

House Engrossed

State of Arizona
House of Representatives
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 34

HOUSE BILL 2027

AN ACT

AMENDING SECTIONS 20-481.01 AND 20-481.21, ARIZONA REVISED STATUTES; RELATING TO DOMESTIC INSURER INVESTMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-481.01, Arizona Revised Statutes, is amended to
3 read:

4 20-481.01. Investment limitations; exemptions

5 A. Any domestic insurer, either by itself or in cooperation with one
6 or more persons, may organize or acquire one or more subsidiaries subject to
7 the limitations of this article. Such subsidiaries may conduct any kind of
8 business or businesses and the authority to do so shall not be limited by
9 reason of the fact that such subsidiaries are subsidiaries of a domestic
10 insurer.

11 B. In addition to investments in common stock, preferred stock, debt
12 obligations and other securities permitted under all other sections of this
13 title, a domestic insurer may, pursuant to subsection A of this section:

14 1. Invest in common stock, preferred stock, debt obligations and other
15 securities of one or more subsidiaries in amounts which do not exceed the
16 lesser of five TEN per cent of such insurer's assets or fifty per cent of
17 such insurer's surplus as regards policyholders, provided that after such
18 investments the insurer's surplus as regards policyholders will be reasonable
19 in relation to the insurer's outstanding liabilities and adequate to its
20 financial needs. In calculating the amount of such investments, there shall
21 be included total net monies or other consideration expended and obligations
22 assumed in the acquisition or formation of a subsidiary including all
23 organizational expenses and contributions to capital and surplus of such
24 subsidiary whether or not represented by the purchase of capital stock or
25 issuance of other securities, and all amounts expended in acquiring
26 additional common stock, preferred stock, debt obligations, and other
27 securities and all contributions to the capital or surplus, of a subsidiary
28 subsequent to its acquisition or formation.

29 2. With the approval of the director, invest any amount in common
30 stock, preferred stock, debt obligations, and other securities of one or more
31 subsidiaries, if the insurer's total liabilities, as calculated for national
32 association of insurance commissioners annual statement purposes, are less
33 than ten per cent of assets, provided that after such investment the
34 insurer's surplus as regards policyholders, considering such investment as
35 if it were a disallowed asset, will be reasonable in relation to the
36 insurer's outstanding liabilities and adequate to its financial needs.

37 3. Invest any amount in common stock, preferred stock, debt
38 obligations and other securities of one or more subsidiaries provided that
39 each such subsidiary agrees to limit its investments in any asset so that
40 such investments will not cause the amount of the total investment of the
41 insurer to exceed any of the investment limitations specified in paragraph
42 1 of this subsection or in chapter 3, article 2 of this title, applicable to
43 the insurer. For the purpose of this paragraph, "the total investment of the
44 insurer" includes any direct investment by the insurer in an asset and the
45 insurer's proportionate share of the investment in an asset by any subsidiary

1 of the insurer, which shall be calculated by multiplying the amount of the
2 subsidiary's investment by the percentage of the insurer's ownership of such
3 subsidiary.

4 4. With the approval of the director, invest any amount in common
5 stock, preferred stock, debt obligations, or other securities of one or more
6 subsidiaries, provided that after such investment the insurer's surplus as
7 regards policyholders will be reasonable in relation to the insurer's
8 outstanding liabilities and adequate to its financial needs.

9 5. With the approval of the director, invest any amount in the common
10 stock, preferred stock, debt obligations, or other securities of any
11 subsidiary exclusively engaged in holding title to or holding title to and
12 managing or developing real or personal property, if, after considering as
13 a disallowed asset so much of the investment as is represented by subsidiary
14 assets which if held directly by the insurer would be considered as a
15 disallowed asset, the insurer's surplus as regards policyholders will be
16 reasonable in relation to the insurer's outstanding liabilities and adequate
17 to its financial needs, and if following such investment all voting
18 securities of such subsidiary would be owned by the insurer.

19 C. Investments in common stock, preferred stock, debt obligations or
20 other securities of subsidiaries made pursuant to subsection B of this
21 section shall not be subject to any of the otherwise applicable restrictions
22 or prohibitions contained in this title applicable to such investment of
23 insurers.

24 D. Whether any investment pursuant to subsection B of this section
25 meets the applicable requirements is to be determined before the investment
26 is made by calculating the applicable investment limitations as if the
27 investment had already been made, taking into account the then outstanding
28 principal balance on all previous investments in debt obligations, and the
29 value of all previous investments in equity securities as of the date they
30 were made.

31 E. If an insurer ceases to control a subsidiary, it shall dispose of
32 any investment therein made pursuant to this section within three years from
33 the time of the cessation of control or within such further times as the
34 director may prescribe, unless at any time after such investment has been
35 made, such investment has met the requirements for investment under any other
36 section of this title, and the insurer has notified the director thereof.

37 F. For purposes of this section, in determining whether an insurer's
38 surplus as regards policyholders is reasonable in relation to the insurer's
39 outstanding liabilities and adequate to its financial needs, the following
40 factors shall be considered:

- 41 1. The minimum expendable surplus amount required by section 20-211.
- 42 2. The size of the insurer as measured by its assets, capital and
43 surplus, reserves, premium writings, insurance in force and other appropriate
44 criteria.

1 material or other information received with notice or the understanding that
2 it is confidential or privileged under the laws of the jurisdiction that is
3 the source of the document, material or other information.

4 3. Enter into agreements that govern the sharing and use of documents,
5 materials and other information and that are consistent with this section.

6 C. A disclosure to or by the director pursuant to this section or as
7 a result of sharing information pursuant to subsection B of this section is
8 not a waiver of any applicable privilege or claim of confidentiality in the
9 documents, materials or other information disclosed or shared.

APPROVED BY THE GOVERNOR APRIL 17, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2002.

Passed the House January 24, 2002,

Passed the Senate April 10, 2002

by the following vote: 54 Ayes,

by the following vote: 29 Ayes,

0 Nays, 6 Not Voting

0 Nays, 1 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
11 day of April, 2002,

at 2:50 o'clock P M.

[Signature]
Secretary to the Governor

Approved this 17 day of

April, 2002,

at 10:59 o'clock A M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 17 day of April, 2002

at 4:45 o'clock P M.

[Signature]
Secretary of State

H.B. 2027