

HOUSE BILL 798

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By: **Delegates McHale and Minnick**
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Assigned to: Economic Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 16, 1999

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
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:

1 **Article - Insurance**

2 5-512.

3 [(a) In this section, "qualified plan" means a pension, retirement, or
4 profit-sharing plan or agreement that meets the requirements for qualification under
5 § 401 or § 403 of the United States Internal Revenue Code or any corresponding
6 provisions of prior or subsequent federal revenue laws.]

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

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

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

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

18 (2) This section does not apply to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (i) separate investment accounts; or
2 (ii) a separate investment account and the life insurer's general
3 investment account.

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

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

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

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

11 16-602.

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

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

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

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

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

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

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

35 (c) To the extent provided under the applicable contracts, the part of the
36 assets of a segregated asset account equal to the reserves and other contract liabilities

1 with respect to the account may not be chargeable with liabilities arising out of any
2 other business that the insurer may conduct.

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