

Effective 10/1/2015

31A-16-102.5 Subsidiaries of insurers.

- (1)
- (a) A domestic insurer may organize or acquire one or more subsidiaries either:
 - (i) by itself; or
 - (ii) in cooperation with one or more persons.
 - (b) A subsidiary of a domestic insurer may conduct any kind of business or businesses and its authority to do so may not be limited by reason of the fact that it is a subsidiary of a domestic insurer.
- (2)
- (a) In addition to investments in common stock, preferred stock, debt obligations, and other securities permitted under all other sections of this chapter, a domestic insurer may also invest in the following securities of one or more subsidiaries:
 - (i) common stock;
 - (ii) preferred stock;
 - (iii) debt obligations; or
 - (iv) other securities.
 - (b) Amounts under Subsection (2)(a) that do not exceed the lesser of 10% of the insurer's assets or 50% of the insurer's surplus as regards policyholders are permitted, if after the investments, the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to meet its financial needs.
 - (c) In calculating the amount of the investments described in Subsection (2)(b), investments in domestic or foreign insurance subsidiaries and health organizations shall be excluded, and there shall be included:
 - (i) total net money or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of the subsidiary whether or not represented by the purchase of capital stock or issuance of other securities; and
 - (ii) the amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities, and all contributions to the capital or surplus of a subsidiary subsequent to its acquisition or formation.
 - (d)
 - (i) A domestic insurer may invest any amount in securities described in Subsection (2)(a) of one or more subsidiaries engaged or organized to engage exclusively in the ownership and management of assets authorized as investments for the insurer if each subsidiary agrees to limit its investments in any asset so that the investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in Subsection (2)(b) applicable to the insurer.
 - (ii) For purposes of this Subsection (2)(d), "the total investment of the insurer" shall include:
 - (A) a direct investment by the insurer in an asset; and
 - (B) the insurer's proportionate share of an investment in an asset by a subsidiary of the insurer, which shall be calculated by multiplying the amount of the subsidiary's investment by the percentage of the ownership of the subsidiary.
 - (e) With the approval of the commissioner, a domestic insurer may invest any greater amount in securities described in Subsection (2)(a) provided that after the investment the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

- (3) Investments in securities described in Subsection (2)(a) may not be subject to any of the otherwise applicable restrictions or prohibitions contained in this chapter applicable to the investments of insurers.
- (4) Whether any investment made pursuant to Subsection (2) meets the applicable requirements of Subsection (2) shall be determined before the investment is made, by calculating the applicable investment limitations as though the investment had already been made, taking into account:
 - (a) the then outstanding principal balance on all previous investments in debt obligations; and
 - (b) the value of all previous investments in equity securities as of the day they were made net of any return of capital invested not including dividends.
- (5)
 - (a) Subject to Subsection (5)(b), if an insurer ceases to control a subsidiary, it shall dispose of any investment in the subsidiary made pursuant to this section:
 - (i) within three years from the time of the cessation of control; or
 - (ii) within such further time as the commissioner may prescribe.
 - (b) Subsection (5)(a) does not apply if at any time after the investment is made, the investment meets the requirements for investment under any other section of this chapter, and the insurer has so notified the commissioner.

Enacted by Chapter 244, 2015 General Session