

1-1 By: Faircloth (Senate Sponsor - Zaffirini) H.B. No. 3803  
 1-2 (In the Senate - Received from the House May 3, 2017;  
 1-3 May 5, 2017, read first time and referred to Committee on Business  
 1-4 & Commerce; May 15, 2017, reported favorably by the following vote:  
 1-5 Yeas 9, Nays 0; May 15, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to certain authorized investments for domestic life,  
 1-20 health, and accident insurers.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section [425.118](#), Insurance Code, is amended by  
 1-23 amending Subsections (c), (d), and (e) and adding Subsections (d-1)  
 1-24 and (e-1) to read as follows:

1-25 (c) The term of an obligation secured by a first lien on a  
 1-26 leasehold estate in real property may not, as of the date the  
 1-27 obligation is acquired, exceed a period equal to four-fifths of the  
 1-28 unexpired term of the leasehold estate, including any renewal  
 1-29 options exercisable by the lessee, and the obligation must fully  
 1-30 amortize during that period. The term of the leasehold estate,  
 1-31 including any renewal options exercisable by the lessee, may not  
 1-32 expire sooner than the 10th anniversary of the expiration date of  
 1-33 the term of the obligation.

1-34 (d) An obligation secured by a first lien on a leasehold  
 1-35 estate in real property must be payable in one or more installments  
 1-36 of an amount or amounts sufficient to ensure that, at any time  
 1-37 during [after the expiration of two-thirds of] the original term of  
 1-38 the obligation, the principal balance on the obligation is not  
 1-39 greater than the principal balance would have been if the  
 1-40 obligation had been amortized over the original term of the  
 1-41 obligation in equal monthly, quarterly, semiannual, or annual  
 1-42 payments of principal and interest with payments of interest only  
 1-43 for the first five years of the original term of the obligation.

1-44 (d-1) Subsection (d) does not apply to an obligation secured  
 1-45 by a first lien on a leasehold estate in real property if:

1-46 (1) the amount of the obligation does not, as of the  
 1-47 date the obligation is acquired, exceed 75 percent of the value of  
 1-48 the leasehold estate;

1-49 (2) the lease agreement provides that the fee simple  
 1-50 estate in the real property transfers automatically to the lessee  
 1-51 on or before the expiration of the term of the leasehold estate,  
 1-52 including any renewal options exercisable by the lessee; or

1-53 (3) the lease agreement provides that the lessee has  
 1-54 an option to purchase the fee simple estate in the real property on  
 1-55 or before the expiration of the term of the leasehold estate,  
 1-56 including any renewal options exercisable by the lessee, for an  
 1-57 amount that is less than 10 percent of the appraised value of the  
 1-58 real property, and the insurance company has a contractual right if  
 1-59 the lessee does not exercise that option to acquire the fee simple  
 1-60 estate in the real property for that same amount, by assignment from  
 1-61 the lessee or otherwise.

2-1 (e) Except as provided by Subsection (e-1), if [~~if~~] any part  
2-2 of the value of buildings is to be included in the value of real  
2-3 property or a leasehold estate in real property to secure an  
2-4 obligation under this section:

2-5 (1) the buildings must be covered by adequate property  
2-6 insurance, including fire and extended coverage insurance, issued  
2-7 by:

2-8 (A) an insurer authorized to engage in business  
2-9 in this state; or

2-10 (B) an insurer recognized as acceptable to issue  
2-11 that coverage by the insurance regulatory official of the state in  
2-12 which the real property is located;

2-13 (2) the amount of insurance provided by one or more  
2-14 policies may not be less than the lesser of:

2-15 (A) the unpaid balance of the obligation; or

2-16 (B) the insurable value of the buildings; and

2-17 (3) the loss clause under each policy must be payable  
2-18 to the insurance company as the company's interest may appear.

2-19 (e-1) The property insurance otherwise required under  
2-20 Subsection (e) is not required if the borrower maintains a net worth  
2-21 as indicated in the borrower's audited financial statements for the  
2-22 most recent fiscal year of at least the greater of five times the  
2-23 amount of the indebtedness or \$100 million and:

2-24 (1) the insurance company has recourse against the  
2-25 borrower or the borrower's guarantor; or

2-26 (2) for an obligation secured by a leasehold estate:

2-27 (A) the tenant assigned the lease to the  
2-28 insurance company; and

2-29 (B) the lease agreement is in writing and  
2-30 provides that if a building on the property is damaged or destroyed,  
2-31 the tenant or the tenant's guarantor is obligated to rebuild or  
2-32 restore the damaged or destroyed building to the building's  
2-33 condition immediately before the damage or destruction occurred or  
2-34 compensate the owner for the loss arising from the damage or  
2-35 destruction.

2-36 SECTION 2. Section 425.118, Insurance Code, as amended by  
2-37 this Act, applies only to an investment made on or after the  
2-38 effective date of this Act. An investment made before the effective  
2-39 date of this Act is governed by the law as it existed immediately  
2-40 before that date, and that law is continued in effect for that  
2-41 purpose.

2-42 SECTION 3. This Act takes effect September 1, 2017.

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