

## 2023 Kansas Statutes

**40-2b09. Real estate bonds, mortgages, tax lien certificates.** Any life insurance company heretofore or hereafter organized under any law of this state may invest by loans or otherwise with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof in:

- (a) Bonds, notes, obligations or other evidences of indebtedness directly or indirectly secured by mortgages or deeds of trust which are a first or second lien upon otherwise unencumbered real property and appurtenances thereto within the United States of America, or any insular or territorial possession of the United States, or the Dominion of Canada, and upon leasehold estates in real property wherein the term of such including any options to extend is not less than 15 years beyond the maturity of the loan as made or extended. At the date of acquisition the total indebtedness secured by such lien shall not exceed 90% of the market value of the property upon which it is a lien, unless that portion of the total indebtedness in excess of 90% of market value is insured by a mortgage insurance company authorized by the commissioner of insurance to do business in this state. These limitations shall not apply to obligations described in subsections (b), (c), (d), (e) and (f). For the purpose of this section a mortgage or deed of trust shall not be deemed to be other than a first or second lien upon property within the meaning of this section by reason of the existence of taxes or assessments against real property and appurtenances thereto that are not delinquent, instruments creating or reserving mineral, oil, or timber rights, rights of way, joint driveways, sewer rights, rights in walls or by reason of building restrictions or other like restrictive covenants, or when such real estate is subject to lease in whole or in part whereby rents or profits are reserved to the owner or when there is in existence a fixed obligation or lien against the property where an escrow account or indemnification bond is or has been established or obtained sufficient to cover the maximum liability created by such obligation or lien;
- (b) bonds, notes, or other evidences of indebtedness representing loans and advances of credit that have been issued, guaranteed or insured by the United States government or any agency or instrumentality thereof or insured by any insurance company authorized to transact such business in this state. Any uninsured or nonguaranteed portion shall not exceed 75% of the total amount;
- (c) contracts of sale, purchase money mortgages or deeds of trust secured by property obtained through foreclosure, or in settlement or satisfaction of any indebtedness;
- (d) bonds, notes, obligations, or other evidences of indebtedness directly or indirectly secured by mortgages or deeds of trust which are a first or second lien upon otherwise unencumbered personal or real or both personal and real property, including a leasehold of real estate, under lease, purchase contract, or lease purchase contract to any governmental body or instrumentality whose obligations qualify under K.S.A. 40-2b01, 40-2b02 or 40-2b03, and amendments thereto, or to a corporation whose obligations qualify under K.S.A. 40-2b05, and amendments thereto, if there is adequate rental, after making allowance of lessors' or sellers' obligations and liabilities, if any, under the terms of the lease or contract, to retire the loan as to payments of principal and interest and such rentals are pledged or assigned to the lender;
- (e) bonds, notes or other evidences of indebtedness representing loans and advances of credit that have been issued, guaranteed or insured, in accordance with the terms and provisions of an act of the federal parliament of the Dominion of Canada approved March 18, 1954, cited as the national housing act, 1954, as heretofore and hereafter amended;
- (f) participation in mortgage lending, including, without limitation, the types of mortgage lending set forth in subsections (a) and (d), is specifically permitted in this section as between Kansas domiciled life insurance companies, or, between Kansas domiciled life insurance companies and life insurance companies organized under the laws of another country, state, or territory, or, between a Kansas domiciled life insurance company and its affiliates, or, between Kansas domiciled life insurance companies and banks, trust companies or savings and loan associations, upon

unencumbered real property and appurtenances thereto. At the date of acquisition the total indebtedness assumed by such lien shall not exceed 90% of the market value of the property upon which it is a lien, unless that portion of the total indebtedness in excess of 90% of market value is insured by a mortgage insurance company authorized by the commissioner of insurance to do business in this state;

(g) mortgages or deeds of trust upon improved real property to be occupied as a personal residence by an officer of the insurer, if the mortgage is at an interest rate that is no less than the prevailing rate of the insurer's existing portfolio of mortgage loans. Mortgages or deeds of trust entered into pursuant to this subsection shall be subject to the conditions set forth in subsection (a) relating to mortgages or deeds of trust generally;

(h) tax lien certificates issued by local taxing authorities, which for reporting in the annual statement may be pooled by state and year of issue, but the amount invested shall not exceed 10% of the admitted assets of the company as shown by its last annual report or a more recent quarterly financial statement filed with the commissioner of insurance.

**History:** L. 1972, ch. 179, § 9; L. 1983, ch. 156, § 8; L. 1996, ch. 22, § 1; L. 2015, ch. 7, § 10; July 1.