

By: Faircloth

H.B. No. 3803

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certain authorized investments for domestic life,
3 health, and accident insurers.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 425.118, Insurance Code, is amended by
6 amending Subsections (c), (d), and (e) and adding Subsections (d-1)
7 and (e-1) to read as follows:

8 (c) The term of an obligation secured by a first lien on a
9 leasehold estate in real property may not, as of the date the
10 obligation is acquired, exceed a period equal to four-fifths of the
11 unexpired term of the leasehold estate, including any renewal
12 options exercisable by the lessee, and the obligation must fully
13 amortize during that period. The term of the leasehold estate,
14 including any renewal options exercisable by the lessee, may not
15 expire sooner than the 10th anniversary of the expiration date of
16 the term of the obligation.

17 (d) An obligation secured by a first lien on a leasehold
18 estate in real property must be payable in one or more installments
19 of an amount or amounts sufficient to ensure that, at any time
20 during [~~after the expiration of two-thirds of~~] the original term of
21 the obligation, the principal balance on the obligation is not
22 greater than the principal balance would have been if the
23 obligation had been amortized over the original term of the
24 obligation in equal monthly, quarterly, semiannual, or annual

1 payments of principal and interest with payments of interest only
2 for the first five years of the original term of the obligation.

3 (d-1) Subsection (d) does not apply to an obligation secured
4 by a first lien on a leasehold estate in real property if:

5 (1) the amount of the obligation does not, as of the
6 date the obligation is acquired, exceed 75 percent of the value of
7 the leasehold estate;

8 (2) the lease agreement provides that the fee simple
9 estate in the real property transfers automatically to the lessee
10 on or before the expiration of the term of the leasehold estate,
11 including any renewal options exercisable by the lessee; or

12 (3) the lease agreement provides that the lessee has
13 an option to purchase the fee simple estate in the real property on
14 or before the expiration of the term of the leasehold estate,
15 including any renewal options exercisable by the lessee, for an
16 amount that is less than 10 percent of the appraised value of the
17 real property, and the insurance company has a contractual right if
18 the lessee does not exercise that option to acquire the fee simple
19 estate in the real property for that same amount, by assignment from
20 the lessee or otherwise.

21 (e) Except as provided by Subsection (e-1), if [~~if~~] any part
22 of the value of buildings is to be included in the value of real
23 property or a leasehold estate in real property to secure an
24 obligation under this section:

25 (1) the buildings must be covered by adequate property
26 insurance, including fire and extended coverage insurance, issued
27 by:

1 (A) an insurer authorized to engage in business
2 in this state; or

3 (B) an insurer recognized as acceptable to issue
4 that coverage by the insurance regulatory official of the state in
5 which the real property is located;

6 (2) the amount of insurance provided by one or more
7 policies may not be less than the lesser of:

8 (A) the unpaid balance of the obligation; or

9 (B) the insurable value of the buildings; and

10 (3) the loss clause under each policy must be payable
11 to the insurance company as the company's interest may appear.

12 (e-1) The property insurance otherwise required under
13 Subsection (e) is not required if the borrower maintains a net worth
14 as indicated in the borrower's audited financial statements for the
15 most recent fiscal year of at least the greater of five times the
16 amount of the indebtedness or \$100 million and:

17 (1) the insurance company has recourse against the
18 borrower or the borrower's guarantor; or

19 (2) for an obligation secured by a leasehold estate:

20 (A) the tenant assigned the lease to the
21 insurance company; and

22 (B) the lease agreement is in writing and
23 provides that if a building on the property is damaged or destroyed,
24 the tenant or the tenant's guarantor is obligated to rebuild or
25 restore the damaged or destroyed building to the building's
26 condition immediately before the damage or destruction occurred or
27 compensate the owner for the loss arising from the damage or

1 destruction.

2 SECTION 2. Section 425.118, Insurance Code, as amended by
3 this Act, applies only to an investment made on or after the
4 effective date of this Act. An investment made before the effective
5 date of this Act is governed by the law as it existed immediately
6 before that date, and that law is continued in effect for that
7 purpose.

8 SECTION 3. This Act takes effect September 1, 2017.