

HOUSE BILL NO. 464

Introduced: 01/24/83

Referred to Committee on Business & Industry: 01/24/83

Hearing: 1/31/83

Report: 01/31/83, Do Pass, As Amended

2nd Reading: 02/02/83, Do Pass

3rd Reading: 02/04/83, Do Pass

Transmitted to Senate: 02/05/83

Referred to Committee on Business & Industry: 02/05/83

Hearing: 3/14/83

Report: 03/14/83, Be Concurred In

On Motion, 3/15/83, That the Bill Be Taken From 2nd Reading and Rereferred to the Committee on Business & Industry. Motion Passed Unanimously.

Report: 3/23/83, Be Not Concurred In

Bill Killed: 3/23/83

1 ~~House~~ BILL NO. 464  
2 INTRODUCED BY Shenstad Rep  
3 BY REQUEST OF THE DEPARTMENT OF INSURANCE  
4

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

11 Section 1. Short 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 thereto  
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 must  
23 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, if 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 relating to investments and other matters  
13 as he prescribes that recognize the guaranteed nature of the  
14 benefits provided, reserves for benefits guaranteed relating  
15 to dollar amount and duration and for funds guaranteed  
16 relating to principal amount or stated rate of interest may  
17 not be maintained in a separate account.

18 (4) Unless otherwise approved by the commissioner,  
19 assets allocated to a separate account must be valued at  
20 their market value on the date of valuation or, if there is  
21 no readily available market, as provided under the terms of  
22 the contract or the rules or other written agreement  
23 applicable to that separate account; however, unless  
24 otherwise approved by the commissioner, the portion, if any,  
25 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) must 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] must be owned by  
7 the company, and the company may not be or hold itself out  
8 to be a trustee with respect to those amounts. If and to the  
9 extent provided under applicable contracts that portion of  
10 the assets of a separate account equal to the reserves and  
11 other contract liabilities with respect to the account are  
12 not chargeable with liabilities arising out of any other  
13 business the company may conduct.

14 (6) (a) No sale, exchange, or other transfer of assets  
15 may 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:

18 (i) in case of a transfer into a separate account, the  
19 transfer is made solely to establish the account or to  
20 support the operation of the contracts with respect to the  
21 separate account to which the transfer is made; or

22 (ii) the transfer, whether into or from a separate  
23 account, is made by a transfer of cash or by a transfer of  
24 securities having a readily determinable market value and  
25 the transfer of securities is approved by the commissioner.

1 (b) The commissioner may approve other transfers among  
2 these accounts if, in his opinion, transfers would not be  
3 inequitable.

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

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

1 variable benefits issued thereunder, must state that the  
2 dollar amount will vary and contain on its first page a  
3 statement to the effect that the benefits thereunder are on  
4 a variable basis.

5 Section 4. Requirements for doing business. (1) No  
6 company may deliver or issue for delivery within this state  
7 a variable contract unless the company is licensed or  
8 organized to do life insurance or annuity business in this  
9 state and the commissioner is satisfied that its condition  
10 or method of operation in connection with the issuance of  
11 contracts will not render its operation hazardous to the  
12 public or its policyholders in this state. In making such a  
13 determination, the commissioner must consider, but is not  
14 limited to:

15 (a) the history and financial condition of the  
16 company;

17 (b) the character, responsibility, and fitness of the  
18 officers and directors of the company; and

19 (c) the laws and regulations under which the company  
20 is authorized in the state of domicile to issue variable  
21 contracts. The state of entry of an alien company is its  
22 place of domicile for this purpose.

23 (2) If the company is a subsidiary of a life insurance  
24 company that is licensed or organized in this state or  
25 affiliated with such a company through common management or

1 ownership, it may be considered by the commissioner to have  
2 met the requirements of this section if either it or the  
3 parent or affiliated company meets the requirements of this  
4 section.

5 Section 5. Powers of commissioner. The commissioner  
6 has sole authority to regulate the issuance and sale of  
7 variable contracts and to promulgate rules to carry out the  
8 purposes and provisions of [this act].

9 Section 6. Variable contracts to meet insurance  
10 contract requirements. (1) Except for 33-20-302 and  
11 33-20-307 for variable annuity contracts and 33-20-104,  
12 33-20-109, 33-20-111, 33-20-112, 33-20-201 through 33-20-207  
13 and 33-20-211 through 33-20-213 for variable life insurance  
14 policies and as otherwise provided in [this act], all  
15 pertinent provisions of Title 33 and other laws relating to  
16 insurance apply to separate accounts and their related  
17 policies and contracts.

18 (2) Any individual variable life insurance contract or  
19 annuity contract delivered or issued for delivery in this  
20 state must contain grace and reinstatement provisions  
21 appropriate to the contract. Any individual variable life  
22 insurance contract must contain nonforfeiture provisions  
23 appropriate to such a contract.

24 (3) The reserve liability for any variable contract  
25 must be established in accordance with actuarial procedures

1 that recognize the variable nature of benefits provided and  
2 mortality guarantees.

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

-End-

## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 464

3 House Business and Industry Committee  
4

5 A statement of intent is required for this bill in that  
6 it delegates rulemaking authority to the Commissioner of  
7 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 LC 1116 substantively increases  
11 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 this bill. The  
16 Commissioner's authority to promulgate rules is limited in  
17 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 bill.

1 All rules promulgated under this bill are subject to  
2 the provisions of the Montana Administrative Procedure Act.

Approved by Committee  
on Business and Industry

HOUSE BILL NO. 464

INTRODUCED BY HEMSTAD, GAGE

BY REQUEST OF THE DEPARTMENT OF INSURANCE

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. Short 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 must 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, if limitations under ~~32-2-806~~ ~~33-2-806~~ 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 and under conditions relating to investments and other matters as he prescribes that recognize the guaranteed nature of the benefits provided, reserves for benefits guaranteed relating to dollar amount and duration and for funds guaranteed relating 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 must be valued at their market value on the date of valuation or, if there is no readily available market, as provided under the terms of the contract or the rules or other written agreement applicable to that separate account; however, unless otherwise approved by the commissioner, the portion, 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) must 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] must be owned by  
7 the company, and the company may not be or hold itself out  
8 to be a trustee with respect to those amounts. If and to the  
9 extent provided under applicable contracts that portion of  
10 the assets of a separate account equal to the reserves and  
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12 not chargeable with liabilities arising out of any other  
13 business the company may conduct.

14 (6) (a) No sale, exchange, or other transfer of assets  
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16 accounts or between any other investment account and one or  
17 more of its separate accounts unless:

18 (i) in case of a transfer into a separate account, the  
19 transfer is made solely to establish the account or to  
20 support the operation of the contracts with respect to the  
21 separate account to which the transfer is made; or

22 (ii) the transfer, whether into or from a separate  
23 account, is made by a transfer of cash or by a transfer of  
24 securities having a readily determinable market value and  
25 the transfer of securities is approved by the commissioner.

1 (b) The commissioner may approve other transfers among  
2 these accounts if, in his opinion, transfers would not be  
3 inequitable.

4 (7) To the extent a company considers it necessary to  
5 comply with any applicable federal or state laws, the  
6 company, with respect to any separate account, including  
7 without limitation any separate account that is a management  
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17 account.

18 Section 3. Contract to state essential features. A  
19 contract providing benefits payable in variable amounts  
20 delivered or issued for delivery in this state must contain  
21 a statement of the essential features of the procedures to  
22 be followed by the insurance company in determining the  
23 dollar amount of the variable benefits. A contract under  
24 which the benefits vary to reflect investment experience,  
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1 variable benefits issued thereunder, must state that the  
2 dollar amount will vary and contain on its first page a  
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5 Section 4. Requirements for doing business. (1) No  
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16 company;

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18 officers and directors of the company; and

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21 contracts. The state of entry of an alien company is its  
22 place of domicile for this purpose.

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24 company that is licensed or organized in this state or  
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