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HOUSE BILL NO. 143
INTRODUCED BY BARNETT
BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE AMOUNT OF ITS ASSETS AN INSURER MAY INVEST IN MORTGAGE LOANS; AND AMENDING SECTION 33-2-830, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-2-830, MCA, is amended to read:

"33-2-830. Real estate mortgages. (1) An insurer may invest ~~any of its funds~~ in bonds, notes, or other evidences of indebtedness ~~which that~~ are secured by first mortgages or deeds of trust upon improved real property located in the United States or Canada or ~~which that~~ are secured by first mortgages or deeds of trust upon leasehold estates having an unexpired term of not less than 21 years, inclusive of the term or terms ~~which that~~ may be provided by enforceable options of renewal, in improved real property located in the United States or Canada. In all cases, the security for the loan must be a first lien upon ~~such the~~ real property, and there ~~must~~ may not be any condition or right of reentry or forfeiture not insured against, under which, in the case of real property other than leaseholds, ~~such the~~ lien can be cut off or subordinated or otherwise disturbed or under which, in the case of leaseholds, the insurer is unable to continue the lease in force for the duration of the loan. ~~Nothing herein shall prohibit~~ in this section prohibits any an investment by reason of the existence of any prior lien for ground rents, taxes, assessments, or other similar charges not yet delinquent. This section ~~shall may~~ not be deemed considered to prohibit investment in mortgages or similar obligations when made under 33-2-828.

(2) "Improved real estate" means, for the purposes of this part, all farm lands used for tillage, crop, pasture, or timberlands and all real estate on which permanent improvements suitable for residential, institutional, commercial, or industrial use are situated.

(3) (a) ~~No such~~ A mortgage loan or loans made or acquired by an insurer on any one property ~~shall~~ may not, at the time of investment by the insurer, exceed the larger of the following amounts as applicable:

(i) 80% of the value of the real property or leasehold securing the ~~same, provided, however,~~ loan or loans, but if ~~said the~~ the real property or leasehold consists of one- or two-family residential property, 90%

1 of ~~said~~ the value;

2 (ii) the amount of any insurance or guaranty of ~~such the~~ the loan by the United States ~~of America~~ or
3 by any agency or instrumentality ~~thereof~~ of the United States; or

4 (iii) the ~~amounts~~ amount provided in subsection (3)(a)(i), plus the amount by which the excess of
5 ~~such the~~ the loan over ~~such that~~ that amount is insured or guaranteed by the United States ~~of America~~ or by any
6 agency or instrumentality ~~thereof~~ of the United States.

7 (b) In the case of a purchase money mortgage given to secure the purchase price of real estate sold
8 by the insurer, the amount ~~se~~ loaned or invested ~~shall~~ may not exceed the unpaid portion of the purchase
9 price.

10 (4) ~~No such A~~ A mortgage loan or loans ~~shall~~ may not be made or acquired by an insurer except after
11 an appraisal made by a qualified appraiser for the purpose of ~~such that~~ that investment.

12 (5) ~~No such A~~ A mortgage loan made or acquired by an insurer ~~which that~~ is a participation or a part
13 of a series or issue secured by the same mortgage or deed of trust ~~shall be~~ is not a lawful investment under
14 this section unless the entire series or issue ~~which that~~ is secured by the same mortgage or deed of trust
15 is held by ~~such the~~ the insurer or unless the insurer holds a senior participation in ~~such the~~ the mortgage or deed
16 of trust, giving ~~it~~ the insurer substantially the rights of a first mortgagee.

17 (6) ~~No A~~ A mortgage loan upon a leasehold ~~shall~~ may not be made or acquired pursuant to this
18 section unless the terms ~~thereof shall~~ of the loan provide for amortization payments to be made by the
19 borrower on the principal ~~thereof~~ at least once in each year in amounts sufficient completely to amortize
20 the loan within a period of four-fifths of the term of the leasehold, inclusive of the term ~~which that~~ may be
21 provided by an enforceable option of renewal, ~~which is~~ The term of the leasehold must be unexpired at
22 the time that the loan is made, ~~but in no event exceeding~~ and may not exceed 35 years.

23 (7) Except with the commissioner's consent, an insurer may not invest or have invested at any one
24 time more than 20% of its assets in mortgage loans."

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APPROVED BY COM ON
BUSINESS & LABOR

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