

INSURANCE CODE

TITLE 4. REGULATION OF SOLVENCY

SUBTITLE B. RESERVES AND INVESTMENTS

CHAPTER 425. RESERVES AND INVESTMENTS FOR LIFE INSURANCE

COMPANIES AND RELATED ENTITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 425.001. SECURITIES IN AMOUNT OF RESERVES REQUIRED.

The commissioner, after determining the amount of the reserves required on all of a life insurance company's policies in force, shall ensure that the company has at least that amount in securities of the class and character required by the law of this state, after all debts and claims against the company and the minimum capital required by Chapter 841 or 982, as applicable, have been provided for.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.002. CERTAIN INSURERS: DEPOSIT OF SECURITIES, MONEY, OR PROPERTY IN AMOUNT OF LEGAL RESERVES. (a) Except as provided by Subsection (b), a life insurance company incorporated under the laws of this state may deposit with the department, for the common benefit of all the holders of the company's policies and annuity contracts and in an amount equal to the legal reserve on all the company's outstanding policies and contracts in force, securities of the character in which the law of this state permits the company to invest, or against which the law of this state permits the company to loan, the company's capital, surplus, or reserves.

(b) A life insurance company may not make a new deposit of securities after August 28, 1961, except to the extent expressly required by Section 425.003.

(c) For purposes of this section, securities may be physically delivered to the department without being accompanied by a written transfer of a lien securing the securities. A life insurance company may deposit registered or unregistered United

States government securities under this section.

(d) A life insurance company may deposit lawful money of the United States instead of all or part of the securities described by Subsection (a). A company may, for the purposes of the deposit described by Subsection (a), convey to the department in trust the real property in which any part of the company's reserve is lawfully invested. If the company conveys the property, the department shall hold the title to the property in trust until the company deposits with the department securities to take the place of the property, at which time the department shall reconvey the property to the company.

(e) The department may have any securities or real property appraised and valued before the securities or real property may be deposited with or conveyed to the department under this section. The life insurance company shall pay the reasonable expense of the appraisal or valuation.

(f) For purposes of state, county, and municipal taxation, the situs of the deposited securities is the municipality and county in which the life insurance company's charter requires the principal business office of the company making the deposit to be located.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.003. CERTAIN INSURERS: REQUIRED DEPOSITS OF SECURITIES; ADDITIONAL DEPOSITS AND WITHDRAWALS. (a) A life insurance company that, before August 28, 1961, issued or assumed the obligations of policies or annuity contracts that were registered as provided by Article 3.18, as that article existed before August 28, 1961, shall have on deposit with the department securities of the character described by Section 425.002 in an amount equal to or greater than the aggregate net value of the company's outstanding registered policies and annuity contracts in force.

(b) To comply with Subsection (a), a life insurance company shall periodically make additional deposits of securities in amounts of not less than \$5,000. A company whose deposits exceed

the aggregate net value of the company's outstanding registered policies and annuity contracts in force may periodically withdraw the excess in amounts of not less than \$5,000. A company may at any time withdraw any of the company's deposited securities by depositing in their place securities of equal value to the securities replaced and of a character authorized by this chapter.

(c) A life insurance company may at any time collect the interest, rents, and other income from the company's securities on deposit.

(d) The net value of each policy or annuity contract subject to this section is the policy's or contract's value according to the standard prescribed by state law when the first premium on the policy or contract is paid, minus the amount of any liens the life insurance company has against the policy or contract not to exceed the policy's or contract's value.

(e) The department shall hold a life insurance company's securities on deposit with the department under this section in trust for the benefit of all holders of the company's outstanding policies and annuity contracts that were registered as provided by Article 3.18, as that article existed before August 28, 1961.

(f) A life insurance company that has outstanding registered policies or annuity contracts in force may not reinsure all or any part of that outstanding business, other than in a company authorized to engage in business in this state.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.004. RECORDS OF SECURITIES DEPOSITED WITH DEPARTMENT; REPORT OF VALUE. Each life insurance company that is required by Section 425.003 to have securities on deposit with the department shall:

- (1) keep records of:
 - (A) all of the company's outstanding registered policies and annuity contracts in force; and
 - (B) the net value of those policies and contracts; and
- (2) not later than the 15th day after the last day of

each calendar month, file with the department a report stating whether the value of the company's securities on deposit is equal to or greater than the aggregate net value of the company's registered policies and annuity contracts outstanding and in force at the end of the preceding calendar month.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.005. DEPARTMENT DUTIES REGARDING DEPOSITED SECURITIES; INSURANCE COMPANY ACCESS. (a) The department shall keep securities deposited by a life insurance company under Sections 425.002 and 425.003 in a secure safe-deposit, fireproof box or vault in the municipality of, or a municipality near the location of, the company's home office.

(b) The life insurance company's officers may, in accordance with reasonable rules adopted by the commissioner, have access to the securities to detach interest coupons, credit payment, and exchange securities as provided by Section 425.003.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.006. ADDITIONAL RESERVES REQUIRED: SUBSTANDARD OR EXTRA HAZARDOUS POLICIES. (a) If a life insurance company engaged in business under the laws of this state has written or assumed risks that are substandard or extra hazardous and has charged more for the policies under which those risks are written or assumed than the company's published premium rates, the commissioner shall, in valuing those policies, compute and charge extra reserves on the policies as necessary because of the extra hazard assumed and the extra premium charged.

(b) If the commissioner determines, after notice and hearing, that a particular risk or class of risks is substandard or extra hazardous, a life insurance company may not, after the determination is made, write or assume the particular risk or class of risks unless the company charges an extra premium as necessary because of the extra hazard assumed.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff.

April 1, 2007.

Sec. 425.007. SUBSCRIPTION TO OR UNDERWRITING PURCHASE OR SALE OF SECURITIES OR PROPERTY PROHIBITED; CONTROL OF DISPOSITION OF PROPERTY. (a) A life insurance company organized under the laws of this state may not:

(1) subscribe to, or participate in, any underwriting of the purchase or sale of securities or property;

(2) enter into a transaction described by Subdivision (1) for a purpose described by Subdivision (1);

(3) sell on account of the company jointly with any other person, firm, or corporation; or

(4) enter into any agreement to withhold from sale any of the company's property.

(b) The disposition of the life insurance company's property must be at all times within the control of the company's board of directors.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.008. AUTHORIZED INVESTMENTS FOR FOREIGN COMPANIES. A foreign company shall invest the company's assets in:

(1) securities or property of the same classes in which the law of this state permits a domestic insurance company to invest; or

(2) securities permitted by other law of this state and approved by the commissioner as being of substantially the same grade as securities or property in which a domestic insurance company is permitted to invest.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.009. STUDENT LOANS. A foreign or domestic life insurance company may make loans to a student enrolled in an institution of higher education if the principal amount of the loan is insured by:

(1) the federal government under the Higher Education

Act of 1965 (Pub. L. No. 89-329), as amended; or

(2) the Texas Guaranteed Student Loan Corporation under Chapter 57, Education Code.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

SUBCHAPTER B. STANDARD VALUATION LAW

Sec. 425.051. SHORT TITLE. This subchapter may be cited as the Standard Valuation Law.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.052. DEFINITIONS. (a) In this subchapter:

(1) "Accident and health insurance" means contracts that incorporate morbidity risk and provide protection against economic loss resulting from accident, sickness, or medical conditions and as may be specified in the valuation manual.

(2) "Appointed actuary" means a qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required by Section 425.0545.

(3) "Company" means an entity that:

(A) has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this state and has at least one such policy in force or on claim; or

(B) has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts in any state and is required to hold a certificate of authority to write life insurance, accident and health insurance, or deposit-type contracts in this state.

(4) "Deposit-type contract" means a contract that does not incorporate mortality or morbidity risk and as may be specified in the valuation manual.

(5) "Life insurance" means contracts that incorporate mortality risk, including annuity and pure endowment contracts, and as may be specified in the valuation manual.

(6) "Policyholder behavior" means any action a policyholder, a contract holder, or any other person with the right to elect options, such as a certificate holder, may take under a policy or contract subject to this subchapter, including lapse, withdrawal, transfer, deposit, premium payment, loan, annuitization, or benefit elections prescribed by the policy or contract but excluding events of mortality or morbidity that result in benefits prescribed in their essential aspects by the terms of the policy or contract.

(7) "Principle-based valuation" means the valuation described by Section [425.074](#).

(8) "Qualified actuary" means an individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American Academy of Actuaries' qualification standards for actuaries signing such statements and who meets the requirements specified in the valuation manual.

(9) "Reserves" means reserve liabilities.

(10) "Tail risk" means a risk that occurs either where the frequency of low probability events is higher than expected under a normal probability distribution or where there are observed events of very significant size or magnitude.

(11) "Valuation manual" means the manual of valuation instructions adopted by the commissioner by rule.

(b) As used in this subchapter:

(1) an "issue year basis" of valuation means a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract; and

(2) a "change in fund basis" of valuation means a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

(c) The definitions under Subsection (a) of "accident and

health insurance," "appointed actuary," "company," "deposit-type contract," "life insurance," "policyholder behavior," "principle-based valuation," "qualified actuary," and "tail risk" apply only on and after the operative date of the valuation manual. Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 313 (S.B. 1654), Sec. 1, eff. September 1, 2015.

Sec. 425.053. ANNUAL VALUATION OF RESERVES FOR POLICIES AND CONTRACTS ISSUED BEFORE OPERATIVE DATE OF VALUATION MANUAL.

(a) The department shall annually value or cause to be valued the reserves for all outstanding life insurance policies and annuity and pure endowment contracts of each life insurance company engaged in business in this state issued before the operative date of the valuation manual.

(b) In computing reserves under Subsection (a), the department may use group methods and approximate averages for fractions of a year or otherwise.

(c) Instead of valuing the reserves as required by Subsection (a) for a foreign or alien company, the department may accept any valuation made by or for the insurance supervisory official of another state or jurisdiction if the valuation complies with the minimum standard provided by this subchapter.

(d) Except as otherwise provided by this subchapter, policies and contracts issued on or after the operative date of the valuation manual are governed by Section 425.0535.

(e) The minimum standards for the valuation of policies and contracts issued before the operative date of the valuation manual are as provided by Sections 425.058 through 425.071 and Section 425.072(b), as applicable. Sections 425.072(a), 425.073, and 425.074 do not apply to a policy or contract described by this subsection.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 313 (S.B. 1654), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 313 (S.B. 1654), Sec. 3, eff. September 1, 2015.

Sec. 425.0535. ANNUAL VALUATION OF RESERVES FOR POLICIES AND CONTRACTS ISSUED ON OR AFTER OPERATIVE DATE OF VALUATION MANUAL. (a) The commissioner shall annually value, or cause to be valued, the reserves for all outstanding life insurance contracts, annuity and pure endowment contracts, accident and health contracts, and deposit-type contracts of each company issued on or after the operative date of the valuation manual.

(b) In lieu of the valuation of the reserves required of a foreign or alien company, the commissioner may accept a valuation made, or caused to be made, by the insurance supervisory official of another state if the valuation complies with the minimum standard provided by this subchapter.

(c) Sections 425.072(a), 425.073, and 425.074 apply to all policies and contracts issued on or after the operative date of the valuation manual.

Added by Acts 2015, 84th Leg., R.S., Ch. 313 (S.B. 1654), Sec. 4, eff. September 1, 2015.

Sec. 425.054. ACTUARIAL OPINION OF RESERVES ISSUED BEFORE OPERATIVE DATE OF VALUATION MANUAL.

(a) This section applies only to an actuarial opinion of reserves issued before the operative date of the valuation manual.

(a-1) For purposes of this section, "qualified actuary" means:

(1) a qualified actuary, as that term is defined by Section 802.002; or

(2) a person who, before September 1, 1993, satisfied the requirements of the former State Board of Insurance to submit an opinion under former Section 2A(a)(1), Article 3.28.

(b) In conjunction with the annual statement and in addition to other information required by this subchapter, each life insurance company engaged in business in this state shall annually

submit to the department the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by commissioner rule:

(1) are computed appropriately;

(2) are based on assumptions that satisfy contractual provisions;

(3) are consistent with prior reported amounts; and

(4) comply with applicable laws of this state.

(c) The commissioner by rule shall specify the requirements of an actuarial opinion under Subsection (b), including any matters considered necessary to the opinion's scope.

(d) The opinion required by this section must:

(1) apply to all of the life insurance company's business in force, including individual and group health insurance plans; and

(2) be in the form and contain the substance specified by commissioner rule and be acceptable to the commissioner.

(e) The commissioner may accept as an opinion required to be submitted under Subsection (b) by a foreign or alien company the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion filed in the other state reasonably meets the requirements applicable to a company domiciled in this state.

(f) Except as exempted by or as otherwise provided by commissioner rule, a life insurance company shall include in the opinion required by Subsection (b) an opinion that states whether the reserves and related actuarial items held in support of the policies and contracts specified by commissioner rule adequately provide for the company's obligations under the policies and contracts, including the benefits under and expenses associated with the policies and contracts.

(g) In making the opinion under Subsection (f), the reserves and related actuarial items are considered in light of the assets held by the life insurance company with respect to the reserves and related actuarial items, including:

(1) the investment earnings on the assets; and

(2) the considerations anticipated to be received and

retained under the policies and contracts.

(h) The person who certifies the opinion required by Subsection (b) must make the opinion required by Subsection (f).

(i) Rules adopted under this section may exempt life insurance companies that would be exempt from the requirements of this section under the most recently adopted regulation by the National Association of Insurance Commissioners entitled "Model Actuarial Opinion and Memorandum Regulation," or a successor to that regulation, if the commissioner considers the exemption appropriate.

(j) Except as provided by Subsections (n), (o), and (p), any document or other information in the possession or control of the department that is a memorandum in support of the opinion or other material provided by the company to the commissioner in connection with a memorandum is confidential and privileged and not subject to:

- (1) disclosure under Chapter 552, Government Code;
- (2) subpoena;
- (3) discovery; or
- (4) admissibility as evidence in a private civil action.

(k) The commissioner or any person who receives a document or other information described by Subsection (j) while acting under the authority of the commissioner may not testify and may not be compelled to testify in a private civil action concerning the document or other information.

(l) The commissioner may:

- (1) share documents or other information, including the confidential and privileged documents or information described by Subsection (j), with another state, federal, or international regulatory agency, with the National Association of Insurance Commissioners and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality of the document or information; and

- (2) receive documents or other information, including confidential and privileged documents or information, from the

National Association of Insurance Commissioners and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, provided that the commissioner shall maintain as confidential or privileged any document or information received with notice or understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document or information.

(m) Disclosing information or providing a document to the commissioner under this section, or sharing information as authorized under this section, does not result in a waiver of any applicable privilege or claim of confidentiality that may apply to the document or information.

(n) A memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection with the memorandum, may be subject to subpoena for the purpose of defending an action seeking damages from the actuary submitting the memorandum by reason of an action required by this section or rules adopted under this section.

(o) The memorandum or other material provided by the company to the commissioner in connection with the memorandum may otherwise be released by the commissioner with the written consent of the company, or to the Actuarial Board for Counseling and Discipline or its successor on receipt of a request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality and privileged status of the memorandum or other material.

(p) The memorandum ceases to be confidential and privileged if:

(1) any portion of the memorandum is cited by the company in its marketing;

(2) the memorandum is cited by the company before a government agency other than a state insurance department; or

(3) the memorandum is released by the company to the news media.

(q) This section does not prohibit the commissioner from using information acquired under this section in the furtherance of

a legal or regulatory action relating to the administration of this code.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 313 (S.B. 1654), Sec. 5, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 313 (S.B. 1654), Sec. 6, eff. September 1, 2015.

Sec. 425.0545. ACTUARIAL OPINION OF RESERVES AFTER OPERATIVE DATE OF VALUATION MANUAL. (a) A company that has outstanding life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this state and is subject to regulation by the department shall annually submit the opinion of the appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and are in compliance with applicable laws of this state. An opinion under this section must comply with provisions of the valuation manual, including in regard to any items necessary to its scope.

(b) Unless exempted by the valuation manual, a company described by Subsection (a) shall include with the opinion required by that subsection an opinion of the same appointed actuary concerning whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including investment earnings on the assets and considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including benefits under and expenses associated with the policies and contracts.

(c) Each opinion required by this section must:

(1) be in the form and contain the substance that is

specified by the valuation manual and is acceptable to the commissioner;

(2) be submitted with the annual statement reflecting the valuation of reserves for each year ending on or after the operative date of the valuation manual;

(3) apply to all policies and contracts subject to this section, plus other actuarial liabilities specified by the valuation manual; and

(4) be based on standards adopted from time to time by the Actuarial Standards Board or its successor, and on any additional standards prescribed by the valuation manual.

(d) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by the company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

Added by Acts 2015, 84th Leg., R.S., Ch. 313 (S.B. 1654), Sec. 7, eff. September 1, 2015.

Sec. 425.055. SUPPORTING MEMORANDUM FOR ACTUARIAL OPINION.

(a) A memorandum shall be prepared to support each actuarial opinion required by Section 425.054 or 425.0545. The form and substance of each supporting memorandum must comply with the commissioner's rules for memorandums subject to Section 425.054, or the valuation manual for memorandums subject to Section 425.0545.

(b) The commissioner may engage an actuary or other financial specialist as defined by commissioner rule if:

(1) a life insurance company does not provide a supporting memorandum at the request of the commissioner in the time specified by rule; or

(2) the company provides a supporting memorandum, but the commissioner determines that the supporting memorandum does not meet the standards prescribed by rule or is otherwise unacceptable to the commissioner.

(c) The actuary or other financial specialist under Subsection (b) shall:

(1) review the actuarial opinion and the basis for the opinion; and

(2) prepare the supporting memorandum.

(d) A life insurance company is responsible for the expense of the actuary or other financial specialist under Subsection (b). Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 313 (S.B. 1654), Sec. 8, eff. September 1, 2015.

Sec. 425.056. LIMITATION ON LIABILITY FOR ACTUARIAL OPINION. (a) Except in cases of fraud or wilful misconduct or as provided by Subsection (b), a person who certifies an opinion under Section 425.054 or 425.0545 is not liable for damages to a person, other than the life insurance company covered by the opinion, for an act, error, omission, decision, or other conduct with respect to the person's opinion.

(b) Subsection (a) does not apply to an administrative penalty imposed under Chapter 84.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 313 (S.B. 1654), Sec. 9, eff. September 1, 2015.

Sec. 425.057. DISCIPLINARY ACTION: COMPANY OR PERSON CERTIFYING OPINION. A company or person that certifies an opinion under Section 425.054 or 425.0545 and that violates Section 425.054, 425.0545, or 425.055 or rules adopted under those sections is subject to disciplinary action under Chapter 82.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 313 (S.B. 1654), Sec. 10, eff. September 1, 2015.

Sec. 425.058. COMPUTATION OF MINIMUM STANDARD: GENERAL RULE. (a) Except as otherwise provided by Section 425.059, 425.060, 425.061, 425.062, or 425.063, the minimum standard for the valuation of an outstanding life insurance policy or annuity or pure endowment contract issued by a life insurance company on or after the date on which Chapter 1105 applies to policies issued by the company, as determined under Section 1105.002(a) or (b), is the commissioners reserve valuation method described by Sections 425.064, 425.065, and 425.068, computed using the table prescribed by this section and with interest at 3-1/2 percent or at the following rate, if applicable:

(1) in the case of a policy or contract issued on or after June 14, 1973, and before August 29, 1977, other than an annuity or pure endowment contract, four percent;

(2) in the case of a single premium life insurance policy issued on or after August 29, 1977, 5-1/2 percent; or

(3) in the case of a life insurance policy issued on or after August 29, 1977, other than a single premium life insurance policy, 4-1/2 percent.

(b) Except as provided by Subsection (c), for an ordinary life insurance policy issued on the standard basis, excluding any disability or accidental death benefits in the policy, the applicable table is the Commissioners 1941 Standard Ordinary Mortality Table, if the policy was issued before the date on which Section 1105.152 would apply to the policy, as determined under Section 1105.152(a) or (b), or the Commissioners 1958 Standard Ordinary Mortality Table, if Section 1105.152 applies to the policy. For a policy that is issued to insure a female risk:

(1) a modified net premium or present value for a policy issued before August 29, 1977, may be computed according to an age not more than three years younger than the insured's actual age; and

(2) a modified net premium or present value for a policy issued on or after August 29, 1977, may be computed according to an age not more than six years younger than the insured's actual age.

(c) For an ordinary life insurance policy issued on the

standard basis, excluding any disability or accidental death benefits in the policy, and to which Subchapter B, Chapter 1105, applies, the applicable table is:

(1) the Commissioners 1980 Standard Ordinary Mortality Table;

(2) at the insurer's option for one or more specified life insurance plans, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors; or

(3) any ordinary mortality table adopted after 1980 by the National Association of Insurance Commissioners that is approved by commissioner rule for use in determining the minimum standard valuation for a policy to which this subdivision applies.

(d) For an industrial life insurance policy issued on the standard basis, excluding any disability or accidental death benefits in the policy, the applicable table is:

(1) the 1941 Standard Industrial Mortality Table, if the policy was issued before the date on which Section 1105.153 would apply to the policy as determined under Section 1105.153(a) or (b); or

(2) if Section 1105.153 applies to the policy:

(A) the Commissioners 1961 Standard Industrial Mortality Table; or

(B) any industrial mortality table adopted after 1980 by the National Association of Insurance Commissioners that is approved by commissioner rule for use in determining the minimum standard of valuation for a policy to which this subdivision applies.

(e) For an individual annuity or pure endowment contract, excluding any disability or accidental death benefits in the policy, the applicable table is the 1937 Standard Annuity Mortality Table, or at the insurer's option, the Annuity Mortality Table for 1949, Ultimate, or a modification of either table that is approved by the commissioner.

(f) For a group annuity or pure endowment contract, excluding any disability or accidental death benefits in the policy, the applicable table is:

(1) the Group Annuity Mortality Table for 1951;

(2) a modification of that table approved by the commissioner; or

(3) at the insurance company's option, a table or a modification of a table prescribed for an individual annuity or pure endowment contract by Subsection (e).

(g) For total and permanent disability benefits in or supplementary to an ordinary policy or contract, the applicable tables are:

(1) for a policy or contract issued on or after January 1, 1966:

(A) the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit; or

(B) any table of disablement rates and termination rates adopted after 1980 by the National Association of Insurance Commissioners that are approved by commissioner rule for use in determining the minimum standard of valuation for a policy to which this subdivision applies;

(2) for a policy or contract issued on or after January 1, 1961, and before January 1, 1966:

(A) a table described by Subdivision (1); or

(B) at the insurance company's option, the Class (3) Disability Table (1926); or

(3) for a policy issued before January 1, 1961, the Class (3) Disability Table (1926).

(h) A table described by Subsection (g) must, for an active life, be combined with a mortality table permitted for computing the reserves for a life insurance policy.

(i) For accidental death benefits in or supplementary to a policy, the applicable table is:

(1) for a policy issued on or after January 1, 1966:

(A) the 1959 Accidental Death Benefits Table; or

(B) any accidental death benefits table adopted after 1980 by the National Association of Insurance Commissioners that is approved by commissioner rule for use in determining the minimum standard of valuation for a policy to which this subdivision applies;

(2) for a policy issued on or after January 1, 1961, and before January 1, 1966:

(A) a table described by Subdivision (1); or

(B) at the insurance company's option, the Inter-Company Double Indemnity Mortality Table; or

(3) for a policy issued before January 1, 1961, the Inter-Company Double Indemnity Mortality Table.

(j) A table described by Subsection (i) must be combined with a mortality table permitted for computing the reserves for a life insurance policy.

(k) For group life insurance, life insurance issued on the substandard basis and other special benefits, the applicable table is a table approved by the commissioner.

(1)(1) Notwithstanding any other law, the minimum reserve requirements applicable to a credit life policy issued under Chapter 1153 before January 1, 2009, are met if, in the aggregate, the reserves are maintained at 100 percent of the 1980 Commissioner's Standard Ordinary Mortality Table, with interest that does not exceed 5.5 percent.

(2) For credit life policy reserves on contracts issued to be effective on or after January 1, 2009, the reserve requirements shall be based on minimum reserve standards established by the commissioner by rule. The commissioner shall adopt the rules based on either:

(A) the 2001 CSO Male Composite Ultimate Mortality Table for male and female insureds; or

(B) another CSO Mortality Table approved by the National Association of Insurance Commissioners on or after January 1, 2009, for use on credit life policy reserves.

(3) For a single premium credit accident and health contract issued on or after January 1, 2009, the reserve requirements shall be based on minimum reserve standards established by the commissioner by rule. The commissioner shall adopt the rules based on either:

(A) the 1985 Commissioners Individual Disability Table A (85CIDA); or

(B) another Commissioner's Disability Table

approved by the National Association of Insurance Commissioners on or after January 1, 2009, for use on credit accident and health policy reserves.

(4) For all credit insurance contracts, if the net premium refund liability exceeds the aggregate recorded contract reserve, the insurer shall establish an additional reserve liability that is equal to the excess of the net refund liability over the contract reserve recorded. The net refund liability may include consideration of commission, premium tax, and other expenses recoverable.

(5) In addition to the rules required to be adopted under this subsection, the commissioner may adopt other rules to implement this subsection.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 1, eff. April 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 399 (H.B. [1761](#)), Sec. 1, eff. June 19, 2009.

Acts 2015, 84th Leg., R.S., Ch. 313 (S.B. [1654](#)), Sec. 11, eff. September 1, 2015.

Sec. 425.059. COMPUTATION OF MINIMUM STANDARD FOR CERTAIN ANNUITIES AND PURE ENDOWMENT CONTRACTS. (a) This section applies to an individual annuity or pure endowment contract issued on or after January 1, 1979, and an annuity or pure endowment purchased on or after January 1, 1979, under a group annuity or pure endowment contract. This section also applies to an annuity or pure endowment contract issued by an insurer after the date specified in a written notice:

(1) that was filed with the State Board of Insurance after June 14, 1973, but before January 1, 1979; and

(2) under which the insurance company filing the notice elected to comply before January 1, 1979, with former Section 4, Article 3.28, with respect to individual or group annuities and pure endowment contracts as specified by the company in the notice.

(b) Except as provided by Section [425.060](#), [425.061](#),

425.062, or 425.063, the minimum standard for the valuation of an individual or group annuity or pure endowment contract, excluding any disability or accidental death benefits in the contract, is the commissioner's reserve valuation method described by Sections 425.064 and 425.065, computed using the table prescribed by this section and with interest at the following interest rate, as applicable:

(1) for an individual annuity or pure endowment contract issued before August 29, 1977, other than an individual single premium immediate annuity contract, four percent;

(2) for an individual single premium immediate annuity contract issued before August 29, 1977, six percent;

(3) for an individual annuity or pure endowment contract issued on or after August 29, 1977, other than an individual single premium immediate annuity contract or an individual single premium deferred annuity or pure endowment contract, 4-1/2 percent;

(4) for an individual single premium immediate annuity contract issued on or after August 29, 1977, 7-1/2 percent;

(5) for an individual single premium deferred annuity or pure endowment contract issued on or after August 29, 1977, 5-1/2 percent;

(6) for an annuity or pure endowment purchased before August 29, 1977, under a group annuity or pure endowment contract, six percent; or

(7) for an annuity or pure endowment purchased on or after August 29, 1977, under a group annuity or pure endowment contract, 7-1/2 percent.

(c) For an individual annuity or pure endowment contract issued before August 29, 1977, the applicable table is:

(1) the 1971 Individual Annuity Mortality Table; or

(2) a modification of that table approved by the commissioner.

(d) For an individual annuity or pure endowment contract issued on or after August 29, 1977, including an individual single premium immediate annuity contract, the applicable table is:

(1) the 1971 Individual Annuity Mortality Table;

(2) an individual annuity mortality table adopted after 1980 by the National Association of Insurance Commissioners that is approved by the commissioner by rule for use in determining the minimum standard of valuation for a specified type of contract to which this subsection applies; or

(3) a modification of one of those tables approved by the commissioner.

(e) For an annuity or pure endowment purchased before August 29, 1977, under a group annuity or pure endowment contract, the applicable table is:

(1) the 1971 Group Annuity Mortality Table; or

(2) a modification of that table approved by the commissioner.

(f) For an annuity or pure endowment purchased on or after August 29, 1977, under a group annuity or pure endowment contract, the applicable table is:

(1) the 1971 Group Annuity Mortality Table;

(2) a group annuity mortality table adopted after 1980 by the National Association of Insurance Commissioners that is approved by the commissioner by rule for use in determining the minimum standard of valuation for an annuity or pure endowment to which this subsection applies; or

(3) a modification of one of those tables approved by the commissioner.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 1, eff. April 1, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 313 (S.B. [1654](#)), Sec. 12, eff. September 1, 2015.

Sec. 425.060. APPLICABILITY OF CALENDAR YEAR STATUTORY VALUATION INTEREST RATES. The calendar year statutory valuation interest rates as defined by Sections [425.061](#), [425.062](#), and [425.063](#) are the interest rates used in determining the minimum standard for the valuation of:

(1) a life insurance policy to which Subchapter B, Chapter [1105](#), applies;

(2) an individual annuity or pure endowment contract issued on or after January 1, 1982;

(3) an annuity or pure endowment purchased on or after January 1, 1982, under a group annuity or pure endowment contract; or

(4) the net increase, if any, in a calendar year after January 1, 1982, in amounts held under a guaranteed interest contract.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.061. COMPUTATION OF CALENDAR YEAR STATUTORY VALUATION INTEREST RATE: GENERAL RULE. (a) For purposes of Subsection (b):

(1) R1 is the lesser of R or .09;

(2) R2 is the greater of R or .09;

(3) R is the reference interest rate determined under Section 425.063; and

(4) W is the weighting factor determined under Section 425.062.

(b) The calendar year statutory valuation interest rate ("I") is determined as provided by this section, with the results rounded to the nearest one-quarter of one percent:

(1) for life insurance:

$$I = .03 + W(R1 - .03) + (W/2)(R2 - .09); \text{ and}$$

(2) for a single premium immediate annuity or annuity benefits involving life contingencies arising from another annuity with a cash settlement option or from a guaranteed interest contract with a cash settlement option, or for an annuity or guaranteed interest contract without a cash settlement option, or for an annuity or guaranteed interest contract with a cash settlement option that is valued on a change in fund basis:

$$I = .03 + W(R - .03).$$

(c) For an annuity or guaranteed interest contract with a cash settlement option that is valued on an issue year basis, other than an annuity or contract described by Subsection (b)(2):

(1) the formula prescribed by Subsection (b)(1)

applies to an annuity or guaranteed interest contract with a guarantee duration determined under Section 425.062(f) greater than 10 years; and

(2) the formula prescribed by Subsection (b)(2) applies to an annuity or guaranteed interest contract with a guarantee duration determined under Section 425.062(f) of 10 years or less.

(d) Notwithstanding Subsections (b) and (c), if the calendar year statutory valuation interest rate for a life insurance policy issued in a calendar year as determined under Subsection (b) or (c), as applicable, would differ from the corresponding actual rate for similar policies issued in the preceding calendar year by less than one-half of one percent, the calendar year statutory valuation interest rate for the policy is the corresponding actual rate for the preceding calendar year. For purposes of this subsection, the calendar year statutory valuation interest rate for a life insurance policy issued in a calendar year is determined for 1980 using the reference interest rate defined for 1979, and is determined for each subsequent calendar year regardless of whether Subchapter B, Chapter 1105, applies to the policy.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.062. WEIGHTING FACTORS. (a) This section prescribes the weighting factors referred to in the formulas prescribed by Section 425.061.

(b) The weighting factor for a life insurance policy is determined by the following table:

Guarantee Duration (Years)	Weighting Factor
10 or less	.50
More than 10, but not more than 20	.45
More than 20	.35

(c) For purposes of Subsection (b), the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to life insurance plans with premium rates or nonforfeiture

values, or both, that are guaranteed in the original policy.

(d) The weighting factor for a single premium immediate annuity or for annuity benefits involving life contingencies arising from another annuity with a cash settlement option or from a guaranteed interest contract with a cash settlement option is .80.

(e) The weighting factor for an annuity or a guaranteed interest contract, other than an annuity or contract to which Subsection (d) applies, is determined by the following tables:

(1) For an annuity or guaranteed interest contract that is valued on an issue year basis:

Guarantee Duration (Years)	Weighting Factor for Plan Type		
	A	B	C
5 or less:	.80	.60	.50
More than 5, but not more than 10:	.75	.60	.50
More than 10, but not more than 20:	.65	.50	.45
More than 20:	.45	.35	.35

(2) For an annuity or guaranteed interest contract that is valued on a change in fund basis, the factors prescribed by Subdivision (1) increased by:

Plan Type		
A	B	C
.15	.25	.05

(3) For an annuity or guaranteed interest contract that is valued on an issue year basis that does not guarantee interest on considerations received more than one year after issue or purchase, other than an annuity or contract that does not have a cash settlement option, or an annuity or guaranteed interest contract that is valued on a change in fund basis that does not guarantee interest rates on considerations received more than 12 months after the valuation date, the factors prescribed by Subdivision (1) or determined under Subdivision (2), as appropriate, increased by:

Plan Type		
A	B	C

(f) For purposes of Subsection (e):

(1) for an annuity or guaranteed interest contract with a cash settlement option, the guarantee duration is the number of years for which the contract guarantees interest rates greater than the calendar year statutory valuation interest rate for life insurance policies with guarantee duration greater than 20 years; and

(2) for an annuity or guaranteed interest contract without a cash settlement option, the guarantee duration is the number of years from the issue or purchase date to the date annuity benefits are scheduled to begin.

(g) For purposes of Subsection (e):

(1) a policy is a "Plan Type A" policy if:

(A) the policyholder may withdraw funds at any time, but only:

(i) with an adjustment to reflect changes in interest rates or asset values after the insurance company receives the funds;

(ii) without an adjustment described by Subparagraph (i), provided that the withdrawal is in installments over five years or more; or

(iii) as an immediate life annuity; or

(B) the policyholder is not permitted to withdraw funds at any time;

(2) a policy is a "Plan Type B" policy if:

(A) before the expiration of the interest rate guarantee:

(i) the policyholder may withdraw funds, but only:

(a) with an adjustment to reflect changes in interest rates or asset values after the insurance company receives the funds; or

(b) without an adjustment described by Subsubparagraph (a), provided that the withdrawal is in installments over five years or more; or

(ii) the policyholder is not permitted to

withdraw funds; and

(B) on the expiration of the interest rate guarantee, the policyholder may withdraw funds in a single sum or in installments over less than five years, without an adjustment described by Paragraph (A)(i); and

(3) a policy is a "Plan Type C" policy if the policyholder may withdraw funds before the expiration of the interest rate guarantee in a single sum or in installments over less than five years:

(A) without an adjustment to reflect changes in interest rates or asset values after the insurance company receives the funds; or

(B) subject only to a fixed surrender charge that is a percentage of the fund stipulated in the contract.

(h) An insurance company may elect to value an annuity or guaranteed interest contract with a cash settlement option on an issue year basis or on a change in fund basis. A company must value an annuity or guaranteed interest contract without a cash settlement option on an issue year basis.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.063. REFERENCE INTEREST RATE. (a) In this section, "Moody's Corporate Bond Yield Average" means the Moody's Corporate Bond Yield Average--Monthly Average Corporates, as published by Moody's Investors Service, Inc.

(b) Except as provided by Subsection (g), the reference interest rate for purposes of Section 425.061 is determined as provided by Subsections (c)-(f).

(c) The reference interest rate for a life insurance policy is the lesser of the average over a period of 36 months or the average over a period of 12 months, ending on June 30 of the calendar year preceding the year of issue, of the Moody's Corporate Bond Yield Average.

(d) The reference interest rate is the average over a period of 12 months, ending on June 30 of the calendar year of issue or year of purchase, of the Moody's Corporate Bond Yield Average for:

(1) a single premium immediate annuity or annuity benefits involving life contingencies arising from another annuity with a cash settlement option or from a guaranteed interest contract with a cash settlement option;

(2) an annuity or guaranteed interest contract with a cash settlement option, other than an annuity or contract described by Subdivision (1), that is valued on an issue year basis and has a guarantee duration as determined under Section 425.062(f) of 10 years or less; or

(3) an annuity or guaranteed interest contract without a cash settlement option.

(e) The reference interest rate is the lesser of the average over a period of 36 months or the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of the Moody's Corporate Bond Yield Average for an annuity or guaranteed interest contract with a cash settlement option, other than an annuity or contract described by Subsection (d)(1), that is valued on an issue year basis and has a guarantee duration as determined under Section 425.062(f) greater than 10 years.

(f) The reference interest rate is the average over a period of 12 months, ending on June 30 of the calendar year of the change in the fund, of the Moody's Corporate Bond Yield Average, for an annuity or guaranteed interest contract with a cash settlement option, other than an annuity or contract described by Subsection (d)(1), that is valued on a change in fund basis.

(g) At least annually, the commissioner shall:

(1) determine whether the reference interest rates prescribed by Subsections (c), (d), (e), and (f) continue to be a reasonably accurate approximation of the average yield achieved from purchases in the United States in publicly quoted markets of investment grade fixed term and fixed interest corporate obligations for the periods referenced in Subsection (c), (d), (e), or (f), as applicable; and

(2) if the commissioner determines that a reference interest rate prescribed by Subsection (c), (d), (e), or (f) is not a reasonably accurate approximation of the average yield described by Subdivision (1), adopt rules in the manner prescribed by

Chapters 2001 and 2002, Government Code, to prescribe an alternative method of determining a reference interest rate, as appropriate, that is a reasonably accurate approximation of that average yield.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.064. COMMISSIONERS RESERVE VALUATION METHOD FOR LIFE INSURANCE AND ENDOWMENT BENEFITS. (a) Except as otherwise provided by Sections 425.065 and 425.068 and subject to Subsection (b), for the life insurance and endowment benefits of a policy that provides for a uniform amount of insurance and that requires the payment of uniform premiums, the reserve according to the commissioners reserve valuation method is the difference, if greater than zero, of the present value on the date of valuation of those future guaranteed benefits, minus the present value on that date of any future modified net premiums for a policy described by this subsection. The modified net premiums for a policy described by this subsection are a uniform percentage of the respective contract premiums for those benefits, so that the present value on the policy's issue date of all the modified net premiums is equal to the sum of:

(1) the present value on that date of those benefits;
and

(2) the difference, if greater than zero, between:

(A) a net level annual premium equal to the present value on the policy's issue date of the benefits provided for after the first policy year, divided by the present value on the policy's issue date of an annuity of one per year, payable on the first policy anniversary and on each subsequent policy anniversary on which a premium becomes due; and

(B) a net one-year term premium for the benefits provided for in the first policy year.

(b) A net level annual premium under Subsection (a)(2)(A) may not exceed the net level annual premium on the 19-year premium whole life plan for insurance of the same amount at an age that is one year older than the age on the policy's issue date.

(c) This subsection applies only to a life insurance policy issued on or after January 1, 1985, for which the contract premium for the first policy year exceeds the contract premium for the second year, for which a comparable additional benefit is not provided in the first year for the excess premium, and that provides an endowment benefit, a cash surrender value, or a combination of an endowment benefit and cash surrender value, in an amount greater than the excess premium. For purposes of this subsection, the "assumed ending date" is the first policy anniversary on which the sum of any endowment benefit and any cash surrender value available on that date is greater than the excess premium. The reserve according to the commissioners reserve valuation method for a policy to which this subsection applies as of any policy anniversary occurring on or before the assumed ending date is, except as otherwise provided by Section 425.068, the greater of:

(1) the reserve as of the policy anniversary computed as prescribed by Subsection (a); or

(2) the reserve as of the policy anniversary computed as prescribed by Subsection (a) but with:

(A) the value prescribed by Subsection (a)(2)(A) reduced by 15 percent of the amount of the excess first-year premium;

(B) each present value of a benefit or premium determined without reference to a premium or benefit provided under the policy after the assumed ending date;

(C) the policy assumed to mature on the assumed ending date as an endowment; and

(D) the cash surrender value provided on the assumed ending date considered to be an endowment benefit.

(d) In making the comparison required by Subsection (c), the mortality tables and interest bases described by Sections 425.058, 425.061, 425.062, and 425.063 must be used.

(e) Reserves according to the commissioners reserve valuation method for the following policies, contracts, and benefits must be computed by a method consistent with the principles of this section:

(1) a life insurance policy that provides for a

varying amount of insurance or that requires the payment of varying premiums;

(2) a group annuity or pure endowment contract purchased under a retirement or deferred compensation plan established or maintained by an employer, including a partnership or sole proprietorship, by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408, Internal Revenue Code of 1986, and that section's subsequent amendments;

(3) disability or accidental death benefits in a policy or contract; and

(4) all other benefits, other than life insurance and endowment benefits in a life insurance policy or benefits provided by any other annuity or pure endowment contract.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 313 (S.B. 1654), Sec. 13, eff. September 1, 2015.

Sec. 425.065. COMMISSIONERS ANNUITY RESERVE VALUATION METHOD FOR ANNUITY AND PURE ENDOWMENT BENEFITS. (a) This section applies to an annuity or pure endowment contract other than a group annuity or pure endowment contract purchased under a retirement or deferred compensation plan established or maintained by an employer, including a partnership or sole proprietorship, by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408, Internal Revenue Code of 1986, and that section's subsequent amendments.

(b) Reserves according to the commissioners annuity reserve method for benefits under an annuity or pure endowment contract, excluding any disability or accidental death benefits in the contract, are the greatest of the respective excesses of the present values on the valuation date of the future guaranteed benefits under the contract at the end of each respective contract year, including guaranteed nonforfeiture benefits, minus the

present value on the valuation date of any future valuation considerations derived from future gross considerations that are required by the contract terms and that become payable before the end of the respective contract year. The future guaranteed benefits must be determined by using the mortality table, if any, and the interest rate or rates specified in the contract for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the contract terms to determine nonforfeiture values.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 313 (S.B. 1654), Sec. 14, eff. September 1, 2015.

Sec. 425.066. MINIMUM AGGREGATE RESERVES. (a) An insurance company's aggregate reserves for all life insurance policies, excluding disability or accidental death benefits, issued by the company on or after the date on which Chapter 1105 applies to policies issued by the company, as determined under Section 1105.002(a) or (b), may not be less than the aggregate reserves computed in accordance with the methods prescribed by Sections 425.064, 425.065, 425.068, and 425.069 and the mortality table or tables and interest rate or rates used in computing nonforfeiture benefits for those policies.

(b) The aggregate reserves of an insurance company to which this section applies for all policies, contracts, and benefits may not be less than the aggregate reserves determined to be necessary to issue a favorable opinion under Section 425.054.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.067. OPTIONAL RESERVE COMPUTATIONS. (a) Reserves for a policy or contract issued by a life insurance company before the date on which Chapter 1105 would apply to the policy or contract, as determined under Section 1105.002(a) or (b), may be computed, at the company's option, according to any standard that

produces greater aggregate reserves for all those policies and contracts than the minimum reserves required by the laws applicable to those policies and contracts immediately before that date.

(b) Reserves for any category, as established by the commissioner, of policies, contracts, or benefits issued by a life insurance company on or after the date on which Chapter 1105 applies to policies, contracts, or benefits issued by the company, as determined under Section 1105.002(a) or (b), may be computed, at the company's option, according to any standard that produces greater aggregate reserves for the category than the minimum aggregate reserves computed according to the standard provided by this subchapter, but the interest rate or rates used for those policies and contracts, other than annuity and pure endowment contracts, may not be higher than the corresponding interest rate or rates used in computing any nonforfeiture benefits provided in those policies or contracts.

(c) An insurance company that has adopted a standard of valuation that produces greater minimum aggregate reserves than the aggregate reserves computed according to the standard provided by this subchapter may, with the commissioner's approval, adopt any lower standard of valuation that produces aggregate reserves at least equal to the minimum aggregate reserves computed according to the standard provided by this subchapter.

(d) For purposes of this section, the holding of additional reserves previously determined to be necessary to issue a favorable opinion under Section 425.054 may not be considered to be the adoption of a higher standard of valuation.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.068. RESERVE COMPUTATION: GROSS PREMIUM CHARGED LESS THAN VALUATION NET PREMIUM. (a) If in a contract year the gross premium charged by a life insurance company on a policy or contract is less than the valuation net premium for the policy or contract computed by the method used in computing the reserve on the policy or contract but using the minimum valuation mortality standards and interest rate, the minimum reserve required for the

policy or contract is the greater of:

(1) the reserve computed according to the mortality table, interest rate, and method actually used for the policy or contract; or

(2) the reserve computed by the method actually used for the policy or contract but using the minimum valuation mortality standards and interest rate and replacing the valuation net premium with the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium.

(b) The minimum valuation mortality standards and interest rate under Subsection (a) are the standards and rate provided by Sections [425.058](#), [425.061](#), [425.062](#), and [425.063](#).

(c) This subsection applies only to a life insurance policy issued on or after January 1, 1985, for which the gross premium for the first policy year exceeds the gross premium for the second policy year, for which a comparable additional benefit is not provided in the first year for the excess premium, and that provides an endowment benefit, a cash surrender value, or a combination of an endowment benefit and cash surrender value, in an amount greater than the excess premium. For a policy to which this subsection applies, Subsections (a) and (b) shall be applied as if the method actually used in computing the reserve for the policy were the method described in Section [425.064](#), ignoring Section [425.064\(c\)](#). The minimum reserve at each policy anniversary is the greater of:

(1) the minimum reserve computed in accordance with Section [425.064](#), including Section [425.064\(c\)](#); or

(2) the minimum reserve computed in accordance with this section.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 1, eff. April 1, 2007.

Sec. 425.069. RESERVE COMPUTATION: INDETERMINATE PREMIUM PLANS AND CERTAIN OTHER PLANS. (a) For a life insurance plan that provides for future premium determination, the amounts of which are to be determined by the insurance company based on estimates of future experience, or a life insurance plan or annuity for which the

minimum reserves cannot be determined by the methods described by Sections [425.064](#), [425.065](#), and [425.068](#), the reserves held must:

(1) be appropriate in relation to the benefits and the pattern of premiums for the plan; and

(2) be computed by a method that is consistent with the principles of this subchapter, as determined by commissioner rule.

(b) Notwithstanding any other provision of state law, the commissioner must affirmatively approve a policy, contract, or certificate that provides life insurance under a plan described by Subsection (a) before the policy, contract, or certificate may be marketed, issued, delivered, or used in this state.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 1, eff. April 1, 2007.

Sec. 425.070. COMPUTATION OF RESERVE FOR CERTAIN POLICIES BY CALENDAR YEAR OF ISSUE. (a) The reserve for a policy or contract issued by a life insurance company before the date on which Chapter [1105](#) would apply to the policy or contract, as determined under Section [1105.002](#)(a) or (b), must be computed in accordance with the terms of the policy or contract and this section.

(b) For a policy issued before January 1, 1910, the computation must be based on the American Experience Table of Mortality and 4-1/2 percent annual interest.

(c) For a policy issued on or after January 1, 1910, and before January 1, 1948, the computation must be based on:

(1) the Actuaries or Combined Experience Table of Mortality and four percent annual interest, if the interest rate guaranteed in the policy is four percent annually or higher; or

(2) the American Experience Table of Mortality and the lower rate specified in the policy, if the policy was issued on a reserve basis of an interest rate lower than four percent annually.

(d) For a policy issued on or after January 1, 1948, the computation must be based on the mortality table and interest rate specified in the policy, provided that:

(1) the specified interest rate may not exceed 3-1/2 percent annually;

(2) the specified table for a policy, other than an industrial life insurance policy, is the American Experience Table of Mortality, the American Men Ultimate Table of Mortality, the Commissioners 1941 Standard Ordinary Mortality Table, or, for a policy issued after December 31, 1959, the Commissioners 1958 Standard Ordinary Mortality Table; and

(3) the specified table for an industrial life insurance policy is the American Experience Table of Mortality, the Standard Industrial Mortality Table, the Sub-Standard Industrial Mortality Table, the 1941 Standard Industrial Mortality Table, or the 1941 Sub-Standard Industrial Mortality Table, or, for a policy issued after December 31, 1963, the Commissioners 1961 Standard Industrial Mortality Table.

(e) For a policy, other than an industrial life insurance policy, issued after December 31, 1959, to insure a female risk, the computation must be based on any mortality table and interest rate permitted under Subsection (d) and specified in the policy but may, at the insurance company's option, be based on an age not more than three years younger than the insured's actual age.

(f) Except as otherwise provided by Section [425.059](#) for coverage purchased under a group annuity or pure endowment contract to which that section applies, for a policy issued on a substandard risk, an annuity contract, or a contract or policy for disability benefits or accidental death benefits, the computation must be based on the standards and methods adopted by the insurance company and approved by the commissioner.

(g) For a group insurance policy issued before May 15, 1947, the computation must be based on the American Men Ultimate Table of Mortality with interest at the rate of three percent or 3-1/2 percent annually as provided by the policy. The reserve value of a group insurance policy issued on or after May 15, 1947, and before January 1, 1961, must be computed on the basis of either the American Men Ultimate Table of Mortality or the Commissioners 1941 Standard Ordinary Mortality Table with interest at a rate not to exceed 3-1/2 percent annually as provided by the policy. For a group insurance policy issued on or after January 1, 1961, the computation must be based on an interest rate not to exceed 3-1/2

percent annually and the mortality table adopted by the insurance company with the commissioner's approval.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 1, eff. April 1, 2007.

Sec. 425.071. LAPSE RATES IN MINIMUM STANDARD OF VALUATION.

(a) The minimum standard of valuation under this subchapter may include lapse rates in the calculation of reserves for a secondary guarantee in universal life contracts issued after December 31, 2006.

(b) For purposes of this section, a secondary guarantee refers to specified conditions in a universal life contract that, if satisfied, provide for death benefits to remain in effect regardless of the accumulation value in the contract.

(c) Lapse rates authorized by this section may not exceed two percent per year.

(d) The commissioner is authorized to adopt rules to implement this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 681 (H.B. [1590](#)), Sec. 1, eff. June 15, 2007.

Sec. 425.072. MINIMUM STANDARD FOR ACCIDENT AND HEALTH INSURANCE CONTRACTS. (a) The standard prescribed by the valuation manual for accident and health insurance contracts issued on or after the operative date of the valuation manual is the minimum standard of valuation required under Section [425.0535](#).

(b) For disability, accident and sickness, and accident and health insurance contracts issued before the operative date of the valuation manual, the minimum standard of valuation is the standard in existence before the operative date of the valuation manual in addition to any requirements established by the commissioner and adopted by rule.

Added by Acts 2015, 84th Leg., R.S., Ch. 313 (S.B. [1654](#)), Sec. 15, eff. September 1, 2015.

Sec. 425.073. VALUATION MANUAL FOR POLICIES ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL. (a) Except as

otherwise provided by this section, for policies issued on or after the operative date of the valuation manual, the standard prescribed by the valuation manual is the minimum standard of valuation required under Section 425.0535.

(b) The commissioner by rule shall adopt a valuation manual and determine the operative date of the valuation manual. A valuation manual adopted by the commissioner under this section must be substantially similar to the valuation manual approved by the National Association of Insurance Commissioners. The operative date must be January 1 of the first calendar year immediately following a year in which, on or before July 1, the commissioner determines that:

(1) the valuation manual has been adopted by the National Association of Insurance Commissioners by an affirmative vote of at least 42 members, or three-fourths of the members voting, whichever is greater;

(2) the National Association of Insurance Commissioners Standard Model Valuation Law, as amended by the National Association of Insurance Commissioners in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing greater than 75 percent of the direct premiums written as reported in the following annual statements submitted for 2008:

(A) life insurance and accident and health annual statements;

(B) health annual statements; or

(C) fraternal annual statements; and

(3) the National Association of Insurance Commissioners Standard Model Valuation Law, as amended by the National Association of Insurance Commissioners in 2009, or legislation including substantially similar terms and provisions, has been enacted by at least 42 of the following 55 jurisdictions:

(A) the 50 United States;

(B) American Samoa;

(C) the United States Virgin Islands;

(D) the District of Columbia;

(E) Guam; and

(F) Puerto Rico.

(c) After a valuation manual has been adopted by the commissioner by rule, any changes to the valuation manual must be adopted by rule and must be substantially similar to changes adopted by the National Association of Insurance Commissioners. Unless a change in the valuation specifies a later effective date, the effective date for changes to the valuation manual may not be earlier than January 1 of the year immediately following the date on which the commissioner determines that the changes to the valuation manual have been adopted by the National Association of Insurance Commissioners by an affirmative vote representing:

(1) at least three-fourths of the members of the National Association of Insurance Commissioners voting, but not less than a majority of the total membership; and

(2) members of the National Association of Insurance Commissioners representing jurisdictions totaling greater than 75 percent of the direct premiums written as reported in the most recently available annual statements as provided by Subsections (b)(2)(A)-(C).

(d) The valuation manual must specify:

(1) the minimum valuation standards for and definitions of the policies or contracts subject to Section [425.0535](#), including:

(A) the commissioner's reserve valuation method for life insurance contracts subject to Section [425.0535](#);

(B) the commissioner's annuity reserve valuation method for annuity contracts subject to Section [425.0535](#); and

(C) the minimum reserves for all other policies or contracts subject to Section [425.0535](#);

(2) the policies or contracts that are subject to the requirements of a principle-based valuation under Section [425.074](#) and the minimum valuation standards consistent with those requirements, including:

(A) the requirements for the format of reports to the commissioner under Section [425.074\(b\)\(3\)](#), which must include the information necessary to determine if a valuation is

appropriate and in compliance with this subchapter;

(B) the assumptions prescribed for risks over which the company does not have significant control or influence; and

(C) the procedures for corporate governance and oversight of the actuarial function, and a process for appropriate waiver or modification of the procedures;

(3) the policies that are not subject to a principle-based valuation under Section 425.074;

(4) the data and form of data required under Section 425.075, to whom the data must be submitted, and other desired requirements, including requirements concerning data analyses and reporting of analyses;

(5) other requirements, including requirements relating to reserve methods, models for measuring risk, generation of economic scenarios, assumptions, margins, use of company experience, disclosure, certification, reports, actuarial opinions and memorandums, transition rules, and internal controls; and

(6) an exemption that allows certain small companies to value reserves based on an exception from certain requirements of this section and Section 425.074; however, the premium thresholds for determining whether the exemption applies shall be as follows:

(A) less than \$300 million of ordinary life premium; and

(B) less than \$600 million of combined ordinary life premiums for a group of life insurers if the company is a member of that group.

(e) For purposes of Subsections (d)(6)(A) and (B), an ordinary life premium is measured as a direct premium plus reinsurance assumed from an unaffiliated company, as reported in the prior calendar year statement.

(f) With respect to policies that are not subject to a principle-based valuation under Section 425.074 as described by Subsection (d)(3), the minimum valuation standard specified in the valuation manual must:

(1) be consistent with the minimum valuation standard

before the operative date of the valuation manual; or

(2) develop reserves that quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring.

(g) In the absence of a specific valuation requirement or if a specific valuation requirement in the valuation manual does not in the commissioner's opinion comply with this subchapter, the company shall, with respect to the requirement, comply with minimum valuation standards prescribed by the commissioner by rule.

(h) The commissioner may employ or contract with a qualified actuary, at the expense of the company, to perform an actuarial examination of the company and provide an opinion concerning the appropriateness of any reserve assumption or method used by the company, or to review and provide an opinion on a company's compliance with any requirement of this subchapter. The commissioner may rely on the opinion, regarding provisions contained within this subchapter, of a qualified actuary engaged by the insurance supervisory official of another state.

(i) The commissioner may require a company to change an assumption or method as necessary in the commissioner's opinion to comply with a requirement of the valuation manual or this subchapter.

(j) The commissioner may take other disciplinary action as permitted under Chapter 82.

Added by Acts 2015, 84th Leg., R.S., Ch. 313 (S.B. 1654), Sec. 15, eff. September 1, 2015.

Sec. 425.074. REQUIREMENTS OF A PRINCIPLE-BASED VALUATION.

(a) A company shall establish reserves using a principle-based valuation that meets the conditions for policies or contracts provided by the valuation manual. At a minimum, the valuation shall:

(1) quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable

events that have a reasonable probability of occurring during the terms of the contracts;

(2) with respect to policies and contracts with significant tail risk, reflect conditions appropriately adverse to quantify the tail risk;

(3) incorporate assumptions, risk analysis methods, and financial models and management techniques that are consistent with those used in the company's overall risk assessment process, while recognizing potential differences in financial reporting structures and any prescribed assumptions or methods;

(4) incorporate assumptions:

(A) prescribed by the valuation manual; or

(B) established:

(i) using the company's available experience, to the extent that data is relevant and statistically credible; or

(ii) to the extent that the company data is not available, relevant, or statistically credible, using other relevant, statistically credible experience; and

(5) provide margins for uncertainty, including adverse deviation and estimation error, such that the greater the uncertainty the larger the margin and resulting reserve.

(b) A company using a principle-based valuation for one or more policies or contracts subject to this section and as specified by the valuation manual shall:

(1) establish procedures for corporate governance and oversight of the actuarial valuation function consistent with procedures specified by the valuation manual;

(2) provide to the commissioner and the company's board of directors an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation; and

(3) develop, and file with the commissioner on request, a principle-based valuation report that complies with standards prescribed in the valuation manual.

(c) A company's internal controls with respect to the principle-based valuation must be designed to ensure that all

material risks inherent in the liabilities and associated assets subject to the valuation are included in the valuation, and that valuations are made in accordance with the valuation manual. The certification described by Subsection (b)(2) must be based on the controls in place as of the end of the preceding calendar year.

(d) A principle-based valuation may include a prescribed formulaic reserve component.

Added by Acts 2015, 84th Leg., R.S., Ch. 313 (S.B. 1654), Sec. 15, eff. September 1, 2015.

Sec. 425.075. EXPERIENCE REPORTING FOR POLICIES IN FORCE ON OR AFTER OPERATIVE DATE OF VALUATION MANUAL. A company shall submit mortality, morbidity, policyholder behavior, or expense experience and other data as prescribed in the valuation manual.

Added by Acts 2015, 84th Leg., R.S., Ch. 313 (S.B. 1654), Sec. 15, eff. September 1, 2015.

Sec. 425.076. CONFIDENTIALITY. (a) In this section, "confidential information" means:

(1) a memorandum in support of an opinion submitted under Section 425.0545 and any other documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with such memorandum;

(2) all documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in the course of an examination made under Section 425.073(h); provided, however, that if an examination report or other material prepared in connection with an examination made under Subchapter B, Chapter 401, is not held as private and confidential information under Subchapter B, Chapter 401, an examination report or other material prepared in connection with an examination made under Section 425.073(h) shall not be "confidential information" to the same extent as if such examination report or other material had been prepared under

Subchapter B, Chapter 401;

(3) any reports, documents, materials, and other information developed by a company in support of, or in connection with, an annual certification by the company under Section 425.074(b)(2) evaluating the effectiveness of the company's internal controls with respect to a principle-based valuation and any other documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with such reports, documents, materials, and other information;

(4) any principle-based valuation report developed under Section 425.074(b)(3) and any other documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with such report; and

(5) any documents, materials, data, and other information submitted by a company under Section 425.075 (collectively, "experience data") and any other documents, materials, data, and other information, including, but not limited to, all working papers, and copies thereof, created or produced in connection with such experience data, in each case that include any potentially company-identifying or personally identifiable information, that is provided to or obtained by the commissioner (together with any "experience data," the "experience materials") and any other documents, materials, data, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with such experience materials.

(b) Except as provided in this section, a company's confidential information is confidential by law and privileged, and shall not be subject to Chapter 552, Government Code, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action; provided, however, that the commissioner is authorized to use the

confidential information in the furtherance of any regulatory or legal action brought against the company as a part of the commissioner's official duties.

(c) Neither the commissioner nor any person who received confidential information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential information.

(d) In order to assist in the performance of the commissioner's duties, the commissioner may share confidential information (1) with other state, federal, and international regulatory agencies and with the National Association of Insurance Commissioners and its affiliates and subsidiaries and (2) in the case of confidential information specified in Subsections (a)(1) and (a)(4) only, with the Actuarial Board for Counseling and Discipline or its successor upon request stating that the confidential information is required for the purpose of professional disciplinary proceedings and with state, federal, and international law enforcement officials; in the case of (1) and (2), provided that such recipient agrees, and has the legal authority to agree, to maintain the confidentiality and privileged status of such documents, materials, data, and other information in the same manner and to the same extent as required for the commissioner.

(e) The commissioner may receive documents, materials, data, and other information, including otherwise confidential or privileged documents, materials, data, or information, from the National Association of Insurance Commissioners and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions and from the Actuarial Board for Counseling and Discipline or its successor and shall maintain as confidential or privileged any document, material, data, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, data, or other information.

(f) The commissioner may enter into agreements governing sharing and use of information consistent with Subsections (b)

through (k).

(g) No waiver of any applicable privilege or claim of confidentiality in the confidential information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in Subsection (d).

(h) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under Subsections (b) through (k) shall be available and enforced in any proceeding in, and in any court of, this state.

(i) In this section, a reference to a regulatory agency, law enforcement agency, or the National Association of Insurance Commissioners includes an employee, agent, consultant, or contractor of the agency or association, as applicable.

(j) Notwithstanding this section, any confidential information specified in Subsections (a)(1) and (a)(4) may be:

(1) subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted under Section [425.0545](#) or a principle-based valuation report developed under Section [425.074\(b\)\(3\)](#) by reason of an action required by this subchapter or by rules adopted under this subchapter; and

(2) released by the commissioner with the written consent of the company.

(k) Once any portion of a memorandum in support of an opinion submitted under Section [425.0545](#) or a principle-based valuation report developed under Section [425.074\(b\)\(3\)](#) is cited by the company in its marketing or is publicly volunteered to or before a governmental agency other than a state insurance department or is released by the company to the news media, all portions of such memorandum or report shall no longer be confidential and privileged.

Added by Acts 2015, 84th Leg., R.S., Ch. 313 (S.B. [1654](#)), Sec. 15, eff. September 1, 2015.

Sec. 425.077. SINGLE STATE EXEMPTION. The commissioner may exempt specific product forms or product lines of a domestic company that is licensed and doing business only in this state from

the requirements of Section [425.073](#) if:

(1) the commissioner has issued an exemption in writing to the company and has not subsequently revoked the exemption in writing; and

(2) the company computes reserves using assumptions and methods used before the operative date of the valuation manual in addition to any requirements established by the commissioner and adopted by rule.

Added by Acts 2015, 84th Leg., R.S., Ch. 313 (S.B. [1654](#)), Sec. 15, eff. September 1, 2015.

SUBCHAPTER C. AUTHORIZED INVESTMENTS AND TRANSACTIONS FOR CAPITAL STOCK LIFE, HEALTH, AND ACCIDENT INSURERS

Sec. 425.101. DEFINITIONS. In this subchapter:

(1) "Assets" means the statutory accounting admitted assets of an insurance company. The term includes lawful money of the United States, whether in the form of cash or demand deposits in solvent banks, savings and loan associations, credit unions, and branches of those entities, organized under the laws of the United States or a state of the United States, if held in accordance with the laws or regulations applicable to those entities. The term does not include the company's separate accounts that are subject to Chapter [1152](#).

(2) "Securities valuation office" means the Securities Valuation Office of the National Association of Insurance Commissioners.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 1, eff. April 1, 2007.

Sec. 425.102. INAPPLICABILITY OF CERTAIN LAW. The definition of "state" assigned by Section [311.005](#), Government Code, does not apply to this subchapter.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 1, eff. April 1, 2007.

Sec. 425.103. APPLICABILITY OF SUBCHAPTER. (a) This

subchapter and rules adopted to interpret and implement this subchapter apply to all domestic insurance companies as defined in Section 841.001 and to other insurance companies specifically made subject to this subchapter, including a stipulated premium company that elects under Section 884.311 to be governed by this subchapter.

(b) Subchapter D does not apply to an insurance company to which this subchapter applies.

(c) This subchapter does not limit or restrict investments in or transactions with or within subsidiaries and affiliates made under Chapter 823.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.104. PURPOSE. The purpose of this subchapter is to protect and further the interests of insureds, insurance companies, creditors, and the public by providing standards for development and administration of plans for investment of insurance companies' assets.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.105. WRITTEN INVESTMENT PLAN. (a) Each insurance company's board of directors or, if the company does not have a board of directors, the corresponding authority designated by the company's charter, bylaws, or plan of operation, shall adopt a written investment plan consistent with this subchapter.

(b) The investment plan must:

(1) specify the diversification of the insurance company's investments, so as to reduce the risk of large losses, by:

(A) broad categories, such as bonds and real property loans;

(B) kinds, such as government obligations, obligations of business entities, mortgage-backed securities, and real property loans on office, retail, industrial, or residential properties;

(C) quality;

(D) maturity;
(E) industry; and
(F) geographical areas, as to both domestic and foreign investments;

(2) balance safety of principal with yield and growth;

(3) seek a reasonable relationship of assets and liabilities as to term and nature; and

(4) be appropriate considering the capital and surplus and the business conducted by the company.

(c) At least annually, the board of directors or corresponding authority shall review the adequacy of the investment plan and the implementation of the plan.

(d) An insurance company shall maintain the company's investment plan in the company's principal office and provide the plan to the commissioner or the commissioner's designee on request. The commissioner or the commissioner's designee shall maintain the plan as a privileged and confidential document. The plan is not subject to public disclosure.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.106. INVESTMENT RECORDS; DEMONSTRATION OF COMPLIANCE. An insurance company shall maintain investment records covering each transaction. The company must be able to demonstrate at all times that the company's investments are within the limitations imposed by this subchapter.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.108. AUTHORIZED INVESTMENTS AND TRANSACTIONS IN GENERAL. (a) Subject to the limitations and restrictions imposed by this subchapter, and, unless otherwise specified, based on the insurance company's capital, surplus, and admitted assets as reported in the company's most recently filed statutory financial statement, the investments and transactions described by this subchapter and Subchapter F, Chapter 823, are authorized investments and transactions for a company subject to this

subchapter.

(b) An insurance company may not make an investment or enter into a transaction that is not authorized by this subchapter or Subchapter F, Chapter 823.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.109. AUTHORIZED INVESTMENTS: GOVERNMENT OBLIGATIONS. (a) An insurance company may invest in:

(1) a bond, evidence of indebtedness, or other obligation of the United States;

(2) a bond, evidence of indebtedness, or other obligation guaranteed as to principal and interest by the full faith and credit of the United States;

(3) a bond, evidence of indebtedness, or other obligation of an agency or instrumentality of the United States government; and

(4) subject to Subsections (b) and (c), a bond, evidence of indebtedness, or other obligation of a governmental unit in the United States, Canada, or any province or municipality of Canada, or of an instrumentality of one of those governmental units.

(b) An insurance company may not invest in a bond, evidence of indebtedness, or other obligation under Subsection (a)(4) if the governmental unit or instrumentality is in default in the payment of principal or interest on any of the governmental unit's or instrumentality's obligations.

(c) An insurance company's investments in the obligations of a single governmental unit or instrumentality under Subsection (a)(4) may not exceed 20 percent of the company's capital and surplus.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.110. AUTHORIZED INVESTMENTS: OBLIGATIONS OF AND OTHER INVESTMENTS IN BUSINESS ENTITIES. (a) In this section:

(1) "Business entity" includes a sole proprietorship,

corporation, association, general or limited partnership, limited liability company, joint-stock company, joint venture, trust, or other form of business organization, regardless of whether organized for profit, that is organized under the laws of the United States, another state, Canada, or any district, province, or territory of Canada.

(2) "Counterparty exposure amount" has the meaning assigned by Section [425.125](#).

(b) Subject to this section, an insurance company may invest in an obligation, including a bond or evidence of indebtedness, a participation in a bond or evidence of indebtedness, or an asset-backed security, that is issued, assumed, guaranteed, or insured by a business entity.

(c) An insurance company's investments in the obligations or counterparty exposure amounts of a single business entity rated by the securities valuation office may not exceed 20 percent of the company's statutory capital and surplus.

(d) An insurance company may not invest in an obligation, counterparty exposure amount, or preferred stock of a business entity if, after making the investment:

(1) the aggregate amount of those investments then held by the company that are rated 3, 4, 5, or 6 by the securities valuation office would exceed 20 percent of the company's assets;

(2) the aggregate amount of those investments then held by the company that are rated 4, 5, or 6 by the securities valuation office would exceed 10 percent of the company's assets;

(3) the aggregate amount of those investments then held by the company that are rated 5 or 6 by the securities valuation office would exceed three percent of the company's assets; or

(4) the aggregate amount of those investments then held by the company that are rated 6 by the securities valuation office would exceed one percent of the company's assets.

(e) If an insurance company attains or exceeds the limit of a rating category referred to in Subsection (d), the company is not precluded from acquiring investments in other rating categories subject to the specific and multiple category limits applicable to

those investments.

(f) Notwithstanding Subsections (c)-(e), an insurance company may invest in an additional obligation of a business entity in which the company holds one or more obligations if the investment is made to protect an investment previously made in that business entity. Obligations invested in under this subsection may not exceed one-half percent of the company's assets.

(g) This section does not prohibit an insurance company from investing in an obligation as a result of a restructuring of an already held obligation or preferred stock that is rated 3, 4, 5, or 6 by the securities valuation office.

(h) An insurance company shall include all counterparty exposure amounts in determining compliance with the limitations of this section.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.111. AUTHORIZED INVESTMENTS: BONDS ISSUED, ASSUMED, OR GUARANTEED IN INTERNATIONAL MARKET. (a) Subject to this section, an insurance company may invest in bonds issued, assumed, or guaranteed by:

- (1) the Inter-American Development Bank;
- (2) the International Bank for Reconstruction and Development (the World Bank);
- (3) the Asian Development Bank;
- (4) the State of Israel;
- (5) the African Development Bank; and
- (6) the International Finance Corporation.

(b) An insurance company's investments in the bonds of a single entity under this section may not exceed 20 percent of the company's capital and surplus.

(c) The aggregate of all investments made by an insurance company under this section may not exceed 20 percent of the company's assets.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.112. AUTHORIZED INVESTMENTS: POLICY LOANS. An insurance company may invest in loans on the security of the company's own policies in an amount that does not exceed the amount of the reserve values of those policies.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.113. AUTHORIZED INVESTMENTS: DEPOSITS IN CERTAIN FINANCIAL INSTITUTIONS. (a) Subject to this section, an insurance company may invest in any type of savings deposit, time deposit, certificate of deposit, NOW account, or money market account in a solvent bank, savings and loan association, or credit union that is organized under the laws of the United States or a state, or in a branch of one of those financial institutions.

(b) An investment under this section must be made in accordance with the laws or regulations applicable to the bank, savings and loan association, or credit union.

(c) The amount of an insurance company's deposits in a single bank, savings and loan association, or credit union may not exceed the greater of:

(1) 20 percent of the company's capital and surplus;

(2) the amount of federal or state deposit insurance coverage that applies to the deposits; or

(3) 10 percent of the amount of capital, surplus, and undivided profits of the financial institution receiving the deposits.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.114. AUTHORIZED INVESTMENTS: INSURANCE COMPANY INVESTMENT POOLS. (a) In this section, "affiliate" means, with respect to a person, another person that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with the person.

(b) Subject to Subsections (c)-(g), an insurance company may acquire investments in an investment pool that invests only in:

(1) obligations that have a rating by the securities

valuation office of one or two, or an equivalent rating issued by a nationally recognized statistical rating organization recognized by the securities valuation office, or that are issued by an issuer with outstanding obligations that have a securities valuation office one or two rating or an equivalent rating described by this subdivision, and that:

(A) have a remaining maturity of 397 days or less or a put that:

(i) entitles the holder to receive the principal amount of the obligation; and

(ii) may be exercised through maturity at specified intervals not exceeding 397 days; or

(B) have a remaining maturity of three years or less and a floating interest rate that resets at least quarterly on the basis of a current short-term index (federal funds, prime rate, treasury bills, London InterBank Offered Rate, or commercial paper) and is not subject to a maximum limit, if the obligations do not have an interest rate that varies inversely to market interest rate changes;

(2) securities lending, repurchase, and reverse repurchase transactions that meet the requirements of Section [425.121](#) and any applicable department rules;

(3) money market funds as authorized by Section [425.123](#), except that a short-term investment pool may not acquire investments in a single business entity that exceed 10 percent of the total assets of the pool; or

(4) investments that an insurance company may make under this subchapter, if:

(A) the company's proportionate interest in the amount invested in those investments does not exceed the limits of this subchapter; and

(B) the aggregate amount of the company's investments in all investment pools under this subdivision does not exceed 25 percent of the company's assets.

(c) An insurance company may not acquire an investment in an investment pool under Subsection (b) if, after making the investment, the aggregate amount of the company's investments in

all investment pools would exceed 35 percent of the company's assets.

(d) For an investment in an investment pool to be qualified under this section, the pool may not:

(1) acquire securities issued, assumed, guaranteed, or insured by an investing insurer or an affiliate of the investing insurance company; or

(2) borrow or incur an indebtedness for borrowed money, except for securities lending and reverse repurchase transactions.

(e) For an investment pool to be qualified under this section:

(1) the pool manager must:

(A) be organized under the laws of the United States or a state and designated as the pool manager in a pooling agreement; or

(B) be:

(i) the investing insurance company, an affiliated insurance company, a business entity affiliated with the investing company, a custodian bank, a business entity registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.), as amended;

(ii) in the case of a reciprocal or interinsurance exchange, the exchange's attorney-in-fact; or

(iii) in the case of a United States branch of an alien insurance company, the United States manager or an affiliate or subsidiary of the United States manager;

(2) the pool manager or an entity designated by the pool manager of the type described by Subdivision (1)(B) must maintain:

(A) detailed accounting records showing:

(i) the cash receipts and disbursements reflecting each participant's proportionate investment in the pool; and

(ii) a complete description of all the pool's underlying assets, including the amount, interest rate, maturity date, if any, and other appropriate designations; and

(B) other records that, on a daily basis, allow a third party to verify each participant's investments in the pool; and

(3) the assets of the pool must be held in one or more accounts, in the name or on behalf of the pool, at the principal office of the pool manager or under a custody agreement or trust agreement with a custodian bank, provided that the agreement:

(A) states and recognizes the claims and rights of each participant;

(B) acknowledges that the pool's underlying assets are held solely for the benefit of each participant in proportion to the aggregate amount of the participant's investments in the pool; and

(C) contains an agreement that the pool's underlying assets may not be commingled with the general assets of the custodian bank or any other person.

(f) The pooling agreement for each investment pool must be in writing and must provide that:

(1) 100 percent of the interests in the pool must be held at all times by the insurance company, the company's subsidiaries or affiliates, or, in the case of a United States branch of an alien insurance company, the affiliates or subsidiaries of the United States manager, and any unaffiliated insurance company;

(2) the pool's underlying assets may not be commingled with the general assets of the pool manager or any other person;

(3) in proportion to the aggregate amount of each pool participant's interest in the pool:

(A) each participant owns an undivided interest in the pool's underlying assets; and

(B) the pool's underlying assets are held solely for the benefit of each participant;

(4) a participant, or, in the event of the participant's insolvency, bankruptcy, or receivership, the participant's trustee, receiver, conservator, or other successor in interest, may withdraw all or part of the participant's investment from the pool under the terms of the pooling agreement;

(5) a withdrawal may be made on demand without penalty or other assessment on any business day, and settlement of funds must occur within a reasonable and customary period after the withdrawal, except that:

(A) in the case of publicly traded securities, the settlement period may not exceed five business days; and

(B) in the case of securities and investments other than publicly traded securities, the settlement period may not exceed 10 business days;

(6) the amount of a distribution under Subdivision (5) must be computed after subtracting all the pool's applicable fees and expenses;

(7) the pool manager shall distribute to a participant, at the manager's discretion:

(A) in cash, an amount that represents the fair market value of the participant's pro rata share of each of the pool's underlying assets;

(B) in kind, an amount that represents a pro rata share of each underlying asset; or

(C) in a combination of cash and in-kind distributions, an amount that represents a pro rata share in each underlying asset; and

(8) the pool manager shall make the records of the pool available for inspection by the commissioner.

(g) An investment in an investment pool is not considered to be an affiliate transaction under Subchapter C, Chapter 823, but each pooling agreement is subject to the standards of Section 823.101 and the reporting requirements of Section 823.052.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.115. AUTHORIZED INVESTMENTS: EQUITY INTERESTS.

(a) In this section, "business entity" means a real estate investment trust, corporation, limited liability company, association, limited partnership, joint venture, mutual fund, trust, joint tenancy, or other similar form of business organization, regardless of whether organized for profit.

(b) Subject to this section, an insurance company may invest in an equity interest, including common stock, an equity investment in an investment company other than a money market fund described by Section 425.123, a real estate investment trust, a limited partnership interest, a warrant, another right to acquire an equity interest that is created by the person that owns or would issue the equity in which the interest is acquired, and an equity interest in a business entity that is organized under the laws of the United States, a state of the United States, Canada, or a province or territory of Canada.

(c) If a market value from a generally recognized source is not available for an equity interest, the business entity or other investment in which the interest is acquired must be subject to:

(1) an annual audit by an independent certified public accountant; or

(2) another method of valuation acceptable to the commissioner.

(d) An insurance company may not invest in a partnership as a general partner except through an investment subsidiary.

(e) An insurance company's investments under this section in a single business entity, other than a money market fund described by Section 425.123, may not exceed 15 percent of the company's capital and surplus.

(f) The aggregate amount of an insurance company's investments under this section may not exceed 25 percent of the company's assets.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.116. AUTHORIZED INVESTMENTS: PREFERRED STOCK.

(a) Subject to this section, an insurance company may invest in preferred stock of a business entity, as defined by Section 425.110.

(b) An insurance company may invest in preferred stock only if:

(1) the stock is rated by the securities valuation office; and

(2) the sum of the company's aggregate investment in preferred stock rated 3, 4, 5, or 6 and the company's investments under Section 425.110(d) does not exceed the limitations specified by Section 425.110(d).

(c) An insurance company's investments in the preferred stock of a single business entity may not exceed 20 percent of the company's capital and surplus.

(d) The aggregate amount of an insurance company's investments in preferred stock as to which there is not a sinking fund for the redemption and retirement of the stock that meets the standards established by the National Association of Insurance Commissioners may not exceed 10 percent of the company's assets.

(e) The aggregate amount of an insurance company's investments under this section may not exceed 40 percent of the company's assets.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.117. AUTHORIZED INVESTMENTS: COLLATERAL LOANS.

(a) Subject to this section, an insurance company may invest in a collateral loan secured by:

(1) a first lien on an asset; or

(2) a valid and perfected first security interest in an asset.

(b) The amount of a loan invested in under this section may not exceed 80 percent of the value of the collateral asset at any time during the duration of the loan.

(c) The asset used as collateral for a loan under this section must be an asset, other than real property described by Section 425.119, in which the insurance company is authorized by this subchapter to directly invest.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.118. AUTHORIZED INVESTMENTS: OBLIGATIONS SECURED BY REAL PROPERTY LOANS. (a) Subject to this section, an insurance company may invest in a note, an evidence of indebtedness, or a

participation in a note or evidence of indebtedness that is secured by a valid first lien on real property or a leasehold estate in real property located in the United States.

(b) The amount of an obligation secured by a first lien on real property or a leasehold estate in real property may exceed 90 percent of the value of the real property or leasehold estate only if:

(1) the amount does not exceed 100 percent of the value of the real property or leasehold estate and the insurance company or one or more wholly owned subsidiaries of the company owns, in the aggregate, a 10 percent or greater equity interest in the real property or leasehold estate;

(2) the amount does not exceed 95 percent of the value of the real property or leasehold estate and:

(A) the property contains only a dwelling designed exclusively for occupancy by not more than four families for residential purposes; and

(B) the portion of the unpaid balance of the obligation that exceeds 90 percent of the value of the property or leasehold estate is guaranteed or insured by a mortgage guaranty insurer authorized to engage in business in this state; or

(3) the amount exceeds 90 percent of the value of the real property or leasehold estate only to the extent the obligation is insured or guaranteed by:

(A) the United States;

(B) the Federal Housing Administration under the National Housing Act (12 U.S.C. Section 1701 et seq.), as amended; or

(C) this state.

(c) The term of an obligation secured by a first lien on a leasehold estate in real property may not, as of the date the obligation is acquired, exceed a period equal to four-fifths of the unexpired term of the leasehold estate, including any renewal options exercisable by the lessee, and the obligation must fully amortize during that period. The term of the leasehold estate, including any renewal options exercisable by the lessee, may not expire sooner than the 10th anniversary of the expiration date of

the term of the obligation.

(d) An obligation secured by a first lien on a leasehold estate in real property must be payable in one or more installments of an amount or amounts sufficient to ensure that, at any time during the original term of the obligation, the principal balance on the obligation is not greater than the principal balance would have been if the obligation had been amortized over the original term of the obligation in equal monthly, quarterly, semiannual, or annual payments of principal and interest with payments of interest only for the first five years of the original term of the obligation.

(d-1) Subsection (d) does not apply to an obligation secured by a first lien on a leasehold estate in real property if:

(1) the amount of the obligation does not, as of the date the obligation is acquired, exceed 75 percent of the value of the leasehold estate;

(2) the lease agreement provides that the fee simple estate in the real property transfers automatically to the lessee on or before the expiration of the term of the leasehold estate, including any renewal options exercisable by the lessee; or

(3) the lease agreement provides that the lessee has an option to purchase the fee simple estate in the real property on or before the expiration of the term of the leasehold estate, including any renewal options exercisable by the lessee, for an amount that is less than 10 percent of the appraised value of the real property, and the insurance company has a contractual right if the lessee does not exercise that option to acquire the fee simple estate in the real property for that same amount, by assignment from the lessee or otherwise.

(e) Except as provided by Subsection (e-1), if any part of the value of buildings is to be included in the value of real property or a leasehold estate in real property to secure an obligation under this section:

(1) the buildings must be covered by adequate property insurance, including fire and extended coverage insurance, issued by:

(A) an insurer authorized to engage in business

in this state; or

(B) an insurer recognized as acceptable to issue that coverage by the insurance regulatory official of the state in which the real property is located;

(2) the amount of insurance provided by one or more policies may not be less than the lesser of:

(A) the unpaid balance of the obligation; or

(B) the insurable value of the buildings; and

(3) the loss clause under each policy must be payable to the insurance company as the company's interest may appear.

(e-1) The property insurance otherwise required under Subsection (e) is not required if the borrower maintains a net worth as indicated in the borrower's audited financial statements for the most recent fiscal year of at least the greater of five times the amount of the indebtedness or \$100 million and:

(1) the insurance company has recourse against the borrower or the borrower's guarantor; or

(2) for an obligation secured by a leasehold estate:

(A) the tenant assigned the lease to the insurance company; and

(B) the lease agreement is in writing and provides that if a building on the property is damaged or destroyed, the tenant or the tenant's guarantor is obligated to rebuild or restore the damaged or destroyed building to the building's condition immediately before the damage or destruction occurred or compensate the owner for the loss arising from the damage or destruction.

(f) To the extent that a note, evidence of indebtedness, or participation in a note or evidence of indebtedness under this section represents an equity interest in the underlying real property:

(1) the value of that equity interest must be determined at the time the note, evidence of indebtedness, or participation is executed; and

(2) the portion of the obligation that represents an equity interest in the property must be designated as an investment subject to Section [425.119\(c\)](#).

(g) An insurance company's investment in a single obligation under this section may not exceed 25 percent of the company's capital and surplus.

(h) An insurance company may purchase a first lien on real property after the origination of the lien if:

(1) the first lien is insured by a mortgagee's title policy issued to the original mortgagee that contains a provision that inures the policy to the use and benefit of the owners of the evidence of indebtedness indicated in the policy and to any subsequent owners of that evidence of indebtedness; and

(2) the company maintains evidence of an assignment or other transfer of the first lien on real property to the company.

(i) For purposes of Subsection (h)(2), an assignment or other transfer to the insurance company that is duly recorded in the county in which the real property is located is presumed to create legal ownership of the first lien by the company.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1100 (H.B. 3803), Sec. 1, eff. September 1, 2017.

Sec. 425.1185. AUTHORIZED INVESTMENTS: MEZZANINE REAL ESTATE LOANS. (a) In this section, "mezzanine real estate loan" means a loan that is secured by a pledge of direct or indirect equity interests in an entity that owns real estate.

(b) Subject to Subsections (c) and (d), an insurance company with more than \$10 billion in admitted assets may invest in a mezzanine real estate loan if the loan documents:

(1) require that each pledgor abstain from granting an additional security interest in the equity interest pledged;

(2) employ techniques to minimize the likelihood or impact of a bankruptcy filing by the real estate owner or the mezzanine real estate loan borrower; and

(3) require the real estate owner or the mezzanine real estate loan borrower to:

(A) hold no assets other than, in the case of the

owner, the real estate, and in the case of the borrower, the equity interests in the entity;

(B) not engage in any business other than, in the case of the owner, the ownership and operation of the real estate, and in the case of the borrower, holding an ownership interest in the owner; and

(C) not incur additional debt, other than limited trade payables, a first mortgage loan, or the mezzanine real estate loan.

(c) Before making an initial investment in a mezzanine real estate loan, an insurance company shall corroborate that the sum of the first mortgage on the real estate and the mezzanine real estate loan does not exceed 100 percent of the value of the current appraised value of the real estate.

(d) An insurance company's cumulative investment under this section may not exceed three percent of the insurance company's admitted assets.

Added by Acts 2015, 84th Leg., R.S., Ch. 310 (S.B. 1008), Sec. 1, eff. September 1, 2015.

Sec. 425.119. AUTHORIZED INVESTMENTS: REAL PROPERTY. (a) Subject to this section, an insurance company may invest in a real property fee simple or leasehold estate located in the United States.

(b) An insurance company may invest in home and branch office real property or a participation in home or branch office real property. At least 30 percent of the available space in a building used as a home or branch office must be occupied for the business purposes of the company and the company's affiliates. A company's aggregate investment in home and branch office real property may not exceed 20 percent of the company's assets.

(c) An insurance company may invest in real property other than home and branch office real property or participations in home and branch office real property. A company's investment under this subsection in a single piece of property or in an interest in a single piece of property, including improvements, fixtures, and equipment relating to the property, may not exceed five percent of

the company's assets.

(d) Investment real property held under Subsection (b) or (c) must be materially enhanced in value by:

(1) the construction of durable, permanent-type buildings and other improvements that cost an amount at least equal to the cost of the real property, excluding buildings and improvements at the time the real property is acquired; or

(2) the construction, commenced before the second anniversary of the date the real property is acquired, of buildings and improvements described by Subdivision (1).

(e) The admissible asset value of each investment in real property under Subsection (b) or (c) is subject to review and approval by the commissioner. The commissioner may, at the time the investment is made or any time the insurance company is being examined, have the investment appraised by an appraiser appointed by the commissioner. The company shall pay the reasonable expense of the appraisal. The expense of the appraisal is considered to be a part of the expense of examination of the company unless the company applies for the appraisal to be made. A company may not increase the valuation of real property described by Subsection (b) or (c) unless:

(1) the company applies for the increase in valuation; and

(2) the commissioner approves the increase.

(f) Except as provided by Subsection (g), an insurance company may not own, develop, or hold an equity interest in any residential property or subdivision, single or multiunit family dwelling property, or undeveloped real property to subdivide for or develop residential or single or multiunit family dwellings. This subsection does not apply to an insurer with admitted assets of \$10 billion or more, as determined from the insurer's annual statements that are made as of the December 31 that precedes the date of the determination and are filed with the department as required by law.

(g) An insurance company may invest in other real property acquired:

(1) in good faith to secure a loan previously contracted for, or for money due;

(2) in satisfaction of a debt previously contracted for in the course of the company's dealings; or

(3) by purchase at a sale under a judgment or decree of a court or under a mortgage or other lien held by the company.

(h) Regardless of the manner in which an insurance company acquires real property under this section, on the sale of the property, the company may retain indefinitely the fee title to the mineral estate or any portion of the mineral estate.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1175 (S.B. 841), Sec. 3, eff. September 1, 2013.

Sec. 425.120. AUTHORIZED INVESTMENTS: OIL, GAS, AND MINERALS. (a) In this section:

(1) "Producing" means producing oil, gas, or other minerals in paying quantities. A well that has been shut in is considered to be producing oil, gas, or other minerals in paying quantities if shut-in royalties are being paid.

(2) "Production payment" means a right to oil, gas, or other minerals in place or as produced that entitles the owner of the right to a specified fraction of production until the owner receives a specified amount of money, or a specified number of units of oil, gas, or other minerals.

(3) "Royalty" or "overriding royalty" means a right to oil, gas, and other minerals in place or as produced that entitles the owner of the right to a specified fraction of production without limitation to a specified amount of money or a specified number of units of oil, gas, or other minerals.

(b) Subject to this section, in addition to and without limitation on the purposes for which real property may be acquired, secured, held, or retained under other provisions of this subchapter, an insurance company may secure, hold, retain, and convey production payments, producing royalties, and producing overriding royalties, or participations in production payments, producing royalties, or producing overriding royalties as an

investment for the production of income.

(c) An insurance company may not carry an asset described by Subsection (b) in an amount that exceeds 90 percent of the appraised value of the asset.

(d) A single investment under this section may not exceed 10 percent of the amount of the insurance company's capital and surplus that exceeds the statutory minimum capital and surplus applicable to the company.

(e) The aggregate amount of an insurance company's investments under this section may not exceed 10 percent of the company's assets as of December 31 preceding the date of the investment.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.121. AUTHORIZED INVESTMENTS: SECURITIES LENDING, REPURCHASE, REVERSE REPURCHASE, AND DOLLAR ROLL TRANSACTIONS. (a) In this section:

(1) "Dollar roll transaction" means two simultaneous transactions with settlement dates not more than 96 days apart, in one of which an insurance company sells to a business entity, and in the other of which the company is obligated to purchase from the same business entity, substantially similar securities that are:

(A) mortgage-backed securities issued, assumed, or guaranteed by the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or a successor to one of those organizations; or

(B) other mortgage-backed securities referred to in 15 U.S.C. Section 77r-1, as amended.

(2) "Repurchase transaction" means a transaction in which an insurance company purchases securities from a business entity that is obligated to repurchase the purchased securities or equivalent securities from the company at a specified price, either within a specified period or on demand.

(3) "Reverse repurchase transaction" means a transaction in which an insurance company sells securities to a

business entity and is obligated to repurchase the sold securities or equivalent securities from the business entity at a specified price, either within a specified period or on demand.

(4) "Securities lending transaction" means a transaction in which an insurance company lends securities to a business entity that is obligated to return the loaned securities or equivalent securities to the company, either within a specified period or on demand.

(b) Subject to this section, an insurance company may engage in securities lending, repurchase, reverse repurchase, and dollar roll transactions.

(c) An insurance company must enter into a written agreement for each transaction under this section, other than a dollar roll transaction. The agreement must require that the transaction terminate on or before the first anniversary of the transaction's inception.

(d) With respect to cash received in a transaction under this section, an insurance company shall:

(1) invest the cash in accordance with this subchapter and in a manner that recognizes the liquidity needs of the transaction; or

(2) use the cash for the company's general corporate purposes.

(e) While a transaction under this section is outstanding, the insurance company or the company's agent or custodian shall maintain, as to acceptable collateral received in the transaction, either physically or through the book-entry system of the Federal Reserve, Depository Trust Company, Participants Trust Company, or another securities depository approved by the commissioner:

(1) possession of the collateral;

(2) a perfected security interest in the collateral;

or

(3) in the case of a jurisdiction outside of the United States, title to, or rights of a secured creditor to, the collateral.

(f) The limitations of Sections [425.110](#) and [425.157\(b\)](#) do not apply to the business entity counterparty exposure created by a

transaction under this section. An insurance company may not enter into a transaction under this section if, as a result of and after making the transaction:

(1) the aggregate amount of securities loaned or sold to or purchased from any one business entity counterparty under this section would exceed five percent of the company's assets; or

(2) the aggregate amount of all securities loaned or sold to or purchased from all business entities under this section would exceed 40 percent of the company's assets.

(g) For purposes of Subsection (f)(1), in computing the amount sold to or purchased from a business entity counterparty under a repurchase or reverse repurchase transaction, effect may be given to netting provisions under a master written agreement.

(h) The amount of collateral required for securities lending, repurchase, and reverse repurchase transactions is the amount required under the Purposes and Procedures Manual of the securities valuation office or a successor publication.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.122. AUTHORIZED INVESTMENTS: PREMIUM LOANS. (a) Subject to Subsection (b), an insurance company may make loans to finance the payment of premiums for the company's own insurance policies or annuity contracts.

(b) The amount of a loan under this section may not exceed the sum of:

(1) the available cash value of the insurance policy or annuity contract for which the premium loan is made; and

(2) the amount of any escrowed commissions payable relating to the insurance policy or annuity contract.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.123. AUTHORIZED INVESTMENTS: MONEY MARKET FUNDS. (a) An insurance company may invest in a money market fund as described by 17 C.F.R. Section 270.2a-7 under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.), that is:

(1) a government money market fund that:

(A) invests only in obligations issued, guaranteed, or insured by the United States government or collateralized repurchase agreements composed of these obligations; and

(B) qualifies for investment without a reserve under the Purposes and Procedures Manual of the securities valuation office or a successor publication; or

(2) a class one money market fund that qualifies for investment using the bond class one reserve factor described by the Purposes and Procedures Manual of the securities valuation office or a successor publication.

(b) For purposes of complying with Section [425.115](#), a money market fund that qualifies for listing in the categories prescribed by Subsection (a) must conform to the Purposes and Procedures Manual of the securities valuation office or a successor publication.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 1, eff. April 1, 2007.

Sec. 425.124. AUTHORIZED INVESTMENTS: RISK CONTROL TRANSACTIONS. Subject to Sections 425.126-425.132, an insurance company may use derivative instruments, as defined by Section [425.125](#), to engage in hedging transactions, replication transactions, and income generation transactions, as those terms are defined by Section [425.125](#).

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 1, eff. April 1, 2007.

Sec. 425.125. RISK CONTROL TRANSACTIONS: DEFINITIONS. In Sections 425.124-425.132:

(1) "Acceptable collateral" means cash, cash equivalents, letters of credit, and direct obligations, or securities that are fully guaranteed as to principal and interest by the United States government.

(2) "Business entity" includes a sole proprietorship, corporation, limited liability company, association, partnership,

joint stock company, joint venture, mutual fund, bank, trust, joint tenancy, or other similar form of business organization, regardless of whether organized for profit.

(3) "Cap" means an agreement obligating the seller to make payments to the buyer, with each payment based on the amount by which a reference price or level or the performance or value of one or more underlying interests exceeds a predetermined number that is sometimes called the strike rate or strike price.

(4) "Cash equivalent" means an investment or security that is short-term, highly rated, highly liquid, and readily marketable. The term includes a money market fund described by Section 425.123. For purposes of this subdivision, an investment or security is:

(A) short-term if it has a remaining term to maturity of one year or less; and

(B) highly rated if it has:

(i) a rating of "P-1" by Moody's Investors Service, Inc.;

(ii) a rating of "A-1" by the Standard and Poor's Division of the McGraw Hill Companies, Inc.; or

(iii) an equivalent rating by a nationally recognized statistical rating organization recognized by the securities valuation office.

(5) "Collar" means an agreement to receive payments as the buyer of an option, cap, or floor and to make payments as the seller of a different option, cap, or floor.

(6)(A) "Counterparty exposure amount" means:

(i) for an over-the-counter derivative instrument not entered into under a written master agreement that provides for netting of payments owed by the respective parties, the market value of the over-the-counter derivative instrument, if the liquidation of the derivative instrument would result in a final cash payment to the insurer, or zero, if the liquidation of the derivative instrument would not result in a final cash payment to the insurance company; or

(ii) for an over-the-counter derivative instrument entered into under a written master agreement that

provides for netting of payments owed by the respective parties, and for which the counterparty's domiciliary jurisdiction is within the United States or a jurisdiction outside the United States that is listed in the Purposes and Procedures Manual of the securities valuation office as eligible for netting, the greater of zero or the net sum payable to the company in connection with all derivative instruments subject to the written master agreement on the liquidation of the instruments in the event of the counterparty's default under the master agreement, if there is no condition precedent to the counterparty's obligation to make the payment and if there is no setoff of amounts payable under another instrument or agreement.

(B) For purposes of this subdivision, market value or the net sum payable, as applicable, must be determined at the end of the most recent quarter of the insurance company's fiscal year and must be reduced by the market value of acceptable collateral held by the company or a custodian on the company's behalf.

(7) "Derivative instrument":

(A) means an agreement, option, or instrument, or a series or combinations of agreements, options, or instruments:

(i) to make or take delivery of, or assume or relinquish, a specified amount of one or more underlying interests, or to make a cash settlement instead of making or taking delivery of, or assuming or relinquishing, a specified amount of an underlying instrument; or

(ii) that has a price, performance, value, or cash flow based primarily on the actual or expected price, yield, level, performance, value, or cash flow of one or more underlying interests;

(B) includes an option, a warrant not otherwise permitted to be held by the insurance company under this subchapter, a cap, a floor, a collar, a swap, a swaption, a forward, a future, any other substantially similar agreement, option, or instrument, and a series or combination of those agreements, options, or instruments; and

(C) does not include a collateralized mortgage

obligation, another asset-backed security, a principal-protected structured security, a floating rate security, an instrument that a company would otherwise be authorized to invest in or receive under a provision of this subchapter other than Sections 425.124-425.132, or a debt obligation of the company.

(8) "Derivative transaction" means a transaction involving the use of one or more derivative instruments. The term does not include a dollar roll transaction, repurchase transaction, reverse repurchase transaction, or securities lending transaction.

(9) "Floor" means an agreement obligating the seller to make payments to the buyer, each of which is based on the amount by which a predetermined number that is sometimes called the floor rate or floor price exceeds a reference price, level, performance, or value of one or more underlying interests.

(10) "Forward" means an agreement to make or take delivery in the future of one or more underlying interests, or to effect a cash settlement, based on the actual or expected price, level, performance, or value of those interests. The term does not include a future, a spot transaction effected within a customary settlement period, a when-issued purchase, or another similar cash market transaction.

(11) "Future" means an agreement traded on a futures exchange to make or take delivery of one or more underlying interests, or to effect a cash settlement based on the actual or expected price, level, performance, or value of those interests.

(12) "Futures exchange" means a foreign or domestic exchange, contract market, or board of trade on which trading in futures is conducted and that, in the United States, is authorized to conduct that trading by the Commodity Futures Trading Commission or a successor to that agency.

(13) "Hedging transaction" means a derivative transaction entered into and maintained to manage, with respect to an asset, liability, or portfolio of assets or liabilities, that an insurance company has acquired or incurred or anticipates acquiring or incurring:

(A) the risk of a change in value, yield, price, cash flow, or quantity; or

(B) the currency exchange rate risk.

(14) "Income generation transaction" means a derivative transaction entered into to generate income. The term does not include a hedging transaction or a replication transaction.

(15) "Market value" means the price for a security or derivative instrument obtained from a generally recognized source, the most recent quotation from a generally recognized source, or if a generally recognized source does not exist, the price determined under the terms of the instrument or in good faith by the insurance company, as can be reasonably demonstrated to the commissioner on request, plus the amount of accrued but unpaid income on the security or instrument to the extent that amount is not included in the price as of the date the security or instrument is valued.

(16) "Option" means an agreement giving the buyer the right to buy or receive, referred to as a "call option," to sell or deliver, referred to as a "put option," to enter into, extend, or terminate, or to effect a cash settlement based on the actual or expected price, spread, level, performance, or value of, one or more underlying interests.

(17) "Over-the-counter derivative instrument" means a derivative instrument entered into with a business entity in a manner other than through a securities exchange or futures exchange or cleared through a qualified clearinghouse.

(18) "Potential exposure" means:

(A) as to a futures position, the amount of initial margin required for that position; or

(B) as to a swap, collar, or forward, one-half of one percent multiplied by the notional amount multiplied by the square root of the remaining years to maturity.

(19) "Qualified clearinghouse" means a clearinghouse that:

(A) is subject to the rules of a securities exchange or a futures exchange; and

(B) provides clearing services, including acting as a counterparty to each of the parties to a transaction in a manner that eliminates the parties' credit risk to each other.

(20) "Replication transaction" means a derivative transaction or a combination of derivative transactions effected separately or in conjunction with cash market investments included in the insurance company's investment portfolio to replicate the risks and returns of another authorized transaction, investment, or instrument, or to operate as a substitute for cash market transactions. The term does not include a hedging transaction.

(21) "Securities exchange" means:

(A) an exchange registered as a national securities exchange or a securities market registered under the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.), as amended;

(B) the Private Offerings, Resales and Trading through Automated Linkages system; or

(C) a designated offshore securities market as defined by 17 C.F.R. Section 230.902, as amended.

(22) "Swap" means an agreement to exchange or to net payments at one or more times based on the actual or expected price, yield, level, performance, or value of one or more underlying interests.

(23) "Swaption" means an option to purchase or sell a swap at a given price and time or at a series of prices and times. The term does not include a swap with an embedded option.

(24) "Underlying interest" means an asset, liability, or other interest underlying a derivative instrument or a combination of those assets, liabilities, or other interests. The term includes a security, currency, rate, index, commodity, or derivative instrument.

(25) "Warrant" means an instrument that gives the holder the right to purchase or sell the underlying interest at a given price and time or at a series of prices and times outlined in the warrant agreement.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 1, eff. April 1, 2007.

Sec. 425.126. RISK CONTROL TRANSACTIONS: DERIVATIVE USE PLAN. (a) Before an insurance company enters into a derivative

transaction, the company's board of directors must approve a derivative use plan as part of the investment plan required by Section 425.105.

(b) The derivative use plan must:

(1) describe investment objectives and risk constraints, such as counterparty exposure amounts;

(2) define permissible transactions identifying the risks to be hedged or the assets or liabilities being replicated; and

(3) require compliance with internal control procedures.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.127. RISK CONTROL TRANSACTIONS: INTERNAL CONTROL PROCEDURES. An insurance company that enters into a derivative transaction shall establish written internal control procedures that provide for:

(1) a quarterly report to the board of directors that reviews:

(A) each derivative transaction entered into, outstanding, or closed out;

(B) the results and effectiveness of the derivatives program; and

(C) the credit risk exposure to each counterparty for over-the-counter derivative transactions based on the counterparty exposure amount;

(2) a system for determining whether hedging or replication strategies used have been effective;

(3) a system of regular reports, at least monthly, to management that include:

(A) a description of each derivative transaction entered into, outstanding, or closed out during the period since the last report;

(B) the purpose of each outstanding derivative transaction;

(C) a performance review of the derivative

instrument program; and

(D) the counterparty exposure amount for each over-the-counter derivative transaction;

(4) a written authorization that identifies the responsibilities and limitations of authority of each person authorized to effect and maintain derivative transactions; and

(5) appropriate documentation for each transaction, including:

(A) the purpose of the transaction;

(B) the assets or liabilities to which the transaction relates;

(C) the specific derivative instrument used in the transaction;

(D) for an over-the-counter derivative transaction, the name of the counterparty and the counterparty exposure amount; and

(E) for an exchange-traded derivative instrument, the name of the exchange and the name of the firm that handled the transaction.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.128. RISK CONTROL TRANSACTIONS: OVERSIGHT BY COMMISSIONER. (a) An insurance company must be able to demonstrate to the commissioner on request the intended hedging characteristics and continuing effectiveness of a derivative transaction or combination of transactions through:

(1) cash flow testing;

(2) duration analysis; or

(3) other appropriate analysis.

(b) Ten days before entering into an initial hedging transaction, an insurance company shall notify the commissioner in writing that:

(1) the company's board of directors has adopted an investment plan that authorizes hedging transactions; and

(2) each hedging transaction will comply with Sections 425.124-425.132.

(c) After providing the notice under Subsection (b), the insurance company may enter into a hedging transaction under Section 425.124 if as a result of and after making the transaction:

(1) the aggregate statement value of all outstanding options other than collars, and of all caps, floors, swaptions, and warrants under Sections 425.124-425.132 not attached to another financial instrument purchased by the company does not exceed 7.5 percent of the company's assets;

(2) the aggregate statement value of all outstanding options other than collars, and of all caps, floors, swaptions, and warrants written by the company under Sections 425.124-425.132 does not exceed three percent of the company's assets; and

(3) the aggregate potential exposure of all outstanding collars, swaps, forwards, and futures entered into or acquired by the company under Sections 425.124-425.132 does not exceed 6.5 percent of the company's assets.

(d) If the hedging transaction does not comply with Sections 425.124-425.132, or if continuing the transaction may create a hazardous financial condition for the insurance company that affects the company's policyholders or creditors or the public, the commissioner may, after notice and an opportunity for a hearing, order the company to take action reasonably necessary to:

(1) remedy a hazardous financial condition; or

(2) prevent an impending hazardous financial condition from occurring.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.129. RISK CONTROL TRANSACTIONS: LIMITATIONS ON INCOME GENERATION TRANSACTIONS. An insurance company may enter into an income generation transaction only if:

(1) as a result of and after making the transaction, the sum of the following amounts does not exceed 10 percent of the company's assets:

(A) the aggregate statement value of admitted assets that at the time of the transaction are subject to call or that generate the cash flows for payments the company is required to

make under caps and floors sold by the company and that at the time of the transaction are outstanding under Sections 425.124-425.132;

(B) the statement value of admitted assets underlying derivative instruments that at the time of the transaction are subject to calls sold by the company and outstanding under those sections; and

(C) the purchase price of assets subject to puts that at the time of the transaction are outstanding under those sections; and

(2) the transaction is one of the following types, is covered in the manner specified by this subdivision, and meets the other requirements of this subdivision:

(A) a sale of a call option on assets, if during the entire period the option is outstanding, the company holds, or has a currently exercisable right to acquire, the underlying assets;

(B) a sale of a put option on assets, if:

(i) during the entire period the option is outstanding, the company holds sufficient cash, cash equivalents, or interests in a short-term investment pool to purchase the underlying assets on exercise of the option;

(ii) the company has the ability to hold the underlying assets in the company's portfolio; and

(iii) during the entire period the option is outstanding, when the total market value of all put options sold by the company exceeds two percent of the company's assets, the company sets aside, under a custodial or escrow agreement, cash or cash equivalents that have a market value equal to the amount of the company's put option obligations in excess of two percent of the company's assets;

(C) a sale of a call option on a derivative instrument, including a swaption, if:

(i) during the entire period the call option is outstanding, the company holds, or has a currently exercisable right to acquire, assets generating the cash flow to make any payment for which the company is liable under the underlying derivative instrument; and

(ii) the company has the ability to enter into the underlying derivative transaction for the company's portfolio; and

(D) a sale of a cap or floor, if during the entire period the cap or floor is outstanding, the company holds, or has a currently exercisable right to acquire, assets generating the cash flow to make any payment for which the company is liable under the cap or floor.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.130. RISK CONTROL TRANSACTIONS: LIMITATIONS ON REPLICATION TRANSACTIONS. (a) An insurance company may enter into a replication transaction only with the prior written approval of the commissioner, and only if:

(1) the company would otherwise be authorized to invest the company's funds under this subchapter in the asset being replicated; and

(2) the asset being replicated is subject to all the provisions of this subchapter relating to the making of investments by the company in that type of asset as if the transaction constituted a direct investment by the company in the replicated asset.

(b) The commissioner may adopt fair and reasonable rules regarding replication transactions to implement this section.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.131. RISK CONTROL TRANSACTIONS: TRADING REQUIREMENTS. For purposes of Sections 425.124-425.132, each derivative instrument must be:

(1) traded on a securities exchange;

(2) entered into with, or guaranteed by, a business entity;

(3) issued or written by, or entered into with, the issuer of the underlying interest on which the derivative instrument is based; or

(4) in the case of futures, traded through a broker that is:

(A) registered as a futures commission merchant under the Commodity Exchange Act (7 U.S.C. Section 1 et seq.); or

(B) exempt from that registration under 17 C.F.R. Section 30.10, adopted under the Commodity Exchange Act.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.132. RISK CONTROL TRANSACTIONS: OFFSETTING TRANSACTIONS. (a) Subject to this section, an insurance company may purchase or sell one or more derivative instruments to wholly or partly offset a derivative instrument previously purchased or sold, without regard to the quantitative limitations of Sections 425.124-425.131.

(b) An offsetting transaction under this section must use the same type of derivative instrument as the derivative instrument being offset.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.151. AUTHORIZED INVESTMENTS: FOREIGN COUNTRIES AND UNITED STATES TERRITORIES. (a) In addition to the investments within Canada authorized by this subchapter and subject to this section, an insurance company may make investments within another foreign country or a commonwealth, territory, or possession of the United States.

(b) An investment made under this section must be substantially the same type as an investment authorized to be made within the United States or Canada by this subchapter.

(c) The sum of the amount of investments made under this section and the amount of similar investments made within the United States and Canada may not exceed any limitation imposed by Sections 425.109-425.121, 425.124-425.132, and 425.152.

(d) The aggregate amount of an insurance company's investments under this section may not exceed the sum of:

(1) the amount of the company's reserves attributable

to insurance business in force in foreign countries, if any, and any additional investments required by a foreign country as a condition of engaging in business in that country; and

(2) 20 percent of the company's assets.

(e) An insurance company may not invest more than 10 percent of the company's assets in investments denominated in foreign currency that are not hedged under Sections 425.124-425.132.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.152. AUTHORIZED INVESTMENTS: INVESTMENTS NOT OTHERWISE SPECIFIED OR PROHIBITED; INVESTMENTS AUTHORIZED BY OTHER LAW. (a) Subject to this section, an insurance company may make an investment that is not otherwise authorized by this subchapter and that is not specifically prohibited by statute, including any portion of an investment that exceeds the limits imposed by Sections 425.109-425.121, 425.124-425.132, and 425.151.

(b) If any aggregate or individual investment limitation imposed by Sections 425.109-425.121, 425.124-425.132, and 425.151 is exceeded, the excess portion of the investment is considered to be an investment under Subsection (a).

(c) The insurance company has the burden of establishing the value of an investment made under Subsection (a).

(d) The amount of a single investment made by an insurance company under Subsection (a) may not exceed 10 percent of the company's capital and surplus in excess of the statutory minimum capital and surplus applicable to that company.

(e) The aggregate amount of an insurance company's investments under Subsection (a) may not exceed the lesser of:

(1) five percent of the company's assets; or

(2) the amount of the company's capital and surplus that exceeds the amount of statutory minimum capital and surplus applicable to that company.

(f) An insurance company may invest in any investment authorized for an insurance company that is subject to this subchapter by a provision of this code other than this subchapter or by another law of this state.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.153. AUTHORIZED INVESTMENTS: CERTAIN PREVIOUSLY AUTHORIZED INVESTMENTS. (a) An insurance company may continue to hold an investment held by the company on January 1, 1986, that does not conform to the requirements of the investments authorized by Sections 425.109-425.120, 425.151, and 425.152 if the investment was legally authorized at the time the investment was made or acquired or that the company was authorized to hold immediately before January 1, 1986.

(b) An investment described by Subsection (a) is considered an authorized investment of the insurance company. A company shall dispose of the investment at the investment's maturity date, if any, or within the time prescribed by the law under which the investment was acquired, if any.

(c) This section does not alter the legal or accounting status of an investment described by Subsection (a).

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.154. APPLICABILITY OF PERCENTAGE AUTHORIZATIONS AND LIMITATIONS. The percentage authorizations and limitations established by this subchapter apply only at the time an investment is originally acquired or a transaction is entered into and do not apply to the insurance company or the investment or transaction after that time, except as provided by Section 425.155.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.155. QUALIFICATION OF INVESTMENTS. (a) The qualification or disqualification of an investment under one section of this subchapter does not prevent the investment from qualifying, wholly or partly, under another section of this subchapter. An investment authorized by more than one section may be held under the authorizing section elected by the insurance company.

(b) An investment or transaction qualified under any section of this subchapter at the time the insurance company acquired the investment or entered into the transaction continues to be qualified under that section.

(c) An insurance company may elect to transfer at any time the qualification of an investment, wholly or partly, to the authority of any section of this subchapter under which the investment qualifies at the time of the transfer, regardless of whether the investment originally qualified under that section.

(d) An investment, once qualified under this subchapter, remains qualified notwithstanding any refinancing, restructuring, or modification of the investment, except that an insurance company may not refinance, restructure, or modify an investment to circumvent the requirements of this subchapter.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.156. DISTRIBUTIONS, REINSURANCE, AND MERGER. (a) This subchapter does not prohibit an insurance company from acquiring additional obligations, securities, or other assets received as a dividend or as a distribution of assets.

(b) This subchapter does not apply to securities, obligations, or other assets accepted incident to the workout, adjustment, restructuring, or similar realization of any kind of previously authorized investment or transaction if the insurance company's board of directors or a committee appointed by the board of directors determines that acceptance of the securities, obligations, or other assets is in the company's best interests.

(c) This subchapter does not apply to assets acquired under a lawful agreement of bulk reinsurance, merger, or consolidation if the assets were legal and authorized investments for the ceding, merged, or consolidated insurance company.

(d) An obligation, security, or other asset acquired as permitted by this section is not required to be qualified under any other section of this subchapter.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.157. AGGREGATE DIVERSIFICATION REQUIREMENTS. (a) This section takes precedence over Sections 425.109-425.120, 425.122-425.153, and 425.155(a), (b), and (c).

(b) An insurance company's investments in all or any types of securities, loans, obligations, or evidences of indebtedness of a single issuer or borrower, including the issuer's or borrower's majority-owned subsidiaries or parent and the majority-owned subsidiaries of the issuer's or borrower's parent, may not, in the aggregate, exceed five percent of the company's assets. This subsection does not apply to:

(1) authorized investments that:

(A) are direct obligations of, or are guaranteed by the full faith and credit of, the United States, this state, or a political subdivision of this state; or

(B) are insured by an agency of the United States or this state; or

(2) an investment provided for by Section 425.112 or 425.113.

(c) Except as otherwise provided by this subsection, an insurance company's aggregate investment in real property under Sections 425.119, 425.120, 425.152, and 425.153 may not exceed 33-1/3 percent of the company's assets. If a company acquires real property under Section 425.119(g) and that acquisition causes the company's aggregate real estate investment to exceed the limitation imposed by this subsection, the company shall, on or before the 10th anniversary of the date the real property is acquired, dispose of a sufficient amount of real property to comply with the applicable limitation. A company that does not dispose of excess real property as required by this subsection may not admit as an asset the value of the real property that exceeds the applicable limitation.

(d) If an insurance company's real property acquisitions exceed the limitation imposed by Subsection (c), the company may not acquire additional real property under Section 425.119(b) or (c) or 425.120, 425.152, or 425.153 until the company disposes of the excess real property as specified by Subsection (c).

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.158. WAIVER BY COMMISSIONER OF QUANTITATIVE LIMITATIONS. (a) The commissioner may waive a quantitative limitation on any investment authorized by Sections 425.109-425.132 and 425.151-425.156 if:

(1) the insurer seeks the waiver before making the investment;

(2) a hearing is held to determine whether the waiver should be granted;

(3) the applicant seeking the waiver establishes that unreasonable or unnecessary loss or harm will result to the company if the commissioner denies the waiver;

(4) the excess investment will not have a material adverse effect on the company; and

(5) the size of the investment is reasonable in relation to the company's assets, capital, surplus, and liabilities.

(b) The commissioner's waiver must be in writing and may treat the resulting excess investment as a nonadmitted asset.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.159. ACCOUNTING PROVISIONS. (a) Each insurance company shall maintain reasonable, adequate, and accurate evidence of the company's ownership of the company's assets and investments.

(b) An insurance company shall evidence the company's ownership of governmental or corporate securities as provided by Sections 423.101, 423.102, 423.104(a), 423.105, 423.106, 423.107, and 423.108.

(c) An insurance company shall hold investments, other than investments made as a participation in a partnership or joint venture, only in the company's own name or as otherwise provided by Chapter 423.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.160. INVESTMENTS OF CEDING INSURERS. (a) Subject to this section, if a domestic insurance company assumes and reinsures the business of and takes over the assets of another domestic insurance company or a foreign company, all assets or investments of the ceding company that were authorized as proper assets or investments for the funds of that company and taken over by the assuming company are considered valid assets or investments of the assuming company under the laws of this state.

(b) The commissioner must approve assets or investments described by Subsection (a) and the terms on which those assets or investments are taken over. The commissioner may require the assuming insurance company to reasonably dispose of any of those assets or investments that do not otherwise meet the requirements of this subchapter within a period that will minimize any financial loss or other hardship caused by disposing of the asset or investment.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.161. ACTING AS REAL ESTATE BROKER OR SALESPERSON PROHIBITED. A domestic insurance company or another insurance company specifically made subject to this subchapter may not engage in the business of a broker or salesperson as defined by Chapter 1101, Occupations Code, except that the company may hold, improve, maintain, manage, rent, lease, sell, exchange, or convey any of the real property interests owned as investments under Sections 425.109-425.132 and 425.151-425.153.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.162. RULES. The commissioner may adopt rules, minimum standards, or limitations that are fair and reasonable as appropriate to supplement and implement this subchapter.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

SUBCHAPTER D. AUTHORIZED INVESTMENTS AND TRANSACTIONS FOR OTHER
LIFE, HEALTH, AND ACCIDENT INSURERS

Sec. 425.201. DEFINITION. In this subchapter, "contingency funds" means an insurer's contingency funds over and above the amount of the insurer's policy reserves.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.202. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to an insurer organized under Chapter 881, 884, 885, 886, 887, or 2551, except as specifically provided by those chapters.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.203. LIMITATION ON FUNDS AND OTHER ASSETS. (a) An insurer may not use the insurer's funds to make an investment or loan that is not authorized by this subchapter.

(b) An insurer may not secure, hold, or convey real property except as authorized by this subchapter.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.204. APPROVAL OF INVESTMENTS AND LOANS REQUIRED. (a) An insurer may not make an investment unless the investment has been authorized by the insurer's board of directors or by a committee responsible for supervising investments.

(b) An insurer may not make a loan other than a policy loan unless the loan has been authorized by the insurer's board of directors or by a committee responsible for supervising loans.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.205. AUTHORIZED INVESTMENTS FOR ALL FUNDS: GOVERNMENT BONDS. (a) Subject to this section, an insurer may invest any of the insurer's funds and accumulations in:

(1) a bond, treasury bill, note, or certificate of indebtedness of the United States or any other obligation or security fully guaranteed as to principal and interest by the full faith and credit of the United States;

(2) a bond of Canada or a province or municipality of Canada;

(3) a bond of a state, county, or municipality of the United States;

(4) a bond or interest-bearing warrant issued by a county, municipality, school district, or other subdivision that is:

(A) organized under the laws of a state of the United States; and

(B) authorized to issue the bond or warrant under the constitution and laws of that state;

(5) a bond or interest-bearing warrant issued by an educational institution that is:

(A) organized under the laws of a state of the United States; and

(B) authorized to issue the bond or warrant under the constitution and laws of that state;

(6) a bond or warrant, including a revenue or special obligation, of an educational institution located in a state of the United States;

(7) a bond or warrant payable from designated revenues of a municipality, county, drainage district, road district, or other civil administration, agency, authority, instrumentality, or subdivision that is:

(A) organized under the laws of a state of the United States; and

(B) authorized to issue the bond or warrant under the constitution and laws of that state;

(8) a paving certificate or other certificate or evidence of indebtedness issued by a municipality in a state of the United States and secured by a first lien on real estate; and

(9) a bond issued under the Farm Credit Act of 1971 (12 U.S.C. Section 2001 et seq.) that is issued against and secured by

promissory notes or obligations, the payment of which is secured by mortgage, deed of trust, or other valid lien on unencumbered real property located in this state.

(b) An insurer may invest in a bond or warrant described by Subsection (a)(4) or (5) only if the issuer of the bond or warrant has made legal provision to impose a tax to meet the obligation.

(c) An insurer may invest in a bond or warrant described by Subsection (a)(6) only if the special revenue or income to meet the principal and interest payments as they accrue on the obligation has been appropriated, pledged, or otherwise provided by the educational institution.

(d) An insurer may invest in a bond or warrant described by Subsection (a)(7) only if special revenue or income to meet the principal and interest payments as they accrue on the obligation has been appropriated, pledged, or otherwise provided by the municipality or other entity.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.206. AUTHORIZED INVESTMENTS FOR ALL FUNDS: CORPORATE BONDS, NOTES, AND DEBENTURES. (a) Subject to Subsection (e), an insurer may invest any of the insurer's funds and accumulations in a first mortgage bond or first lien note on real or personal property of:

(1) a solvent corporation that has not defaulted in the payment of any debt during the five years preceding the investment;

(2) a solvent corporation that has not been in existence for five consecutive years but whose first mortgage bonds or first lien notes on real or personal property are fully guaranteed by a solvent corporation that has not defaulted in the payment of any debt during the five years preceding the investment;

(3) a solvent corporation that has not been in existence for five consecutive years but whose first mortgage bonds or first lien notes on real or personal property are secured by leases or other contracts executed by a solvent corporation that has not defaulted in the payment of any debt during the five years

preceding the investment, if the required rentals or other required payments under the leases or other contracts are sufficient in all circumstances to pay interest and principal when due on the bonds or notes; or

(4) a solvent corporation that has not been in existence for five consecutive years preceding the investment, if:

(A) the corporation has succeeded to the business and assets and has assumed the liabilities of another corporation; and

(B) neither the successor corporation or the corporation succeeded has defaulted in the payment of any debt during the five years preceding the investment.

(b) Subject to Subsection (e), an insurer may invest any of the insurer's funds and accumulations in a note or debenture of a corporation with a net worth of at least \$5 million if:

(1) a prior lien in excess of 10 percent of the net worth of the corporation does not exist against the real or personal property of the corporation at the time the note or debenture is issued; and

(2) under the provisions of the indenture providing for the issuance of the note or debenture, a prior lien that exceeds 10 percent of the net worth of the corporation cannot be created against the real or personal property of the corporation at the time the note or debenture is issued.

(c) Subject to Subsection (e), an insurer may invest any of the insurer's funds and accumulations in a note or debenture of a solvent corporation that has not been in existence for five consecutive years if:

(1) a prior lien does not exist against the real or personal property of the corporation at the time the note or debenture is issued;

(2) under the provisions of the indenture providing for the issuance of the note or debenture, a prior lien cannot be created against the real or personal property of the corporation at the time the note or debenture is issued; and

(3) the note or debenture is:

(A) secured by a lease or other contract executed

by a solvent corporation that has a net worth of at least \$5 million and has not defaulted in the payment of any debt during the five years preceding the investment, if the required rentals or other required payments under the lease or other contract are sufficient in all circumstances to pay interest and principal when due on the bond or note; or

(B) fully guaranteed by a corporation described by Paragraph (A).

(d) Subject to Subsection (e), an insurer may invest any of the insurer's funds and accumulations in a bond, bill of exchange, or other commercial note or bill of:

(1) a solvent corporation that has not defaulted in the payment of any debt during the five years preceding the investment; or

(2) a solvent corporation that has not been in existence for the five years preceding the investment, if:

(A) the corporation has succeeded to the business and assets and has assumed the liabilities of another corporation;

(B) neither the successor corporation or the corporation succeeded has defaulted in the payment of any debt during the five years preceding the investment;

(C) the corporation has a net worth of at least \$50 million; and

(D) the corporation does not have long-term indebtedness that exceeds the corporation's net worth, as evidenced by the corporation's latest published financial statements or other financial data available to the public.

(e) The amount of an insurer's investments in the bonds, notes, debentures, or other obligations of any one corporation may not exceed five percent of the insurer's admitted assets.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.207. AUTHORIZED INVESTMENTS FOR ALL FUNDS: SHARES OF SAVINGS AND LOAN ASSOCIATIONS. (a) Subject to this section, an insurer may invest any of the insurer's funds and accumulations in a share, stock, share or savings account, or investment certificate

of a savings and loan association engaged in business in this state that is qualified to participate in insurance issued by the Federal Deposit Insurance Corporation.

(b) An insurer's investment in a savings and loan association may not exceed 20 percent of the savings and loan association's total assets.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.208. AUTHORIZED INVESTMENTS FOR ALL FUNDS: BANK AND BANK HOLDING COMPANY STOCKS. (a) Subject to this section, an insurer may invest any of the insurer's funds and accumulations in:

(1) the stock of a state or national bank that is a member of the Federal Deposit Insurance Corporation; and

(2) the stock of a bank holding company as defined by the Bank Holding Company Act of 1956 (12 U.S.C. Section 1841 et seq.), as amended by the Bank Holding Company Act Amendments of 1970 (12 U.S.C. Section 1841 et seq. and Section 1971 et seq.).

(b) An insurer's investment in the stock of a bank or bank holding company may not exceed:

(1) 20 percent of the total outstanding shares of the stock of the bank or bank holding company; or

(2) 10 percent of the insurer's admitted assets.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.209. AUTHORIZED INVESTMENTS FOR ALL FUNDS: DEBENTURES OF PUBLIC UTILITY CORPORATIONS. (a) Subject to this section, an insurer may invest any of the insurer's funds and accumulations in:

(1) a debenture of a solvent public utility corporation that:

(A) has not defaulted in the payment of any debt during the five years preceding the investment; and

(B) has not failed in any one of the five years preceding the investment to have earned, after taxes, including income taxes, and after deducting proper charges for replacements,

depreciation, and obsolescence, an amount applicable to interest on the corporation's outstanding indebtedness equal to at least two times the amount of interest due for that year, or, in the case of issuance of new debentures, the earnings applicable to interest are equal to at least two times the amount of annual interest on the corporation's obligations after giving effect to the new financing; or

(2) a debenture of a solvent public utility corporation that has not been in existence for the five years preceding the investment, if:

(A) the corporation has succeeded to the business and assets and has assumed the liabilities of another public utility corporation;

(B) neither the successor corporation or the corporation succeeded has defaulted in the payment of any debt during the five years preceding the investment; and

(C) neither the successor corporation or the corporation succeeded have failed in any one of the five years preceding the investment to have earned, after taxes, including income taxes, and after deducting proper charges for replacements, depreciation, and obsolescence, an amount applicable to interest on the corporation's outstanding indebtedness equal to at least two times the amount of interest due for that year, or in the case of issuance of new debentures, the earnings applicable to interest are equal to at least two times the amount of annual interest on the corporation's obligations after giving effect to the new financing.

(b) The amount of an insurer's investment in debentures under this section may not exceed five percent of the insurer's admitted assets.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.210. AUTHORIZED INVESTMENTS FOR ALL FUNDS: PREFERRED STOCK OF PUBLIC UTILITY CORPORATIONS. (a) Subject to this section, an insurer may invest any of the insurer's funds and accumulations in:

(1) preferred stock of a solvent public utility

corporation, the bonds and debentures of which are authorized investments for the insurer, and that:

(A) has not defaulted in the payment of any debt during the five years preceding the investment; and

(B) has not failed in any one of the five years preceding the investment to have earned an amount applicable to the dividends on the preferred stock equal to at least three times the amount of dividends due in that year, or, in the case of issuance of new preferred stock, the earnings applicable to dividends are equal to at least three times the amount of the annual dividend requirements after giving effect to the new financing; or

(2) a solvent public utility corporation, the bonds and debentures of which are authorized investments for the insurer, and that has not been in existence for the five years preceding the investment, if:

(A) the corporation has succeeded to the business and assets and has assumed the liabilities of another public utility corporation;

(B) neither the successor corporation or the corporation succeeded has defaulted in the payment of any debt during the five years preceding the investment; and

(C) neither the successor corporation or the corporation succeeded have failed in any one of the five years preceding the investment to have earned an amount applicable to the dividends on the preferred stock equal to at least three times the amount of dividends due in that year, or, in the case of issuance of new preferred stock, the earnings applicable to dividends are equal to at least three times the amount of the annual dividend requirements after giving effect to the new financing.

(b) Preferred stock purchased under this section must be of an issue entitled to first claim on the net earnings of the public utility corporation, after deducting the amount necessary to service any outstanding bonds and debentures.

(c) The amount of an insurer's investment in preferred stock under this section may not exceed 2-1/2 percent of the insurer's admitted assets.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff.

April 1, 2007.

Sec. 425.211. AUTHORIZED INVESTMENTS FOR ALL FUNDS: BONDS ISSUED, ASSUMED, OR GUARANTEED IN INTERNATIONAL MARKET. An insurer may invest any of the insurer's funds and accumulations in bonds issued, assumed, or guaranteed by:

- (1) the Inter-American Development Bank;
- (2) the International Bank for Reconstruction and Development (the World Bank);
- (3) the African Development Bank;
- (4) the Asian Development Bank;
- (5) the International Finance Corporation; and
- (6) the State of Israel.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.212. AUTHORIZED INVESTMENTS FOR ALL FUNDS: SECURITIES OR INVESTMENTS AUTHORIZED OR DESCRIBED BY SPECIFIC STATUTORY PROVISION. An insurer may invest any of the insurer's funds and accumulations in a security or investment authorized or described by:

- (1) Section 65.013, Finance Code;
- (2) Sections 435.041-435.047, Government Code;
- (3) Subchapter B, Chapter 1505, Government Code;
- (4) Chapter 284, Transportation Code;
- (5) Section 51.039 or 60.104, Water Code;
- (6) Chapter 160, General Laws, Acts of the 43rd Legislature, Regular Session, 1933 (Article 842a, Vernon's Texas Civil Statutes);
- (7) Chapter 230, Acts of the 49th Legislature, Regular Session, 1945 (Article 842a-1, Vernon's Texas Civil Statutes);
- (8) Chapter 110, Acts of the 51st Legislature, Regular Session, 1949 (Article 8280-133, Vernon's Texas Civil Statutes);
- (9) Chapter 340, Acts of the 51st Legislature, Regular Session, 1949 (Article 8280-137, Vernon's Texas Civil Statutes);
- (10) Chapter 398, Acts of the 51st Legislature, Regular Session, 1949 (Article 8280-138, Vernon's Texas Civil

Statutes); or

(11) Chapter 465, Acts of the 51st Legislature, Regular Session, 1949 (Article 8280-139, Vernon's Texas Civil Statutes).

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.213. AUTHORIZED INVESTMENTS FOR ALL FUNDS: OTHER SECURITIES SPECIFICALLY AUTHORIZED BY LAW. An insurer may invest any of the insurer's funds and accumulations in:

(1) an adequately secured equipment trust obligation or certificate or another adequately secured instrument evidencing:

(A) an interest in transportation equipment that is located wholly or partly within the United States; and

(B) a right to receive determined portions of rental, purchase, or other fixed obligatory payments for the use or purchase of the transportation equipment; and

(2) any other security as specifically authorized by law.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.214. AUTHORIZED INVESTMENTS FOR ALL FUNDS: LOANS SECURED BY REAL PROPERTY. (a) Subject to this section, an insurer may loan any of the insurer's funds and accumulations and take as collateral a first lien on real property to which the title is valid.

(b) The amount of a loan secured by a first lien on real property may exceed 75 percent of the property value only if:

(1) the amount does not exceed 90 percent of the property value and the property contains only a dwelling designed exclusively for occupancy by not more than four families for residential purposes; or

(2) the amount does not exceed 95 percent of the property value and:

(A) the property contains only a dwelling

designed exclusively for occupancy by not more than four families for residential purposes; and

(B) the portion of the unpaid balance of the loan that exceeds 80 percent of the property value is guaranteed or insured by a mortgage guaranty insurer authorized to engage in business in this state.

(c) An insurer may not originate a loan that exceeds 75 percent of the value of the real property securing the loan.

(d) The aggregate amount of an insurer's loans secured by first liens on real property to any one corporation, company, partnership, individual, or any affiliated person or group may not exceed 10 percent of the insurer's admitted assets. The amount of any single loan secured by a first lien on real property may not exceed five percent of the insurer's admitted assets.

(e) The limitations imposed by Subsections (b)-(d) do not apply to a first lien on real property if the commissioner finds that:

(1) the making or acquiring of the lien is beneficial to and protects the interest of the insurer; and

(2) no substantial damage to the insurer's policyholders and creditors appears probable from the taking or acquiring of the lien.

(f) Subject to Subsections (g)-(j), an insurer may loan any of the insurer's funds and accumulations and take as collateral a first lien on a leasehold estate in:

(1) real property to which the title is valid; and

(2) improvements located on the property to which the title is valid.

(g) The term of a loan secured by first lien on a leasehold estate in real property may not, as of the date the loan is made, exceed a period equal to four-fifths of the unexpired term of the leasehold estate. The term of the leasehold estate may not expire sooner than the 10th anniversary of the expiration of the term of the loan.

(h) A loan secured by a first lien on a leasehold estate in real property must be payable in equal monthly, quarterly, semiannual, or annual installments on principal and interest during

a period not to exceed four-fifths of the unexpired term, as of the date the loan is made, of the leasehold estate.

(i) The restrictions imposed by this section on the value of the real property securing a loan compared to the amount of the loan, and on the duration of a loan secured by a leasehold estate in real property, do not apply to a loan if:

(1) the entire amount of the indebtedness is insured or guaranteed in any manner by:

(A) the United States;

(B) the Federal Housing Administration under the National Housing Act (12 U.S.C. Section 1701 et seq.), as amended; or

(C) this state; or

(2) the difference between the entire amount of the indebtedness and the portion of the loan insured or guaranteed by an entity described by Subdivision (1) does not exceed the amount of a loan permitted by the applicable restriction.

(j) If any part of the value of buildings is to be included in the value of real property or leasehold estate in real property to attain the minimum authorized value of the security for a loan under this section:

(1) the buildings must be insured against loss by fire by:

(A) an insurer authorized to engage in business in the state in which the real property is located; or

(B) a company recognized as acceptable for that purpose by the insurance regulatory official of the state in which the real property is located;

(2) the amount of insurance coverage may not be less than 50 percent of the value of the buildings, except that the insurance coverage is not required to exceed the outstanding balance owed to the insurer if the outstanding balance of the loan is less than 50 percent of the value of the buildings; and

(3) the loss clause under the insurance must be payable to the insurer.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 1, eff. April 1, 2007.

Sec. 425.215. AUTHORIZED INVESTMENTS FOR ALL FUNDS: LOANS SECURED BY CERTAIN COLLATERAL SECURED BY REAL PROPERTY. An insurer may loan any of the insurer's funds and accumulations and take as collateral an obligation secured by a first lien on real property or a leasehold estate that is eligible to secure a loan under Section [425.214](#).

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 1, eff. April 1, 2007.

Sec. 425.216. AUTHORIZED INVESTMENTS FOR ALL FUNDS: POLICY LOANS. (a) Subject to Subsection (b), an insurer may loan any of the insurer's funds and accumulations and take as collateral an insurance policy issued by the insurer.

(b) A loan on a policy under this section may not exceed the reserve value of the policy.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 1, eff. April 1, 2007.

Sec. 425.217. AUTHORIZED INVESTMENTS FOR ALL FUNDS: LOANS SECURED BY CERTAIN SECURITIES. An insurer may loan any of the insurer's funds and accumulations and take as collateral for the loan any security described by Sections 425.205-425.213 and [425.218](#) in which the insurer may invest any of the insurer's funds and accumulations.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 1, eff. April 1, 2007.

Sec. 425.218. AUTHORIZED INVESTMENTS FOR ALL FUNDS: SECURITIES NOT OTHERWISE SPECIFIED. (a) Notwithstanding any express or implied prohibitions, and subject to this section, an insurer may invest any of the insurer's funds and accumulations in an investment that does not otherwise qualify under any other provision of this chapter.

(b) The amount of any one investment by an insurer under this section may not exceed one percent of the insurer's admitted assets.

(c) The aggregate amount of investments by an insurer under this section may not exceed the lesser of:

- (1) five percent of the insurer's admitted assets; or
- (2) the amount of the insurer's capital and surplus in excess of \$200,000 as shown on the last annual statement filed by the insurer with the department before the date the investment is acquired.

(d) Except as provided by another law of this state, this section does not authorize an insurer to invest any of the insurer's funds or accumulations in real property.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.219. AUTHORIZED INVESTMENTS FOR POLICY RESERVES AND SURPLUS: BONDS OF CERTAIN WATER CONTROL AND IMPROVEMENT DISTRICTS. An insurer may invest the insurer's policy reserves and surplus over and above the insurer's capital in municipal bonds issued under Section 51.039, Water Code.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.220. AUTHORIZED INVESTMENTS FOR CAPITAL, SURPLUS, AND CONTINGENCY FUNDS: CAPITAL STOCK, BONDS, AND OTHER CORPORATE OBLIGATIONS. (a) Subject to this section and Section 425.226, an insurer may invest the insurer's capital, surplus, and contingency funds in the capital stock, bonds, bills of exchange, or other commercial notes or bills and securities of:

- (1) a solvent corporation that has not defaulted in the payment of any debt during the five years preceding the investment; or

- (2) a solvent corporation that has not been in existence for the five years preceding the investment, if:

- (A) the corporation has succeeded to the business and assets and has assumed the liabilities of another corporation; and

- (B) neither the successor corporation nor the corporation succeeded has defaulted in the payment of any debt

during the five years preceding the investment.

(b) An insurer may not invest in the stock of:

(1) a manufacturing corporation with a net worth of less than \$25,000; or

(2) an oil corporation with a net worth of less than \$500,000.

(c) Except as provided by Subsection (d), an insurer's investment in the insurer's own capital stock or in the stock of a single corporation may not be in an amount exceeding 10 percent of the amount of the insurer's capital, surplus, and contingency funds.

(d) An insurer may own, and the insurer may invest not more than 25 percent of the insurer's capital, surplus, and contingency funds in, the capital stock of a single fire and casualty insurance company if that investment gives the insurer a majority of the outstanding stock of the fire and casualty insurance company.

(e) In addition to the investments authorized by this section and subject to Section [425.226](#), an insurer may invest in the capital stock, bonds, and other obligations of one or more solvent corporations that portion of the insurer's surplus funds that exceeds the greater of:

(1) 10 percent of the insurer's admitted assets, as determined from the insurer's latest annual statement on file with the department; or

(2) the minimum capital and surplus requirements for incorporating a life insurance company under Chapter [841](#).

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 1, eff. April 1, 2007.

Sec. 425.221. AUTHORIZED INVESTMENTS FOR CAPITAL, SURPLUS, AND CONTINGENCY FUNDS: BONDS OR NOTES OF EDUCATIONAL OR RELIGIOUS CORPORATIONS. Subject to Section [425.226](#), an insurer may invest the insurer's capital, surplus, and contingency funds in a bond or note of an educational or religious corporation that has provided for the payment of a sufficient amount of the first weekly or monthly revenues of the corporation to an interest and sinking fund account in a bank or trust company as an independent paying agent.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.222. AUTHORIZED INVESTMENTS FOR CAPITAL, SURPLUS, AND CONTINGENCY FUNDS: LIFE INCOME INTERESTS IN QUALIFIED TRUSTS.

(a) Subject to this section, an insurer may invest the insurer's capital, surplus, and contingency funds in a life income interest in a qualified irrevocable express testamentary trust.

(b) For purposes of this section, a trust is a qualified trust if:

(1) each fee simple recipient of any part of the corpus of the trust:

(A) is a public charity, church, educational institution, or scientific institution;

(B) is located in this state; and

(C) is recognized by the United States Internal Revenue Service as exempt from payment of income taxes;

(2) the corpus of the trust is wholly or partly composed of interests in real estate, stocks, bonds, debentures, and other securities of an aggregate total value of at least \$5 million; and

(3) the corpus of the trust produces annual income of at least \$100,000.

(c) An insurer's life income interest in a qualified trust may not exceed 10 percent of the insurer's admitted assets.

(d) Before an insurer may acquire a life income interest in a qualified trust, the insurer must present evidence satisfactory to the commissioner that shows:

(1) the interest is subject to transfer and is recognized as transferable;

(2) the interest is capable of reasonable valuation;

(3) a market for the sale of the interest exists; and

(4) the interest is supported by life insurance in:

(A) an amount not less than the admitted value of the interest; and

(B) a form approved by the commissioner.

(e) In valuing a life income interest in a qualified trust

on the insurer's books, the insurer may value the interest only on the basis of the lesser of:

(1) the recognized market established in accordance with Subsection (d)(3); or

(2) the ratio that the fractional life income interest in the income of the trust bears to the total market value of the properties held by the trust that are of a type of property an insurer may lawfully acquire under the investment statutes of this state.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.223. AUTHORIZED INVESTMENTS FOR CAPITAL, SURPLUS, AND CONTINGENCY FUNDS: CAPITAL STOCK OF REINSURER. (a) Subject to Subsection (b), an insurer may invest the insurer's capital, surplus, and contingency funds in not more than 20 percent of the capital stock of any other insurance company organized under Chapter 841 whose principal business is the reinsurance, either wholly or partly, of risks ceded to that insurer by other life insurance companies.

(b) The aggregate amount of an insurer's investments under this section may not exceed 10 percent of the insurer's capital, surplus, and contingency funds.

(c) The investment authorized by this section may be made by purchase of stock issued and outstanding or by subscription to and payment for the increase in the capital stock of the reinsurer.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.224. AUTHORIZED INVESTMENTS FOR CAPITAL, SURPLUS, AND CONTINGENCY FUNDS: LOANS SECURED BY CORPORATE STOCK. (a) Subject to this section, an insurer may loan the insurer's capital, surplus, and contingency funds and take as collateral the capital stock, bonds, bills of exchange, or other commercial notes or bills or the securities of:

(1) a solvent corporation that has not defaulted in the payment of any debt during the five years preceding the

investment; or

(2) a solvent corporation that has not been in existence for the five years preceding the investment, if:

(A) the corporation has succeeded to the business and assets and has assumed the liabilities of another corporation; and

(B) neither the successor corporation nor the corporation succeeded has defaulted in the payment of any debt during the five years preceding the investment.

(b) Subject to this section, an insurer may loan the insurer's capital, surplus, and contingency funds and take as collateral the bonds or notes of an educational or religious corporation that has provided for the payment of a sufficient amount of the first weekly or monthly revenues of the corporation to an interest and sinking fund account in a bank or trust company as an independent paying agent.

(c) The market value of the stock, bills of exchange, other commercial notes or bills, or securities must be at all times during the continuance of the loan at least 50 percent more than the amount loaned on the securities or obligations.

(d) An insurer may not take as collateral for any loan:

(1) the insurer's capital stock;

(2) the stock of a single corporation in an amount that exceeds 10 percent of the amount of the insurer's own capital, surplus, and contingency funds;

(3) the stock of a manufacturing corporation with a net worth of less than \$25,000;

(4) the stock of an oil corporation with a net worth of less than \$500,000; or

(5) any stock, the holder or owner of which is or may become liable for any assessment other than taxes.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.225. INVESTMENT IN FOREIGN SECURITIES. (a) An insurer authorized to engage in business in a foreign country may invest in securities of that country that are the same kind of

securities as those in the United States in which an insurer is authorized by this subchapter to invest.

(b) The aggregate amount of an insurer's investments under this section may not exceed the amount of the insurer's reserves on the business in force in the foreign country.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.226. INVESTMENT IN STOCK SUBJECT TO ASSESSMENT PROHIBITED. An insurer may not invest any of the insurer's funds in a stock, the holder or owner of which is or may become liable for any assessment other than taxes.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.227. CERTAIN INVESTMENT POWERS NOT A RESTRICTION. The investment powers granted by Sections 425.207 and 425.208 may not be construed as restricting the powers granted by Sections 425.220 and 425.221.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.228. INVESTMENTS OF CEDING INSURER. (a) Subject to this section, if a domestic insurer assumes the business and takes over the assets of another domestic or a foreign insurer, all investments of the ceding insurer that were authorized, when made, by the laws of the state in which the ceding insurer was organized as proper securities for investment of the funds of an insurer and that are taken over by the assuming insurer are considered to be valid securities of the assuming insurer under the laws of this state.

(b) The commissioner must approve investments described by Subsection (a) and the terms on which those investments are taken over. The commissioner may require the assuming insurer to dispose of any of the investments on notice the commissioner considers reasonable.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff.

April 1, 2007.

Sec. 425.229. AUTHORIZED INVESTMENTS: REAL ESTATE FOR INSURER'S OFFICES. (a) Subject to this section, an insurer may secure, hold, and convey the following real property:

(1) one building site and office building for the insurer's accommodation in the transaction of the insurer's business and for lease;

(2) branch office buildings in this state and elsewhere within the United States in which the insurer is authorized to engage in business as necessary for the insurer's convenient accommodation in the transaction of the insurer's business and for lease; and

(3) parking facilities adjacent to or in the vicinity of each office building owned by the insurer as reasonably necessary for the insurer and the building tenants.

(b) An office building described by Subsection (a)(1) may be on ground on which the insurer owns a lease the term of which expires not sooner than the 50th anniversary of the date the insurer acquires the lease. The insurer must own, or be entitled to the use of, all the improvements on the leased ground. The value of the improvements must be at least equal to the value of the ground and at least 20 times the annual average ground rentals payable under the lease. The office building must have an annual average net rental of at least twice the annual ground rental. The insurer must be liable for and shall pay all state and local taxes imposed against the ground and improvements. For purposes of taxation, the ground and improvements are considered to be real property owned by the insurer. The commissioner must approve the acquisition of an office building on leased ground before the insurer makes the investment.

(c) The insurer must use at least 50 percent of the space in each branch office building under Subsection (a)(2) that is available for occupancy for business purposes for the transaction of the insurer's business and not for lease to others.

(d) An insurer may make an investment under Subsection (a)(2) or (3) only in a municipality that has a population of 15,000

or more.

(e) An insurer may not make an investment under this section if, after making the investment, the insurer's aggregate investments under this section would exceed 33-1/3 percent of the insurer's admitted assets as of December 31 preceding the date of the investment, except that an insurer's aggregate investments under this section may be increased to an amount not to exceed 50 percent of the insurer's admitted assets if the commissioner approves the investment in advance, and the investment may be further increased if the additional increase is paid for only from surplus funds and is not included as an admitted asset of the insurer.

(f) The value of each investment under this section is subject to the approval of the commissioner. The commissioner may, at the time the investment is made or any time when an examination of the insurer is being made, have an investment under this section appraised by an appraiser appointed or approved by the commissioner. The insurer shall pay the reasonable expense of the appraisal. The expense of the appraisal is considered to be an expense of the examination of the insurer. An insurer may not make any increase in the valuation of real property described by Subsection (a) unless the increase in valuation is approved by the commissioner, subject to the conditions imposed by Subsection (e).
Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.230. AUTHORIZED INVESTMENTS: OIL, GAS, AND MINERALS. (a) In this section and Section 425.231:

(1) "Producing" means producing oil, gas, or other minerals in paying quantities. A well that has been shut in is considered to be producing oil, gas, or other minerals in paying quantities if shut-in royalties are being paid.

(2) "Production payment" means a right to oil, gas, or other minerals in place or as produced that entitles the owner of the right to a specified fraction of production until the owner receives a specified amount of money, or a specified number of units of oil, gas, or other minerals.

(3) "Royalty" or "overriding royalty" means a right to oil, gas, and other minerals in place or as produced that entitles the owner of the right to a specified fraction of production without limitation to a specified amount of money or a specified number of units of oil, gas, or other minerals.

(b) Subject to this section, in addition to and without limitation on the purposes for which real property may be acquired, secured, held, or retained under Section 425.229 or 425.231, an insurer may secure, hold, retain, and convey production payments, producing royalties, and producing overriding royalties as an investment for the production of income.

(c) The aggregate amount of an insurer's investments under this section, plus the aggregate amount of the insurer's investments in home office and branch office properties under Section 425.229, may not exceed the total amount permitted by and is subject to all of the limitations imposed by Sections 425.229(e) and (f). For purposes of this subsection, an investment in production payments, producing royalties, or producing overriding royalties is considered to be an investment in property described by Section 425.229.

(d) For the purposes of Section 425.229(f), the commissioner may establish a value of a production payment, producing royalty, or producing overriding royalty as the maximum amount that the insurer purchasing the production payment, producing royalty, or producing overriding royalty could loan against a first lien on the production payment, producing royalty, or producing overriding royalty under Sections 425.214(f)-(h).

(e) An insurer may not make an investment in production payments, producing royalties, or producing overriding royalties solely for the production of income if, after making the investment, the insurer's total investment at cost in the production payments, producing royalties, or producing overriding royalties would exceed 10 percent of the insurer's admitted assets as of December 31 preceding the date of the investment.

(f) If production in paying quantities from a royalty interest or overriding royalty interest held by an insurer ends, the insurer shall sell and dispose of the royalty or overriding

royalty not later than the second anniversary of the date the production ends, unless:

(1) production in paying quantities has resumed; or

(2) the insurer obtains from the commissioner a certificate stating that the insurer's interests will suffer materially by the forced sale of the interest.

(g) The commissioner shall state in a certificate under Subsection (f)(2) the amount of time by which the period for sale is extended under that subsection.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.231. AUTHORIZED INVESTMENTS: REAL PROPERTY ACQUIRED UNDER CERTAIN CIRCUMSTANCES. (a) Subject to this section, an insurer may secure, hold, and convey the following real property:

(1) real property acquired in good faith as security for a loan previously contracted or for money due;

(2) real property conveyed to the insurer to satisfy a debt previously contracted in the course of the insurer's dealings; and

(3) real property purchased at a sale under a judgment, court decree, or mortgage or other lien held by the insurer.

(b) An insurer shall sell and dispose of all property described by Subsection (a) that is not necessary for the insurer's accommodation in the convenient transaction of the insurer's business, other than an interest in minerals or royalties reserved on the sale of land acquired under Subsection (a) or an interest in producing royalties or producing overriding royalties otherwise acquired, not later than the fifth anniversary of:

(1) the date the insurer acquires title to the property; or

(2) the date the property ceases to be necessary for the accommodation of the insurer's business.

(c) An insurer may hold property acquired under Subsection (a) for a period longer than that specified by Subsection (b) if the

insurer obtains a certificate from the commissioner stating that the insurer's interests will suffer materially by the forced sale of the property. The commissioner shall state in the certificate the amount of time by which the period for sale is extended under this subsection.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 425.232. AUTHORIZED INVESTMENTS: IMPROVED INCOME-PRODUCING REAL PROPERTY. (a) In this section, "improved income-producing real property" includes all commercial and industrial real property, a substantial portion of which has been materially enhanced in value by the construction of durable, permanent-type buildings and other improvements costing an amount at least equal to the value of the real property, excluding the buildings and improvements, that is held or acquired by purchase, lease, or otherwise for the production of income. The term does not include agricultural, horticultural, farm and ranch, or residential property, or single or multiunit family dwelling property.

(b) Notwithstanding Sections 425.229, 425.230, and 425.231, subject to this section, a domestic insurer may:

(1) invest any of the insurer's funds and accumulations in improved income-producing real property or any interest in improved income-producing real property; and

(2) hold, improve, maintain, manage, lease, sell, or convey improved income-producing real property or an interest in improved income-producing real property.

(c) The aggregate amount of an insurer's investments in all income-producing real property, including improvements, may not exceed 15 percent of the insurer's admitted assets. The amount of an insurer's investment in a single piece of improved income-producing real property, including improvements, may not exceed five percent of the insurer's admitted assets. For purposes of this subsection, an insurer's admitted assets are determined from the insurer's annual statement as of the preceding December 31 and filed with the department as required by law. Section

425.229(f) applies to the value of any investment made under this section.

(d) The investment authority granted by this section is in addition to that granted by Sections 425.229, 425.230, and 425.231, except that an insurer may not make an investment in improved income-producing real property that, when added to the insurer's investments under Section 425.229, would exceed the limitations imposed by Section 425.229(e).

(e) This section does not permit an insurer to purchase undeveloped real property for the purpose of development or subdivision.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.