

# SENATE BILL 236

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71r1736  
CF HB 248

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By: **Senators Kelley, Astle, Garagiola, and Klausmeier**

Introduced and read first time: January 29, 2007

Assigned to: Finance

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Committee Report: Favorable

Senate action: Adopted

Read second time: February 14, 2007

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Life Insurance – Investment Accounts**

3 FOR the purpose of expanding the scope of certain provisions of law that authorize a  
4 life insurer to allocate to one or more separate investment accounts certain  
5 amounts paid to the life insurer by repealing the requirement that the accounts  
6 must be established or operated for the funding of certain qualified plans;  
7 expanding the authority of a separate investment account or a segregated asset  
8 account to make investments for the account by repealing a requirement that  
9 the plan of operation in which the investments must be specified must be issued  
10 to a qualified plan; repealing a certain definition; clarifying language; making  
11 technical and conforming changes; and generally relating to investments of life  
12 insurers.

13 BY repealing and reenacting, with amendments,  
14 Article – Insurance  
15 Section 5–512  
16 Annotated Code of Maryland  
17 (2003 Replacement Volume and 2006 Supplement)

18 BY repealing and reenacting, with amendments,  
19 Article – Insurance

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 16–113(d)(3) and 16–602(a)(1)  
2 Annotated Code of Maryland  
3 (2006 Replacement Volume and 2006 Supplement)

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

6 **Article – Insurance**

7 5–512.

8 [(a) In this section, “qualified plan” means a pension, retirement, or  
9 profit-sharing plan or agreement that:

10 (1) meets the requirements for qualification under § 401, § 403, or §  
11 414 of the United States Internal Revenue Code or any corresponding provisions of  
12 prior or subsequent federal revenue laws; 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 subsequent federal  
15 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  
20 a 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) A life insurer may allocate to one or more separate investment  
25 accounts in accordance with a written agreement any amounts paid to the life insurer  
26 [in 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.

1            ~~[(d)]~~ **(B)**     Any income and gains and losses, realized or unrealized, on each  
2 **SEPARATE** investment account shall be credited to or charged against the amounts  
3 allocated to the account in accordance with the agreement without regard to other  
4 income, gains, or losses of the life insurer.

5            ~~[(e)]~~ **(C)**     (1)     Amounts allocated to separate investment accounts and  
6 accumulations on the accounts may be invested and reinvested in any class of  
7 investments authorized under this article as life insurance reserve investments.

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

11                        (3)     A separate investment account may invest in any investments  
12 contractually permitted for the separate investment account and specified in [the] **A**  
13 plan of operation [issued to a qualified plan], and the restrictions, limitations, and  
14 other provisions of this article relating to investments shall not apply to the  
15 investments contained in the separate investment account, provided that prior to  
16 delivery or issuance for delivery in the State, the form of the policy or annuity contract  
17 and the plan of operation [has] **HAVE** been filed with and approved by the  
18 Commissioner.

19            ~~[(f)]~~ **(D)**     Unless a life insurer limits its liability under the guarantee to the  
20 interest 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;  
22 or

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

25            ~~[(g)]~~ **(E)**     (1)     A life insurer owns the amounts that the life insurer  
26 allocates to a separate investment account under this section.

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

29                        (3)     To the extent provided under the applicable contracts, the part of  
30 the assets of the separate investment account equal to the reserves and other contract  
31 liabilities with respect to the account may not be chargeable with liabilities arising out  
32 of any other business that the insurer may conduct.

1            [(h)] (F) At all times, the investments and liabilities of each separate  
2 investment account shall be clearly identifiable and distinguishable on the books of  
3 the life insurer from other investments and liabilities of the life insurer.

4            [(i)] (G) Unless the Commissioner approves, a life insurer may not transfer  
5 by sale, exchange, substitution, or otherwise from one investment account to another  
6 investment account an investment in any separate investment account or in the  
7 general investment account of the life insurer.

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

10                            (i) separate investment accounts; or

11                            (ii) a separate investment account and the life insurer's general  
12 investment account.

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

15            [(k)] (I) (1) Investments made with respect to separate investment  
16 accounts shall be valued for the purpose of any valuation required by this article:

17                            (i) at the market value of the investment on the date of the  
18 valuation; or

19                            (ii) if there is no readily available market, in accordance with  
20 the terms of the written agreement referred to in subsection [(c)] (A) of this section.

21                            (2) (i) If a separate investment account provides a fixed  
22 guaranteed return that is not subject to market value adjustment, the life insurer  
23 shall hold assets that equal or exceed the reserve amount that would be required if the  
24 separate investment account was an obligation of the life insurer's general account.

25                            (ii) An asset held under subparagraph (i) of this paragraph shall  
26 be valued in accordance with §§ 5-401 and 5-402 of this title.

27 16-113.

28            (d) (3) Amounts allocated to a separate account and any resulting  
29 accumulations may be invested and reinvested subject only to §§ 5-506, 5-507, and

1 [5-512(d), (g), (h), (i), (j), and (k)] **5-512(B), (E), (F), (G), (H), AND (I)** of this article  
2 and regulations adopted under subsection (e) of this section.

3 16-602.

4 (a) (1) A segregated asset account may invest in any investments  
5 contractually permitted for the segregated asset account and specified in [the] A plan  
6 of operation [issued to a qualified plan, as defined in § 5-512(a) of this article], and  
7 the restrictions, limitations, and other provisions of this article relating to investments  
8 shall not apply to the investments contained in the segregated asset account, provided  
9 that prior to delivery or issuance for delivery in the State, the form of the policy or  
10 annuity contract and the plan of operation [has] **HAVE** been filed with and approved  
11 by the Commissioner.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 July 1, 2007.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.