

TITLE 1: GOVERNMENT
DIVISION 8: PUBLIC EMPLOYMENT

§ 8374. Investments.

Investments may be made in:

(a) *Real Estate Loans and Mortgages.* Obligations of any of the following classes:

(1) Obligations secured by mortgages of nonprofit corporation desiring to build multi-rental units (10 units or more) subject to control of the government for occupancy by families displaced as a result of government action.

(2) Obligations secured by mortgages insured by the Federal Housing Administration.

(3) Obligations for the repayment of home loans made under the Servicemen's Readjustment Act of 1944 [38 U.S.C. § 1801 et seq.] or under Title II of the National Housing Act [12 U.S.C. § 1701 et seq.].

(4) Other obligations secured by first mortgages on unencumbered improved real estate owned in fee simple, provided that the amount of the obligation shall not at the time investment is made therein exceed 75 percent of the value of the real estate and improvements mortgaged to secure it, except that if the obligation is for an amount of \$75,000 or less, the amount of the obligation shall not exceed 80 percent of the real estate and improvements mortgaged to secure it, and except that the amount of the obligation at the time investment is made therein may exceed 75 percent but no more than 90 percent of the value of the real estate and improvement mortgaged to secure it, provided that the obligation is insured or guaranteed against default or loss under a mortgage insurance policy issued by a casualty insurance company. The coverage provided by the insurer should be sufficient to reduce the system's exposure to not more than 75 percent of the value of the real estate and improvements mortgaged to secure it. Such insurance coverage shall remain in force until the principal amount of the obligation is reduced to 75 percent of the market value of the real estate and improvements mortgaged to secure it, at which time the coverage shall be subject to cancellation solely at the option of the Board of Trustees. As used in this section "improved real property" means real property on which are situated or shall be constructed permanent buildings suitable for residence, industry or commerce. The term "mortgage" shall be construed to include a deed of trust for security. The term "interest in real property" shall be construed to include a leasehold in real property. For the purposes of this section, real property shall not be deemed to be encumbered by reason of the existence of instruments reserving rights-of-way, sewer rights and rights in wall nor by reason of building restrictions or other restrictive covenants, nor by reason of the fact that it is subject to lease under which rents or profits are reserved to the owner, if the security for such investment is a full and unrestricted first lien upon the real property and there is no condition nor right of reentry or forfeiture under which the investments can be cut off, subordinated or otherwise disturbed.

(5) Other obligations secured by first mortgages of leasehold interests in improved real estate, provided that (A) each such leasehold interest at such time shall have a current term extending at least two years beyond the stated maturity of the obligation it secures, and (B) the amount of the obligation shall

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not at the time investment is made therein exceed 75 percent of the value of the respective leasehold interest and improvements that if the obligation is for an amount of \$75,000 or less, the amount of the obligation shall not exceed 80 percent of the value of the respective leasehold interest and improvements, and except that the amount of the obligation, at the time investment is made therein, may exceed 75 percent but no more than 90 percent of the value of the leasehold interest and improvements mortgaged to secure it, provided that the obligation is insured or guaranteed against default or loss under a mortgage insurance policy issued by a casualty insurance company licensed to do business in the Commonwealth. The coverage provided by the insurer should be sufficient to reduce the system's exposure to not more than 75 percent of the value of the leasehold interest and improvements mortgaged to secure it. Such insurance coverage shall remain in force until the principal amount of the obligation is reduced to 75 percent of the market value of the leasehold interest and improvements mortgaged to secure it, at which time the coverage shall be subject to cancellation solely at the option of the Board of Trustees.

(6) Obligations secured by second mortgages on improved real estate for which the mortgagor produces a second mortgage on the improved real estate for the purposes of acquiring the leaseholder's fee simple interest in the improved real estate, provided that any prior mortgage does not contain provisions which might jeopardize the security position of the retirement system or the borrower's ability to repay the mortgage loan.

The Board of Trustees may retain such real estate, including leasehold interest therein, as it may acquire by foreclosure of the mortgages or in enforcement of security, or as may be conveyed to it in satisfaction of debts previously contracted, provided that all such real estate, other than leasehold interests, shall be sold within five years after acquiring the same subject to extension by the board for additional periods not exceeding five years each and all such leasehold interests shall be sold within one year after acquiring the same subject to extension by the board for additional periods not exceeding one year each.

(b) *Fixed Income Obligations*. Global fixed income securities, hybrid securities and interest rate linked securities issued by countries and entities included in the prevailing global bond indices.

(c) *Equity*. Global publicly traded equity securities or equity linked securities issued by entities in countries included in the prevailing global equities indices.

(d) *Fixed Income or Equity Investment Vehicles*. Investment vehicles including comingled funds, trust funds, collective funds, mutual funds, partnerships or other types of organizations whose sole purpose is to provide investors access to securities defined in subsection (b) or (c)."

(e) Obligation eligible by law for purchase in the open market by federal reserve banks.

(f) Obligations issued or guaranteed by the International Bank for Reconstruction and Development, by the InterAmerican Development Bank, by the Asian Development Bank, or by any regional development bank operating and organized in our own region.

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(g) Obligations secured by collateral consisting of any of the securities or stock listed above and worth, at the time the investment is made at least 15 percent more than the amount of the respective obligations.

(h) *Insurance Company Obligations.* Contracts and agreements supplemental thereto providing for participation in one or more accounts of a life insurance company authorized to do business in any state or the Commonwealth, including its separate accounts, and whether the investments allocated thereto are comprised of stocks or other securities or of real or personal property or interests therein.

(i) *Other Securities.* Securities and stock in which in the informed opinion of the Board of Trustees it is prudent to invest funds of the system, whether or not the securities or stock are expressly authorized by or qualify under the foregoing subsections, and notwithstanding any limitations of any of the foregoing subsections (including subsection (d)); provided that the total book value of investments under this subsection shall at no time exceed 25 percent of the total book value of all investments of the system.

Source: PL 6-17, ch. 5, § 8354; (b)-(d) repealed and reenacted and (i) amended by PL 17-46 §§ 2 and 3 (June 16, 2011), respectively.

Commission Comment: PL 17-46 (effective June 16, 2011) was enacted to update investment provisions to reflect modern portfolio theory. PL 17-46 § 1.