

CHAPTER 22

(Senate Bill 236)

AN ACT concerning

Life Insurance – Investment Accounts

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

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

BY repealing and reenacting, with amendments,
Article – Insurance
Section 16–113(d)(3) and 16–602(a)(1)
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

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

Article – Insurance

5–512.

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

(1) meets the requirements for qualification under § 401, § 403, or § 414 of the United States Internal Revenue Code or any corresponding provisions of prior or subsequent federal revenue laws; and

(2) is an accredited investor as defined in Regulation D of the Securities Act of 1933 or any corresponding provisions of prior or subsequent federal laws.

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

(2) This section does not apply to:

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

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

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

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

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

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

(3) A separate investment account may invest in any investments contractually permitted for the separate investment account and specified in [the] A

plan of operation [issued to a qualified plan], and the restrictions, limitations, and other provisions of this article relating to investments shall not apply to the investments contained in the separate investment account, provided that prior to delivery or issuance for delivery in the State, the form of the policy or annuity contract and the plan of operation [has] **HAVE** been filed with and approved by the Commissioner.

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

- (1) the value of amounts allocated to a separate investment account;
- or
- (2) the value of investments of the amounts allocated to the separate investment account or the income from the investments.

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

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

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

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

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

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

- (i) separate investment accounts; or

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

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

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

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

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

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

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

16-113.

(d) (3) Amounts allocated to a separate account and any resulting accumulations may be invested and reinvested subject only to §§ 5-506, 5-507, and ~~[5-512(d), (g), (h), (i), (j), and (k)]~~ **5-512(B), (E), (F), (G), (H), AND (I)** of this article and regulations adopted under subsection (e) of this section.

16-602.

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

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

Approved by the Governor, April 10, 2007.