

**304.37-110 Subsidiaries that may be organized or acquired by domestic insurer -- Investments of domestic insurers.**

- (1) Any domestic insurer, either by itself or in cooperation with one (1) or more persons, may organize or acquire one (1) or more subsidiaries engaged in the following kinds of business:
  - (a) Any kind of insurance business authorized by the jurisdiction in which it is incorporated;
  - (b) Acting as an insurance agent for its parent or any of its parent's insurer subsidiaries;
  - (c) Investing, reinvesting, or trading in securities for its own account, that of its parent, any subsidiary of its parent, or any affiliate or subsidiary;
  - (d) Management of any investment company subject to or registered pursuant to the Investment Company Act of 1940, as amended, including related sales and services;
  - (e) Acting as a broker-dealer subject to or registered pursuant to the Securities Exchange Act of 1934, as amended;
  - (f) Rendering investment advice to governments, government agencies, corporations, or other organizations or groups;
  - (g) Rendering other services related to the operations of an insurance business, such as actuarial, loss prevention, safety engineering, data processing, accounting, claims, appraisal, and collection services;
  - (h) Ownership and management of assets which the parent corporation may own or manage if the aggregate investment by the insurer and its subsidiaries acquired or organized pursuant to this paragraph shall not exceed the limitations applicable to these investments by the insurer. This paragraph shall not prohibit investments permitted under KRS 304.7-120;
  - (i) Acting as an administrative agent for a governmental instrumentality which is performing an insurance function;
  - (j) Financing of insurance premiums, agents, and other forms of consumer financing;
  - (k) Any other business activity determined by the commissioner to be reasonably ancillary to an insurance business; and
  - (l) Owning a corporation or corporations engaged or organized to engage exclusively in one (1) or more businesses specified in this section.
- (2) In addition to investments in common stock, preferred stock, debt obligations, and other securities permitted under this chapter, a domestic insurer may also:
  - (a) Invest, in common stock, preferred stock, debt obligations, and other securities of one (1) or more subsidiaries, amounts which do not exceed the lesser of ten percent (10%) of the insurer's assets or fifty percent (50%) of the insurer's surplus as regards policyholders, if after these investments, the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to meet its financial needs. In

calculating the amount of these investments, investments in domestic or foreign insurance subsidiaries shall be excluded, and there shall be included:

1. Total net moneys or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of the subsidiary whether or not represented by the purchase of capital stock or issuance of other securities; and
  2. All amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities and all contributions to the capital or surplus, of a subsidiary subsequent to its acquisition or formation;
- (b) Invest any amount in common stock, preferred stock, debt obligations, and other securities of one (1) or more subsidiaries engaged or organized to engage exclusively in the ownership and management of assets authorized as investments for the insurer, if each subsidiary agrees to limit its investments in any asset so that the investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in paragraph (a) of this subsection or in Subtitle 7 of KRS Chapter 304. For the purpose of this paragraph, "the total investment of the insurer" shall include:
1. Any direct investment by the insurer in an asset; and
  2. The insurer's proportionate share of any investment in an asset by any subsidiary of the insurer, which shall be calculated by multiplying the amount of the subsidiary's investment by the percentage of the ownership of the subsidiary;
- (c) With the approval of the commissioner, invest any greater amount in common stock, preferred stock, debt obligations, or other securities of one (1) or more subsidiaries, if after the investment the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.
- (3) Investments in common stock, preferred stock, debt obligations, or other securities of subsidiaries made pursuant to subsection (2) of this section shall not be subject to any of the otherwise applicable restrictions or prohibitions contained in this chapter applicable to the investments of insurers.
- (4) Whether any investment pursuant to subsection (2) of this section meets the requirements shall be determined before the investment is made, by calculating the applicable investment limitations as though the investment had already been made, taking into account the then outstanding principal balance on all previous investments in debt obligations, and the value of all previous investments in equity securities as of the day they were made, net of any return of capital invested, not including dividends.
- (5) If an insurer ceases to control a subsidiary, it shall dispose of any investment made pursuant to this section within three (3) years of the time of the cessation of control,

or within an extension of time as the commissioner may prescribe, unless at any time after the investment has been made, the investment has met the requirements for investment under any other provision of this chapter, and the insurer has notified the commissioner.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 1482, effective July 15, 2010. -- Amended 1998 Ky. Acts ch. 483, sec. 27, effective July 15, 1998. -- Created 1992 Ky. Acts ch. 267, sec. 1, effective July 14, 1992.