

Senate Bill 331

In The Senate

January 30, 1981	Introduced and referred to Committee on Business and Industry.
February 13, 1981	Committee recommend bill do pass as amended.
February 16, 1981	Bill printed and placed on members' desks.
February 17, 1981	Second reading do pass.
February 18, 1981	Correctly engrossed.
February 19, 1981	On motion taken from third reading and referred to second reading. Motion adopted.
February 24, 1981	Second reading do pass as amended.
February 25, 1981	On motion rules suspended. Bill placed on Calendar for third reading this day. Third reading not passed.

Senate BILL NO. 331
Mike Anderson

INTRODUCED BY _____
BY REQUEST OF THE INSURANCE DEPARTMENT

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

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

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

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

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

25 (2) Except as may be provided for reserves for

1 guaranteed benefits and funds in subsection (3):
2 (a) amounts allocated to a separate account and
3 accumulations thereon may be invested and reinvested in any
4 class of investment authorized under Title 33, chapter 2,
5 part 8, but the limitations under 32-2-806 on investments in
6 stocks are not applicable.
7 (b) the investments in the separate account or
8 accounts may not be taken into account in applying the
9 investment limitations otherwise applicable to the
10 investments of the company.
11 (3) Except with the approval of the commissioner and
12 under conditions applying to investments and other matters
13 as he prescribes that recognize the guaranteed nature of the
14 benefits provided, reserves for benefits guaranteed as to
15 dollar amount and duration and for funds guaranteed as to
16 principal amount or stated rate of interest may not be
17 maintained in a separate account.
18 (4) Unless otherwise approved by the commissioner,
19 assets allocated to a separate account shall be valued at
20 their market value on the date of valuation, or if there is
21 no readily available market, they shall be valued as
22 provided under the terms of the contract or the rules or
23 other written agreement applicable to that separate account.
24 Unless otherwise approved by the commissioner, the portion,
25 if any, of the assets of that separate account equal to the

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

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

14 (6) A sale, exchange, or other transfer of assets may
15 not be made by a company between any of its separate
16 accounts or between any other investment account and one or
17 more of its separate accounts unless, in case of a transfer
18 into a separate account, the transfer is made solely to
19 establish the account or to support the operation of the
20 contracts with respect to the separate account to which the
21 transfer is made and unless the transfer, whether into or
22 from a separate account, is made by a transfer of cash or by
23 a transfer of securities approved by the commissioner and
24 having a readily determinable market value. The commissioner
25 may approve other transfers among these accounts if, in his

1 opinion, transfers would be equitable.

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 persons having an interest therein appropriate
8 voting and other rights and special procedures for the
9 conduct of the business of that account, including without
10 limitation: special rights and procedures relating to
11 investment policy, investment advisory services, selection
12 of independent public accountants, and the selection of a
13 committee, the members of which need not be otherwise
14 affiliated with the company, to manage the business of that
15 account.

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

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

2 Section 4. Requirements for doing business. (1) A
3 company may not deliver or issue for delivery within this
4 state variable contracts unless it is licensed or organized
5 to do life insurance or annuity business in this state and
6 the commissioner is satisfied that its condition or method
7 of operation in connection with the issuance of contracts
8 will not render its operation hazardous to the public or its
9 policyholders in this state. In this connection, the
10 commissioner shall consider, among other things:

11 (a) the history and financial condition of the
12 company;

13 (b) the character, responsibility, and fitness of the
14 officers and directors of the company; and

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

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

25 Section 5. Powers of commissioner. Notwithstanding any

1 other provision of law, the commissioner has sole authority
2 to regulate the issuance and sale of variable contracts and
3 to promulgate rules to carry out the purposes and provisions
4 of [this act].

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

22 Section 7. Codification instruction. This act is
23 intended to be codified as an integral part of Title 33, and
24 the provisions of Title 33 apply to this act.

-End-

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SB 331

Approved by Committee
on Business and Industry

1 STATEMENT OF INTENT
2 SENATE BILL 331
3 Senate Business and Industry Committee
4

5 A statement of intent is required for Senate Bill 331
6 in that it delegates rulemaking authority to the
7 commissioner of insurance in section 5.

8 Although 33-1-313, MCA, delegates to the commissioner
9 of insurance rulemaking authority to effectuate any
10 provisions of the code, as Senate Bill 331 substantively
11 increases this power, a statement of intent is required.

12 Section 5 empowers the commissioner of insurance with
13 the sole authority to regulate the issuance and sale of
14 variable contracts and allows the commissioner to promulgate
15 rules to carry out the provisions of Senate Bill 331. The
16 commissioner's authority to promulgate rules shall be
17 limited in scope to the following areas:

18 (1) rules relating to maintaining reserves for
19 guaranteed benefits and funds in a separate account;

20 (2) rules relating to valuation of assets allocated to
21 a separate account;

22 (3) rules relating to the transfer of cash or
23 securities among a life insurance company's accounts; and

24 (4) rules relating to the requirements of doing
25 business under this act.

1 All rules promulgated under this act are subject to the
2 provisions of the Montana Administrative Procedure Act.
3 First adopted by the Senate Committee on Business and
4 Industry on February 11, 1981.

1 SENATE BILL NO. 331

2 INTRODUCED BY M. ANDERSON

3 BY REQUEST OF THE INSURANCE DEPARTMENT

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18 provide for life insurance or annuities and benefits
19 incidental thereto, payable in fixed or variable amounts or
20 both, subject to the following:

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22 unrealized, from assets allocated to a separate account
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24 regard to other income, gains, or losses of the company.

25 (2) Except as may be provided for reserves for

1 guaranteed benefits and funds in subsection (3):

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

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

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

18 (4) Unless otherwise approved by the commissioner,
19 assets allocated to a separate account shall be valued at
20 their market value on the date of valuation, or if there is
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25 if any, of the assets of that separate account equal to the

1 company's reserve liability with regard to the guaranteed
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5 (5) Amounts allocated to a separate account in the
6 exercise of the power granted by [this act] are owned by the
7 company, and the company may not be or hold itself out to be
8 a trustee with respect to those amounts. Through contractual
9 provisions it may be provided that the portion of the assets
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12 chargeable with liabilities arising out of any other
13 business the company may conduct.

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15 not be made by a company between any of its separate
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19 establish the account or to support the operation of the
20 contracts with respect to the separate account to which the
21 transfer is made and unless the transfer, whether into or
22 from a separate account, is made by a transfer of cash or by
23 a transfer of securities approved by the commissioner and
24 having a readily determinable market value. The commissioner
25 may approve other transfers among these accounts if, in his

1 opinion, transfers would be equitable.

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 persons having an interest therein appropriate
8 voting and other rights and special procedures for the
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17 providing benefits payable in variable amounts delivered or
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5 to do life insurance or annuity business in this state and
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7 of operation in connection with the issuance of contracts
8 will not render its operation hazardous to the public or its
9 policyholders in this state. In this connection, the
10 commissioner shall consider, among other things:

11 (a) the history and financial condition of the
12 company;

13 (b) the character, responsibility, and fitness of the
14 officers and directors of the company; and

15 (c) the law and regulation under which the company is
16 authorized in the state of domicile to issue variable
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18 place of domicile for this purpose.

19 (2) If the company is a subsidiary of an admitted life
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24 requirements of this section.

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8 33-20-111, 33-20-112, and 33-20-201 through 33-20-207, AND
9 33-20-211 THROUGH 33-20-213 for variable life insurance
10 policies and as provided in [this act], all pertinent
11 provisions of Title 33 and other laws relating to insurance
12 apply to separate accounts and their related policies and
13 contracts. Any individual variable life insurance contract
14 or annuity contract delivered or issued for delivery in this
15 state must contain grace and reinstatement provisions
16 appropriate to the contract. Individual variable life
17 insurance contracts must contain nonforfeiture provisions
18 appropriate to those contracts. The reserve liability for
19 variable contracts shall be established in accordance with
20 actuarial procedures that recognize the variable nature of
21 benefits provided and mortality guarantees.

22 Section 7. Codification instruction. This act is
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24 requirements of this section.

25 Section 5. Powers of commissioner. Notwithstanding any

1 other provision of law, EXCEPT TITLE 30, CHAPTER 10, PARTS 1
2 THROUGH 3, the commissioner has sole authority to regulate
3 the issuance and sale of variable contracts and to
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