

HOUSE BILL 791

IN THE HOUSE

February 13, 1979	Introduced and referred to Committee on Business and Industry.
February 17, 1979	Committee recommend bill, as amended.
	Intent statement attached.
February 19, 1979	Printed and placed on members' desks.
February 21, 1979	Second reading, do pass.
February 22, 1979	Considered correctly engrossed.
	Third reading, passed.

IN THE SENATE

February 23, 1979	Introduced and referred to Committee on Business and Industry.
March 3, 1979	Committee recommend bill, concurred.
March 6, 1979	Second reading, indefinitely postponed.

IN THE HOUSE

March 7, 1979	Returned from Senate, indefinitely postponed.
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House BILL NO. 791

INTRODUCED BY DENNIS NATHAN TUCK

A BILL FOR AN ACT ENTITLED: "AN ACT TO ADOPT A VARIABLE CONTRACT LAW AUTHORIZING LIFE INSURANCE COMPANIES TO ESTABLISH SEPARATE ACCOUNTS TO PROVIDE FOR VARIABLE LIFE INSURANCE POLICIES AND VARIABLE ANNUITY CONTRACTS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Title. [This act] may be cited as the "Montana Variable Contract Law".

Section 2. Separate accounts for life insurance or annuities. A domestic life insurance company may establish one or more separate accounts and may allocate thereto amounts, including without limitation proceeds applied under optional modes of settlement or under dividend options, to provide for life insurance or annuities and benefits incidental thereto, payable in fixed or variable amounts or both, subject to the following:

(1) The income, gains, and losses, realized or unrealized, from assets allocated to a separate account shall be credited to or charged against the account, without regard to other income, gains, or losses of the company.

(2) Except as may be provided for reserves for guaranteed benefits and funds in subsection (3):

(a) amounts allocated to a separate account and accumulations thereon may be invested and reinvested in any class of investment authorized under Title 33, chapter 2, part 8, provided that limitations under 32-2-806 on investments in stocks are not applicable.

(b) the investments in the separate account or accounts may not be taken into account in applying the investment limitations otherwise applicable to the investments of the company.

(3) Except with the approval of the commissioner of insurance and under conditions as to investments and other matters as he prescribes that recognize the guaranteed nature of the benefits provided, reserves for benefits guaranteed as to dollar amount and duration and for funds guaranteed as to principal amount or stated rate of interest may not be maintained in a separate account.

(4) Unless otherwise approved by the commissioner, assets allocated to a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then as provided under the terms of the contract or the rules or other written agreement applicable to that separate account; provided, that unless otherwise approved by the commissioner, the portion if any of the assets of that separate account equal to the company's reserve liability with regard to the

1 guaranteed benefits and funds referred to in subsection (3)
 2 shall be valued in accordance with the rules otherwise
 3 applicable to the company's assets.

4 (5) Amounts allocated to a separate account in the
 5 exercise of the power granted by [this act] shall be owned
 6 by the company, and the company may not be or hold itself
 7 out to be a trustee with respect to those amounts. If and
 8 to the extent provided under applicable contracts, that
 9 portion of the assets of a separate account equal to the
 10 reserves and other contract liabilities with respect to the
 11 account are not chargeable with liabilities arising out of
 12 any other business the company may conduct.

13 (6) No sale, exchange, or other transfer of assets may
 14 be made by a company between any of its separate accounts or
 15 between any other investment account and one or more of its
 16 separate accounts unless, in case of a transfer into a
 17 separate account, the transfer is made solely to establish
 18 the account or to support the operation of the contracts
 19 with respect to the separate account to which the transfer
 20 is made and unless the transfer, whether into or from a
 21 separate account, is made by a transfer of cash or by a
 22 transfer of securities having a readily determinable market
 23 value, provided that the transfer of securities is approved
 24 by the commissioner. The commissioner of insurance may
 25 approve other transfers among these accounts if, in his

1 opinion, transfers would not be inequitable.

2 (7) To the extent a company considers it necessary to
 3 comply with any applicable federal or state laws, the
 4 company, with respect to any separate account, including
 5 without limitation any separate account which is a
 6 management investment company or a unit investment trust,
 7 may provide for persons having an interest therein
 8 appropriate voting and other rights and special procedures
 9 for the conduct of the business of that account, including
 10 without limitation: special rights and procedures relating
 11 to investment policy, investment advisory services,
 12 selection of independent public accountants, and the
 13 selection of a committee, the members of which need not be
 14 otherwise affiliated with the company, to manage the
 15 business of that account.

16 Section 3. Contract shall state essential features. A
 17 contract providing benefits payable in variable amounts
 18 delivered or issued for delivery in this state shall contain
 19 a statement of the essential features of the procedures to
 20 be followed by the insurance company in determining the
 21 dollar amount of the variable benefits. A contract under
 22 which the benefits vary to reflect investment experience,
 23 including a group contract and a certificate in evidence of
 24 variable benefits issued thereunder, shall state that the
 25 dollar amount will vary and shall contain on its first page

1 a statement to the effect that the benefits thereunder are
 2 on a variable basis.

3 Section 4. Requirements for doing business. (1) No
 4 company may deliver or issue for delivery within this state
 5 variable contracts unless it is licensed or organized to do
 6 life insurance or annuity business in this state and the
 7 commissioner of insurance is satisfied that its condition or
 8 method of operation in connection with the issuance of
 9 contracts will not render its operation hazardous to the
 10 public or its policyholders in this state. In this
 11 connection, the commissioner of insurance shall consider
 12 among other things:

13 (a) the history and financial condition of the
 14 company;

15 (b) the character, responsibility, and fitness of the
 16 officers and directors of the company; and

17 (c) the law and regulation under which the company is
 18 authorized in the state of domicile to issue variable
 19 contracts. The state of entry of an alien company shall be
 20 considered its place of domicile for this purpose.

21 (2) If the company is a subsidiary of an admitted life
 22 insurance company or affiliated with that company through
 23 common management or ownership, it may be considered by the
 24 commissioner to have met the provisions of this section if
 25 either it or the parent or the affiliated company meets the

1 requirements hereof.

2 Section 5. Powers of commissioner. Notwithstanding any
 3 other provision of law, the commissioner of insurance has
 4 sole authority to regulate the issuance and sale of variable
 5 contracts and to promulgate rules to carry out the purposes
 6 and provisions of [this act].

7 Section 6. Variable contracts to meet insurance
 8 contract requirements. Except for 33-20-302 and 33-20-307
 9 for variable annuity contracts and 33-20-104, 33-20-109,
 10 33-20-111, 33-20-112, and 33-20-201 through 33-20-213 for
 11 variable life insurance policies and as provided in [this
 12 act], all pertinent provisions of Title 33 and other laws
 13 relating to insurance apply to separate accounts and their
 14 related policies and contracts. Any individual variable
 15 life insurance contract or annuity contract delivered or
 16 issued for delivery in this state shall contain grace and
 17 reinstatement provisions appropriate to the contract.
 18 Individual variable life insurance contracts shall contain
 19 nonforfeiture provisions appropriate to those contracts.
 20 The reserve liability for variable contracts shall be
 21 established in accordance with actuarial procedures that
 22 recognize the variable nature of benefits provided and
 23 mortality guarantees.

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1 provisions of the Montana Administrative Procedure Act.
2 First adopted by the HOUSE COMMITTEE ON BUSINESS AND
3 INDUSTRY on February 17, 1979.

1 STATEMENT OF INTENT RE: HB 791
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4 A statement of intent is required for House Bill 791 in
5 that it delegates rulemaking authority to the commissioner
6 of insurance in section 5.

7 Although 33-1-313, MCA, delegates to the commissioner
8 of insurance rulemaking authority to effectuate any
9 provisions of the code, as House Bill 791 substantively
10 increases this power, a statement of intent is required.

11 Section 5 empowers the commissioner of insurance with
12 the sole authority to regulate the issuance and sale of
13 variable contracts and allows the commissioner to promulgate
14 rules to carry out the provisions of House Bill 791. The
15 commissioner's authority to promulgate rules shall be
16 limited in scope to the following areas:

17 1. Rules relating to maintaining reserves for
18 guaranteed benefits and funds in a separate account;

19 2. Rules relating to valuation of assets allocated to
20 a separate account;

21 3. Rules relating to the transfer of cash or
22 securities among a life insurance company's accounts; and

23 4. Rules relating to the requirements of doing
24 business under this act.

25 All rules promulgated under this act are subject to the

HB 791

Approved by Committee
on Judiciary

10 Section 1. Title. [This act] may be cited as the
11 "Montana Variable Contract Law".

12 Section 2. Separate accounts for life insurance or
13 annuities. A domestic life insurance company may establish
14 one or more separate accounts and may allocate thereto
15 amounts, including without limitation proceeds applied under
16 optional modes of settlement or under dividend options, to
17 provide for life insurance or annuities and benefits
18 incidental thereto, payable in fixed or variable amounts or
19 both, subject to the following:

20 (1) The income, gains, and losses, realized or
21 unrealized, from assets allocated to a separate account
22 shall be credited to or charged against the account, without
23 regard to other income, gains, or losses of the company.

24 (2) Except as may be provided for reserves for
25 guaranteed benefits and funds in subsection (3):

1 (a) amounts allocated to a separate account and
2 accumulations thereon may be invested and reinvested in any
3 class of investment authorized under Title 33, chapter 2,
4 part 8, provided that limitations under 32-2-806 33-2-806 on
5 investments in stocks are not applicable.

6 (b) the investments in the separate account or
7 accounts may not be taken into account in applying the
8 investment limitations otherwise applicable to the
9 investments of the company.

10 (3) Except with the approval of the commissioner of
11 insurance and under conditions as to investments and other
12 matters as he prescribes that recognize the guaranteed
13 nature of the benefits provided, reserves for benefits
14 guaranteed as to dollar amount and duration and for funds
15 guaranteed as to principal amount or stated rate of interest
16 may not be maintained in a separate account.

17 (4) Unless otherwise approved by the commissioner,
18 assets allocated to a separate account shall be valued at
19 their market value on the date of valuation, or if there is
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21 terms of the contract or the rules or other written
22 agreement applicable to that separate account; provided,
23 that unless otherwise approved by the commissioner, the
24 portion if any of the assets of that separate account equal
25 to the company's reserve liability with regard to the

1 guaranteed benefits and funds referred to in subsection (3)
 2 shall be valued in accordance with the rules otherwise
 3 applicable to the company's assets.

4 (5) Amounts allocated to a separate account in the
 5 exercise of the power granted by [this act] shall be owned
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 15 between any other investment account and one or more of its
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 23 value, provided that the transfer of securities is approved
 24 by the commissioner. The commissioner of insurance may
 25 approve other transfers among these accounts if, in his

1 opinion, transfers would not be inequitable.

2 (7) To the extent a company considers it necessary to
 3 comply with any applicable federal or state laws, the
 4 company, with respect to any separate account, including
 5 without limitation any separate account which is a
 6 management investment company or a unit investment trust,
 7 may provide for persons having an interest therein
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3 Section 4. Requirements for doing business. (1) No
 4 company may deliver or issue for delivery within this state
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 12 among other things:

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 20 considered its place of domicile for this purpose.

21 (2) If the company is a subsidiary of an admitted life
 22 insurance company or affiliated with that company through
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