

HOUSE BILL 798

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1999 Regular Session  
9r2149  
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By: **Delegates McHale and Minnick**  
Introduced and read first time: February 12, 1999  
Assigned to: Economic Matters

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A BILL ENTITLED

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 issued to a  
6 qualified plan; providing that certain provisions of State insurance laws do not  
7 apply to the investments contained in the separate investment account or the  
8 segregated asset account under certain circumstances; providing that the assets  
9 of a separate investment account may not be chargeable with certain liabilities  
10 under certain circumstances; repealing certain provisions of law that impose  
11 limitations on investments made by life insurers and on investments of the  
12 assets of a segregated asset account; altering a certain definition; and generally  
13 relating to investments by life insurers.

14 BY repealing and reenacting, with amendments,  
15 Article - Insurance  
16 Section 5-512 and 16-602  
17 Annotated Code of Maryland  
18 (1997 Volume and 1998 Supplement)

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

21 **Article - Insurance**

22 5-512.

23 [(a) In this section, "qualified plan" means a pension, retirement, or  
24 profit-sharing plan or agreement that meets the requirements for qualification under  
25 § 401 or § 403 of the United States Internal Revenue Code or any corresponding  
26 provisions of prior or subsequent federal revenue laws.]

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

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

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

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

10 (2) This section does not apply to:

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

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

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

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

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

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

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

35 (3) A SEPARATE INVESTMENT ACCOUNT MAY INVEST IN ANY  
36 INVESTMENTS CONTRACTUALLY PERMITTED FOR THE SEPARATE INVESTMENT  
37 ACCOUNT AND SPECIFIED IN THE PLAN OF OPERATIONS ISSUED TO A QUALIFIED  
38 PLAN, AND THE RESTRICTIONS, LIMITATIONS, AND OTHER PROVISIONS OF THIS  
39 ARTICLE RELATING TO INVESTMENTS SHALL NOT APPLY TO THE INVESTMENTS

1 CONTAINED IN THE SEPARATE INVESTMENT ACCOUNT, PROVIDED THAT PRIOR TO  
2 DELIVERY OR ISSUANCE FOR DELIVERY IN THE STATE, THE FORM OF THE POLICY OR  
3 ANNUITY CONTRACT AND THE PLAN OF OPERATIONS HAS BEEN FILED WITH AND  
4 APPROVED BY THE COMMISSIONER.

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

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

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

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

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

14 (3) TO THE EXTENT PROVIDED UNDER THE APPLICABLE CONTRACTS,  
15 THE PART OF THE ASSETS OF THE SEPARATE INVESTMENT ACCOUNT EQUAL TO THE  
16 RESERVES AND OTHER CONTRACT LIABILITIES WITH RESPECT TO THE ACCOUNT  
17 MAY NOT BE CHARGEABLE WITH LIABILITIES ARISING OUT OF ANY OTHER BUSINESS  
18 THAT THE INSURER MAY CONDUCT.

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

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

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

28 (i) separate investment accounts; or

29 (ii) a separate investment account and the life insurer's general  
30 investment account.

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

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

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

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

3 16-602.

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

6 (1) A SEGREGATED ASSET ACCOUNT MAY INVEST IN ANY INVESTMENTS  
7 CONTRACTUALLY PERMITTED FOR THE SEGREGATED ASSET ACCOUNT AND  
8 SPECIFIED IN THE PLAN OF OPERATIONS ISSUED TO A QUALIFIED PLAN, AS DEFINED  
9 IN § 5-512(A) OF THIS ARTICLE, AND THE RESTRICTIONS, LIMITATIONS, AND OTHER  
10 PROVISIONS OF THIS ARTICLE RELATING TO INVESTMENTS SHALL NOT APPLY TO  
11 THE INVESTMENTS CONTAINED IN THE SEGREGATED ASSET ACCOUNT, PROVIDED  
12 THAT PRIOR TO DELIVERY OR ISSUANCE FOR DELIVERY IN THE STATE, THE FORM OF  
13 THE POLICY OR ANNUITY CONTRACT AND THE PLAN OF OPERATIONS HAS BEEN  
14 FILED WITH AND APPROVED BY THE COMMISSIONER.

15 (2) Preferred and common stock investments of amounts allocated to a  
16 segregated asset account may not be included in applying the 10% limitations under  
17 § 5-511(f) of this article.

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

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

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

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

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

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