

1 **SENATE FLOOR VERSION**

2 March 29, 2021

3 **AS AMENDED**

4 ENGROSSED HOUSE  
5 BILL NO. 2809

6 By: Sneed of the House

7 and

8 Quinn of the Senate

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

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

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

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

1 mortgages or deeds of trust upon leasehold estates having an expired  
2 term of not less than twenty-one (21) years, inclusive of the term  
3 which may be provided by an enforceable option of renewal, in  
4 improved, unencumbered real property located in the United States.

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

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

1 any guaranty by the United States of America or by any agency or  
2 instrumentality of the United States of America or by any private  
3 insurance company licensed as an authorized insurer by the  
4 Insurance Department of the State of Oklahoma to write mortgage  
5 insurance. Additionally, no single mortgage loan to any individual  
6 shall exceed ~~four percent (4%)~~ three percent (3%) of the company's  
7 admitted assets, with no more than thirty-five percent (35%) of the  
8 company's admitted assets invested in total aggregate amount in  
9 mortgage loans. However, an insurer may invest up to forty-five  
10 percent (45%) of its admitted assets invested in total aggregate  
11 amount in mortgage loans if the portfolio average loan to value is  
12 seventy-five percent (75%) or less of 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 Mortgage loans made or acquired by an insurer prior to December  
18 31, 1992, shall be in compliance with the limitation provided in  
19 this subsection for total aggregate investment of admitted assets  
20 in mortgage loans by December 31, 1997. Mortgage loans made or  
21 acquired by an insurer on or after December 31, 1992, but prior to  
22 September 1, 1993, shall be in compliance with the limitations for  
23 investment of admitted assets in single mortgage loans to  
24 individuals and total aggregate investments of admitted assets in

1 mortgage loans provided in this subsection by December 31, 1997.  
2 Insurers shall maintain accurate and adequate records reflecting  
3 the provisions of this section and submit such records with  
4 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%)~~ forty-five  
5 percent (45%) of the company's admitted assets may be invested in  
6 mortgage loans pursuant to this section, purchase money mortgages  
7 pursuant to Section 1623 of this title, and real property pursuant  
8 to Section 1624 of this title.

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

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

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

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

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

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

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

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

18       6. Real property and improvements thereon located in  
19 incorporated cities and towns and as additions thereto or real  
20 property and improvements wherever located acquired for sale or  
21 lease, if such lessee or purchaser could have legally acquired the  
22 same in the first instance, and may make improvements thereon for  
23 commercial and industrial purposes as an investment for the  
24 production of income. The phrase "commercial and industrial

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

15 7. Real property acquired and held under Section 1612.1 of this  
16 title; and

17 8. Subject to specific limitations otherwise applicable, no  
18 more than an aggregate of ~~thirty-five percent (35%)~~ forty-five  
19 percent (45%) of the company's admitted assets may be invested in  
20 real property pursuant to this section, purchase money mortgages  
21 pursuant to Section 1623 of this title, and mortgage loans pursuant  
22 to Section 1622 of this title.

23 **SECTION 3. It being immediately necessary for the preservation**  
24 **of the public peace, health or safety, an emergency is hereby**

1 **declared to exist, by reason whereof this act shall take effect and**  
2 **be in full force from and after its passage and approval.**

3 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE  
4 March 29, 2021 - DO PASS AS AMENDED  
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