

TITLE 41  
INSURANCE

CHAPTER 7  
INVESTMENTS

41-701. INVESTMENTS. (1) Funds of a domestic insurer shall be invested, reinvested and used in the manner and subject to the conditions, restrictions and limitations set forth in this chapter.

(2) Investments of a foreign or alien insurer which would be authorized for a like domestic insurer shall be allowed as assets in any determination of its financial condition. Other investments of a foreign or alien insurer which are authorized by the laws of its domicile may be so allowed at the discretion of the director.

(3) The director may adopt rules establishing standards and limitations for investments by insurers that are not otherwise specifically permitted or prohibited in this chapter. In the absence of a rule prohibiting such, all assets shall be valued according to rules promulgated by the national association of insurance commissioners (NAIC), NAIC's valuation of securities office or by NAIC's financial condition subcommittee.

[41-701, added 1961, ch. 330, sec. 138, p. 645; am. 1994, ch. 240, sec. 5, p. 755.]

41-702. ELIGIBLE INVESTMENTS. (1) Insurers shall invest in or lend their funds on the security of, and shall hold as invested assets, only cash and eligible investments as prescribed in this chapter.

(2) Any particular investment held by an insurer on the effective date of this code, and which was a legal investment at the time it was made, and which the insurer was legally entitled to possess immediately prior to such effective date, shall be deemed to be an eligible investment.

(3) Eligibility of an investment shall be determined as of the date of its making or acquisition, except as stated in subsection (2) above.

(4) Any investment limitation based upon the amount of the insurer's assets or particular funds shall relate to such assets or funds as shown by the insurer's annual statement as of the December 31 next preceding date of making or acquisition of the investment by the insurer, or as shown by a current financial statement.

[41-702, added 1961, ch. 330, sec. 139, p. 645.]

41-703. GENERAL QUALIFICATIONS. (1) No security or investment (other than real and personal property acquired under section 41-728, Idaho Code, real property owned) shall be eligible for acquisition unless it is interest bearing or interest accruing or by its character entitled to receive dividends or income when declared or paid, including discounted and zero interest certificates of accrual on public and corporate obligations, is not then in default in any respect, and the insurer is entitled to receive for its exclusive account and benefit the interest or income accruing thereon.

(2) No security or investment shall be eligible for purchase at a price above its market value.

(3) No provision of this chapter shall prohibit the acquisition by an insurer of other or additional securities or property if received as a dividend or as a lawful distribution of assets, or under a lawful and bona fide agreement of bulk reinsurance, merger, or consolidation. Any investment so

acquired which is not otherwise eligible under this chapter shall be disposed of pursuant to section 41-730, Idaho Code, if personal property or securities, or pursuant to section 41-729, Idaho Code, if real property.

[41-703, added 1961, ch. 330, sec. 140, p. 645; am. 1969, ch. 214, sec. 16, p. 625; am. 1985, ch. 231, sec. 1, p. 551.]

41-704. AUTHORIZATION OF INVESTMENTS. An insurer shall not make, sell, or exchange any investment or loan, except as to the policy loans or annuity contract loans of a life insurer, unless the same is authorized or approved by its board of directors or by a committee charged by the board of directors or the by-laws with the duty of making such investment, loan, sale or exchange. The minutes of any such committee shall be recorded and reports thereof shall be submitted to the board of directors for approval or disapproval.

[41-704, added 1961, ch. 330, sec. 141, p. 645.]

41-705. RECORD OF INVESTMENTS. (1) The insurer shall make a written record in permanent form showing the authorization as to each investment or loan of its funds, which record shall be signed by an officer of the insurer or by the chairman of the committee authorizing or approving the investment or loan.

(2) As to each such investment or loan the insurer's record shall contain:

(a) In the case of loans: The name of the borrower; the location of the property; a physical description, and the appraised value of the security; the amount of the loan, rate of interest and terms of repayment.

(b) In the case of securities: The name of the obligor; a description of the security; the amount invested, the rate of interest or dividend, the maturity and yield based upon the purchase price.

(c) In the case of real estate: The location and legal description of the property; a physical description and the appraised value; the purchase price and terms.

(d) In the case of all investments:

(i) The amount of expenses and commissions if any incurred on account of any investment or loan and by whom and to whom payable if not covered by contracts with mortgage loan representatives or correspondents which are part of the insurer's records.

(ii) The name of any officer or director of the insurer having any direct, indirect, or contingent interest in the securities or loan representing the investment, or in the assets of the person in whose behalf the investment or loan is made, and the nature of such interest.

[41-705, added 1961, ch. 330, sec. 142, p. 645; am. 1983, ch. 189, sec. 1, p. 510.]

41-706. DIVERSIFICATION OF INVESTMENTS. An insurer shall invest in or hold as assets categories of investments within applicable limits as follows only:

(1) One (1) person. An insurer shall not, except with the consent of the director, have at any one (1) time any combination of investments in or loans upon the security of the obligations, property, or securities of any one (1) person, institution, corporation, or municipal corporation, aggregating an amount exceeding ten percent (10%) of the insurer's assets. This restric-

tion shall not apply as to investments or deposits fully insured by the federal deposit insurance corporation or to general obligations of the United States of America or of any state or include policy or annuity contract loans made under section 41-718, Idaho Code, or to assets subject to section 41-715 or 41-3803, Idaho Code, or to any one (1) domestic reciprocal insurer which exclusively insures members who are political subdivisions, as defined by section 6-902 2., Idaho Code, provided that all such investments comply with the public depository laws.

(2) Voting stock. An insurer shall not invest in or hold at any one (1) time more than ten percent (10%) of the outstanding voting stock of any corporation, except with the consent of the director given with respect to voting rights of preference stock during default of dividends. This provision does not apply as to stock of subsidiaries of the insurer or a companion company or companies under substantially the same management at the time of purchase, as referred to in section 41-715 or 41-3803, Idaho Code.

(3) Minimum capital. An insurer (other than title insurer) shall invest and maintain invested funds not less in amount than the minimum paid-in capital stock required under this code of a domestic stock insurer transacting like kinds of insurance, only in cash and the securities provided for under the following sections of this chapter: section 41-707, Idaho Code, (public obligations), and section 41-721, Idaho Code, (real estate mortgages and contracts).

(4) Life insurance reserves. A life insurer shall also invest and keep invested its funds in an amount not less than the reserves under its life insurance policies and annuity contracts in force, as prescribed by section 41-612, Idaho Code, in cash and/or the securities or investments allowed under this chapter, other than in common stocks, insurance stocks and stocks of subsidiaries of the insurer.

(5) Other specific limits. Limits as to investments in the category of real estate shall be as provided in section 41-728, Idaho Code; and other specific limits shall apply as stated in the sections dealing with other respective kinds of investments.

[41-706, added 1961, ch. 330, sec. 143, p. 645; am. 1971, ch. 122, sec. 4, p. 408; am. 1974, ch. 91, sec. 1, p. 1187; am. 1978, ch. 89, sec. 1, p. 165; am. 1983, ch. 189, sec. 2, p. 511; am. 1993, ch. 194, sec. 7, p. 500; am. 1996, ch. 245, sec. 1, p. 776; am. 2013, ch. 266, sec. 3, p. 679.]

41-707. PUBLIC OBLIGATIONS. An insurer may invest any of its funds in bonds or other evidences of debt, not in default as to principal or interest, which are valid and legally authorized obligations issued, assumed or guaranteed by the United States or by any state thereof or by any territory or possession of the United States or by the District of Columbia, or of the government of Canada or any provinces thereof, or by any county, city, town, village, municipality or district therein or by any political subdivision thereof or by any civil division or public instrumentality of one or more of the foregoing, if, by statutory or other legal requirements applicable thereto, such obligations are payable, as to both principal and interest, (1) from taxes levied or required to be levied upon all taxable property or all taxable income within the jurisdiction of such governmental unit or, (2) from adequate special revenues pledged or otherwise appropriated or by law required to be provided for the purpose of such payment, but not including any obligation payable solely out of special assessments on properties benefited by local improvements unless adequate security is evidenced by the

ratio of assessment to the value of the property or the obligation is additionally secured by an adequate guaranty fund required by law.

[41-707, added 1961, ch. 330, sec. 144, p. 645; am. 1969, ch. 214, sec. 17, p. 625.]

41-708. OBLIGATIONS AND STOCK OF CERTAIN FEDERAL AGENCIES. An insurer may invest in the obligations, and/or stock where stated, of the following agencies of the government of the United States of America, whether or not such obligations are guaranteed by such government:

- (1) Commodity credit corporation.
- (2) Federal intermediate credit banks.
- (3) Federal land banks.
- (4) Central bank for cooperatives.
- (5) Federal home loan banks, and stock thereof.
- (6) Federal national mortgage association, and stock thereof when acquired in connection with sale of mortgage loans to such association.
- (7) Any other similar agency of the government of the United States of America and of similar financial quality.

[41-708, added 1961, ch. 330, sec. 145, p. 645.]

41-709. IRRIGATION DISTRICT BONDS. An insurer may invest in the legally issued bonds, not delinquent as to principal or interest, of any solvent irrigation district created as provided by law in this state, or in any other state, whose water rights shall have been legally acquired and finally determined, and shall be fully adequate to supply sufficient water to properly irrigate all the land within such district, and which shall be adequately irrigating not less than thirty per cent (30%) of the lands within such irrigation district.

[41-709, added 1961, ch. 330, sec. 146, p. 645.]

41-710. INTERNATIONAL BANK. An insurer may invest in obligations issued, assumed or guaranteed by the International Bank for Reconstruction and Development or the African Development Bank.

[41-710, added 1961, ch. 330, sec. 147, p. 645; am. 1988, ch. 240, sec. 1, p. 469.]

41-711. CORPORATE OBLIGATIONS. An insurer may invest any of its funds in obligations other than those eligible for investment under section 41-721, Idaho Code, (mortgage loans and contracts), if they are issued, assumed, or guaranteed by any solvent institution created or existing under the laws of the United States or of any state, district or territory thereof, or of the government of Canada or any province thereof, and if said institution is not in default as to principal or interest on any of its obligations.

[41-711, added 1961, ch. 330, sec. 148, p. 645; am. 1969, ch. 214, sec. 18, p. 625; am. 1978, ch. 142, sec. 1, p. 322; am. 1983, ch. 189, sec. 3, p. 511.]

41-712. CERTAIN TERMS DEFINED. (1) Certain terms used are defined for the purposes of this chapter as follows:

(a) "Obligation" includes bonds, debentures, notes or other evidences of indebtedness.

(b) "Institution" includes corporations, joint-stock associations, and business trusts.

[41-712, added 1961, ch. 330, sec. 149, p. 645; am. 1969, ch. 214, sec. 19, p. 625.]

41-713. PREFERRED STOCKS -- DIVERSIFICATION. An insurer may invest any of its funds, in an aggregate amount not exceeding fifteen percent (15%) of its assets in preferred stocks or shares, other than common stocks, of solvent institutions existing under the laws of the United States or of any state, district, or territory thereof, or of the government of Canada or any province thereof, if all of the prior obligations and prior preferred stocks, if any, of such institution at the date of acquisition by the insurer are not then in default as to principal, interest or dividends.

[41-713, added 1961, ch. 330, sec. 150, p. 645; am. 1969, ch. 214, sec. 20, p. 625; am. 1983, ch. 189, sec. 4, p. 512; am. 2006, ch. 27, sec. 1, p. 86.]

41-714. COMMON STOCKS. After satisfying the requirements of section 41-706(3) and (4), Idaho Code, (investment of capital and life reserves), an insurer may invest funds in an aggregate amount not in excess of fifteen percent (15%) of its assets in common shares of stock of any solvent institution existing under the laws of the United States or of any state, district or territory thereof, or of the government of Canada or any province thereof, that qualify as a sound investment, in addition to the shares of a substantially owned or wholly owned subsidiary corporation.

For the purpose of determining the investment limitation imposed by this section, the insurer shall value securities subject to the provisions of this section at the cost of the security or at the market value of the security, whichever is lower. However, investments in the shares of subsidiaries or companion insurance companies shall be governed by sections 41-715 and 41-3803, Idaho Code.

The limitations as to investment in common stocks as provided herein shall not apply to nor limit the right of investments in investment trust securities as provided for in section 41-716, Idaho Code.

[41-714, added 1961, ch. 330, sec. 151, p. 645; am. 1969, ch. 214, sec. 21, p. 625; am. 1971, ch. 122, sec. 5, p. 408; am. 1993, ch. 194, sec. 8, p. 501; am. 2003, ch. 219, sec. 2, p. 568; am. 2006, ch. 27, sec. 2, p. 86; am. 2013, ch. 266, sec. 4, p. 680.]

41-715. INSURANCE STOCKS. (1) An insurer may invest in subsidiary and/or companion insurance companies not to exceed fifteen percent (15%) of assets. For the purpose of calculating this fifteen percent (15%) limitation, all investments made under this section and section 41-3803, Idaho Code, must be valued at market value of the security if actively traded, or at cost if not actively traded.

(2) The limitations on investments in insurance stocks set forth in this section shall not apply to stocks acquired under a plan for merger of the insurers which has been approved by the director or as to shares received as stock dividends upon shares already owned.

(3) Shares acquired and held under this section shall not, for the purposes of the limitations provided under section 41-714, Idaho Code, be included among other common stocks held by the insurer.

[41-715, added 1961, ch. 330, sec. 152, p. 645; am. 1969, ch. 214, sec. 22, p. 625; am. 1983, ch. 189, sec. 5, p. 512; am. 1993, ch. 194, sec. 9, p. 501; am. 2013, ch. 266, sec. 5, p. 680.]

41-716. INVESTMENT TRUST SECURITIES. (1) An insurer may invest in the securities of any open-end management type investment company or investment trust registered with the federal securities and exchange commission under the investment company act of 1940 as from time to time amended, if such investment company or trust has been organized for not less than three (3) years and has assets of not less than twenty-five million dollars (\$25,000,000) as at the date of investment by the insurer. The aggregate amount invested under this section shall not exceed twenty-five percent (25%) of the insurer's assets with limitations of five percent (5%) of the insurer's assets in any one (1) fund and ten percent (10%) of the insurer's assets in any one (1) fund family.

(2) For the purpose of determining the investment limitation imposed by this section, the insurer shall value securities subject to the provisions of this section at the cost of the security or at the market value of the security, whichever is lower.

[41-716, added 1961, ch. 330, sec. 153, p. 645; am. 1983, ch. 189, sec. 6, p. 513; am. 1997, ch. 226, sec. 1, p. 664; am. 2003, ch. 219, sec. 3, p. 569; am. 2014, ch. 97, sec. 26, p. 288.]

41-717. EQUIPMENT TRUST OBLIGATIONS. An insurer may invest any of its funds, in an aggregate amount not exceeding ten per cent (10%) of its assets, in equipment trust obligations or certificates which are adequately secured or in other adequately secured instruments evidencing an interest in transportation equipment wholly or in part within the United States and the right to receive determined portions of rental, purchase or other fixed obligatory payments for the use or purchase of such transportation equipment.

[41-717, added 1961, ch. 330, sec. 154, p. 645.]

41-718. POLICY LOANS. A life insurer may lend to its policy holder upon pledge of the policy as collateral security, any sum not exceeding the cash surrender value of the policy; or may lend against pledge or assignment of any of its supplementary contracts or other contracts or obligations, so long as the loan is adequately secured by such pledge or assignment. Loans so made are eligible investments of the insurer.

[41-718, added 1961, ch. 330, sec. 155, p. 645.]

41-719. COLLATERAL LOANS. An insurer may lend and thereby invest its funds upon the pledge of securities eligible for investment under this chapter. As at date made, no such loan shall exceed in amount ninety per cent (90%) of the market value of such collateral pledged. The amount so loaned shall be included pro rata in determining the maximum percentage of funds permitted under this chapter to be invested in the respective categories of securities so pledged.

[41-719, added 1961, ch. 330, sec. 156, p. 645.]

41-720. SAVINGS AND SHARE ACCOUNTS. An insurer may invest or deposit any of its funds in time certificates or share or savings accounts of banks, savings and loan associations and credit unions; provided, however, that funds may be deposited in any one (1) such savings and loan association or credit union only to the extent that such an account is insured by either the federal savings and loan insurance corporation or the national credit union insurance fund.

[41-720, added 1961, ch. 330, sec. 157, p. 645; am. 1971, ch. 122, sec. 6, p. 408; am. 1982, ch. 212, sec. 1, p. 586.]

41-721. MORTGAGE LOANS AND CONTRACTS. An insurer may invest any of its funds in:

(1) Bonds or evidences of debt which are secured by first mortgages or deeds of trust on improved unencumbered real property located in the United States.

(2) Purchase money mortgages or like securities received by it upon the sale or exchange of real property acquired pursuant to section 41-728, Idaho Code.

(3) Bonds or notes secured by mortgage or trust deed guaranteed or insured by the federal housing administration under the terms of an act of congress of the United States for June twenty-seventh, nineteen hundred thirty-four, entitled the "National Housing Act," as amended.

(4) Bonds or notes secured by mortgage or trust deed guaranteed or insured as to principal in whole or in part by the administrator of veterans affairs pursuant to the provisions of title III of an act of congress of the United States of June twenty-second, nineteen hundred forty-four, entitled the "Servicemen's Readjustment Act of 1944," as amended, or by any other similar agency of the government of the United States.

(5) Evidences of debt secured by first mortgages or deeds of trust upon leasehold estates, running for a term of not less than fifteen (15) years beyond the maturity of the loan as made or as extended, in improved real property, otherwise unencumbered, and if the mortgagee is entitled to be subrogated to all the rights under the leasehold.

(6) Bonds or notes secured by mortgage and insured by mortgage guarantee insurance as provided by chapter 26A, title 41, Idaho Code.

(7) Participation interests in any bond, note or evidence of indebtedness if the entire indebtedness would qualify as an investment under subsections (1) through (6) of this section, and:

(a) Such participation is senior and gives the holder substantially the rights of a first mortgagee; or

(b) Such participation is of equal priority, to the extent of such interest, with other interests therein.

[41-721, added 1961, ch. 330, sec. 158, p. 645; am. 1969, ch. 214, sec. 23, p. 625; am. 1974, ch. 91, sec. 2, p. 1187; am. 2003, ch. 163, sec. 1, p. 459; am. 2006, ch. 26, sec. 1, p. 84.]

41-722. MORTGAGE LOAN LIMITED BY PROPERTY VALUE. (1) No commercial or residential mortgage loan or investment therein upon any one (1) parcel of real property shall exceed in amount, at the time of acquisition, eighty percent (80%) of the fair value of the property and the loan is required to be amortized within not more than thirty (30) years by payment of installments of principal and interest thereon at regular intervals not less frequent than every year.

(2) The extent to which a mortgage loan made under subsection (3) or (4) of section 41-721, Idaho Code, is guaranteed by the administrator of veterans affairs may be deducted before application of the limitations contained in subsection (1) of this section.

[41-722, added 1961, ch. 330, sec. 159, p. 645; am. 1969, ch. 214, sec. 24, p. 625; am. 2002, ch. 364, sec. 1, p. 1028; am. 2006, ch. 26, sec. 2, p. 85.]

41-723. APPRAISAL -- LIMIT OF AMOUNT LOANED. (1) The fair value of property shall be determined by appraisal by a competent independent appraiser at the time of the making or acquisition of a mortgage loan or investing in a contract for the deed thereon; except, that as to bonds or notes secured by mortgage or trust deed guaranteed or insured by the federal housing administration, or guaranteed or insured as to principal in full or in part by the administrator of veterans affairs, or guaranteed or insured by the farmers home administration, the valuation made by such administration or administrator shall be deemed to have been made by a competent appraiser for the purposes of this subsection.

(2) An insurer shall not make or acquire a loan or loans upon the security of any one (1) parcel of real property in aggregate amount in excess of ten thousand dollars (\$10,000) or more than the amount permissible under section 41-706(1), Idaho Code, (investment in securities, etc., of any one person), whichever is the greater.

[41-723, added 1961, ch. 330, sec. 160, p. 645; am. 2003, ch. 219, sec. 4, p. 569.]

41-724. "IMPROVED REAL PROPERTY" DEFINED. For the purpose of section 41-724 [41-721], Idaho Code, "improved real property" means:

(1) Farmland used for tillage, crop or pasture;

(2) Real estate on which improvements, or improvements under construction or in process of construction, suitable for residence, institutional, commercial or industrial use, are situated; and

(3) Real estate to be developed for the use or uses set forth in subsection (2) of this section on which durable structural improvements, or durable structural improvements under construction or in process of construction, including but not limited to streets, sidewalks, sewers, and utilities which will become an integral part of such development, are situated or abut.

[I.C., sec. 41-724, as added by 1974, ch. 91, sec. 4, p. 1187.]

41-725. "ENCUMBRANCE" DEFINED. (1) Real property shall not be deemed to be encumbered within the meaning of section 41-721 by reason of the existence of instruments reserving mineral, oil, timber or similar rights, rights of way, sewer rights, rights in walls, nor by reason of any liens for taxes or assessments not yet due, or on account of liens not delinquent for community recreational facilities, or for the maintenance of community facilities, nor by reason of building restrictions or other restrictive covenants common to the community in which the property is located, nor by liens for service and maintenance of water rights where not delinquent, nor when such real property is subject to lease under which rents or profits are reserved to the owner if in any event the security for the loan or investment is a first lien upon the real property.

(2) If under any of the exceptions set forth in subsection (1) of this section there is any sum owing but not due or delinquent, the total amount of such sum shall be deducted from the amount which otherwise might be loaned on the property. The value of any mineral, oil, timber or similar right reserved shall not be included in the fair value of the property.

[41-725, added 1961, ch. 330, sec. 162, p. 645.]

41-726. SPECIAL INVESTMENTS BY TITLE INSURER. (1) In addition to other investments eligible under this chapter, a title insurer may invest in its



abstract plant and equipment, and in loans secured by mortgages on abstract plants and equipment, which plant investment shall not exceed fifty per cent (50%) of its paid-in capital stock and paid-in surplus unless a greater amount is approved in advance by the director. Except with the director's consent, the insurer shall not invest or have invested in stocks of subsidiaries and other corporate stocks an amount in excess of the insurer's surplus funds exclusive of its paid-in capital stock.

(2) In any determination of the insurer's financial condition no investment in abstract plant and equipment, or in loans secured by mortgages thereon, shall be valued at an amount in excess of the lesser of (a) the cost thereof to the insurer, or (b) the fair market value.

(3) No investment as determined in subparagraph (2) above shall be credited against the insurer's unearned premium or loss reserves required under section 41-611, Idaho Code.

[41-726, added 1961, ch. 330, sec. 164, p. 645; am. 1972, ch. 138, sec. 1, p. 305.]

41-727. FOREIGN SECURITIES. (1) Notwithstanding the definitions in chapter 1, title 41, Idaho Code, for purposes of this section, the following definitions shall apply:

(a) "Business entity" means a sole proprietorship, corporation, limited liability company, association, partnership, joint stock company, joint venture, mutual fund, trust, joint tenancy or other similar form of business organization, whether organized for-profit or not-for-profit.

(b) "Domestic jurisdiction" means the United States, Canada, and a state or political subdivision of the United States or Canada.

(c) "Foreign currency" means a currency other than that of the United States or Canada.

(d) "Foreign investment" means an investment in a foreign jurisdiction or in an asset domiciled in a foreign jurisdiction. An investment shall not be deemed to be foreign if the issuing business entity, qualified primary credit source or qualified guarantor is a domestic jurisdiction or a business entity domiciled in a domestic jurisdiction, unless:

- (i) The issuing business entity is a shell business entity; and
- (ii) The investment is not assumed, accepted, guaranteed or insured or otherwise backed by a domestic jurisdiction or a business entity that is not a shell business entity domiciled in a domestic jurisdiction.

(e) "Foreign jurisdiction" means a jurisdiction outside of the United States or Canada.

(f) "Qualified guarantor" means a guarantor against which an insurer has a direct claim for full and timely payment evidenced by a contractual right for which an enforcement action can be brought in a domestic jurisdiction.

(g) "Qualified primary credit source" means the credit source to which an insurer looks for payment as to an investment and against which an insurer has a direct claim for full and timely payment evidenced by a contractual right for which an enforcement action can be brought in a domestic jurisdiction.

(h) "Shell business entity" means a business entity having no economic substance except as a vehicle for owning interests in assets issued,

owned or previously owned by a business entity domiciled in a foreign jurisdiction.

(i) "SVO" means the securities valuation office of the national association of insurance commissioners or any successor office established by the national association of insurance commissioners.

(2) Any insurance company organized under any law of this state may invest, by loans or otherwise, any of its funds, or any part thereof, in foreign investments of the same types as those that an insurer is permitted to acquire under sections 41-707, 41-708, 41-711, 41-713, 41-714, 41-716 and 41-721(1), Idaho Code, if:

(a) The aggregate amount of foreign investments then held by the insurer does not exceed fifteen percent (15%) of its admitted assets; and

(b) The aggregate amount of foreign investments then held by the insurer in a single foreign jurisdiction does not exceed ten percent (10%) of its admitted assets for jurisdictions that have a sovereign debt rating of SVO 1, or three percent (3%) of its admitted assets for all other jurisdictions.

(3) Any insurance company organized under any law of this state may invest, by loans or otherwise, any of its funds, or any part thereof, in investments of the same types as those that an insurer is permitted to acquire under sections 41-707, 41-708, 41-711, 41-713, 41-714, 41-716 and 41-721(1), Idaho Code, which are denominated in foreign currencies, whether or not they are foreign investments acquired under subsection (2) of this section, if:

(a) The aggregate amount of investments then held by the insurer denominated in foreign currencies does not exceed ten percent (10%) of its admitted assets; and

(b) The aggregate amount of investments then held by the insurer denominated in the foreign currency of a single foreign jurisdiction does not exceed five percent (5%) of its admitted assets for jurisdictions that have a sovereign debt rating of SVO 1, or three percent (3%) of its admitted assets for all other jurisdictions.

(4) The investment limitations in subsections (2) and (3) of this section computed on the basis of an insurer's admitted assets shall relate to the amount as shown on the insurer's last annual report as filed with the commissioner of insurance or a more recent quarterly financial statement as filed with the commissioner, on a form prescribed by the national association of insurance commissioners, within forty-five (45) days following the end of the calendar quarter to which the interim statement pertains.

(5) Investments acquired under this section shall be aggregated with investments of the same types made under sections 41-707, 41-708, 41-711, 41-713, 41-714, 41-716 and 41-721(1), Idaho Code, and in a similar manner, for purposes of determining compliance with the limits, if any, contained in this chapter.

[41-727, added 2006, ch. 27, sec. 4, p. 87.]

41-728. REAL ESTATE. (1) An insurer may acquire, invest in, own, maintain, alter, furnish, improve, manage, lease and convey the following real estate only:

(a) Land and buildings used for home office purposes, together with such other real estate as is required for its accommodation in the convenient transaction of its business.

(b) Real estate acquired in satisfaction in full or in part of or through foreclosure of or judgment obtained upon, loans, mortgages,

liens or other evidences of indebtedness previously owing to the insurer in the regular course of its business.

(c) Real estate acquired in part payment of the consideration in the sale of other real estate owned by the insurer.

(d) Real estate acquired by gift or devise.

(e) Real estate acquired through a lawful merger or consolidation of another insurer and not required for its accommodation as provided in paragraph (a) of this subsection.

(f) Real estate for the production of income, under lease, or being constructed under a definite agreement providing for lease, to solvent institutions for commercial or industrial purposes, other than primarily for agricultural, horticultural, ranch, mining, mineral, oil, recreational, amusement, club, motel, or hotel purposes.

(g) Real estate subject to a plan of development other than primarily for agricultural, horticultural, ranch, mining, mineral, oil, recreational, amusement, club, motel, or hotel purposes as limited by subsection (2) (c) of this section.

(2) The aggregate amount so invested by the insurer shall not exceed:

(a) If for home office and its other purposes pursuant to subsection (1) (a) of this section, ten percent (10%) of the insurer's assets, subject to the right of the director to approve an additional amount after hearing and for good cause shown.

(b) If for income purposes pursuant to subsection (1) (f) of this section, ten percent (10%) of the insurer's admitted assets.

(c) If for properties subject to a plan of development pursuant to subsection (1) (g) of this section, not more than five percent (5%) of its admitted assets of which not more than two percent (2%) of its admitted assets may be in any one (1) parcel or group of contiguous parcels. The director may disapprove the property as an admitted asset if the plan of development is not being pursued in good faith. Factors for review may include, but are not limited to, progress with regard to zoning, roads, utilities, plats and completed development by the insurer of properties.

(d) In all categories and for all purposes, not to exceed twenty percent (20%) of the insurer's assets.

(3) An insurer may lease to others part of real property otherwise occupied by it for home office and other purposes under subsection (1) (a) of this section, but the value of the entire property must be included for the purposes of the limitation upon aggregate real estate investments provided in subsection (2) (a) of this section.

[41-728, added 1961, ch. 330, sec. 165, p. 645; am. 2001, ch. 174, sec. 1, p. 594; am. 2002, ch. 364, sec. 2, p. 1028; am. 2009, ch. 49, sec. 1, p. 129.]

41-729. TIME LIMIT FOR DISPOSAL OF REAL ESTATE. (1) Except as provided in subsection (4) below, an insurer shall dispose of real estate within time limits as follows:

(a) If acquired under section 41-728(1) (a) (home office and branch office property), the insurer shall sell and dispose of the property within five (5) years after it ceased to be used or to be necessary for the purposes stated therein.

(b) If acquired under subdivisions (b) (in satisfaction of debts, etc.), (c) (in part payment on other real estate sold), (d) (by gift or

devise), or (e) (merger or consolidation) of section 41-728(1), the insurer shall sell and dispose of the property within five (5) years after the insurer acquired title thereto.

(c) If acquired under section 41-728(1) (f) (for production of income), the insurer shall within five (5) years after the termination or expiration of the lease, sell and dispose of the property, or re-lease the property for an additional term under the same conditions provided in such section as for an original leasing.

(2) Any real estate otherwise subject to disposal under subdivisions (b) or (c) above, may be retained by the insurer for home office or branch office purposes for so long as so used, and subject to provisions otherwise applicable to such home office and branch office property.

(3) Any real property otherwise subject to disposal under subdivisions (a) and (b) above, may be retained by the insurer for leasing under section 41-728(1) (f) for so long as so used, and subject to provisions otherwise applicable to such real estate for leasing.

(4) Upon proof satisfactory to him that the interests of the insurer will suffer materially by the forced sale thereof, the commissioner may by certificate grant a reasonable additional period, as specified in the certificate, within which the insurer shall dispose of any particular parcel of real estate.

(5) Real estate held by an insurer beyond the period allowed for its disposal under this section shall not constitute an asset of the insurer in any determination of the insurer's financial condition.

[41-729, added 1961, ch. 330, sec. 166, p. 645.]

41-730. DISPOSAL OF INELIGIBLE PROPERTY AND SECURITIES. (1) Any personal property or securities lawfully acquired by an insurer which it could not otherwise have invested in or loaned its funds upon at the time of such acquisition, shall be disposed of by the insurer within one (1) year from date of acquisition, unless within such period the security has attained to the standard for eligibility. The director, upon application and proof that forced sale of any such property or security would be against the best interests of the insurer, may extend the disposal period for an additional reasonable time.

(2) While any such property or security remains so ineligible it shall not be allowed as an asset of the insurer.

(3) Any ineligible property or security unlawfully acquired by an insurer shall be disposed of forthwith, and for failure so to do within thirty (30) days after order of the director requiring such disposal, the director may suspend or revoke the insurer's certificate of authority.

(4) For the purposes of subsection (3) above, an investment otherwise eligible shall not be deemed ineligible for the reason that it is in excess of the amount permitted under this chapter to be invested in the category of investments to which it belongs; and any such excess investment shall be disposed of within the time prescribed in subsection (1) of this section.

[41-730, added 1961, ch. 330, sec. 167, p. 645.]

41-731. PROHIBITED INVESTMENTS AND INVESTMENT UNDERWRITING. (1) In addition to investments excluded under other provisions of this code, an insurer shall not directly or indirectly invest in or loan its funds upon the security of:

(a) Issued shares of its own capital stock, except for the purpose of mutualization under section 41-2854, Idaho Code, or in connection with a plan approved by the director for purchase of such shares by the insurer's officers, employees, or agents, or for other reasonable purposes under a plan filed with and approved by the director. No such stock shall, however, constitute an asset of the insurer in any determination of its financial condition.

(b) Except with the director's consent, any security issued by any corporation or enterprise the controlling interest of which is, or will after such acquisition by the insurer be, held directly or indirectly by the insurer or any combination of the insurer and the insurer's directors, officers, parent corporation, subsidiaries, controlling stockholders, and the spouses and children of any of the foregoing individuals. Investments in subsidiaries under sections 41-706(2), 41-715 and 41-3803, Idaho Code, shall not be subject to this provision.

(c) Any note or other evidence of indebtedness of any director, officer, or controlling stockholder of the insurer, or the spouse or child of any of the foregoing individuals, except as to policy loans authorized under section 41-718, Idaho Code.

(d) Any investment or security which is found by the director to be designed to evade any prohibition of this chapter.

(2) No insurer shall underwrite or participate in the underwriting of an offering of securities or property by any other person.

[41-731, added 1961, ch. 330, sec. 168, p. 645; am. 1969, ch. 214, sec. 25, p. 625; am. 1971, ch. 122, sec. 7, p. 408; am. 1993, ch. 194, sec. 10, p. 501; am. 2013, ch. 266, sec. 6, p. 680.]

41-732. DOMESTIC RECIPROCAL INSURER. Notwithstanding the provisions of chapter 1, title 57, Idaho Code, and section 67-2328, Idaho Code, funds of a domestic reciprocal insurer which is comprised of and exclusively insures members who are political subdivisions of the state, as defined in section 6-902(2), Idaho Code, and which exclusively insures against risk pertaining to property and casualty claims, shall be invested, reinvested and used in the manner and subject to the conditions, restrictions and limitations set forth in this chapter.

[41-732, added 2008, ch. 399, sec. 1, p. 1089.]

41-733. SUBSIDIARY INVESTMENTS. An insurer may invest in subsidiaries in accordance with section 41-3803, Idaho Code.

[I.C., sec. 41-733, as added by 1969, ch. 214, sec. 26, p. 625; am. 1971, ch. 122, sec. 8, p. 408; am. 1974, ch. 91, sec. 5, p. 1187; am. 1983, ch. 189, sec. 7, p. 513; am. 1993, ch. 194, sec. 11, p. 502; am. 2013, ch. 266, sec. 7, p. 681.]

41-734. SEPARATE ACCOUNT FUNDS. (1) The amounts allocated to each separate account established by the insurer pursuant to any provision of the Idaho Insurance Code (separate accounts), together with accumulations thereon may be invested and reinvested in any class of investments which may be authorized in the written contract or agreement without regard to any requirements or limitations prescribed by this chapter. The investments in such separate account or accounts shall not be taken into account in applying the investment limitations applicable to other investments of the insurer.

(2) Except with the approval of the director and under such conditions as to investments and other matters as he may prescribe, which shall recognize the guaranteed nature of the benefits provided, reserves for (a) benefits guaranteed as to dollar amount and duration and (b) funds guaranteed as to principal amount or stated rate of interest shall not be maintained in a separate account.

[I.C., sec. 41-734, as added by 1969, ch. 214, sec. 27, p. 625; am. 1971, ch. 272, sec. 1, p. 1078.]

41-735. MISCELLANEOUS INVESTMENTS. (1) An insurer may loan or invest its funds in an aggregate amount not exceeding the lesser of the following sums: five per cent (5%) of its assets, or fifty per cent (50%) of its surplus over its capital and other liabilities, or if a mutual or reciprocal insurer fifty per cent (50%) of its surplus over minimum required surplus, in kinds of loans or investments not otherwise specifically made eligible for investment and not specifically prohibited or made ineligible by this or other provisions of the Idaho Code.

(2) The insurer shall keep a separate record of all investments acquired under this section.

[I.C., sec. 41-735, as added by 1975, ch. 207, sec. 2, p. 575; am. 1983, ch. 189, sec. 8, p. 514.]

41-736. PERMITTED INVESTMENTS. Subject to other limitation in chapter 7, title 41, Idaho Code, an insurer shall not invest or have invested at any one time more than sixty-five percent (65%) of its assets in investments described in sections 41-721 and 41-728, Idaho Code. Any insurer which, on July 1, 2003, has in excess of sixty-five percent (65%) of its assets so invested shall not make any further such investments while the excess exists. The limitations prescribed in this section shall not apply to mortgage-backed securities rated one or two by the securities valuation office (SVO) of the national association of insurance commissioners or to mortgage-backed securities which qualify as provisionally exempt from filing with the SVO.

[41-736, added 2003, ch. 163, sec. 2, p. 460.]