



Sen. Ira I. Silverstein

Filed: 4/10/2013

09800SB1718sam002

LRB098 10029 RPM 43928 a

1 AMENDMENT TO SENATE BILL 1718

2 AMENDMENT NO. _____. Amend Senate Bill 1718, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Insurance Code is amended by
6 changing Sections 26 and 53 as follows:

7 (215 ILCS 5/26) (from Ch. 73, par. 638)

8 (Section scheduled to be repealed on January 1, 2017)

9 Sec. 26. Deposit.

10 (a) A company subject to the provisions of this Article
11 shall make and maintain with the Director for the protection of
12 all creditors, policyholders and policy obligations of the
13 company, a deposit of securities which are authorized
14 investments under Section 126.11A(1), 126.11A(2), 126.24A(1),
15 or 126.24A(2) having a fair market value equal to the minimum
16 capital and surplus required to be maintained under Section 13.

1 The Director may release the required deposit of securities
2 upon receipt of an order of a court having proper jurisdiction
3 or upon: (i) certification by the company that it has no
4 outstanding creditors, policyholders, or policy obligations in
5 effect and no plans to engage in the business of insurance;
6 (ii) receipt of a lawful resolution of the company's board of
7 directors effecting the surrender of its articles of
8 incorporation for administrative dissolution by the Director;
9 and (iii) receipt of the name and forwarding address for each
10 of the final officers and directors of the company, together
11 with a plan of dissolution approved by the Director.

12 (b) All deposits by insurers subject to this Article must
13 be limited to the following types:

14 (1) United States government bonds, notes, and bills
15 for which the full faith and credit of the government of
16 the United States is pledged for the payment of principal
17 and interest.

18 (2) United States public bonds and notes of any state
19 or of the District of Columbia, or Canadian public bonds
20 and notes of any province thereof, for which the full faith
21 and credit of the issuer has been pledged for the payment
22 of principal and interest.

23 (3) United States and Canadian county, provincial,
24 municipal, and district bonds and notes for which the
25 issuer has lawful authority to levy taxes or make
26 assessments for the payment of principal and interest.

1 (4) Bonds and notes of any federal agency that are
2 guaranteed as to payment of principal and interest by the
3 United States.

4 (5) International development bank bonds, bonds issued
5 by the State of Israel and sold through the Development
6 Corporation for Israel or its successor entities, and notes
7 issued, assumed, and guaranteed by the International Bank
8 for Reconstruction and Development, the Inter-American
9 Development Bank, the Asian Development Bank, the African
10 Development Bank, or the International Finance
11 Corporation.

12 (6) Corporate bonds and notes of any private
13 corporations that are not affiliates or subsidiaries of the
14 insurer, which corporations are organized under the laws of
15 the United States, Canada, any state, the District of
16 Columbia, any territory or possession of the United States,
17 or any province of Canada.

18 (7) Certificates of deposit.

19 (c) To be eligible for deposit under subsection (b), any
20 bond or note must have the following characteristics:

21 (1) The bond or note must be interest-bearing or
22 interest-accruing, and the insurer must be the exclusive
23 owner of the interest accruing thereon and entitled to
24 receive the interest for its account.

25 (2) The issuer must be in a solvent financial condition
26 and the bond or note must not be in default.

1 (3) The bond, note, or debt of the issuing country must
2 be rated in one of the 4 highest classifications by an
3 established, nationally recognized investment rating
4 service or must have been given a rating of 1 by the
5 Securities Valuation Office of the National Association of
6 Insurance Commissioners.

7 (4) The market value of the bond or note must be
8 readily ascertainable or the value of the bond or note must
9 be obtainable by the insurer or its custodian from the
10 issuer's fiscal agent.

11 (5) The bond or note must be the direct obligation of
12 the issuer.

13 (6) The bond or note must be stated in United States
14 dollar denominations.

15 (7) The bond or note must be eligible for book-entry
16 form on the books of the Federal Reserve's book-entry
17 system or in a depository trust clearing system or on the
18 books of the issuer's transfer agent or evidenced by a
19 certificate delivered to the insurer or its custodian.

20 (d) To be eligible for deposit under item (7) of subsection
21 (b), a certificate of deposit must have the following
22 characteristics:

23 (1) The certificate of deposit must be issued by a
24 bank, savings bank, or savings association that is
25 organized under the laws of the United States, of this
26 State, or of any other state and that has a principal

1 office or branch office in this State that is authorized to
2 receive deposits in this State.

3 (2) The certificate of deposit must be
4 interest-bearing and may not be issued in discounted form.

5 (3) The certificate of deposit must be issued for a
6 period of not less than one year.

7 (4) The issuing bank, savings bank, or savings
8 association must agree to the terms and conditions of the
9 Director regarding the rights to the certificate of deposit
10 and must have executed a written certificate of deposit
11 agreement with the Director. The terms and conditions of
12 the agreement shall include, but need not be limited to:

13 (A) Exclusive authorized signature authority for
14 the chief financial officer.

15 (B) An agreement to pay, without protest, the
16 proceeds of its certificate of deposit to the Director
17 within 30 business days after presentation.

18 (C) A prohibition against levies, setoffs,
19 survivorship, or other conditions that might hinder
20 the Director's ability to recover the full face value
21 of a certificate of deposit.

22 (D) Instructions regarding interest payments,
23 renewals, taxpayer identification, and early
24 withdrawal penalties.

25 (E) An agreement to be subject to the jurisdiction
26 of the courts of this State, or those of the United

1 States that are located in this State, for the purposes
2 of any litigation arising out of this Section.

3 (F) Such other conditions as the Director
4 requires.

5 (e) The Director may refuse to accept certain securities or
6 refuse to accept the reported market value of certain
7 securities offered pursuant to this Section in order to ensure
8 that sufficient cash and securities are on hand to meet the
9 purposes of the deposit. In making a refusal under this
10 subsection (e), the guidelines for use of the Director may
11 include, but need not be limited to, whether the market value
12 of the securities cannot be readily ascertained and the lack of
13 liquidity of the securities. Securities refused under this
14 subsection (e) are not acceptable as deposits.

15 (f) All deposits required of a domestic insurer pursuant to
16 the laws of another state, province, or country must be
17 comprised of securities of the kinds required under subsection
18 (b), having the characteristics required under subsections (c)
19 and (d), and permitted by the laws of the other state,
20 province, or country, except common stocks, mortgages or loans
21 of any kind, real estate investment trust funds or programs,
22 commercial paper, and letters of credit.

23 (Source: P.A. 92-75, eff. 7-12-01.)

24 (215 ILCS 5/53) (from Ch. 73, par. 665)

25 (Section scheduled to be repealed on January 1, 2017)

1 Sec. 53. Deposit.

2 (a) A company subject to the provisions of this Article
3 shall make and maintain with the Director for the protection of
4 all creditors, policyholders and policy obligations of the
5 company, a deposit of securities which are authorized
6 investments under Section 126.11A(1), 126.11A(2), 126.24A(1),
7 or 126.24A(2) having a fair market value equal to the minimum
8 surplus required to be maintained under Section 43. The
9 Director may release the required deposit of securities upon
10 receipt of an order of a court having proper jurisdiction or
11 upon: (i) certification by the company that it has no
12 outstanding creditors, policyholders, or policy obligations in
13 effect and no plans to engage in the business of insurance;
14 (ii) receipt of a lawful resolution of the company's board of
15 directors effecting the surrender of its articles of
16 incorporation for administrative dissolution by the Director;
17 and (iii) receipt of the name and forwarding address for each
18 of the final officers and directors of the company, together
19 with a plan of dissolution approved by the Director.

20 (b) All deposits by insurers subject to this Article must
21 be limited to the following types:

22 (1) United States government bonds, notes, and bills
23 for which the full faith and credit of the government of
24 the United States is pledged for the payment of principal
25 and interest.

26 (2) United States public bonds and notes of any state

1 or of the District of Columbia, or Canadian public bonds
2 and notes of any province thereof, for which the full faith
3 and credit of the issuer has been pledged for the payment
4 of principal and interest.

5 (3) United States and Canadian county, provincial,
6 municipal, and district bonds and notes for which the
7 issuer has lawful authority to levy taxes or make
8 assessments for the payment of principal and interest.

9 (4) Bonds and notes of any federal agency that are
10 guaranteed as to payment of principal and interest by the
11 United States.

12 (5) International development bank bonds, bonds issued
13 by the State of Israel and sold through the Development
14 Corporation for Israel or its successor entities, and notes
15 issued, assumed, and guaranteed by the International Bank
16 for Reconstruction and Development, the Inter-American
17 Development Bank, the Asian Development Bank, the African
18 Development Bank, or the International Finance
19 Corporation.

20 (6) Corporate bonds and notes of any private
21 corporations that are not affiliates or subsidiaries of the
22 insurer, which corporations are organized under the laws of
23 the United States, Canada, any state, the District of
24 Columbia, any territory or possession of the United States,
25 or any province of Canada.

26 (7) Certificates of deposit.

1 (c) To be eligible for deposit under subsection (b), any
2 bond or note must have the following characteristics:

3 (1) The bond or note must be interest-bearing or
4 interest-accruing, and the insurer must be the exclusive
5 owner of the interest accruing thereon and entitled to
6 receive the interest for its account.

7 (2) The issuer must be in a solvent financial condition
8 and the bond or note must not be in default.

9 (3) The bond, note, or debt of the issuing country must
10 be rated in one of the 4 highest classifications by an
11 established, nationally recognized investment rating
12 service or must have been given a rating of 1 by the
13 Securities Valuation Office of the National Association of
14 Insurance Commissioners.

15 (4) The market value of the bond or note must be
16 readily ascertainable or the value of the bond or note must
17 be obtainable by the insurer or its custodian from the
18 issuer's fiscal agent.

19 (5) The bond or note must be the direct obligation of
20 the issuer.

21 (6) The bond or note must be stated in United States
22 dollar denominations.

23 (7) The bond or note must be eligible for book-entry
24 form on the books of the Federal Reserve's book-entry
25 system or in a depository trust clearing system or on the
26 books of the issuer's transfer agent or evidenced by a

1 certificate delivered to the insurer or its custodian.

2 (d) To be eligible for deposit under item (7) of subsection
3 (b), a certificate of deposit must have the following
4 characteristics:

5 (1) The certificate of deposit must be issued by a
6 bank, savings bank, or savings association that is
7 organized under the laws of the United States, of this
8 State, or of any other state and that has a principal
9 office or branch office in this State that is authorized to
10 receive deposits in this State.

11 (2) The certificate of deposit must be
12 interest-bearing and may not be issued in discounted form.

13 (3) The certificate of deposit must be issued for a
14 period of not less than one year.

15 (4) The issuing bank, savings bank, or savings
16 association must agree to the terms and conditions of the
17 Director regarding the rights to the certificate of deposit
18 and must have executed a written certificate of deposit
19 agreement with the Director. The terms and conditions of
20 the agreement shall include, but need not be limited to:

21 (A) Exclusive authorized signature authority for
22 the chief financial officer.

23 (B) An agreement to pay, without protest, the
24 proceeds of its certificate of deposit to the Director
25 within 30 business days after presentation.

26 (C) A prohibition against levies, setoffs,

1 survivorship, or other conditions that might hinder
2 the Director's ability to recover the full face value
3 of a certificate of deposit.

4 (D) Instructions regarding interest payments,
5 renewals, taxpayer identification, and early
6 withdrawal penalties.

7 (E) An agreement to be subject to the jurisdiction
8 of the courts of this State, or those of the United
9 States that are located in this State, for the purposes
10 of any litigation arising out of this Section.

11 (F) Such other conditions as the Director
12 requires.

13 (e) The Director may refuse to accept certain securities or
14 refuse to accept the reported market value of certain
15 securities offered pursuant to this Section in order to ensure
16 that sufficient cash and securities are on hand to meet the
17 purposes of the deposit. In making a refusal under this
18 subsection (e), the guidelines for use of the Director may
19 include, but need not be limited to, whether the market value
20 of the securities cannot be readily ascertained and the lack of
21 liquidity of the securities. Securities refused under this
22 subsection (e) are not acceptable as deposits.

23 (f) All deposits required of a domestic insurer pursuant to
24 the laws of another state, province, or country must be
25 comprised of securities of the kinds required under subsection
26 (b), having the characteristics required under subsections (c)

1 and (d), and permitted by the laws of the other state,
2 province, or country, except common stocks, mortgages or loans
3 of any kind, real estate investment trust funds or programs,
4 commercial paper, and letters of credit.

5 (Source: P.A. 92-75, eff. 7-12-01.)".