

AN ACT
RELATING TO INSURANCE; CHANGING PROVISIONS OF THE NEW MEXICO
INSURANCE CODE PERTAINING TO SUBSIDIARIES AND AFFILIATES OF
INSURERS; AMENDING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 59A-9-12 NMSA 1978 (being Laws
1984, Chapter 127, Section 145) is amended to read:

"59A-9-12. INVESTMENTS IN SUBSIDIARIES. --

A. An insurer either by itself or in cooperation
with one or more other business entities, may organize or
acquire one or more subsidiaries engaged or to be engaged in
any of the following businesses:

(1) an insurance business authorized by the
jurisdiction in which the subsidiary is incorporated;

(2) acting as insurance broker or insurance
agent for its parent or for any of its parent's insurer
subsidiaries;

(3) investing, reinvesting or trading in
securities for its own account, that of its parent, any
subsidiary of its parent or any affiliate or subsidiary;

(4) management of any investment company
registered pursuant to the federal Investment Company Act of
1940, as amended, including related sales and services;

(5) acting as a broker-dealer registered
pursuant to the federal Securities Exchange Act of 1934, as

amended;

(6) rendering investment advice to governments, government agencies, corporations or other organizations or groups;

(7) rendering other services related to operations of an insurance business;

(8) owning and managing assets that the parent corporation could itself own or manage;

(9) acting as administrative agent for a government instrumentality that is performing an insurance function; or

(10) financing insurance premiums, agents and other forms of consumer financing; and

(11) any other business activity determined by the superintendent to be reasonably ancillary to an insurance business.

B. In addition to investments in common stock, preferred stock, debt obligations and other securities permitted under all other sections of Chapter 59A, Article 9 NMSA 1978 an insurer may also:

(1) invest, in common stock, preferred stock, debt obligations and other securities of one or more subsidiaries, amounts which unless otherwise approved by the superintendent do not exceed the lesser of ten percent of the insurer's assets or fifty percent of the insurer's surplus as regards policyholders, if, after the investments,

the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs. In calculating the amount of the investments, there shall be included:

(a) total net money or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of the subsidiary, whether or not represented by the purchase of capital stock or the issuance of other securities; and

(b) all amounts expended in acquiring additional common stock, preferred stock, debt obligations and other securities and all contributions to the capital and surplus of a subsidiary subsequent to its acquisition or formation;

(2) if the insurer's total liabilities, as calculated for annual statement purposes, are less than ten percent of assets, invest any amount in common stock, preferred stock, debt obligations and other securities of one or more subsidiaries, if, after the investment, the insurer's surplus as regards policyholders, considering the investment as if it were a disallowed asset, will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs;

(3) invest any amount in common stock, preferred stock, debt obligations and other securities of one or more subsidiaries, if each subsidiary agrees to limit its investments in any asset so that the investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in Paragraph (1) of this subsection or in Chapter 59A, Article 9 NMSA 1978, applicable to the insurer. For the purpose of this paragraph "the total investment of the insurer" includes:

(a) any direct investment by the insurer in an asset; and

(b) the insurer's proportionate share of any investment in an asset by any subsidiary of the insurer, which shall be calculated by multiplying the amount of the subsidiary's investment by the percentage of the insurer's ownership of the subsidiary;

(4) with the approval of the superintendent, invest any amount in common stock, preferred stock, debt obligations or other securities of one or more subsidiaries, if, after the investment, the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs; and

(5) invest any amount in the common stock, preferred stock, debt obligations or other securities of any

subsidiary exclusively engaged in holding title to, or holding title to and managing or developing, real or personal property, if, after considering as a disallowed asset so much of the investment as is represented by subsidiary assets which if held directly by the insurer would be considered as a disallowed asset, the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, and if, following such investment, all voting securities of such subsidiary would be owned by the insurer.

C. Investments in common stock, preferred stock, debt obligations or other securities of subsidiaries made pursuant to Subsection B of this section shall not be subject to any of the otherwise applicable restrictions or prohibitions contained in this article applicable to the investments of the insurer.

D. Whether any investment made pursuant to Subsection B of this section meets the applicable requirements thereof is to be determined immediately after the investment is made, taking into account the then outstanding balance on all previous investments in debt obligations and the value of all previous equity securities as of the date they were made.

E. If an insurer ceases to control a subsidiary, it shall dispose of any investment made in it pursuant to

this section within three years from time of the cessation of control or within such further time as the superintendent may prescribe, unless at any time after the investment is made, the investments meet the requirements for investment under any other section of the Insurance Code, and the insurer has so notified the superintendent. "

Section 2. Section 59A-37-3 NMSA 1978 (being Laws 1993, Chapter 320, Section 72) is amended to read:

"59A-37-3. SUBSIDIARIES OF INSURERS. --

A. Any domestic insurer, either by itself or in cooperation with one or more persons, may organize or acquire one or more subsidiaries engaged in the following kinds of business:

(1) an insurance business authorized by the jurisdiction in which it is incorporated;

(2) acting as an insurance broker or as an insurance agent for its parent or for any of its parent's insurer subsidiaries;

(3) investing, reinvesting or trading in securities for its own account, that of its parent, any subsidiary of its parent, or any affiliate or subsidiary;

(4) management of any investment company subject to or registered pursuant to the federal Investment Company Act of 1940, as amended, including related sales and services;

(5) acting as a broker-dealer subject to or

registered pursuant to the federal Securities Exchange Act of 1934, as amended;

(6) rendering investment advice to governments, government agencies, corporations or other organizations or groups;

(7) rendering other services relating to the operations of an insurance business;

(8) owning and managing assets that the parent corporation could itself own or manage;

(9) acting as administrative agent for a governmental instrumentality that is performing an insurance function;

(10) financing of insurance premiums, agents and other forms of consumer financing;

(11) any other business activity determined by the superintendent to be reasonably ancillary to an insurance business; and

(12) owning a corporation or corporations engaged or organized to engage exclusively in one or more of the businesses specified in this section.

B. In addition to investments in common stock, preferred stock, debt obligations and other securities permitted pursuant to the federal Insurance Holding Company Law, a domestic insurer may also:

(1) invest, in common stock, preferred stock, debt obligations and other securities of one or more

subsidiaries, amounts which do not exceed the lesser of ten percent of such insurer's assets or fifty percent of the insurer's surplus as regards policyholders, provided that after the investments, the insurer's surplus as regards policyholders shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs. In calculating the amount of the investments, investments in domestic or foreign insurance subsidiaries shall be excluded, and there shall be included:

(a) total net money or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of the subsidiary whether or not represented by the purchase of capital stock or issuance of other securities; and

(b) all amounts expended in acquiring additional common stock, preferred stock, debt obligations and other securities and all contributions to the capital or surplus of a subsidiary subsequent to its acquisition or formation;

(2) invest any amount in common stock, preferred stock, debt obligations and other securities of one or more subsidiaries engaged or organized to engage exclusively in the ownership and management of assets authorized as investments for the insurer, provided that each subsidiary agrees to limit its investments in any asset

so that the investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in Paragraph (1) of this subsection or in Chapter 59A, Article 9 NMSA 1978 applicable to the insurer. For the purpose of this paragraph, "the total investment of the insurer" includes:

(a) any direct investment by the insurer in an asset; and

(b) the insurer's proportionate share of any investment in an asset by any subsidiary of the insurer, which shall be calculated by multiplying the amount of the subsidiary's investment by the percentage of the ownership of the subsidiary; or

(3) with the approval of the superintendent, invest any greater amount in common stock, preferred stock, debt obligations, or other securities of one or more subsidiaries, provided that after the investment the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

C. Investments in common stock, preferred stock, debt obligations or other securities of subsidiaries made pursuant to Subsection B of this section shall not be subject to any of the otherwise applicable restrictions or prohibitions contained in the Insurance Code applicable to the investments of the insurer.

D. Whether any investment pursuant to Subsection B of this section meets the applicable requirements of that subsection shall be determined before the investment is made, by calculating the applicable investment limitations as though the investment had already been made, taking into account the then outstanding principal balance on all previous investments in debt obligations and the value of all previous investments in equity securities as of the day they were made, net of any return of capital invested and not including dividends.

E. If an insurer ceases to control a subsidiary, it shall dispose of any investment made in it pursuant to this section within three years from the time of the cessation of control or within such further time as the superintendent may prescribe, unless at any time after the investment is made, the investment meets the requirements for investment under any other section of the Insurance Code, and the insurer has so notified the superintendent."

Section 3. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 2001. _____