless the mortgages or mortgage loans are upon improved,
17 unencumbered real property permitted as an investment pursuant to
18 Section 1624 of this title.

19 F. No mortgage loan upon a leasehold shall be made or acquired
20 pursuant to this section unless the terms thereof shall provide for
21 amortization payments to be made by the borrower on the principal
22 thereof at least once in each year in amounts sufficient completely
23 to amortize the loan within a period of four-fifths (4/5) of the
24 term of the leasehold, inclusive of the term which may be provided

1 by an enforceable option of renewal, which is unexpired at the time
2 the loan is made, but in no event exceeding thirty-five (35) years.

3 G. Subject to specific limitations otherwise applicable, no
4 more than an aggregate of thirty-five percent (35%), except as
5 provided in paragraph 1 of subsection C of this section of the
6 company's admitted assets may be invested in mortgage loans
7 pursuant to this section, purchase money mortgages pursuant to
8 Section 1623 of this title, and real property pursuant to Section
9 1624 of this title.

10 SECTION 2. AMENDATORY 36 O.S. 2011, Section 1624, as
11 amended by Section 4, Chapter 287, O.S.L. 2017 (36 O.S. Supp. 2020,
12 Section 1624), is amended to read as follows:

13 Section 1624. No insurance company, foreign, alien or domestic,
14 doing business in Oklahoma, may acquire or hold real property
15 therein, except as follows:

16 1. Such as shall be requisite for the convenient accommodation
17 of the transaction of its own business; the amount invested in such
18 real property shall not exceed ten percent (10%) of the investing
19 company's admitted assets but the Insurance Commissioner may grant
20 permission to the company to invest in real property for such
21 purpose in such increased amount as the Insurance Commissioner may
22 deem proper on the showing made, if upon a hearing held the
23 Insurance Commissioner finds that the amount represented by such
24 percentage of its admitted assets is insufficient to provide

1 convenient accommodation for the company's business. Real estate
2 maintained for the convenient accommodation of the transaction of
3 its own business, permitted to be carried as an admitted asset of
4 the company pursuant to this section shall be carried at an amount
5 equal to its cost at the time of acquisition together with the
6 actual cost of improvements made thereon, less encumbrances and less
7 depreciation; provided, however, any real estate carried at fair
8 market value as an admitted asset of the company on ~~the effective~~
9 ~~date of this act~~ November 1, 1989, shall be excluded from this
10 provision;

11 2. Such as shall have been mortgaged to it in good faith by way
12 of security for loans previously contracted for monies due;

13 3. Such as shall have been conveyed to it in satisfaction of
14 debts previously contracted in course of its dealings;

15 4. Such as shall have been purchased at sales on judgments,
16 decrees, or mortgages obtained or made for such debts;

17 5. Such real property as shall have been acquired in whole or
18 in part, in exchange for real property of approximately the same
19 value theretofore legally acquired and held by it;

20 6. Real property and improvements thereon located in
21 incorporated cities and towns and as additions thereto or real
22 property and improvements wherever located acquired for sale or
23 lease, if such lessee or purchaser could have legally acquired the
24 same in the first instance, and may make improvements thereon for

1 commercial and industrial purposes as an investment for the
2 production of income. The phrase "commercial and industrial
3 purposes" shall not include real property primarily intended for use
4 or valued as agricultural, horticultural, farm, and ranch, unless
5 adjacent to other real property the ownership of which is permitted
6 under this section and was acquired prior to July 1, 2006. The
7 total amount invested in such real property and improvements thereon
8 shall not exceed the company's capital and/or surplus, or ten
9 percent (10%) of its admitted assets whichever is the lesser;
10 provided, however, the amount invested in any one investment shall
11 not exceed four percent (4%) of the company's admitted assets. The
12 admitted assets shall be determined by the company's last annual
13 report made as of December 31, immediately preceding and which has
14 been filed with the Insurance Commissioner as required by law, or as
15 shown by a current financial statement on file with the
16 Commissioner;

17 7. Real property acquired and held under Section 1612.1 of this
18 title; and

19 8. Subject to specific limitations otherwise applicable, no
20 more than an aggregate of thirty-five percent (35%), except as
21 provided in paragraph 1 of subsection C of Section 1622 of this
22 title of the company's admitted assets may be invested in real
23 property pursuant to this section, purchase money mortgages pursuant
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1 to Section 1623 of this title, and mortgage loans pursuant to
2 Section 1622 of this title.

3 SECTION 3. It being immediately necessary for the preservation
4 of the public peace, health or safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

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