

§1124. Mortgage loans

1. An insurer may invest in bonds, notes or evidences of indebtedness other than those described in section 1109 (corporate obligations), which are secured by first or 2nd mortgages, or deeds of trust upon improved real property located in the United States or Canada, including leasehold estates having an unexpired term of not less than 21 years, inclusive of the term or terms which may be provided by enforceable options of renewal, if the underlying real property is not subject to any prior lien, and subject to the following requirements.

A. The security for the loan must be a first or 2nd lien upon such real property; and [PL 1979, c. 458, §6 (AMD).]

B. In the case of leaseholds, there must not be any condition or right of reentry or forfeiture not insured against under which the insurer is unable to continue the lease in force for the duration of the loan. [PL 1969, c. 132, §1 (NEW).]

[PL 1979, c. 458, §6 (AMD).]

2. Nothing herein shall prohibit any investment by reason of the existence of any prior lien for ground rents, taxes, assessments, common area maintenance charges or other similar charges not yet delinquent.

[PL 1979, c. 458, §7 (AMD).]

3. A loan secured by a 2nd mortgage or deed of trust may be made or acquired if, although junior in lien to a prior existing mortgage covering the same real property or leasehold interest thereof, the net amount actually advanced by the insurer under its mortgage plus the balance of principal and accrued interest then remaining unpaid under such prior mortgage does not exceed the amount which the insurer otherwise could have invested in such mortgage loan. The total loans or investments made under this subsection by an insurer shall not exceed 2% of its total admitted assets, and no such loan or investment shall be made or acquired by an insurer if the mortgagor, without the approval of the insurer, may increase the principal amount of the indebtedness secured by the prior mortgage except to the extent that the amount of that increase is applied in reduction of the loan or investment held by the insurer.

[PL 1979, c. 458, §8 (AMD).]

4. Such a mortgage loan or loans made or acquired by an insurer on any one property shall not at time of investment by the insurer be in amount in excess of 80% of the fair market value of the property or permit amortization over a period in excess of 40 years, or, in the case of leasehold interest, be in excess of 75% of the fair market value of such interest or permit amortization over a period exceeding 4/5 of the lease term remaining at the time of the loan inclusive of the term or terms which may be provided by enforceable options of renewal, provided that this provision shall not be deemed to prohibit an insurer from investing in a nonamortizing mortgage loan so long as the period of nonamortization does not exceed 5 years and the aggregate amount of nonamortizing mortgage loans made under this subsection shall not exceed 30% of the insurer's assets. Prior to the investment, the value of the property or of the leasehold interest shall be determined, for the purposes of the investment, by a competent appraiser.

[PL 1981, c. 257 (AMD).]

5. In applying the limitations under subsection 4, there may be excluded from the amount invested that portion guaranteed by the Administrator of Veterans' Affairs pursuant to the Servicemen's Readjustment Act of 1944, as amended, or insured by the Federal Housing Administration under the National Housing Act, as amended, or by other United States or Canadian government agency.

[PL 1969, c. 132, §1 (NEW).]

6. An insurer may invest in purchase money mortgages or like securities received by it upon the sale or exchange of real property acquired pursuant to section 1125. Subsection 4 shall not apply as to such investments.

[PL 1969, c. 132, §1 (NEW).]

7. An insurer may invest in a mortgage participation, which for this purpose shall mean a bond, note or other evidence of indebtedness forming part of an issue of bonds, notes or other evidences of indebtedness which are secured by the same mortgage or deed of trust and shall also mean an instrument evidencing a participation in a bond, note or other evidence of indebtedness so secured, provided that the following requirements are met:

A. The underlying mortgage or deed of trust otherwise qualifies for investment as a mortgage loan under this section; and [PL 1979, c. 458, §10 (NEW).]

B. Either:

(1) The entire indebtedness secured by the same mortgage or deed of trust is held by the insurer;

(2) The insurer holds a senior participation giving it substantially the rights of a first or 2nd mortgagee, and a position of priority over the other holders of participations in that indebtedness; or

(3) Each participation is of equal rank. [PL 1979, c. 458, §10 (NEW).]

[PL 1979, c. 458, §10 (NEW).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1979, c. 458, §§6-10 (AMD). PL 1981, c. 257 (AMD).

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