CHAPTER 388

(HB 634)

AN ACT relating to investments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in this subtitle:

(1) "Acceptable collateral" means:

(a) As to securities lending transactions, and for the purpose of calculating counterparty exposure amount, cash, cash equivalents, letter of credit, direct obligations of, or securities that are fully guaranteed as to principal and interest by, the government of the United States, any agency of the United States, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation, and as to lending foreign securities, sovereign debt rated 1 by the SVO;

(b) As to repurchase transactions, cash, cash equivalents, direct obligations of, or securities that are fully guaranteed as to principal and interest by, the government of the United States, any agency of the United States, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation; and (c) As to reverse repurchase transactions, cash and cash equivalents.

(2) "Acceptable private mortgage insurance" means insurance written by a private insurer protecting a mortgage lender against loss occasioned by a mortgage loan default and issued by a licensed mortgage insurance company, with an SVO 1 designation or a rating issued by a nationally recognized statistical rating organization equivalent to an SVO 1 designation, that covers losses to an eighty percent (80%) loan-to-value ratio.

(3) "Accident and health insurance" means protection that provides payment of benefits for covered sickness or accidental injury, excluding credit insurance, disability insurance, accidental death and dismemberment insurance, and long-term care insurance.

(4) "Accident and health insurer" means a licensed life or health insurer or health service corporation whose insurance premiums and required statutory reserves for accident and health insurance constitute at least ninety-five percent (95%) of total premium considerations or total statutory required reserves, respectively.

(5) "Admitted assets" means assets permitted to be reported as admitted assets in accordance with Subtitle 6 of KRS Chapter 304 on the statutory financial statement of the insurer most recently required to be filed with the commissioner, but excluding assets of separate accounts.

(6) "Affiliate" means, as to any person, another person that, directly or indirectly through one (1) or more intermediaries, controls, is controlled by, or is under common control with the person.

(7) "Asset-backed security" means a security or other instrument, excluding a mutual fund, evidencing an interest in, or the right to receive payments from, or payable from distributions on, an asset, a pool of assets, or specifically divisible cash flows that are legally

transferred to a trust or another special purpose bankruptcy-remote business entity, on the following conditions:

(a) The trust or other business entity is established solely for the purpose of acquiring specific types of assets or rights to cash flows, issuing securities and other instruments representing an interest in or right to receive cash flows from those assets or rights, and engaging in activities required to service the assets or rights and any credit enhancement or support features held by the trust, or other business entity; and

(b) The assets of the trust or other business entity consist solely of interest bearing obligations or other contractual obligations representing the right to receive payment from the cash flows from the assets or rights. However, the existence of credit enhancement, such as letters of credit or guarantees, or support features such as swap agreements, shall not cause a security or other instrument to be ineligible as an asset-backed security.

(8) "Business entity" includes a sole proprietorship, corporation, limited liability company, association, partnership, joint stock company, joint venture, mutual fund, trust, joint tenancy, or other similar form of business organization, whether organized for profit or not-for-profit.

(9) "Cap" means an agreement obligating the seller to make payments to the buyer, with each payment based on the amount by which a reference price, level, or the performance or value of one (1) or more underlying interests exceeds a predetermined number, sometimes called the strike rate or strike price.

(10) "Capital and surplus" means the sum of the capital and surplus of the insurer required to be shown on the statutory financial statement of the insurer most recently required to be filed with the commissioner.

(11) "Cash equivalents" means short-term, highly rated, and highly liquid investments or securities readily convertible to known amounts of cash without penalty and so near maturity that they present insignificant risk of change in value. Cash equivalents include government money market mutual funds and class one money market mutual funds. For purposes of this definition:

(a) "Short-term" means investments with a remaining term to maturity of ninety (90) days or less; and

(b) "Highly rated" means an investment rated P-1 by Moody's Investors Service, Inc., or A-1 by Standard and Poor's division of The McGraw-Hill Companies, Inc. or its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO.

(12) "Class one bond mutual fund" means a mutual fund that at all times qualifies for investment using the bond class one reserve factor under the Purposes and Procedures of the Securities Valuation Office, or any successor publication.

(13) "Class one money market mutual fund" means a money market mutual fund that at all times qualifies for investment using the bond class one reserve factor under the Purposes and Procedures of the Securities Valuation Office, or any successor publication.

(14) "Code" means KRS Chapter 304 and all administrative regulations promulgated as authorized.

(15) "Collar" means an agreement to receive payments as the buyer of an option, cap, or floor and to make payment as the seller of a different option, cap, or floor.

(16) "Commercial mortgage loan" means a loan secured by a mortgage, other than a residential mortgage loan.

(17) "Construction loan" means a loan of less than three (3) years in term, made for financing the cost of construction of a building or other improvement to real estate, that is secured by the real estate.

(18) "Control" means the possession, directly or indirectly, of the power to direct, or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if a person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent (10%) or more of the voting securities of another person. This presumption may be rebutted by a showing that control does not exist in fact. The commissioner may determine, after furnishing all interested persons notice and an opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(19) "Counterparty exposure amount" means:

(a) The net amount of credit risk attributable to a derivative instrument entered into with a business entity other than through a qualified exchange, qualified foreign exchange, or cleared through a qualified clearinghouse ("over-the-counter derivative instrument"). The amount of credit risk equals:

1. The market value of the over-the-counter derivative instrument if the liquidation of the derivative instrument would result in a final cash payment to the insurer; or

2. Zero (0) if the liquidation of the derivative instrument would not result in a final cash payment to the insurer.

(b) If over-the-counter derivative instruments are entered into under a written master agreement that provides for netting of payments owed by the respective parties, and the domicilary jurisdiction of the counterparty is either within the United States or if not within the United States, within a foreign jurisdiction listed in the Purposes and Procedures of the Securities Valuation Office as eligible for netting, the net amount of credit risk shall be the greater of zero (0) or the net sum of:

1. The market value of the over-the-counter derivative instruments entered into under the agreement, the liquidation of which would result in a final cash payment to the insurer; and

2. The market value of the over-the-counter derivative instruments entered into under the agreement, the liquidation of which would result in a final cash payment by the insurer to the business entity.

(c) For open transactions, market value shall be determined at the end of the most recent quarter of the insurer's fiscal year and shall be reduced by the market value of acceptable collateral held by the insurer or placed in escrow by one (1) or both parties.

(20) "Covered" means that an insurer owns or can immediately acquire, through the exercise of options, warrants, or conversion rights already owned, the underlying interest in order to fulfill or secure its obligations under a call option, cap, or floor it has written, or has set aside under a custodial or escrow agreement, cash, or cash equivalents with a market value equal to the amount required to fulfill its obligations under a put option it has written, in an income generation transaction.

(21) "Credit tenant loan" means a mortgage loan that is made primarily in reliance on the credit standing of a major tenant, structured with an assignment of the rental payments to the lender with real estate pledged as collateral in the form of a first lien.

(22) (a) "Derivative instrument" means an agreement, option, instrument, a series, or combination thereof:

1. To make or take delivery of, or assume or relinquish, a specified amount of one (1) or more underlying interests, or to make a cash settlement in lieu thereof; or

2. That has a price, performance, value, or cash flow based primarily upon the actual or expected price, level, performance, value, or cash flow of one (1) or more underlying interests.

(b) Derivative instruments include options, warrants used in a hedging transaction and not attached to another financial instrument, caps, floors, collars, swaps, forwards, futures, any other agreements, options, or instruments substantially similar thereto, or any series or combination thereof, and any agreements, options, or instruments permitted under administrative regulations promulgated under Section 6 of this Act. Derivative instruments shall not include an investment authorized by Sections 9 to 15, 17, and 23 to 28 of this Act.

(23) "Derivative transaction" means a transaction involving the use of one (1) or more derivative instruments.

(24) "Direct" or "directly", when used in connection with an obligation, means that the designated obligor is primarily liable on the instrument representing the obligation.

(25) "Dollar roll transaction" means two (2) simultaneous transactions with different settlement dates no more than ninety-six (96) days apart, so that in the transaction with the earlier settlement date, an insurer sells to a business entity, and in the other transaction the insurer is obligated to purchase from the same business entity, substantially similar securities of the following types:

(a) Asset-backed securities issued, assumed, or guaranteed by the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or their respective successors; and

(b) Other asset-back securities referred to in Section 106 of Title I of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. sec. 77r-1), as amended.

(26) "Domestic jurisdiction" means the United States, Canada, any state, any province of Canada, or any political subdivision of any of the foregoing.

(27) "Equity interest" means any of the following that are not rated credit instruments:

(a) Common stock;

(b) Preferred stock;

(c) Trust certificate;

(d) Equity investment in an investment company other than a money market mutual fund or a class one bond mutual fund;

(e) Investment in a common trust fund of a bank regulated by a federal or state agency;

(f) An ownership interest in mineral, oil, or gas, the rights to which have been separated from the underlying fee interest in the real estate where the mineral, oil, or gas are located;

(g) Instruments that are mandatorily, or at the option of the issuer, convertible to equity;

(h) Limited partnership interests and those general partnership interests authorized under subsection (4) of Section 4 of this Act;

(i) Member interests in limited liability companies;

(j) Warrants or other rights to acquire equity interests that are created by the person that owns or would issue the equity to be acquired; or

(k) Instruments that would be rated credit instruments except for the provisions of subsection (70)(b) of this section.

(28) "Equivalent securities" means:

(a) In a securities lending transaction, securities that are identical to the loaned securities in all features including the amount of the loaned securities, except as to certificate number if held in physical form, but if any different security shall be exchanged for a loaned security by recapitalization, merger, consolidation, or other corporate action, the different security shall be deemed to be the loaned security;

(b) In a repurchase transaction, securities that are identical to the purchased securities in all features including the amount of the purchased securities, except as to the certificate number if held in physical form; or

(c) In a reverse repurchase transaction, securities that are identical to the sold securities in all features including the amount of the sold securities, except as to the certificate number if held in physical form.

(29) "Floor" means an agreement obligating the seller to make payments to the buyer in which each payment is based on the amount by which a predetermined number, sometimes called the floor rate or price, exceeds a reference price, level, performance, or value of one (1) or more underlying interests.

(30) "Foreign currency" means a currency other than that of a domestic jurisdiction.

(31) (a) "Foreign investment" means an investment in a foreign jurisdiction, or an investment in a person, real estate, or asset domiciled in a foreign jurisdiction, that is substantially of the same type as those eligible for investment under this subtitle, other than Sections 15 and 28 of this Act. An investment shall not be deemed to be foreign if the issuing person, qualified primary credit source, or qualified guarantor is a domestic jurisdiction or a person domiciled in a domestic jurisdiction, unless:

1. The issuing person is a shell business entity; and

2. The investment is not assumed, accepted, guaranteed, insured, or otherwise backed by a domestic jurisdiction or a person that is not a shell business entity, domiciled in a domestic jurisdiction.

(b) For purposes of this definition:

1. "Shell business entity" means a business entity having no economic substance, except as a vehicle for owning interests in assets issued, owned, or previously owned by a person domiciled in a foreign jurisdiction;

2. "Qualified guarantor" means a guarantor against which an insurer has a direct claim for full and timely payment, evidenced by a contractual right for which an enforcement action can be brought in a a domestic jurisdiction; and

3. "Qualified primary credit source" means the credit source to which an insurer looks for payment as in an investment and against which an insurer has a direct claim for full and timely payment, evidenced by a contractual right for which an enforcement action can be brought in a domestic jurisdiction.

(32) "Foreign jurisdiction" means a jurisdiction other than a domestic jurisdiction.

(33) "Forward" means an agreement other than a future, to make, take delivery of, or effect a cash settlement based on the actuarial or expected price, level, performance, or value of one (1) or more underlying interests.

(34) "Future" means an agreement, traded on a qualified exchange or qualified foreign exchange, to make, take delivery of, or effect a cash settlement based on the actual or expected price, level, performance, or value of one (1) or more underlying interest.

(35) "Government money market mutual fund" means a money market mutual fund that at all times:

(a) Invests only in obligations issued, guaranteed, or insured by the federal government of the United States or collateralized repurchase agreements composed of these obligations; and

(b) Qualifies for investment without a reserve under the Purposes and Procedures of the Securities Valuation Office or any successor publication.

(36) "Government sponsored enterprise" means a :

(a) Governmental agency; or

(b) Corporation, limited liability company, association, partnership, joint stock company, joint venture, trust, or other entity or instrumentality organized under the laws of any domestic jurisdiction to accomplish a public policy or other governmental purpose.

(37) "Guaranteed or insured", when used in connection with an obligation acquired under this subtitle, means that the guarantor or insurer has agreed to:

(a) Perform or insure the obligation of the obligor or purchase the obligation; or

(b) Be unconditionally obligated until the obligation is repaid to maintain in the obligor a minimum net worth, fixed charge coverage, stockholders' equity, or sufficient liquidity to enable the obligor to pay the obligation in full.

(38) "Hedging transaction" means a derivative transaction that is entered into and maintained to reduce:

(a) The risk of a change in the value, yield, price, cash flow, or quantity of assets or liabilities that the insurer has acquired or incurred or anticipates acquiring or incurring; or

(b) The currency exchange rate risk or the degree of exposure as to assets or liabilities that an insurer has acquired or incurred or anticipates acquiring or incurring.

(39) "High grade investment" means a rated credit instrument rated 1 or 2 by the SVO.

(40) "Income" means, as to a security, interest, accrual of discount, dividends, or other distributions, such as rights, tax or assessment, or assessment credits, warrants, and distributions in kind.

(41) "Income generation transaction" means a derivative transaction involving the writing of covered call options, covered put options, covered caps, or covered floors that is intended to generate income or enhance return.

(42) "Initial margin" means that amount of cash, securities, or other consideration initially required to be deposited to establish a futures position.

(43) "Insurance future" means a future relating to an index or pool that is based on insurance-related items.

(44) "Insurance futures option" means an option on an insurance future.

(45) "Investment company" means an investment company as defined in Section 3(a) of the Investment Company Act of 1940 (15 U.S.C. sec. 80a-1 et seq.), as amended, and a person described in Section 3(c) of that Act.

(46) "Investment company series" means an investment portfolio of an investment company that is organized as a series company and to which assets of the investment company have been specifically allocated.

(47) "Investment practices" means transactions of the types described in Sections 14, 16, 27, and 29 of this Act.

(48) "Investment subsidiary" means a subsidiary of an insurer engaged or organized to engage exclusively in the ownership and management of assets authorized as investment for the insurer if each subsidiary agrees to limit its investment in any asset so that its investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations or avoid any other provisions of this subtitle applicable to the insurer. As used in this subsection, the total investment of the insurer shall include:

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

(b) The insurer's proportionate share of an investment in an asset by an investment subsidiary of the insurer, that shall be calculated by multiplying the amount of the subsidiary's investment by the percentage of the insurer's ownership interest in the subsidiary.

(49) "Investment strategy" means the techniques and methods used by an insurer to meet its investment objectives, such as active bond portfolio management, passive bond portfolio management, interest rate anticipation, growth investing, and value investing.

(50) "Letter of credit" means a clean, irrevocable, and unconditional letter of credit issued or confirmed by, and payable and presentable at, a financial institution on the list of financial

institutions meeting the standards for issuing letters of credit under the Purposes and Procedures of the Securities Valuation Office or any successor publication. To constitute acceptable collateral for the purposes of Sections 14 and 27 of this Act, a letter of credit shall have an expiration date beyond the term of the subject transaction.

(51) "Limited liability company" means a business organization, excluding partnerships and ordinary business corporations, organized or operating under the laws of the United States or any state thereof that limits the personal liability of investors to the equity investment of the investor in the business entity.

(52) "Lower grade investment" means a rated credit instrument rated 4, 5, or 6 by the SVO.

(53) "Market value" means:

(a) As to cash and letters of credit, the amounts thereof; and

(b) As to security as of any date, the price for the security on that date obtained from a generally recognized source or the most recent quotation from such a source or, to the extent no generally recognized source exists, the price for the security as determined in good faith by the parties to a transaction, plus accrued but unpaid income thereon to the extent not included in the price as of that date.

(54) "Medium grade investment" means a rated credit instrument rated 3 by the SVO.

(55) "Money market mutual fund" means a mutual fund that meets the conditions of 17 Code of Federal Regulations Par. 270.2a-7, under the Investment Company Act of 1940 (15 U.S.C. sec. 80a-1 et seq.), as amended or renumbered.

(56) "Mortgage loan" means an obligation secured by a mortgage, deed of trust, trust deed, or other consensual lien on real estate.

(57) "Multilateral development bank" means an international development organization of which the United States is a member.

(58) "Mutual fund" means an investment company or, in the case of an investment company that is organized as a series company, an investment company series, that, in either case, is registered with the United States Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. sec. 80a-1 et seq.), as amended.

(59) "NAIC" means the National Association of Insurance Commissioners.

(60) "Obligation" means a bond, note, debenture, or a trust certificate including an equipment certificate, production payment, negotiable bank certificate of deposit, bankers' acceptance, credit tenant loan, loan secured by financing net leases, and other evidence of indebtedness for the payment of money or participations, certificates, or other evidences of an interest in any of the foregoing, whether constituting a general obligation of the issuer or payable only out of certain revenues or certain funds pledged or otherwise dedicated for payment.

(61) "Option" means an agreement giving the buyer the right to buy or receive (a "call option"), sell or deliver (a "put option"), enter into, extend, terminate, or effect a cash settlement based on the actual or expected price level, performance or value of one (1) or more underlying interests.

(62) "Person" means an individual, a business entity, a multilateral development bank, or a government or quasi-governmental body, such as a political subdivision or a government sponsored enterprise.

(63) "Potential exposure" means the amount determined in accordance with the NAIC Annual Statement Instructions.

(64) "Preferred stock" means preferred, preference, or guaranteed stock of a business entity authorized to issue the stock, that has a preference in liquidation over the common stock of the business entity.

(65) "Qualified bank" means:

(a) A national bank, state bank, or trust company that at all times is no less than adequately capitalized as determined by standards adopted by the United States banking regulators and that is either regulated by state banking laws, or is a member of the Federal Reserve Bank of New York; or

(b) A bank or trust company incorporated or organized under the laws of a country other than the United States that is regulated as a bank or trust company by that country's government or an agency thereof and that at all times is no less than adequately capitalized as determined by the standards adopted by international banking authorities.

(66) "Qualified business entity" means a business entity that is:

(a) An issuer of obligations or preferred stock that are rated 1 or 2 by SVO or an issuer of obligations, preferred stock, or derivative instruments that are rated the equivalent of 1 or 2 by the SVO or by a nationally recognized statistical rating organization recognized by the SVO; or

(b) A primary dealer in United States government securities, recognized by the Federal Reserve Bank of New York.

(67) "Qualified clearinghouse" means a clearinghouse for, and subject to the rules of, a qualified exchange or a qualified foreign exchange, that provides clearing service, including acting as a counterparty to each of the parties to a transaction such that the parties no longer have credit risks as to each other.

(68) "Qualified exchange" means:

(a) A securities exchange registered as a national securities exchange, or a securities market regulated under the Securities Exchange Act of 1934 (15 U.S.C. sec. 78 et seq.), as amended;

(b) A board of trade or commodities exchange designated as a contract market by the Commodity Futures Trading Commission or any successor thereof;

(c) Private Offerings, Resales, and Trading through Automated Linkages (PORTAL);

(d) A designated offshore securities market as defined in Securities Exchange Commission Regulation S, 17 C.F.R. Part 230, as amended; or (e)

A qualified foreign exchange.

(69) "Qualified foreign exchange" means a foreign exchange, board of trade, or contract market located outside the United States, its territories, or possessions:

(a) That has received regulatory comparability relief under Commodity Futures Trading Commission (CFTC) Rule 30.10, as set forth in Appendix C to Part 30 of the CFTC's Regulations, 17 C.F.R. Part 30;

(b) That is, or its members are, subject to the jurisdiction of a foreign futures authority that has received regulatory comparability relief under CFTC Rule 30.10, as set forth in Appendix C to Part 30 of the CFTC's Regulations, 17 C.F.R. Part 30, as to futures transactions in the jurisdiction where the exchange, board of trade, or contract market is located; or

(c) Upon which foreign stock index futures contracts are listed that are the subject of no-action relief issued by the CFTC's Office of General Counsel, provided that an exchange, board of trade, or contract market that qualifies as a qualified foreign exchange only under this subsection shall only be a qualified foreign exchange as to foreign stock index futures contracts that are the subject of no-action relief.

(70) (a) "Rated credit instrument" means a contractual right to receive cash or another rated credit instrument from another entity that: 1. Is rated or required to be rated by the SVO;

2. In the case of an instrument with a maturity of three hundred ninety-seven (397) days or less, is issued, guaranteed, or insured by an entity that is rated by, or another obligation of the entity is rated by, the SVO or by a nationally recognized statistical rating organization recognized by the SVO;

3. In the case of an instrument with a maturity of ninety (90) days or less is issued by a qualified bank;

4. Is a share of a class one bond mutual fund; or

5. Is a share of a money market mutual fund.

(b) However, "rated credit instrument" does not mean:

1. An instrument that is mandatorily, or at the option of the issuer, convertible to an equity interest; or

2. A security that has a par value and whose terms provide that the issuer's net obligation to repay all or part of the security's par value is determined by reference to the performance of an equity, a commodity, a foreign currency, or an index of equities, commodities, foreign currencies, or combinations thereof.

(71) "Real estate" means:

(a) 1. Real property;

2. Interests in real property, such as leaseholds, minerals, oil, and gas that have not been separated from the underlying fee interest;

3. Improvements and fixtures located on or in real property; and

4. The seller's equity in a contract providing for a deed of real estate.

(b) As to a mortgage on a leasehold estate, real estate shall include the leasehold estate only if it has an unexpired term, including renewal options exercisable at the option of the lessee, extending beyond the scheduled maturity date of the obligation that is secured by a mortgage on the leasehold estate by a period equal to at least twenty percent (20%) of the original term of the obligation or ten (10) years, whichever is greater.

(72) "Replication transaction" means a derivative transaction that is intended to replicate the performance of one (1) or more assets that an insurer is authorized to acquire under this

subtitle. A derivative transaction that is entered into as a hedging transaction shall not be considered a replication transaction.

(73) "Repurchase transaction" means a transaction in which an insurer purchases securities from a business entity that is obligated to repurchase the purchased securities or equivalent securities from the insurer at a specified price, either within a specified period of time or upon demand.

(74) "Required liabilities" means total liabilities required to be reported on the statutory financial statement of the insurer most recently required to be filed with the commissioner.

(75) "Residential mortgage loan" means a loan primarily secured by a mortgage on real estate improved with a one (1) to four (4) family residence.

(76) "Reverse repurchase transaction" means a transaction in which an insurer sells securities to a business entity and is obligated to repurchase the sold securities or equivalent securities from the business entity at a specified price, either within a specified period of time or upon demand.

(77) "Secured location" means the contiguous real estate owned by one (1) person.

(78) "Securities lending transaction" means a transaction in which securities are loaned by an insurer to a business entity that is obligated to return the loaned securities or equivalent securities to the insurer, either within a specified period of time or upon demand.

(79) "Series company" means an investment company that is organized as a series company, as defined in Rule 18f-2(a) adopted under the Investment Company Act of 1940 (15 U.S.C. sec. 80a-1 et seq.), as amended.

(80) "Sinking fund stock" means preferred stock that:

(a) Is subject to a mandatory sinking fund or similar arrangement that will provide for the redemption or open market purchase of the entire issue over a period not longer than forty (40) years from the date of acquisition; and

(b) Provides for mandatory sinking fund installments or open market purchases commencing not more than ten and one-half (10 1/2) years from the date of issue, with the sinking fund installments providing for the purchase or redemption, on a cumulative basis commencing ten (10) years from the date of issue, of at least two and one-half percent (2.5%) per year of the original number of shares of that issue of preferred stock.

(81) "Special rated credit instrument" means a rated credit instrument that is:

(a) An instrument that is structured so that, if it is held until retired by or on behalf of the issuer, its rate of return, based on its purchase cost and any cash flow stream possible under the structure of the transaction, may become negative due to reasons other than the credit risk associated with the issuer of the instrument; however, a

rated credit instrument shall not be a special rated credit instrument under this subsection if it is:

1. A share in a class one bond mutual fund;

2. An instrument, other than an asset-backed security, with payments of par value fixed as to amount and timing, or callable but in any event payable only at par

or greater, and interest or dividend cash flows that are based on either a fixed or variable rate determined by reference to a specified rate or index;

3. An instrument, other than an asset-backed security, that has a par value and is purchased at a price not greater than one hundred ten percent (110%) of par;

4. An instrument, including an asset-backed security, whose rate of return would become negative only as a result of a prepayment due to casualty, condemnation, or economic obsolescence of collateral or change of law;

5. An asset-backed security that relies on collateral that meets the requirements of subparagraph 2. of this paragraph, the par value of which collateral:

a. Is not permitted to be paid sooner than one-half (1/2) of the remaining term to maturity from the date of acquisition;

b. Is permitted to be paid prior to maturity only at a premium sufficient to provide a yield to maturity for the investment, considering the amount prepaid and reinvestment rates at the time of early repayment, at least equal to the yield to maturity of the initial investment; or

c. Is permitted to be paid prior to maturity at a premium at least equal to the yield of a Treasury issue of comparable remaining life; or

6. An asset-backed security that relies on cash flows from assets that are not prepayable at any time at par, but is not otherwise governed by subparagraph 5. of this paragraph, if the asset-backed security has a par value reflecting principal payments to be received if held until retired by or on behalf of the issuer and is purchased at a price no greater than one hundred five percent (105%) of the par amount.

(b) An asset-backed security that:

1. Relies on cash flows from assets that are prepayable at par at any time;

2. Does not make payments of par that are fixed as to amount and timing; and

3. Has a negative rate of return at the time of acquisition if a prepayment threshold assumption is used with the prepayment threshold assumption defined as either:

a. Two (2) times the prepayment expectation reported by a recognized, publicly available source as being the median of expectations contributed by broker dealers or other entities, except insurers, engaged in the business of selling or evaluating the securities or assets. The prepayment expectation used in this calculation shall be, at the insurer's election, the prepayment expectation for pass-through securities of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or for other assets of the same type as the assets that underlie the asset-backed security, in either case with a gross weighted average coupon comparable to the gross weighted average coupon of the assets that underlie the asset-backed security; or

b. Another prepayment threshold assumption specified by the commissioner by administrative regulation promulgated under Section 6 of this Act.

(c) For purposes of paragraph (b) of this subsection, if the asset-backed security is purchased in combination with one (1) or more other asset-backed securities that are supported by identical underlying collateral, the insurer may calculate the rate of return for these specific combined asset-backed securities in combination. The insurer shall maintain documentation demonstrating that the securities were acquired and are continuing to be held in combination.

(82) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(83) "Substantially similar securities" means securities that meet all criteria for substantially similar securities specified in the NAIC Accounting Practices and Procedures manual, as amended, and in an amount that constitutes good delivery form as determined from time to time by the Public Securities Administration.

(84) "SVO" means the Securities Valuation Office of the NAIC or any successor office established by the NAIC.

(85) "Swap" means an agreement to exchange or to net payments at one (1) or more times based on the actual or expected price, level, performance, or value of one (1) or more underlying interests.

(86) "Underlying interest" means the assets, liabilities, other interests, or a combination thereof underlying a derivative instrument, such as any one (1) or more securities, currencies, rates, indices, commodities, or derivative instruments.

(87) "Unrestricted surplus" means the amount by which total admitted assets exceed one hundred twenty-five percent (125%) of the insurer's required liabilities.

(88) "Warrant" means an instrument that gives the holder the right to purchase an underlying financial instrument at a given price and time or at a series of prices and times outlined in the warrant agreement. Warrants may be issued alone or in connection with the sale of other securities, for example, as part of a merger, recapitalization agreement, or to facilitate divestiture of the securities of another business entity.

SECTION 2. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) (a) Insurers may acquire, hold, or invest investments or engage in investment practices as set forth in this subtitle. Investments not conforming to this subtitle or otherwise expressly allowed in this chapter shall not be admitted assets.

(b) This subtitle shall apply to investments and investment practices of domestic insurers and United States branches of alien insurers entered through this state. This subtitle shall not apply to separate accounts of an insurer except to the extent that the provisions of Section 31 of this Act so provide.

(2) Subject to subsection (3) of this section, an insurer shall not acquire or hold an investment as an admitted asset unless at the time of acquisition it is:

(a) Eligible for the payment or accrual of interest or discount, whether in cash or other securities, eligible to receive dividends or other distributions, or is otherwise income producing; or

(b) Acquired under Section 13(3), 14, 16, 18, 26(3), 27, 29, or 30 of this Act, or under the authority of sections of the code other than in this subtitle.

(3) An insurer may acquire or hold as admitted assets investments that do not otherwise qualify under this subtitle if the insurer has not acquired them for the purpose of circumventing any limitations contained in this subtitle, if the insurer acquires the investments in the following circumstances and the insurer complies with the provisions of Section 4 of this Act as to the investments:

(a) As payment on account of existing indebtedness or in connection with the refinancing, restructuring, or workout of existing indebtedness, if taken to protect the insurer's interest in that investment;

(b) As realization on collateral for an obligation;

(c) In connection with an otherwise qualified investment or investment practice, as interest on a dividend, other distribution related to the investment, investment practice, or in connection with the refinancing of the investment, in each case for no additional or only nominal consideration;

(d) Under a lawful and bona fide agreement of recapitalization, voluntary, or involuntary reorganization in connection with an investment held by the insurer; or

(e) Under a bulk reinsurance, merger, or consolidation transaction approved by the commissioner if the assets constitute admissible investments for the ceding, merged, or consolidated companies.

(4) A foreign insurer that becomes a domestic insurer in accordance with KRS 304.24-500 may hold as admitted assets investments that do not otherwise qualify under this subtitle if the investments were qualified as admitted assets in the insurer's former state of domicile immediately prior to the insurer's becoming a Kentucky domestic insurer, if the insurer has not acquired the investments for the purpose of circumventing any limitations contained in this subtitle and if the insurer complies with the provisions of Section 4 of this Act as to the investments.

(5) An investment or portion of an investment acquired by an insurer under subsections (3) or (4) of this section shall become a nonadmitted asset three (3) years, or five (5) years in the case of mortgage loans and real estate, from the date of its acquisition, unless within that period the investment has become a qualified investment under this subtitle other than subsections (3) or (4) of this section, but an investment acquired under an agreement of bulk reinsurance, merger, or consolidation may be qualified for a longer period if so provided in the plan for reinsurance, merger, or consolidation as approved by the commissioner. Upon application by the insurer and a showing that the nonadmission of an asset held under subsections (3) or (4) of this section would materially injure the interests of the insurer, the commissioner may extend the period for admissibility for an additional reasonable period of time.

(6) Except as provided in subsections (7) and (9) of this section, an investment shall qualify under this subtitle if, on the date the insurer committed to acquire the investment or on the date of its acquisition, it would have qualified under this subtitle. For the purposes of determining limitations contained in this subtitle, an insurer shall give appropriate recognition to any commitments to acquire investments.

(7) (a) An investment held as an admitted asset by an insurer on the effective date of this Act that qualified under this subtitle shall remain qualified as an admitted asset under this subtitle.

(b) Each specific transaction constituting an investment practice of the type described in this subtitle that was lawfully entered into by an insurer and was in effect on the effective date of this Act shall continue to be permitted under this subtitle until its expiration or termination under its terms.

(8) Unless otherwise specified, an investment limitation computed on the basis of an insurer's admitted assets or capital and surplus shall relate to the amount required to be shown on the statutory balance sheet of the insurer most recently required to be filed with the commissioner. For purposes of computing any limitation based upon admitted assets, the insurer shall deduct from the amount of its admitted assets the amount of the liability recorded on its statutory balance sheet for:

(a) The return of acceptable collateral received in a reverse repurchase transaction or a securities lending transaction;

(b) Cash received in a dollar roll transaction; and

(c) The amount reported as borrowed money in the most recently filed financial statement to the extent not included in paragraphs (a) and (b) of this subsection.

(9) An investment qualified, in whole or in part, for acquisition or holding as an admitted asset may be qualified or requalified at the time of acquisition or a later date, in whole or in part, under any other section of this subtitle, if the relevant conditions contained in the other section of this subtitle are satisfied at the time of qualification or requalification.

(10) An insurer shall maintain documentation demonstrating that investments were acquired in accordance with this subtitle, and specifying the section of this subtitle under which they were acquired.

(11) An insurer shall not enter into an agreement to purchase securities in advance of their issuance for resale to the public as part of a distribution of the securities by the issuer, or otherwise guarantee the distribution, except that an insurer may acquire privately placed securities with registration rights.

(12) Notwithstanding the provisions of this subtitle, the commissioner, for good cause, may order under the state's administrative regulations, an insurer to nonadmit, limit, dispose of, withdraw from or discontinue an investment or investment practice. The authority of the commissioner under this subsection is in addition to any other authority of the commissioner.

(13) Insurance futures and insurance futures options are not considered investments or investment practices for the purposes of this subtitle.

SECTION 3. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer's board of directors shall adopt a written plan for acquiring and holding investments and for engaging in investment practices that specifies guidelines as to the quality, maturity, diversification of investments, and other specifications including investment strategies intended to assure that the investments and investment practices are

appropriate for the business conducted by the insurer, its liquidity needs, and its capital and surplus. The board shall review and assess the insurer's technical investment and administrative capabilities and expertise before adopting a written plan concerning an investment strategy or investment practice.

(2) Investments acquired and held under this subtitle shall be acquired and held under the supervision and direction of the board of directors of the insurer. The board of directors shall evidence by formal resolution, at least annually, that it has determined whether all investments have been made in accordance with delegations, standards, limitations, and investment objectives prescribed by the board or a committee of the board charged with the responsibility to direct its investments.

(3) On no less than a quarterly basis, and more often if deemed appropriate, an insurer's board of directors or committee of the board of directors shall:

(a) Receive and review a summary report on the insurer's investment portfolio, its investment activities, and investment practices engaged in under delegated authority, in order to determine whether the investment activity of the insurer is consistent with its written plan; and

(b) Review and revise, as appropriate, the written plan.

(4) In discharging its duties under this section, the board of directors shall require that records of any authorizations or approvals, other documentation as the board may require, and reports of any action taken under authority delegated under the plan referred to in subsection (1) of this section shall be made available on a regular basis to the board of directors.

(5) In discharging their duties under this section, the directors of an insurer shall perform their duties in good faith and with that degree of care that ordinarily prudent individuals in like positions would use under similar circumstances.

(6) If an insurer does not have a board of directors, all references to the board of directors in this subtitle shall be deemed to be references to the governing body of the insurer having authority equivalent to that of a board of directors.

SECTION 4. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer shall not, directly or indirectly:

(1) Invest in an obligation or security or make a guarantee for the benefit of or in favor of an officer or director of the insurer, except as provided in Section 5 of this Act;

(2) Invest in an obligation or security, make a guarantee for the benefit of or in favor of, or make other investments in a business entity of which ten percent (10%) or more of the voting securities or equity interests are owned directly or indirectly by or for the benefit of one (1) or more officers or directors of the insurer, except as authorized in KRS 304.37110, or provided in Section 5 of this Act;

(3) Engage on its own behalf or through one (1) or more affiliates in a transaction or series of transactions designed to evade the prohibitions of this subtitle;

(4) (a) Invest in a partnership as a general partner, except that an insurer may make an investment as a general partner;

1. If all other partners in the partnership are subsidiaries of the insurer;

2. For the purpose of :

a. Meeting cash calls committed to prior to the effective date of this Act;

b. Completing those specific projects or activities of the partnership in which the insurer was a general partner as of the effective date of this Act that had been undertaken as of that date; or

c. Making capital improvements to property owned by the partnership on the effective date of this Act if the insurer was a general partner as of that date; or

3. In accordance with subsection (3) of Section 2 of this Act;

(b) This subsection shall not prohibit a subsidiary or other affiliate of the insurer from becoming a general partner; or

(5) Invest in or lend its funds upon the security of shares of its own stock, except that an insurer may acquire shares of its own stock for the following purposes, but the shares shall not be admitted assets of the insurer;

(a) Conversion of a stock insurer into a mutual or reciprocal insurer or a mutual or reciprocal insurer into a stock insurer;

(b) Issuance to the insurer's officers, employees, or agents in connection with a plan approved by the commissioner for converting a publicly held insurer into a privately held insurer or in connection with other stock option and employee benefit plans; or (c) In accordance with any other plan approved by the commissioner.

SECTION 5. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) (a) Except as provided in subsection (2) of this section, an insurer shall not, without the prior written approval of the commissioner, directly or indirectly:

1. Make a loan to or invest in an officer or director of the insurer or a person in which the officer or director has any direct or indirect financial interest;

2. Make a guarantee for the benefit of or in favor of an officer or director of the insurer or a person in which the officer or director has any direct or indirect financial interest; or

3. Enter into an agreement for the purchase or sale of property from or to an officer or director of the insurer or a person in which the officer or director has any direct or indirect financial interest.

(b) For purposes of this section, an officer or director shall not be deemed to have a financial interest by reason of an interest that is held directly or indirectly through the ownership of equity interests representing less than two percent (2%) of all outstanding equity interests issued by a person that is a party to the transaction, or solely by reason of that individual's position as a director or officer of a person that is a party to the transaction.

(c) This subsection does not permit an investment that is prohibited by Section 4 of this Act.

(d) This subsection does not apply to a transaction between an insurer and any of its subsidiaries or affiliates that is entered into in compliance with Subtitle 37 of KRS Chapter 304, other than a transaction between an insurer and its officer or director.

(2) An insurer may make, without the prior written approval of the commissioner;

(a) Policy loans in accordance with the terms of the policy or contract and Section 17 of this Act;

(b) Advances to officers or directors for expenses reasonably expected to be incurred in the ordinary course of the insurer's business or guarantees associated with credit or charge cards issued or credit extended for the purpose of financing these expenses;

(c) Loans secured by the principal residence of an existing or new officer of the insurer made in connection with the officer's relocation at the insurer's request, if the loans comply with the requirements of Section 13 or 26 of this Act, and the terms and conditions otherwise are the same as those generally available from unaffiliated third parties;

(d) Secured loans to an existing or new officer of the insurer made in connection with the officer's relocation at the insurer's request, if the loans:

1. Do not have a term exceeding two (2) years;

2. Are required to finance mortgage loans outstanding at the same time on the prior and new residences of the officer;

3. Do not exceed an amount equal to the equity of the officer in the prior residence; and

4. Are required to be fully repaid upon the earlier of the end of the two (2) year period or the sale of the prior residence; and

(e) Loans and advances to officers or directors made in compliance with state or federal law specifically related to the loans and advances by a regulated noninsurance subsidiary or affiliate of the insurer in the ordinary course of business and on terms no more favorable than available to other customers of the entity.

SECTION 6. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner may promulgate administrative regulations implementing the provisions of this subtitle.

SECTION 7. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Sections 7 to 18 of this Act shall apply to the investments and investment practices of domestic life and health insurers, and of United States branches of alien life and health insurers entered through this state.

SECTION 8. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) (a) Except as otherwise specified in this subtitle, an insurer shall not acquire, directly or indirectly through an investment subsidiary, an investment under this subtitle if, as a result of and after giving effect to the investment, the insurer would hold more

than three percent (3%) of its admitted assets in investments of all kinds issued, assumed, accepted, insured, or guaranteed by a single person.

(b) This three percent (3%) limitation shall not apply to the aggregate amounts insured by a single financial guaranty insurer with the highest generic rating issued by a nationally recognized statistical rating organization.

(c) Asset-backed securities shall not be subject to the limitations of paragraph (a) of this subsection, however an insurer shall not acquire an asset-backed security if, as a result of and after giving effect to the investment, the aggregate amount of assetbacked securities secured by or evidencing an interest in a single asset or single pool of assets held by a trust or other business entity, then held by the insurer would exceed three percent (3%) of its admitted assets.

(2) (a) An insurer shall not acquire, directly or indirectly through an investment subsidiary, an investment under Sections 9, 12, and 15 of this Act, or counterparty exposure under subsection (4) of Section 16 of this Act, if, as a a result of and after giving effect to the investment:

1. The aggregate amount of medium and lower grade investments then held by the insurer would exceed twenty percent (20%) of its admitted assets;

2. The aggregate amount of lower grade investments then held by the insurer would exceed ten percent (10%) of its admitted assets;

3. The aggregate amount of investments rated 5 or 6 by the SVO then held by the insurer would exceed three percent (3%) of its admitted assets;

4. The aggregate amount of investments rated 6 by the SVO then held by the insurer would exceed one percent (1%) of its admitted assets; or

5. The aggregate amount of medium and lower grade investments then held by the insurer that receive as cash income less than the equivalent yield for Treasury issues with a comparative average life, would exceed one percent (1%) of its admitted assets.

(b) An insurer shall not acquire, directly or indirectly through an investment subsidiary, an investment under Sections 9, 12, and 15 of this Act, or counterparty exposure under subsection (4) of Section 16 of this Act, if, as a result of and after giving effect to the investment:

1. The aggregate amount of medium and lower grade investments issued, assumed, guaranteed, accepted, or insured by any one (1) person or, as to asset-backed securities secured by or evidencing an interest in a single asset or pool of assets, then held by the insurer would exceed one percent (1%) of its admitted assets; or

2. The aggregate amount of lower grade investments issued, assumed, guaranteed, accepted, or insured by any one (1) person or, as to asset-backed securities secured by or evidencing an interest in a single asset or pool of assets, then held by the insurer would exceed one-half of one percent (0.5%) of its admitted assets.

(c) If an insurer attains or exceeds the limit of any one (1) rating category referred to in this subsection, the insurer shall not thereby be precluded from acquiring investments

in other rating categories subject to the specific multicategory limits applicable to those investments.

(3) (a) An insurer shall not acquire, directly or indirectly through an investment subsidiary, a Canadian investment authorized by this subtitle, if as a result of and after giving effect to the investment, the aggregate amount of these investments then held by the insurer would exceed forty percent (40%) of its admitted assets, or if the aggregate amount of Canadian investments not acquired under subsection (2) of Section 9 of this Act then held by the insurer would exceed twenty-five percent (25%) of its admitted assets.

(b) However, as to an insurer that is authorized to do business in Canada or that has outstanding insurance, annuity, or reinsurance contracts on lives or risks resident or located in Canada and denominated in Canadian currency, the limitations of paragraph (a) of this subsection shall be increased by the greater of:

1. The amount the insurer is required by Canadian law to invest in Canada or to be denominated in Canadian currency; or

2. One hundred fifteen percent (115%) of the amount of its reserves and other obligations under contracts on lives or risks resident or located in Canada.

SECTION 9. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Subject to the limitations of subsection (6) of this section, an insurer may acquire rated credit instruments:

(1) Subject to the limitations of subsection (2) of Section 8 of this Act, but not the limitations of subsection (1) of Section 8 of this Act, an insurer may acquire rated credit instruments issued, assumed, guaranteed, or insured by:

(a) The United States; or

(b) A government sponsored enterprise of the United States, if the instruments of the government sponsored enterprise are assumed, guaranteed, or insured by the United States, or are otherwise backed or supported by the full faith and credit of the United States.

(2) (a) Subject to the limitations of subsection (2) of Section 8 of this Act, but not to the limitations of subsection (1) of Section 8 of this Act, an insurer may acquire rated credit instruments issued, assumed, guaranteed, or insured by:

1. Canada; or

2. A government sponsored enterprise of Canada, if the instruments of the government sponsored enterprise are assumed, guaranteed, or insured by Canada or are otherwise backed or supported by the full faith and credit of Canada;

(b) However, an insurer shall not acquire an instrument under this subsection if, as a result of and after giving effect to the investment, the aggregate amount of investments then held by the insurer under this subsection would exceed forty percent (40%) of its admitted assets.

(3) (a) Subject to the limitations of subsection (2) of Section 8 of this Act, but not to the limitations of subsection (1) of Section 8 of this Act, an insurer may acquire rated credit instruments, excluding asset-backed securities:

1. Issued by a government money market mutual fund, a class one money market mutual fund, or a class one bond mutual fund;

2. Issued, assumed, guaranteed, or insured by a government sponsored enterprise of the United States other than those eligible under subsection (1) of this section;

3. Issued, assumed, guaranteed, or insured by a state, if the instruments are general obligations of the state; or

4. Issued by a multilateral development bank;

(b) However, an insurer shall not acquire an instrument of any one (1) fund, any one (1) enterprise or entity, or any one (1) state under this subsection if, as a result of and after giving effect to the investment, the aggregate amount of investments then held in any one (1) fund, enterprise, entity, or state under this subsection would exceed ten percent (10%) of its admitted assets.

(4) Subject to the limitations of Section 8 of this Act, an insurer may acquire preferred stocks that are not foreign investments and that meet the requirements of rated credit instruments if, as a result of and after giving effect to the investment;

(a) The aggregate amount of preferred stocks then held by the insurer under this subsection does not exceed twenty percent (20%) of its admitted assets; and

(b) The aggregate amount of preferred stocks then held by the insurer under this subsection which are not sinking fund stocks or rated P1 or P2 by the SVO does not exceed ten percent (10%) of its admitted assets.

(5) Subject to the limitations of Section 8 of this Act, in addition to those investments eligible under subsections (1) to (4) of this section, an insurer may acquire rated credit instruments that are not foreign investments.

(6) An insurer shall not acquire special rated credit instruments under this section if, as a result of and after giving effect to the investment, the aggregate amount of special rated credit instruments then held by the insurer would exceed five percent (5%) of its admitted assets.

SECTION 10. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer may acquire investments in investment pools that :

(a) Invest only in:

1. Obligations that are rated 1 or 2 by SVO or have an equivalent of an SVO 1 or 2 rating or, in the absence of a 1 or 2 rating or equivalent rating, the issuer has outstanding obligations with an SVO 1 or 2 or equivalent rating by a nationally recognized statistical rating organization recognized by the SVO and have:

a. A remaining maturity of three hundred ninety-seven (397) days or less or a put that entitles the holder to receive the principal amount of the

obligation which put may be exercised through maturity at specified intervals not exceeding three hundred ninety-seven (397) days; or

b. A remaining maturity of three (3) years or less and a floating interest rate that resets no less frequently than quarterly on the basis of a current short-term index (federal funds, prime rate, treasury bills, London InterBank Offered Rate (LIBOR), or commercial paper) and is subject to no maximum limit, if the obligations do not have an interest rate that varies inversely to market interest rate changes;

2. Government money market mutual funds or class one money market mutual funds; or

3. Securities lending, repurchase, and reverse repurchase transactions that meet all the requirements of Section 14 of this Act, except the quantitative limitations subsection (4) of Section 14 of this Act; or

(b) Invest only in investments that an insurer may acquire under this subtitle, if the insurer's proportionate interest in the amount invested in these investments does not exceed the applicable limits of this subtitle.

(2) For an investment in an investment pool to be qualified under this subtitle, the investment pool shall not:

(a) Acquire securities issued, assumed, guaranteed, or insured by the insurer or an affiliate of the insurer;

(b) Borrow or incur any indebtedness for borrowed money, except for securities lending and reverse repurchase transactions that meet the requirements of Section 14 of this Act, except the quantitative limitations of subsection (4) of Section 14 of this Act; or

(c) Permit the aggregate value of securities then loaned or sold to, purchased from, or invested in any one (1) business entity under this section to exceed ten percent (10%) of the total assets of the investment pool.

(3) The limitations of subsection (1) of Section 8 of this Act shall not apply to an insurer's investment in an investment pool, however an insurer shall not acquire an investment in an investment pool under this section if, as a result of and after giving effect to the investment, the aggregate amount of investment then held by the insurer under this section:

(a) In any one (1) investment pool would exceed ten percent (10%) of its admitted assets;

(b) In all investment pools investing in investments permitted under paragraph (b) of subsection (1) of this section would exceed twenty-five (25%) of its admitted assets; or

(c) In all investment pools would exceed thirty-five percent (35%) of its admitted assets.

(4) For an investment in an investment pool to be qualified under this subtitle, the manager of the investment pool shall:

(a) Be organized under the laws of the United States or a state and designated as the pool manager in a pooling agreement;

(b) Be the insurer, an affiliated insurer or a business entity affiliated with the insurer, a qualified bank, a business entity registered under the Investment Advisors Act of 1940 (15 U.S.C. sec. 80a-1 et seq.), as amended or, in the case of a reciprocal insurer or

interinsurance exchange, its attorney-in-fact, or in the case of a United States branch of an alien insurer, its United States manager or affiliates or subsidiaries of its United States manager;

(c) Compile and maintain detailed accounting records setting forth:

1. The cash receipts and disbursements reflecting each participant's proportionate investment in the investment pool;

2. A complete description of all underlying assets of the investment pool, including amount, interest rate, maturity date if any, and other appropriate designations; and

3. Other records that, on a daily basis, allow third parties to verify each participant's investment in the investment pool; and

(d) Maintain the assets of the investment pool in one (1) or more accounts, in the name of or on behalf of the investment pool, under a custody agreement with a qualified bank. The custody agreement shall:

1. State and recognize the claims and rights of each participant;

2. Acknowledge that the underlying assets of the investment pool are held solely for the benefit of each participant in proportion to the aggregate amount of its investments in the investment pool; and

3. Contain an agreement that the underlying assets of the investment pool shall not be commingled with the general assets of the custodian qualified bank or any other person.

(5) The pooling agreement for each investment pool shall be in writing and shall provide that:

(a) An insurer and its affiliated insurers or, in the case of an investment pool investing solely in investments permitted under paragraph (a) of subsection (1) of this section, the insurer and its subsidiaries, affiliates, or any pension or profit sharing plan of the insurer, its subsidiaries and affiliates or, in the case of a United States branch of an alien insurer, affiliates or subsidiaries of its United States manager, shall at all times, hold one hundred percent (100%) of the interest in the investment pool;

(b) The underlying assets of the investment pool shall not be commingled with the general assets of the pool manager or any other person;

(c) In proportion to the aggregate amount of each pool participant's interest in the investment pool:

1. Each participant owns an undivided interest in the underlying assets of the investment pool; and

2. The underlying assets of the investment pool are held solely for the benefit of each participant;

(d) A participant, or in the event of the participant's insolvency, bankruptcy, or receivership, its trustee, receiver, or other successor-in-interest, may withdraw all or any portion of its investment from the investment pool under the terms of the pooling agreement;

(e) Withdrawals may be made on demand without penalty or other assessment on any business day, but settlement of funds shall occur within a reasonable and customary period thereafter not to exceed five (5) business days. Distributions under this paragraph shall be calculated in each case net of all then applicable fees and expenses of the investment pool. The pooling agreement shall provide that the pool manager shall distribute to a participant, at the discretion of the pool manager:

1. In cash, the then fair market value of the participant's pro rata share of each underlying asset of the investment pool;

2. In kind, a pro rata share of each underlying asset; or

3. In a combination of cash and in-kind distributions, a pro rata share in each underlying asset; and

(f) The pool manager shall make the records of the investment pool available for inspection by the commissioner.

SECTION 11. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Subject to the limitations of Section 8 of this Act, an insurer may acquire equity interests in business entities organized under the laws of any domestic jurisdiction.

(2) An insurer shall not acquire an investment under this section if, as a result of and after giving effect to the investment, the aggregate amount of investment then held by the insurer under this section would exceed twenty percent (20%) of its admitted assets, or the amount of equity interests then held by the insurer that are not listed on a qualified exchange would exceed five percent (5%) of its admitted assets. An accident and health insurer shall not be subject to this section but shall be subject to the same aggregate limitation on equity interests as a property and casualty insurer under Section 24 of this Act and also to the provisions of Section 20 of this Act.

(3) An insurer shall not acquire under this section any investment that the insurer may acquire under Section 13 of this Act.

(4) An insurer shall not short sell equity investments unless the insurer covers the short sale by owning the equity investment or an unrestricted right to the equity instrument exercisable within six (6) months of the short sale.

SECTION 12. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) (a) Subject to the limitations of Section 8 of this Act, an insurer may acquire tangible personal property or equity interests therein located or used wholly or in part within a domestic jurisdiction either directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by subsection (4) of Section 4 of this Act, joint ventures, stock of an investment subsidiary or membership interests in a limited liability company, trust certificates, or other similar instruments.

(b) Investments acquired under paragraph (a) of this subsection shall be eligible only if:

1. The property is subject to a lease or other agreement with a person whose rated credit instruments in the amount of the purchase price of the personal property the insurer could then acquire under Section 9 of this Act; and

2. The lease or other agreement provides the insurer the right to receive rental, purchase, or other fixed payments for the use or purchase of the property, and the aggregate value of the payments, together with the estimated residual value of the property at the end of its useful life and the estimated tax benefits to the insurer resulting from ownership of the property, shall be adequate to return the cost of the insurer's investment in the property, plus a return deemed adequate by the insurer.

(2) The insurer shall compute the amount of each investment under this section on the basis of the out-of-pocket purchase price and applicable related expenses paid by the insurer for the investment, net of each borrowing made to finance the purchase price and expenses, to the extent the borrowing is without recourse to the insurer.

(3) An insurer shall not acquire an investment under this section if, as a result of and after giving effect to the investment, the aggregate amount of all investments then held by the insurer under this section would exceed; (a) Two percent (2%) of its admitted assets; or

(b) One-half of one percent (0.5%) of its admitted assets as to any single item of tangible personal property.

(4) For purposes of determining compliance with the limitations of Section 8 of this Act, investments acquired by an insurer under this section shall be aggregated with those acquired under Section 9 of this Act, and each lessee of the property under a lease referred to in this section shall be the issuer of an obligation in the amount of the investment of the insurer in the property determined as provided in subsection (2) of this section.

(5) Nothing in this section is applicable to tangible personal property lease arrangements between an insurer and its subsidiaries and affiliates under a cost sharing arrangement or agreement permitted under KRS 304.37-030.

SECTION 13. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) (a) Subject to the limitations of Section 8 of this Act, an insurer may acquire, either directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by subsection (4) Section 4 of this Act, joint ventures, stock of an investment subsidiary or membership interests in a limited liability company, trust certificates, or other similar instruments, obligations secured by mortgages on real estate situated within a domestic jurisdiction, but a mortgage loan that is secured by other than a first lien shall not be acquired unless the insurer is the holder of the first lien. The obligations held by the insurer and any obligations with an equal lien priority, shall not, at the time of acquisition of the obligation, exceed:

1. Ninety percent (90%) of the fair market value of the real estate, if the mortgage loan is secured by a purchase money mortgage or like security received by the insurer upon disposition of the real estate;

2. Eighty percent (80%) of the fair market value of the real estate, if the mortgage loan requires immediate scheduled payment in periodic installments of principal and interest, has an amortization period of thirty (30) years or less, and periodic payments made no less frequently than annually. Each periodic payment shall be sufficient to assure that at all times the outstanding principal balance of the mortgage loan shall be no greater than the outstanding principal

balance that would be outstanding under a mortgage loan with the same original principal balance, with the same interest rate, and requiring equal payments of principal and interest with the same frequency over the same amortization period. Mortgage loans permitted under this subsection are permitted notwithstanding the fact that they provide for a payment of the principal balance prior to the end of the period of amortization of the loan. For residential mortgage loans, the eighty percent (80%) limitation may be increased to ninety-seven percent (97%) if acceptable private mortgage insurance has been obtained; or

3. Seventy-five percent (75%) of the fair market value of the real estate for mortgage loans that do not meet the requirements of subparagraph 1. or 2. of this paragraph.

(b) For purposes of paragraph (a) of this subsection, the amount of an obligation required to be included in the calculation of the loan-to-value ratio may be reduced to the extent the obligation is insured by the Federal Housing Administration, guaranteed by the Administrator of Veteran Affairs, or their successors.

(c) A mortgage loan that is held by an insurer under subsection (7) of Section 2 of this Act or acquired under this section and is restructured in a manner that meets the requirements of a restructured mortgage loan in accordance with the NAIC Accounting Practices and Procedures Manual or successor publication shall continue to qualify as a mortgage loan under this subtitle.

(d) Subject to the limitations of Section 8 of this Act, credit lease transactions that do not qualify for investment under Section 9 of this Act with the following characteristics shall be exempt from the provisions of paragraph (a) of this subsection :

1. The loan amortizes over the initial fixed lease term at least in an amount sufficient so that the loan balance at the end of the lease term does not exceed the original appraised value of the real estate;

2. The lease payments cover or exceed the total debt service over the life of the loan;

3. A tenant or its affiliated entity whose rated credit instruments have a SVO 1 or 2 designation or a comparable rating from a nationally recognized statistical rating organization recognized by the SVO has a full faith and credit obligation to make the lease payments;

4. The insurer holds or is the beneficial holder of a first lien mortgage on the real estate;

5. The expenses of the real estate are passed through to the tenant, excluding exterior, structural, parking, and heating, ventilation, and air conditioning replacement expenses, unless annual escrow contributions, from cash flows derived from the lease payments, cover the expense shortfall; and

6. There is a perfected assignment of the rents due in accordance with the lease to or for the benefit of the insurer.

(2) (a) An insurer may acquire, manage, and dispose of real estate situated in a domestic jurisdiction either directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by subsection (4) of Section 4 of this Act, joint ventures, stock of an investment subsidiary or membership interests in a limited liability company, trust certificates, or other similar instruments. The real estate shall be income producing or intended for improvement or development for investment purposes under an existing program in which case the real estate shall be deemed to be income producing.

(b) The real estate may be subject to mortgages, liens, or other encumbrances, the amount of which shall, to the extent that the obligations secured by the mortgages, liens, or encumbrances are without recourse to the insurer, be deducted from the amount of the investment of the insurer in the real estate for purposes of determining compliance with paragraphs (b) and (c) of subsection (4) of this section.

(3) (a) An insurer may acquire, manage, and dispose of real estate for the convenient accommodation of the insurer's, which may include its affiliates, business operations, including home office, branch office, and field office operations:

1. Real estate acquired under this subsection may include excess space for rent to others, if the excess space, valued at its fair market value, would otherwise be a permitted investment under subsection (2) of this section and is so qualified by the insurer;

2. The real estate acquired under this subsection may be subject to one (1) or more mortgages, liens, or other encumbrances, the amount of which shall, to the extent that the obligations secured by the mortgages, liens, or encumbrances are without recourse to the insurer, be deducted from the amount of the investment of the insurer in the real estate for purposes of determining compliance with paragraph (d) of subsection (4) of this section; and

3. For purposes of this subsection, "business operations" shall not include that portion of real estate used for the direct provision of health care services by an accident and health insurer or its insured. An insurer may acquire real estate used for these purposes under subsection (2) of this section.

(4) (a) An insurer shall not acquire an investment under subsection (1) of this section if, as a result of and after giving effect to the investment, the aggregate amount of all investments then held by the insurer under subsection (1) of this section would exceed;

1. One percent (1%) of its admitted assets in mortgage loans covering any one (1) secured location;

2. One-quarter of one percent (0.25%) of its admitted assets in construction loans covering any one (1) secured location; or

3. Two percent (2%) of its admitted assets in construction loans in the aggregate.

(b) An insurer shall not acquire an investment under subsection (2) of this section if, as a result of and after giving effect to the investment and any outstanding guarantees made by the insurer in connection with the investment, the aggregate amount of

investments then held by the insurer under subsection (2) of this section plus the guarantees then outstanding would exceed:

1. One percent (1%) of its admitted assets in one (1) parcel or group of contiguous parcels of real estate, except that this limitation shall not apply to that portion of real estate used for the direct provision of health care services by an accident and health insurer for its insureds, such as hospitals, medical clinics, medical professional buildings, or other health facilities used for the purpose of providing health services; or

2. Fifteen percent (15%) of its admitted assets in the aggregate, but not more than five percent (5%) of its admitted assets as to properties that are to be improved or developed.

(c) An insurer shall not acquire an investment under subsection (1) or (2) of this section if, as a result of and after giving effect to the investment and any guarantees made by the insurer in connection with the investment, the aggregate amount of all investments then held by the insurer under subsections (1) and (2) of this section plus the guarantees then outstanding would exceed forty-five percent (45%) of its admitted assets. However, an insurer may exceed this limitation by no more than thirty percent (30%) of its admitted assets if:

1. This increased amount is invested only in residential mortgage loans;

2. The insurer has no more than ten percent (10%) of its admitted assets invested in mortgage loans other than residential mortgage loans;

3. The loan-to-value ratio of each residential mortgage loan does not exceed sixty percent (60%) at the time the mortgage loan is qualified under this increased authority, and the fair market value is supported by an appraisal no more than two (2) years old, prepared by an independent appraiser;

4. A single mortgage loan qualified under this increased authority shall not exceed one-half of one percent (0.5%) of its admitted assets;

5. The insurer files with the commissioner, and receives approval from the commissioner for, a plan that is designed to result in a portfolio of residential mortgage loans that is sufficiently geographically diversified; and

6. The insurer agrees to file annually with the commissioner records that demonstrate that its portfolio of residential mortgage loans is geographically diversified in accordance with the plan.

(d) The limitations of Section 8 of this Act shall not apply to an insurer's acquisition of real estate under subsection (3) of this section. An insurer shall not acquire real estate under subsection (3) of this section if, as a result of and after giving effect to the acquisition, the aggregate amount of real estate then held by the insurer under subsection (3) of this section would exceed ten percent (10%) of its admitted assets. With the permission of the commissioner, additional amounts of real estate may be acquired under subsection (3) of this section.

SECTION 14. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer may enter into securities lending, repurchase, reverse repurchase, and dollar roll transactions with business entities, subject to the following requirements:

(1) The insurer's board of directors shall adopt a written plan that is consistent with the requirements of the written plan in Section 3 of this Act that specifies guidelines and objectives to be followed, such as:

(a) A description of how cash received will be invested or used for general corporate purposes of the insurer;

(b) Operational procedures to manage interest rate risk, counterparty default risk, the conditions under which proceeds from reverse repurchase transactions may be used in the ordinary course of business, and the use of acceptable collateral in a manner that reflects the liquidity needs of the transactions; and

(c) The extent to which the insurer may engage in these transactions.

(2) The insurer shall enter into a written agreement for all transactions authorized in this section other than dollar roll transactions. The written agreement shall require that each transaction terminate not more than one (1) year from its inception or upon the earlier demand of the insurer. The agreement shall be with the business entity counterparty, but for securities lending transactions, the agreement may be with an agent acting on behalf of the insurer, if the agent is a qualified business entity, and if the agreement:

(a) Requires the agent to enter into separate agreements with each counterparty that are consistent with the requirements of this section; and

(b) Prohibits securities lending transactions under the agreement with the agent or its affiliates.

(3) Cash received in a transaction under this section shall be invested in accordance with this subtitle and in a manner that recognizes the liquidity needs of the transaction or used by the insurer for its general corporate purposes. For so long as the transaction remains outstanding, the insurer, its agent, or its custodian shall maintain, as to acceptable collateral received in a transaction under this section, either physically or through the book entry systems of the Federal Reserve, Depository Trust Company, Participants Trust Company, or other securities depositories approved by the commissioner:

(a) Possession of the acceptable collateral;

(b) A perfected security interest in the acceptable collateral; or

(c) In the case of a jurisdiction outside of the United States, title to, or rights of a secured creditor to, the acceptable collateral.

(4) The limitations of Sections 8 and 15 of this Act shall not apply to the business entity counterparty exposure created by transactions under this section. For purposes of calculations made to determine compliance with this subsection, no effect will be given to the insurer's future obligation to resell securities, in the case of a repurchase transaction, or to repurchase securities, in the case of a reverse repurchase transaction. An insurer shall not enter into a transaction under this section if, as a result of and after giving effect to the transaction:

(a) The aggregate amount of securities then loaned, sold to, or purchased from any one (1) business entity counterparty under this section would exceed five percent (5%) of

its admitted assets. In calculating the amount sold to or purchased from a business entity counterparty under repurchase or reverse repurchase transactions, effect may be given to netting provisions under a master written agreement; or

(b) The aggregate amount of all securities then loaned, sold to, or purchased from all business entities under this section would exceed forty percent (40%) of its admitted assets.

(5) In a securities lending transaction, the insurer shall receive acceptable collateral having a market value as of the transaction date at least equal to one hundred two percent (102%) of the market value of the securities loaned by the insurer in the transaction as of that date. If at any time the market value of the acceptable collateral is less than the market value of the loaned securities, the business entity counterparty shall be obligated to deliver additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral then held in connection with the transaction, at least equals one hundred two percent (102%) of the market value of the loaned securities.

(6) In a reverse repurchase transaction, other than a dollar roll transaction, the insurer shall receive acceptable collateral having a market value as of the transaction date at least equal to ninety-five percent (95%) of the market value of the securities transferred by the insurer in the transaction as of that date. If at any time the market value of the acceptable collateral is less than ninety-five percent (95%) of the market value of the securities so transferred, the business entity counterparty shall be obligated to deliver additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral then held in connection with the transaction, at least equals ninetyfive percent (95%) of the market value of the transferred securities.

(7) In a dollar roll transaction, the insurer shall receive cash in an amount at least equal to the market value of the securities transferred by the insurer in the transaction as of the transaction date.

(8) In a repurchase transaction, the insurer shall receive as acceptable collateral transferred securities having a market value at least equal to one hundred two percent (102%) of the purchase price paid by the insurer for the securities. If at any time the market value of the acceptable collateral is less than one hundred percent (100%) of the purchase price paid by the insurer, the business entity counterparty shall be obligated to provide additional acceptable collateral. the market value of which, together with the market value of all acceptable collateral then held in connection with the transaction, at least equals one hundred two percent (102%) of the purchase price. Securities acquired by an insurer in a repurchase transaction shall not be sold in a reverse repurchase transaction, loaned in a securities lending transaction, or otherwise pledged.

SECTION 15. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Subject to the limitations of Section 8 of this Act, an insurer may acquire foreign investments, or engage in investment practices with persons of or in foreign jurisdictions, of substantially the same types as those that an insurer is permitted to acquire under this subtitle, other than of the type permitted under Section 10 of this Act, if, as a result of and after giving effect to the investment:

(a) The aggregate amount of foreign investments then held by the insurer under this subsection does not exceed twenty percent (20%) of its admitted assets; and

(b) The aggregate amount of foreign investments then held by the insurer under this subsection in a single foreign jurisdiction does not exceed ten percent (10%) of its admitted assets as to a foreign jurisdiction that has a sovereign debt rating of SVO 1 or three percent (3%) of its admitted assets as to any other foreign jurisdiction.

(2) Subject to the limitations of Section 8 of this Act, an insurer may acquire investments, or engage in investment practices denominated in foreign currencies, whether or not they are foreign investments acquired under subsection (1) of this section, or additional foreign currency exposure as a result of the termination or expiration of a hedging transaction with respect to investments denominated in a foreign currency, if:

(a) The aggregate amount of investments then held by the insurer under this subsection denominated in foreign currencies does not exceed ten percent (10%) of its admitted assets; and

(b) The aggregate amount of investments then held by the insurer under this subsection denominated in the foreign currency of a single foreign jurisdiction does not exceed ten percent (10%) of its admitted assets as to a foreign jurisdiction that has a sovereign debt rating of SVO 1 or three percent (3%) of its admitted assets as to any other foreign jurisdiction;

(c) However, an investment shall not be considered denominated in a foreign currency if the acquiring insurer enters into one (1) or more contracts in transactions permitted under Section 16 of this Act and the business entity counterparty agrees under the contract or contracts to exchange all payments made on the foreign currency denominated investment for United States currency at a rate that effectively insulates the investment cash flows against future changes in currency exchange rates during the period the contract or contracts are in effect.

(3) In addition to investments permitted under subsections (1) and (2) of this section, an insurer that is authorized to do business in a foreign jurisdiction, and that has outstanding insurance, annuity, or reinsurance contracts on lives or risks resident or located in that foreign jurisdiction and denominated in foreign currency of that jurisdiction, may acquire foreign investment respecting that foreign jurisdiction, and may acquire investments denominated in the currency of that jurisdiction, subject to the limitations of Section 8 of this Act. However, investments made under this subsection in obligations of foreign governments, their political subdivisions, and government sponsored enterprises shall not be subject to the limitations of Section 10 of this Act if those investments carry an SVO rating of 1 or 2. The aggregate amount of investments acquired by the insurer under this subsection shall not exceed the greater of:

(a) The amount the insurer is required by the law of the foreign jurisdiction to invest in the foreign jurisdiction; or

(b) One hundred fifteen percent (115%) of the amount of its reserves, net of reinsurance, and other obligations under the contracts on lives or risks resident or located in the foreign jurisdiction.

(4) In addition to investments permitted under subsections (1) and (2) of this section, an insurer that is not authorized to do business in a foreign jurisdiction, but that has outstanding

insurance, annuity, or reinsurance contracts on lives or risks resident or located in that foreign jurisdiction and denominated in foreign currency of that jurisdiction, may acquire foreign investments respecting that foreign jurisdiction, and may acquire investments denominated in the currency of that jurisdiction subject to the limitations of Section 8 of this Act. However, investments made under this subsection in obligations of foreign governments, their political subdivisions, and government sponsored enterprises shall not be subject to the limitations of Section 8 of this Act if those investments carry an SVO rating of 1 or 2. The aggregate amount of investments acquired by the insurer under this subsection shall not exceed one hundred five percent (105%) of the amount of its reserves, net of reinsurance, and other obligations under the contracts on lives or risks resident or located in the foreign jurisdiction.

(5) Investments acquired under this section shall be aggregated with investments of the same types made in accordance with this subtitle, and in a similar manner, for purposes of determining compliance with the limitations, if any, contained in this subtitle. Investments in obligations of foreign governments, their political subdivisions, and government sponsored enterprises of these persons, except for those exempted under subsections (3) and (4) of this section, shall be subject to the limitations of Section 8 of this Act.

SECTION 16. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer may, directly or indirectly through an investment subsidiary, engage in derivative transactions under this section under the following conditions:

(1) (a) An insurer may use derivative instruments under this section to engage in hedging transactions and certain income generation transactions, as these terms may be further defined in regulations promulgated by the commissioner; and

(b) An insurer shall be able to demonstrate to the commissioner the intended hedging characteristics and the ongoing effectiveness of the derivative transaction or combination of the transactions through cash flow testing or other appropriate analyses.

(2) An insurer may enter into hedging transactions under this section if, as a result of and after giving effect to the transaction:

(a) The aggregate statement value of options, caps, floors, and warrants not attached to another financial instrument purchased and used in hedging transactions does not exceed seven and one-half percent (7.5%) of its admitted assets;

(b) The aggregate statement value of options, caps, and floors written in hedging transactions does not exceed three percent (3%) of its admitted assets; and

(c) The aggregate potential exposure of collars, swaps, forwards, and futures used in hedging transactions does not exceed six and one-half percent (6.5%) of its admitted assets.

(3) An insurer may only enter into the following types of income generation transactions if, as a result of and after giving effect to the transactions, the aggregate statement value of the fixed income assets that are subject to call or that generate the cash flows for payments under the caps or floors, plus the face value of fixed income securities underlying a

derivative instrument subject to call, plus the amount of the purchase obligations under the puts, does not exceed ten percent (10%) of its admitted assets:

(a) Sales of covered call options on noncallable fixed income securities, callable fixed income securities if the option expires by its terms prior to the end of the noncallable period, or derivative instruments based on fixed income securities;

(b) Sales of covered call options on equity securities, if the insurer holds in its portfolio, or can immediately acquire through the exercise of options, warrants, or conversion rights already owned, the equity securities subject to call during the complete term of the call options sold;

(c) Sales of covered puts on investments that the insurer is permitted to acquire under this subtitle, if the insurer has escrowed or entered into a custodian agreement segregating cash or cash equivalents with a market value equal to the amount of its purchase obligations under the put during the complete term of the put option sold; or

(d) Sales of covered caps or floors, if the insurer holds in its portfolio the investments generating the cash flow to make the required payments under the caps or floors during the complete term that the cap or floor is outstanding.

(4) An insurer shall include all counterparty exposure amounts in determining compliance with the limitations of Section 8 of this Act.

(5) In accordance with administrative regulations promulgated under Section 6 of this Act, the commissioner may approve additional transactions involving the use of derivative instruments in excess of the limits of subsection (2) of this section or for other risk management purposes under administrative regulations promulgated by the commissioner, but replication transactions shall not be permitted for other than risk management purposes.

SECTION 17. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A life insurer may lend to a policyholder on the security of the cash surrender value of the policyholder's policy a sum not exceeding the legal reserve that the insurer is required to maintain on the policy.

SECTION 18. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Solely for the purpose of acquiring investments that exceed the quantitative limitations of Sections 8 to 15 of this Act, an insurer may acquire under this subsection an investment, or engage in investment practices described in Section 14 of this Act, but an insurer shall not acquire an investment, or engage in investment practices described in Section 14 of this Act, under this subsection if, as a result of and after giving effect to the transaction:

(a) The aggregate amount of investments then held by an insurer under this subsection would exceed three percent (3%) of its admitted assets; or

(b) The aggregate amount of investments as to one (1) limitation in Sections 8 to 15 of this Act then held by the insurer under this subsection would exceed one percent (1%) of its admitted assets.

(2) (a) In addition to the authority provided under subsection (1) of this section, an insurer may acquire under this subsection an investment of any kind, or engage in investment practices described in Section 14 of this Act, that are not specifically prohibited by this subtitle, without regard to the categories, conditions, standards, or

other limitations of Sections 8 to 15 of this Act if, as a result of and after giving effect to the transaction, the aggregate amount of investments then held under this subsection would not exceed the lesser of:

1. Ten percent (10%) of its admitted assets; or

2. Seventy-five percent (75%) of its capital and surplus.

(b) However, an insurer shall not acquire any investment or engage in any investment practice under this subsection if, as a result of and after giving effect to the transaction, the aggregate amount of all investments in any one (1) person then held by the insurer under this subsection would exceed three percent (3%) of its admitted assets.

(3) In addition to the investments acquired under subsections (1) and (2) of this section, an insurer may acquire under this subsection an investment of any kind, or engage in investment practices described in Section 14 of this Act, that are not specifically prohibited by this subtitle without regard to any limitations of Sections 8 to 15 of this Act if:

(a) The commissioner grants prior approval;

(b) The insurer demonstrates that its investments are being made in a prudent manner and that the additional amounts will be invested in a prudent manner; and

(c) As a result of and after giving effect to the transaction, the aggregate amount of investments then held by the insurer under this subsection does not exceed the greater of:

1. Twenty-five percent (25%) of its capital and surplus; or

2. One hundred percent (100%) of capital and surplus less ten percent (10%) of its admitted assets.

(4) An investment prohibited under Section 4 of this Act, not permitted under Section 16 of this Act, or additional derivative instruments acquired under Section 16 of this Act shall not be acquired under this section.

SECTION 19. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Sections 19 to 30 of this Act shall apply to the investments and investment practices of domestic property and casualty, title, financial guaranty, and mortgage guaranty insurers, of domestic insurers and United States branches of alien property and casualty, financial guaranty, and mortgage guaranty insurers entered through this state.

SECTION 20. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Subject to all other limitations and requirements of this subtitle, a property and casualty, financial guaranty, mortgage guaranty, or accident and health insurer shall maintain an amount at least equal to one hundred percent (100%) of adjusted loss reserves and loss

adjustment expense reserves, one hundred percent (100%) of adjusted unearned premium reserves, and one hundred percent (100%) of statutorily required policy and contract reserves in :

(a) Cash and cash equivalents;

(b) High and medium grade investments that qualify under Section 22 or 23 of this Act;

(c) Equity interests that qualify under Section 24 of this Act and that are traded on a qualified exchange;

(d) Investments of the type set forth in Section 28 of this Act, if the investments are rated in the highest generic rating category by a nationally recognized statistical rating organization recognized by the SVO for rating foreign jurisdictions and if any foreign currency exposure is effectively hedged through the maturity date of the investments;

(e) Qualifying investments of the type set forth in paragraph (b), (c), or (d) of this subsection that are acquired under Section 30 of this Act;

(f) Interest and dividends receivable on qualifying investments of the type set forth in paragraphs (a) to (e) of this subsection; or (g) Reinsurance recoverable on paid losses.

(2) Determination of the reserve requirement amount shall be as follows:

(a) For purposes of determining the amount of assets to be maintained under this subsection, the calculation of adjusted loss reserves and loss adjustment expense reserves, adjusted unearned premium reserves, and statutorily required policy and contract reserves shall be based on the amounts reported as of the most recent annual or quarterly statement date;

(b) Adjusted loss reserves and loss adjustment expense reserves shall be equal to the sum of the amounts derived from the following calculations:

1. The result of each amount reported by the insurer as losses and loss adjustment expenses unpaid for each accident year for each individual line of business; multiplied by

2. The discount factor that is applicable to the line of business and accident year published by the Internal Revenue Service under Internal Revenue Code Section 846 (26 U.S.C. sec. 846), as amended, for the calendar year that corresponds to the most recent annual statement of the insurer; minus

3. Accrued retrospective premiums discounted by an average discount factor. The discount factor shall be calculated by dividing the losses and loss adjustment expenses unpaid after discounting (the product of subparagraphs 1. and 2. of this paragraph) by loss and loss adjustment expense reserves before discounting subparagraph 1. of this paragraph; and

4. For purposes of these calculations, the losses and loss adjustment expenses unpaid shall be determined net of anticipated salvage and subrogation, and gross of any discount for the time value of money or tabular discount.

(c) Adjusted unearned premium reserves shall be equal to the result of the following calculation:

1. The amount reported by the insurer as unearned premium reserves; minus

2. The admitted asset amounts reported by the insurer as:

a. Premiums in and agents' balances in the course of collection, accident and health premiums due and unpaid, and uncollected premiums for accident and health premiums;

b. Premiums, agents' balances, and installments booked but deferred and not yet due; and

c. Bills receivable, taken for premium.

(d) Statutorily required policy and contract reserves also shall include, in the case of a title insurer, the amounts required by KRS 304.6-080 and, in the case of a mortgage guaranty insurer, the amounts required by KRS 304.6-090 and, in the case of an accident and health insurer, the amounts required by KRS 304.6-070.

(3) A property and casualty, financial guaranty, mortgage guaranty, or accident and health insurer shall supplement its annual statement with a reconciliation and summary of its assets and reserve requirements as required in subsection (1) of this section. A reconciliation and summary showing that an insurer's assets as required in subsection (1) of this section are greater than or equal to its undiscounted reserves referred to in subsection (1) of this section shall be sufficient to satisfy this requirement. Upon prior notification, the commissioner may require an insurer to submit a reconciliation and summary with any quarterly statement filed during the calendar year.

(4) If a property and casualty, financial guaranty, mortgage guaranty, or accident and health insurer's assets and reserves do not comply with subsection (1) of this section, the insurer shall notify the commissioner immediately of the amount by which the reserve requirements exceed the annual statement value of the qualifying assets, explain why the deficiency exists, and within thirty (30) days of the date of the notice propose a plan of action to remedy the deficiency.

(5) If the commissioner determines that an insurer is not in compliance with subsection (1) of this section, the commissioner shall require the insurer to eliminate the condition causing the noncompliance within a specified time from the date the notice of the commissioner's requirement is mailed or delivered to the insurer.

(6) If an insurer fails to comply with the commissioner's requirement under subsection (5) of this section, the insurer is deemed to be in hazardous financial condition, and the commissioner shall take one (1) or more of the actions authorized by Subtitle 33 of KRS Chapter 304, and KRS 304.3-200.

SECTION 21. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise specified in this subtitle, an insurer shall not acquire directly or indirectly through an investment subsidiary an investment under this subtitle if, as a result of and after giving effect to the investment, the insurer would hold more than five percent (5%) of its admitted assets in investments of all kinds issued, assumed, accepted, insured, or guaranteed by a single person.

(2) This five percent (5%) limitation shall not apply to the aggregate amounts insured by a single financial guaranty insurer with the highest generic rating issued by a nationally recognized statistical rating organization.

(3) Asset-backed securities shall not be subject to the limitations of subsection (1) of this section. However, an insurer shall not acquire an asset-backed security if, as a result of

and after giving effect to the investment, the aggregate amount of asset-backed securities secured by or evidencing an interest in a single asset or single pool of assets held by a trust or other business entity, then held by the insurer would exceed five percent (5%) of its admitted assets.

(4) An insurer shall not acquire, directly or indirectly through an investment subsidiary, an investment under Section 22, 25, or 28 of this Act, or counterparty exposure under subsection (4) of Section 29 of this Act if, as a result of and after giving effect to the investment:

(a) The aggregate amount of all medium and lower grade investments then held by the insurer would exceed twenty percent (20%) of its admitted assets;

(b) The aggregate amount of lower grade investments then held by the insurer would exceed ten percent (10%) of its admitted assets;

(c) The aggregate amount of investments rated 5 or 6 by the SVO then held by the insurer would exceed five percent (5%) of its admitted assets;

(d) The aggregate amount of investments rated 6 by the SVO then held by the insurer would exceed one percent (1%) of its admitted assets; or

(e) The aggregate amount of medium and lower grade investments then held by the insurer that receive as cash income less than the equivalent yield for Treasury issues with a comparative average life, would exceed one percent (1%) of its admitted assets.

(5) An insurer shall not acquire, directly or indirectly through an investment subsidiary, an investment under Section 22, 25, or 28 of this Act, or counterparty exposure under subsection (4) of Section 29 of this Act if, as a result of and after giving effect to the investment:

(a) The aggregate amount of medium and lower grade investments issued, assumed, guaranteed, accepted, or insured by any one (1) person or, as to asset-backed securities secured by or evidencing an interest in a single asset or pool of assets, then held by the insurer would exceed one percent (1%) of its admitted assets; or

(b) The aggregate amount of lower grade investments issued, assumed, guaranteed, accepted, or insured by any one (1) person or, as to asset-backed securities secured by or evidencing an interest in a single asset or pool of assets, then held by the insurer would exceed one-half of one percent (0.5%) of its admitted assets.

(6) If an insurer attains or exceeds the limit of any one (1) rating category referred to in subsections (4) to (6) of this section, the insurer shall not thereby be precluded from acquiring investments in other rating categories subject to the specific and multicategory limits applicable to those investments.

(7) An insurer shall not acquire, directly or indirectly through an investment subsidiary, any Canadian investments authorized by this subtitle, if as a result of and after giving effect to the investment, the aggregate amount of these investments then held by the insurer would exceed forty percent (40%) of its admitted assets, or if the aggregate amount of Canadian investments not acquired under subsection (2) of Section 22 of this Act then held by the insurer would exceed twenty-five percent (25%) of its admitted assets.

(8) However, as to an insurer that is authorized to do business in Canada or that has outstanding insurance, annuity, or reinsurance contracts on lives or risks resident or located in Canada and denominated in Canadian currency, the limitations of subsection (7) of this section shall be increased by the greater of:

(a) The amount the insurer is required by Canadian law to invest in Canada or to be denominated in Canadian currency; or

(b) One hundred twenty-five percent (125%) of the amount of its reserves and other obligations under contracts on risks resident or located in Canada.

SECTION 22. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Subject to the limitations of subsections (4) to (6) of Section 21 of this Act, but not to the limitations of subsections (1) to (3) of Section 21 of this Act, an insurer may acquire rated credit instruments issued, assumed, guaranteed, or insured by:

(a) The United States; or

(b) A government sponsored enterprise of the United States, if the instruments of the government sponsored enterprise are assumed, guaranteed, or insured by the United States or are otherwise backed or supported by the full faith and credit of the United States.

(2) (a) Subject to the limitations of subsections (4) to (6) of Section 21 of this Act, but not to the limitations of subsections (1) to (3) of Section 21 of this Act, an insurer may acquire rated credit instruments issued, assumed, guaranteed, or insured by:

1. Canada; or

2. A government sponsored enterprise of Canada, if the instruments of the government sponsored enterprise are assumed, guaranteed, or insured by Canada or are otherwise backed or supported by the full faith and credit of Canada;

(b) However, an insurer shall not acquire an instrument under this subsection if, as a result of and after giving effect to the investment, the aggregate amount of investments then held by the insurer under this subsection would exceed forty percent (40%) of its admitted assets.

(3) (a) Subject to the limitations of subsections (4) to (6) of Section 21 of this Act, but not to the limitations of subsections (1) to (3) of Section 21 of this Act, an insurer may acquire rated credit instruments, excluding asset-backed securities:

1. Issued by a government money market mutual fund, a class one money market mutual fund, or a class one bond mutual fund;

2. Issued, assumed, guaranteed, or insured by a government sponsored enterprise of the United States other than those eligible under subsection (1) of this section;

3. Issued, assumed, guaranteed, or insured by a state, if the instruments are general obligations of the state; or

4. Issued by a multilateral development bank;

(b) However, an insurer shall not acquire an instrument of any one (1) fund, any one (1) enterprise or entity, or any one (1) state under this subsection if, as a result of and after giving effect to the investment, the aggregate amount of investments then

held in any one (1) fund enterprise or entity, or state under this subsection would exceed ten percent (10%) of its admitted assets.

(4) Subject to the limitations of Section 21 of this Act, an insurer may acquire preferred stocks that are not foreign investments and that meet the requirements of rated credit instruments if, as a result of and after giving effect to the investment:

(a) The aggregate amount of preferred stocks then held by the insurer under this subsection does not exceed twenty percent (20%) of its admitted assets; and

(b) The aggregate amount of preferred stocks then held by the insurer under this subsection that are not sinking fund stocks or rated P1 or P2 by the SVO does not exceed ten percent (10%) of its admitted assets.

(5) Subject to the limitations of Section 21 of this Act, in addition to those investments eligible under subsections (1) to (4) of this section, an insurer may acquire rated credit instruments that are not foreign investments.

(6) An insurer shall not acquire special rated credit instruments under this section if, as a result of and after giving effect to the investment, the aggregate amount of special rated credit instruments then held by the insurer would exceed five percent (5%) of its admitted assets.

SECTION 23. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer may acquire investments in investment pools that:

(a) Invest only in:

1. Obligations that are rated 1 or 2 by the SVO or have an equivalent of an SVO 1 or 2 rating or, in the absence of a 1 or 2 rating or equivalent rating, the issuer has outstanding obligations with an SVO 1 or 2 equivalent rating by a nationally recognized statistical rating organization recognized by the SVO and have:

a. A remaining maturity of three hundred ninety-seven (397) days or less or a put that entitles the holder to receive the principal amount of the obligation which put may be exercised through maturity at specified intervals not exceeding three hundred ninety-seven (397) days; or

b. A remaining maturity of three (3) years or less and a floating interest rate that resets no less frequently than quarterly on the basis of a current short-term index (federal funds, prime rate, treasury bills. London InterBank Offered Rate (LIBOR), or commercial paper) and is subject to no maximum limit, if the obligations do not have an interest rate that varies inversely to market interest rate changes;

2. Government money market mutual funds or class one money market mutual funds; or

3. Securities lending, repurchase, and reverse repurchase transactions that meet all the requirements of Section 27 of this Act, except the quantitative limitations of subsection (4) of Section 27 of this Act; or

(b) Invest only in investments that an insurer may acquire under this subtitle, if the insurer's proportionate interest in the amount invested in these investments does not exceed the applicable limits of this subtitle.

(2) For an investment in an investment pool to be qualified under this subtitle, the investment pool shall not:

(a) Acquire securities issued, assumed, guaranteed, or insured by the insurer or an affiliate of the insurer;

(b) Borrow or incur any indebtedness for borrowed money, except for securities lending and reverse repurchase transactions that meet the requirements of Section 27 of this Act, except the quantitative limitations of subsection (4) of Section 27 of this Act; or

(c) Permit the aggregate value of securities then loaned or sold to, purchased from, or invested in any one (1) business entity under this section to exceed ten percent (10%) of the total assets of the investment pool.

(3) The limitations of subsections (1) to (3) of Section 21 of this Act shall not apply to an insurer's investment in an investment pool, however an insurer shall not acquire an investment in an investment pool under this section if, as a result of and after giving effect to the investment, the aggregate amount of investments then held by the insurer under this section:

(a) In any one (1) investment pool would exceed ten percent (10%) of its admitted assets;

(b) In all investment pools investing in investments permitted under paragraph (b) of subsection (1) of this section would exceed twenty-five percent (25%) of its admitted assets; or

(c) In all investment pools would exceed forty percent (40%) of its admitted assets.

(4) For an investment in an investment pool to be qualified under this subtitle, the manager of the investment pool shall:

(a) Be organized under the laws of the United States or a state and designated as the pool manager in a pooling agreement;

(b) Be the insurer, an affiliated insurer or a business entity affiliated with the insurer, a qualified bank, a business entity registered under the Investment Advisors Act of 1940 (15 U.S.C. sec. 80a-1 et seq.), as amended or, in the case of a reciprocal insurer or interinsurance exchange, its attorney-in-fact, or in the case of a United States branch of an alien insurer, its United States manager or affiliates or subsidiaries of its United States manager;

(c) Compile and maintain detailed accounting records setting forth:

1. The cash receipts and disbursements reflecting each participant's proportionate investment in the investment pool;

2. A complete description of all underlying assets of the investment pool, including amount, interest rate, maturity date if any, and other appropriate designations; and

3. Other records that, on a daily basis, allow third parties to verify each participant's investment in the investment pool; and

(d) Maintain the assets of the investment pool in one (1) or more accounts, in the name of or on behalf of the investment pool, under a custody agreement with a qualified bank. The custody agreement shall:

1. State and recognize the claims and rights of each participant;

2. Acknowledge that the underlying assets of the investment pool are held solely for the benefit of each participant in proportion to the aggregate amount of its investment in the investment pool; and

3. Contain an agreement that the underlying assets of the investment pool shall not be commingled with the general assets of the custodian qualified bank or any other person.

(5) The pooling agreement for each investment pool shall be in writing and shall provide that:

(a) An insurer and its affiliated insurers or, in the case of an investment pool investing solely in investments permitted under paragraph (a) of subsection (1) of this section, the insurer and its subsidiaries, affiliates, or any pension or profit sharing plan of the insurer, its subsidiaries and affiliates or, in the case of a United States branch of an alien insurer, affiliates or subsidiaries of its United States manager, shall, at all times, hold one hundred percent (100%) of the interests in the investment pool;

(b) The underlying assets of the investment pool shall not be commingled with the general assets of the pool manager or any other person;

(c) In proportion to the aggregate amount of each pool participant's interest in the investment pool:

1. Each participant owns an undivided interest in the underlying assets of the investment pool; and

2. The underlying assets of the investment pool are held solely for the benefit of each participant;

(d) A participant, or in the event of the participant's insolvency, bankruptcy, or receivership, its trustee, receiver, or other successor-in-interest, may withdraw all or any portion of its investment from the investment pool under the terms of the pooling agreement;

(e) Withdrawals may be made on demand without penalty or other assessment on any business day, but settlement of funds shall occur within a reasonable and customary period thereafter not to exceed five (5) business days. Distributions under this paragraph shall be calculated in each case net of all then applicable fees and expenses of the investment pool. The pooling agreement shall provide that the pool manager shall distribute to a participant, at the discretion of the pool manager:

1. In cash, the then fair market value of the participant's pro rata share of each underlying asset of the investment pool;

2. In kind, a pro rata share of each underlying asset; or

3. In a combination of cash and in-kind distributions, a pro rata share in each underlying asset; and

(f) The pool manager shall make the records of the investment pool available for inspection by the commissioner.

SECTION 24. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Subject to the limitations of Section 21 of this Act, an insurer may acquire equity interests in business entities organized under the laws of any domestic jurisdiction.

(2) An insurer shall not acquire an investment under this section if, as a result of and after giving effect to the investment, the aggregate amount of investments then held by the insurer under this section would exceed the greater of twenty-five percent (25%) of its admitted assets or one hundred percent (100%) of its surplus as regards policyholders.

(3) An insurer shall not acquire under this section any investments that the insurer may acquire under Section 26 of this Act.

(4) An insurer shall not short sell equity investments unless the insurer covers the short sale by owning the equity investment or an unrestricted right to the equity instrument exercisable within six (6) months of the short sale.

SECTION 25. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) (a) Subject to the limitations of Section 21 of this Act, an insurer may acquire tangible personal property or equity interests therein located or used wholly or in part within a domestic jurisdiction either directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by subsection (4) of Section 4 of this Act, joint ventures, stock of an investment subsidiary or membership interests in a limited liability company, trust certificates, or other similar instruments.

(b) Investments acquired under paragraph (a) of this subsection shall be eligible only if:

1. The property is subject to a lease or other agreement with a person whose rated credit instruments in the amount of the purchase price of the personal property the insurer could then acquire under Section 22 of this Act; and

2. The lease or other agreement provides the insurer the right to receive rental, purchase, or other fixed payments for the use or purchase of the property, and the aggregate value of the payments, together with the estimated residual value of the property at the end of its useful life and the estimated tax benefits to the insurer resulting from ownership of the property, shall be adequate to return the cost of the insurer's investment in the property, plus a return deemed adequate by the insurer.

(2) The insurer shall compute the amount of each investment under this section on the basis of the out-of-pocket purchase price and applicable related expenses paid by the insurer for the investment, net of each borrowing made to finance the purchase price and expenses, to the extent the borrowing is without recourse to the insurer.

(3) An insurer shall not acquire an investment under this section if, as a result of and after giving effect to the investment, the aggregate amount of all investments then held by the insurer under this section would exceed;

(a) Two percent (2%) of its admitted assets; or

(b) One-half of one percent (0.5%) of its admitted assets as to any single item of tangible personal property.

(4) For purposes of determining compliance with the limitations of Section 21 of this Act, investments acquired by an insurer under this section shall be aggregated with those acquired under Section 22 of this Act, and each lessee of the property under a lease referred to in this section shall be deemed the issuer of an obligation in the amount of the investment of the insurer in the property determined as provided in subsection (2) of this section.

(5) Nothing in this section is applicable to tangible personal property lease arrangements between an insurer and its subsidiaries and affiliates under a cost-sharing arrangement or agreement permitted under KRS 304.37-030.

SECTION 26. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Subject to the limitations of Section 21 of this Act, an insurer may acquire, either directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by subsection (4) of Section 4 of this Act, joint ventures, stock of an investment subsidiary or membership interests in a limited liability company, trust certificates, or other similar instruments, obligations secured by mortgages on real estate situated within a domestic jurisdiction, but a mortgage loan that is secured by other than a first lien shall not be acquired unless the insurer is the holder of the first lien. The obligations held by the insurer and any obligations with an equal lien priority, shall not, at the time of acquisition of the obligation, exceed:

(a) Ninety percent (90%) of the fair market value of the real estate, if the mortgage loan is secured by a purchase money mortgage or like security received by the insurer upon disposition of the real estate;

(b) Eighty percent (80%) of the fair market value of the real estate, if the mortgage loan requires immediate scheduled payments in periodic installments of principal and interest, has an amortization period of thirty (30) years or less, and periodic payments made no less frequently than annually. Each periodic payment shall be sufficient to assure that at all times the outstanding principal balance of the mortgage loan shall not be greater than the outstanding principal balance that would be outstanding under a mortgage loan with the same original principal balance, with the same interest rate, and requiring equal payments of principal and interest with the same frequency over the same amortization period. Mortgage loans permitted under this subsection are permitted notwithstanding the fact that they provide for a payment of the principal balance prior to the end of the period of amortization of the loan. For residential mortgage loans, the eighty percent (80%) limitation may be increased to ninety-seven percent (97%) if acceptable private mortgage insurance has been obtained; or

(c) Seventy-five percent (75%) of the fair market value of the real estate for mortgage loans that do not meet the requirements of paragraph (a) or (b) of this subsection.

(2) For purposes of subsection (1) of this section, the amount of an obligation required to be included in the calculation of the loan-to-value ratio may be reduced to the extent the obligation is insured by the Federal Housing Administration, guaranteed by the Administrator of Veteran Affairs, or their successors.

(3) A mortgage loan that is held by an insurer under subsection (7) of Section 2 of this Act or acquired under this section and is restructured in a manner that meets the requirement of a restructured mortgage loan in accordance with the NAIC Accounting Practices and Procedures Manual or successor publication shall continue to qualify as a mortgage loan under this subtitle.

(4) Subject to the limitations of Section 21 of this Act, credit lease transactions that do not qualify for investment under Section 22 of this Act with the following characteristics shall be exempt from the provisions of subsection (1) of this section:

(a) The loan amortizes over the initial fixed lease term at least in an amount sufficient so that the loan balance at the end of the lease term does not exceed the original appraised value of the real estate;

(b) The lease payments cover or exceed the total debt service over the life of the loan;

(c) A tenant or its affiliated entity whose rated credit instruments have a SVO 1 or 2 designation or a comparable rating from a nationally recognized statistical rating organization recognized by the SVO has a full faith and credit obligation to make the lease payments;

(d) The insurer holds or is the beneficial holder of a first lien mortgage on the real estate;

(e) The expenses of the real estate are passed through to the tenant excluding exterior, structural, parking, and heating, ventilation and air conditioning replacement expenses, unless annual escrow contributions, from cash flows derived from the lease payments, cover the expense shortfall; and

(f) There is a perfected assignment of the rents due under the lease to or for the benefit of the insurer.

(5) An insurer may acquire, manage, and dispose of real estate situated in a domestic jurisdiction either directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by subsection (4) of Section 4 of this Act, joint ventures, stock of an investment subsidiary or membership interests in a limited liability company, trust certificates, or other similar instruments. The real estate shall be income producing or intended for improvement or development for investment purposes under an existing program, in which case the real estate shall be deemed to be income producing.

(6) The real estate may be subject to mortgages, liens, or other encumbrances, the amount of which shall, to the extent that the obligations secured by the mortgages, liens, or encumbrances are without recourse to the insurer, be deducted from the amount of the investment of the insurer in the real estate for purposes of determining compliance with subsections (9) and (10) of this section.

(7) An insurer may acquire, manage, and dispose of real estate for the convenient accommodation of the insurer's, which may include its affiliates, business operations, including home office, branch office, and field office operations.

(a) Real estate acquired under this subsection may include excess space for rent to others if the excess space, valued at its fair market value, would otherwise be a permitted investment under subsections (5) and (6) of this section and is so qualified by the insurer;

(b) The real estate acquired under this subsection may be subject to one (1) or more mortgages, liens, or other encumbrances, the amount of which shall, to the extent that the obligations secured by the mortgages, liens, or encumbrances are without recourse to the insurer, be deducted from the amount of the investment of the insurer in the real estate for purposes of determining compliance with subsection (11) of this section; and

(c) For purposes of this subsection, "business operations" shall not include that portion of real estate used for the direct provision of health care services by an insurer whose insurance premiums and required statutory reserves for accident and health insurance constitute at least ninety-five percent (95%) of total premium considerations or total statutory required reserves, respectively. An insurer may acquire real estate used for these purposes under subsections (5) and (6) of this section.

(8) An insurer shall not acquire an investment under subsections (1) to (4) of this section if, as a result of and after giving effect to the investment, the aggregate amount of all investments then held by the insurer under subsections (1) to (4) of this section would exceed:

(a) One percent (1%) of its admitted assets in mortgage loans covering any one (1) secured location;

(b) One-quarter of one percent (0.25%) of its admitted assets in construction loans covering any one (1) secured location; or

(c) One percent (1%) of its admitted assets in construction loans in the aggregate.

(9) An insurer shall not acquire an investment under subsections (5) and (6) of this section if, a result of and after giving effect to the investment and any outstanding guarantees made by the insurer in connection with the investment, the aggregate amount of investments then held by the insurer under subsections (5) and (6) of this section plus the guarantees then outstanding would exceed:

(a) One percent (1%) of its admitted assets in any one (1) parcel or group of contiguous parcels of real estate, except that this limitation shall not apply to that portion of real estate used for the direct provision of health care services by an insurer whose insurance premiums and required statutory reserves for accident and health insurance constitute at least ninety-five percent (95%) of total premium considerations or total statutory required reserves, respectively, such as hospitals, medical clinics, medical professional buildings, or other health facilities used for the purpose of providing health services; or

(b) The lesser of ten percent (10%) of its admitted assets or forty percent (40%) of its surplus as regards policyholders in the aggregate, except for an insurer whose insurance premiums and required statutory reserves for accident and health insurance constitute at least ninety-five percent (95%) of total premium considerations or total statutory required reserves, respectively, this limitation shall be increased to fifteen percent (15%) of its admitted assets in the aggregate.

(10) An insurer shall not acquire an investment under subsections (1) to (6) of this section if, as a result of and after giving effect to the investment and any guarantees it has made in connection with the investment, the aggregate amount of all investments then held by the insurer under subsections (1) to (6) of this section plus the guarantees then outstanding would exceed twenty-five percent (25%) of its admitted assets.

(11) The limitations of Section 21 of this Act shall not apply to an insurer's acquisition of real estate under subsection (7) of this section. An insurer shall not acquire real estate under subsection (7) of this section if, as a result of and after giving effect to the acquisition, the aggregate amount of all real estate then held by the insurer under subsection (7) of this section would exceed ten percent (10%) of its admitted assets. With the permission of the commissioner, additional amounts of real estate may be acquired under subsection (7) of this section.

SECTION 27. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer may enter into securities lending, repurchase, reverse repurchase and dollar roll transactions with business entities, subject to the following requirements:

(1) The insurer's board of directors shall adopt a written plan that is consistent with the requirements of the written plan in subsection (1) of Section 3 of this Act that specifies guidelines and objectives to be followed, such as:

(a) A description of how cash received will be invested or used for general corporate purposes of the insurer;

(b) Operational procedures to manage interest rate risk, counterparty default risk, the conditions under which proceeds from reverse repurchase transactions may be used in the ordinary course of business, and the use of acceptable collateral in a manner that reflects the liquidity needs of the transaction; and

(c) The extent to which the insurer may engage in these transactions.

(2) The insurer shall enter into a written agreement for all transactions authorized in this section other than dollar roll transactions. The written agreement shall require that each transaction terminate not more than one (1) year from its inception or upon the earlier demand of the insurer. The agreement shall be with the business entity counterparty, but for securities lending transactions, the agreement may be with an agent acting on behalf of the insurer, if the agent is a qualified business entity, and if the agreement:

(a) Requires the agent to enter into separate agreements with each counterparty that are consistent with the requirements of this section; and

(b) Prohibits securities lending transactions under the agreement with the agent or its affiliates.

(3) Cash received in a transaction under this section shall be invested in accordance with this subtitle and in a manner that recognizes the liquidity needs of the transaction or used by the insurer for its general corporate purposes. For so long as the transaction remains outstanding, the insurer, its agent, or custodian shall maintain, as to acceptable collateral received in a transaction under this section, either physically or through the book entry systems of the Federal Reserve, Depository Trust Company, Participants Trust Company, or other securities depositories approved by the commissioner:

(a) Possession of the acceptable collateral;

(b) A perfected security interest in the acceptable collateral; or

(c) In the case of a jurisdiction outside of the United States, title to, or rights of a secured creditor to, the acceptable collateral.

(4) The limitations of Sections 21 and 28 of this Act shall not apply to the business entity counterparty exposure created by transactions under this section. For purposes of calculations made to determine compliance with this subsection, no effect will be given to the insurer's future obligation to resell securities, in the case of a repurchase transaction, or to repurchase securities, in the case of a reverse repurchase transaction. An insurer shall not enter into a transaction under this section if, as a result of and after giving effect to the transaction:

(a) The aggregate amount of securities then loaned, sold to, or purchased from any one (1) business entity counterparty under this section would exceed five percent (5%) of its admitted assets. In calculating the amount sold to or purchased from a business entity counterparty under repurchase or reverse repurchase transactions, effect may be given to netting provisions under a master written agreement; or

(b) The aggregate amount of all securities then loaned, sold to, or purchased from all business entities under this section would exceed forty percent (40%) of its admitted assets, but the limitation of this subsection shall not apply to reverse repurchase transactions for so long as the borrowing is used to meet operational liquidity requirements resulting from an officially declared catastrophe and subject to a plan approved by the commissioner.

(5) In a securities lending transaction, the insurer shall receive acceptable collateral having a market value as of the transaction date at least equal to one hundred two percent (102%) of the market value of the securities loaned by the insurer in the transaction as of that date. If at any time the market value of the acceptable collateral is less than the market value of the loaned securities, the business entity counterparty shall be obligated to deliver additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral then held in connection with the transaction, at least equals one hundred two percent (102%) of the market value of the loaned securities.

(6) In a reverse repurchase transaction, other than a dollar roll transaction, the insurer shall receive acceptable collateral having a market value as of the transaction date at least equal to ninety-five percent (95%) of the market value of the securities transferred by the insurer in the transaction as of that date. If at any time the market value of the acceptable collateral is less than ninety-five percent (95%) of the market value of the securities so transferred, the business entity counterparty shall be obligated to deliver additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral then held in connection with the transaction, at least equals ninetyfive percent (95%) of the market value of the transferred securities.

(7) In a dollar roll transaction, the insurer shall receive cash in an amount at least equal to the market value of the securities transferred by the insurer in the transaction as of the transaction date.

(8) In a repurchase transaction, the insurer shall receive as acceptable collateral transferred securities having a market value at least equal to one hundred two percent (102%) of the

purchase price paid by the insurer for the securities. If at any time the market value of the acceptable collateral is less than one hundred percent (100%) of the purchase price paid

by the insurer, the business entity counterparty shall be obligated to provide additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral then held in connection with the transaction, at least equals one hundred two percent (102%) of the purchase price. Securities acquired by an insurer in a repurchase transaction shall not be sold in a reverse repurchase transaction, loaned in a securities lending transaction, or otherwise pledged.

SECTION 28. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Subject to the limitations of Section 21 of this Act, an insurer may acquire foreign investments, or engage in investment practices, with persons of or in foreign jurisdictions of substantially the same types as those that an insurer is permitted to acquire under this subtitle, other than of the type permitted under Section 23 of this Act, if, as a result of and after giving effect to the investment:

(a) The aggregate amount of foreign investments then held by the insurer under this subsection does not exceed twenty percent (20%) of its admitted assets; and

(b) The aggregate amount of foreign investments then held by the insurer under this subsection in a single foreign jurisdiction does not exceed ten percent (10%) of its admitted assets as to a foreign jurisdiction that has a sovereign debt rating of SVO 1 or five percent (5%) of its admitted assets as to any other foreign jurisdiction.

(2) Subject to the limitations of Section 21 of this Act, an insurer may acquire investments, or engage in investment practices denominated in foreign currencies, whether or not they are foreign investments acquired under subsection (1) of this section, or additional foreign currency exposure as a result of the termination or expiration of a hedging transaction with respect to investments denominated in a foreign currency, if:

(a) The aggregate amount of investments then held by the insurer under this subsection denominated in foreign currencies does not exceed fifteen percent (15%) of its admitted assets; and

(b) The aggregate amount of investments then held by the insurer under this subsection denominated in the foreign currency of a single foreign jurisdiction does not exceed ten percent (10%) of its admitted assets to a foreign jurisdiction that has a sovereign debt rating of SVO 1 or five percent (5%) of its admitted assets as to any other foreign jurisdiction;

(c) However, an investment shall not be considered denominated in a foreign currency if the acquiring insurer enters into one (1) or more contracts in transactions permitted under Section 29 of this Act and the business entity counterparty agrees under the contract or contracts to exchange all payments made on the foreign currency denominated investment for United States currency at a rate that effectively insulates the investment cash flows against future changes in currency exchange rates during the period the contract or contracts are in effect.

(3) In addition to investments permitted under subsections (1) and (2) of this section, an insurer that is authorized to do business in a foreign jurisdiction and that has outstanding

insurance, annuity, or reinsurance contracts on lives or risks resident or located in a foreign jurisdiction and denominated in foreign currency of that jurisdiction, may acquire foreign investments respecting that foreign jurisdiction, and may acquire investments denominated in the currency of that jurisdiction subject to the limitations set

forth in Section 21 of this Act. However, investments made under this subsection in obligations of foreign governments, their political subdivisions, and government sponsored enterprises shall not be subject to the limitations of Section 21 of this Act if those investments carry an SVO rating of 1 or 2. The aggregate amount of investments acquired by the insurer under this subsection shall not exceed the greater of:

(a) The amount the insurer is required by law to invest in the foreign jurisdiction; or

(b) One hundred twenty-five percent (125%) of the amount of its reserves, net of reinsurance, and other obligations under the contracts.

(4) In addition to investments permitted under subsections (1) and (2) of this section, an insurer that is not authorized to do business in a foreign jurisdiction but that has outstanding insurance, annuity, or reinsurance contracts on lives or risks resident or located in a foreign jurisdiction and denominated in foreign currency of that jurisdiction, may acquire foreign investments respecting that foreign jurisdiction, and may acquire investments denominated in the currency of that jurisdiction subject to the limitations set forth in Section 21 of this Act. However, investments made under this subsection in obligations of foreign governments, their political subdivisions, and government sponsored enterprises shall not be subject to the limitations of Section 21 of this Act if those investments carry an SVO rating of 1 or 2. The aggregate amount of investments acquired by the insurer under this subsection shall not exceed one hundred five percent (105%) of the amount of its reserves, net of reinsurance, and other obligations under the contracts on risks resident or located in the foreign jurisdiction.

(5) Investments acquired under this section shall be aggregated with investments of the same types made under this subtitle, and in a similar manner, for purposes of determining compliance with the limitations of this subtitle, if any. Investments in obligations of foreign governments, their political subdivisions, and government sponsored enterprises of these persons, except for those exempted under subsections (3) and (4) of this section, shall be subject to the limitations of Section 21 of this Act.

SECTION 29. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer may, directly or indirectly through an investment subsidiary, engage in derivative transactions under this section under the following conditions:

(a) An insurer may use derivative instruments under this section to engage in hedging transactions and certain income generation transactions, as these terms may be further defined in administrative regulations promulgated by the commissioner.

(b) An insurer shall be able to demonstrate to the commissioner the intended hedging characteristics and the ongoing effectiveness of the derivative transaction or combination of transactions through cash flow testing or other appropriate analyses.

(2) An insurer may enter into hedging transactions under this section if, as a result of and after giving effect to the transaction:

(a) The aggregate statement value of options, caps, floors, and warrants not attached to another financial instrument purchased and used in hedging transactions does not exceed seven and one-half percent (7.5%) of its admitted assets;

(b) The aggregate statement value of options, caps, and floors written in hedging transactions does not exceed three percent (3%) of its admitted assets; and

(c) The aggregate potential exposure of collars, swaps, forwards, and futures used in hedging transactions does not exceed six and one-half percent (6.5%) of its admitted assets.

(3) An insurer may only enter into the following types of income generation transactions if, as a result of and after giving effect to the transactions, the aggregate statement value of the fixed income assets that are subject to call plus the face value of fixed income securities underlying a derivative instrument subject to call, plus the amount of the purchase obligations under the puts, does not exceed ten percent (10%) of its admitted assets:

(a) Sales of covered call options on noncallable fixed income securities, callable fixed income securities if the option expires by its terms prior to the end of the noncallable period, or derivative instruments based on fixed income securities;

(b) Sales of covered call options on equity securities, if the insurer holds in its portfolio, or can immediately acquire through the exercise of options, warrants, or conversion rights already owned, the equity securities subject to call during the complete term of the call option sold; or

(c) Sales of covered puts on investments that the insurer is permitted to acquire under this subtitle, if the insurer has escrowed, or entered into a custodian agreement segregating, cash or cash equivalents with a market value equal to the amount of its purchase obligations under the put during the complete term of the put option sold.

(4) An insurer shall include all counterparty exposure amounts in determining compliance with the limitations of Section 21 of this Act.

(5) In accordance with administrative regulations promulgated under Section 6 of this Act, the commissioner may approve additional transactions involving the use of derivative instruments in excess of the limits of subsection (2) of this section or for other risk management purposes under administrative regulations promulgated by the commissioner, but replication transactions shall not be permitted for other than risk management purposes.

SECTION 30. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer may acquire under this section investments, or engage in investment practices, of any kind that are not specifically prohibited by this subtitle, or engage in investment practices, without regard to any limitation in Sections 21 to 28 of this Act, but an insurer shall not acquire an investment or engage in an investment practice under this section if, as a result of and after giving effect to the transaction, the aggregate amount of the investments then held by the insurer under this section would exceed the greater of:

(a) Its unrestricted surplus;

or (b) The lesser of:

1. Ten percent (10%) of its admitted assets; or

2. Fifty percent (50%) of its surplus as regards policyholders.

(2) An insurer shall not acquire any investment or engage in any investment practice under paragraph (b) of subsection (1) of this section if, as a result of and after giving effect to the transaction, the aggregate amount of all investments in any one (1) person then held by the insurer under that subsection would exceed five percent (5%) of its admitted assets.

Section 31. KRS 304.7-240 is amended to read as follows:

(1) The amounts allocated to each separate account established by the insurer in connection with a pension, retirement or profit-sharing plan, life insurance or an annuity pursuant to KRS 304.15-390 together with accumulations thereon, may be invested and reinvested in any class of investments which may be authorized in the written contract or agreement without regard to any requirements or limitations prescribed by this subtitle; except, that to the extent that the insurer's reserve liability with regards to:

(a) ~~[(1)]~~ Benefits guaranteed as to amount and duration; and

(b) ~~[(2)]~~ Funds guaranteed as to principal amount or stated rate of interest, is maintained in any separate account, a portion of the assets of such separate account at least equal to such reserve liability shall be invested in accordance with the applicable provisions of this subtitle.

The investments in such separate account or accounts shall not be taken into account in applying the investment limitations applicable to other investments of the insurer.

(2) On application by an insurer, the commissioner may approve different investment limitations and restrictions for specified separate accounts of the insurer. The commissioner shall only approve the insurer's proposed limitations and restrictions if he finds that the requested investment limitations and restrictions adequately protect the interests of the insured protected by the separate account and the solvency of the insurer.

Section 32. KRS 304.7-320 is amended to read as follows:

(1) An insurer may enter into an agreement for the purpose of protecting its interests in securities lawfully held by it, or for the purpose of reorganization of the corporation which issued or is obligated on account of ***the*** ~~[such]~~ securities, and may deposit ***the*** ~~[such]~~ securities with a committee appointed under ~~[such]~~ an agreement.

(2) An insurer may accept corporate stocks, bonds or other securities distributed ***in accordance with the*** ~~[pursuant to any such]~~ agreement or reorganization. Any securities so received which are otherwise ineligible as investments of the insurer shall be disposed of as provided in ***Section 2 of this Act*** ~~[KRS 304.7-300]~~.

Section 33. KRS 304.7-340 is amended to read as follows:

An insurer shall not invest in any note or other evidence of indebtedness of any director or officer of the insurer, except as to policy loans authorized under ***Section 5 of this Act*** ~~[KRS 304.7-180]~~ and obligations subject to ***Section 13 of this Act*** ~~[the provisions of KRS 304.7-200]~~ secured by first mortgages or deeds of trust upon improved real property to be occupied as a personal residence by such director or officer of the insurer.

Section 34. KRS 304.7-350 is amended to read as follows:

(1) All obligations having a fixed term, rate, and face value held by an insurer authorized to do business in this state may, if amply secured and not in default either as to principal or interest, be valued as follows: if acquired at face value, at the face value; if acquired above or below face value, on the basis of the purchase price adjusted annually to bring the value

to face value at maturity and so as to yield in each year the effective rate of interest at which the purchase was made. The amortization provided for in this subsection may be calculated with reasonable approximations. The commissioner shall have the power to determine by rule the eligibility of investments for valuation under this subsection.

(2) (a) Securities, other than those referred to in subsection (1) of this section, held by an insurer shall be valued, in the discretion of the commissioner, at their fair market value, at their appraised value, or at prices determined by the commissioner as representing their fair market value.

(b) Preferred or guaranteed stock or shares while paying full dividends may be carried at a fixed value in lieu of market value, at the discretion of the commissioner and in accordance with the method of computation he approves.

(c) Securities qualifying under KRS 304.7-120***, Section 18 of this Act, or Section 30 of this Act***~~[and 304.7-270]~~ shall be valued at their fair value or net equity value, except that securities of a subsidiary insurance corporation as provided for in KRS 304.7-120 shall be valued either at cost or on a net equity basis, whichever is greater.

(3) (a) Real property acquired pursuant to a mortgage loan or contract for sale, in the absence of a recent appraisal deemed by the commissioner to be reliable, shall not be valued at an amount greater than the unpaid principal of the defaulted loan or contract at the date of acquisition, together with any taxes and expenses paid or incurred in connection with acquisition, and the cost of improvements thereafter made by the insurer and any amounts thereafter paid by the insurer on assessments levied for improvements in connection with the property.

(b) Other real property held by an insurer shall not be valued at an amount in excess of fair value as determined by recent appraisal deemed by the commissioner to be reliable. If valuation is based on an appraisal more than three (3) years old, the commissioner may, at his discretion, call for and require a new appraisal in order to determine fair value.

(c) Personal property acquired pursuant to chattel mortgages or security agreements~~[made in accordance with subsection (10) of KRS 304.7-200]~~ shall not be valued at an amount greater than the unpaid principal of the defaulted loan at the date of acquisition, together with any taxes and expenses paid or incurred in connection with acquisition, or the fair value of the property, whichever amount is the lesser.

(4) However, in all cases securities shall be valued in accordance with the standards promulgated by~~[the securities valuation office of]~~ the National Association of Insurance Commissioners ***including the Purposes and Procedures of the Securities Valuation Office, the Valuation of Securities Manual, the Accounting Practices and Procedures Manual, the Annual Statement Instructions, or any successor valuation procedures officially adopted by the NAIC***~~[and other assets shall be valued in accordance with standards promulgated by the National Association of Insurance Commissioners Financial Condition Subcommittee]~~.

Section 35. The following KRS sections are repealed:

304.7-020 Eligible investments.

Approved April 7, 2000