Chapter 733

1993 EDITION

Accounting and Investments

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ACCOUNTING

733.010 Assets allowed. In any determination of the financial condition of an insurer, there shall be allowed as assets only such assets as are owned by the insurer and which consist of:

(1) Cash in the possession or control of the insurer, including the true balance of any deposit in a solvent bank or trust company.

(2) Investments held in accordance with the Insurance Code, and due or accrued income items in connection therewith to the extent considered by the director to be collectible.

(3) Premium notes, policy loans, liens and other like policy assets on life insurance policies and accrued interest thereon, in an amount not exceeding the loan value of the policy.

(4) Due premiums, deferred premiums, installment premiums, and written obligations taken for premiums, to the extent allowed by the director.

(5) The amount recoverable from a reinsurer if credit for reinsurance may be allowed to the insurer under ORS 731.509 or 731.510 and amounts receivable on assumed reinsurance representing funds withheld by a solvent ceding insurer under a reinsurance treaty.

(6) Deposits or equities recoverable from underwriting associations, syndicates and reinsurance funds, or from any suspended banking institution, to the extent deemed by the director to be available for the payment of losses and claims.

(7) The unaccrued portion of taxes paid prior to the due date on real property.

(8) Other assets considered by the director to be available for the payment of losses and claims, at values determined by the director. [1967 c.359 §208; 1971 c.321 §18; 1979 c.818 §1; 1993 c.447 §69]

733.020 Assets not allowed. In addition to assets impliedly excluded by ORS 733.010, the following expressly shall not be allowed as assets in any determination of the financial condition of an insurer:

(1) Good will, trade names and other like intangible assets.

(2) Advances to officers, other than policy loans, whether secured or not, and advances to employees, agents and other persons on personal security only.

(3) Stock of such insurer owned by it, or any material equity therein or loans secured thereby, or any material proportionate interest in such stock acquired or held through the ownership by such insurer of an interest in another firm, corporation or business unit.

(4) Tangible personal property, except such property as the insurer is otherwise permitted to acquire and retain as an investment under the Insurance Code and which is deemed by the director to be available for the payment of losses and claims or which is otherwise expressly allowable, in whole or in part, as an asset.

(5) The amount, if any, by which the book value of any investment as carried in the ledger assets of the insurer exceeds the value thereof as determined under the Insurance Code. [1967 c.359 §209]

733.030 Liabilities in general. In any determination of the financial condition of an insurer, liabilities to be charged against its assets shall be calculated in accordance with the Insurance Code and shall include:

(1) The amount necessary to pay all of its unpaid losses and claims incurred on or prior to the date of the statement, whether reported or unreported to the insurer, together with the expenses of adjustment or settlement thereof.

(2) For insurance other than specified in subsections (3) and (4) of this section, the amount of reserves equal to the unearned portions of the gross premiums charged on policies in force, calculated in accordance with the Insurance Code.

(3) For life insurance policies:

(a) Reserves on life insurance benefits, valued according to the tables of mortality, rates of interest, and valuation methods applicable thereto which are adopted pursuant to the Insurance Code.

(b) Reserves for disability benefits, for both active and disabled lives.

(c) Reserves for accidental death benefits.

(d) Any additional reserves considered to be necessary by the director.

(4) For health insurance policies, the amount of reserves required pursuant to ORS 733.080.

(5) Taxes, expenses and other obligations due or accrued at the date of the statement.

(6) Any additional reserves for asset valuation contingencies or loss contingencies required by the Insurance Code or considered to be necessary by the director for the protection of policyholders and stockholders of the insurer. [1967 c.359 §210]

733.040 Reinsurance credit. The director shall disallow reinsurance as credit against the liabilities of a ceding insurer if credit against the liabilities of the ceding insurer is not allowed as a credit to the ceding

insurer under ORS 731.509 to 731.510. [1967 c.359 §211; 1993 c.447 §70]

733.050 Increase of inadequate reserves. If the director determines that an insurer's reserves, however calculated or estimated, are inadequate, the director shall require the insurer to maintain reserves in such additional amount as is needed to make them adequate. [1967 c.359 §212]

733.060 Unearned premium reserve. (1) Every insurer shall maintain an unearned premium reserve on all policies in force.

(2) The director may require that such reserves shall be equal to the unearned portions of the gross premiums in force as calculated pro rata on each respective risk from the policy's date of issue. In the absence of such requirement, the unearned premium reserve shall be equal to the pro rata unearned portions of the gross premiums in force as calculated by an approximation method approved by the director. After adopting a method of computing such reserves, an insurer shall not change methods without approval of the insurance supervisory official of the insurer's domicile.

(3) This section does not apply to:

(a) Marine and transportation insurance on trip risks not terminated.

(b) Health insurance.

(c) Title insurance.

(d) Home protection insurance under policies issued by a home protection insurer.

(e) Life insurance. [1967 c.359 §213; 1981 c.247 §9]

733.070 Unearned premium reserve for marine and transportation insurance trip risks. As to marine and transportation insurance, the entire amount of premiums on trip risks not terminated shall be deemed unearned. The director may require the insurer to carry a reserve equal to 100 percent of premiums on trip risks written during the month ended as of the date of statement. [1967 c.359 §214]

733.080 Reserves for health insurance. For all health insurance policies the insurer shall maintain reserves which place a sound value on its liabilities under such policies and which are not less than the reserves according to appropriate standards set forth in rules issued by the director. Except for policies of credit health insurance, such reserves for nondisabled lives shall not be less in the aggregate than the pro rata gross unearned premiums for such policies calculated in accordance with ORS 733.060. [1967 c.359 §215; 1971 c.231 §18]

733.090 Unearned premium reserve and fund for title insurance. (1) Each title insurer shall maintain a reserve for unearned premiums on its policies in force, which shall be charged as a liability in any determination of its financial condition. Such unearned premium liability shall be separate from and in addition to the insurer's liability for incurred but unpaid losses and loss expenses.

(2) The amount of the unearned premium reserve shall be determined as follows:

(a) For each domestic title insurer, the reserve shall equal three percent of all gross premiums on title insurance policies issued by it during the preceding 15 years.

(b) For each foreign or alien title insurer, the reserve relating to its policies insuring titles to real property in this state shall equal three percent of all gross premiums on such policies issued by it during the preceding 15 years. The portion of the unearned premium reserve of a foreign insurer relating to its policies insuring real property located elsewhere shall be as prescribed or permitted by the laws of the insurer's domicile, unless found by the director to be inadequate for the reasonable protection of the insurer's policyholders in this state. In the event of such a finding, the insurer shall maintain unearned premium reserves upon such business thereafter written in an amount not less than the reserves required on its business in this state.

(3) A separate and distinct fund, known as the Title Insurance Unearned Premium Reserve Fund, shall be maintained by each title insurer in its treasury, as additional security to holders of its title insurance policies. The amount of the fund shall at least equal the amount of the unearned premium reserve liability determined in accordance with subsection (2) of this section. This fund shall be in addition to the insurer's deposit with the State Treasurer and deposits required to be maintained with officials of other jurisdictions. The fund, to the extent of the unearned premium reserve on business in this state, shall be invested as provided for funds of a domestic insurer, except that ORS 733.630, 733.670 and 733.690 shall not be applicable to investment of the fund. The remainder of the fund may be similarly invested, or may be invested as permitted by the laws of the insurer's domicile. The insurer shall keep a separate record of the cash and investments of the fund, giving complete identification of the assets belonging to the fund and showing full particulars as to withdrawals and additions. No title insurance policies shall be issued by an insurer during a period when its unearned premium reserve fund is below the required amount. [1967 c.359 §216]

733.095 Unearned premium reserve for home protection insurance. A home pro-

tection insurer shall maintain a reserve for unearned premiums, unpaid losses and claims incurred whether reported or unreported to the insurer and the expenses of adjustment or settlement of such losses and claims, in an aggregate amount of not less than 40 percent of the aggregate of premiums charged on the insurer's policies currently in force. [1981 c.247 §11]

733.100 Contingency reserve liability for mortgage insurance. A mortgage insurer shall establish a contingency reserve liability for the protection of policyholders against the effect of adverse economic cycles. The contingency reserve shall be maintained out of net premiums received (gross premiums less premiums returned to policyholders) less the unearned premium reserve applicable thereto. The amount of the contingency reserve shall equal 50 percent of all such net earned premiums on policies of mortgage insurance issued by the insurer during the preceding 10 years. [1967 c. 359 §217; 1969 c.692 §7]

733.110 [1967 c.359 §218; 1977 c.320 §9; 1981 c.609 §3; repealed by 1991 c.401 §30]

733.115 Establishing reserves for variable life insurance and annuity policies. Reserves for variable life insurance and annuity policies shall be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided, any mortality guarantees, and the valuation requirements of the Standard Valuation Law. [1973 c.435 §24; 1981 c.609 §4]

733.120 [Formerly 739.030; 1977 c.320 §10; 1981 c.609 §5; repealed by 1991 c.401 §30]

733.123 [Formerly 733.130; repealed by 1991 c.401 §30]

733.125 [1981 c.609 §2; repealed by 1991 c.401 §30]

733.127 [1981 c.609 §7; repealed by 1991 c.401 §30]

733.129 [1981 c.609 §9; repealed by 1991 c.401 §30]

733.130 [Formerly 739.035; 1969 c.431 §1; 1973 c.636 §1; 1977 c.320 §11; 1981 c.609 §6; renumbered 733.123]

733.132 [1973 c.636 §3; 1977 c.320 §12; 1981 c.609 §8; repealed by 1991 c.401 §30]

733.134 [1973 c.636 §4; 1981 c.609 §10; repealed by 1991 c.401 §30]

733.136 [1973 c.636 §5; 1981 c.609 §11; repealed by 1991 c.401 §30]

733.140 Disallowance of "wash" transactions. (1) The director shall disallow as an asset or as a credit against liabilities any reinsurance found by the director after a hearing thereon to have been arranged for the purpose principally of deception as to the ceding insurer's financial condition as of the date of any financial statement of the insurer. Without limiting the general purport of the foregoing provision, reinsurance of any substantial part of the insurer's outstanding risks contracted for in fact within four months prior to the date of any such financial statement and canceled in fact within four months after the date of such statement, or reinsurance under which the reinsurer bears no substantial insurance risk or substantial risk of net loss to itself, shall prima facie be deemed to have been arranged for the purpose principally of deception.

(2) The director shall disallow as an asset any deposit, funds or other assets of the insurer found by the director after a hearing thereon:

(a) Not to be in good faith the property of the insurer, and

(b) Not freely subject to withdrawal or liquidation by the insurer at any time for the payment or discharge of claims or other obligations arising under its policies, and

(c) To be resulting from arrangements made principally for the purpose of deception as to the insurer's financial condition as of the date of any financial statement of the insurer. [1967 c.359 §221]

733.150 Alternative accounting for assets and liabilities. Assets may be allowed as deductions from corresponding liabilities, liabilities may be charged as deductions from assets, deductions from assets may be charged as liabilities, and deductions from liabilities may be allowed as assets, in accordance with the form of annual statement prescribed by the director, or otherwise in the discretion of the director. [1967 c.359 §222]

733.160 Valuation of assets other than securities. (1) Each bond or other evidence of debt having a fixed term and rate of interest may be valued as follows, if amply secured and not in default as to principal or interest:

(a) If purchased at par, at the par value.

(b) If purchased above or below par, according to either of the following methods:

(A) On the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made; or

(B) According to an accepted method of valuation approved by the director.

(2) For the purpose of subsection (1) of this section, the purchase price shall not be a higher amount than the actual market value at the time of purchase, plus actual brokerage, transfer, postage or express charges paid in the acquisition of such bond or other evidence of debt.

(3) For purposes of subsections (1) and (2) of this section, the director may determine the method of calculating values. The method or valuation may not be inconsistent with any applicable method or valuation used by

insurers in general or any such method or valuation then currently formulated or approved by the National Association of Insurance Commissioners or its successor organization.

(4) Real property shall be valued as follows:

(a) Real property acquired pursuant to a mortgage loan or contract of sale shall be valued at an amount not greater than the unpaid principal of the defaulted loan or contract at the date of such acquisition, together with any taxes and expenses paid or incurred in connection with such acquisition, and the cost of improvements thereafter made by the insurer and any amounts thereafter paid by the insurer on assessments levied for improvements in connection with the property.

(b) Other real property held by an insurer shall be valued at an amount not in excess of the cost of the acquired property and the cost of improvements thereafter made by the insurer, less a reasonable allowance for depreciation.

(5) Purchase money mortgages on real property referred to in subsection (4)(a) of this section shall be valued in an amount not exceeding the acquisition cost of the real property covered thereby or 90 percent of the fair value of such real property, whichever is less.

(6) Other assets, other than securities, shall be valued at cost of acquisition less any repaid portion thereof, unless the director determines that another value is proper. [1967 c.359 §223; 1971 c.231 §19; 1993 c.447 §16]

733.165 Valuation of securities. (1) Securities held by an insurer, other than bonds or other evidences of debt to which ORS 733.160 applies, must be valued in the discretion of the director at their market value, at their appraised value or at prices determined by the director as representing their fair market value.

(2) Preferred or guaranteed stocks or shares while paying full dividends may be carried at a fixed value instead of market value, at the discretion of the director and in accordance with any method of valuation approved by the director.

(3) Stock of a subsidiary corporation of an insurer must not be valued at an amount in excess of the net value thereof as based upon the assets only of the subsidiary that would be eligible under ORS 733.630 and 733.635 for investment of the funds of the insurer directly.

(4) The director may determine the method of calculating values as provided in this section, but the method or valuation may not be inconsistent with any applicable method or valuation used by insurers in general or any such method of valuation then currently formulated or approved by the National Association of Insurance Commissioners or its successor organization. [1993 c.447 §18]

733.170 Accounts and records. An insurer shall keep its books, records, accounts and transaction source data in such manner that the director may readily verify its statements of financial condition and ascertain whether the insurer is unimpaired, has given proper treatment to policyholders and has complied with the Insurance Code. [Formerly 738.430]

733.180 [Formerly 739.075; repealed by 1973 c.435 §27]

733.190 [Formerly 739.080; repealed by 1973 c.435 §27]

733.200 [Formerly 739.085; repealed by 1973 c.435 §27]

733.210 Director's determinations. (1) In making any determination or prescribing rules relating to items such as are reported in the form of annual statement and any supplement thereto required to be filed by an insurer, the director shall give consideration to recommendations made from time to time by the National Association of Insurance Commissioners, and to customary and general practice in insurance accounting.

(2) The director may apply and may require insurers to use and comply with standards, practices and procedures established by the National Association of Insurance Commissioners in its manuals or other publications, including actuarial, accounting and other opinion and reporting requirements. [1967 c.359 §228; 1993 c.447 §20]

733.220 Establishment and regulation of separate accounts to fund life insurance or annuities. (1) A domestic insurer authorized to transact life insurance may establish one or more separate accounts and may allocate thereto amounts, including but not limited to proceeds applied under optional modes of settlement or under dividend options, to provide for life insurance or annuities or benefits incidental thereto, payable in fixed or variable amounts or both.

(2) The income, gains and losses, realized or unrealized, from assets allocated to a separate account shall be credited to or charged against the account without regard to other income, gains and losses of the insurer.

(3) Except with the approval of the director, and under the conditions the director may prescribe as to investments and other matters that shall recognize the guaranteed nature of the benefits, assets representing reserves for benefits guaranteed as to dollar amount and duration, and for funds guaran-

teed as to principal amount or stated rate of interest, shall not be maintained in a separate account.

(4) Unless otherwise approved by the director, and notwithstanding ORS 733.160 or 733.165, assets allocated to a separate account shall be valued at their market value on the date of valuation. If there is no readily available market, they shall be valued as provided under the terms of the policy, the rules or other written agreement applicable to the separate account. Except as may be otherwise prescribed by the director under subsection (3) of this section, however, the portion if any of the assets of a separate account equal to the insurer's reserves for guaranteed benefits and funds shall be valued in accordance with the rules applicable to the insurer's general assets.

(5) Amounts allocated to a separate account in the exercise of the power granted by this section are owned by the insurer, and the insurer is not, nor shall it hold itself out to be, a trustee with respect to such amounts. If, and to the extent, it is so provided under the applicable policies, the portion of the assets of a separate account which equals the reserves and other policy liabilities for such account shall not be chargeable with liabilities arising out of any other business the insurer conducts.

(6) No sale, exchange or other transfer of assets may be made by an insurer between any of its separate accounts or between any other investment account and one or more of its separate accounts unless:

(a) In the case of a transfer into a separate account, the transfer is made solely to establish the account or to support the operation of the policies applicable to the account;

(b) In the case of other transfers, the director has approved the transfer as being equitable; and

(c) The transfer is made in the form of cash or, with the approval of the director, securities having a readily determinable market value.

(7) The same separate account may not be used for both variable annuities and variable life insurance.

(8) The insurer shall maintain in each separate account assets with a value at least equal to the reserves and other policy liabilities for such account. [1973 c.435 §6; 1993 c.447 §112]

733.230 Transactions of separate accounts registered with Securities and Exchange Commission; application of laws and rules to members of separate account management committee. (1) Notwithstanding any other provisions of law a domestic insurer may:

(a) With respect to a separate account registered with the federal Securities and Exchange Commission as a unit investment trust, exercise voting rights, in connection with any securities of a regulated investment company registered under the Federal Investment Company Act of 1940 and held in such account, in accordance with instructions from persons having interests in such account, ratably as determined by the insurer; and

(b) With respect to a separate account registered with the federal Securities and Exchange Commission as a management investment company, establish for such account a committee, board, or other body, the members of which need not be otherwise affiliated with the insurer and may be elected by the vote of persons having interests in such account, ratably as determined by the insurer. Such committee, board or other body may have the power, exercisable alone or in conjunction with others, to manage the separate account and the investment of its assets.

(2) The insurer or such committee, board or other body may make such other provisions in respect to the separate account as may be considered necessary to comply with any applicable federal or state laws, if the director approves such provisions as not being hazardous to the insurer's policyholders or the public in this state.

(3) Any provision of the Insurance Code or rule of the director applicable to the officers or directors of an insurer and relating to conflicts of interest will also apply to members of a separate account's committee, board or other similar body. No officer or director of an insurer nor any member of the committee, board or body of a separate account shall receive directly or indirectly any commission or any other compensation with respect to the purchase or sale of assets of the separate account. [1973 c.435 §7]

STANDARD VALUATION LAW

733.300 Short title. ORS 733.300 to 733.322 may be cited as the Standard Valuation Law. [1991 c.401 §17]

733.302 Reserve valuation method for life insurance policies and annuity and pure endowment contracts. (1) The director shall annually value, or cause to be valued, the reserve liabilities for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer doing business in this state, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of

interest, and methods, net level premium method or other, used in the calculations of such reserves. For purposes of ORS 733.300 to 733.322, reserve liabilities shall be referred to as reserves.

(2) In calculating reserves, the director may use group methods and approximate averages for fractions of a year or otherwise.

(3) In lieu of the valuation of the reserves required of any foreign or alien insurer under the Standard Valuation Law, the director may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when the valuation complies with the minimum standard provided under the Standard Valuation Law and if the official of the state or jurisdiction accepts as sufficient and for all valid legal purposes the certificate of valuation of the director when the certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction. [1991 c.401 §18]

733.304 Opinion of actuary; rules. (1) Each insurer transacting life insurance in this state shall submit annually to the director the opinion of a qualified actuary as provided in this section. The following provisions apply with respect to opinions required under this subsection:

(a) The opinion must state whether, in the opinion of the qualified actuary, the reserves and related actuarial items held in support of the policies and contracts specified by the director by rule are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of this state. The director by rule shall establish the specific requirements for the opinion and may require any other items that the director determines to be necessary to its scope.

(b) The opinion shall be submitted with the annual statement reflecting the valuation of the reserve liabilities for each year.

(c) The opinion shall apply to all business in force, including individual and group health insurance plans, in form and substance acceptable to the director as specified by rule.

(d) The director by rule:

(A) Shall adopt standards on which actuarial opinions under this subsection must be based. In adopting the standards, the director shall consider standards established from time to time by the Actuarial Standards Board of the American Academy of Actuaries.

(B) Shall define "qualified actuary" for purposes of this subsection, by establishing qualifications required of an actuary for the purpose of giving the opinions. In establishing the definition, the director shall consider standards established from time to time by the American Academy of Actuaries.

(C) May also adopt any other rules needed for carrying out this subsection.

(e) In the case of an opinion required to be submitted by a foreign or alien insurer, the director may accept the opinion filed by the insurer with the insurance supervisory official of another state if the director determines that the opinion reasonably meets the requirements applicable to a domestic insurer.

(f) Except in cases of fraud or willful misconduct, a qualified actuary shall not be liable for damages to any person other than the insurer or the director for any act, error, omission, decision or conduct with respect to the actuary's opinion.

(g) For each opinion submitted under this subsection, a memorandum shall be prepared supporting the opinion. The memorandum must conform in form and substance to requirements established by the director by rule.

(h) If an insurer fails to provide a supporting memorandum within the period specified by rule or if the director determines that the supporting memorandum provided by the insurer fails to meet the standards prescribed by rule or is otherwise unacceptable to the director, the director may engage a qualified actuary at the expense of the insurer to review the opinion and the basis for the opinion and prepare any supporting memorandum that is required by the director.

(i) A memorandum in support of an actuarial opinion under this subsection and any other material provided to the director in connection therewith shall be confidential and shall not be disclosed except as considered necessary by the director in the administration of the Insurance Code. Such a memorandum and such material also shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section or by rules adopted under this section. Once any portion of the confidential memorandum is cited by the insurer in its marketing or is cited before any governmental agency other than a state insurance department or is released by the insurer to the news media, all portions of the confidential memorandum shall be no longer confidential. A memorandum or other mate-

rial may otherwise be released by the director:

(A) With the written consent of the insurer; or

(B) To the American Academy of Actuaries upon request thereof, when the request states that the memorandum or other material is required for the purpose of professional disciplinary proceedings and sets forth procedures satisfactory to the director for preserving the confidentiality of the memorandum or other material.

(j) Grounds for disciplinary action by the director against the insurer or the qualified actuary shall be defined by rule.

(2) Unless exempted by the director by rule, each insurer transacting life insurance in this state shall include in each opinion required by subsection (1) of this section an opinion by the same actuary who prepared the opinion required by subsection (1) of this section. The following provisions apply with respect to the opinion:

(a) The actuary shall state the actuary's opinion as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the director by rule, when considered in light of the assets held by the insurer with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the insurer's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

(b) The director may provide by rule for a transition period for establishing any higher reserves that the actuary may deem necessary in order to render the opinion required under this subsection. [1991 c.401 §19]

733.306 Computation of minimum standards for life insurance, industrial insurance, annuities and pure endowment contracts. Except as otherwise provided in ORS 733.308 and 733.310, the minimum standard for the valuation of all outstanding life insurance policies and annuity and pure endowment contracts issued prior to the operative date stated in ORS 743.204 for the Standard Nonforfeiture Law for Life Insurance shall be that provided by the laws of this state in effect immediately prior to that operative date. Except as otherwise provided in ORS 733.308 and 733.310, the minimum standard for the valuation of all such policies and contracts issued on or after the operative date stated in ORS 743.204 for the Standard Nonforfeiture Law for Life Insurance shall be the commissioners reserve valuation methods defined in ORS 733.312, 733.314 and 733.320, three and one-half percent interest, or in the case of life insurance policies and contracts, other than annuity and pure endowment contracts, issued on or after January 1, 1974, four percent interest for such policies issued prior to January 1, 1978, five and one-half percent interest for single premium life insurance policies and four and one-half percent interest for all other such policies issued on and after January 1, 1978, and the following tables:

(1) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies:

(a) The Commissioners 1941 Standard Ordinary Mortality Table for such policies issued prior to the operative date stated in ORS 743.216 (5) for the Standard Nonforfeiture Law for Life Insurance;

(b) The Commissioners 1958 Standard Ordinary Mortality Table for such policies issued on or after the operative date stated in ORS 743.216 (5) for the Standard Nonforfeiture Law for Life Insurance and prior to the operative date stated in ORS 743.215 for the Standard Nonforfeiture Law for Life Insurance, except that for any category of such policies issued on female risks, all modified net premiums and present values referred to in ORS 733.300 to 733.322 may be calculated according to an age not more than six years younger than the actual age of the insured; and

(c) For such policies issued on or after the operative date stated in ORS 743.215 for the Standard Nonforfeiture Law for Life Insurance:

(A) The Commissioners 1980 Standard Ordinary Mortality Table;

(B) At the election of the insurer for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors; or

(C) Any ordinary mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by rule adopted by the director for use in determining the minimum standard of valuation for such policies.

(2) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies:

(a) The 1941 Standard Industrial Mortality Table for such policies issued prior to the operative date defined in ORS 743.216 (7) of the Standard Nonforfeiture Law for Life Insurance; and

(b) For such policies issued on or after such operative date, the Commissioners 1961 Standard Industrial Mortality Table or any industrial mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by rule adopted by the director for use in determining the minimum standard of valuation for such policies.

(3) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies:

(a) The 1937 Standard Annuity Mortality Table;

(b) At the option of the insurer, the Annuity Mortality Table for 1949, Ultimate; or

(c) Any modification of either table referred to in paragraph (a) or (b) of this subsection that is approved by the director.

(4) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies:

(a) The Group Annuity Mortality Table for 1951;

(b) Any modification of the table referred to in paragraph (a) of this subsection that is approved by the director; or

(c) At the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(5)(a) For total and permanent disability benefits in or supplementary to ordinary policies or contracts:

(A) For policies or contracts issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit or any tables of disablement rates and termination rates adopted after 1980 by the National Association of Insurance Commissioners, that are approved by rule adopted by the director for use in determining the minimum standard of valuation for such policies;

(B) For policies or contracts issued on or after January 1, 1961 and prior to January 1, 1966, either the tables referred to in subparagraph (A) of this paragraph or, at the option of the insurer, the Class (3) Disability Table (1926); and

(C) For policies issued prior to January 1, 1961 the Class (3) Disability Table (1926).

(b) Any table referred to in paragraph (a) of this subsection shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(6) For accidental death benefits in or supplementary to policies:

(a) For policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table or any accidental death benefits table adopted after 1980 by the National Association of Insurance Commissioners, that is approved by rule adopted by the director for use in determining the minimum standard of valuation for such policies.

(b) For policies issued on or after January 1, 1961, and prior to January 1, 1966, either the table referred to in paragraph (a) of this subsection or, at the option of the insurer, the Inter-Company Double Indemnity Mortality Table.

(c) For policies issued prior to January 1, 1961, the Inter-Company Double Indemnity Mortality Table.

(7) The table used under subsection (6)(a), (b) or (c) of this section shall be combined with a mortality table for calculating the reserves for life insurance policies.

(8) For group life insurance, life insurance issued on the substandard basis and other special benefits, an insurer may use tables therefor that are approved by the director. [1991 c.401 §20]

733.308 Computation of minimum standard for annuities and pure endowment contracts. Except as provided in ORS 733.310, the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after January 1, 1979, and for all annuities and pure endowments purchased on or after January 1, 1979, under group annuity and pure endowment contracts, shall be the commissioner's reserve valuation methods defined in ORS 733.312 and 733.314 and the following tables and interest rates:

(1) For individual annuity and pure endowment contracts issued prior to January 1, 1979, excluding any disability and accidental death benefit in such contracts, the 1971 Individual Annuity Mortality Table, or any modification of that table approved by the director, and six percent interest for single premium immediate annuity contracts, and four percent interest for all other individual annuity and pure endowment contracts.

(2) For individual single premium immediate annuity contracts issued on or after January 1, 1979, excluding any disability and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table or any individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners that is approved by rule adopted by the director for use in determining the minimum standard of

valuation for such contracts, or any modification of these tables approved by the director, and seven and one-half percent interest.

(3) For individual annuity and pure endowment contracts issued on or after January 1, 1979, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table or any individual annuity mortality table adopted after 1980 by the National Association of Insurance Commissioners that is approved by rule adopted by the director for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the director, and five and one-half percent interest for single premium deferred annuity and pure endowment contracts and four and one-half percent interest for all other such individual annuity and pure endowment contracts.

(4) For all annuities and pure endowments purchased prior to January 1, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 Group Annuity Mortality Table or any modification of this table approved by the director, and six percent interest.

(5) For all annuities and pure endowments purchased on or after January 1, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 Group Annuity Mortality Table, or any group annuity mortality table adopted after 1980 by the National Association of Insurance Commissioners, that is approved by the director by rule for use in determining the minimum standard of valuation for such annuities and pure endowments, or any modification of these tables approved by the director, and seven and one-half percent interest. [1991 c.401 §21]

733.310 Interest rates for determining minimum standard for valuation. (1) The interest rates used in determining the minimum standard for the valuation of the following shall be the calendar year statutory valuation interest rates as defined in this section:

(a) All life insurance policies issued in a particular calendar year, on or after the operative date stated in ORS 743.215 for the Standard Nonforfeiture Law for Life Insurance;

(b) All individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1982;

(c) All annuities and pure endowments purchased in a particular calendar year on or after January 1, 1982, under group annuity and pure endowment contracts; and

(d) The net increase, if any, in a particular calendar year after January 1, 1982, in amounts held under guaranteed interest contracts.

(2) Calendar year statutory valuation interest rates shall be established as follows:

(a) Except as provided in paragraph (b) of this subsection, the calendar year statutory valuation interest rates, "I", shall be determined as follows and the results rounded to the nearer one-quarter of one percent:

(A) For life insurance:

$$I=.03+W(R1-.03)+W/2(R2-.09)$$

(B) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options,

$$I=.03+W(R-.03)$$

where R1 is the lesser of R and .09, R2 is the greater of R and .09, R is the reference interest rate defined in this section and W is the weighting factor defined in this section.

(C) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in subparagraph (B) of this paragraph, the formula for life insurance stated in subparagraph (A) of this paragraph shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of 10 years and the formula for single premium immediate annuities stated in subparagraph (B) of this paragraph shall apply to annuities and guaranteed interest contracts with guarantee duration of 10 years or less.

(D) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in subparagraph (B) of this paragraph shall apply.

(E) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in subparagraph (B) of this paragraph shall apply.

(b) If the calendar year statutory valuation interest rate for any life insurance

policies issued in any calendar year determined without reference to this paragraph differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of one percent, the calendar year statutory valuation interest rate for such life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying this paragraph, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980, using the reference interest rate defined in 1979, and shall be determined for each subsequent calendar year regardless of the operative date of ORS 743.215 as part of the Standard Nonforfeiture Law for Life Insurance.

(3) Weighting factors shall be as follows:

(a) The weighting factors referred to in the formulas stated in subsection (2) of this section are given in the following tables:

(A) Weighting Factors for Life Insurance:

Guarantee Duration (Years)	Weighting Factors
10 or less	.50
More than 10, but less than 20	.45
More than 20	.35

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both that are guaranteed in the original policy.

(B) Weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options is .80.

(C) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in subparagraph (B) of this paragraph, shall be as specified in the following tables (i), (ii) and (iii), according to the rules and definitions in the following tables (iv), (v) and (vi):

(i) For annuities and guaranteed interest contracts valued on an issue year basis:

Guarantee Duration (Years)	Weighting Factor for Plan Type A	B	C
5 or less:	.80	.60	.50
More than 5, but not more than 10:	.75	.60	.50
More than 10, but not more than 20:	.65	.50	.45
More than 20:	.45	.35	.35

(ii) For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in table (i) above increased by:

Plan Type A	B	C
.15	.25	.05

(iii) For annuities and guaranteed interest contracts valued on an issue year basis, other than those with no cash settlement options, that do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis that do not guarantee interest rates on considerations received more than 12 months beyond the valuation date, the factors shown in (i) or derived in (ii) increased by:

Plan Type A	B	C
.05	.05	.05

(iv) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guaranteed duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of 20 years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guaranteed duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(v) Plan type as used in the tables in this subsection is defined as follows:

Plan Type A: At any time the policyholder: (1) may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer; or (2) may withdraw funds without such adjustment but only in installments over five years or more; or (3) may withdraw funds only as an immediate life annuity; or (4) is not permitted to make a withdrawal.

Plan Type B: Before expiration of the interest rate guarantee, the policyholder: (1) may withdraw funds only with adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer; or (2) may withdraw funds without such adjustment but only in installments over five years or more; or (3) is not permitted to make a withdrawal. At the end of interest rate guarantee, funds may be withdrawn without such adjustment

in a single sum or installments over a period of less than five years.

Plan Type C: Policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than five years either: (1) without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer; or (2) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

(b) An insurer may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis. As used in this paragraph, an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

(4) The reference interest rate referred to in subsection (2) of this section is defined as follows:

(a) For all life insurance, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year next preceding the year of issue, of the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.

(b) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or year of purchase of the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.

(c) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in paragraph (b) of this subsection, with guarantee duration in excess of 10 years, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.

(d) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in paragraph (b) of this subsection, with guarantee duration of 10 years or less, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.

(e) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.

(f) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in paragraph (b) of this subsection, the average over a period of 12 months, ending on June 30 of the calendar year of the change in the fund, of the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.

(5) In the event that the Monthly Average of the Composite Yield on Seasoned Corporate Bonds is no longer published by Moody's Investors Service, Inc. or in the event that the National Association of Insurance Commissioners determines that the Monthly Average of the Composite Yield on Seasoned Corporate Bonds as published by Moody's Investors Service, Inc. is no longer appropriate for the determination of the reference interest rate, the director by rule may adopt an alternative method for determination of the reference interest rate. The director shall consider the alternative method adopted by the National Association of Insurance Commissioners. An insurer may substitute the alternative method adopted by rule. [1991 c.401 §22]

733.312 Amount of required reserves for life insurance policies. (1) Except as otherwise provided in ORS 733.314 and 733.320, reserves according to the commissioners reserve valuation method for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of the future guaranteed benefits provided for by the policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be the uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of A over B, as follows:

(a) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due, except that the net level annual premium shall not exceed the net level annual premium on the 19 year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.

(b) A net one year term premium for such benefits provided for in the first policy year.

(2) For any life insurance policy issued on or after January 1, 1986, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for the excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than the excess premium, the reserve according to the commissioners reserve valuation method as of any policy anniversary occurring on or before the assumed ending date, which is defined as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium, shall, except as otherwise provided in ORS 733.320, be the greater of the reserve as of the policy anniversary calculated as described in subsection (1) of this section and the reserve as of the policy anniversary calculated as described in subsection (1) of this section, but with (i) the value defined in subsection (1)(a) of this section being reduced by 15 percent of the amount of the excess first year premium, (ii) all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date, (iii) the policy being assumed to mature on such date as an endowment, and (iv) the cash surrender value provided on such date being considered as an endowment benefit. The mortality and interest bases stated in ORS 733.306 and 733.310 shall be used for the purpose of making the comparison.

(3) Reserves according to the commissioners reserve valuation method shall be calculated by a method consistent with subsections (1) and (2) of this section for:

(a) Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums;

(b) Group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended;

(c) Disability and accidental death benefits in all policies and contracts; and

(d) All other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts. [1991 c.401 §23]

733.314 Amount of required reserves for certain annuity and pure endowment contracts. (1) This section applies to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended.

(2) Reserves according to the commissioners annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future

valuation considerations derived from future gross considerations, required by the terms of such contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values. [1991 c.401 §24]

733.316 Aggregate reserves. (1) The aggregate reserves of an insurer for all life insurance policies, excluding disability and accidental death benefits, issued on or after the operative date stated in ORS 743.204 for the Standard Nonforfeiture Law for Life Insurance, shall not be less than the aggregate reserves calculated in accordance with the methods set forth in ORS 733.312, 733.314, 733.320 and 733.322 and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(2) The aggregate reserves of an insurer for all policies, contracts and benefits shall not be less than the aggregate reserves determined by the qualified actuary to be necessary to render the opinion required by ORS 733.304. [1991 c.401 §25]

733.318 Alternative standards of valuation. (1) Reserves for all policies and contracts issued prior to the operative date stated in ORS 743.204 for the Standard Nonforfeiture Law for Life Insurance may be calculated, at the option of the insurer, according to any standards that produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to the operative date.

(2) Reserves for any category of policies, contracts or benefits as established by the director, issued on or after the operative date stated in ORS 743.204 for the Standard Nonforfeiture Law for Life Insurance, may be calculated, at the option of the insurer, according to any standards that produce greater aggregate reserves for the category than those calculated according to the minimum standard provided in ORS 733.300 to 733.322, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided in the policies or contracts.

(3) An insurer that at any time has adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard provided in ORS 733.300 to 733.322 may, with the approval of the director, adopt any lower standard of valuation. The standard shall not be lower than the minimum provided in ORS 733.300 to 733.322, except that for the purposes of this subsection, the holding of additional reserves previously determined by a qualified actuary to be necessary to render the opinion required by ORS 733.304 shall not be deemed to be the adoption of such a higher standard of valuation. [1991 c.401 §26]

733.320 Minimum required reserve for certain policies. (1) Except as provided in subsection (2) of this section, if in any contract year the gross premium charged by an insurer on any life insurance policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for the policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for the policy or contract, or the reserve calculated by the method actually used for the policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this subsection are the standards stated in ORS 733.306 and 733.310.

(2) For any life insurance policy issued on or after January 1, 1986, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for the excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than the excess premium, subsection (1) of this section shall apply as if the method actually used in calculating the reserve for the policy were the method described in ORS 733.312 (1). The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with ORS 733.312, and the minimum reserve calculated in accordance with this section. [1991 c.401 §27]

733.322 Calculation of reserves for plans for which minimum reserves cannot be determined under ORS 733.312, 733.314 or 733.320. (1) For any plan of life insurance that provides for future premium determination, the amounts of which are to be determined by the insurer based on then

estimates of future experience, or in the case of any plan of life insurance or annuity that is of such a nature that the minimum reserves cannot be determined by the methods described in ORS 733.312, 733.314 and 733.320, the reserves held under any such plan must:

(a) Be appropriate in relation to the benefits and the pattern of premiums for that plan; and

(b) Be computed by a method that is consistent with the principles of ORS 733.300 to 733.322, as determined by rules adopted by the director.

(2) Any policy, contract or certificate providing life insurance under a plan referred to in subsection (1) of this section must be reviewed and specifically approved by the director before it can be marketed, issued, delivered or used in this state. [1991 c.401 §28]

INVESTMENTS

733.510 Investments of insurers; rules. (1) Funds of a domestic insurer shall be invested, reinvested and used in the manner and subject to the conditions, restrictions and limitations set forth in ORS 733.510 to 733.780.

(2) Investments of a foreign or alien insurer which would be authorized for a like domestic insurer shall be allowed as assets in any determination of its financial condition. Other investments of a foreign or alien insurer which are authorized by the laws of its domicile may be so allowed at the discretion of the director.

(3) The director may adopt rules establishing standards and limitations for investments by insurers that are not otherwise specifically permitted or prohibited by ORS 733.510 to 733.780.

(4) The investment program of an insurer must take into account the safety of the principal of the insurer, investment yield and return, stability in the value of the investment, liquidity necessary for expected business needs of the insurer and investment diversification according to standards established by rule. The director may direct an insurer to take action to conform to the requirements of this subsection. [Formerly 738.235; 1989 c.425 §2; 1993 c.447 §21]

733.520 Current operating requirements exempted. Funds of an insurer necessary to satisfy normal current operating requirements are not subject to ORS 733.510 to 733.780. Normal current operating requirements include, but are not limited to, the acquisition of personal property necessary or convenient in the operation of the insurer's business. [1967 c.359 §230]

733.530 "Corporation," "sovereign," "political subdivision" defined. As used in ORS 733.510 to 733.780:

(1) "Corporation" means a corporation, joint stock association or business trust organized and existing under the laws of a sovereign.

(2) "Sovereign" means the United States, or a state, or Canada or a province thereof.

(3) "Political subdivision" means an incorporated county, city, town, village, municipality, or subdivision thereof, or a public corporation, district, agency, commission, authority or instrumentality, or subdivision thereof. [1967 c.359 §231]

733.540 "Obligation" defined. As used in ORS 733.510 to 733.780, "obligation" means a bond, debenture, note, warrant, certificate or other evidence of indebtedness. [1967 c.359 §232]

733.550 "Amply secured obligation" defined. As used in ORS 733.510 to 733.780, "amply secured obligation" means an obligation which is not in default and as to which no default is imminent, and which satisfies the requirements of one or more of the following subsections:

(1) An obligation of a sovereign or political subdivision thereof, if it is issued, assumed or guaranteed by the governmental unit involved and is payable either from:

(a) Taxes levied or which may be levied by such governmental unit; or

(b) Adequate special revenues pledged or otherwise appropriated or required by law to be used for the purpose of such payment, provided the law authorizing the issuance of the obligation requires that adequate rates be fixed, maintained and collected at all times so as to produce sufficient revenue or earnings to pay all operating expenses, maintenance charges, and the principal, interest and dividends on the obligation. An obligation payable solely out of special assessments on real property benefited by local improvements shall not be considered amply secured unless the total amount so payable is less than 50 percent of the market value of the real property (including any improvements thereon) and constitutes a lien on such property.

(2) An obligation issued, assumed or guaranteed by a corporation, if the corporation is solvent, has not been in default on any of its obligations during the preceding three years, and if the obligation is secured by the pledge of property the market value of which exceeds the amount of the obligation by 25 percent or more. Obligations which are the subject of ORS 733.580 and

733.600 are not included within the provisions of this subsection.

(3) An obligation found to be amply secured under regulations duly promulgated by the director. In making such regulations the director shall give consideration to regulations pertaining to amply secured obligations issued from time to time by the National Association of Insurance Commissioners, and shall consider the financial condition of the issuing, assuming or guaranteeing corporation as well as the existence or absence of any pledge of property as security. [1967 c.359 §233]

733.560 "Unencumbered" defined. As used in ORS 733.510 to 733.780, "unencumbered" means the nonexistence of any lien, burden or charge having priority over the lien securing the insurer's investment. The following shall not be considered encumbrances on real property or leasehold interests therein:

(1) Reservations of mineral, oil or timber rights, easements, rights of way, sewer rights or rights of walls.

(2) Liens for taxes or assessments not delinquent.

(3) Building restrictions or other restrictive covenants common to the community.

(4) Where the loan is secured by a lien upon real property, a lease under which rents or profits are reserved to the owner, if in any event the security for the loan would be a first lien upon the real property except for such lease.

(5) Where the loan is secured by a lien on a leasehold, a prior lien on the real property, provided the security for the loan is a first lien upon the leasehold and there exists no provision preventing the insurer from continuing the lease in force for the duration of the lease or no condition or rights of reentry or forfeiture under which such lien can be cut off, subordinated or otherwise disturbed so long as the lessee's obligations under the lease are discharged. [1967 c.359 §234]

733.570 "Improved real property" defined. As used in ORS 733.510 to 733.780, "improved real property" means:

(1) Farmland used for tillage, crop or pasture;

(2) Real estate on which permanent improvements, or improvements under construction or in process of construction, suitable for residence, institutional, commercial or industrial use, are situated; and

(3) Real estate to be developed for the use or uses set forth in subsection (2) of this section on which improvements, or improvements under construction or in process of construction, such as streets, sidewalks, sewers and utilities which will become an integral part of such development, are situated. [1967 c.359 §235; 1989 c.425 §3]

733.575 Prohibited use of funds as compensating balances. Except as provided in ORS 733.578, funds of an insurer shall not be used as compensating balances for loans to other persons, or otherwise pledged for the benefit of other persons. [1975 c.232 §2]

733.578 Conditions necessary for investments used to provide compensating balances. Investments of an insurer of the kind described in ORS 733.650 (4) that are made for the purpose of providing compensating balances for other persons will not be prohibited by ORS 733.575 or 733.780 while the following conditions are met:

(1) The investment is made in the name of and remains the sole property of the insurer;

(2) The investment is not subject to appropriation in any manner by any person, including the person for whom the compensating balance is being provided, the institution in which the deposit is made and other creditors of such persons;

(3) The insurer holds an irrevocable written waiver from the depositary institution, in a form satisfactory to the director, waiving all right, title and interest in or to any set-off, banker's or similar lien or other security interest in such investment or any funds represented thereby;

(4) The investment is unrestricted as to right of withdrawal except for such restrictions as may be usual and customary for such investments under ORS 733.650 (4) when no compensating balance is involved; and

(5) The insurer is receiving a reasonable fee, taking into consideration its return on other funds, for providing the compensating balance involved. [1975 c.232 §3]

733.580 Investment of required capitalization. (1) Funds of an insurer at least equal to its required capitalization shall be invested and kept invested as follows:

(a) In amply secured obligations of the United States, a state or a political subdivision of this state.

(b) In loans secured by first liens upon improved, unencumbered real property (other than leaseholds) in this state where:

(A) The lien does not exceed 50 percent of the appraised value of the property and the loan is for a term of five years or less;

(B) The lien does not exceed 66-2/3 percent of the appraised value of the property provided there is an amortization plan mortgage, deed of trust or other instrument under

the terms of which the installment payments are sufficient to repay the loan within a period of not more than 25 years; or

(C) The investment is insured or guaranteed by the Federal Housing Administration, the United States Department of Veterans' Affairs, or under Title I of the Housing Act of 1949 (providing for slum clearance and redevelopment projects) enacted by Congress on July 15, 1949.

(c) In certificates of deposit or other investments described in ORS 733.650 (4), to the extent such investments are insured by the Federal Deposit Insurance Corporation.

(2) Investments made pursuant to this section shall be kept free of any lien or pledge. The term "lien or pledge" as used in this section shall not include a deposit of securities with a sovereign, nor assets held in trust for the benefit or protection of all or any class of policyholders of an insurer. [Formerly 738.238; 1991 c.67 §195; 1993 c.447 §113]

733.590 Investment in obligations of sovereign, political subdivision thereof or corporation. Funds of an insurer may be invested in amply secured obligations of a sovereign, political subdivision thereof or corporation. Expressly included, but not by way of limitation, are obligations of the following federal agencies and authorities: Federal Home Loan Banks, Federal Land Banks, Home Owners Loan Corporation, Public Housing Authorities (to the extent that such obligations are secured by a pledge of annual contributions to be paid by the United States or an agency thereof), and Federal Intermediate Credit Banks. [Formerly 738.245]

733.600 Investment in mortgage loans. (1) Funds of an insurer may be invested in:

(a) Loans secured by first liens upon improved, unencumbered real property (other than leaseholds) in the manner and subject to the same terms and conditions set forth in ORS 733.580 (1)(b), except that the property may be located within the boundaries of any sovereign; for loans described in subparagraph (B) of such paragraph, the maximum permitted ratio of the loan to the appraised value shall be 80 rather than 66-2/3 percent, and the maximum term of the loan shall be 30 rather than 25 years.

(b) Loans secured by first liens upon a leasehold of improved, unencumbered real property located within the boundaries of any sovereign if:

(A) The leasehold has a period of not less than 20 years to run from the date of the loan, inclusive of the term which may be provided by an enforceable option of renewal, the loan does not exceed 70 percent of the fair market value of the leasehold together with any improvements located thereon which are subject to the lien, the terms of the loan provide for amortization payments to be made by the borrower on the principal thereof at least once in each year in amounts sufficient to completely amortize the loan within a period of four-fifths of the term of the leasehold, and the insurer is entitled to be subrogated to all rights of the lessee under the leasehold; or

(B) The investment is insured or guaranteed in the manner provided in ORS 733.580 (1)(b)(C).

(2) A loan upon the security of real property or a leasehold interest therein which is a participation in or a part of a series or issue shall not be made unless the insurer holds a senior participation or similar security interest in the mortgage or deed of trust giving it substantially the rights of a first mortgagee.

(3) Nothing in ORS 733.510 to 733.780 shall prohibit an insurer from renewing or extending a proper loan secured by a first lien upon real property or a leasehold interest therein made pursuant to this section or to ORS 733.580 for the original or a lesser amount even though such amount is a greater percentage of the current fair market value of the real property or leasehold than would otherwise be permitted under such sections. [Formerly 738.255]

733.610 Investment in real property. (1) Except as otherwise provided in ORS 733.580 and 733.600, an insurer may invest in real property only if used for the purposes or acquired in the manner and within the limits as follows:

(a) The insurer may invest in the land and the buildings thereon in which it has its principal office, and in such other real property as required for its convenient accommodation in the transaction of business. Such investments shall not exceed in the aggregate 10 percent of the assets of the insurer, except with the consent of the director.

(b) The insurer may invest in real property that is acquired in satisfaction of loans, mortgages, liens, judgments, decrees or debts previously owing to the insurer in the course of its business.

(c) The insurer may invest in real property acquired in part payment of the consideration on the sale of other real property owned by the insurer if the transaction does not increase the investment of the insurer in real property.

(d) The insurer may invest in real property acquired by gift or devise or through merger, consolidation or bulk reinsurance of another insurer under the Insurance Code.

(e) The insurer may invest in the vendor's interest in real property subject to a contract of sale. The amount invested in the vendor's interest under such a contract shall not exceed, except with the consent of the director:

(A) Ninety percent of the market value of the subject real property, when the real property is one or two family residential property.

(B) Eighty percent of the market value of the subject real property, when the real property is other than that described in subparagraph (A) of this paragraph.

(f) The insurer may invest in real property or any interest therein that is acquired or held by purchase, lease or otherwise, other than real property used primarily for agricultural, ranch, mining, development of oil or mineral resources, recreational, amusement or club purposes, if the real property or interest therein is acquired as an investment for the production of income or acquired to be improved or developed for such investment purposes pursuant to an existing program therefor. The insurer may hold, improve, develop, maintain, manage, lease, sell and convey real property acquired by it under this paragraph. Real property and interests therein so acquired may be leased or sublet. Except with the consent of the director, an insurer shall not have an amount exceeding five percent of its assets at any one time invested in real property and interests therein under this paragraph.

(g) The insurer may invest in additional real property and in equipment incident to real property if necessary or convenient for the purpose of enhancing the sale or other value of real property previously acquired or held by the insurer under paragraph (b), (c), (d) or (f) of this subsection. The real property and equipment shall be included, together with the real property for the enhancement of which it was acquired, for the purpose of applicable investment limits.

(h) The insurer may invest in real property without regard to whether the property is income-producing when acquired if the insurer intends to improve the property for resale or if the insurer intends that the property will be income-producing. The insurer may also invest in real property that is income-producing and used primarily for agricultural, ranch, mining, development of oil or mineral resources, recreational, amusement or club purposes. Funds invested under this paragraph shall not exceed the lesser of five percent of the insurer's assets or 50 percent of the insurer's capital and surplus, except with the consent of the director.

(i) Except with the consent of the director, all real property owned by the insurer under this subsection, except as to properties described in paragraphs (a) and (e) of this subsection, shall not at any time exceed 10 percent of the assets of the insurer.

(2) Except as otherwise provided in subsection (3) of this section:

(a) Real property acquired under this section shall be disposed of within five years after it ceases to be income-producing or to be used by the insurer for its business operation, whichever is later.

(b) Real property acquired under subsection (1)(h) of this section that is not income-producing when acquired shall be disposed of within five years after acquisition if the real property is not improved for resale or if the real property is not income-producing during the five years.

(c) When an investment or any combination of investments by an insurer in real property exceeds any applicable limitation under this section other than a limitation of time, the insurer, not later than the fifth year after the limitation is exceeded, shall dispose of sufficient real property that is subject to the limitation to comply with the limitation.

(3) Any real property acquired under this section that otherwise qualifies as an investment under ORS 733.510 to 733.780 may be retained and held if approved as an investment in the manner prescribed by ORS 733.730 and 733.740. The director may extend the time limit prescribed in subsection (2) of this section if the interests of the insurer will suffer by a "forced sale" of the property. [Formerly 738.265; 1979 c.846 §1; 1989 c.425 §4]

Note: Section 16, chapter 425, Oregon Laws 1989, provides:

Sec. 16. If an investment in real property by an insurer that was permitted under ORS 733.610 (1987 Replacement Part) prior to the operative date of this Act [January 1, 1990] is not permitted under ORS 733.610 as amended by section 4 of this Act, the investment in the real property shall be disposed of not later than January 1, 1995. However, any such real property that otherwise qualifies as an investment under ORS 733.510 to 733.780 may be retained and held if approved as an investment in the manner prescribed in ORS 733.730 and 733.740. The director may extend the time limit prescribed in this section if the interests of the insurer will suffer by a forced sale of the property. [1989 c.425 §16]

733.620 Investment in stocks of corporation. (1) Funds of an insurer may be invested in stocks (including trust certificates) of solvent corporations organized and carrying on a business under the laws of a sovereign as follows:

(a) Preferred or guaranteed stocks if the corporation is not in default or arrears as to any preferred or guaranteed dividend and has continuously and regularly paid such divi-

dends during the preceding three years or has paid cash dividends for five years on common stock.

(b) Common stocks if:

(A) The obligations and preferred stock, if any, of such corporation are eligible for investment under ORS 733.510 to 733.780;

(B) Cash dividends on such common stock have been paid during each of five years preceding the date of acquisition; and

(C) The stock is registered on a national securities exchange regulated under the Securities Exchange Act, or if of a type not commonly so registered is regularly traded on a broad national or regional basis.

(2) An insurer shall not invest so as to own or control more than five percent of the voting power outstanding of a corporation, nor shall it invest in the obligations or stocks of a corporation if the insurer, directors, trustees and officers own or control, or as a result thereof shall own and control, in the aggregate more than 50 percent of the voting power. [Formerly 738.275]

733.630 Investment in securities or obligations of subsidiaries. (1) Except as provided in this section, funds of an insurer may be invested in common stock, preferred stock, debt obligations and other securities of one or more corporations without regard to the provisions and limitations of ORS 733.590, 733.620, 733.770 and 733.780 (1)(a) if such a corporation is engaged, or will be engaged, in the kind of business or activity which is related to the insurance business as described in ORS 733.635, provided 80 percent or more of the shares of such corporation having voting powers are owned by the insurer either by itself or with prior approval of the director in cooperation with one or more other persons.

(2) Except as provided in subsection (3) of this section, the amount of funds so invested shall not exceed the lesser of 10 percent of the insurer's assets or 50 percent of the amount of the insurer's combined capital and surplus. However, after such investments, the combined capital and surplus of the insurer must be reasonable in relation to the outstanding liabilities of the insurer and adequate to its financial needs. For the purpose of calculating the amount of investments under this subsection, investments in domestic or foreign insurance subsidiaries must be excluded and the following must be included:

(a) 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

(b) All amounts expended in acquiring additional common stock, preferred stock, debt obligations and other securities of a subsidiary, and all contributions to the capital or surplus of a subsidiary, subsequent to its acquisition or formation.

(3) Funds of an insurer may be invested in common stock, preferred stock, debt obligations and other securities of one or more subsidiaries engaged or organized to engage exclusively in the ownership and management of assets authorized as investments for the insurer. However, each such subsidiary must agree to limit its investments in any asset so that such investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in subsection (2) of this section or in ORS 733.510 to 733.780 that apply to the insurer. For the purpose of this subsection, the total investment of the insurer includes:

(a) Any direct investment by the insurer in an asset; and

(b) 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.

(4) With the approval of the director, an insurer may invest any greater amount in common stock, preferred stock, debt obligations or other securities of one or more subsidiaries. However, after such an investment, the combined capital and surplus of the insurer must be reasonable in relation to the outstanding liabilities of the insurer and adequate to its financial needs.

(5) An insurer must determine whether any investment pursuant to subsection (2), (3) or (4) of this section meets the applicable requirements thereof before the investment is made. The determination must be 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.

(6) The limitations of ORS 733.770 shall apply to funds invested in a subsidiary described in ORS 733.635 (3) to (12). [1967 c.359 §241; 1969 c.285 §1; 1993 c.447 §113a]

733.635 Approved activities of corporations in which investments authorized. Investments authorized by ORS 733.630 may

be made in corporations engaged, or which will be engaged, in one or more of the following insurance or ancillary businesses:

(1) Any kind of insurance business authorized by the jurisdiction in which it is incorporated.

(2) Any kind of business primarily related to the insurance business carried on by the parent.

(3) Acting as an insurance agent for its parent or for any of its parent's insurer subsidiaries or intermediate insurer subsidiaries.

(4) Investing, reinvesting or trading in securities for its own account, that of its parent, any subsidiary of its parent, or any affiliate or subsidiary.

(5) Management of any investment company subject to or registered pursuant to the Federal Investment Company Act of 1940, as amended, including related sales and services.

(6) Acting as a broker-dealer subject to or registered pursuant to the Securities Exchange Act of 1934, as amended.

(7) Rendering investment advice to governments, government agencies, corporations or other organizations or groups.

(8) Rendering other services related to the operations of an insurance business including, but not limited to, actuarial, loss prevention, safety engineering, data processing, accounting, claims, appraisal and collection services.

(9) Ownership and management of assets or property which the parent could itself own and manage.

(10) Acting as administrative agent for a government instrumentality which is performing an insurance function.

(11) Financing of insurance premiums.

(12) Owning a corporation or corporations engaged or organized to engage exclusively in one or more of the businesses specified in subsections (1) to (11) of this section. [1969 c.285 §3]

733.640 Lending funds; limitations on loans. (1) Funds of an insurer may be invested in loans secured by pledges of obligations and stocks eligible for investment under ORS 733.510 to 733.780. As of the date the loan is made, it shall not exceed in amount 80 percent of the market value of the collateral pledged. No such loan shall be made for the purpose of providing funds to purchase or carry stocks registered on a national securities exchange.

(2) Funds of an insurer may be invested in loans secured by personal property or fixtures if such loan is:

(a) In connection with a loan on the security of real property or a leasehold as provided in ORS 733.580 or 733.600;

(b) In an amount not exceeding 20 percent of the amount loaned on the real property or leasehold;

(c) For a term of not more than five years;

(d) Secured by a security interest which constitutes a first lien, except for taxes not then delinquent, on tangible, permanent personal property of the borrower kept and used on the premises, other than stocks of goods held for sale or transfer in the ordinary course of business or items which by normal use will be consumed or depleted during the period of the loan; and

(e) In an amount, the ratio of which to the value of the security does not exceed the ratio of the companion loan to the value of the real property or leasehold.

(3) Funds of an insurer may be loaned to its own life insurance policyholder upon the security of such life insurance policy. The loan shall not exceed the cash value of the policy. [Formerly 738.285]

733.650 Investment of funds in certain obligations and other specified items. Funds of an insurer may be invested in the following:

(1) Obligations secured by a mortgage or deed of trust payment of which is guaranteed by a policy of mortgage insurance.

(2) Obligations issued, assumed or guaranteed by the International Bank for Reconstruction and Development.

(3) Bank and bankers' acceptances and other bills of exchange of the kind and nature made eligible by law for purchase in the open market by federal reserve banks.

(4) Deposits, certificates of deposits, accounts or savings or certificate shares or accounts of or in banks, trust companies, savings and loan associations or building and loan associations insured with the Federal Deposit Insurance Corporation or qualified to do business under the laws of this state.

(5) Obligations issued by trustees or receivers of a corporation created or existing under the laws of a sovereign which, or the assets of which, are being administered under the direction of a court having jurisdiction if the obligation is adequately secured as to principal and interest.

(6) Transportation equipment used wholly or in part within a sovereign, or adequately secured trust certificates of participation or similar obligations or contracts evidencing an interest in such transportation equipment, where the investor is entitled to receive a

determined or determinable portion of rental, purchase or other obligatory payments for use or purchase of the equipment.

(7) Purchase contracts or lease-purchase agreements executed under the Federal Public Buildings Purchase Contract Act of 1954, or the Post Office Department Property Act of 1954.

(8) Stock of the Federal Home Loan Bank to the extent of the minimum required by the Federal Home Loan Bank Act. An insurer acquiring such stock may exercise all rights and powers given to members under such Act, including but not by way of limitation the right to obtain advances or borrow money from such bank and to pledge collateral as security therefor.

(9) Obligations issued, assumed or guaranteed by the Inter-American Development Bank.

(10) Loans guaranteed by the State Scholarship Commission pursuant to ORS 348.505 to 348.695.

(11) Obligations issued, assumed or guaranteed by the Asian Development Bank.

(12) Obligations issued, assumed or guaranteed by the African Development Bank. [Formerly 738.295; 1969 c.336 §9; 1969 c.692 §8; 1973 c.514 §1; 1985 c.456 §2; 1993 c.447 §114]

733.652 Investment of funds of separate accounts. Except as may be prescribed by the director under ORS 733.220 (3) for reserves for guaranteed benefits and funds:

(1) Amounts allocated to a separate account and accumulations thereon may be invested and reinvested without regard to the requirements and limitations prescribed by ORS 733.510 to 733.780, except as expressly provided for separate accounts under such sections; and

(2) The investments in separate accounts shall not be considered in applying the investment limitations applicable to the general investments of the insurer. [1973 c.435 §9]

733.654 Limitation on amount of separate account investments; exceptions. An insurer shall not invest the funds of a separate account so as to have more than 10 percent of the market value of the assets of the account invested in or secured by the stocks, obligations or property of any one person or political subdivision, or invested in a single parcel of real property or any other single investment. This section does not apply to:

(1) Funds equaling 25 percent of the market value of the total assets in the separate account;

(2) Investments in, or loans upon, the security of the general obligations of a sovereign; or

(3) Investments in certificates of deposits insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. [1973 c.435 §10; 1981 c.472 §27]

733.656 Limitation on securities owned or controlled by separate account investments. An insurer shall not invest the funds of a separate account so as to own or control, under the insurer's general and separate accounts in the aggregate, more than 10 percent of the voting power outstanding of any issuer of securities. Securities held in separate accounts, the voting rights in which are exercisable only in accordance with instructions from persons having interests in such accounts, shall not be considered in applying this section. [1973 c.435 §11]

733.658 Applicability of separate account investment limitations. The limitations provided in ORS 733.654 and 733.656 do not apply to the investment of separate account funds in the securities of an investment company registered under the Federal Investment Company Act of 1940 if the investments of the investment company comply in substance with ORS 733.654 and 733.656. [1973 c.435 §12]

733.660 Investment of funds in data processing system. Funds of an insurer may be invested in mechanical and electronic computers and equipment which constitute a data processing system used by the insurer, if the cost of such system is at least $50,000 and is to be amortized in full in not more than 10 years. The amount of such investment which may be allowed as an asset in any determination of the financial condition of the insurer shall not exceed the excess of the insurer's assets over all liabilities and required capitalization. [1967 c.359 §244]

733.670 Investment of funds under "prudent investor" standard. (1) Funds of an insurer may be invested in a manner not expressly prohibited under ORS 732.325 and 733.780, provided such investments are made in the exercise of the judgment and care under the circumstances then prevailing which investors of prudence, discretion and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.

(2) Funds invested under this section shall not exceed the lesser of seven and one-half percent of the insurer's assets or the excess of the insurer's assets over all liabilities and required capitalization.

(3) If the director has reason to believe that loans or investments made pursuant to

this section are not adequately secured or are not yielding an income the director may direct the insurer to report under oath the amount of such loans or investments, the security therefor and its market value. [Formerly 738.305; 1979 c.846 §2; 1989 c.425 §4a]

733.680 Acquisition and retention of personal property generally; purchases or loans for protection of investment property. (1) An insurer may acquire and retain personal property received as a dividend, gift or devise, or pursuant to a lawful plan of merger, consolidation or reorganization or bona fide agreement of bulk reinsurance, or in satisfaction or liquidation of an obligation, or in exchange or part payment for real or personal property previously owned or to protect or enhance such property.

(2) An insurer may make purchases or loan sums necessary to protect, preserve or enhance investment property, real or personal, which it is otherwise authorized to acquire or hold.

(3) The director shall allow as assets in any determination of the financial condition of the insurer only such property or investments acquired or retained under this section as are consistent with the customary operations of an insurer. [Formerly 738.315]

733.685 Investment of funds by home protection insurer. Funds of a home protection insurer may be invested in tangible personal property held by the insurer for the purpose of performing or providing repairs or replacements under its home protection policies. Funds so invested shall not exceed 25 percent of the assets of the insurer that are allowable in determining its financial condition under the Insurance Code, unless otherwise allowed under rules issued by the director. [1981 c.247 §13]

733.690 Investment of funds in title plant. Funds of a title insurer may be invested in its title plant. [1967 c.359 §247]

733.695 Investment of funds in obligations that are not investment quality. Funds of an insurer may be invested in obligations that are not investment grade as established by the director by rule, but the funds that an insurer may invest under this section shall not exceed 20 percent of the insurer's assets. [1989 c.425 §2b; 1993 c.447 §22]

733.700 Investment of funds in health care service facilities. Funds of a health care service contractor may be invested in all real and personal property used exclusively by the contractor to provide authorized health care services. [1967 c.359 §248]

733.710 Investments authorized by prior law; date of eligibility of investment. (1) An investment which was legal and proper immediately before June 8, 1967, shall be considered a proper investment and shall be subject to extension or renewal.

(2) Eligibility of an investment shall be determined as of the date of its acquisition. [Formerly 738.325]

733.720 Investments subject to additional limitations and requirements. Except as may be expressly provided to the contrary in ORS 733.510 to 733.780, all investments shall be subject to the qualifications, restrictions and limitations set forth in ORS 733.510 to 733.780. [Formerly 738.333]

733.730 Approval by board of directors of investments and deposits. (1) Investments and sales or exchanges thereof, except for policy loans of an insurer issuing life insurance policies, shall be approved by the board of directors or a committee thereof charged with the duty of investing the funds of the insurer.

(2) Deposits shall be made in banks or banking institutions approved by the board of directors. [Formerly 738.335]

733.740 Record of investments required. As to each investment, an insurer shall make a written record in permanent form, signed by a person authorized by the board of directors or by a committee thereof charged with the duty of investing the funds. The record shall show the authorization and approval of the investment and in addition shall contain:

(1) In the case of mortgage loans: The name of the borrower; the location and legal description of the property; a physical description and the appraised value of the security as determined by a competent and qualified appraiser; the amount of the loan, rate of interest and terms of repayment.

(2) In the case of obligations: The name of the obligor; description of the security and record of earnings; the amount invested and the rate of interest or dividend; the maturity and yield based upon the purchase price.

(3) In the case of corporate stocks: The name of the issuing corporation; the record of earnings and of dividends paid for the preceding three years for preferred stock and for the preceding five years for common stock; a summary of the financial statement of the corporation as of the end of the preceding fiscal year; the exchange, if any, on which the stock is listed; the amount invested and the number of shares acquired and held.

(4) In the case of real estate, leaseholds or vendors' interests under contracts of sale therein: The location and legal description of the property; a physical description and the appraised value of the property and in-

terest therein; the purchase price and terms; the amount of any lien known to be against the property; if of a leasehold, the terms of the outstanding lease; if a vendor's interest under a contract of sale, the terms and status of payments under the contract.

(5) In the case of all investments: The amount of any expenses and commissions incurred on account of the investment or loan and by whom and to whom payable if not covered by contracts with mortgage loan representatives or correspondents which are part of the insurer's records; the name of any director, trustee or officer of the insurer, having a direct, indirect, or contingent interest in the loan, security or property, or who would derive, directly or indirectly, any benefit therefrom, and the nature of such interest or benefit. [Formerly 738.345]

733.750 Disposal of investments on order of director. After a hearing, the director may by written order require the disposal of an investment which the director finds to be made or retained in violation of the Insurance Code, or of an investment which the director, for good cause, determines to be prejudicial to, and to impair the security of, the stockholders or policyholders of the insurer. [Formerly 738.355]

733.760 Insurance required on buildings on property which is security for loan. On loans secured by liens upon real property or leasehold interests therein, the buildings and other improvements located on the premises shall be kept insured against loss or damage from fire in an amount not less than the unpaid balance of the obligation or the insurable value of the property, whichever is the lesser. The fire insurance policy or policies shall be payable to the insurer, or a trustee for its benefit, and continued in force until the loan is repaid or satisfied. Such policy or policies shall be held by the insurer or the trustee, unless the director has determined that a different method of protecting the insurers against loss is satisfactory and has given prior approval of such method to the insurer. [1967 c.359 §254; 1969 c.336 §10]

733.770 Limitations on investments in property of any one person or single parcel of real estate. (1) An insurer shall not have any combination of investments in or secured by the stocks, obligations, and property of one person, corporation or political subdivision in excess of 10 percent of the insurer's assets, nor shall it invest more than 10 percent of its assets in a single parcel of real property or in any other single investment. This subsection does not apply to:

(a) Investments in, or loans upon, the security of the general obligations of a sovereign;

(b) Policy loans by insurers issuing life insurance policies;

(c) Investments by a title insurer in its title plant, or in real property not in excess of 50 percent of the insurer's combined capital and surplus; or

(d) Investments by a health care service contractor in all real or personal property used exclusively by such contractor to provide authorized health care services or in real property used primarily for its home office.

(2) Notwithstanding subsection (1) of this section and subject to approval by the director in writing, a domestic insurer organized before 1950 may invest an amount not exceeding 15 percent of its assets in real property used primarily for its home office. [Formerly 738.375; 1983 c.732 §1]

733.780 Prohibited investments. (1) An insurer shall not make investments:

(a) Which at the time of purchase or acquisition are not interest-bearing or dividend or income-paying, or are in default in any respect; or

(b) From which the insurer is not entitled to receive for its exclusive account and benefit the interest, dividends or income.

(2) Subsection (1)(a) of this section shall not apply to property acquired under ORS 733.610, 733.670 or 733.680 if the property is acquired with the intent and expectation that it will be income-producing.

(3) An insurer shall not invest its funds in any investment or security found by the director to be designed to evade any prohibition of the Insurance Code. [Formerly 738.385]