

# SB1328



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB1328

Introduced 2/8/2011, by Sen. Jeffrey M. Schoenberg

#### SYNOPSIS AS INTRODUCED:

215 ILCS 5/126.3

Amends the Illinois Insurance Code. Provides that no domestic insurer shall acquire any investment respecting a foreign jurisdiction, or any investment denominated in the currency of that foreign jurisdiction, if that jurisdiction is designated as a state sponsor of terrorism by the United States Secretary of State pursuant to the federal Export Administration Act, Arms Export Control Act, and Foreign Assistance Act.

LRB097 09787 RPM 49933 b

A BILL FOR

1 AN ACT concerning insurance.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by  
5 changing Section 126.3 as follows:

6 (215 ILCS 5/126.3)

7 Sec. 126.3. General investment qualifications.

8 A. Insurers may acquire, hold or invest in investments or  
9 engage in investment practices as set forth in this Article.  
10 Insurers may also acquire, hold or invest in investments not  
11 conforming to the requirements of this Article that are not  
12 otherwise prohibited by this Code. Investments not conforming  
13 to this Article shall not be admitted assets unless they are  
14 acquired under other authority of this Code.

15 B. Subject to subsection C of this Section, an insurer  
16 shall not acquire or hold an investment as an admitted asset  
17 unless at the time of acquisition it is:

18 (1) Eligible for the payment or accrual of interest or  
19 discount (whether in cash or other forms of income or  
20 securities), eligible to receive dividends or other  
21 distributions or is otherwise income producing; or

22 (2) Acquired under Section 126.15B, 126.15C, 126.16,  
23 126.18, 126.20, 126.28C, 126.29, 126.31, or 126.32 or under

1 the authority of Sections of the Code other than this  
2 Article.

3 C. An insurer may acquire or hold as admitted assets  
4 investments that do not otherwise qualify as provided in this  
5 Article if the insurer has not acquired them for the purpose of  
6 circumventing any limitations contained in this Article, if the  
7 insurer acquires the investments in the following  
8 circumstances and the insurer complies with the provisions of  
9 Sections 126.5 and 126.7 as to the investments:

10 (1) As payment on account of existing indebtedness or  
11 in connection with the refinancing, restructuring or  
12 workout of existing indebtedness, if taken to protect the  
13 insurer's interest in that investment;

14 (2) As realization on collateral for indebtedness;

15 (3) In connection with an otherwise qualified  
16 investment or investment practice, as interest on or a  
17 dividend or other distribution related to the investment or  
18 investment practice or in connection with the refinancing  
19 of the investment, in each case for no additional or only  
20 nominal consideration;

21 (4) Under a lawful and bona fide agreement of  
22 recapitalization or voluntary or involuntary  
23 reorganization in connection with an investment held by the  
24 insurer; or

25 (5) Under a bulk reinsurance, merger or consolidation  
26 transaction approved by the Director if the assets

1           constitute admissible investments for the ceding, merged  
2           or consolidated companies.

3           D. An investment or portion of an investment acquired by an  
4           insurer under subsection C of this Section shall become a  
5           nonadmitted asset 3 years (or 5 years in the case of mortgage  
6           loans and real estate) from the date of its acquisition, unless  
7           within that period the investment has become a qualified  
8           investment under a Section of this Article other than  
9           subsection C of this Section, but an investment acquired under  
10          an agreement of bulk reinsurance, merger or consolidation may  
11          be qualified for a longer period if so provided in the plan for  
12          reinsurance, merger or consolidation as approved by the  
13          Director. Upon application by the insurer and a showing that  
14          the nonadmission of an asset held under subsection C of this  
15          Section would injure the interests of the insurer, the Director  
16          may extend the period for admissibility for an additional  
17          reasonable period of time.

18          E. Except as provided in subsections F and H of this  
19          Section, an investment shall qualify under this Article if, on  
20          the date the insurer committed to acquire the investment or on  
21          the date of its acquisition, it would have qualified under this  
22          Article. For the purposes of determining limitations contained  
23          in this Article, an insurer shall give appropriate recognition  
24          to any commitments to acquire investments.

25          F. (1) An investment held as an admitted asset by an  
26          insurer on the effective date of this amendatory Act of

1 1997 which qualified immediately prior to the effective  
2 date of this amendatory Act of 1997 shall remain qualified  
3 as an admitted asset under this Article.

4 (2) Each specific transaction constituting an  
5 investment practice of the type described in this Article  
6 immediately prior to the effective date of this amendatory  
7 Act of 1997 that was lawfully entered into by an insurer  
8 and was in effect on the effective date of this amendatory  
9 Act of 1997 shall continue to be permitted under this  
10 Article until its expiration or termination under its  
11 terms.

12 G. Unless otherwise specified, an investment limitation  
13 computed on the basis of an insurer's admitted assets or  
14 capital and surplus shall relate to the amount required to be  
15 shown on the statutory balance sheet of the insurer most  
16 recently required to be filed (annual or last quarter) with the  
17 Director. Solely for purposes of computing any limitation under  
18 this Article based upon admitted assets, the insurer shall  
19 deduct from the amount of its admitted assets the amount of the  
20 liability recorded on such statutory balance sheet for:

21 (1) The return of acceptable collateral received in a  
22 reverse repurchase transaction or a securities lending  
23 transaction;

24 (2) Cash received in a dollar roll transaction; and

25 (3) The amount reported as borrowed money in such  
26 statutory balance sheet to the extent not included in

1 paragraphs (1) and (2) of this subsection.

2 H. An investment qualified, in whole or in part, for  
3 acquisition or holding as an admitted asset may be qualified or  
4 requalified at the time of acquisition or a later date, in  
5 whole or in part, under any other Section, if the relevant  
6 conditions contained in the other Section are satisfied at the  
7 time of qualification or requalification.

8 I. An insurer shall maintain documentation demonstrating  
9 that investments were acquired in accordance with this Article,  
10 and specifying the Section of this Article under which they  
11 were acquired.

12 J. An insurer shall not enter into an agreement to purchase  
13 securities in advance of their issuance for resale to the  
14 public as part of a distribution of the securities by the  
15 issuer or otherwise guarantee the distribution, except that an  
16 insurer may acquire privately placed securities with  
17 registration rights.

18 K. Notwithstanding the provisions of this Article, the  
19 Director, for good cause, may order an insurer to nonadmit,  
20 limit, dispose of, withdraw from or discontinue an investment  
21 or investment practice in accordance with Article XXIV. The  
22 authority of the Director under this subsection is in addition  
23 to any other authority of the Director.

24 L. No domestic insurer shall acquire any investment  
25 respecting a foreign jurisdiction, or any investment  
26 denominated in the currency of that foreign jurisdiction, if

1 that jurisdiction is designated as a state sponsor of terrorism  
2 by the United States Secretary of State pursuant to section  
3 6(j) of the Export Administration Act, section 40 of the Arms  
4 Export Control Act, and section 620A of the Foreign Assistance  
5 Act.

6 (Source: P.A. 90-418, eff. 8-15-97.)