

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1111
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Economic Development
4-16-97
Committee Report (Substituted)

DIGEST

Currently, the Insurance Code authorizes property and casualty insurers to invest funds within certain limitations and diversification requirements. Property and casualty insurers are not authorized to participate in investment pools. This bill would authorize property and casualty insurers to acquire investments and participate in qualified investment pools which meet certain requirements.

PURPOSE

As proposed, C.S.S.B. 1111 authorizes property and casualty insurers to acquire investments and participate in certain qualified investment pools.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 2, Insurance Code, by adding Article 2.10-5, as follows:

Art. 2.10-5. INVESTMENT AUTHORITY

Sec. 1. DEFINITIONS. Defines "business entity," "class one money market mutual fund," "government money market mutual fund," "money market mutual fund," "obligation," "qualified bank," "repurchase transaction," "reverse repurchase transaction," "securities lending transaction," and "securities valuation office."

Sec. 2. AUTHORITY TO INVEST. Authorizes an insurer to acquire investments and participate in an investment pool that is qualified under Section 5 of this article and the investments of which are limited to investments authorized for a short-term investment pool under Section 3 of this article or for an authorized investment pool under Section 4 of this article.

Sec. 3. SHORT-TERM INVESTMENT POOLS. Authorizes a short-term investment pool to contain only certain obligations; government money market mutual funds or class one money market mutual funds; or securities lending, repurchase and reverse purchase transactions that meet the requirements imposed under Article 2.10-3 of this code. Requires the issuer of an obligation under Subsection (a)(1) of this section, in the absence of a one or two rating or equivalent rating, to have outstanding obligations rated one or two by the securities valuation office or that has a rating equivalent to a securities valuation office rating of one or two made by a nationally recognized statistical rating organization recognized by the securities valuation office. Provides that a current short-term index is a federal funds rate; the prime rate; the rate for treasury bills; the London InterBank Offered Rate; or the rate for commercial paper.

Sec. 4. AUTHORIZED INVESTMENT POOLS. Provides that authorized investment pools are limited to investments that a participating insurer is authorized to acquire by other articles of this code. Prohibits the insurer's total of proportionate ownership interests in any one authorized investment held by an authorized investment pool, and direct investments in the

same authorized investment, from exceeding the limit provided by the applicable authorizing article. Provides that an insurer is also subject to the overall limitations contained in Section 6(c) of this article.

Sec. 5. **QUALIFICATIONS FOR AN INVESTMENT POOL.** Requires an investment pool to comply with the requirements established under this section. Prohibits the investment pool from acquiring securities issued, assumed, guaranteed, or insured by the investing insurer or an affiliate of the investing insurer; from borrowing or incurring an indebtedness for borrowed money, except for securities lending and reverse repurchase transactions that meet the requirements of this article; or from permitting the aggregate value of securities then loaned or sold to, purchased from, or invested in any one business entity under this section to exceed 10 percent of the total assets of the investment pool. Requires the investment pool to have a written pooling agreement. Requires the pooling agreement to designate a pool manager. Requires the pool manager to be organized under the laws of the United States or a state, and to be the investing insurer, an affiliate insurer, or business entity affiliated with the investing insurer; to be a qualified bank; to be a business entity registered under the Investment Advisors Act of 1940 (15 U.S.C. Sec. 80A-1 et seq.), as amended; if a reciprocal insurer or interinsurance exchange, to be its attorney-in-fact; or if a United States branch of an alien insurer, to be its United State manager or an affiliate or subsidiary of its United States manager. Requires the pool manager to compile and maintain certain records. Requires the pool manager to maintain the assets of the investment pool in one or more accounts, in the name of or on behalf of the investment pool, under a custody agreement with a qualified bank. Sets forth the required terms of the custody agreement. Sets forth the required terms and conditions of the pooling agreement for the investment pool.

Sec. 6. **ADDITIONAL REQUIREMENTS; LIMITATIONS.** Requires an investment pool to be a business entity. Provides that a transaction between the pool and a participant in the pool is not subject to Section 4, Article 21.49-1, of this code, except that, before entering into a pool, an insurer subject to Article 21.49-1, shall file the notice required under Section 4(d)(2), Article 21.49-1, of this code. Requires the investment activities of the pool and transactions between pools and participants to be reported annually in the registration statement required by Section 3, Article 21.49-1, of this code. Prohibits an insurer from acquiring an investment in an investment pool under this section if, as a result of and after giving effect to that investment, the aggregate amount of investments then held by the insurer under this article exceeds a certain percentage of the pool's admitted assets. Requires a pool participant to be able to make withdrawals on demand without penalty or other assessment on any business day, and settlement of funds must occur within a reasonable and customary period after a withdrawal not to exceed five business days. Requires the pooling agreement to provide that the pool manager make a distribution to a pool participant, at the discretion of the pool manager, either in cash, in kind, or in a combination of in cash and in kind distributions. Provides that a distribution under Subsection (e) is computed in each case after subtracting all applicable fees and expenses of the investment pool. Requires the pool manager to make the records of the investment pool available for inspection by the commissioner of insurance.

SECTION 2. Emergency clause.

Effective date: 90 days after adjournment.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Article 2.10-5, Insurance Code, by revising Subsections (2), (4) and (5). Makes nonsubstantive changes to Subsections (1), (3) and (6).

SECTION 2.

Sets forth emergency clause originally proposed in SECTION 3. Omits SECTION 2, setting forth the effective date as September 1, 1997. The default effective date is 90 days after adjournment.