

ACT 65

S.B. NO. 2637

A Bill for an Act Relating to Insurance Companies.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 431:6-311, Hawaii Revised Statutes, is amended to read as follows:

“§431:6-311 Real property owned. (a) An insurer other than a life insurer may own and invest, or have invested in its home office and branch office buildings, any of its funds in an aggregate amount not to exceed twenty per cent of its admitted assets unless approved by the commissioner, or if a mutual or reciprocal insurer, not to exceed twenty per cent of its admitted assets nor an amount as would reduce its surplus, exclusive of such investment, below the minimum required surplus for the class, or combination of classes, of insurance authorized, unless approved by the commissioner. A life insurer may own and invest, or have invested in its home office building and branch office buildings, any of its funds in an aggregate amount not to exceed twenty per cent of its admitted assets, or fifty per cent of the excess of its admitted assets over its liabilities, other than capital stock if a stock life insurer, whichever is the lesser amount. The home office or branch office buildings may be constructed upon leasehold estates. However, if a life insurer has been licensed less than five years, a prior approval from the commissioner shall be required before investment may be made in home office or branch office buildings.

(b) An insurer may invest any of its funds, in an aggregate amount not exceeding ten per cent of its assets, in real property acquired for the production of income under the following terms and conditions:

- (1) The investment in any single parcel of real estate shall not exceed five per cent of its admitted assets;
- (2) The investment shall produce sufficient income to amortize any loan secured by a mortgage on the real property;
- (3) If any improvements exist on or are to be constructed on the real property for lease to lessees, the improvements shall remain on the property during the period of the lease, with provisions when the improvements are put upon the property at the cost of the lessee that at the termination of the lease the ownership of the improvements, free of liens, shall vest in the owner of the real estate; and
- (4) During the term of the lease the tenant shall pay all taxes and assessments levied on or against the real estate, including improvements,

shall keep and maintain the improvements in good repair, and shall provide and maintain for the benefit of the lessor fire insurance on the improvements in an amount at least equal to the insurable value of the improvements, or at least equal to the amount invested by the lessor in the real estate, whichever is less.

[(b)] (c) An insurer may invest any of its funds, in an aggregate amount not exceeding thirty per cent of its assets in real property including [those] the realty set forth in [subsection] subsections (a)[,] and (b),¹ for realty acquired for the purpose of leasing the same to any person for a period of not less than twenty years, or in real property already leased for an unexpired period of not less than fifteen years of an original period of not less than twenty years, under the following terms and conditions:

- (1) The lessee, at the lessee's own cost, shall erect, or have already erected, thereon free of liens a building or other improvements costing an amount at least equal to the value of the real estate exclusive of improvements; but if the lease be entered into simultaneously with the purchase of the real estate, the lessor may agree to erect the improvements on the real estate;
- (2) The improvements shall remain on the property during the period of the lease, with provisions when the improvements are put upon the property at the cost of the lessee that at the termination of the lease the ownership of the improvements, free of liens, shall vest in the owner of the real estate;
- (3) The lessee, during the term of the lease, or the unexpired period of the lease if the property is bought subject to the lease, shall pay to the owner of the real estate rent in an amount as will enable the owner to amortize the investment at or before the normal termination of the lease, or at or before the end of fifty years should the lease, or the unexpired period of the lease, be for a longer period than fifty years; and
- (4) During the term of the lease the tenant shall pay all taxes and assessments levied on or against the real estate, including improvements, shall keep and maintain the improvements in good repair, and shall provide and maintain for the benefit of the lessor fire insurance on the improvements in an amount at least equal to the insurable value of the improvements, or at least equal to the amount invested by the lessor in the real estate, whichever is less.

[(c)] (d) Real property acquired pursuant to subsection [(b)] (c) shall not be treated as an investment unless and until the required improvements have been constructed and the lease agreement entered into, and the amount to which the real property shall be treated as an investment shall not exceed the amount actually invested reduced each year in the amounts as will suffice to amortize completely the investment at the normal termination of the lease or at the end of fifty years should the term of the lease, or the unexpired period of the lease, be for a longer period than fifty years.

[(d)] (e) An insurer may own real property acquired in satisfaction or on account of loans, mortgages, liens, judgments, or other debts previously owing to the insurer in the course of its business, and may invest or have invested in an aggregate amount not exceeding three per cent of its assets in other real property, and in the repair, alteration, furnishing, or improvement thereof, as follows only:

- (1) Other real property requisite for its accommodation in the convenient transaction of its business if approved by the commissioner;
- (2) Real property acquired by gift or devise;

- (3) Real property acquired in exchange for real property owned by it. If necessary in order to consummate an exchange, the insurer may put up cash in an amount not to exceed twenty per cent of the fair value of its real property to be so exchanged, in addition to the property;
- (4) Real property acquired through a lawful merger or consolidation with it of another insurer and not required for the purposes specified in subsection (a) and subsection [(b)(1);] (c)(1); or
- (5) Upon approval of the commissioner, in real property and equipment incident to real property, requisite or desirable for the protection or enhancement of the value of other real property owned by the insurer.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 1996.

(Approved May 1, 1996.)

Note

- 1. Should be underscored.