

SUBJECT: Authorizing Texas-domiciled life insurers to invest in certain loans

COMMITTEE: Insurance — committee substitute recommended

VOTE: 9 ayes — Phillips, Muñoz, R. Anderson, Gooden, Oliverson, Paul,  
Sanford, Turner, Vo

0 nays

WITNESSES: For — Jay Thompson, American National; (*Registered, but did not testify:*  
Jennifer Cawley, Texas Association of Life and Health Insurers)

Against — None

On — (*Registered, but did not testify:* Jamie Walker, Texas Department of  
Insurance)

BACKGROUND: Insurance Code, sec. 425.118 authorizes an insurance company to make  
certain investments backed by a valid first lien on real property or a  
leasehold estate in real property located in the United States.

Other states have increased the types of real estate loans in which  
domestic life, health, and accident insurers are authorized to invest,  
including interest-only loans, self-insured loans, and mortgages on  
leasehold estates. Some observers say Texas should join these states in  
expanding the types of loans in which insurers may invest.

DIGEST: CSHB 3803 would specify that the unexpired term of a leasehold estate  
would include any renewal options exercisable by the lessee when  
determining the duration of a leasehold estate and when the term of an  
obligation secured by a first lien on a leasehold estate in real property  
would amortize.

Under the bill, an obligation secured by a first lien on a leasehold estate in  
real property would be payable in installments of amounts sufficient to  
ensure that, at any time during the original term of the obligation, the

principal balance was not greater than it would have been if the obligation had been amortized over the original term of the obligation in equal payments of principal and interest, with payments of interest only for the first five years of the original term of the obligation.

The aforementioned payment structure would not apply to an obligation secured by a first lien on a leasehold estate in real property if:

- the amount of the obligation did not, as of the date the obligation was acquired, exceed 75 percent of the value of the leasehold estate;
- the lease agreement provided that the fee simple estate in the real property transferred automatically to the lessee by the expiration of the term of the leasehold estate, including any renewal options exercisable by the lessee; or
- the lease agreement provided that the lessee had an option to purchase the fee simple estate in the real property by the expiration of the term of the leasehold estate, including any renewal options exercisable by the lessee, for less than 10 percent of the appraised value of the real property, and the insurance company had a contractual right if the lessee did not exercise that option to acquire the fee simple estate in the real property for that same amount, by assignment from the lessee or otherwise.

An insurer could make investments backed by uninsured buildings on real property if:

- the borrower maintained a net worth as indicated in the borrower's audited financial statements for the most recent fiscal year of at least the greater of five times the amount of the indebtedness or \$100 million; and
- the insurance company had recourse against the borrower or the borrower's guarantor.

For an obligation secured by a leasehold estate, property insurance would not be required if:

- the tenant assigned the lease to the insurance company; and
- the lease agreement was in writing and provided that if a building on the property was damaged or destroyed, the tenant or the tenant's guarantor would be obligated to rebuild or restore the damaged or destroyed building to its condition immediately before the damage or destruction or to compensate the owner for the loss arising from the damage or destruction.

The bill would take effect September 1, 2017, and would apply to an investment made on or after that date.