

**Prince William County Self-Insurance Group (PWSIG)
Workers Compensation Association
&
Casualty Pool**

Investment Policy



Adopted

September 28, 2017

Table of Contents

1.0	Policy
2.0	Standards of Care
3.0	Objective
4.0	Delegation of Authority
5.0	Investment Procedures
6.0	Authorized Financial Dealers and Institutions
7.0	Authorized Investments
7.1	Government Obligations
7.2	Repurchase Agreements
7.3	Certificates of Deposit/Savings Deposit/Insured Deposits
7.4	Negotiable Certificates of Deposit
7.5	Banker's Acceptances
7.6	Commercial Paper
7.7	Corporate Notes
7.8	Money Market Mutual Funds
7.9	Investment Pools
8.0	Insurance Collateral
9.0	Collateralization
10.0	Diversification
11.0	Maximum Maturities
12.0	Performance Standards
13.0	Reporting
14.0	Safekeeping and Custody
15.0	Investment Policy Adoption
16.0	Internal Control
17.0	Attachments
17.1	Code of Virginia
17.2	Glossary

1.0 Policy

It is the policy of the PWSIG to invest its assets in a manner commensurate with the primary objectives of legality, safety, liquidity and yield as enumerated in Section 3.0 of this Policy to provide the highest investment return with the maximum security while meeting the liquidity needs of the respective insurance pools and conforming to all applicable state and local statutes governing the investment of public funds.

The goal of the Investment Policy (the “Policy”) is to document, strengthen and improve the PWSIG’s investment management program. The Policy and the related procedures are intended to provide the investment objectives using authorized investment instruments. In addition, the Policy and related procedures are established to provide adequate controls through investment selection, diversification, monitoring, and reporting.

Although the PWSIG Workers Comp Association and Casualty Pool are separate legal entities, all references in this Policy to “PWSIG”, “insurance pools” or “pools” are intended as references to the individual named entities.

2.0 Standards of Care

In accordance with §2.2-4514 of the Code of Virginia, the Director of Finance and authorized designee(s) shall discharge their duties with respect to the investments of the PWSIG funds solely in the interest of the PWSIG and shall invest the assets of the portfolios with the care, skill, prudence, and diligence under the circumstances a prudent person familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. The Director of Finance or designee(s) shall also diversify such investments to minimize the risk of large losses unless under the circumstances it is clearly prudent not to do so.

3.0 Objective

The primary objectives, in priority order, of the investment activities shall be:

1. *Legality*

The investment program shall be operated in conformance with federal, state, and other legal requirements. Investment instruments shall at a minimum be limited as to security issues, issuers and maturities in compliance with §2.2-4500 through §2.2-4519 of the *Code of Virginia*.

2. *Safety*

Investments shall be undertaken in a manner that seeks to ensure the preservation of capital and the protection of investment principal. The PWSIG will employ mechanisms to control risk and diversify its investments regarding specific security types or individual financial institutions.

3. *Liquidity*

The investment portfolios will remain sufficiently liquid to enable the PWSIG to meet reasonably anticipated operating requirements.

4. Yield

The PWSIG will maximize the yield on the portfolio but will avoid assuming unreasonable investment risk to preserve the purchasing power of the portfolio. Return on investment is of secondary importance compared to the legality, safety and liquidity objectives described above.

Securities shall generally be held until maturity with the following exceptions:

- A security with declining credit may be sold early to minimize loss of principal;
- The sale of a security would improve the quality, yield, or target duration in the portfolio; or
- Liquidity needs of the portfolio require that the security be sold.

In the event that the sale of any security will result in the realization of a loss, approval of such sale or trade, along with the appropriate documentation that formed the basis for the transaction, must be authorized by the Treasurer of the PWSIG.

Trading is not permissible when:

- The transaction is illegal under the *Code of Virginia*;
- The use of margin or other open position financing strategies are used to delay the closure of a trade; or
- The transaction involves the sale of securities that are not contractually owned or held in the portfolio (e.g., short sale).

4.0 Delegation of Authority

The Director of Finance, as authorized by §15.2-519 of the *Code of Virginia*, shall have charge of the custody of all public funds belonging to or handled by the County. Furthermore, the Director of Finance or authorized designee(s), consistent with approved guidelines, is authorized to:

- Purchase investment securities at prevailing market prices/rates on behalf of and in the name of the PWSIG;
- Sell such obligations or securities at the prevailing market price and to pay the proceeds of such sale into the proper accounts or funds of the PWSIG, consistent with guidelines approved by the PWSIG Board of Trustees; and
- Delegate the day-to-day management of the investment program to the Treasury Management Division Investment Staff listed below:
 - Deputy Finance Director
 - Treasury Management Division Chief
 - Financial Analyst Manager – Investments
 - Management & Fiscal Analyst III – Investments

Investment Staff shall act in accordance with established written procedures and exercise internal controls for the operation of the investment program consistent with this Policy. No person may

engage in an investment transaction except as provided under the terms of this Policy and the related procedures established by the Director of Finance.

5.0 Investment Procedures

The Treasury Management Division Investment Staff, has established written investment policy procedures for the operation of the investment program consistent with this Policy.

The procedures include reference to:

- the purchase and sale of investments that a prudent person seeking reasonable income and preservation of capital might buy;
- safekeeping and custodial agreements;
- Securities Industry and Financial Markets Association (SIFMA) repurchase agreements;
- wire transfer agreements;
- banking services contracts; and
- collateral/depository agreements.

Such procedures include explicit delegation of authority to persons, as listed in Section 4.0.

6.0 Authorized Financial Dealers and Institutions

The Treasury Management Division Chief shall maintain a list of financial institutions, selected on the basis of credit worthiness, financial strength, experience, and minimum capitalization, authorized to provide investment services to the County. A copy of this Policy will be delivered to all authorized financial dealers and institutions. The purpose is to assure all parties possess a copy of the relevant sections of State Code and any further restrictions imposed by the PWSIG.

Authorized financial dealers and institutions shall include any of the following:

1. Primary government securities dealers reporting to the Markets Report Division of the Federal Reserve Bank of New York or subsidiaries of primary government securities dealers.
2. Any regional or secondary market dealers who meet the following criteria or as specifically approved by the Board of Trustees:
 - Financial institution must comply with the Securities and Exchange Commission (SEC) minimum net capital requirement rule (RULE 15c3-1). The firm shall provide immediate disclosure to the investing government whenever the firm's capital position falls short of the capital adequacy standard;
 - Financial institution shall submit audited financial statements annually;
 - Financial institution shall submit proof of Financial Industry Regulatory Authority (FINRA) certification; and
 - Financial institution must be currently licensed and in good standing in Virginia, the SEC, the National Association of Securities Dealers or other applicable self-regulatory organizations.

3. Any direct issuer of commercial paper that meets the credit criteria as outlined in the Investment Policy.
4. Commercial Banks who meet one of two criteria:
 - Commercial banks must have at least two (2) of the following short term ratings: Moody's Investors Services, Inc. (Moody's) P-1, Standard & Poor's, Inc. (S&P) A-1, Fitch Investor's Services, Inc. (Fitch) F-1, or Duff and Phelps D-1, or
 - Commercial banks that are listed in the Qualified Public Depository list as issued by the Department of the Treasury, Commonwealth of Virginia. In addition, all existing senior bond indebtedness must be rated "A" or better by Moody's and S&P.

Repurchase Agreements shall be negotiated only with financial dealers and/or institutions with which the County has an executed Master Repurchase Agreement.

Staff shall conduct an annual review of the financial condition, registrations, responsiveness, competitiveness and other qualifications of all approved financial dealers and institutions to determine if they continue to meet the County's guidelines for qualification. A current audited financial statement is required to be on file for each authorized financial institution.

7.0 Authorized Investments

Authorized investments for public funds are set forth in the "Investment of Public funds Act" of the *Code of Virginia* §2.2-4500 thru §2.2-4519. Within the permitted statutory framework, the PWSIG limits the investment of assets to the following categories of securities and subject to the prescribed credit quality limitations at the time of purchase:

Government Obligations	100% maximum
Municipal Debt	50% maximum
Commercial Paper.....	35% maximum
Bankers Acceptances, Negotiable Certificates of Deposit and/or Negotiable Bank Deposit Notes.....	30% maximum
Repurchase Agreements.....	50% maximum
Money Market Mutual Funds/Investment Pools	80% maximum
Corporate Notes	25% maximum
Certificates of Deposit/Savings Deposit/ Insured Deposits.....	40% maximum

7.1 Government Obligations – (See §2.2-4501 of the Code of Virginia)

The PWSIG is authorized to invest in the following security instruments subject to §2.2-4501 of the *Code of Virginia*:

1. Stocks, bonds, notes, and other evidences of indebtedness of the Commonwealth and those unconditionally guaranteed as to the payment of principal and interest by the Commonwealth;

2. Bonds, notes and other obligations of the United States, and securities unconditionally guaranteed as to the payment of principal and interest by the United States, or any agency thereof;
3. Stocks, bonds, notes and other evidences of indebtedness of any state of the United States;
4. Stocks, bonds, notes and other evidences of indebtedness of any county, city, town, district, authority or other public body in the Commonwealth;
5. Legally authorized stocks, bonds, notes and other evidences of indebtedness of any city, county, town, or district situated in any one of the states of the United States; and
6. Bonds and other obligations issued, guaranteed or assumed by the International Bank for Reconstruction and Development, by the Asian Development Bank or by the African Development Bank.

These securities can be held directly, in the form of repurchase agreements collateralized by such debt securities, and in the form of a registered money market mutual fund provided the portfolio of the fund is limited to such evidences of indebtedness.

At time of purchase, up to 100% of the portfolio may be invested in U.S. Government Obligations and have a maturity of no more than five (5) years.

The PWSIG will invest in the highest rated U.S. Government Obligations as rated by at least one (1) nationally recognized credit rating agency such as Moody's Investors Service, Inc., Standard & Poor's, Inc, or Fitch Investor's Services, Inc. Out-of-state municipal issuances must be rated at least AA by two (2) nationally recognized credit rating agencies.

Not more than 50% of the portfolio, at time of purchase, may be invested in municipal issuers.

Not more than 10% of the portfolio, at time of purchase, may be invested in any single Virginia issuer.

Not more than 5% of the portfolio, at time of purchase, may be invested in any non-Virginia (out-of-state) municipal issuer and no more than 10% of the portfolio may be invested in municipal issuers outside of the Commonwealth of Virginia.

The maximum length to maturity of any municipal issuer investment is five (5) years.

7.2 Repurchase Agreements – (See§2.2-4507 of the *Code of Virginia*)

The PWSIG may invest in overnight, term and open repurchase agreements that are collateralized with securities approved for direct investment.

All repurchase agreements shall be fully collateralized by U.S. Treasury issues, agencies or U.S. Government Sponsored Enterprises (GSEs) with maturities of less than ten (10) years and executed using the "Master Repurchase Agreement" developed by the SIFMA. In order to anticipate market changes and provide a level of security for all funds, the collateralization level will be 102% of the market value of principal plus accrued interest, and the value shall be adjusted at least weekly.

Master Repurchase Agreements will address at a minimum the following issues:

1. Policies allowing repurchase agreements such as the *Code of Virginia*, written policies, and/or unwritten management practices.
2. The periodic valuation of securities underlying the repurchase agreements.
3. The separation of securities underlying repurchase agreements from the custodian's assets, from the seller's assets, and from securities held for other customers. Such securities shall be held in the name of Prince William Self Insurance Group Workers' Compensation Association or Prince William Self Insurance Group Casualty Pool.
4. Each party's rights in repurchase agreements and the significant conditions of those rights. Significant conditions should at a minimum include:
 - specifications for delivery of the underlying securities;
 - the rights of the purchaser to liquidate the underlying securities in the event of default by the seller;
 - the required margin of market value of the securities over the cost of the agreements;
 - specifications for the review (repricing) of market value of the underlying securities as necessary, depending on the terms of the repurchase agreement;
 - rights and/or specifications regarding substitution of securities;
 - the purchaser's rights to additional securities or a return of cash if the market value of the underlying securities falls below the required amount; and
 - remedial action should violation of agreement provisions occur.
5. Securities authorized for repurchase agreements: negotiable direct obligations of the U.S. Government and Federal Agencies.

Not more than 50% of the portfolio, at time of purchase, may be placed in repurchase agreements.

Not more than 20% of the total portfolio, at time of purchase, may be invested in any one issuing or guaranteeing corporation.

7.3 Certificates of Deposit/Savings Deposit/Insured Deposits – (See §2.2-4518 of the *Code of Virginia*)

Non-negotiable certificates of deposit and time deposits of Virginia banks and savings institutions federally insured to the maximum extent possible and collateralized under the Virginia Security for Public Deposits Act, §2.2-4400 through §2.2-4411 or through the Certificate of Deposit Account Registry Service (CDARS) and §2.2-4518 of the *Code of Virginia*.

For the purpose of this Policy, Negotiable Order of Withdrawal (NOW) Accounts and demand deposits will be exempt from the prescribe portfolio limits however will be included in the total investment assets and return.

No more than 40% of the portfolio, at time of purchase, may be invested in non-negotiable certificates of deposits.

Not more than 10% of the portfolio, at time of purchase, may be placed in non-negotiable certificates of deposit issued by a single bank.

The maximum length to maturity of any non-negotiable CD is two (2) years.

7.4 Negotiable Certificates of Deposit – (See §2.2-4509 of the *Code of Virginia*)

Negotiable certificates of deposit and negotiable bank deposit notes of domestic banks and domestic offices of foreign banks must be rated at least A-1 by Standard and Poor’s Inc., and P-1 by Moody’s Investors Service Inc., for maturities of one (1) year or less.

Not more than 30% of the portfolio, at time of purchase, may be placed in banker’s acceptances, negotiable certificates of deposit and negotiable bank deposit notes.

Not more than 5% of the portfolio, at time of purchase, may be invested in any one (1) issuing or guaranteeing corporation.

The maximum length to maturity of any negotiable certificate of deposit is one (1) year.

7.5 Bankers’ Acceptances – (See §2.2-4504 of the *Code of Virginia*)

Bankers’ acceptances (BA’s) with major U.S. banks or domestic offices of foreign banks. The issuing institution must have a rating of at least A-1 by Standard & Poor’s, Inc., and P-1 by Moody’s Investors Service, Inc.

Not more than 30% of the portfolio, at time of purchase, may be placed in banker’s acceptances, negotiable certificates of deposit and negotiable bank deposit notes.

Not more than 5% of the portfolio, at time of purchase, may be invested in any one (1) issuing or guaranteeing corporation.

The maximum length to maturity of any BA is 270 days.

7.6 Commercial Paper – (See §2.2-4502 of the *Code of Virginia*)

“Prime quality” commercial paper of issuing corporations organized under the laws of the United States, or of any state thereof including paper issued by banks and bank holding companies.

“Prime quality” shall be as rated by at least two (2) of the following: Moody’s Investors Service, Inc., within its NCO/Moody’s rating of Prime-1, by Standard & Poor’s, Inc., within its rating of A-1, by Fitch Investor’s Services, Inc., within its rating of F-1, or by their corporate successors, provided that at the time of any such investment:

1. The issuing corporation, or its guarantor, has a net worth of at least \$50 million;
2. The net income of the issuing corporation, or its guarantor, has averaged \$3 million per year for the previous five (5) years; and
3. All existing senior bonded indebtedness of the issuer, or its guarantor, is rated “A” or better or the equivalent rating by at least two of the following: Moody’s Investors Service, Inc., Standard & Poor’s, Inc., or Fitch Investor’s Services, Inc.

Not more than 35% of the portfolio, at time of purchase, may be invested in commercial paper.

Not more than 5% of the portfolio, at time of purchase, may be invested in any one (1) issuing or guaranteeing corporation.

The maximum length to maturity of any commercial paper investment is 270 days.

7.7 Corporate Notes – (See §2.2-4150 of the *Code of Virginia*)

Corporate notes must have a rating of at least Aa and AA by Moody's Investors Service and Standard & Poor's, Inc., respectively, and a maturity of no more than five (5) years.

Not more than 25% of the portfolio, at time of purchase, may be invested in corporate notes.

Not more than 10% of the total portfolio, at time of purchase, may be invested in any one (1) issuing or guaranteeing corporation.

7.8 Money Market Mutual Funds – (See §2.2-4508 of the *Code of Virginia*)

PWSIG may invest in mutual funds (money market funds), provided that the funds are registered under the Securities Act (§13.1-501 et seq.) of the Commonwealth or the Federal Investment Co. Act of 1940, and that the investments by such funds are restricted to investments otherwise permitted by law for political subdivisions as set forth under the provisions of §2.2-4500 of the *Code of Virginia*.

Money market funds must have a rating of AAA by at least one (1) nationally recognized credit rating agency, have at least \$100 million in net assets and a maximum weighted average maturity of 60 days or less.

Not more than 80% of the portfolio, at time of purchase, may be placed in money market funds and LGIP.

Not more than 40% of the total portfolio, at time of purchase, may be invested in any one (1) money market fund or LGIP.

7.9 Investment Pools – (See §2.2-4600 of the *Code of Virginia*)

The Local Government Investment Pool (LGIP) was established on January 1, 1981. Pursuant to the *Code of Virginia*, the County may invest in LGIP. LGIP enables government entities to maximize their investment returns by providing a Commonwealth administered fund where monies can be commingled for investment purposes. A separate account is maintained for each participant.

The LGIP is not registered with the SEC as an investment company but is managed in a manner consistent with the “2a7-like pools” requirements of the Governmental Accounting Standards Board (GASB) Statement No. 31.

Local government investment pools must have a rating of AAA by at least one (1) nationally recognized credit rating agency.

Not more than 80% of the portfolio, at time of purchase, may be placed in money market funds and LGIP.

Not more than 40% of the total portfolio, at time of purchase, may be invested in any one (1) money market fund or LGIP.

8.0 Insurance Collateral

The Commonwealth shall be responsible for the safekeeping of the securities pledged by insurance companies transacting the business of insurance in Virginia (Article 7, §38.2-1045 through §38.2-1058 of the *Code of Virginia*). The Treasury Board contracts with the private sector to perform the safekeeping and custodial requirements of this mandate.

The securities held in safekeeping for the PWSIG are not subject to the prescribed portfolio asset limitations in Section 7.0 of this Policy however will be included in the total investment assets and return.

9.0 Collateralization

Collateralization will be required on two types of investments: non-negotiable certificates of deposit and repurchase agreements. Deposit-type securities (i.e., non-negotiable certificate of deposit) shall be collateralized through the state collateral pool as required by the *Code of Virginia*, for any amount exceeding Federal Deposit Insurance Corporation (FDIC) coverage. All repurchase agreements shall be fully collateralized in the form of securities that are approved for direct investments as approved in Section 7 of this Policy with maturities of less than ten (10) years. In order to anticipate market changes and provide a level of security for all funds, the collateralization level will be 102% of market value of principal and accrued interest for repurchase agreements and at a minimum, the value shall be adjusted weekly.

10.0 Diversification

The PWSIG will diversify use of investment instruments to avoid incurring unreasonable risks inherent in over-investing in specific instruments, individual financial institutions, maturities, or specific geographic regions. Diversification strategies (within the established guidelines) shall be reviewed and revised periodically as necessary by the PWSIG Board of Trustees or other appropriate designees.

11.0 Maximum Maturities

The weighted average maturity for the PWSIG portfolio may not exceed three (3) years, except assets that are purchased specifically for collateral deposits with the Commonwealth of Virginia as required by the State Treasurer. The final maturity of any individual security may not exceed five (5) years from the time of purchase, except where an asset is matched to a specific obligation of the PWSIG or is held to fulfill collateral requirements by the State Treasurer. This excludes the maturities of the underlying securities of a repurchase agreement.

12.0 Performance Standards

The PWSIG's investment portfolio shall be designed with the objective of obtaining a rate of return throughout budgetary and economic cycles, commensurate with the investment risk constraints and the cash flow needs.

13.0 Reporting

The Quarterly Investment Performance Report will be prepared in a manner which will allow the PWSIG Board of Trustees to determine whether investment activities during the reporting period are consistent with the PWSIG Investment Policy and will quantify the investment performance with respect to yield. The report will include the following:

- A listing of individual securities held by authorized investment category;
- Percentage of the portfolio represented by each investment category;
- Comparison of yield/return on investments and;
- Mark to market valuation. The portfolio return and assets on a total return market valuation basis according to the rules prescribed by GASB.

Additional information will be provided if deemed appropriate or if requested.

14.0 Safekeeping and Custody

All securities purchased shall be properly and clearly designated as an asset of the PWSIG and held in safekeeping by a third party custodian in compliance with §2.2-4515 of the *Code of Virginia*.

No withdrawals of such securities, in whole or in part, shall be made from safekeeping except by the Director of Finance or by authorized designees.

All securities purchased by the County will be conducted, where applicable, on a delivery-versus-payment (DVP) basis. Non-Depository Trust Company (DTC) investments such as state pools and money market money funds will be reflected on the custodial statements and funds will be transmitted electronically for payment.

15.0 Policy Exceptions

Whenever an exception to this Policy is made or when Policy guidelines are breached inadvertently, that fact shall be reported in writing to the PWSIG Treasurer/Director of Finance. Such report shall be made on a most timely basis, but no later than five (5) business days from the decision or discovery date of the Policy exception.

All exceptions to the Policy and the appropriate explanation or justification for the exception shall be reported in writing to the PWSIG Board of Trustees at its next regular meeting and included in the Quarterly Investment Report.

16.0 Internal Control

The Investment Policy shall be reviewed by the PWSIG Board of Trustees on an annual basis, and may be reviewed more frequently in the event that a material change is required.

17.0 Attachments

17.1 Code of Virginia

17.2 Glossary

Code of Virginia

Title 15.2. Counties, Cities and Towns

Chapter 5. County Executive Form of Government

§ 15.2-519. Department of finance; director; general duties

The director of finance shall be the head of the department of finance and, as such, have charge of: (i) the administration of the financial affairs of the county, including the budget; (ii) the assessment of property for taxation; (iii) the collection of taxes, license fees and other revenues; (iv) the custody of all public funds belonging to or handled by the county; (v) the supervision of the expenditures of the county and its subdivisions; (vi) the disbursement of county funds; (vii) the purchase, storage and distribution of all supplies, materials, equipment and contractual services needed by any department, office or other using agency of the county unless some other officer or employee is designated for this purpose; (viii) the keeping and supervision of all accounts; and (ix) such other duties as the board requires.

Code 1950, § 15-288; 1959, Ex. Sess., c. 69; 1962, cc. 399, 623, § 15.1-605; 1982, c. 647; 1984, c. 485; 1997, c. 587.

Code of Virginia

Title 2.2. Administration of Government

Chapter 44. Virginia Security for Public Deposits Act

§ 2.2-4400. Short title; declaration of intent; applicability.

A. This chapter may be cited as the "Virginia Security for Public Deposits Act."

B. The General Assembly intends by this chapter to establish a single body of law applicable to the pledge of collateral for public deposits in financial institutions so that the procedure for securing public deposits may be uniform throughout the Commonwealth.

C. All public deposits in qualified public depositories that are required to be secured by other provisions of law or by a public depositor shall be secured pursuant to this chapter. Public depositors are required to secure their deposits pursuant to several applicable provisions of law, including but not limited to §§ [2.2-1813](#), [2.2-1815](#), [8.01-582](#), [8.01-600](#), [15.2-1512.1](#), [15.2-1615](#), [15.2-2625](#), [15.2-6611](#), [15.2-6637](#), [58.1-3149](#), [58.1-3150](#), [58.1-3154](#), and [58.1-3158](#).

D. This chapter, however, shall not apply to deposits made by the State Treasurer in out-of-state financial institutions related to master custody and tri-party repurchase agreements, provided (i) such deposits do not exceed ten percent of average monthly investment balances and (ii) the out-of-state financial institutions used for this purpose have a short-term deposit rating of not less than A-1 by Standard & Poor's Rating Service or P-1 by Moody's Investors Service, Inc., respectively.

1973, c. 172, §§ [2.1-359](#), [2.1-361](#); 1984, c. 135; 2000, cc. [335](#), [352](#); 2001, c. [844](#); 2010, cc. [640](#), [674](#).

§ 2.2-4401. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Dedicated method" or "opt-out method" means the securing of public deposits without accepting the contingent liability for the losses of public deposits of other qualified public depositories, pursuant to § [2.2-4404](#) and regulations and guidelines promulgated by the Treasury Board.

"Defaulting depository" means any qualified public depository determined to be in default or insolvent.

"Default or insolvency" includes, but shall not be limited to, the failure or refusal of any qualified public depository to return any public deposit upon demand or at maturity and the issuance of an order of supervisory authority restraining such depository from making payments of deposit liabilities or the appointment of a receiver for such depository.

"Eligible collateral" means securities or instruments authorized as legal investments under the laws of the Commonwealth for public sinking funds or other public funds as well as Federal Home Loan Bank letters of credit issued in accordance with guidelines promulgated by the Treasury Board.

"Located in Virginia" means having a main office or branch office in the Commonwealth where deposits are accepted, checks are paid, and money is lent.

"Pooled method" means securing public deposits by accepting the contingent liability for the losses of public deposits of other qualified public depositories choosing this method, pursuant to

§ 2.2-4403 and regulations and guidelines promulgated by the Treasury Board.

"Public deposit" means moneys held by a public depositor who is charged with the duty to receive or administer such moneys and is acting in an official capacity, such moneys being deposited in any of the following types of accounts: nonnegotiable time deposits, demand deposits, savings deposits, or any other transaction accounts.

"Public depositor" means the Commonwealth or any county, city, town or other political subdivision thereof, including any commission, institution, committee, board, or officer of the foregoing and any state court.

"Qualified escrow agent" means the State Treasurer or any bank or trust company approved by the Treasury Board to hold collateral pledged to secure public deposits.

"Qualified public depository" means any national banking association, federal savings and loan association or federal savings bank located in Virginia, any bank, trust company or savings institution organized under Virginia law, or any state bank or savings institution organized under the laws of another state located in Virginia authorized by the Treasury Board to hold public deposits according to this chapter.

"Required collateral" of a qualified public depository means the amount of eligible collateral required to secure public deposits set by regulations or an action of the Treasury Board.

"Treasury Board" means the Treasury Board of the Commonwealth created by § 2.2-2415.

1973, c. 172, § 2.1-360; 1984, c. 135; 1987, c. 718; 1996, c. 77; 1998, cc. 20, 21; 2001, c. 844; 2008, c. 7; 2010, cc. 640, 674.

§ 2.2-4402. Collateral for public deposits.

Qualified public depositories shall elect to secure deposits by either the pooled method or the dedicated method. Every qualified public depository shall deposit with a qualified escrow agent eligible collateral equal to or in excess of the required collateral. Eligible collateral shall be valued as determined by the Treasury Board. Substitutions and withdrawals of eligible collateral may be made as determined by the Treasury Board.

Notwithstanding any other provisions of law, no qualified public depository shall be required to give bond or pledge securities or instruments in the manner herein provided for the purpose of securing deposits received or held in the trust department of the depository and that are secured as required by § 6.2-1005 of the Code of Virginia or that are secured pursuant to Title 12, § 92a of the United States Code by securities of the classes prescribed by § 6.2-1005 of the Code of Virginia .

No qualified public depository shall accept or retain any public deposit that is required to be secured unless it has deposited eligible collateral equal to its required collateral with a qualified escrow agent pursuant to this chapter.

1973, c. 172, § 2.1-362; 2001, c. 844; 2010, cc. 640, 674.

§ 2.2-4403. Procedure for payment of losses by pooled method.

When the Treasury Board determines that a qualified public depository securing public deposits in accordance with this section is a defaulting depository, it shall as promptly as practicable take steps to reimburse public depositors for uninsured public deposits using the following

procedures:

1. The Treasury Board shall ascertain the amount of uninsured public deposits held by the defaulting depository, either with the cooperation of the Commissioner of Financial Institutions, the receiver appointed for such depository, or by any other means available.
2. The amount of such uninsured public deposits ascertained as provided in subdivision 1, plus any costs associated with liquidation, shall be assessed by the Treasury Board first against the defaulting depository to the extent of the full realizable market value of the collateral pledged to secure its public deposits.
3. In the event the realized value of the pledged collateral in subdivision 2 is insufficient to satisfy the liability of the defaulting depository to its public depositors and the Treasury Board, the Treasury Board shall assess the remaining liability against all other qualified public depositories securing public deposits according to the following ratio: total average public deposit balance for each qualified public depository held during the immediately preceding twelve months divided by the total average public deposit balance for the same period held by all qualified public depositories under this section other than the defaulting depository.
4. Assessments made by the Treasury Board in accordance with subdivision 3 shall be payable by the close of business on the second business day following demand. Upon the failure of any qualified public depository to pay such assessment when due, the State Treasurer shall promptly take possession of the eligible collateral deposited with the non-paying depository's escrow agent and liquidate the same to the extent necessary to pay the original assessment plus any additional costs necessary to liquidate the collateral.
5. Upon receipt of such assessments and the net proceeds of the eligible collateral liquidated from the State Treasurer, the Treasury Board shall reimburse the public depositors to the extent of the defaulting depository's liability to them, net of any applicable deposit insurance.

1973, c. 172, § 2.1-363; 1978, c. 14; 1984, c. 135; 2001, c. [844](#); 2009, c. [64](#); 2010, cc. [640](#), [674](#).

§ 2.2-4404. Procedure for payment of losses by dedicated method.

When the Treasury Board determines that a qualified public depository securing public deposits in accordance with this section is a defaulting depository, it shall as promptly as practicable take steps to reimburse public depositors of all uninsured public deposits using the following procedures:

1. The Treasury Board shall ascertain the amount of uninsured public deposits held by the defaulting depository with the cooperation of the Commissioner of Financial Institutions, the receiver appointed for such depository or by any other means available.
2. The amount of such uninsured public deposits ascertained as provided in subdivision 1, plus any costs associated with liquidation of the eligible collateral of the defaulting depository, shall be assessed by the Treasury Board against the defaulting depository. The State Treasurer shall promptly take possession of the eligible collateral deposited by such depository with the depository's escrow agent, as is necessary to satisfy the assessment of the Treasury Board and shall liquidate the same and turn over the net proceeds to the Treasury Board.
3. Upon receipt from the State Treasurer of the eligible collateral liquidated, the Treasury Board shall reimburse the public depositors from the proceeds of the collateral up to the extent of the

depository's deposit liability to them, net of any applicable deposit insurance.

1984, c. 135, § 2.1-363.1; 2001, c. 844;2009, c. 64;2010, cc. 640, 674.

§ 2.2-4405. Powers of Treasury Board relating to the administration of this chapter.

The Treasury Board shall have power to:

1. Make and enforce regulations and guidelines necessary and proper to the full and complete performance of its functions under this chapter;
2. Prescribe and enforce regulations and guidelines fixing terms and conditions consistent with this chapter under which public deposits must be secured;
3. Require additional collateral, in excess of the required collateral of any or all qualified public depositories as it may determine prudent under the circumstances;
4. Determine what securities or instruments shall be acceptable as eligible collateral, and fix the percentage of face value or market value of such securities or instruments that can be used to secure public deposits;
5. Establish guidelines to permit banks to withdraw from the procedures for the payment of losses under § 2.2-4403 and instead be governed by the procedures for the payment of losses under § 2.2-4404, consistent with the primary purpose of protecting public deposits;
6. Require any qualified public depository to provide information concerning its public deposits as requested by the Treasury Board; and
7. Determine when a default or insolvency has occurred and to take such action as it may deem advisable for the protection, collection, compromise or settlement of any claim arising in case of default or insolvency.

1973, c. 172, § 2.1-364; 2001, c. 844;2009, c. 64;2010, cc. 640, 674.

§ 2.2-4406. Subrogation of Treasury Board to depositor's rights; payment of sums received from distribution of assets.

Upon payment in full to any public depositor on any claim presented pursuant to § 2.2-4403 or 2.2-4404, the Treasury Board shall be subrogated to all of such depositor's rights, title and interest against the depository in default or insolvent and shall share in any distribution of such defaulting or insolvent depository's assets ratably with other depositors. Any sums received from any such distribution shall be paid to the other qualified public depositories against which assessments were made, in proportion to such assessments, net of any proper payment or expense of the Treasury Board in enforcing any such claim.

1973, c. 172, § 2.1-365; 2001, c. 844;2010, cc. 640, 674.

§ 2.2-4407. Mandatory deposit of public funds in qualified public depositories.

Public deposits required to be secured pursuant to this chapter shall be deposited in a qualified public depository.

1973, c. 172, § 2.1-366; 2001, c. 844;2010, cc. 640, 674.

§ 2.2-4408. Authority to make public deposits.

A. All public depositors are hereby authorized to make public deposits under their control in

qualified public depositories, securing such public deposits pursuant to this chapter.

B. Local officials handling public deposits in the Commonwealth may not require from a qualified public depository any pledge of collateral for their deposits in excess of the requirements of this chapter.

1973, c. 172, § 2.1-367; 1980, c. 538, § 2.1-234.5; 1998, cc. 20, 21; 2001, c. 844; 2010, cc. 640, 674.

§ 2.2-4409. Authority to secure public deposits; acceptance of liabilities and duties by public depositories.

All qualified public depositories are hereby authorized to secure public deposits in accordance with this chapter and shall be deemed to have accepted the liabilities and duties imposed upon it pursuant to this chapter.

1973, c. 172, § 2.1-368; 2001, c. 844; 2010, cc. 640, 674.

§ 2.2-4410. Liability of public depositors.

When deposits are made in accordance with this chapter no official of a public depositor shall be personally liable for any loss resulting from the default or insolvency of any qualified public depository in the absence of negligence, malfeasance, misfeasance, or nonfeasance on his part or on the part of his agents.

1973, c. 172, § 2.1-370; 2001, c. 844; 2010, cc. 640, 674.

§ 2.2-4411. Reports of qualified public depositories.

By the tenth day after the end of each calendar reporting month or when requested by the Treasury Board each qualified public depository shall submit to the Treasury Board an electronic report of such data required by the Treasury Board to demonstrate that the current market value of its pledged collateral was equal to or greater than the amount of required collateral for the previous month, certified as to its accuracy by an authorized official of the qualified public depository.

Upon request by a public depositor, a qualified public depository shall provide a schedule detailing the public deposit accounts reported to the Treasury Board for that depositor, as well as the amount of total public deposits held by that depository at the close of the applicable month and the total market value of the collateral securing such public deposits.

1973, c. 172, § 2.1-369; 1979, c. 154; 2001, c. 844; 2010, cc. 640, 674.

Code of Virginia

Title 2.2. Administration of Government

Chapter 45. Investment of Public Funds Act

§ 2.2-4500. Legal investments for public sinking funds.

The Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth may invest any sinking funds belonging to them or within their control in the following securities:

1. Bonds, notes and other evidences of indebtedness of the Commonwealth, and securities unconditionally guaranteed as to the payment of principal and interest by the Commonwealth.
2. Bonds, notes and other obligations of the United States, and securities unconditionally guaranteed as to the payment of principal and interest by the United States, or any agency thereof. The evidences of indebtedness enumerated by this subdivision may be held directly, or in the form of repurchase agreements collateralized by such debt securities, or in the form of securities of any open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, provided that the portfolio of such investment company or investment trust is limited to such evidences of indebtedness, or repurchase agreements collateralized by such debt securities, or securities of other such investment companies or investment trusts whose portfolios are so restricted.
3. Bonds, notes and other evidences of indebtedness of any county, city, town, district, authority or other public body of the Commonwealth upon which there is no default; provided, that such bonds, notes and other evidences of indebtedness of any county, city, town, district, authority or other public body are either direct legal obligations of, or those unconditionally guaranteed as to the payment of principal and interest by the county, city, town, district, authority or other public body in question; and revenue bonds issued by agencies or authorities of the Commonwealth or its political subdivisions upon which there is no default.
4. Bonds and other obligations issued, guaranteed or assumed by the International Bank for Reconstruction and Development, bonds and other obligations issued, guaranteed or assumed by the Asian Development Bank and bonds and other obligations issued, guaranteed or assumed by the African Development Bank.
5. Savings accounts or time deposits in any bank or savings institution within the Commonwealth provided the bank or savings institution is approved for the deposit of other funds of the Commonwealth or other political subdivision of the Commonwealth.

1956, c. 184, § 2-297; 1958, c. 102; 1966, c. 677, § 2.1-327; 1970, c. 75; 1974, c. 288; 1986, c. 270; 1988, cc. 526, 834; 1996, cc. 77, 508; 2001, c. 844.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4501. Legal investments for other public funds.

A. The Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth may invest any and all moneys belonging to them or within their control, other than sinking funds, in the following:

1. Stocks, bonds, notes, and other evidences of indebtedness of the Commonwealth and those unconditionally guaranteed as to the payment of principal and interest by the Commonwealth.
2. Bonds, notes and other obligations of the United States, and securities unconditionally guaranteed as to the payment of principal and interest by the United States, or any agency thereof. The evidences of indebtedness enumerated by this subdivision may be held directly, or in the form of repurchase agreements collateralized by such debt securities, or in the form of securities of any open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, provided that the portfolio of such investment company or investment trust is limited to such evidences of indebtedness, or repurchase agreements collateralized by such debt securities, or securities of other such investment companies or investment trusts whose portfolios are so restricted.
3. Stocks, bonds, notes and other evidences of indebtedness of any state of the United States upon which there is no default and upon which there has been no default for more than 90 days, provided that within the 20 fiscal years next preceding the making of such investment, such state has not been in default for more than 90 days in the payment of any part of principal or interest of any debt authorized by the legislature of such state to be contracted.
4. Stocks, bonds, notes and other evidences of indebtedness of any county, city, town, district, authority or other public body in the Commonwealth upon which there is no default, provided that if the principal and interest be payable from revenues or tolls and the project has not been completed, or if completed, has not established an operating record of net earnings available for payment of principal and interest equal to estimated requirements for that purpose according to the terms of the issue, the standards of judgment and care required in Article 9 (§ [64.2-780](#) et seq.) of Chapter 7 of Title 64.2, without reference to this section, shall apply.

In any case in which an authority, having an established record of net earnings available for payment of principal and interest equal to estimated requirements for that purpose according to the terms of the issue, issues additional evidences of indebtedness for the purposes of acquiring or constructing additional facilities of the same general character that it is then operating, such additional evidences of indebtedness shall be governed by the provisions of this section without limitation.

5. Legally authorized stocks, bonds, notes and other evidences of indebtedness of any city, county, town, or district situated in any one of the states of the United States upon which there is no default and upon which there has been no default for more than 90 days, provided that (i) within the 20 fiscal years next preceding the making of such investment, such city, county, town, or district has not been in default for more than 90 days in the payment of any part of principal or interest of any stock, bond, note or other evidence of indebtedness issued by it; (ii) such city, county, town, or district shall have been in continuous existence for at least 20 years; (iii) such city, county, town, or district has a population, as shown by the federal census next preceding the making of such investment, of not less than 25,000 inhabitants; (iv) the stocks, bonds, notes or other evidences of indebtedness in which such investment is made are the direct legal obligations of the city, county, town, or district issuing the same; (v) the city, county, town, or district has power to levy taxes on the taxable real property therein for the payment of such obligations without limitation of rate or amount; and (vi) the net indebtedness of such city, county, town, or district (including the issue in which such investment is made), after deducting the amount of its bonds issued for self-sustaining public utilities, does not exceed 10 percent of the value of the taxable property in such city, county, town, or district, to be ascertained by the valuation of such

property therein for the assessment of taxes next preceding the making of such investment.

6. Bonds and other obligations issued, guaranteed or assumed by the International Bank for Reconstruction and Development, by the Asian Development Bank or by the African Development Bank.

B. This section shall not apply to funds authorized by law to be invested by the Virginia Retirement System or to deferred compensation plan funds to be invested pursuant to § 51.1-601 or to funds contributed by a locality to a pension program for the benefit of any volunteer fire department or volunteer emergency medical services agency established pursuant to § 15.2-955.

C. Investments made prior to July 1, 1991, pursuant to § 51.1-601 are ratified and deemed valid to the extent that such investments were made in conformity with the standards set forth in Chapter 6 (§ 51.1-600 et seq.) of Title 51.1.

1956, c. 184, § 2-298; 1966, c. 677, § 2.1-328; 1980, c. 596; 1988, c. 834; 1991, c. 379; 1992, c. 810; 1996, c. 508; 1999, c. 772; 2001, c. 844; 2007, c. 67; 2008, c. 295; 2015, cc. 502, 503.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4502. Investment of funds of Commonwealth, political subdivisions, and public bodies in "prime quality" commercial paper.

A. The Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth may invest any and all moneys belonging to them or within their control other than sinking funds in "prime quality" commercial paper, with a maturity of 270 days or less, of issuing corporations organized under the laws of the United States, or of any state thereof including paper issued by banks and bank holding companies. "Prime quality" shall be as rated by at least two of the following: Moody's Investors Service, Inc., within its NCO/Moody's rating of prime 1, by Standard & Poor's, Inc., within its rating of A-1, by Fitch Investor's Services, Inc., within its rating of F-1, by Duff and Phelps, Inc., within its rating of D-1, or by their corporate successors, provided that at the time of any such investment:

1. The issuing corporation, or its guarantor, has a net worth of at least fifty million dollars; and
2. The net income of the issuing corporation, or its guarantor, has averaged three million dollars per year for the previous five years; and
3. All existing senior bonded indebtedness of the issuer, or its guarantor, is rated "A" or better or the equivalent rating by at least two of the following: Moody's Investors Service, Inc., Standard & Poor's, Inc., Fitch Investor's Services, Inc., or Duff and Phelps, Inc.

Not more than thirty-five percent of the total funds available for investment may be invested in commercial paper, and not more than five percent of the total funds available for investment may be invested in commercial paper of any one issuing corporation.

B. Notwithstanding subsection A, the Commonwealth, municipal corporations, other political subdivisions and public bodies of the Commonwealth may invest any and all moneys belonging to them or within their control, except for sinking funds, in commercial paper other than "prime quality" commercial paper as defined in this section provided that:

1. Prior written approval is obtained from the governing board, committee or other entity that determines investment policy. The Treasury Board shall be the governing body for the Commonwealth; and

2. A written internal credit review justifying the creditworthiness of the issuing corporation is prepared in advance and made part of the purchase file.

1973, c. 232, § 2.1-328.1; 1974, c. 295; 1976, c. 665; 1986, c. 170; 1987, c. 73; 1988, c. 834; 1992, c. 769; 2001, c. 844.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4503. Investments by Fairfax County finance director [Not set out].

Not set out. (2001, c. 844.)

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4504. Investment of funds by the Commonwealth and political subdivisions in bankers' acceptances.

Notwithstanding any provisions of law to the contrary, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth may invest any and all moneys belonging to them or within their control other than sinking funds in bankers' acceptances.

1981, c. 18, § 2.1-328.3; 1988, c. 834; 2001, c. 844.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4505. Investment in certificates representing ownership of treasury bond principal at maturity or its coupons for accrued periods.

Notwithstanding any provision of law to the contrary, the Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth may invest any and all moneys belonging to them or within their control, in certificates representing ownership of either treasury bond principal at maturity or its coupons for accrued periods. The underlying United States Treasury bonds or coupons shall be held by a third-party independent of the seller of such certificates.

1983, c. 117, § 2.1-328.5; 1985, c. 352; 1988, c. 834; 2001, c. 844.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4506. Securities lending.

Notwithstanding any provision of law to the contrary, the Commonwealth, all public officers, municipal corporations, political subdivisions and all public bodies of the Commonwealth may engage in securities lending from the portfolio of investments of which they have custody and control, other than sinking funds. The Treasury Board shall develop guidelines with which such securities lending shall fully comply. Such guidelines shall ensure that the state treasury is at all times fully collateralized by the borrowing institution.

1983, c. 268, § 2.1-328.6; 2001, c. 844.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4507. Investment of funds in overnight, term and open repurchase agreements.

Notwithstanding any provision of law to the contrary, the Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth, may invest any and all moneys belonging to them or within their control in overnight, term and open repurchase agreements that are collateralized with securities that are approved for direct investment.

1985, c. 352, § 2.1-328.8; 1988, c. 834; 2001, c. 844.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4508. Investment of certain public moneys in certain mutual funds.

Notwithstanding any provision of law to the contrary, the Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth may invest any and all moneys belonging to them or within their control, other than sinking funds that are governed by the provisions of § 2.2-4500, in one or more open-end investment funds, provided that the funds are registered under the Securities Act (§ 13.1-501 et seq.) of the Commonwealth or the Federal Investment Co. Act of 1940, and that the investments by such funds are restricted to investments otherwise permitted by law for political subdivisions as set forth in this chapter, or investments in other such funds whose portfolios are so restricted.

1986, c. 170, § 2.1-328.9; 1988, c. 834; 1996, c. 508; 2001, c. 844.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4509. Investment of funds in negotiable certificates of deposit and negotiable bank deposit notes.

Notwithstanding any provision of law to the contrary, the Commonwealth and all public officers, municipal corporations, and other political subdivisions and all other public bodies of the Commonwealth may invest any or all of the moneys belonging to them or within their control, other than sinking funds, in negotiable certificates of deposit and negotiable bank deposit notes of domestic banks and domestic offices of foreign banks with a rating of at least A-1 by Standard

& Poor's and P-1 by Moody's Investor Service, Inc., for maturities of one year or less, and a rating of at least AA by Standard & Poor's and Aa by Moody's Investor Service, Inc., for maturities over one year and not exceeding five years.

1998, cc. [20](#), [21](#), § 2.1-328.15; 2001, c. [844](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4510. Investment of funds in corporate notes.

A. Notwithstanding any provision of law to the contrary, the Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth may invest any and all moneys belonging to them or within their control, other than sinking funds, in high quality corporate notes with a rating of at least Aa by Moody's Investors Service, Inc., and a rating of at least AA by Standard and Poors, Inc., and a maturity of no more than five years.

B. Notwithstanding any provision of law to the contrary, any qualified public entity of the Commonwealth may invest any and all moneys belonging to it or within its control, other than sinking funds, in high quality corporate notes with a rating of at least A by two rating agencies, one of which shall be either Moody's Investors Service, Inc., or Standard and Poors, Inc.

As used in this section, "qualified public entity" means any state agency or institution of the Commonwealth, having an internal or external public funds manager with professional investment management capabilities.

C. Notwithstanding any provision of law to the contrary, the Department of the Treasury may invest any and all moneys belonging to it or within its control, other than sinking funds, in high quality corporate notes with a rating of at least BBB or Baa2 by two rating agencies, one of which shall be Moody's Investors Service, Inc., or Standard and Poors, Inc. With regard to investment securities rated below A, the Commonwealth Treasury Board shall establish strict investment guidelines concerning the investment in such securities and monitor the performance of the securities for compliance with the investment guidelines.

1987, c. 187, § 2.1-328.10; 1988, c. 834; 1994, c. [145](#); 2001, c. [844](#); 2002, cc. [18](#), [438](#); 2005, c. [30](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4511. Investment of funds in asset-backed securities.

Notwithstanding any provision of law to the contrary, any qualified public entity of the Commonwealth may invest any and all moneys belonging to it or within its control, other than sinking funds, in asset-backed securities with a duration of no more than five years and a rating of no less than AAA by two rating agencies, one of which must be either Moody's Investors Service, Inc., or Standard and Poors, Inc.

As used in this section, "qualified public entity" means any state agency, institution of the Commonwealth or statewide authority created under the laws of the Commonwealth having an

internal or external public funds manager with professional investment management capabilities.

1994, c. 145, § 2.1-328.13; 1997, c. 29; 2001, c. 844.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4512. Investment of funds by State Treasurer in obligations of foreign sovereign governments.

Notwithstanding any provision of law to the contrary, the State Treasurer may invest unexpended or excess moneys in any fund or account over which he has custody and control, other than sinking funds, in fully hedged debt obligations of sovereign governments and companies that are fully guaranteed by such sovereign governments, with a rating of at least AAA by Moody's Investors Service, Inc., and a rating of at least AAA by Standard and Poors, Inc., and a maturity of no more than five years.

Not more than ten percent of the total funds of the Commonwealth available for investment may be invested in the manner described in this section.

1988, c. 461, § 2.1-328.11; 2001, c. 844.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4513. Investments by transportation commissions.

Transportation commissions that provide rail service may invest in, if required as a condition to obtaining insurance, participate in, or purchase insurance provided by, foreign insurance companies that insure railroad operations.

1988, c. 834, § 2.1-328.12; 2001, c. 844.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4513.1. Investment of funds in qualified investment pools.

A. Notwithstanding the provisions of Article 1 (§ 15.2-1300 et seq.) of Chapter 13 of Title 15.2, in any locality in which the authority to invest moneys belonging to or within the control of the locality has been granted to its elected treasurer, the treasurer may act on behalf of his locality to become a participating political subdivision in qualified investment pools without an ordinance adopted by the locality approving a joint exercise of power agreement. For purposes of this section, "qualified investment pool" means a jointly administered investment pool organized as a trust fund pursuant to Article 1 of Chapter 13 of Title 15.2 that has a professional investment manager.

B. Investments in qualified investment pools described in this section shall comply with the requirements of this chapter applicable to municipal corporations and other political

subdivisions.

C. The provisions of this section shall not apply to local trusts established pursuant to Article 8 (§ [15.2-1544](#) et seq.) of Chapter 15 of Title 15.2 to fund postemployment benefits other than pensions.

2017, cc. [792](#), [819](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4514. Commonwealth and its political subdivisions as trustee of public funds; standard of care in investing such funds.

Public funds held by the Commonwealth, public officers, municipal corporations, political subdivisions, and any other public body of the Commonwealth shall be held in trust for the citizens of the Commonwealth. Any investment of such funds pursuant to the provisions of this chapter shall be made solely in the interest of the citizens of the Commonwealth and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

1996, c. [437](#), § 2.1-328.14; 2001, c. [844](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4515. Collateral and safekeeping arrangements.

Securities purchased pursuant to the provisions of this chapter shall be held by the public official, municipal corporation or other political subdivision or public body or its custodial agent who may not otherwise be a counterparty to the investment transaction. Securities held on the books of the custodial agent by a custodial agent shall be held in the name of the municipal corporation, political subdivision or other public body subject to the public body's order of withdrawal. The responsibilities of the public official, municipal corporation, political subdivision or other public body shall be evidenced by a written agreement that shall provide for delivery of the securities by the custodial agent in the event of default by a counterparty to the investment transaction.

As used in this section, "counterparty" means the issuer or seller of a security, an agent purchasing a security on behalf of a public official, municipal corporation, political subdivision or other public body or the party responsible for repurchasing securities underlying a repurchase agreement.

The provisions of this section shall not apply to (i) investments with a maturity of less than 31 calendar days or (ii) the State Treasurer, who shall comply with safekeeping guidelines issued by the Treasury Board or to endowment funds invested in accordance with the provisions of the Uniform Prudent Management of Institutional Funds Act, Chapter 11 (§ [64.2-1100](#) et seq.) of Title 64.2.

1988, c. 834, § 2.1-329.01; 2001, c. 844; 2008, c. 184.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4516. Liability of treasurers or public depositors.

When investments are made in accordance with this chapter, no treasurer or public depositor shall be liable for any loss therefrom in the absence of negligence, malfeasance, misfeasance, or nonfeasance on his part or on the part of his assistants or employees.

1979, c. 135, § 2.1-329.1; 2001, c. 844.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4517. Contracts on interest rates, currency, cash flow or on other basis.

A. Any state entity may enter into any contract or other arrangement that is determined to be necessary or appropriate to place the obligation or investment of the state entity, as represented by bonds or investments, in whole or in part, on the interest rate cash flow or other basis desired by the state entity. Such contract or other arrangement may include contracts providing for payments based on levels of, or changes in, interest rates. These contracts or arrangements may be entered into by the state entity in connection with, or incidental to, entering into, or maintaining any (i) agreement that secures bonds or (ii) investment, or contract providing for investment, otherwise authorized by law. These contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined by the state entity, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by a nationally recognized rating agency, and any other criteria as may be appropriate. The determinations referred to in this subsection may be made by the Treasury Board, the governing body of the state entity or any public funds manager with professional investment capabilities duly authorized by the Treasury Board or the governing body of any state entity authorized to issue such obligations to make such determinations.

As used in this section, "state entity" means the Commonwealth and all agencies, authorities, boards and institutions of the Commonwealth.

B. Any money set aside and pledged to secure payments of bonds or any of the contracts entered into pursuant to this section may be invested in accordance with this chapter and may be pledged to and used to service any of the contracts or other arrangements entered into pursuant to this section.

2002, c. 407.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4518. Investment of funds in deposits.

A. Notwithstanding any provision of law to the contrary, the Commonwealth and all public

officers, municipal corporations, other political subdivisions, and all other public bodies of the Commonwealth, each referred to in this section as a "public entity," may invest any or all of the moneys belonging to them or within their control in accordance with the following conditions:

1. The moneys are initially invested through any federally insured bank or savings institution selected by the public entity that is qualified by the Virginia Treasury Board to accept public deposits;
2. The selected bank or savings institution arranges for the deposit of the moneys in one or more federally insured banks or savings institutions wherever located, for the account of the public entity;
3. The full amount of principal and any accrued interest of each such deposit is covered by federal deposit insurance;
4. The selected bank or savings institution acts as custodian for the public entity with respect to each deposit issued for the public entity's account; and
5. At the same time that the public entity's moneys are deposited, the selected bank or savings institution receives an amount of deposits from customers of other financial institutions wherever located equal to or greater than the amount of moneys invested by the public entity through the selected bank or savings institution.

B. After deposits are made in accordance with the conditions prescribed in subsection A, such deposits shall not be subject to the provisions of Chapter 44 (§ 2.2-4400 et seq.), § 2.2-4515, or any security or collateral requirements that may otherwise be applicable to the investment or deposit of public moneys by government investors.

2008, c. 103;2010, c. 33.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4519. Investment of funds by the Virginia Housing Development Authority and the Virginia Resources Authority.

A. For purposes of §§ 36-55.44 and 62.1-221 only, the following investments shall be considered lawful investments and shall be conclusively presumed to have been prudent:

1. Obligations of the Commonwealth. Stocks, bonds, notes, and other evidences of indebtedness of the Commonwealth, and those unconditionally guaranteed as to the payment of principal and interest by the Commonwealth.
2. Obligations of the United States. Stocks, bonds, treasury notes, and other evidences of indebtedness of the United States, including the guaranteed portion of any loan guaranteed by the Small Business Administration, an agency of the United States government, and those unconditionally guaranteed as to the payment of principal and interest by the United States; bonds of the District of Columbia; bonds and notes of the Federal National Mortgage Association and the Federal Home Loan Banks; bonds, debentures, or other similar obligations of federal land banks, federal intermediate credit banks, or banks of cooperatives, issued pursuant to acts of Congress; and obligations issued by the United States Postal Service when the principal and

interest thereon is guaranteed by the government of the United States. The evidences of indebtedness enumerated by this subdivision may be held directly, in the form of repurchase agreements collateralized by such debt securities, or in the form of securities of any open-end or closed-end management type investment company or investment trust registered under the federal Investment Company Act of 1940, provided that the portfolio of such investment company or investment trust is limited to such evidences of indebtedness or repurchase agreements collateralized by such debt securities, or securities of other such investment companies or investment trusts whose portfolios are so restricted.

3. Obligations of other states. Stocks, bonds, notes, and other evidences of indebtedness of any state of the United States upon which there is no default and upon which there has been no default for more than 90 days, provided that within the 20 fiscal years next preceding the making of such investment, such state has not been in default for more than 90 days in the payment of any part of principal or interest of any debt authorized by the legislature of such state to be contracted.

4. Obligations of Virginia counties, cities, or other public bodies. Stocks, bonds, notes, and other evidences of indebtedness of any county, city, town, district, authority, or other public body in the Commonwealth upon which there is no default, provided that if the principal and interest is payable from revenues or tolls and the project has not been completed, or if completed, has not established an operating record of net earnings available for payment of principal and interest equal to estimated requirements for that purpose according to the terms of the issue, the standards of judgment and care required in the Uniform Prudent Investor Act (§ 64.2-780 et seq.), without reference to this section, shall apply.

In any case in which an authority, having an established record of net earnings available for payment of principal and interest equal to estimated requirements for that purpose according to the terms of the issue, issues additional evidences of indebtedness for the purposes of acquiring or constructing additional facilities of the same general character that it is then operating, such additional evidences of indebtedness shall be governed fully by the provisions of this section without limitation.

5. Obligations of cities, counties, towns, or districts of other states. Legally authorized stocks, bonds, notes, and other evidences of indebtedness of any city, county, town, or district situated in any one of the states of the United States upon which there is no default and upon which there has been no default for more than 90 days, provided that (i) within the 20 fiscal years next preceding the making of such investment, the city, county, town, or district has not been in default for more than 90 days in the payment of any part of principal or interest of any stock, bond, note, or other evidence of indebtedness issued by it; (ii) the city, county, town, or district shall have been in continuous existence for at least 20 years; (iii) the city, county, town, or district has a population, as shown by the federal census next preceding the making of such investment, of not less than 25,000 inhabitants; (iv) the stocks, bonds, notes, or other evidences of indebtedness in which such investment is made are the direct legal obligations of the city, county, town, or district issuing the same; (v) the city, county, town, or district has power to levy taxes on the taxable real property therein for the payment of such obligations without limitation of rate or amount; and (vi) the net indebtedness of the city, county, town, or district, including the issue in which such investment is made, after deducting the amount of its bonds issued for self-sustaining public utilities, does not exceed 10 percent of the value of the taxable property in the city, county, town, or district, to be ascertained by the valuation of such property therein for

the assessment of taxes next preceding the making of such investment.

6. Obligations subject to repurchase. Investments set forth in subdivisions 1 through 5 may also be made subject to the obligation or right of the seller to repurchase these on a specific date.

7. Bonds secured on real estate. Bonds and negotiable notes directly secured by a first lien on improved real estate or farm property in the Commonwealth, or in any state contiguous to the Commonwealth within a 50-mile area from the borders of the Commonwealth, not to exceed 80 percent of the fair market value of such real estate, including any improvements thereon at the time of making such investment, as ascertained by an appraisal thereof made by two reputable persons who are not interested in whether or not such investment is made.

8. Bonds secured on city property in Fifth Federal Reserve District. Bonds and negotiable notes directly secured by a first lien on improved real estate situated in any incorporated city in any of the states of the United States which lie wholly or in part within the Fifth Federal Reserve District of the United States as constituted on June 18, 1928, pursuant to the act of Congress of December 23, 1913, known as the Federal Reserve Act, as amended, not to exceed 60 percent of the fair market value of such real estate, with the improvements thereon, at the time of making such investment, as ascertained by an appraisal thereof made by two reputable persons who are not interested in whether or not such investment is made, provided that such city has a population, as shown by the federal census next preceding the making of such investments, of not less than 5,000 inhabitants.

9. Bonds of Virginia educational institutions. Bonds of any of the educational institutions of the Commonwealth that have been or may be authorized to be issued by the General Assembly.

10. Securities of the Richmond, Fredericksburg and Potomac Railroad Company. Stocks, bonds, and other securities of the Richmond, Fredericksburg and Potomac Railroad Company, including bonds or other securities guaranteed by the Richmond, Fredericksburg and Potomac Railroad Company.

11. Obligations of railroads. Bonds, notes, and other evidences of indebtedness, including equipment trust obligations, which are direct legal obligations of or which have been unconditionally assumed or guaranteed as to the payment of principal and interest by, any railroad corporation operating within the United States that meets the following conditions and requirements:

a. The gross operating revenue of such corporation for the fiscal year preceding the making of such investment, or the average of the gross operating revenue for the five fiscal years next preceding the making of such investment, whichever of these two is the larger, shall have not been less than \$10 million;

b. The total fixed charges of such corporation, as reported for the fiscal year next preceding the making of the investment, shall have been earned an average of at least two times annually during the seven fiscal years preceding the making of the investment and at least one and one-half times during the fiscal year immediately preceding the making of the investment. The term "total fixed charges" as used in this subdivision and subdivision c shall be deemed to refer to the term used in the accounting reports of common carriers as prescribed by the regulations of the Interstate Commerce Commission; and

c. The aggregate of the average market prices of the total amounts of each of the individual

securities of such corporation junior to its bonded debt and outstanding at the time of the making of such investment shall be equal to at least two-thirds of the total fixed charges for such railroad corporation for the fiscal year next preceding the making of such investment capitalized at an annual interest rate of five percent. Such average market price of any one of such individual securities shall be determined by the average of the highest quotation and the lowest quotation of the individual security for a period immediately preceding the making of such investment, which period shall be the full preceding calendar year plus the then-expired portion of the calendar year in which such investment is made, provided that if more than six months of the calendar year in which such investment is made shall have expired, then such period shall be only the then-expired portion of the calendar year in which such investment is made, and provided further that if such individual security shall not have been outstanding during the full extent of such period, such period shall be deemed to be the length of time such individual security shall have been outstanding.

12. Obligations of leased railroads. Stocks, bonds, notes, other evidences of indebtedness, and any other securities of any railroad corporation operating within the United States, the railroad lines of which have been leased by a railroad corporation, either alone or jointly with other railroad corporations, whose bonds, notes, and other evidences of indebtedness shall, at the time of the making of such investment, qualify as lawful investments for fiduciaries under the terms of subdivision 11, provided that the terms of such lease shall provide for the payment by such lessee railroad corporation individually, irrespective of the liability of other joint lessee railroad corporations, if any, in this respect, of an annual rental of an amount sufficient to defray the total operating expenses and maintenance charges of the lessor railroad corporation plus its total fixed charges, plus, in the event of the purchase of such a stock, a fixed dividend upon any issue of such stock in which such investment is made, and provided that if such investment so purchased shall consist of an obligation of definite maturity, such lease shall be one which shall, according to its terms, provide for the payment of the obligation at maturity or extend for a period of not less than 20 years beyond the maturity of such obligations so purchased, or if such investment so purchased shall be a stock or other form of investment having no definite date of maturity, such lease shall be one which shall, according to its terms, extend for a period of at least 50 years beyond the date of the making of such investment.

13. Equipment trust obligations. Equipment trust obligations issued under the "Philadelphia Plan" in connection with the purchase for use on railroads of new standard gauge rolling stock, provided that the owner, purchaser, or lessee of such equipment, or one or more of such owners, purchasers, or lessees, shall be a railroad corporation whose bonds, notes, and other evidences of indebtedness shall, at the time of the making of such investment, qualify as lawful investments for fiduciaries under the terms of subdivision 11, and provided that all of such owners, purchasers, or lessees shall be both jointly and severally liable under the terms of such contract of purchase or lease, or both, for the fulfillment thereof.

14. Preferred stock of railroads. Any preference stock of any railroad corporation operating within the United States, provided such stock and such railroad corporation meet the following conditions and requirements:

a. Such stock shall be preferred as to dividends, such dividends shall be cumulative, and such stock shall be preferred as to assets in the event of liquidation or dissolution;

b. The gross operating revenue of such corporation for the fiscal year preceding the making of such investment, or the average of the gross operating revenue for the five fiscal years next

preceding the making of such investment, whichever of these two is the larger, shall have been not less than \$10 million;

c. The total fixed charges, as defined in subdivision 11 b, of such corporation, as reported for the fiscal year next preceding the making of such investment, plus the amount, at the time of making such investment, of the annual dividend requirements on such preference stock and any preference stock having the same or senior rank, such fixed charges and dividend requirements being considered the same for every year, shall have been earned an average of at least two and one-half times annually for the seven fiscal years preceding the making of such investment and at least two times for the fiscal year immediately preceding the making of such investment; and

d. The aggregate of the average market prices of the total amount of each of the individual securities of such corporation, junior to such preference stock and outstanding at the time of the making of such investment, shall be at least equal to the par value of the total issue of the preference stock in question plus the total par value of all other issues of its preference stock having either the same rank as, or a senior rank to, the issue of such preference stock plus total fixed charges, as defined in subdivision 11 b, for such railroad corporation for the fiscal year next preceding the making of such investment capitalized at an annual interest rate of five percent. Such average market price of any one of such individual securities shall be determined in the same manner as prescribed in subdivision 11 c.

15. Obligations of public utilities. Bonds, notes, and other evidences of indebtedness of any public utility operating company operating within the United States, provided such company meets the following conditions and requirements:

a. The gross operating revenue of such public utility operating company for the fiscal year preceding the making of such investment, or the average of the gross operating revenue for the five fiscal years next preceding the making of such investment, whichever of these two is the larger, shall have been not less than \$5 million;

b. The total fixed charges of such corporation, as reported for the fiscal year next preceding the making of the investment, shall have been earned, after deducting operating expenses, depreciation, and taxes, other than income taxes, an average of at least one and three-quarters times annually during the seven fiscal years preceding the making of the investment and at least one and one-half times during the fiscal year immediately preceding the making of the investment;

c. In the fiscal year next preceding the making of such investment, the ratio of the total par value of the bonded debt of such public utility operating company, including the total bonded indebtedness of all its subsidiary companies, whether assumed by the public utility operating company in question or not, to its gross operating revenue shall not be greater than four to one; and

d. Such public utility operating company shall be subject to permanent regulation by a state commission or other duly authorized and recognized regulatory body.

The term "public utility operating company" as used in this subdivision and subdivision 16 means a public utility or public service corporation (i) of whose total income available for fixed charges for the fiscal year next preceding the making of such investment at least 55 percent thereof shall have been derived from direct payments by customers for service rendered them; (ii) of whose total operating revenue for the fiscal year next preceding the making of such investment at least

60 percent thereof shall have been derived from the sale of electric power, gas, water, or telephone service and not more than 10 percent thereof shall have been derived from traction operations; and (iii) whose gas properties are all within the limits of one state, if more than 20 percent of its total operating revenues are derived from gas.

16. Preferred stock of public utilities. Any preference stock of any public utility operating company operating within the United States, provided such stock and such company meet the following conditions and requirements:

- a. Such stock shall be preferred as to dividends, such dividends shall be cumulative, and such stock shall be preferred as to assets in the event of liquidation or dissolution;
- b. The gross operating revenue of such public utility operating company for the fiscal year preceding the making of such investment, or the average of the gross operating revenue for the five fiscal years next preceding the making of such investment, whichever of these two is the larger, shall have been not less than \$5 million;
- c. The total fixed charges of such public utility operating company, as reported for the fiscal year next preceding the making of such investment, plus the amount, at the time of making such investment, of the annual dividend requirements on such preference stock and any preference stock having the same or senior rank, such fixed charges and dividend requirements being considered the same for every year, shall have been earned, after deducting operating expenses, depreciation, and taxes, including income taxes, an average of at least two times annually for the seven fiscal years preceding the making of such investment and at least two times for the fiscal year immediately preceding the making of such investment;
- d. In the fiscal year next preceding the making of such investment, the ratio of the sum of the total par value of the bonded debt of such public utility operating company, the total par value of the issue of such preference stock, and the total par value of all other issues of its preference stock having the same or senior rank to its gross operating revenue shall not be greater than four to one; and
- e. Such public utility operating company shall be subject to permanent regulation by a state commission or other duly authorized and recognized regulatory body.

17. Obligations of the following telephone companies. Bonds, notes, and other evidences of indebtedness of American Telephone and Telegraph, Bell Atlantic, Bell South, Southwestern Bell, Pacific Telesis, Nynex, American Information Technologies, or U.S. West, and bonds, notes, and other evidences of indebtedness unconditionally assumed or guaranteed as to the payment of principal and interest by any such company, provided that the total fixed charges, as reported for the fiscal year next preceding the making of the investment, of such company and all of its subsidiary corporations on a consolidated basis shall have been earned, after deducting operating expenses, depreciation, and taxes, other than income taxes, an average of at least one and three-fourths times annually during the seven fiscal years preceding the making of the investment and at least one and one-half times during the fiscal year immediately preceding the making of the investment.

18. Obligations of municipally owned utilities. The stocks, bonds, notes, and other evidences of indebtedness of any electric, gas, or water department of any state, county, city, town, or district whose obligations would qualify as legal for purchase under subdivision 3, 4, or 5, the interest and principal of which are payable solely out of the revenues from the operations of the facility

for which the obligations were issued, provided that the department issuing such obligations meets the requirements applying to public utility operating companies as set out in subdivisions 15 a through c.

19. Obligations of industrial corporations. Bonds, notes, and other evidences of indebtedness of any industrial corporation incorporated under the laws of the United States or of any state thereof, provided such corporation meets the following conditions and requirements:

- a. The gross operating revenue of such corporation for the fiscal year preceding the making of such investment, or the average of the gross operating revenue for the five fiscal years next preceding the making of such investment, whichever of these two is the larger, shall have been not less than \$10 million;
- b. The total fixed charges of such corporation, as reported for the fiscal year next preceding the making of the investment, shall have been earned, after deducting operating expenses, depreciation, and taxes, other than income taxes, and depletion in the case of companies commonly considered as depleting their natural resources in the course of business, an average of at least three times annually during the seven fiscal years preceding the making of the investment and at least two and one-half times during the fiscal year immediately preceding the making of the investment;
- c. The net working capital of such industrial corporation, as shown by its last published fiscal year-end statement prior to the making of such investment, or in the case of a new issue, as shown by the financial statement of such corporation giving effect to the issuance of any new security, shall be at least equal to the total par value of its bonded debt as shown by such statement; and
- d. The aggregate of the average market prices of the total amounts of each of the individual securities of such industrial corporation, junior to its bonded debt and outstanding at the time of the making of such investment, shall be at least equal to the total par value of the bonded debt of such industrial corporation at the time of the making of such investment, such average market price of any one of such individual securities being determined in the same manner as prescribed in subdivision 11 c.

20. Preferred stock of industrial corporations. Any preference stock of any industrial corporation incorporated under the laws of the United States or of any state thereof, provided such stock and such industrial corporation meet the following conditions and requirements:

- a. Such stock shall be preferred as to dividends, such dividends shall be cumulative, and such stock shall be preferred as to assets in the event of liquidation or dissolution;
- b. The gross operating revenue of such corporation for the fiscal year preceding the making of such investment, or the average of the gross operating revenue for the five fiscal years next preceding the making of such investment, whichever of these two is the larger, shall have been not less than \$10 million;
- c. The total fixed charges of such corporation, as reported for the fiscal year next preceding the making of such investment, plus the amount, at the time of making such investment, of the annual dividend requirements on such preference stock and any preference stock having the same or senior rank, such fixed charges and dividend requirements being considered the same for every year, shall have been earned, after deducting operating expenses, depreciation, and taxes,

including income taxes, and depletion in the case of companies commonly considered as depleting their natural resources in the course of business, an average of at least four times annually for the seven fiscal years preceding the making of such investment and at least three times for the fiscal year immediately preceding the making of such investment;

d. The net working capital of such industrial corporation, as shown by its last published fiscal year-end statement prior to the making of such investment, or, in the case of a new issue, as shown by the financial statement of such corporation giving effect to the issuance of any new security, shall be at least equal to the total par value of its bonded debt plus the total par value of the issue of such preference stock plus the total par value of all other issues of its preference stock having the same or senior rank; and

e. The aggregate of the lowest market prices of the total amounts of each of the individual securities of such industrial corporation junior to such preference stock and outstanding at the time of the making of such investment shall be at least two and one-half times the par value of the total issue of such preference stock plus the total par value of all other issues of its preference stock having the same or senior rank plus the par value of the total bonded debt of such industrial corporation. Such lowest market price of any one of such individual securities shall be determined by the lowest single quotation of the individual security for a period immediately preceding the making of such investment, which period shall be the full preceding calendar year plus the then-expired portion of the calendar year in which such investment is made, and if such individual security shall not have been outstanding during the full extent of such period, such period shall be deemed to be the length of time such individual security shall have been outstanding.

21. Obligations of finance corporations. Bonds, notes, and other evidences of indebtedness of any finance corporation incorporated under the laws of the United States or of any state thereof, provided such corporation meets the following conditions and requirements:

a. The gross operating income of such corporation for the fiscal year preceding the making of such investment, or the average of the gross operating income for the five fiscal years next preceding the making of such investment, whichever of these two is the larger, shall have been not less than \$5 million;

b. The total fixed charges of such corporation, as reported for the fiscal year next preceding the making of the investment, shall have been earned, after deducting operating expenses, depreciation, and taxes, other than income taxes, an average of at least two and one-half times annually during the seven fiscal years preceding the making of the investment and at least two times during the fiscal year immediately preceding the making of the investment;

c. The aggregate indebtedness of such finance corporation as shown by its last fiscal year-end statement, or, in the case of a new issue, as shown by the financial statement giving effect to the issuance of any new securities, shall be no greater than three times the aggregate net worth, as represented by preferred and common stocks and surplus of such corporation; and

d. The aggregate of the average market prices of the total amounts of each of the individual securities of such finance corporation, junior to its bonded debt and outstanding at the time of the making of such investment, shall be at least equal to one-third of the sum of the par value of the bonded debt plus all other indebtedness of such finance corporation as shown by the last published fiscal year-end statement, such average market price of any one of such individual

securities being determined in the same manner as prescribed in subdivision 11 c.

22. Preferred stock of finance corporations. Any preference stock of any finance corporation incorporated under the laws of the United States or of any state thereof, provided such stock and such corporation meet the following conditions and requirements:

a. Such stock shall be preferred as to dividends, such dividends shall be cumulative, and such stock shall be preferred as to assets in the event of liquidation or dissolution;

b. The gross operating income of such corporation for the fiscal year preceding the making of such investment, or the average of the gross operating income for the five fiscal years next preceding the making of such investment, whichever of these two is the larger, shall have been not less than \$5 million;

c. The total fixed charges of such finance corporation, as reported for the fiscal year next preceding the making of such investment, plus the amount, at the time of making such investment, of the annual dividend requirements on such preference stock and any preference stock having the same or senior rank, such fixed charges and dividend requirements being considered the same for every year, shall have been earned, after deducting operating expenses, depreciation, and taxes, including income taxes, an average of at least three and one-half times annually for the seven fiscal years preceding the making of such investment and at least three times for the fiscal year immediately preceding the making of such investment;

d. The aggregate indebtedness and par value of the purchased stock, both the issue in question and any issues equal or senior thereto, of such finance corporation as shown by its last published fiscal year-end statement, or, in the case of a new issue, as shown by the financial statement giving effect to the issuance of any new securities, shall be no greater than three times the aggregate par value of the junior securities and surplus of such corporation; and

e. The aggregate of the lowest market prices of the total amounts of each of the individual securities of such finance corporation junior to such preference stock and outstanding at the time of the making of such investment shall be at least equal to one-third of the sum of the par value of such preference stock plus the total par value of all other issues of preference stock having the same or senior rank plus the par value of the total bonded debt plus all other indebtedness of such finance corporation as shown by the last published fiscal year-end statement, such lowest market price of any one of such individual securities being determined in the same manner as prescribed in subdivision 20 e.

23. Federal housing loans. First mortgage real estate loans insured by the Federal Housing Administrator under Title II of the National Housing Act.

24. Certificates of deposit and savings accounts. Certificates of deposit of, and savings accounts in, any bank, banking institution, or trust company, whose deposits are insured by the Federal Deposit Insurance Corporation at the prevailing rate of interest on such certificates or savings accounts; however, no such fiduciary shall invest in such certificates of, or deposits in, any one bank, banking institution, or trust company an amount from any one fund in his or its care which shall be in excess of such amount as shall be fully insured as a deposit in such bank, banking institution, or trust company by the Federal Deposit Insurance Corporation. A corporate fiduciary shall not, however, be prohibited by the terms of this subdivision from depositing in its own banking department, in the form of demand deposits, savings accounts, time deposits, or certificates of deposit, funds in any amount awaiting investments or distribution, provided that it

shall have complied with the provisions of §§ 6.2-1005 and 6.2-1007, with reference to the securing of such deposits.

25. Obligations of International Bank, Asian Development Bank, and African Development Bank. Bonds and other obligations issued, guaranteed, or assumed by the International Bank for Reconstruction and Development, the Asian Development Bank, or the African Development Bank.

26. Deposits in savings institutions. Certificates of deposit of, and savings accounts in, any state or federal savings institution or savings bank lawfully authorized to do business in the Commonwealth whose accounts are insured by the Federal Deposit Insurance Corporation or other federal insurance agency; however, no such fiduciary shall invest in such shares of any one such association an amount from any one fund in his or its care which shall be in excess of such amount as shall be fully insured as an account in such association by the Federal Deposit Insurance Corporation or other federal insurance agency.

27. Certificates evidencing ownership of undivided interests in pools of mortgages. Certificates evidencing ownership of undivided interests in pools of bonds or negotiable notes directly secured by first lien deeds of trust or mortgages on real property located in the Commonwealth improved by single-family residential housing units or multi-family dwelling units, provided that (i) such certificates are rated AA or better by a nationally recognized independent rating agency; (ii) the loans evidenced by such bonds or negotiable notes do not exceed 80 percent of the fair market value, as determined by an independent appraisal thereof, of the real property and the improvements thereon securing such loans; and (iii) such bonds or negotiable notes are assigned to a corporate trustee for the benefit of the holders of such certificates.

28. Shares in credit unions. Shares and share certificates in any credit union lawfully authorized to do business in the Commonwealth whose accounts are insured by the National Credit Union Share Insurance Fund or the Virginia Credit Union Share Insurance Corporation, provided no such fiduciary shall invest in such shares an amount from any one fund in his or its care which shall be in excess of such amount as shall be fully insured as an account in such credit union by the National Credit Union Share Insurance Fund or the Virginia Credit Union Share Insurance Corporation.

B. Whenever under the terms of this section the par value of a preference stock is required to be used in a computation, there shall be used instead of such par value the liquidating value of such preference stock in the case of involuntary liquidation, as prescribed by the terms of its issue, in the event that such liquidating value shall be greater than the par value of such preference stock; or in the event that the preference stock in question has no par value, then such liquidating value shall be used instead; or when such preference stock shall be one of no par value and one for which no such liquidating value shall have been so prescribed, then for the purposes of such computation the preference stock in question shall be deemed to have a value of \$100 per share.

C. When any security provided for in this section is purchased by a fiduciary and at the time of such purchase the statement for the preceding fiscal year of the corporation issuing the security so being purchased has not been published and is therefore not available, the statement of such corporation for the fiscal year immediately prior to such preceding fiscal year shall be considered the statement for such preceding fiscal year and shall have the same force and effect as the statement for the fiscal year preceding such purchase, provided the date of such purchase is not more than four months after the end of the last fiscal year of the corporation.

D. In testing a new issue of securities under the provisions of this section, it shall be permissible, in determining the number of times that fixed charges or preferred dividend requirements have been earned, to use pro forma fixed charges or dividend requirements, provided the corporation or its corporate predecessor has been in existence for a period of not less than seven years.

E. Investments made under the provisions of this section, if in conformity with the requirements of this section at the time such investments were made, may be retained even though they cease to be eligible for purchase under the provisions of this section, but shall be subject to the provisions of the Uniform Prudent Investor Act (§ [64.2-780](#) et seq.).

2012, c. [614](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

Chapter 46. Local Government Investment Pool Act.

§ 2.2-4600. Short title; definitions.

This chapter may be cited as the "Local Government Investment Pool Act."

1980, c. 538, §§ 2.1-234.1, 2.1-234.3; 1996, c. 77; 2001, c. 844.

§ 2.2-4601. Findings and purpose.

A. The General Assembly finds that the public interest is served by maximum and prudent investment of public funds so that the need for taxes and other public revenues is decreased commensurately with the earnings on such investments. In selecting among avenues of investment, the highest rate of return, consistent with safety and liquidity, shall be the objective.

B. The purpose of this chapter is to secure the maximum public benefit from the investment of public funds, and, in furtherance of such purposes to:

1. Establish and maintain a continuing statewide policy for the deposit and investment of public funds;
2. Establish a state-administered pool for the investment of local government funds; and
3. Authorize treasurers or any other person collecting, disbursing, or otherwise handling public funds to invest such public funds either in accordance with Chapter 45 (§ 2.2-4500 et seq.) of this title or through the local government investment pool created by the chapter.

C. The General Assembly finds that the objectives of this chapter will best be obtained through improved money management, emphasizing the primary requirements of safety and liquidity and recognizing the different investment objectives of operating and permanent funds.

1980, c. 538, § 2.1-234.2; 2001, c. 844.

§ 2.2-4602. Local government investment pool created.

A. A local government investment pool is created, consisting of the aggregate of all funds from local officials handling public funds that are placed in the custody of the State Treasurer for investment and reinvestment as provided in this chapter.

B. The Treasury Board or its designee shall administer the local government investment pool on behalf of the participating local officials subject to regulations and guidelines adopted by the Treasury Board.

C. The Treasury Board or its designee shall invest moneys in the local government investment pool with the degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived. Specifically, the types of authorized investments for local government investment pool assets shall be limited to those set forth for local officials in Chapter 45 (§ 2.2-4500 et seq.) of this title.

D. A separate account for each participant in the fund shall be kept to record individual transactions and totals of all investments belonging to each participant. A monthly report

showing the changes in investments made during the preceding month shall be furnished to each participant having a beneficial interest in the local government investment pool. Details of any investment transaction shall be furnished to any participant upon request.

E. The Treasury Board or its designee shall administer and handle the accounts in the same manner as bond and sinking fund trust accounts.

F. The principal and accrued income, and any part thereof, of each and every account maintained for a participant in the local government investment pool shall be subject to payment at any time from the local government investment pool upon request, subject to applicable regulations and guidelines. Accumulated income shall be remitted or credited to each participant at least quarterly.

G. Except as provided in this section, all instruments of title of all investments of the local government investment pool shall remain in the custody of the State Treasurer. The State Treasurer may deposit with one or more fiscal agents or banks, those instruments of title he considers advisable, to be held in safekeeping by the agents or banks for collection of the principal and interest or other income, or of the proceeds of sale. The State Treasurer shall collect the principal and interest or other income from investments of the investment pool, the instruments of title to which are in his custody, when due and payable.

1980, c. 538, § 2.1-234.8; 1984, c. 320; 1988, c. 834; 2001, c. 844.

§ 2.2-4603. Investment authority.

Subject to the procedures set forth in this chapter, any local official handling public funds may invest and reinvest any money subject to his control and jurisdiction in the local government investment pool established by § 2.2-4602.

1980, c. 538, § 2.1-234.4; 1988, c. 834; 2001, c. 844.

§ 2.2-4604. Interfund pooling for investment purposes.

Local officials handling public funds may effect temporary transfers among separate funds for the purpose of pooling amounts available for investment. This pooling may be accomplished through interfund advances and other appropriate means consistent with recognized principles of governmental accounting provided that (i) moneys are available for the investment period required; (ii) the investment fund can repay the advance by the time needed; (iii) the transactions are fully and promptly recorded; and (iv) the interest earned is credited to the loaning or advancing jurisdiction.

1980, c. 538, § 2.1-234.6; 1981, c. 583; 2001, c. 844.

§ 2.2-4605. Powers of Treasury Board relating to the administration of local government investment pool.

A. The Treasury Board shall have power to:

1. Make and adopt regulations necessary and proper for the efficient administration of the local government investment pool hereinafter created, including but not limited to:
 - a. Specification of minimum amounts that may be deposited in the local government investment pool and minimum periods of time for which deposits shall be retained in such pool;
 - b. Creation of a reserve for losses;

- c. Payment of administrative expenses from the earnings of such pool;
 - d. Distribution of the earnings in excess of such expenses, or allocation of losses, to the several participants in a manner that equitably reflects the differing amounts of their respective investments and the differing periods of time for which such amounts were in the custody of the pool; and
 - e. Procedures for the deposit and withdrawal of funds.
2. Develop guidelines for the protection of the local government investment pool in the event of default in the payment of principal or interest or other income of any investment of such pool, such guidelines to include the following procedures:
- a. Instituting the proper proceedings to collect the matured principal or interest or other income;
 - b. Accepting for exchange purposes refunding bonds or other evidences of indebtedness at appropriate interest rates;
 - c. Making compromises, adjustments, or disposition of matured principal or interest or other income as considered advisable for the purpose of protecting the moneys invested;
 - d. Making compromises or adjustments as to future payments of principal or interest or other income considered advisable for the purpose of protecting the moneys invested.
3. Formulate policies for the investment and reinvestment of funds in the local government investment pool and the acquisition, retention, management, and disposition of investments of the investment pool.

B. The Treasury Board may delegate the administrative aspects of operating under this chapter to the State Treasurer, subject to the regulations and guidelines adopted by the Treasury Board.

C. Such regulations and guidelines may be adopted without complying with the Administrative Process Act (§ 2.2-4000 et seq.) provided that input is solicited from local officials handling public funds. Such input requires only that notice and an opportunity to submit written comments be given.

1980, c. 538, § 2.1-234.7; 2001, c. 844.

§ 2.2-4606. Chapter controlling over inconsistent laws; powers supplemental.

Insofar as the provisions of this chapter are inconsistent with the provisions of any other law, the provisions of this chapter shall be controlling and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by any other law.

1980, c. 538, § 2.1-234.9; 2001, c. 844.

Article 7. Deposits

§ 38.2-1045. Deposits required of insurers generally.

A. Except as otherwise provided in this title, before the Commission issues a license to transact the business of insurance in this Commonwealth to any insurer, that insurer shall deposit with the State Treasurer securities that (i) are legal investments under the laws of this Commonwealth for public sinking funds or for other public funds, (ii) are not in default as to principal or interest, (iii) have a current market value of not less than \$50,000 nor more than \$500,000, and (iv) are issued pursuant to a system of book-entry evidencing ownership interests of the securities with transfers of ownership interests effected on the records of a depository and its participants pursuant to rules and procedures established by the depository.

B. The Commission may require a reasonable amount of additional deposits in securities that meet the requirements of clauses (i), (ii) and (iv) of subsection A of this section, whenever the Commission determines that the insurer's financial condition, method of operation, or manner of doing business is such that the Commission is not satisfied that it can meet its obligations to all policyholders.

C. Neither the deposit referred to in this section nor the alternate deposit permitted by § 38.2-1049 shall be required of (i) any mutual assessment property and casualty insurance company, (ii) any fraternal benefit society, or (iii) any insurer transacting exclusively an ocean marine business in this Commonwealth.

D. Any insurer which on June 30, 1991, instead of the deposit of securities required by subsection A, has entered into a bond with surety, approved by the Commission, with any conditions the Commission requires, shall have until the next renewal, anniversary, or expiration date of such bond, or until June 30, 1992, whichever comes first, to comply with the deposit provisions of subsection A. The surety shall be licensed in this Commonwealth to transact the business of suretyship and shall not be directly or indirectly under the same ownership or management as the principal on the bond.

E. Every insurer subject to the provisions of this section having physical securities deposited with the State Treasurer on or before June 30, 1992, shall comply with the provisions of clause (iv) in subsection A not later than January 1, 1993.

Code 1950, § 38-39; 1952, c. 317, § 38.1-108; 1956, c. 234; 1960, c. 558; 1964, c. 605; 1973, c. 178; 1975, c. 556; 1986, c. 562; 1991, c. 261; 1992, c. 14 .

§ 38.2-1046. Purpose of deposits; enforcement of lien.

A. An insurer's deposits required by § 38.2-1045 shall be held as a special fund in trust for the insurer's liabilities which are incurred or which may be incurred as a result of a loss sustained by (i) this Commonwealth or any of its political subdivisions, (ii) any citizen or inhabitant of this Commonwealth, or (iii) any other person owning property in this Commonwealth, when the insurer fails to meet its obligations incurred in this Commonwealth. Policyholders, without preference, shall have a lien on the deposits for the amounts due or which may become due as a result of any failure of the insurer to meet its obligations. General creditors, without preference, shall be entitled to have a similar lien on the deposits which shall be subordinate to the claims of

the policyholders.

B. Whenever any such insurer becomes insolvent or bankrupt, or makes an assignment for the benefit of its creditors, any person given a lien by this section may file a bill in the Circuit Court of the City of Richmond for the benefit of himself and all others given a lien by this section to subject such securities as may be on deposit with the State Treasurer or its agent to the payment of the liens thereon. The State Treasurer shall be made a party to such suit and a copy of such bill shall be served upon the Commissioner of Insurance as if he were a party to such suit. The funds shall be distributed by the court.

Code 1950, § 38-50; 1952, c. 317, § 38.1-110; 1981, c. 208; 1986, c. 562; 1988, c. 298; 1992, c. 20; 1995, c. 60.

§ 38.2-1047. How deposits applied to payment of claims; deficit to be made good.

A. This section shall apply only where:

1. The insurer has failed to pay any of its liabilities after the liabilities have been ascertained (i) by any agreement of the parties binding the insurer, or (ii) by judgment, order or decree of a court of competent jurisdiction which has not been appealed, superseded or stayed; and
2. The provisions of subsection B of § 38.2-1046 are not applicable.

B. Upon application of the person to whom the debt or money is due and after giving notice as provided in subsection C of this section, the State Treasurer shall (i) sell an amount of securities with accrued interest that provides sufficient funds to pay the sums due and the expenses of the sale and (ii) pay the sums due and expenses out of the available funds. This shall be subject to the approval of the Commission.

C. The State Treasurer shall give the insurer or its agent ten days' notice, either by mail or personally, of the time and place of the sale. The sale shall be advertised daily for ten days in a newspaper of general circulation published in the City of Richmond.

D. The insurer shall immediately make good any deficit in its deposit resulting from a sale. The State Treasurer shall report to the Commission in writing (i) the amount and kind of securities sold in accordance with the provisions of this section and (ii) the amount and kind of securities deposited to make good the deficit.

Code 1950, § 38-49; 1950, p. 996; 1952, c. 317, § 38.1-111; 1986, c. 562; 1988, c. 298.

§ 38.2-1048. Return of deposits.

A. The Commission, at its discretion, may direct the State Treasurer to return to any insurer all or a part of the deposit made by it under § 38.2-1045 if the insurer (i) has complied with § 38.2-1049, or (ii) has ceased to transact business in this Commonwealth. In the case of the latter, the fixed or contingent liabilities secured by the deposit shall have been satisfied or terminated or shall have been assumed by another insurer licensed to transact the business of insurance in this Commonwealth. If the Commission finds that any voluntary deposit of any insurer made under § 38.2-1050 no longer is required in whole or in part to comply with the laws of this or any other state, it may to such extent direct the return of that deposit. The Commission, before directing the return of any deposit, may require evidence it considers satisfactory that the insurer is entitled to the return of all or part of the deposit.

B. Notwithstanding the provisions in § 38.2-1046 and subsection A of this section, if an insurer

domiciled in this Commonwealth is placed in receivership, and a receiver is appointed, pursuant to the provisions of Chapter 15 (§ 38.2-1500 et seq.) of this title, the Commission shall direct the State Treasurer to return any deposit made with it by the insurer to such receiver for distribution, disbursement, or other application in accordance with provisions set forth in Chapter 15 (§ 38.2-1500 et seq.) of this title and any applicable order of liquidation, conservation or rehabilitation.

Code 1950, § 38-52; 1952, c. 317, § 38.1-112; 1986, c. 562; 1988, c. 298; 1995, c. 60.

§ 38.2-1049. Alternate deposit requirements.

A. The insurer, at the discretion of the Commission, may be relieved of making the deposit required by § 38.2-1045 if the insurer makes deposits according to the following provisions:

1. Acceptable securities as defined in subsection B of this section are deposited with the State Treasurer in the form prescribed in clause (iv) of subsection A of § 38.2-1045 or with the insurance commissioner, treasurer or other officer or official body of any other state first for the protection of the insurer's policyholders.
2. The securities are not to be in default as to principal and interest.
3. The securities have a market value of at least \$500,000.
4. A certificate is furnished to the Commission and authenticated by the appropriate state official holding the deposit that the requirements of this subsection have been met.

B. For the purpose of this section, acceptable securities are defined as bonds of the United States, or of any state, or of any city, county or town of any state, or bonds or notes secured by mortgages or deeds of trust on otherwise unencumbered real estate of a market value in each case of not less than double the amount loaned, or other securities approved by the Commission.

Code 1950, §§ 38-37, 38-40, 37-175, 38-516; 1952, c. 317, § 38.1-113; 1964, c. 605; 1975, c. 556; 1986, c. 562; 1992, c. 14 .

§ 38.2-1050. Voluntary deposit in excess of amount required.

Any domestic insurer, in order to comply with the laws of any other state or of the United States, may make a voluntary deposit with the State Treasurer in excess of the amount required by § 38.2-1045. This excess deposit shall be subject to all other applicable provisions of the laws of this Commonwealth relating to the deposits of insurers. However, this excess deposit shall be for the protection of all the insurer's policyholders and general creditors, notwithstanding the provisions of § 38.2-1046.

Code 1950, § 38-41; 1952, c. 317, § 38.1-114; 1966, c. 263; 1986, c. 562.

§ 38.2-1051. Repealed.

Repealed by Acts 1992, c. 14 .

§ 38.2-1052. Exchange of securities.

A depositing insurer may from time to time exchange for any of the deposited securities other securities eligible for deposit under this article if in the opinion of the Commission the aggregate value of the deposit will not be reduced below the amount required by law.

1952, c. 317, § 38.1-116; 1986, c. 562.

§ 38.2-1053. Interest on deposits; to whom paid.

The State Treasurer, at the time of receiving any securities deposited under this title, shall give the insurer authority to collect the interest for its own use as the interest is paid. This authority shall continue in force until the insurer fails to pay any of its liabilities for which the deposit is security. In that case, the party paying interest shall be notified of the failure, and thereafter the interest shall be payable to the State Treasurer, and shall be applied, if necessary, to the payment of the liabilities.

Code 1950, § 38-48; 1952, c. 317, § 38.1-117; 1986, c. 562.

§ 38.2-1054. Duty of State Treasurer when securities deposited are paid.

When the principal of any securities deposited under this title is paid to the State Treasurer, the money received shall be paid to the insurer. However, if the securities were required to be deposited under § 38.2-1045, the payment shall not be made until the insurer deposits an equal amount of other securities of the character required for similar deposits. If the insurer fails to deliver to the State Treasurer, within thirty days after receiving notice of this requirement, the securities necessary to maintain its required deposit, the State Treasurer with the approval in writing of the Commission, may use the money to purchase and hold other securities of the required character.

Code 1950, § 38-51; 1952, c. 317, § 38.1-118; 1986, c. 562.

§ 38.2-1055. Annual report of State Treasurer to Commission.

Each January the State Treasurer shall certify to the Commission the kind and face value of all securities, bonds, notes, mortgages or deeds of trust deposited under this title and held at the end of the preceding calendar year.

Code 1950, § 38-45; 1952, c. 317, § 38.1-119; 1986, c. 562.

§ 38.2-1056. Treasurer to receipt for deposits; responsibility of Commonwealth; taxation of deposited bonds.

The State Treasurer shall provide receipts to the insurer for all securities deposited with him under the provisions of this title. The Commonwealth shall be responsible for the safekeeping of the securities. If some or all of the securities are lost, destroyed or misappropriated, the Commonwealth shall pay or satisfy the loss to the insurer making the deposit. Securities deposited with the State Treasurer shall not be subject to taxation.

Code 1950, §§ 38-42, 38-46; 1952, c. 317, § 38.1-120; 1986, c. 562.

§ 38.2-1057. Assessment for expense of holding deposits; Insurance Collateral Assessment Fund.

A. For the purpose of defraying the expense of the State Treasurer's office in the safekeeping and handling of the securities or surety bonds deposited under the provisions of this title, the State Treasurer shall levy annually against each insurer an assessment. The assessment shall be a percentage of the par or face value of the securities or surety bonds on deposit with the State Treasurer's office in each insurer's account at the end of each calendar year. The percentage shall be determined annually by the State Treasurer as the amount necessary to meet the estimated annual expenses incurred by the State Treasurer to meet the provisions of this title. The percentage shall not exceed one-fourth of one percent of the par or face value of the securities or surety bonds on deposit with the State Treasurer's office. Assessment collections that are more than actual expenses in any year shall be added to the next year's assessment calculation. The

assessment shall be collected every January. No part of the amount collected shall be used to increase the compensation of any person connected with the office of the State Treasurer.

B. All moneys collected from the annual assessment imposed under subsection A shall be paid into the state treasury and credited to a special, nonreverting fund known as the Insurance Collateral Assessment Fund which is hereby established. The Fund shall be established on the books of the Comptroller and be administered by the State Treasurer's office. Disbursements from the Fund shall be on warrants issued by the Comptroller to pay expenses associated with the safekeeping and handling of the securities or surety bonds deposited under the provisions of this title. Any moneys remaining in the Fund at the end of a fiscal year shall not revert to the general fund but shall remain in the Fund and be used to offset subsequent years' expenses as provided in subsection A.

Code 1950, § 38-43; 1952, c. 317, § 38.1-121; 1973, c. 173; 1986, c. 562; 2005, c. 38.

§ 38.2-1058. Felony for State Treasurer to dispose of securities illegally.

If the State Treasurer disposes of any securities deposited with him under this title, other than as provided in this title, he shall be guilty of a Class 3 felony, and, upon conviction, shall be punished by a fine double the amount of the disposed securities.

Code 1950, § 38-53; 1952, c. 317, § 38.1-122; 1986, c. 562.

Chapter 14. Investments.

Article 1. General Provisions.

§ 38.2-1400. Scope and purpose of chapter.

This chapter applies to and regulates the investments of all domestic insurers as defined in this chapter. Upon petition to, and approval by, the Commission, any one or more provisions of this chapter shall not apply to a domestic insurer in receivership in this Commonwealth pursuant to Chapter 15 (§ 38.2-1500 et seq.) of this title. A foreign or alien insurer may invest its funds and assets in any investments that are permitted by the laws of its state or country of domicile and are of the same general character and quality as those authorized under this chapter. A foreign or alien insurer whose domiciliary jurisdiction does not regulate the investments of its insurers shall be subject to the provisions of this chapter.

1983, c. 457, § 38.1-217.1; 1986, c. 562; 1990, c. 893; 1992, c. 588; 1993, c. 55 .

§ 38.2-1401. Definitions.

As used in this chapter:

"Admitted assets" means, for purposes of the limitations and standards imposed by Articles 1 and 2 of this chapter, the amount thereof as permitted to be reported on the statutory financial statement of the insurer most recently required to be filed with the Commission pursuant to §§ 38.2-1300 and 38.2-1301 or other similar provisions within this title, but excluding the assets allocated to separate accounts pursuant to Article 3 (§ 38.2-1443 et seq.) of this chapter.

"Business entity" means a corporation, association, partnership, joint venture, trust, church, or religious body.

"Cap" means an agreement obligating the seller to make payments to the buyer, with each payment based on the amount by which a reference price or level or the performance or value of one or more underlying interests exceeds a predetermined number, sometimes called the strike rate or strike price.

"Category 1 investment" means any investment complying with Article 1 (§ 38.2-1400 et seq.) and either Article 2 (§ 38.2-1412 et seq.) or 3 (§ 38.2-1443 et seq.), or both Articles 2 and 3, of this chapter.

"Category 2 investment" means any investment complying with Article 1, but with neither Article 2 nor Article 3, of this chapter.

"Claimants" means any owners, beneficiaries, assignees, certificate holders, or third-party beneficiaries of any insurance benefit or right arising out of and within the coverage of an insurance policy, annuity contract, benefit contract, or subscription contract.

"Collar" means an agreement to receive payments as the buyer of an option, cap, or floor and to make payments as the seller of a different option, cap, or floor.

"Counterparty exposure amount" means the amount of credit risk attributable to an over-the-counter derivative instrument, which amount of credit risk is equal to (i) the market value of the over-the-counter derivative instrument if the liquidation of the derivative instrument would

result in a final cash payment to the insurer or (ii) zero if the liquidation of the derivative instrument would not result in a final cash payment to the insurer. However, if an over-the-counter derivative instrument is entered into under a written master agreement that provides for netting of payments owed by the respective parties, and the domicile of the counterparty is either within the United States or, if not within the United States, within a foreign jurisdiction listed in the Purposes and Procedures Manual of the Securities Valuation Office as eligible for netting, the amount of credit risk attributable to the over-the-counter derivative instrument shall be the greater of zero or the net sum of (a) the market value of the over-the-counter derivative instruments entered into under the agreement, the liquidation of which would result in a final cash payment to the insurer, and (b) the market value of the over-the-counter derivative instruments entered into under the agreement, the liquidation of which would result in a final cash payment by the insurer to the business entity. With respect to open transactions, the market value of the over-the-counter derivative instrument shall be determined at the end of the most recent quarter of the insurer's fiscal year and shall be reduced by the market value of acceptable collateral held by the insurer or placed in escrow by one or both parties.

"Date of investment" means the date on which funds are disbursed for an investment.

"Derivative instrument" means an agreement, instrument, or a series or combination thereof (i) to make or take delivery of, or assume or relinquish, a specified amount of one or more underlying interests or to make a cash settlement in lieu thereof or (ii) that has a price, performance, value, or cash flow based primarily upon the actual or expected price, level, performance, value, or cash flow of one or more underlying interests. Derivative instruments include options, warrants used in a hedging transaction and not attached to another financial instrument, caps, floors, collars, swaps, forwards, futures, and any other agreements, options, or instruments substantially similar thereto or any series or combination thereof and any agreements or instruments permitted under rules adopted under § 38.2-1428.

"Derivative transaction" means a transaction involving the use of one or more derivative instruments.

"Domestic governmental entity" means the United States, any state, or any municipality or district in any such state, or any political subdivision, civil division, agency or instrumentality of one or more of the foregoing.

"Fair market value" means the price that property will bring when (i) offered for sale by one who desires, but who is not obligated, to sell it; (ii) bought by one who is under no necessity of having it; and (iii) sufficient time has elapsed to allow interested buyers the opportunity to become informed of the offer for sale.

"Fixed charges" means actual interest incurred in each year on funded and unfunded debt, excluding interest on bank deposit accounts, and annual apportionment of debt discount or premium. Where interest is partially or entirely contingent upon earnings, "fixed charges" includes contingent interest payments.

"Floor" means an agreement obligating the seller to make payments to the buyer in which each payment is based on the amount by which a predetermined number, sometimes called the floor rate or price, exceeds a reference price, a level, or the performance or value of one or more underlying interests.

"Forward" means an agreement, other than a future, to make or take delivery of, or effect a cash

settlement based on the actual or expected price, level, performance or value of, one or more underlying interests.

"Future" means an agreement, traded on a qualified exchange or qualified foreign exchange, to make or take delivery of, or effect a cash settlement based on the actual or expected price, level, performance or value of, one or more underlying interests and includes an insurance future.

"Hedging transaction" means:

1. A derivative transaction that is entered into and maintained to reduce:
 - a. The risk of a change in the value, yield, price, cash flow, or quantity of assets or liabilities that the insurer has acquired or incurred or anticipates acquiring or incurring; or
 - b. The currency exchange rate risk or the degree of exposure as to assets or liabilities that the insurer has acquired or incurred or anticipates acquiring or incurring; or
2. Any other derivative transaction specified as constituting a hedging transaction in rules adopted pursuant to § 38.2-1428.

"High grade obligations" means obligations which (i) are rated one or two by the Securities Valuation Office of the National Association of Insurance Commissioners or (ii) if not rated by the Securities Valuation Office, are rated in an equivalent grade by a national rating agency recognized by the Commission.

"Insurance future" means a future relating to an index or pool that is based on insurance-related items.

"Insurance futures option" means an option on an insurance future.

"Insurer" means a company licensed pursuant to Chapter 10 (§ 38.2-1000 et seq.), 11 (§ 38.2-1100 et seq.), 12 (§ 38.2-1200 et seq.), 25 (§ 38.2-2500 et seq.), 26 (§ 38.2-2600 et seq.), 38 (§ 38.2-3800 et seq.), 39 (§ 38.2-3900 et seq.), 40 (§ 38.2-4000 et seq.), 41 (§ 38.2-4100 et seq.), 42 (§ 38.2-4200 et seq.), 43 (§ 38.2-4300 et seq.), 45 (§ 38.2-4500 et seq.), 46 (§ 38.2-4600 et seq.), 51 (§ 38.2-5100 et seq.), or 61 (§ 38.2-6100 et seq.) of this title.

"Life insurer" means any insurer authorized to transact life insurance or to grant annuities as defined in §§ 38.2-102 through 38.2-107 or authorized pursuant to the provisions of Chapter 38, 39, 40 or 41, or any other chapter of this title, to provide any one of the following contractual benefits in any form: death benefits, endowment benefits, annuity benefits or monument or tombstone benefits.

"Lower grade obligations" means obligations which (i) are rated four, five, or six by the Securities Valuation Office of the National Association of Insurance Commissioners or (ii) if not rated by the Securities Valuation Office, are rated in an equivalent grade by a national rating agency recognized by the Commission.

"Medium grade obligations" means obligations which (i) are rated three by the Securities Valuation Office of the National Association of Insurance Commissioners or (ii) if not rated by the Securities Valuation office, are rated in an equivalent grade by a national rating agency recognized by the Commission.

"Minimum capital and surplus" means the minimum surplus to policyholders, or minimum net

worth, a particular insurer must have to obtain and maintain its license to transact business in this Commonwealth pursuant to the applicable provisions of this title. In no case shall an insurer's minimum capital and surplus be less than zero.

"Net earnings available for fixed charges" means income minus operating expenses, maintenance expenses, taxes other than income taxes, depreciation, and depletion. Extraordinary nonrecurring income and expense items are excluded from the calculation of "net earnings available for fixed charges."

"Obligation" means a bond, debenture, note or other evidence of indebtedness.

"Option" means an agreement giving the buyer the right to buy or receive, sell or deliver, enter into, extend, terminate, or effect a cash settlement based on the actual or expected price, level, performance, or value of one or more underlying interests. "Option" includes an insurance futures option.

"Over-the-counter derivative instrument" means a derivative instrument that is entered into with a business entity other than through a qualified exchange or qualified foreign exchange or that is cleared other than through a qualified clearinghouse.

"Potential exposure" means the amount determined in accordance with the National Association of Insurance Commissioners Annual Statement Instructions.

"Prohibited investment" means any investment prohibited by § [38.2-1407](#).

"Qualified clearinghouse" means a clearinghouse for, and that is subject to the rules of, a qualified exchange or a qualified foreign exchange, which clearinghouse provides clearing services, including acting as a counterparty to each of the parties to a transaction such that the parties no longer have credit risk as to each other.

"Qualified exchange" means:

1. A securities exchange registered as a national securities exchange, or a securities market regulated under the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.), as amended;
2. A board of trade or commodities exchange designated as a contract market by the Commodity Futures Trading Commission or any successor thereof;
3. Private Offerings, Resales and Trading through Automated Linkages (PORTAL);
4. A designated offshore securities market as defined in Securities Exchange Commission Regulation S, 17 C.F.R. Part 230, as amended; or
5. A qualified foreign exchange.

"Qualified foreign exchange" means a foreign exchange, board of trade, or contract market located outside the United States:

1. That has received regulatory comparability relief under Commodity Futures Trading Commission (CFTC) Rule 30.10 (as set forth in Appendix C to Part 30 of the CFTC's regulations at 17 C.F.R. Part 30);
2. That is, or whose members are, subject to the jurisdiction of a foreign futures authority that has received regulatory comparability relief under CFTC Rule 30.10 (as set forth in Appendix C to

Part 30 of the CFTC's regulations at 17 C.F.R. Part 30) as to futures transactions in the jurisdiction where the exchange, board of trade, or contract market is located; or

3. Upon which foreign stock index futures contracts are listed that are the subject of no-action relief issued by the CFTC's Office of General Counsel, provided that an exchange, board of trade, or contract market that qualifies as a "qualified foreign exchange" only under this subsection shall only be a "qualified foreign exchange" as to foreign stock index futures contracts that are the subject of no-action relief.

"Replication transaction" means a derivative transaction that is intended to replicate the performance of one or more assets that an insurer is authorized to acquire under this chapter. A derivative transaction that is entered into as a hedging transaction shall not be considered a replication transaction.

"Reserve liabilities" means those liabilities which are required to be established by an insurer for all of its outstanding insurance policies, annuity contracts, benefit contracts and subscription contracts, in accordance with this title, as amended or as hereafter amended.

"Statement value" means the amount determined in accordance with the National Association of Insurance Commissioners Annual Statement Instructions.

"Swap" means an agreement to exchange or to net payments at one or more times based on the actual or expected price, level, performance, or value of one or more underlying interests.

"Underlying interest" means the assets, liabilities, or other interests, or a combination thereof, underlying a derivative instrument, such as any one or more securities, currencies, rates, indices, commodities, or derivative instruments.

"Warrant" means an instrument that gives the holder the right to purchase an underlying financial instrument at a given price and time or at a series of prices and times outlined in the warrant agreement. Warrants may be issued alone or in connection with the sale of other securities.

"Wrap-around mortgage" means a loan made by an insurer to a borrower, secured by a mortgage or deed of trust on real property encumbered by a first mortgage or first deed of trust, where the total amount of the obligation of the borrower to the insurer under the loan is not less than the sum of (i) the principal amount initially disbursed by the insurer on account of the loan and (ii) the unpaid principal balance of the obligation secured by the preexisting mortgage or deed of trust.

1983, c. 457, § 38.1-217.2; 1986, c. 562; 1992, c. 588; 1994, c. 503; 1998, c. 42; 2004, c. 668; 2008, c. 216; 2011, c. 198.

§ 38.2-1402. Authority to invest; classification of investments by category.

A. A domestic insurer may invest its funds and assets in accordance with this chapter. All investments of a domestic insurer shall be classified as (i) Category 1 investments, (ii) Category 2 investments, or (iii) prohibited investments.

B. The Commission, upon application by an insurer, may classify any investments made or proposed to be made and not otherwise specifically classified in Articles 1 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et seq.) of this chapter as a Category 1 investment.

1983, c. 457, § 38.1-217.3; 1986, c. 562.

§ 38.2-1403. Category 2 investments limits.

The value of Category 2 investments shall be excluded from the value of admitted assets to the extent the value of Category 2 investments exceeds seventy-five percent of the amount by which an insurer's surplus to policyholders exceeds its minimum capital and surplus.

1983, c. 457, § 38.1-217.4; 1986, c. 562; 1992, c. 588; 1998, c. 414.

§ 38.2-1404. Classification of existing investments.

Any investment held on July 1, 1983, that was permitted at the time it was made under former § 38.1-181 or former §§ 38.1-183 through 38.1-217, shall be classified as a Category 1 investment.

1983, c. 457, § 38.1-217.5; 1986, c. 562.

§ 38.2-1405. Dates of determination.

A. The classification by investment category of each investment, based on type of investment as set forth in §§ 38.2-1415 through 38.2-1442, inclusive, shall be determined as of the date of investment.

B. In applying any percentage limitations based on the insurer's total admitted assets or surplus to policyholders, there shall be used as a base, without regard to percentage limitations, those assets or surplus to policyholders as shown by the insurer's most recent annual or quarterly statement on file with the Commission pursuant to §§ 38.2-1300 and 38.2-1301.

1983, c. 457, § 38.1-217.6; 1986, c. 562; 1992, c. 588 .

§ 38.2-1406. Investment conversions.

Investments converted to a new form and resulting in a different investment classification under § 38.2-1402, at the election of the insurer, shall retain their previous investment classification for a period not exceeding three years unless the Commission prescribes in writing that a longer period is reasonable. Any prohibited investments shall be divested within that period. The investment conversions shall include those resulting (i) from investments acquired in satisfaction of or on account of loans, mortgages, liens, judgments, or other debts previously owing to the insurer in the course of its business, or (ii) from investments acquired through lawful distributions of assets, lawful plans of reorganization, or lawful and bona fide agreements of bulk reinsurance or of consolidation.

1983, c. 457, § 38.1-217.7; 1986, c. 562.

§ 38.2-1407. Prohibited investments.

A. No domestic insurer shall invest in or loan funds secured by:

1. Issued shares of its own capital stock without the Commission's approval. This approval shall be based on an evaluation that indicates the investment does not adversely affect the insurer or its policyholders. The insurer shall not invest in or own more than 20 percent of its outstanding issued stock, except for the purpose of mutualization;

2. Securities of an insolvent entity;

3. Securities that, by their terms, will subject the insurer to any assessment other than for taxes or for wages; however, the term "assessment" shall not include ordinary contractual payments or

the transfer of collateral or margin made under derivative instruments invested in or owned under § 38.2-1428;

4. Investments that, as determined by the Commission, are designed to evade any prohibition of this title; or

5. Any obligation or investment prohibited by § 38.2-1411.2.

B. Notwithstanding the provisions of this chapter, the Commission may order a domestic insurer to limit or withdraw from certain investments, or discontinue certain investment practices, to the extent the Commission finds that such investment or investment practice endangers the solvency of the insurer or is otherwise hazardous to policyholders, creditors or the public in this Commonwealth.

1983, c. 457, § 38.1-217.8; 1986, c. 562; 1992, c. 588; 2011, c. 198.

§ 38.2-1408. Authorization of investments.

No domestic insurer shall make any loan, investment, or any sale or exchange of a loan or investment, except policy loans of an insurer issuing life insurance policies or annuities, unless authorized or approved. Authorization or approval shall be made by (i) its board of directors, or other governing body, or (ii) a committee authorized by the governing body or bylaws, to make investments, loans, sales or exchanges. The minutes of the committee shall be recorded, and reports of the investments, loans, sales or exchanges authorized or approved shall be submitted to the board or other governing body at its next meeting.

1983, c. 457, § 38.1-217.9; 1986, c. 562.

§ 38.2-1409. Powers with respect to property.

Subject to any applicable limitations and restrictions in this chapter, a domestic insurer may own, hold, maintain, manage, operate, lease, sell, convey, and collect and receive income from any property acquired as permitted in this chapter.

1983, c. 457, § 38.1-217.10; 1986, c. 562.

§ 38.2-1410. Items not deemed to be prior liens or encumbrances.

In construing and applying this title, the following shall not be deemed prior liens or encumbrances: easements; rights-of-way; joint driveways; party wall agreements; current taxes and assessments not delinquent; restrictions as to building, use and occupancy unless there is a right of reentry or forfeiture for violation; instruments reserving mineral, oil, or timber rights; title matters for which the insurer is insured against loss by a title insurer; and leases under which rents are reserved to the owner of the real estate.

1983, c. 457, § 38.1-217.11; 1986, c. 562.

§ 38.2-1411. Repealed.

Repealed by Acts 1992, c. 588 .

§ 38.2-1411.1. Investment limits generally.

A. Any securities described in 15 U.S.C. § 77r-1 shall be subject to all the limitations prescribed by this chapter for investments not guaranteed by the full faith and credit of the United States. However, upon prior written application by an insurer, the Commission may, until July 1, 1992, at its discretion, allow such insurer to increase its investments in § 77r-1 securities to an amount

not to exceed ten percent of the insurer's total admitted assets.

B. On and after July 1, 1992, investments made in any securities described in 15 U.S.C. § 77r-1 shall be subject to the percentage limitations and requirements set forth in this chapter.

1991, c. 283; 1992, c. 588 .

§ 38.2-1411.2. Investment limits in medium grade and lower grade obligations.

A. No domestic insurer shall acquire, directly or indirectly, any medium grade or lower grade obligations of any business entity if, after giving effect to any such acquisition, the aggregate amount of all medium grade and lower grade obligations then held by the domestic insurer would exceed twenty percent of its admitted assets, provided that:

1. No more than ten percent of its admitted assets consists of lower grade obligations;
2. No more than three percent of its admitted assets consists of lower grade obligations rated five or six by the Securities Valuation Office of the National Association of Insurance Commissioners; and
3. No more than one percent of its admitted assets consists of lower grade obligations rated six by the Securities Valuation Office of the National Association of Insurance Commissioners.

Attaining or exceeding the limit of any one category shall not preclude an insurer from acquiring obligations in other categories subject to the specific and multi-category limits.

B. No domestic insurer may invest more than an aggregate of one percent of its admitted assets in medium grade obligations issued, guaranteed or insured by any one business entity nor may it invest more than one-half of one percent of its admitted assets in lower grade obligations issued, guaranteed or insured by any one business entity. In no event may a domestic insurer invest more than one percent of its admitted assets in any medium or lower grade obligations issued, guaranteed or insured by any one business entity.

C. Nothing contained in this section shall prohibit a domestic insurer from acquiring any obligation which it has committed to acquire if the insurer would have been permitted to acquire that obligation pursuant to the provisions of this chapter on the date on which such insurer committed to purchase that obligation.

D. Notwithstanding the foregoing, a domestic insurer may acquire any obligation of a business entity in which the insurer already has one or more obligations, if the obligation is acquired in order to protect an investment previously made in the obligations of the business entity; however, all such acquired obligations shall not exceed one-half of one percent of the insured's admitted assets.

E. Nothing contained in this section shall prohibit a domestic insurer from acquiring any obligation as a result of a restructuring of any obligation already held.

F. Nothing contained in this section shall require a domestic insurer to sell or otherwise dispose of any obligations legally acquired prior to July 1, 1992.

G. The Board of Directors of any domestic insurer which acquires or invests, directly or indirectly, more than two percent of its admitted assets in medium grade or lower grade obligations of any individual business entity, shall adopt a written plan for the making of such investments. The plan shall contain, in addition to guidelines with respect to the quality of the issues invested in,

diversification standards including, but not limited to, standards for issuer, industry, duration, liquidity and geographic location.

H. If the Commission finds that economic or other conditions render any rating of any obligation by the Securities Valuation Office of the National Association of Insurance Commissioners obsolete or unreflective of a diminished creditworthiness of the business entity issuing such obligations, the Commission may assign the obligations to a lower grade based on the findings of a national rating agency recognized by the Commission.

1992, c. 588; 2000, c. 187.

Article 2. Category 1 Investments.

§ 38.2-1412. Scope of article.

This article sets forth requirements for qualifying as a Category 1 investment. If an investment or portion thereof does not comply either with this article or Article 3 (§ 38.2-1443 et seq.) of this chapter, then that investment or portion of it shall be classified as a Category 2 investment or a prohibited investment, as provided in this chapter.

1983, c. 457, § 38.1-217.15; 1986, c. 562.

§ 38.2-1413. Investment limits for one obligor, one issue or one loan.

A. No domestic insurer shall have at any one time any combination of investments in or loans upon the security of the property and securities of any one obligor or issuer aggregating an amount exceeding the lesser of five percent of the insurer's total admitted assets or twenty percent of the insurer's surplus to policyholders. The limitations prescribed by this section shall not apply to the following:

1. Investments in or loans upon the security of general obligations of the United States;
2. Investments in foreign securities made eligible by subsection A of § 38.2-1433;
3. Investments in mortgage pass-through securities made eligible by § 38.2-1437.1;
4. Deposits in institutions insured by a federal deposit insuring agency to the extent of coverage by such deposit insuring agency;
5. Investments in subsidiaries made eligible by § 38.2-1427.3;
6. Investments in obligations of an agency or instrumentality of the United States made eligible by subsection B of § 38.2-1415; provided that at no time shall the insurer invest pursuant to subsection B of § 38.2-1415 in excess of ten percent of its total admitted assets in any one obligor or issuer of such obligations; or
7. Other assets defined or classified by the National Association of Insurance Commissioners accounting practices and procedure manual, or any successor publication, as cash or cash equivalents or as a short term investment that is rated "AAA" or better or the equivalent rating by Moody's Investors Service, Inc., Standard & Poor's or Fitch IBCA, or any successor to the rating business of any of them, provided that at no time shall the amount of any such asset placed for or by the insurer in or with any one depository, issue, obligor, or issuer exceed the lesser of ten percent of the insurer's total admitted assets or twenty percent of the insurer's surplus to policyholders.

B. No domestic insurer shall invest in excess of one percent of its total admitted assets in any one issue of any obligations made eligible for investment under § 38.2-1423 or § 38.2-1424.

C. No domestic insurer shall invest in excess of one-half of one percent of its total admitted assets in any one loan made eligible by subdivision 3 of § 38.2-1434.

D. The principal loan amount disbursed, excluding advances made to enforce or protect the security for the loan, by a domestic insurer under any single wrap-around mortgage made pursuant to § 38.2-1435 shall not exceed one percent of its total admitted assets.

E. The amount loaned under § 38.2-1430 shall be subject to the limitations of this section applicable to the kinds of securities or obligations pledged in connection with the loan.

1983, c. 457, § 38.1-217.16; 1986, c. 562; 1990, c. 893; 1992, c. 588; 1995, c. 60; 1998, c. 414; 2002, c. 73.

§ 38.2-1414. Limits by type of investment.

A. The portion of a domestic insurer's total admitted assets in the following types of investments shall not exceed:

1. Ten percent for the aggregate of investments made eligible by §§ 38.2-1416 and 38.2-1417;
2. Five percent for the investments in each agency made eligible by § 38.2-1418, and 10 percent for the aggregate of investments made eligible by § 38.2-1418;
3. Ten percent for the investments made eligible by § 38.2-1419;
4. Ten percent for the investments made eligible by § 38.2-1420;
5. For the aggregate of investments made eligible under §§ 38.2-1421 and 38.2-1422, (i) 90 percent for any life insurer and (ii) 40 percent for all other insurers;
6. Ten percent for the investments made eligible by subsection B of § 38.2-1421; and two percent for the investments made eligible by subsection C of § 38.2-1421;
7. Twenty percent for the investments made eligible by § 38.2-1422;
8. Ten percent for the investments made eligible by § 38.2-1423;
9. Five percent for the investments made eligible by § 38.2-1424;
10. Five percent for the investments made eligible by § 38.2-1425;
11. The lesser of 15 percent or the amount by which an insurer's surplus to policyholders exceeds its minimum capital and surplus for the aggregate of investments made eligible by §§ 38.2-1427, 38.2-1427.1 and 38.2-1427.2, of which no more than five percent of the total admitted assets shall be in investments made eligible by § 38.2-1427.1;
12. For the aggregate of investments made eligible by § 38.2-1427.3, when combined with the insurer's total investment in affiliates, the lesser of 10 percent of the insurer's admitted assets or 50 percent of the insurer's surplus to policyholders in excess of its minimum capital and surplus, provided that total investments in affiliates do not include investments made by the insurer in money market mutual funds made eligible by § 38.2-1432;

13. Fifteen percent for investments made eligible by subsection B of § 38.2-1433, and an amount equal to its deposit and reserve obligations incurred in a foreign country for the investments made eligible by subsection A of § 38.2-1433;
14. Two percent for the investments made eligible (including those that the insurer is obligated to make as well as those made) by subdivision 3 of § 38.2-1434;
15. Two percent for the investments made eligible by § 38.2-1435;
16. Ten percent for the investments made eligible by § 38.2-1436;
17. For the aggregate of investments made eligible by § 38.2-1437.1, when combined with the insurer's investments in mortgages under §§ 38.2-1434 through 38.2-1436 and § 38.2-1439, (i) 60 percent for any life insurer and (ii) 30 percent for all other insurers;
18. Two percent for the investments made eligible by § 38.2-1440; and
19. Twenty-five percent for the total of investments made eligible by § 38.2-1441, of which no more than five percent of the total admitted assets shall be in investments in real property to be used primarily for hotel purposes.

B. The amount loaned under § 38.2-1430 shall be subject to the limitations of this section applicable to the kinds of securities or obligations pledged in connection with the loan.

1983, c. 457, § 38.1-217.17; 1986, c. 562; 1992, c. 588; 1993, c. 47; 1995, c. 60; 1998, c. 414; 2014, cc. 159, 206.

§ 38.2-1415. Obligations of domestic governmental entities.

A. United States obligations. A domestic insurer may invest in any bonds, notes, warrants, and other evidences of indebtedness which are direct obligations of the United States or for which the full faith and credit of the United States are pledged for the payment of principal and interest.

B. United States agencies obligations. A domestic insurer may invest in any bonds, notes, warrants and other evidence of indebtedness which are direct obligations for the payment of money, issued by an agency or instrumentality of the United States, or obligations for the payment of money to the extent guaranteed or insured as to the payment of principal and interest by an agency or instrumentality of the United States.

C. State government obligations. A domestic insurer may invest in direct, general obligations of any state of the United States for the payment of money, or obligations for the payment of money to the extent guaranteed or insured as to the payment of principal and interest by any state of the United States, on the following conditions:

1. The state has the power to levy taxes for the prompt payment of the principal and interest of its obligations;
2. The state is not in default in the payment of principal or interest on any of its direct, guaranteed or insured obligations as of the date of investment;
3. An insurer shall not invest under this subsection more than five percent of its admitted assets in obligations issued or guaranteed by any one state; and
4. An insurer shall not invest under this subsection more than thirty percent of its admitted

assets.

D. Local government obligations. A domestic insurer may invest in direct, general obligations of any political subdivision, of any state of the United States, for the payment of money, or obligations for the payment of money, to the extent guaranteed as to the payment of principal and interest, by any such political subdivision, on the following conditions:

1. The obligations are payable or guaranteed from ad valorem taxes;
2. Such political subdivision is not in default in the payment of principal or interest on any of its direct or guaranteed obligations;
3. No investment shall be made under this subsection in obligations which are secured only by special assessments for local improvements;
4. An insurer shall not invest more than five percent of its admitted assets in obligations issued or guaranteed by any one such political subdivision; and
5. An insurer shall not invest more than thirty percent of its admitted assets under this subsection.

E. Anticipation obligations. An insurer may invest in the anticipation obligations of any political subdivision of any state, all within the United States, including but not limited to bond anticipation notes, tax anticipation notes, preliminary loan anticipation notes, revenue anticipation notes and construction anticipation notes, for the payment of money within twelve months from the issuance of the obligation, on the following conditions:

1. The anticipation notes must be a direct obligation of the issuer under conditions set forth in subsection D of § [38.2-1415](#);
2. The political subdivision is not in default in the payment of the principal or interest on any of its direct general obligations or any obligation guaranteed by such political subdivision;
3. The anticipation funds shall be specifically pledged to secure the obligation;
4. An insurer shall not invest more than two percent of its admitted assets in the anticipation obligations issued by any one such political subdivision; and
5. An insurer shall not invest more than ten percent of its admitted assets under this subsection.

F. State or municipal revenue obligations. A domestic insurer may invest in obligations of any state of the United States, a political subdivision thereof, or a public instrumentality of any one or more of the foregoing, for the payment of money, on the following conditions:

1. The obligations are payable from revenues or earnings of a public utility of such state, political subdivision, or public instrumentality which are specifically pledged therefor;
2. The law under which the obligations are issued requires that rates for service shall be charged and collected at all times such that they will produce sufficient revenue or earnings which, together with any other revenues or moneys pledged, are sufficient to pay all operating and maintenance charges of the public utility and all principal and interest on such obligations;
3. No prior or parity obligations payable from the revenues or earnings of that public utility are in default as of the date of the investment;

4. An insurer shall not invest under this subsection more than two percent of its admitted assets in the revenue obligations issued in connection with any one facility;

5. An insurer shall not invest under this subsection more than two percent of its admitted assets in revenue obligations payable from revenue or earning sources which are the contractual responsibility of any one single credit risk; and

6. An insurer shall not invest under this subsection more than twenty-five percent of its admitted assets.

G. Other revenue obligations of state and local governments. A domestic insurer may invest in other state and local government revenue obligations of any state of the United States, a political subdivision thereof, or a public instrumentality of any of the foregoing, for the payment of money, on the following conditions:

1. The obligations are payable from revenues or earnings, excluding revenues or earnings from public utilities, specifically pledged therefor by such state, political subdivision, or public instrumentality;

2. An insurer shall not invest under this subsection more than two percent of its admitted assets in the revenue obligations issued in connection with any one facility;

3. No prior or parity obligation of the same issuer payable from revenues or earnings from the same source has been in default as to principal or interest during the five years next preceding the date of such investment, but the issuer need not have been in existence for that period, and obligations acquired under this subsection may have been newly issued;

4. An insurer shall not invest under this subsection more than two percent of its admitted assets in revenue obligations payable from sources which are the contractual responsibility of any one single credit risk; and

5. An insurer shall not invest under this subsection more than twenty-five percent of its admitted assets.

1983, c. 457, § 38.1-217.18; 1986, c. 562; 1992, c. 588; 1998, c. 414.

§ 38.2-1416. Canadian governmental obligations.

A. Obligations of Canada. -- A domestic insurer may invest in bonds, notes, warrants, and other evidences of indebtedness which are direct obligations of the government of Canada or for which the full faith and credit of the government of Canada are pledged for the payment of principal and interest.

B. No domestic insurer shall invest in any obligation under this section unless the obligation is payable both as to principal and interest in lawful money of the United States or of Canada.

C. Obligations of provinces. -- A domestic insurer may invest in direct, general obligations of any province of Canada for the payment of money, or obligations for the payment of money to the extent guaranteed or insured as to the payment of principal and interest by any province of Canada, on the following conditions:

1. The province has the power to levy taxes for the prompt payment of the principal and interest of its obligations;

2. The province is not in default in the payment of principal or interest on any of its direct, guaranteed or insured obligations as of the date of investment; and

3. An insurer shall not invest under this subsection more than five percent of its admitted assets in obligations issued or guaranteed by any one province.

D. Local government obligations. -- A domestic insurer may invest in direct, general obligations of any political subdivision of any province of Canada for the payment of money, or obligation for the payment of money, to the extent guaranteed as to the payment of principal and interest, by any such political subdivision, on the following conditions:

1. The obligations are payable or guaranteed from ad valorem taxes;

2. Such political subdivision is not in default in the payment of principal or interest on any of its direct or guaranteed obligations;

3. No investment shall be made under this subsection in obligations which are secured only by special assessments for local improvements; and

4. An insurer shall not invest more than two percent of its admitted assets in obligations issued or guaranteed by any one such political subdivision.

1983, c. 457, § 38.1-217.19; 1986, c. 562; 1992, c. 588.

§ 38.2-1417. Canadian corporate obligations.

A domestic insurer may invest in obligations issued, assumed or guaranteed by any solvent corporation created or existing under the laws of Canada, or any province of Canada. However, those obligations shall meet the standards specified in § 38.2-1421 for obligations of any business entity created or existing under the laws of the United States or any state.

1983, c. 457, § 38.1-217.20; 1986, c. 562; 1992, c. 588 .

§ 38.2-1418. Obligations of certain international agencies.

A domestic insurer may invest in valid and legally authorized high grade obligations issued, assumed or guaranteed by an international development bank of which the United States is a member.

1983, c. 457, § 38.1-217.21; 1985, c. 370; 1986, c. 562; 1992, c. 588 .

§ 38.2-1419. Railroad terminal and other securities.

A domestic insurer may invest in obligations secured by first mortgages, first deeds of trust or other similar liens upon terminal, depot or tunnel property, including lands, buildings and appurtenances, used in the service of transportation by one or more railroad corporations whose obligations are eligible as investments under § 38.2-1421. However, these obligations shall be (i) the direct obligation of the corporation or corporations, or (ii) guaranteed by endorsement by, or guaranteed by endorsement assumed by the corporation for the payment of principal and interest of those obligations. If the guarantee or assumption of guarantee is by two or more of the corporations, it shall be joint and several as to each. No such investment shall be made if there has been any default in the payment of principal or interest since the issuance of the obligations but not to exceed five years from the date of investment.

1983, c. 457, § 38.1-217.22; 1986, c. 562.

§ 38.2-1420. Transportation equipment trust certificates.

A domestic insurer may invest in adequately secured equipment trust certificates or other adequately secured instruments evidencing (i) an interest in transportation equipment wholly or partly within the United States and (ii) a right to receive determined portions of rental, purchase or other fixed obligatory payments for the use or purchase of the transportation equipment.

1983, c. 457, § 38.1-217.23; 1986, c. 562.

§ 38.2-1421. Business entity obligations.

A. High grade. A domestic insurer may invest in any high grade obligations issued, assumed or guaranteed by any solvent business entity that is not in default as to principal or interest on the date of investment and which is created or existing under the laws of the United States or any state.

B. Medium grade. A domestic issuer may invest in medium grade obligations issued, assumed or guaranteed by any solvent business entity that is not in default as to principal or interest on the date of investment and which is created or existing under the laws of the United States or any state.

C. Lower grade. A domestic insurer may invest in lower grade obligations rated 4 by the Securities Valuation Office of the National Association of Insurance Commissioners or, if not rated by the Securities Valuation Office, rated in an equivalent grade by a national rating agency recognized by the Commission that are issued, assumed or guaranteed by any solvent business entity that is not in default as to principal or interest on the date of investment and which is created or existing under the laws of the United States or any state.

D. As used in this section, "business entity obligations" shall not include any mortgage pass-through securities described in § 38.2-1437.1.

1983, c. 457, § 38.1-217.24; 1986, c. 562; 1992, c. 588; 1998, c. 414.

§ 38.2-1422. Obligations secured by certain leases.

A. A domestic insurer may invest in obligations of any solvent company other than companies referred to in § 38.2-1419, incorporated under the laws of the United States or of any state if:

1. The obligations are secured by an assignment to the insurer of a lease, and the rents payable under the lease, of real or personal property or both to (i) a domestic governmental entity; (ii) Canada, or any province of Canada; or (iii) one or more companies incorporated under the laws of the United States, any state, Canada or any province of Canada;
2. The rentals assigned are sufficient to repay the indebtedness within the unexpired term of the lease, excluding any term that may be provided by an enforceable option of renewal;
3. The lessee on any lease securing an obligation under this section, or the guarantor of the lease, is an entity whose obligations would be eligible for investment by an insurer in accordance with §§ 38.2-1415, 38.2-1421 or § 38.2-1425;
4. The lessee or guarantor has not defaulted in payment of interest or principal on any of its obligations during the five fiscal years immediately preceding the date of investment; and
5. A first lien on the interest of the lessor in the unencumbered leased property is obtained as

additional security for any obligation acquired pursuant to this section.

B. No domestic insurer shall invest under this section more than two percent of the insurer's admitted assets in the obligations of any one business entity or in the obligations secured by leases to any one business entity.

1983, c. 457, § 38.1-217.25; 1986, c. 562; 1992, c. 588 .

§ 38.2-1423. Preferred stocks.

A domestic insurer may invest in preferred stocks of any company incorporated under the laws of the United States or any state if:

1. a. The preferred stock under consideration is not in arrears as to dividends if cumulative, or

b. Full dividends on the preferred stock under consideration have been paid in the last three years, or since issue if issued less than three years before the date of investment, if noncumulative;

2. Required sinking fund payments are on a current basis; and

3. The preferred stock is rated highest quality, high quality, or medium quality by the Securities Valuation Office of the National Association of Insurance Commissioners, or if not rated by the Securities Valuation Office, is rated in an equivalent grade by a national rating agency recognized by the Commission.

1983, c. 457, § 38.1-217.26; 1986, c. 562; 1998, c. 414; 2008, c. 93.

§ 38.2-1424. Guaranteed stocks.

A domestic insurer may invest in stocks guaranteed by a solvent company incorporated under the laws of the United States or of any state if for the past three years the guarantor's net earnings available for meeting fixed charges is at least 1 1/4 times the sum of (i) the fixed charges of the guarantor and (ii) the dividends on the guaranteed stock.

1983, c. 457, § 38.1-217.27; 1986, c. 562.

§ 38.2-1425. Common stock of banks or trust companies.

A. A domestic insurer may invest in the common capital stock of any bank or trust company that is a member of the Federal Deposit Insurance Corporation.

B. No domestic insurer shall invest in more than ten percent of the actually issued and outstanding common capital stock of any one such bank or trust company.

C. For the purpose of this section, the term "bank" includes a registered bank holding company as defined by the Federal Bank Holding Act of 1956, as amended, and a registered bank holding company shall be considered a member of the Federal Deposit Insurance Corporation if all its subsidiary banks are members of the Federal Deposit Insurance Corporation.

1983, c. 457, § 38.1-217.28; 1986, c. 562; 2000, c. 155.

§ 38.2-1426. Application of earnings tests.

If the issuing, assuming or guaranteeing business entity has not been in operation for the entire period for which earnings are being applied pursuant to § 38.2-1424, the earnings tests shall be based upon pro forma statements incorporating statements of any predecessor or constituent

business entity for that portion of the earnings tests period that the current business entity was not in operation, if:

1. The current business entity was formed as a consolidation or a merger of two or more business entities, at least one of which was in operation at the beginning of the period; or
2. The current business entity has acquired all of the assets of a business entity or any division or other unit of a business entity that was in operation at the beginning of the test period.

1983, c. 457, § 38.1-217.29; 1986, c. 562; 1992, c. 588; 2000, c. 155; 2002, c. 147.

§ 38.2-1427. Common stock; covered call options.

A. A domestic insurer may invest in the common capital stock of any company incorporated under the laws of the United States or any state, if the common capital stock of the corporation is traded on a securities exchange or on an over-the-counter market regulated under the Securities Exchange Act of 1934, as amended.

B. A domestic insurer also may write exchange-traded, covered call options on shares of common capital stock it owns.

C. No domestic insurer shall invest, pursuant to this section, in more than ten percent of the issued and outstanding common capital stock of any one corporation or issuer.

1983, c. 457, § 38.1-217.30; 1986, c. 562; 1992, c. 588 .

§ 38.2-1427.1. Limited partnerships.

A domestic insurer may become a limited partner in a partnership organized and governed under the laws of the United States or any state for the purpose of making or participating in investments otherwise permissible for domestic insurers under the provisions of this chapter.

1992, c. 588 .

§ 38.2-1427.2. Investment company shares and units of beneficial interest.

A domestic insurer may invest in shares of common stock or units of beneficial interest issued by any solvent business corporation or trust incorporated or organized under the laws of the United States, or of any state of the United States, under the following conditions:

1. If the issuing corporation or trust is advised by an investment advisor which is the insurer or an affiliate of the insurer, the issuing corporation or trust shall have assets of \$100,000 or more (which may be provided by the insurer or affiliate), or if the issuing corporation or trust has an unaffiliated investment advisor, the issuing corporation or trust shall have net assets of ten million dollars or more, and
2. The issuing corporation or trust is registered as an investment company with the Federal Securities and Exchange Commission under the Investment Company Act of 1940, as amended.

1992, c. 588; 2002, c. 147.

§ 38.2-1427.3. Investment authority; subsidiary corporations.

A domestic insurer may invest in common stock, preferred stock, debt obligations, and other securities of a subsidiary.

For investments in subsidiary corporations made prior to July 1, 1995, July 1, 1995, may be

deemed the date of investment.

1992, c. 588; 1993, c. 47; 1995, c. 60.

§ 38.2-1428. Derivative instruments.

A. A domestic insurer may engage in derivative transactions under this section subject to the following general conditions:

1. A domestic insurer may use derivative instruments under this section to engage in hedging transactions and replication transactions.
2. Each domestic insurer utilizing derivative instruments shall establish written guidelines with respect to derivative transactions stating the insurer's objectives for engaging in derivative transactions and derivative strategies, permissible derivative strategies and the relationship of those strategies to the insurer's operations, and such other details as the Commission may from time to time require. The insurer's board of directors or committee thereof charged with the responsibility of overseeing investments shall approve the written guidelines and any amendment thereto and shall establish a procedure to determine, at least annually, that all derivative transactions were made in accordance with such guidelines. The guidelines established pursuant to this section, and any amendment thereto, shall be submitted to the Commission for prior approval. The Commission shall, in writing, either approve the guidelines or amendment, request any additional information needed to approve the guidelines or amendment, or deny the guidelines or amendment within (i) 90 days of receipt of the guidelines or (ii) 60 days of receipt of any amendment; otherwise the guidelines or amendment shall be deemed approved.
3. The Commission may adopt reasonable rules and regulations for derivative transactions including, but not limited to, rules and regulations that impose financial solvency standards, valuation standards, and reporting requirements.

B. A domestic insurer may enter into hedging transactions if:

1. The domestic insurer is able to demonstrate to the Commission the intended hedging characteristics and the ongoing effectiveness of the derivative transaction or combination of the transactions through cash flow testing or other appropriate analyses; and
2. As a result of and after giving effect to the hedging transaction:
 - a. The aggregate statement value of options, caps, floors, and warrants not attached to another financial instrument purchased and used in hedging transactions then engaged in by the domestic insurer does not exceed 7.5 percent of its admitted assets;
 - b. The aggregate statement value of options, caps, and floors written in hedging transactions then engaged in by the domestic insurer does not exceed 3 percent of its admitted assets; and
 - c. The aggregate potential exposure of collars, swaps, forwards, and futures used in hedging transactions then engaged in by the domestic insurer does not exceed 6.5 percent of its admitted assets.

C. A domestic insurer may enter into replication transactions if the asset being replicated shall comply with all of the provisions and limitations specified in this article with respect to investments by the insurer, as if such replicated asset constituted a direct investment by the insurer in the asset being replicated. The aggregate statement value of all assets being replicated

shall not exceed 10 percent of the insurer's admitted assets.

D. The counterparty exposure amount under a derivative instrument entered into pursuant to this section shall be deemed an obligation of a business entity to which the insurer is exposed to credit risk for the purpose of determining compliance with the limitations of §§ 38.2-1411.2 and 38.2-1413.

E. Pursuant to rules promulgated under § 38.2-223, the Commission may approve additional transactions involving the use of derivative instruments in excess of the limits set forth in this section or for other risk management purposes.

1983, c. 457, § 38.1-217.31; 1985, c. 36; 1986, c. 562; 2001, c. 387; 2011, c. 198.

§ 38.2-1429. Lending of securities.

A. A domestic insurer may lend securities held by it pursuant to §§ 38.2-1415 through 38.2-1427.2 if:

1. Simultaneously with the delivery of the securities, the insurer receives collateral from the borrower consisting of cash or consisting of securities issued, assumed or guaranteed by the United States, an agency of the United States or any state. The securities shall have a present market value of at least 102 percent of the market value of the securities loaned;
2. The securities are loaned only for the purpose of making delivery of securities in the case of short sales, in the case of failure to receive securities requested for delivery or in other similar cases;
3. Prior to the loan, the borrower furnishes the insurer with the most recent statement of the borrower's financial condition and a representation by the borrower that there has been no material adverse change in its financial condition since the date of that statement;
4. The insurer receives a reasonable fee related to the value of the borrowed securities and to the duration of the loan;
5. The loan is made pursuant to a written loan agreement; and
6. The borrower is required to furnish by the close of each business day during the term of the loan a report of the market value of all collateral and the market value of all borrowed securities as of the close of trading on the previous business day. If at the close of any business day the market value of the collateral is less than 102 percent of the market value of the securities loaned, then the borrower shall deliver by the close of the next business day an additional amount of cash or securities. The market value of these additional securities, together with the market value of all previously delivered collateral, shall equal at least 102 percent of the market value of the securities loaned.

B. For the purposes of this section, "market value" includes accrued interest.

1983, c. 457, § 38.1-217.32; 1986, c. 562; 1992, c. 588 .

§ 38.2-1430. Collateral loans.

A domestic insurer may make loans secured by securities eligible for investment under this article. At the date of investment, the loan shall not exceed eighty percent of the market value of the collateral pledged. However, if the collateral consists of obligations issued, assumed or

guaranteed by the United States, the loan may equal the market value of the collateral pledged.

1983, c. 457, § 38.1-217.33; 1986, c. 562.

§ 38.2-1431. Policy loans.

A domestic insurer issuing life insurance policies or annuities may loan any sum not exceeding the cash surrender value specified in the policy to its policyholder upon the pledge of the policy as collateral.

1983, c. 457, § 38.1-217.34; 1986, c. 562.

§ 38.2-1432. Savings, certificates, etc.

A domestic insurer may invest in any of the following:

1. Interest-bearing checking or savings accounts, certificates of deposit, or other short-term investments made available or issued by any solvent bank or trust company that is a member of the Federal Deposit Insurance Corporation;
2. Interest-bearing savings or share accounts, certificates of deposit or any other short-term investments made available or issued by any solvent building and loan or savings institution insured by the Federal Deposit Insurance Corporation or other federal insurance agency;
3. Bankers acceptances of the kinds and maturities made eligible by law for rediscount with Federal Reserve Banks, provided that these securities are accepted by a bank or trust company that is a member of the Federal Reserve System;
4. Money market mutual funds, provided that the Commission has granted prior written approval to the insurer with respect to its investment in any money market mutual fund sponsored by affiliates of the insurer and that such money market fund sponsored by affiliates meets the requirements set forth in subdivisions 1 and 2 of § [38.2-1427.2](#); or
5. United States government bond mutual funds.

1983, c. 457, § 38.1-217.35; 1986, c. 562; 1990, c. 3; 1995, c. 60; 1996, c. 77.

§ 38.2-1433. Foreign securities.

A. A domestic insurer transacting the business of insurance in a foreign country may invest in securities of or issued in that country of substantially the same kinds, classes, and investment grades as the insurer may acquire in the United States.

B. A domestic insurer may invest in securities of or issued in a foreign country of substantially the same kinds, classes and investment grades as the insurer may acquire in the United States, provided (i) all such securities are rated medium grade or higher by the Securities Valuation Office of the National Association of Insurance Commissioners or by a national rating agency recognized by the Commission and no more than one percent of the insurer's admitted assets are invested in such securities which are rated medium grade, and (ii) the aggregate amount of foreign investment held by the insurer under this section for a single foreign jurisdiction does not exceed (a) five percent of the insurer's admitted assets as to a foreign jurisdiction that has a sovereign debt rating of SVO 1 by the Securities Valuation Office of the National Association of Insurance Commissioners or (b) three percent of the insurer's admitted assets as to any other foreign jurisdiction.

C. Investments made eligible by this section shall be payable in lawful currency of the United States, except (i) where payment in other lawful currencies is required to match obligations denominated in such other lawful currencies or (ii) if the investment is denominated in other lawful currency, the investment is effectively hedged, substantially in its entirety, against the lawful currency of the United States in accordance with § 38.2-1428.

1983, c. 457, § 38.1-217.36; 1986, c. 562; 1998, c. 414; 2014, cc. 159, 206.

§ 38.2-1434. Mortgage loans.

Subject to the provisions of § 38.2-1437, a domestic insurer may invest in:

1. Obligations secured by first mortgages or first deeds of trust on improved unencumbered real property located in the United States;
2. Obligations secured by first mortgages or first deeds of trust upon leasehold estates on improved and otherwise unencumbered real property where:
 - a. The leasehold interest lasts for a term of not less than ten years beyond the maturity of the loan as made or as extended; and
 - b. The mortgagee is subrogated to all the rights of the lessee on foreclosure or on taking a deed in lieu of foreclosure; or
3. Obligations secured by first mortgages or first deeds of trust on unimproved and unencumbered real property in the United States for the purpose of financing the construction of a building or other improvements on the real property subject to the mortgage or deed of trust, if:
 - a. These obligations mature not more than sixty months from the effective date of the mortgage or deed of trust and are the unlimited and unconditional liability of the obligor;
 - b. The obligor provides the insurer with a completion bond for the building or improvements at the time of making the loan; and
 - c. The insurer at or prior to the making of the loan (i) enters into an agreement with another party to provide permanent financing or (ii) agrees to provide permanent financing upon completion of the building or other improvement.

1983, c. 457, § 38.1-217.37; 1986, c. 562.

§ 38.2-1435. Second mortgages; wrap-around mortgages.

A domestic insurer may invest in obligations secured by second mortgages or second deeds of trust on real property encumbered only by a first mortgage or first deed of trust complying with §§ 38.2-1434 and 38.2-1437, subject to either of the following conditions:

1. The insurer also owns the obligation secured by the first mortgage or first deed of trust, and the aggregate value of both loans does not exceed the applicable loan-to-value ratio specified in § 38.2-1437; or
2. The obligation is secured by a wrap-around mortgage where:
 - a. Only one preexisting mortgage or deed of trust encumbers the real property;
 - b. The mortgage or deed of trust securing the loan is (i) recorded and (ii) insured for at least the

total amount of the obligation of the borrower to the insurer by title insurance; and

c. The insurer agrees to make the payments due under the first mortgage or first deed of trust upon receipt of payments due from the borrower under the wrap-around mortgage.

1983, c. 457, § 38.1-217.38; 1986, c. 562.

§ 38.2-1436. Mortgage participations.

Notwithstanding the provisions of §§ 13.1-627 and 13.1-826, a domestic insurer may acquire or sell participation interests in any loans secured by a mortgage or deed of trust qualifying under § 38.2-1434 if the insurer has all or substantially all the rights of a first mortgagee.

1983, c. 457, § 38.1-217.39; 1986, c. 562.

§ 38.2-1437. Limitations on mortgages.

A. The amount of any loan secured by a mortgage or deed of trust referred to in §§ 38.2-1434 through 38.2-1436 shall not exceed the following percentages of the fair market value of the real estate:

1. Seventy-five percent for a leasehold loan made pursuant to subdivision 2 of § 38.2-1434;
2. Ninety percent for a loan made to an employee of the insurer, other than a director or trustee thereof, whether such loan be made in connection with the initial employment of the employee or in connection with the transfer of the place of employment of the employee; or
3. Eighty percent for all other loans.

However, the percentage limits specified in this subsection may be exceeded if the excess is (i) insured or guaranteed or is to be insured or guaranteed by the United States, any state or any agency of either or (ii) insured by an insurer licensed to insure mortgage guaranty risks in this Commonwealth.

B. Any loan made pursuant to §§ 38.2-1434 through 38.2-1436 not in compliance with the requirements of subsection A of this section shall be classified as a Category 2 investment in its entirety.

C. The fair market value of the real estate interest mortgaged shall be determined by a written appraisal of at least one competent real estate appraiser as of the date of the initial loan commitment, which appraiser shall not be an employee of the insurer nor an employee of any company controlled by or under common control with the insurer. If the loan commitment is revised to reflect a change in the value of the real estate, the fair market value shall be determined as of the date of that revision.

D. Buildings and other improvements on the mortgaged premises shall be insured against fire loss for the benefit of the mortgagee in an amount not less than the lesser of their insurable value or the unpaid principal balance of the obligation.

E. The maximum term of any mortgage or deed of trust referred to in §§ 38.2-1434 through 38.2-1436 secured by real property primarily improved by a single-family residence shall not exceed thirty years.

F. A domestic insurer shall not invest, under §§ 38.2-1434 through 38.2-1436, more than two percent of its admitted assets, directly or indirectly, in mortgages covering any one secured

location, nor more than four percent in the mortgages of any one obligor.

1983, c. 457, § 38.1-217.40; 1986, c. 562; 1992, c. 588 .

§ 38.2-1437.1. Mortgage pass-through securities.

A domestic insurer may invest in mortgage pass-through securities backed by a pool of mortgages of the kind, class and investment quality as those eligible for investment under §§ [38.2-1434](#) through [38.2-1437](#), under the following conditions:

1. The servicer of the pool of mortgages shall be a business entity created under the laws of the United States or any state;
2. The pool of mortgages is assigned to a business entity, other than a sole proprietorship, having a net worth of at least five million dollars, as trustee for the benefit of the holders of the securities;
3. A domestic insurer shall not invest under this section more than two percent of its admitted assets in securities backed by any single mortgage pass-through pool;
4. All mortgage pass-through securities acquired by a domestic insurer under this section shall provide for flow-through of both principal and interest payments payable on the underlying mortgage loan assets; mortgage pass-through securities promising principal-only, interest-only or residual interests-only in the underlying mortgage assets shall not be acquired; and
5. The securities on the date of investment shall be high grade obligations.

1992, c. 588; 1999, c. [483](#).

§ 38.2-1438. Renewals and extensions when value of property decreases.

Nothing in this chapter shall prohibit a domestic insurer from renewing or extending, or consenting to the renewal or extension of, evidences of indebtedness secured by real property or leasehold estates for the original or a lesser amount when a decrease in value of the property or estate causes the indebtedness to exceed the applicable loan-to-value ratio specified by § [38.2-1437](#). Nothing in this chapter shall prohibit a domestic insurer from accepting as part payment for any real property or leasehold estate sold by it, a mortgage or other lien on the real property or leasehold estate securing a loan that exceeds the applicable loan-to-value ratio specified in § [38.2-1437](#).

1983, c. 457, § 38.1-217.41; 1986, c. 562.

§ 38.2-1439. Chattel mortgages.

A. In connection with a mortgage loan on the security of real property designed and used primarily for residential purposes and acquired pursuant to § [38.2-1434](#), a domestic insurer may make a loan on the security of a chattel mortgage, deed of trust or other appropriate lien. The chattel mortgage or other lien may be created separately or in combination with the mortgage loan on the real estate. It shall not exceed five years and shall constitute a first and prior lien, except for taxes not then delinquent, on personal property comprised of durable equipment owned by the mortgagor and kept and used on the mortgaged premises.

B. The term "durable equipment" includes only mechanical refrigerators, mechanical laundering machines, heating and cooking stoves and ranges, mechanical kitchen aids, vacuum cleaners, and fire extinguishing devices; and, for apartment houses and hotels, may also include room

furniture and furnishings.

C. Before any loan or investment is made under this section, the items of property included in the security shall be separately appraised by a competent appraiser and the fair market value of the items determined. No loan made under this section shall exceed the lesser of (i) an amount obtained by multiplying the loan to the value ratio applicable to the companion loan on the real property by the fair market value of the personal property or (ii) an amount equal to twenty percent of the amount secured by the lien on the real property.

1983, c. 457, § 38.1-217.42; 1986, c. 562.

§ 38.2-1440. Investment in personal property.

A. A domestic insurer may invest in interests in tangible personal property for the production of income, evidenced by trust certificates or other instruments.

B. The investments shall be accompanied by (i) a right to receive rental, charter hire, purchase or other payments for the use or purchase of the personal property, (ii) a valid, binding and enforceable contract or lease for the purchase or use of the tangible personal property, and (iii) a provision for contractual payments to be made that will return the cost of the property and provide earnings on the investments within the anticipated useful life of the property which shall be at least three years.

C. The payments must be made payable or guaranteed by one or more domestic governmental entities or business entities whose obligations would qualify for investment under § [38.2-1421](#).

D. The unit cost of such property shall not be less than \$25,000, and the cost of all property covered by any single contract or lease shall not be less than \$100,000.

E. The tangible personal property shall not include furniture or fixtures.

1983, c. 457, § 38.1-217.43; 1986, c. 562; 1992, c. 588 .

§ 38.2-1441. Real estate.

A. A domestic insurer may invest in real estate, as set forth in subsections B, C and D of this section, unless the property is to be used primarily for agricultural, horticultural, ranch, recreational, amusement or club purposes. The term "real estate" as used in this section shall include a leasehold of real estate having an unexpired term of not less than twenty years.

B. A domestic insurer may invest in dwellings, offices and other properties (including leasehold estates) for the production of income, other than real estate which is the subject of subsection C, situated in the United States, and the construction thereon of improvements, under the following conditions:

1. The insurer shall either directly or through a land trust own the entire property, except that it may share ownership with one or more insurers authorized to do business in this state, or other business entities, excluding sole proprietorships, having a net worth of at least five million dollars under agreements that will assume concerted action in management and control of the property in case of the insolvency of any participating company, provided that each investment made pursuant to this subsection by the insurer and by each participant shall not be less than \$100,000;

2. The insurer alone or in conjunction with participants qualified under subdivision B 1 may let

contracts for construction and pay costs of construction and leasing, hold, maintain, lease, and manage the property, collect rents and other income therefrom, and sell the property in whole or in part;

3. The property may be encumbered by lease to tenants and by rights-of-way, easements, mineral reservations, building restrictions, and restrictive covenants, provided none of them can interfere substantially with the use of the property or result in a forfeiture of the property, unless a policy of title insurance, issued by a responsible title insurer qualified to do business in the state wherein the property is located, insures the insurer against loss or damage arising from such encumbrances or reversionary rights; and

4. An insurer shall not invest under this subsection more than four percent of its admitted assets in any one property or in any one grouping of contiguous properties.

C. A domestic insurer may invest in real estate, including leasehold estates, for the convenient accommodation of the insurer's business operations, including home office, branch office and field office operations, under the following conditions:

1. Any parcel of real estate acquired under this subsection may include excess space for rent to others if it is reasonably anticipated that the excess will be required by the insurer for expansion or if the excess is reasonably required in order to have one or more buildings that will function as an economic unit;

2. The real estate may be subject to a mortgage;

3. An insurer shall not invest under this subsection more than ten percent of the insurer's admitted assets, except with the permission of the Commission if it is found that such percentage of the insurer's admitted assets is insufficient to provide convenient accommodation for the insurer's business; and

4. The permission of the Commission shall be obtained by an insurer prior to the purchase of any real estate under this subsection if the insurer has been authorized in this Commonwealth for a period of less than five years.

D. Real property serving as the residence of an employee of any domestic insurer, other than a director or trustee of the insurer, may be acquired only in connection with the (i) relocation by the insurer of the place of employment of the employee, or (ii) any relocation in connection with the initial employment of the employee. The purchase price shall not exceed the fair market value of the property as determined by written appraisals of at least two competent independent real estate appraisers for the purpose of the acquisition. The employee shall have made reasonable efforts otherwise to dispose of the property for a period of not less than one month immediately prior to the acquisition.

1983, c. 457, § 38.1-217.44; 1986, c. 562; 1992, c. 588 .

§ 38.2-1442. Guaranty association obligations.

A domestic insurer may invest in any obligation not in default of the Virginia Life, Accident and Sickness Insurance Guaranty Association issued pursuant to subdivision L 3 of § 38.2-1704 or the Virginia Property and Casualty Insurance Guaranty Association issued pursuant to subdivision 2 of subsection B of § 38.2-1606.

1986, c. 562; 2010, c. 510.

Article 3. Separate Accounts.

§ 38.2-1443. Investment of amounts allocated to separate accounts for variable life insurance and variable annuities.

The amounts allocated to separate accounts for variable life insurance and variable annuities, pursuant to the provisions of § 38.2-3113, and accumulations on them, may be invested and reinvested by a domestic insurer in any type of Category 1 investment. Any percentage limitations based on the insurer's total admitted assets or surplus to policyholders shall not apply to investments made pursuant to this section.

1983, c. 457, § 38.1-217.45; 1986, c. 562; 1992, c. 588 .

§ 38.2-1443.1. Investment of amounts allocated to separate accounts for modified guaranteed life insurance, modified guaranteed annuities, and funding agreements.

A. Unless otherwise provided by regulation, the amounts allocated to separate accounts for modified guaranteed life insurance and modified guaranteed annuities pursuant to the provisions of § 38.2-3113.1, and for funding agreements pursuant to the provisions of § 38.2-3100.2, and accumulations on them, may be invested and reinvested by a domestic insurer in any type of Category 1 investment.

B. Investments made pursuant to this section shall be taken into account in applying the investment limitations of §§ 38.2-1413 and 38.2-1414 to investments made by the insurer, by combining the investments under this section with all other investments subject to such limitations. In addition to the general account meeting these investment limitations, both the separate account and the general account together shall meet these investment limitations. The limitations of §§ 38.2-1413 and 38.2-1414 shall not otherwise apply to investments made pursuant to this section.

1992, c. 210; 2008, c. 216.

§ 38.2-1444. Establishment of separate accounts for pension, retirement or profit-sharing plans; investment of funds in such accounts.

A. A domestic insurer, after adoption of a resolution by its board of directors and certification of that adoption to the Commission, may allocate to one or more separate accounts, in accordance with the terms of a written agreement, any amounts paid to or held by the insurer in connection with a pension, retirement or profit-sharing plan. The plan may provide (i) retirement benefits pursuant to the terms of the agreement or under the insurer's policies or contracts and (ii) other benefits incidental to the agreement or policies. The retirement benefits may vary according to the terms of the agreement, policies or contracts and any standards incorporated in them. Any income and any realized or unrealized gain or loss on each account shall be credited to or charged against that account in accordance with the agreement, without regard to the other income, gains or losses of the insurer.

B. Notwithstanding any other provision in this title, the amounts allocated to the accounts and accumulations on them may be invested and reinvested in any kinds of investment specified in the agreement other than those prohibited by § 38.2-1407. The investments shall not be taken into account in applying the investment limitations of this chapter to investments made by the insurer.

C. Amounts allocated by an insurer to separate accounts pursuant to this section shall be owned by the insurer, and the insurer shall not be, nor hold itself out to be, a trustee for the amounts. The insurer's liability under the accounts shall be limited to the amount of funds in the account.

1983, c. 457, § 38.1-217.46; 1986, c. 562.

§ 38.2-1445. Separate accounts deemed Category 1 investments.

All investments made in compliance with this article shall be deemed Category 1 investments except that nothing contained in this section shall be construed to affect or apply to any insurer licensed pursuant to the provisions of Chapter 42 (§ 38.2-4200 et seq.) or 45 (§ 38.2-4500 et seq.) of this title.

1983, c. 457, § 38.1-217.47; 1986, c. 562; 1992, c. 588 .

Article 4. Asset Protection Act.

§ 38.2-1446. Prohibition of hypothecation.

A. Every domestic insurer subject to the provisions of this chapter shall at all times have and maintain free and unencumbered admitted assets in an amount equal to the sum total of its reserve liabilities and minimum capital and surplus, and no such insurer shall pledge, hypothecate, or otherwise encumber its assets in an amount in excess of the amount of its surplus to policyholders; nor shall such insurer pledge, hypothecate or otherwise encumber more than five percent of its admitted assets. However, the Commission, upon written application, may approve the hypothecation or encumbrance of any of the assets of such an insurer in any amount upon a determination that such hypothecation or encumbrance will not adversely affect the solvency of such insurer.

B. Any such insurer which pledges, hypothecates, or otherwise encumbers any of its assets shall within ten days thereafter report in writing to the Commission the amount and identity of the assets so pledged, hypothecated, or encumbered and the terms and conditions of such transaction. In addition, each such insurer shall annually, or more often if required by the Commission, file with the Commission a statement sworn to by an executive officer of the insurer that (i) title to assets in an amount equal to the reserve liability and minimum capital and surplus of the insurer that are not pledged, hypothecated or otherwise encumbered is vested in the insurer, (ii) the only assets of the insurer that are pledged, hypothecated or otherwise encumbered are as identified and reported in the sworn statement and no other assets of the insurer are pledged, hypothecated or otherwise encumbered, and (iii) the terms and limitations of any such transaction of pledge, hypothecation or encumbrance are as reported in the sworn statement.

C. Any person who accepts a pledge, hypothecation or encumbrance of any asset of a domestic insurer as security for a debt or other obligation of such insurer not in accordance with the terms and limitations of this article shall be deemed to have accepted such asset subject to a superior, preferential and automatically perfected lien in favor of claimants; however, such superior, preferential and automatically perfected lien in favor of claimants shall not apply to assets of a company in receivership pursuant to Chapter 15 (§ 38.2-1500 et seq.) of this title, if the receiver approves the pledge, hypothecation or encumbrance of such assets.

D. In the event of involuntary or voluntary liquidation of any domestic insurer subject to this chapter, claimants of such insurer shall have a prior and preferential claim against all assets of

the insurer except those that have been pledged, hypothecated or encumbered in accordance with the terms and limitations of this article. All claimants shall have equal status and their prior and preferential claim shall be superior to any claim or cause of action against the insurer by any person, corporation, association or legal entity.

1992, c. 588; 2002, c. 147.

§ 38.2-1447. Exception.

A. This article shall not apply to those assets of any insurer that are held, deposited, pledged, hypothecated or otherwise encumbered as provided herein to secure, offset, protect, or meet those reserve liabilities of such insurer which are established, incurred, or required under the provisions of a reinsurance agreement whereby such insurer has reinsured the insurance policy liabilities of a ceding insurer, provided:

1. The ceding insurer and the reinsurer are both licensed to transact business in this Commonwealth; and
2. Pursuant to a written agreement between the ceding insurer and the reinsurer, reserve assets substantially equal to the reserve liabilities required to be established by the ceding insurer on the reinsured business are either (i) deposited by or are withheld from the reinsurer and are in the custody of the ceding insurer as security for the payment of the reinsurer's obligations under the reinsurance agreement, and such assets are held subject to withdrawal by and under control of the ceding insurer or (ii) are deposited and held in a trust account for such purpose and under such conditions with a qualified United States financial institution defined as eligible to act as a fiduciary of a trust by § 38.2-1316.1.

B. The Commission shall have the right to examine any such assets, reinsurance agreements, or deposit arrangements at any time in accordance with its authority to make examinations of insurers as conferred by other provisions of this title.

1992, c. 588 .

Attachment 17.2
Glossary

Commonly Used Acronyms

APY	Annual Percentage Yield
CUSIP	Committee on Uniform Securities Identification Procedures
DK	Don't Know
DTC	Depository Trust Company
DVP	Delivery vs. Payment
FDIC	Federal Deposit Insurance Company
FINRA	Financial Industry Regulatory Authority
FOMC	Federal Open Market Committee or 'The Fed'
NRSROs	Nationally Recognized Statistical Rating Organizations
QPD	Qualified Public Depository
REPOS	Repurchase Agreements
SEC	Securities and Exchange Commission
SIFMA	Securities Industry and Financial Markets Association
SNAP	Virginia State Non-Arbitrage Program
YTC	Yield to Call
YTM	Yield to Maturity
YTW	Yield to Worst

Definitions

ABA Transit Number - A unique number assigned by the ABA that identifies a specific federal or state chartered bank or savings institution (also referred to as ABA routing number).

Accrued Interest - The amount of interest that accumulates on a fixed-income security from one interest payment to the next.

Agency Bonds – The informal name that refers to securities issued by agencies of the United States Government and U.S. Government Sponsored Enterprises.

Annual Percentage Yield – The effective annual rate of return taking into account the effect of compounding interest.

Ask - The lowest price at which a seller is willing to sell his or her securities.

Glossary

Asset Allocation – The diversification of assets across different asset classes, such as stocks, bonds and cash, to meet goals given risk tolerance, tax status and time horizon.

Asset Class – The categorization of an asset. Examples of representative asset classes include equities, bonds, money markets and cash.

Basis Point - A unit that is equal to 1/100th of 1% and is used to denote the change in a financial instrument. One basis point on a \$1,000,000 bond is equal to \$100.

Benchmark – A standard index used for measuring the performance of an investment. The goal of most money managers and investors is to outperform their respective benchmark.

Bid – The price a broker is willing to pay for a security.

Bond - A debt instrument issued by corporations and governments in which the issuer promises to pay to the bondholder principal and interest according to the terms and conditions of the bond.

Book Entry - Most bonds are issued in book entry form, which means that there is no physical bond certificate. Bond ownership is evidenced by a trade confirmation issued by the broker/dealer, and by the monthly statements that the brokerage firm provides.

Bullet - A bond that is not able to be redeemed prior to maturity is said to be non-callable. A slang term for a non-callable bond is a “bullet”. A bullet usually carries a lower interest rate since the investor is protected against the possibility of the bond being called when interest rates fall.

Call Date - The date after which a bond issuer can redeem a callable bond. The list of dates on which a specified bond can be called is a call schedule.

Call Protection – A period of time during which a bond issuer cannot call, or buy back, a bond. For example, if the first call on a bond is in 3 years from now, a buyer will have 3 years of call protection, and they are assured that they can own the bond for at least 3 years.

Call Risk – Risk to a bond holder that a bond may be redeemed before scheduled maturity. The main risk of having a bond called before maturity is that the investor will be unable to replace the bond’s yield with another similar quality bond paying the same yield.

Callable Bond - A callable bond can be redeemed by the issuer before it matures if that provision is included in the terms of the bond agreement. Bonds are typically called when interest rates fall, since issuers can save money by paying off existing debt and offering new bonds at lower rates.

Glossary

Certificate of Deposit – A deposit of funds, in a bank or savings and loan association, for a specified term that earns interest at a specified rate or rate formula.

Commercial Paper – Commercial paper consists of unsecured, short-term promissory notes issued by companies or commercial bank holdings. CP maturities are generally limited to a maximum of 270 days.

Corporate Bond - The debt of corporations. The bonds are fully taxable, and issued in maturities ranging from less than one year up to 30 years.

Covered Bonds - A corporate bond with one important enhancement: Recourse to a pool of assets that secures or "covers" the bond if the originator (usually a financial institution) becomes insolvent. This enhancement typically (although not always) results in the bonds being assigned AAA credit ratings.

For the investor, one major advantage to a covered bond is that the debt and the underlying asset pool remain on the issuer's financials, and issuers must ensure that the pool consistently backs the covered bond. In the event of default, the investor has recourse to both the pool and the issuer. Another advantage is that the interest is paid from an identifiable source of projected cash flow versus out of other financing operations.

Coupon – Interest rate on a debt security the issuer promises to pay to the holder until maturity.

Credit Ratings - A financial indicator to potential investors used to assess the credit worthiness of a bond issuer. NRSROs are agencies that study the financial strength of bond issuers, and assign credit ratings. The three major NRSROs are Moody's Investors Service, Inc., Standard & Poor's Inc. and Fitch Ratings.

Current Yield - The rate of return an investor will get, without taking into account the value of the premium or discount of the purchase price. It is calculated by dividing the coupon by the price. The current yield is not a good indication of your return on investment. Yield to maturity and yield to call take into account the value of the discount or premium paid for the bond, and as such they offer a much better indication of the value of the bond.

CUSIP - A CUSIP number identifies a company or issuer and the type of security.

Dated Date - The date a bond is issued and starts to accrue interest.

Default Risk - The event in which companies will be unable to make the required payments on their debt obligations. Default risk is a component in virtually all forms of credit extensions. To mitigate the impact of default risk, lenders often charge rates of return that correspond to the debtor's level of default risk.

Glossary

Delivery vs. Payment – The simultaneous exchange of securities and cash. The safest method of settling either the purchase or sale of a security.

Discount – The amount by which the price for a security is less than its par.

Diversification – The investment of funds in several different asset classes and a variety of securities within each class to help reduce the impact of volatility in a portfolio and assist in managing risk.

DK – “don’t know”. A security is said to be ‘DK’d’ when it is delivered to the purchaser or more typically the purchaser’s correspondent but is rejected because the purchaser either doesn’t know or doesn’t agree with one or more of the aspects of the trade.

Duration – A measure of the average timing of cash flows from an asset or a liability or from an asset portfolio or a liability portfolio. Essentially, duration is a more accurate measure of maturity because it reflects the timing of cash flows from period interest and/or principal payments in addition to the cash flows represented by the funds transferred at maturity. Duration is computed by summing the present values of all of the future cash flows after multiplying each by the time until receipt, and then dividing that product by the sum of the present value of the future cash flows without weighting them for the time of receipt.

Earnings Yield – The result of coupon interest rates, principal value invested and the time period of investments being measured.

Extraordinary Redemption - Some municipal bonds are issued with an extraordinary redemption provision which gives the issuer the right to call the bonds under certain circumstances. The circumstances could range from natural disasters to cancelled projects to almost anything else.

General Obligation Bonds - Municipal bond backed by the full faith and credit of a municipality. A GO bond is repaid with general revenue and borrowings.

Government Obligations - Bonds, notes and other evidences of indebtedness of the: U.S. Government or agency thereof, Commonwealth of Virginia, and Virginia political subdivisions. The principal and interest of which are unconditionally guaranteed. Such securities will include, but not be limited to: U.S. Treasury Bills, Notes and Bonds, State and Local Government Securities (SLGS), Government National Mortgage Association (GNMA), Small Business Administration (SBA), Federal Housing Administration (FHA), Farmers Home Administration (FHMA), General Services Administration (GSA) and Export-Import Bank.

Government Sponsored Enterprises (GSEs) – U.S. Government sponsored corporations which carry the implicit backing of the U.S. Government, but are not direct obligations of the U.S. Government. For this reason, these securities will offer a yield premium over Treasuries. Examples of GSEs include: Federal National Mortgage Association (FNMA), Federal Farm Credit Bank (FFCB), Federal Home Loan Bank or its District Banks (FHLB) and Federal Home Loan Mortgage Corporation (FHLMC).

Glossary

High Yield Bonds – A bond that has a rating of BB or lower and that pays a higher yield to compensate for its greater risk. Also known as non-investment grade, speculative-grade, or junk bonds

Interest Rate – Rate of interest charged for the use of money, usually expressed at an annual rate.

Interest Payment Dates - Most bonds pay interest semi-annually (twice per year). The interest payment dates are usually the same month and day as the maturity date of the bond, and the six month anniversary.

Investment Grade – A rating that indicates that a municipal or corporate bond has a relatively low risk of default. Bonds that are rated at or above ‘Baa’ by Moody’s or ‘BBB’ by S&P are said to be investment grade bonds

Issuer – A legal entity that develops, registers and sells securities for the purpose of financing its operations. The issuer is a company in the case of a corporate bond, or a state, city, or county in the case of a municipal bond. The U.S. government is the issuer of Treasury bonds.

Laddered Bond Portfolio - A portfolio in which asset classes and investment maturities are staggered, in order to receive regular income and to smooth-out the effect of interest rate fluctuations. This also enables the investor to diversify in terms of default risk and reinvestment risk.

Liquidity – The ability to rapidly buy or sell an asset without substantially affecting the asset's price.

Liquidity Risk - The ability to easily convert securities to cash and is determined by how active the secondary market is for a particular security.

Market Risk – The possibility for an investor to experience losses due to factors that affect the overall performance of the financial markets. Market risk, also called “systemic risk”, cannot be eliminated through diversification, though it can be hedged against.

Mark to Market – When an investment is marked to the market, its value is adjusted to reflect the current market price.

Maturity Date - The date at which a debt instrument is due and payable.

Municipal Bonds - Bonds that are issued by state, county, or city governments to finance general governmental activities or special projects. They are generally exempt from federal tax, and are generally state tax-free for residents of the state in which they are issued.

Par Value - The face value, or named value, of a stock or bond. With bonds, par value, is the amount you pay to purchase at issue and the amount you receive when the bond is redeemed at maturity. Par is also the basis on which the interest you earn on a bond is figured.

Premium - Amount by which a bond sells above its face (par) value.

Glossary

Principal - Basic amount invested, exclusive of earnings

Realized Gain - The amount by which the sale price of an asset exceeds its purchase price.

Rebalancing - The systematic practice of restoring your portfolio to its intended asset allocation

Repurchase Agreement – A form of secured, short-term borrowing in which a security is sold with a simultaneous agreement to buy it back from the purchaser at a future date. Rates paid on repos are short-term money market interest rates and are completely unrelated to the coupon rate paid on the instrument being purchased.

Revenue Bonds - The interest and principal payments for municipal bonds are typically either guaranteed by the issuer or by the revenue from a specific project. If they are guaranteed by a specific project, the bondholder is relying on revenue from the project to pay principal and interest, and the bonds are known as revenue bonds.

Reverse Repurchase Agreement - The mirror image of a REPO. In a reverse REPO, an investor (governmental entity) owns securities, such as a Treasury note, U.S. government agency bond or other security, that a bank or dealer purchases under an agreement and sells back to an investor on a specified date, at an agreed-upon interest rate.

Secondary Market - A market where investors purchase securities or assets from other investors, rather than from issuing companies themselves.

Settlement Date - Date by which an executed order must be settled, either by a buyer paying for the securities with cash or by a seller delivering the securities and receiving the proceeds of the sale for them.

SNAP - The Treasury Board, an agency of the Commonwealth of Virginia, is responsible for implementing and supervising SNAP, which provides assistance to local governments in the investment of bond proceeds and the preparation of rebate calculations in compliance with treasury arbitrage rebate calculations.

Spread - The difference between the yield of the bond and the yield of a Treasury bond with a comparable maturity. Since the Treasury yield is considered risk-free, the spread reflects the risk premium of the bond.

Step-Up Bond - A bond that pays an initial coupon rate for the first period, and then a higher coupon rate for the following periods.

STRIPS - Separate trading of registered interest and principal of securities.

Glossary

Taxable Equivalent Yield - Pretax yield that a taxable bond would have to pay to equal the tax-free yield of a municipal bond in an investor's tax bracket.

Total Return – The return on investment, including income from dividends and interest, as well as appreciation or depreciation in the price of the security, over a given time period.

Trade Date - Day on which a security trade actually takes place.

Treasury Bills - Securities issued by the U.S. Government in 3 month, 6 month and 1 year maturities, and they are sold at a discount to par. The bonds do not pay period interest, and the return an investor receives is based on the amount that the purchase price is discounted from par.

Treasury Bonds and Notes - Securities issued by the U.S. Government in maturities of two, five, ten and 30 years. They all pay interest semi-annually. The issues that mature in ten years or less are called notes, and the 30 year issue is called a bond. The 30 year US Treasury bond is also know as the ‘long bond’

Treasury Inflation Protection Securities (TIPS) – Bonds issued by the U.S. Treasury that hedge the purchaser against the impact of inflation by semi-annually increasing the par value of the issue by the amount of inflation. These securities represent a real, inflation-adjusted yield. Because of this the coupon on TIPS is significantly lower than a non-TIP security.

Treasury STRIPS - These zero-coupon bonds come about when the bond’s coupons are separated from the bond or note; an investor’s return is determined by the difference between the purchase price and the bond’s trading value, or face value if held to maturity. Treasury STRIPS are a direct obligation of the U.S. Treasury.

Variable/Floating- Rate Securities - Variable- or floating-rate debt may include corporate, municipal, or asset-backed securities and also senior bank loans. They can be linked to nearly any type of benchmark and pay interest based on a wide range of formulas. The most basic type pays a coupon equal to some widely followed interest rate, such as the one- or three-month LIBOR (London Interbank Offered Rate), plus a fixed spread above that rate.

Yield to Call - The calculated yield based on price paid, coupon rate and amount of time until first call date. The yield is based on the security being called and not maturing and will fluctuate with market price.

Yield Curve - A curve that shows the relationship between the yields on short-term and long-term bonds of the same investment quality.

Yield to Maturity - The calculated return on investment that an investor will get if they hold the bond to maturity. It takes into account the present value of all future cash flows, as well as any premium or discount to par that the investor pays.

Glossary

Yield to Worst - The return if the worst possible bond repayment takes place, or the lowest potential yield that can be received on a bond without the issuer actually defaulting

Zero Coupon Bonds - Bonds that do not pay interest during the life of the bond. They are bought at a discount to the maturity value. For example, a zero coupon bond is bought at \$700 today to get back \$1,000 in 5 years. The difference between the purchase amount and the future amount received is the return. Zero Coupon Bonds are similar to savings bonds.