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CHAPTER 23

AN ACT to amend 206.34 (1) (ef), (en), (eo), (ep) and (m); and to create 206.34 (1) (es), (fp) and (fs) of the statutes, relating to the investment of the assets of domestic life insurance companies.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 206.34 (1) (ef), (en), (eo) and (ep) of the statutes are amended to read:

206.34 (1) (ef) In evidences of indebtedness of any solvent company organized under the laws of the United States or of any state thereof, or of the Dominion of Canada or of any province thereof (* * * other than evidences of indebtedness of corporations organized for the sole purpose of holding securities of other corporations), if the net earnings of the issuing company available for fixed charges for a test period of * * * 5 fiscal years next preceding the date of investment by the insurance company shall have averaged per year not less than * * * 1-1/2 times its average annual fixed charges applicable to such period *and if during either of the last 2 years of such period such net earnings shall have been not less than 1-1/2 times its fixed charges for such year, and the issue of which has been approved by the proper public authority if such approval was required by law at the time of issue; provided that no*

insurance company shall invest in any one issue of such evidences of indebtedness in excess of one per cent of its admitted assets; provided further that the company issuing such evidences of indebtedness has not defaulted in the payment of principal or interest upon any of its bonds, or other evidences of indebtedness at any time during 5 years prior to the date of investment therein, or since issuance, if issued less than 5 years prior to the date of investment therein.

(en) "Net earnings available for fixed charges" as used in * * * *this subsection* shall mean net income determined on either a consolidated or an unconsolidated basis after allowance for operating and maintenance expenses, depreciation and depletion, and taxes, other than federal and state income taxes, but excluding extraordinary nonrecurring items of income or expense appearing in the regular financial statements of the issuing company. "Net earnings available for fixed charges and dividends," as used in * * * *this subsection* shall be determined in the same manner as "net earnings available for fixed charges" but after allowance for federal and state income taxes.

(eo) "Fixed charges" as used in * * * *this subsection* shall include interest on all bonds and other evidences of indebtedness, and amortization of debt discount. "Preferred dividend requirements," as used in * * * *this subsection* shall mean dividends at the maximum prescribed rate on all preferred stock of the same class as that being acquired by the insurance company and on all stock ranking as to dividends on a parity therewith or prior thereto, whether or not such dividends are cumulative.

(ep) In applying tests of "net earnings available for fixed charges" under * * * *this subsection* to an issuing company, whether or not in legal existence during the whole of the test period, which has at or prior to the date of investment by the insurance company acquired the assets of any other company by purchase, merger, consolidation or otherwise substantially as an entirety, net earnings available for fixed charges of such predecessor or constituent company for such portion of the test period as preceded acquisition, may be included in the net earnings of the issuing company, in accordance with consolidated earnings statement covering such period. *The requirements imposed by pars. (ec) and (ef) upon the issuing company are deemed to have been met if at the time the investment is made a company which meets such requirements has guaranteed the indebtedness or has otherwise become obligated to pay amounts which are applicable to the payment of and sufficient to discharge the principal of and interest on the indebtedness in accordance with the terms thereof, provided that in determining whether such requirements have been met the pro forma annual interest on such indebtedness is included in the fixed charges of said company applicable to the test period in question.*

SECTION 2. 206.34 (1) (es), (fp) and (fs) of the statutes are created to read:

206.34 (1) (es) In common stock of any solvent company organized under the laws of the United States or of any state thereof, or of the Dominion of Canada or of any province thereof (other than common stock of corporations organized for the sole purpose of holding securities of other corporations), the issue of which has been approved by the proper public authority if such approval was required by law at the time of issue, provided that such company either: a. during any 3 fiscal years of the 5 completed fiscal years next preceding the date of investment, has earned a sum available for payment of dividends per share (with strict proportional adjustment for changes in capitalization) equal in the aggregate to not less than 10 per cent of the price paid per share, or b. during the 3 fiscal years next preceding the date of such investment, has had average

annual net earnings available for fixed charges and dividends equal to $1\frac{1}{2}$ times the sum of its average annual fixed charges, maximum contingent interest and amounts required for payment of preferred dividends for such period. No insurance company shall invest more than one-half of one per cent of its admitted assets in the common stock of any one issuing company, nor shall the aggregate of any insurance company's investments under this paragraph exceed 5 per cent of its admitted assets.

(fp) In the purchase and ownership of: a. vessels, vehicles or rolling stock used or useful for the transport of persons, goods, products or commodities, and b. machinery or equipment used by manufacturing, processing or financial establishments, which is or will become subject to contracts for the sale or use thereof under which contractual payments are to be made which may reasonably be expected to return the principal of and provide earnings on the investment within the anticipated useful life of the property, said anticipated useful life to be not less than 5 years. The aggregate of such company's investments under this paragraph shall not exceed 3 per cent of such company's admitted assets, and shall not be subject to the limitation contained in s. 201.24 (1).

(fs) In loans, securities or investments in countries other than the United States and Canada which are substantially of the same kinds, classes and investment grades as those eligible for investment under this subsection, other than par. (m); but the aggregate amount of such company's investments made pursuant to this paragraph shall not exceed 2 per cent of its admitted assets.

SECTION 3. 206.34 (1) (m) of the statutes is amended to read:

206.34 (1) (m) In loans, securities or investments in addition to those permitted in this subsection whether or not such loans, securities or investments qualify or are permitted as legal investments under its charter, or under other provisions of this section or under other sections of the statutes; provided, *for the purposes of par. (c) and this paragraph, that the portion of a loan secured by a mortgage upon real property which does not exceed two-thirds of the then fair market value of said property shall be deemed to be a permitted investment under par. (c) and the remainder of said loan may be deemed to be made under this paragraph. Any investment originally made under this paragraph which would subsequently, if it were then being made, qualify as a permitted investment under another paragraph of this subsection shall thenceforth be deemed to be a permitted investment under such other paragraph.* The aggregate of such company's loans, securities and investments under this paragraph shall not exceed 5 per cent of such company's admitted assets.

Approved April 22, 1959.