



Sen. Ira I. Silverstein

Filed: 3/12/2013

09800SB1718sam001

LRB098 10029 RPM 42759 a

1 AMENDMENT TO SENATE BILL 1718

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

4 "Section 5. The Illinois Insurance Code is amended by
5 changing Section 26 as follows:

6 (215 ILCS 5/26) (from Ch. 73, par. 638)

7 (Section scheduled to be repealed on January 1, 2017)

8 Sec. 26. Deposit.

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

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

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

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

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

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

26 (4) Bonds and notes of any federal agency that are

1 guaranteed as to payment of principal and interest by the
2 United States.

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

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

17 (7) Certificates of deposit.

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

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

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

26 (3) The bond, note, or debt of the issuing country must

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

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

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

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

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

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

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

1 receive deposits in this State.

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

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

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

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

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

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

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

24 (E) An agreement to be subject to the jurisdiction
25 of the courts of this State, or those of the United
26 States that are located in this State, for the purposes

1 of any litigation arising out of this Section.

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

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

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

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