

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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SENATE BILL 509

Short Title: Insurer Investment/Transaction Changes. (Public)

Sponsors: Senators Meredith (Primary Sponsor); and Rabin.

Referred to: Rules and Operations of the Senate

March 30, 2017

1 A BILL TO BE ENTITLED  
2 AN ACT TO REVISE THE LAWS GOVERNING TRANSACTION REQUIREMENTS AND  
3 PROHIBITED INVESTMENTS FOR INSURERS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 58-7-185(a)(2) reads as rewritten:

6 "**§ 58-7-185. Prohibited investments and investment underwriting.**

7 (a) In addition to investments excluded under other provisions of this Chapter, except  
8 with prior approval by the Commissioner, an insurer shall not directly or indirectly invest in or  
9 lend its funds upon the security of:

10 ...  
11 (2) Except with the Commissioner's consent, securities issued by any  
12 corporation or enterprise, the controlling interest of which is or will after  
13 acquisition by the insurer be held directly or indirectly by the insurer or any  
14 combination of the insurer and the insurer's directors, officers, parent  
15 corporation, subsidiaries, or controlling stockholders. This subdivision shall  
16 not apply to any of the following:

- 17 a. ~~Investments in subsidiaries under G.S. 58-19-10 are not subject to~~  
18 ~~this provision.~~ G.S. 58-19-10.  
19 b. Transactions involving an insurer within an insurance holding  
20 company system regulated under G.S. 58-19-30.  
21 c. Transactions described by G.S. 58-7-200(e)."

22 **SECTION 2.** G.S. 58-7-200 reads as rewritten:

23 "**§ 58-7-200. Investment transactions.**

24 (a) The transactions specified in subsections (b) through (e) of this section are expressly  
25 allowed or prohibited as provided in this section and to the extent they are not in conflict with  
26 other provisions of this Chapter.

27 ...

28 (e) Nothing in this section ~~prohibits~~ prohibits any of the following:

- 29 (1) A director or officer of any insurer from receiving the usual salary,  
30 compensation, or emoluments for services rendered in the ordinary course of  
31 that person's duties as a director or officer, if the salary, compensation, or  
32 emolument is authorized by vote of the board of directors of the  
33 ~~insurer;~~ insurer.  
34 (2) Any insurer in connection with the relocation of the place of employment of  
35 an officer, including any relocation in connection with the initial  
36 employment of the officer, from (i) making, or the officer from accepting



1 therefrom, a mortgage loan to the officer on real property owned by the  
 2 officer that is to serve as the officer's residence or (ii) acquiring, or the  
 3 officer from selling thereto, at not more than its fair market value, the  
 4 officer's prior ~~residence;~~residence.

5 (3) The payment to a director or officer of any such insurer who is a licensed  
 6 attorney-at-law of fees in connection with loans made by the insurer if and  
 7 when the fees are paid by the borrower and do not constitute a charge against  
 8 the ~~insurer;~~insurer.

9 (4) An insurer from making a loan upon a policy held therein by the borrower  
 10 not in excess of the policy's net ~~value;~~or value.

11 (5) Subject to G.S. 58-19-30 and G.S. 58-7-163, an insurer from advancing  
 12 funds to directors, officers, or controlling stockholders, for expenses  
 13 reasonably expected to be incurred in the ordinary course of the insurer's  
 14 business, as authorized or approved by the insurer's board of directors or by  
 15 individuals authorized by the board and charged with the supervision or  
 16 making of the advances.

17 (6) Subject to G.S. 58-19-30 and G.S. 58-7-170, an insurer from investing in, or  
 18 lending its funds to, an affiliate.

19 (7) An insurer from directly or indirectly investing in, or lending its funds to a  
 20 nonaffiliate in which an officer, director, or controlling stockholder directly  
 21 or indirectly holds an interest, so long as the investment or loan transaction  
 22 meets the standards set forth in G.S. 58-7-170 and G.S. 58-19-30(a)(1) and  
 23 (2).

24 (8) Subject to G.S. 58-19-30 and G.S. 58-7-170, an insurer from directly or  
 25 indirectly making or holding an investment described in G.S. 58-7-173(11).

26 (f) The prohibition in subsection (c) of this section shall not apply with respect to any  
 27 investment by an insurer in an entity in which the officers, directors, and controlling  
 28 shareholders hold no more than ten percent (10%) of the voting interests or which is otherwise  
 29 not an affiliate of the insurer, or which is controlled by a trust established in accordance with  
 30 the North Carolina Uniform Trust Code, so long as (i) the investment complies with the  
 31 requirements of G.S. 58-19-30 and G.S. 58-7-170 and (ii) the trust is controlled by a trustee not  
 32 affiliated with the insurer."

33 **SECTION 3.** G.S. 58-7-179(c) reads as rewritten:

34 "(c) No such mortgage loan or loans made or acquired by an insurer on any one property  
 35 shall, at the time of investment by the insurer, exceed the larger of the following amounts, as  
 36 applicable:

37 (1) ~~Ninety five percent (95%) of the value of the real property or leasehold~~  
 38 ~~securing the real property in the case of a mortgage on a dwelling primarily~~  
 39 ~~intended for occupancy by not more than four families if they insure down to~~  
 40 ~~seventy five percent (75%) with a licensed mortgage insurance company, or~~  
 41 ~~seventy five percent (75%) of the value in the case of other real estate~~  
 42 ~~mortgages;~~

43 (2) ~~The amount of any insurance or guaranty of the loan by the United States or~~  
 44 ~~by an agency or instrumentality thereof; or~~

45 (3) ~~The percentage of value limit on the amount of the loan applicable under~~  
 46 ~~subdivision (1) of this subsection, plus the amount by which the excess of~~  
 47 ~~the loan over the percentage of value limit is insured or guaranteed by the~~  
 48 ~~United States or by any agency or instrumentality thereof.~~

49 (4) Ninety percent (90%) of the fair market value of the real estate, if the  
 50 mortgage loan is secured by a purchase money mortgage or like security  
 51 received by the insurer upon disposition of the real estate.

1           (5) Eighty percent (80%) of the fair market value of the real estate, if the  
2 mortgage loan requires immediate scheduled payment in periodic  
3 installments of principal and interest, has an amortization period of 30 years  
4 or less, and requires periodic payments made no less frequently than  
5 annually. Each periodic payment shall be sufficient to assure that at all times  
6 the outstanding principal balance of the mortgage loan shall be not greater  
7 than the outstanding principal balance that would be owed under a mortgage  
8 loan with the same original principal balance, with the same interest rate,  
9 and requiring equal payments of principal and interest with the same  
10 frequency over the same amortization period. A mortgage providing for a  
11 payment of the principal balance prior to the end of the period of  
12 amortization of the loan shall be permitted under this subsection. With  
13 respect to residential mortgage loans, the limitation under this section shall  
14 be ninety-seven percent (97%) rather than eighty percent (80%) if the  
15 borrower obtains private mortgage insurance that meets the usual and  
16 customary standards for private mortgage insurance covering residential  
17 mortgages.

18           (6) Seventy-five percent (75%) of the fair market value of the real estate for  
19 mortgage loans that do not meet the requirements of subdivision (4) or (5) of  
20 this subsection."

21           **SECTION 4.(a)** Article 7 of Chapter 58 of the General Statutes is amended by  
22 adding a new section to read:

23 **"§ 58-7-184. Securities lending, repurchase, reverse repurchase, and dollar roll**  
24 **transactions.**

25           (a) Definitions. – The following definitions apply in this section:

26           (1) Dollar roll transaction. – A transaction that consists of a set of two  
27 simultaneous transactions with different settlement dates no more than 96  
28 days apart that meets the following requirements:

29           a. The transaction with the earlier settlement date is a sale by an insurer  
30 to a business entity.

31           b. The transaction with the later settlement date is a sale in which the  
32 insurer is obligateded to purchase from the same business entity  
33 involved in the first transaction.

34           c. Both transactions consist of substantially similar securities that are  
35 either (i) asset-backed securities issued, assumed, or guaranteed by  
36 the Government National Mortgage Association, the Federal  
37 National Mortgage Association, or the Federal Home Loan Mortgage  
38 Corporation, or their respective successors; or (ii) other asset-backed  
39 securities referred to in Section 106 of Title I of the Secondary  
40 Mortgage Market Enhancement Act of 1984 (15 U.S.C. § 77r-1), as  
41 amended.

42           (2) Repurchase transaction. – A transaction in which an insurer purchases  
43 securities from a business entity that is obligated to repurchase the purchased  
44 securities or equivalent securities from the insurer at a specified price, either  
45 within a specified period of time or upon demand.

46           (3) Reverse repurchase transaction. – A transaction in which an insurer sells  
47 securities to a business entity and is obligated to repurchase the sold  
48 securities or equivalent securities from the business entity at a specified  
49 price, either within a specified period of time or upon demand.

50           (4) Securities lending transaction. – A transaction in which securities are loaned  
51 by an insurer to a business entity that is obligated to return the loaned

1 securities or equivalent securities to the insurer, either within a specified  
2 period of time or upon demand.

3 (b) Requirements for Allowed Transactions. – An insurer may enter into securities  
4 lending, repurchase, reverse repurchase, and dollar roll transactions with business entities,  
5 subject to the following requirements:

6 (1) The insurer shall enter into a written agreement for all transactions  
7 authorized in this section other than dollar roll transactions. The written  
8 agreement shall require that each transaction terminate no more than one  
9 year from its inception or upon the earlier demand of the insurer. The  
10 agreement required by this subdivision shall be with the business entity  
11 counterparty for all transactions authorized in this section other than  
12 securities lending transactions. Agreements for securities lending  
13 transactions may be with either the business entity or an agent acting on  
14 behalf of the insurer, if the agent is a qualified business entity, and if the  
15 agreement (i) requires the agent to enter into separate agreements with each  
16 counterparty that are consistent with the requirements of this section and (ii)  
17 prohibits securities lending transactions under the agreement with the agent  
18 or its affiliates.

19 (2) Cash received in a transaction under this section shall be invested in  
20 accordance with this Article and in a manner that recognizes the liquidity  
21 needs of the transaction or used by the insurer for its general corporate  
22 purposes. For so long as the transaction remains outstanding, the insurer, its  
23 agent, or custodian shall maintain, as to acceptable collateral received in a  
24 transaction under this section, either physically or through the book entry  
25 systems of the Federal Reserve, Depository Trust Company, Participants  
26 Trust Company, or other securities depositories approved by the  
27 Commissioner, any of the following:

28 a. Possession of the acceptable collateral.

29 b. A perfected security interest in the acceptable collateral.

30 c. In the case of collateral located in a jurisdiction outside of the United  
31 States, title to, or rights of a secured creditor to, the acceptable  
32 collateral.

33 (3) The limitations of G.S. 58-7-170 and G.S. 58-7-178 shall not apply to the  
34 business entity counterparty exposure created by transactions under this  
35 section. For purposes of calculations made to determine compliance with the  
36 requirements of this section, no effect will be given to the insurer's future  
37 obligation to resell securities, in the case of a repurchase transaction, or to  
38 repurchase securities, in the case of a reverse repurchase transaction. An  
39 insurer shall not enter into a transaction under this section if, as a result of  
40 and after giving effect to the transaction, the aggregate amount of all  
41 securities then loaned, sold to, or purchased from all business entities under  
42 this section would exceed forty percent (40%) of the insurer's admitted  
43 assets.

44 (4) In a repurchase transaction, the insurer shall receive as acceptable collateral  
45 transferred securities having a market value at least equal to one hundred  
46 two percent (102%) of the purchase price paid by the insurer for the  
47 securities. If at any time the market value of the acceptable collateral is less  
48 than one hundred percent (100%) of the purchase price paid by the insurer,  
49 the business entity counterparty shall be obligated to provide additional  
50 acceptable collateral, the market value of which, together with the market  
51 value of all acceptable collateral then held in connection with the

1 transaction, at least equals one hundred two percent (102%) of the purchase  
 2 price. Securities acquired by an insurer in a repurchase transaction shall not  
 3 be sold in a reverse repurchase transaction, loaned in a securities lending  
 4 transaction, or otherwise pledged.

5 (5) In a reverse repurchase transaction that is not a dollar roll transaction, the  
 6 insurer shall receive acceptable collateral having a market value as of the  
 7 transaction date at least equal to ninety-five percent (95%) of the market  
 8 value of the securities transferred by the insurer in the transaction as of that  
 9 date. If at any time the market value of the acceptable collateral is less than  
 10 ninety-five percent (95%) of the market value of the securities so transferred,  
 11 the business entity counterparty shall be obligated to deliver additional  
 12 acceptable collateral, the market value of which, together with the market  
 13 value of all acceptable collateral then held in connection with the  
 14 transaction, at least equals ninety-five percent (95%) of the market value of  
 15 the transferred securities.

16 (6) In a securities lending transaction, the insurer shall receive acceptable  
 17 collateral having a market value as of the transaction date at least equal to  
 18 one hundred two percent (102%) of the market value of the securities loaned  
 19 by the insurer in the transaction as of that date. If at any time the market  
 20 value of the acceptable collateral is less than the market value of the loaned  
 21 securities, the business entity counterparty shall be obligated to deliver  
 22 additional acceptable collateral, the market value of which, together with the  
 23 market value of all acceptable collateral then held in connection with the  
 24 transaction, at least equals one hundred two percent (102%) of the market  
 25 value of the loaned securities.

26 (7) In a dollar roll transaction, the insurer shall receive cash in an amount at  
 27 least equal to the market value of the securities transferred by the insurer in  
 28 the transaction as of the transaction date."

29 **SECTION 4.(b)** G.S. 58-7-26(a) reads as rewritten:

30 "(a) An asset or a reduction from liability for reinsurance ceded by a domestic insurer to  
 31 an assuming insurer not meeting the requirements of G.S. 58-7-21 shall be allowed in an  
 32 amount not exceeding the liabilities carried by the ceding insurer. The reduction shall be in the  
 33 amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the  
 34 ceding insurer, under a reinsurance contract with the assuming insurer as security for the  
 35 payment of obligations thereunder, if the security is held in the United States subject to  
 36 withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a  
 37 trust, held in a qualified United States financial institution as defined in subsection (c) of this  
 38 section. This security may be in ~~the form of:~~ any of the following forms:

- 39 (1) ~~Cash;~~ Cash.  
 40 (2) Securities that are listed by the Securities Valuation Office of the NAIC and  
 41 qualifying as admitted ~~assets;~~ assets.  
 42 (3) Clean, irrevocable, unconditional letters of credit, issued or confirmed by a  
 43 qualified United States financial institution, as defined in subsection (b) of  
 44 this section, effective no later than December 31 of the year for which the  
 45 filing is being made, and in the possession of, or in trust for, the ceding  
 46 company on or before the filing date of its annual statement. Letters of credit  
 47 meeting applicable standards of issuer acceptability as of the dates of their  
 48 issuance (or confirmation) shall, notwithstanding the issuing (or confirming)  
 49 institution's subsequent failure to meet applicable standards of issuer  
 50 acceptability, continue to be acceptable as security until their expiration,

1 extension, renewal, modification or amendment, whichever occurs ~~first;~~  
2 ~~or~~first.

3 (3a) Repurchase and reverse repurchase transactions, as defined in  
4 G.S. 58-7-184(a).

5 (4) Any other form of security acceptable to the Commissioner."

6 **SECTION 5.** G.S. 58-7-173(15) reads as rewritten:

7 "(15) Loans with a maturity not in excess of ~~12 years~~30 years from the date  
8 thereof that are secured by the pledge of securities eligible for investment  
9 under this Chapter or by the pledge or assignment of life insurance policies  
10 issued by other insurers authorized to transact insurance in this State. On the  
11 date made, no such loan shall exceed in amount seventy-five percent (75%)  
12 of the market value of the collateral pledged, except that loans upon the  
13 pledge of U.S. Government ~~bonds and~~bonds, loans upon the pledge or  
14 assignment of life insurance ~~policies~~policies, and loans upon the pledge of  
15 securities designated a "1" in accordance with the Purposes and Procedures  
16 Manual issued by the Securities Valuation Office of the NAIC shall not  
17 exceed ~~ninety-five percent (95%)~~ of the market value of the bonds or the  
18 cash surrender value of the policies pledged. The market value of the  
19 collateral pledge shall at all times during the continuance of the loans meet  
20 or exceed the minimum percentages herein. Loans made under this section  
21 shall not be renewable beyond a period of ~~12 years~~30 years from the date of  
22 the loan."

23 **SECTION 6.** Section 2 of this act is effective when it becomes law and applies  
24 retroactively to any transaction entered into on or after July 1, 2015. The remainder of this act  
25 is effective when it becomes law.