

HOUSE BILL 798

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C3

1999 Regular Session  
(9r2149)

*ENROLLED BILL*  
*-- Economic Matters/Finance --*

Introduced by **Delegates McHale and Minnick**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2

**Life Insurers - Investments**

3 FOR the purpose of authorizing a separate investment account and a segregated asset  
4 account established by a life insurer to invest in any investments contractually  
5 permitted for the account and specified in the plan of ~~operations~~ operation  
6 issued to a qualified plan; providing that certain provisions of State insurance  
7 laws do not apply to the investments contained in the separate investment  
8 account or the segregated asset account under certain circumstances; providing  
9 that the assets of a separate investment account may not be chargeable with  
10 certain liabilities under certain circumstances; repealing certain provisions of  
11 law that impose limitations on investments made by life insurers and on  
12 investments of the assets of a segregated asset account; altering a certain  
13 definition; and generally relating to investments by life insurers.

14 BY repealing and reenacting, with amendments,  
15 Article - Insurance  
16 Section 5-512 and 16-602

1 Annotated Code of Maryland  
2 (1997 Volume and 1998 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article - Insurance**

6 5-512.

7 [(a) In this section, "qualified plan" means a pension, retirement, or  
8 profit-sharing plan or agreement that meets the requirements for qualification under  
9 § 401 or § 403 of the United States Internal Revenue Code or any corresponding  
10 provisions of prior or subsequent federal revenue laws.]

11 (A) IN THIS SECTION, "QUALIFIED PLAN" MEANS A PENSION, RETIREMENT, OR  
12 PROFIT-SHARING PLAN OR AGREEMENT THAT:

13 (1) MEETS THE REQUIREMENTS FOR QUALIFICATION UNDER § 401, § 403,  
14 OR § 414 OF THE UNITED STATES INTERNAL REVENUE CODE OR ANY  
15 CORRESPONDING PROVISIONS OF PRIOR OR SUBSEQUENT FEDERAL REVENUE LAWS;  
16 AND

17 (2) IS AN ACCREDITED INVESTOR AS DEFINED IN REGULATION D OF THE  
18 SECURITIES ACT OF 1933 OR ANY CORRESPONDING PROVISIONS OF PRIOR OR  
19 SUBSEQUENT FEDERAL LAWS.

20 (b) (1) This section applies only to the establishment or operation of  
21 separate investment accounts by life insurers for the funding of qualified plans.

22 (2) This section does not apply to:

23 (i) amounts contributed by an employee or other participant in a  
24 qualified plan who is entitled to retirement or other incidental benefits under the  
25 qualified plan; or

26 (ii) amounts that have been applied to purchase or provide  
27 retirement or other incidental benefits under a policy or contract of the life insurer.

28 (c) A life insurer may allocate to one or more separate investment accounts in  
29 accordance with a written agreement any amounts paid to the life insurer in  
30 connection with a qualified plan that are to be invested by the life insurer in  
31 accordance with the agreement and applied to the purchase of guaranteed income  
32 benefits under the life insurer's individual or group policies or annuity contracts or to  
33 provide other guaranteed benefits incidental to those policies or annuity contracts.

34 (d) Any income and gains and losses, realized or unrealized, on each  
35 investment account shall be credited to or charged against the amounts allocated to  
36 the account in accordance with the agreement without regard to other income, gains,  
37 or losses of the life insurer.

1 (e) (1) Amounts allocated to separate investment accounts and  
2 accumulations on the accounts may be invested and reinvested in any class of  
3 investments authorized under this article as life insurance reserve investments.

4 (2) Preferred and common stock investments of amounts allocated to  
5 separate investment accounts may not be included in applying the 10% limitations on  
6 investments under § 5-511(f) of this subtitle.

7 [(3) A life insurer may not invest more than the greater of \$10,000 or 10%  
8 of any one separate investment account in the stock or shares of any one corporation,  
9 mutual fund, or investment company.]

10 (3) A SEPARATE INVESTMENT ACCOUNT MAY INVEST IN ANY  
11 INVESTMENTS CONTRACTUALLY PERMITTED FOR THE SEPARATE INVESTMENT  
12 ACCOUNT AND SPECIFIED IN THE PLAN OF ~~OPERATIONS~~ OPERATION ISSUED TO A  
13 QUALIFIED PLAN, AND THE RESTRICTIONS, LIMITATIONS, AND OTHER PROVISIONS  
14 OF THIS ARTICLE RELATING TO INVESTMENTS SHALL NOT APPLY TO THE  
15 INVESTMENTS CONTAINED IN THE SEPARATE INVESTMENT ACCOUNT, PROVIDED  
16 THAT PRIOR TO DELIVERY OR ISSUANCE FOR DELIVERY IN THE STATE, THE FORM OF  
17 THE POLICY OR ANNUITY CONTRACT AND THE PLAN OF ~~OPERATIONS~~ OPERATION  
18 HAS BEEN FILED WITH AND APPROVED BY THE COMMISSIONER.

19 (f) Unless a life insurer limits its liability under the guarantee to the interest  
20 of the contract holder in the investments, a life insurer may not guarantee:

21 (1) the value of amounts allocated to a separate investment account; or

22 (2) the value of investments of the amounts allocated to the separate  
23 investment account or the income from the investments.

24 (g) (1) A life insurer owns the amounts that the life insurer allocates to a  
25 separate investment account under this section.

26 (2) A life insurer may not be or hold itself out to be a trustee of the  
27 amounts allocated to the separate investment account.

28 (3) TO THE EXTENT PROVIDED UNDER THE APPLICABLE CONTRACTS,  
29 THE PART OF THE ASSETS OF THE SEPARATE INVESTMENT ACCOUNT EQUAL TO THE  
30 RESERVES AND OTHER CONTRACT LIABILITIES WITH RESPECT TO THE ACCOUNT  
31 MAY NOT BE CHARGEABLE WITH LIABILITIES ARISING OUT OF ANY OTHER BUSINESS  
32 THAT THE INSURER MAY CONDUCT.

33 (h) At all times, the investments and liabilities of each separate investment  
34 account shall be clearly identifiable and distinguishable on the books of the life  
35 insurer from other investments and liabilities of the life insurer.

36 (i) Unless the Commissioner approves, a life insurer may not transfer by sale,  
37 exchange, substitution, or otherwise from one investment account to another  
38 investment account an investment in any separate investment account or in the  
39 general investment account of the life insurer.

1 (j) (1) In connection with the allocation of investments or expenses or in any  
2 other manner, a life insurer may not discriminate unfairly between:

3 (i) separate investment accounts; or

4 (ii) a separate investment account and the life insurer's general  
5 investment account.

6 (2) This subsection does not require a life insurer to follow uniform  
7 investment policies for its accounts.

8 (k) Investments made with respect to separate investment accounts shall be  
9 valued for the purpose of any valuation required by this article:

10 (1) at the market value of the investment on the date of the valuation; or

11 (2) if there is no readily available market, in accordance with the terms  
12 of the written agreement referred to in subsection (c) of this section.

13 16-602.

14 (a) [(1) Except as provided in paragraphs (2) and (3) of this subsection, the  
15 investments of a segregated asset account are subject to the provisions of this article.]

16 (1) A SEGREGATED ASSET ACCOUNT MAY INVEST IN ANY INVESTMENTS  
17 CONTRACTUALLY PERMITTED FOR THE SEGREGATED ASSET ACCOUNT AND  
18 SPECIFIED IN THE PLAN OF ~~OPERATIONS~~ OPERATION ISSUED TO A QUALIFIED PLAN,  
19 AS DEFINED IN § 5-512(A) OF THIS ARTICLE, AND THE RESTRICTIONS, LIMITATIONS,  
20 AND OTHER PROVISIONS OF THIS ARTICLE RELATING TO INVESTMENTS SHALL NOT  
21 APPLY TO THE INVESTMENTS CONTAINED IN THE SEGREGATED ASSET ACCOUNT,  
22 PROVIDED THAT PRIOR TO DELIVERY OR ISSUANCE FOR DELIVERY IN THE STATE,  
23 THE FORM OF THE POLICY OR ANNUITY CONTRACT AND THE PLAN OF ~~OPERATIONS~~  
24 OPERATION HAS BEEN FILED WITH AND APPROVED BY THE COMMISSIONER.

25 (2) Preferred and common stock investments of amounts allocated to a  
26 segregated asset account may not be included in applying the 10% limitations under  
27 § 5-511(f) of this article.

28 [(3) Up to 25% of the assets of a segregated asset account may be invested  
29 in nondividend paying stock if the issuer of the stock has not had a net operating loss:

30 (i) in more than 2 of its 12 fiscal quarters immediately preceding  
31 the date of purchase of the stock; or

32 (ii) in more than 2 of its fiscal quarters from the date of its  
33 incorporation if it has not been incorporated for at least 3 years before the date of  
34 purchase of the stock.]

35 (b) The investments of a segregated asset account shall comply with the  
36 regulations of the Commissioner.

1 (c) To the extent provided under the applicable contracts, the part of the  
2 assets of a segregated asset account equal to the reserves and other contract liabilities  
3 with respect to the account may not be chargeable with liabilities arising out of any  
4 other business that the insurer may conduct.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 1999.