

SENATE BILL NO. 76

INTRODUCED BY REGAN, GILBERT, WILLIAMS, WEEDING

IN THE SENATE

JANUARY 6, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
JANUARY 12, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED. STATEMENT OF INTENT ADOPTED.
JANUARY 13, 1989	PRINTING REPORT.
JANUARY 14, 1989	SECOND READING, DO PASS.
JANUARY 16, 1989	ENGROSSING REPORT.
JANUARY 17, 1989	THIRD READING, PASSED. AYES, 50; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 17, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & LABOR.
FEBRUARY 20, 1989	FIRST READING.
MARCH 2, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 4, 1989	SECOND READING, CONCURRED IN.
MARCH 6, 1989	THIRD READING, CONCURRED IN. AYES, 91; NOES, 2.
	RETURNED TO SENATE.

IN THE SENATE

MARCH 7, 1989	RECEIVED FROM HOUSE.
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SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *76*  
2 INTRODUCED BY *Rep. Gilbert William Leland*  
3

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

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

10 **Section 1. Short title.** [Sections 1 through 6] may be  
11 cited as the "Montana Variable Contract Law".

12 **Section 2. Separate accounts for life insurance or**  
13 **annuities.** (1) Subject to the provisions of subsection (2),  
14 a domestic life insurer may establish one or more separate  
15 accounts and may allocate to such accounts the amounts  
16 necessary to provide for life insurance or annuities and  
17 benefits incidental thereto, payable in fixed or variable  
18 amounts, or both. The amounts allocated to such accounts may  
19 include without limitation proceeds applied under optional  
20 modes of settlement or under dividend options.

21 (2) Separate accounts for life insurance or annuities  
22 established under the provisions of subsection (1) are  
23 subject to the following:

24 (a) The income, gains, and losses, realized or  
25 unrealized, from assets allocated to a separate account must

1 be credited to or charged against the account, without  
2 regard to other income, gains, or losses of the insurer.

3 (b) Except as provided for reserves for guaranteed  
4 benefits and funds in subsection (c):

5 (i) amounts allocated to a separate account and  
6 accumulations thereon may be invested and reinvested in any  
7 class of investment authorized under Title 33, chapter 2,  
8 part 8, if limitations under 33-2-806 on investments in  
9 stocks are not applicable;

10 (ii) the investments in the separate account or  
11 accounts may not be considered in applying the investment  
12 limitations otherwise applicable to the investments of the  
13 insurer.

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

21 (d) Unless otherwise approved by the commissioner,  
22 assets allocated to a separate account must be valued at  
23 their market value on the date of valuation or, if there is  
24 no readily available market, as provided under the terms of  
25 the contract or the rules or other written agreement

1 applicable to that separate account; however, unless  
 2 otherwise approved by the commissioner, the portion, if any,  
 3 of the assets of that separate account equal to the  
 4 insurer's reserve liability with regard to the guaranteed  
 5 benefits and funds referred to in subsection (c) must be  
 6 valued in accordance with the laws and rules otherwise  
 7 applicable to the insurer's assets.

8 (e) Amounts allocated to a separate account in the  
 9 exercise of the power granted by [sections 1 through 6] must  
 10 be owned by the insurer, and the insurer may not be or hold  
 11 itself out to be a trustee with respect to those amounts. If  
 12 and to the extent provided under applicable contracts that  
 13 portion of the assets of a separate account equal to the  
 14 reserves and other contract liabilities with respect to the  
 15 account are not chargeable with liabilities arising out of  
 16 any other business the insurer may conduct.

17 (f) (i) No sale, exchange, or other transfer of assets  
 18 may be made by an insurer between any of its separate  
 19 accounts or between any other investment account and one or  
 20 more of its separate accounts unless:

21 (A) in case of a transfer into a separate account, the  
 22 transfer is made solely to establish the account or to  
 23 support the operation of the contracts with respect to the  
 24 separate account to which the transfer is made; or

25 (B) the transfer, whether into or from a separate

1 account, is made by a transfer of cash or by a transfer of  
 2 securities having a readily determinable market value and  
 3 the transfer of securities is approved by the commissioner.

4 (ii) The commissioner may approve other transfers among  
 5 these accounts if, in his opinion, transfers would not be  
 6 inequitable.

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

21 **Section 3. Contract to contain statement of essential**  
 22 **features.** A contract providing benefits payable in variable  
 23 amounts delivered or issued for delivery in this state must  
 24 contain a statement of the essential features of the  
 25 procedures to be followed by the insurer in determining the

dollar amount of the variable benefits. A contract under which the benefits vary to reflect investment experience, including a group contract and a certificate evidencing the variable benefits issued thereunder, must state that the dollar amount will vary and must contain on its first page a statement to the effect that the benefits thereunder are on a variable basis.

**Section 4. Requirements for doing business.** (1) No insurer may deliver or issue for delivery within this state a variable contract unless the insurer is authorized to transact life insurance or annuity business in this state and the commissioner is satisfied that its condition or method of operation in connection with the issuance of variable contracts will not render its operation hazardous to the public or its policyholders in this state. In making such a determination, the commissioner must consider, among other things:

(a) the history and financial condition of the insurer;

(b) the character, responsibility, and fitness of the officers and directors of the insurer; and

(c) the laws and regulations under which the insurer is authorized in the state of domicile to issue variable contracts. For this purpose, the state of entry of an alien insurer is its place of domicile.

(2) The commissioner may consider an insurer to have met the provisions of this section if:

(a) the insurer is a subsidiary of an authorized life insurer or is affiliated with an authorized life insurer through common management or ownership; and

(b) either it, the parent, or the affiliated insurer meets the requirements of this section.

**Section 5. Powers of commissioner.** Except as provided in Title 30, chapter 10, parts 1 through 3, the commissioner has sole authority to regulate the issuance and sale of variable contracts and to adopt rules to carry out the purposes and provisions of [sections 1 through 6].

**Section 6. Variable contracts to meet insurance contract requirements.** (1) Except for 33-15-321 through 33-15-329, 33-20-302, and 33-20-307 for variable annuity contracts and 33-20-104, 33-20-111, 33-20-112, and 33-20-201 through 33-20-213 for variable life insurance policies and as otherwise provided in [sections 1 through 6], all pertinent provisions of Title 33 and other laws relating to insurance apply to separate accounts and their related policies and contracts.

(2) Any individual variable life insurance contract or any individual variable annuity contract delivered or issued for delivery in this state must contain grace and reinstatement provisions appropriate to the contract. Any

1 individual variable life insurance contract must contain  
2 nonforfeiture provisions appropriate to such a contract.

3 (3) An insurer shall file with the commissioner a copy  
4 of a final prospectus, dated and effective, before it issues  
5 or delivers an individual variable life insurance contract  
6 or an individual variable annuity contract in this state.

7 (4) The reserve liability for any variable contract  
8 must be established in accordance with actuarial procedures  
9 that recognize the variable nature of benefits provided and  
10 mortality guarantees.

11 **Section 7. Extension of authority.** Any existing  
12 authority to make rules on the subject of the provisions of  
13 [this act] is extended to the provisions of [this act].

14 **Section 8. Codification instruction.** [Sections 1  
15 through 6] are intended to be codified as an integral part  
16 of Title 33, chapter 20, and the provisions of Title 33,  
17 chapter 20, apply to [sections 1 through 6].

18 **Section 9. Saving clause.** [This act] does not affect  
19 rights and duties that matured, penalties that were  
20 incurred, or proceedings that were begun before [the  
21 effective date of this act].

22 **Section 10. Severability.** If a part of [this act] is  
23 invalid, all valid parts that are severable from the invalid  
24 part remain in effect. If a part of [this act] is invalid  
25 in one or more of its applications, the part remains in

1 effect in all valid applications that are severable from the  
2 invalid applications.

-End-

APPROVED BY COMM. ON  
BUSINESS & INDUSTRY

## STATEMENT OF INTENT

## SENATE BILL 76

## Senate Business and Industry Committee

A statement of intent is required for this bill because it delegates rulemaking authority to the commissioner of insurance in [section 5].

Although 33-1-313 delegates to the commissioner of insurance rulemaking authority to effectuate any provisions of the code, this bill substantively increases this power, necessitating a statement of intent.

[Section 5] empowers the commissioner of insurance with the sole authority to regulate the issuance and sale of variable contracts and allows the commissioner to promulgate rules to carry out the provisions of this bill. The commissioner's authority to promulgate rules is limited in scope to the following areas:

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

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

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

(4) rules relating to the requirements of doing business under this bill.

All rules promulgated under this bill are subject to

the provisions of the Montana Administrative Procedure Act.

SECOND READING

SB 76

## SENATE BILL NO. 76

INTRODUCED BY REGAN, GILBERT, WILLIAMS, WEEDING

A BILL FOR AN ACT ENTITLED: "AN ACT TO ADOPT A VARIABLE CONTRACT LAW AUTHORIZING LIFE INSURERS 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:

NEW SECTION. **Section 1.** Short title. [Sections 1 through 6] may be cited as the "Montana Variable Contract Law".

NEW SECTION. **Section 2.** Separate accounts for life insurance or annuities. (1) Subject to the provisions of subsection (2), a domestic life insurer may establish one or more separate accounts and may allocate to such accounts the amounts necessary to provide for life insurance or annuities and benefits incidental thereto, payable in fixed or variable amounts, or both. The amounts allocated to such accounts may include without limitation proceeds applied under optional modes of settlement or under dividend options.

(2) Separate accounts for life insurance or annuities established under the provisions of subsection (1) are subject to the following:

(a) 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 insurer.

(b) Except as provided for reserves for guaranteed benefits and funds in subsection (c):

(i) 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 33-2-806 on investments in stocks are not applicable;

(ii) the investments in the separate account or accounts may not be considered in applying the investment limitations otherwise applicable to the investments of the insurer.

(c) 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 as to amount and duration and for funds guaranteed as to principal amount or stated rate of interest may not be maintained in a separate account.

(d) 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



1 no readily available market, as provided under the terms of  
 2 the contract or the rules or other written agreement  
 3 applicable to that separate account; however, unless  
 4 otherwise approved by the commissioner, the portion, if any,  
 5 of the assets of that separate account equal to the  
 6 insurer's reserve liability with regard to the guaranteed  
 7 benefits and funds referred to in subsection (c) must be  
 8 valued in accordance with the laws and rules otherwise  
 9 applicable to the insurer's assets.

10 (e) Amounts allocated to a separate account in the  
 11 exercise of the power granted by [sections 1 through 6] must  
 12 be owned by the insurer, and the insurer may not be or hold  
 13 itself out to be a trustee with respect to those amounts. If  
 14 and to the extent provided under applicable contracts that  
 15 portion of the assets of a separate account equal to the  
 16 reserves and other contract liabilities with respect to the  
 17 account are not chargeable with liabilities arising out of  
 18 any other business the insurer may conduct.

19 (f) (i) No sale, exchange, or other transfer of assets  
 20 may be made by an insurer between any of its separate  
 21 accounts or between any other investment account and one or  
 22 more of its separate accounts unless:

23 (A) in case of a transfer into a separate account, the  
 24 transfer is made solely to establish the account or to  
 25 support the operation of the contracts with respect to the

1 separate account to which the transfer is made; or

2 (B) the transfer, whether into or from a separate  
 3 account, is made by a transfer of cash or by a transfer of  
 4 securities having a readily determinable market value and  
 5 the transfer of securities is approved by the commissioner.

6 (ii) The commissioner may approve other transfers among  
 7 these accounts if, in his opinion, transfers would not be  
 8 inequitable.

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

23 NEW SECTION. Section 3. Contract to contain statement  
 24 of essential features. A contract providing benefits payable  
 25 in variable amounts delivered or issued for delivery in this

1 state must contain a statement of the essential features of  
 2 the procedures to be followed by the insurer in determining  
 3 the dollar amount of the variable benefits. A contract under  
 4 which the benefits vary to reflect investment experience,  
 5 including a group contract and a certificate evidencing the  
 6 variable benefits issued thereunder, must state that the  
 7 dollar amount will vary and must contain on its first page a  
 8 statement to the effect that the benefits thereunder are on  
 9 a variable basis.

10 NEW SECTION. Section 4. Requirements for doing  
 11 business. (1) No insurer may deliver or issue for delivery  
 12 within this state a variable contract unless the insurer is  
 13 authorized to transact life insurance or annuity business in  
 14 this state and the commissioner is satisfied that its  
 15 condition or method of operation in connection with the  
 16 issuance of variable contracts will not render its operation  
 17 hazardous to the public or its policyholders in this state.  
 18 In making such a determination, the commissioner must  
 19 consider, among other things:

20 (a) the history and financial condition of the  
 21 insurer;

22 (b) the character, responsibility, and fitness of the  
 23 officers and directors of the insurer; and

24 (c) the laws and regulations under which the insurer  
 25 is authorized in the state of domicile to issue variable

1 contracts. For this purpose, the state of entry of an alien  
 2 insurer is its place of domicile.

3 (2) The commissioner may consider an insurer to have  
 4 met the provisions of this section if:

5 (a) the insurer is a subsidiary of an authorized life  
 6 insurer or is affiliated with an authorized life insurer  
 7 through common management or ownership; and

8 (b) either it, the parent, or the affiliated insurer  
 9 meets the requirements of this section.

10 NEW SECTION. Section 5. Powers of commissioner.  
 11 Except as provided in Title 30, chapter 10, parts 1 through  
 12 3, the commissioner has sole authority to regulate the  
 13 issuance and sale of variable contracts and to adopt rules  
 14 to carry out the purposes and provisions of [sections 1  
 15 through 6].

16 NEW SECTION. Section 6. Variable contracts to meet  
 17 insurance contract requirements. (1) Except for 33-15-321  
 18 through 33-15-329, 33-20-302, and 33-20-307 for variable  
 19 annuity contracts and 33-20-104, 33-20-111, 33-20-112, and  
 20 33-20-201 through 33-20-213 for variable life insurance  
 21 policies and as otherwise provided in [sections 1 through  
 22 6], all pertinent provisions of Title 33 and other laws  
 23 relating to insurance apply to separate accounts and their  
 24 related policies and contracts.

25 (2) Any individual variable life insurance contract or

1 any individual variable annuity contract delivered or issued  
 2 for delivery in this state must contain grace and  
 3 reinstatement provisions appropriate to the contract. Any  
 4 individual variable life insurance contract must contain  
 5 nonforfeiture provisions appropriate to such a contract.

6 (3) An insurer shall file with the commissioner a copy  
 7 of a final prospectus, dated and effective, before it issues  
 8 or delivers an individual variable life insurance contract  
 9 or an individual variable annuity contract in this state.

10 (4) The reserve liability for any variable contract  
 11 must be established in accordance with actuarial procedures  
 12 that recognize the variable nature of benefits provided and  
 13 mortality guarantees.

14 NEW SECTION. Section 7. Extension of authority. Any  
 15 existing authority to make rules on the subject of the  
 16 provisions of [this act] is extended to the provisions of  
 17 [this act].

18 NEW SECTION. Section 8. Codification instruction.  
 19 [Sections 1 through 6] are intended to be codified as an  
 20 integral part of Title 33, chapter 20, and the provisions of  
 21 Title 33, chapter 20, apply to [sections 1 through 6].

22 NEW SECTION. Section 9. Saving clause. [This act]  
 23 does not affect rights and duties that matured, penalties  
 24 that were incurred, or proceedings that were begun before  
 25 [the effective date of this act].

1 NEW SECTION. Section 10. Severability. If a part of  
 2 [this act] is invalid, all valid parts that are severable  
 3 from the invalid part remain in effect. If a part of [this  
 4 act] is invalid in one or more of its applications, the part  
 5 remains in effect in all valid applications that are  
 6 severable from the invalid applications.

-End-

## 1 STATEMENT OF INTENT

## 2 SENATE BILL 76

## 3 Senate Business and Industry Committee

4  
5 A statement of intent is required for this bill because  
6 it delegates rulemaking authority to the commissioner of  
7 insurance in [section 5].

8 Although 33-1-313 delegates to the commissioner of  
9 insurance rulemaking authority to effectuate any provisions  
10 of the code, this bill substantively increases this power,  
11 necessitating a statement of intent.

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.

26 All rules promulgated under this bill are subject to

1 the provisions of the Montana Administrative Procedure Act.

THIRD READING

SB 76

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(2) Separate accounts for life insurance or annuities established under the provisions of subsection (1) are subject to the following:

(a) 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 insurer.

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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 insurer's reserve liability with regard to the guaranteed benefits and funds referred to in subsection (c) must be valued in accordance with the laws and rules otherwise applicable to the insurer's assets.

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

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(3) An insurer shall file with the commissioner a copy of a final prospectus, dated and effective, before it issues or delivers an individual variable life insurance contract or an individual variable annuity contract in this state.

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**NEW SECTION. Section 7. Extension of authority.** Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

**NEW SECTION. Section 8. Codification instruction.** [Sections 1 through 6] are intended to be codified as an integral part of Title 33, chapter 20, and the provisions of Title 33, chapter 20, apply to [sections 1 through 6].

**NEW SECTION. Section 9. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

**NEW SECTION. Section 10. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

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a separate account;

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(4) rules relating to the requirements of doing business under this bill.

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

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

NEW SECTION. **Section 1.** Short title. [Sections 1 through 6] may be cited as the "Montana Variable Contract Law".

NEW SECTION. **Section 2.** Separate accounts for life insurance or annuities. (1) Subject to the provisions of subsection (2), a domestic life insurer may establish one or more separate accounts and may allocate to such accounts the amounts necessary to provide for life insurance or annuities and benefits incidental thereto, payable in fixed or variable amounts, or both. The amounts allocated to such accounts may include without limitation proceeds applied under optional modes of settlement or under dividend options.

(2) Separate accounts for life insurance or annuities established under the provisions of subsection (1) are subject to the following:

(a) 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 insurer.

(b) Except as provided for reserves for guaranteed benefits and funds in subsection (c):

(i) 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 33-2-806 on investments in stocks are not applicable;

(ii) the investments in the separate account or accounts may not be considered in applying the investment limitations otherwise applicable to the investments of the insurer.

(c) 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 as to amount and duration and for funds guaranteed as to principal amount or stated rate of interest may not be maintained in a separate account.

(d) 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 insurer's reserve liability with regard to the guaranteed benefits and funds referred to in subsection (c) must be valued in accordance with the laws and rules otherwise applicable to the insurer's assets.

(e) Amounts allocated to a separate account in the exercise of the power granted by [sections 1 through 6] must be owned by the insurer, and the insurer may not be or hold itself out to be a trustee with respect to those amounts. If and to the extent provided under applicable contracts that portion of the assets of a separate account equal to the reserves and other contract liabilities with respect to the account are not chargeable with liabilities arising out of any other business the insurer may conduct.

(f) (i) No sale, exchange, or other transfer of assets may be made by an insurer between any of its separate accounts or between any other investment account and one or more of its separate accounts unless:

(A) in case of a transfer into a separate account, the transfer is made solely to establish the account or to support the operation of the contracts with respect to the

1 separate account to which the transfer is made; or

2 (B) the transfer, whether into or from a separate  
3 account, is made by a transfer of cash or by a transfer of  
4 securities having a readily determinable market value and  
5 the transfer of securities is approved by the commissioner.

6 (ii) The commissioner may approve other transfers among  
7 these accounts if, in his opinion, transfers would not be  
8 inequitable.

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

23 NEW SECTION. Section 3. Contract to contain statement  
24 of essential features. A contract providing benefits payable  
25 in variable amounts delivered or issued for delivery in this

1 state must contain a statement of the essential features of  
2 the procedures to be followed by the insurer in determining  
3 the dollar amount of the variable benefits. A contract under  
4 which the benefits vary to reflect investment experience,  
5 including a group contract and a certificate evidencing the  
6 variable benefits issued thereunder, must state that the  
7 dollar amount will vary and must contain on its first page a  
8 statement to the effect that the benefits thereunder are on  
9 a variable basis.

10 NEW SECTION. Section 4. Requirements for doing  
11 business. (1) No insurer may deliver or issue for delivery  
12 within this state a variable contract unless the insurer is  
13 authorized to transact life insurance or annuity business in  
14 this state and the commissioner is satisfied that its  
15 condition or method of operation in connection with the  
16 issuance of variable contracts will not render its operation  
17 hazardous to the public or its policyholders in this state.  
18 In making such a determination, the commissioner must  
19 consider, among other things:

20 (a) the history and financial condition of the  
21 insurer;

22 (b) the character, responsibility, and fitness of the  
23 officers and directors of the insurer; and

24 (c) the laws and regulations under which the insurer  
25 is authorized in the state of domicile to issue variable

contracts. For this purpose, the state of entry of an alien insurer is its place of domicile.

(2) The commissioner may consider an insurer to have met the provisions of this section if:

(a) the insurer is a subsidiary of an authorized life insurer or is affiliated with an authorized life insurer through common management or ownership; and

(b) either it, the parent, or the affiliated insurer meets the requirements of this section.

**NEW SECTION. Section 5. Powers of commissioner.**

Except as provided in Title 30, chapter 10, parts 1 through 3, the commissioner has sole authority to regulate the issuance and sale of variable contracts and to adopt rules to carry out the purposes and provisions of [sections 1 through 6].

**NEW SECTION. Section 6. Variable contracts to meet insurance contract requirements.** (1) Except for 33-15-321 through 33-15-329, 33-20-302, and 33-20-307 for variable annuity contracts and 33-20-104, 33-20-111, 33-20-112, and 33-20-201 through 33-20-213 for variable life insurance policies and as otherwise provided in [sections 1 through 6], all pertinent provisions of Title 33 and other laws relating to insurance apply to separate accounts and their related policies and contracts.

(2) Any individual variable life insurance contract or

any individual variable annuity contract delivered or issued for delivery in this state must contain grace and reinstatement provisions appropriate to the contract. Any individual variable life insurance contract must contain nonforfeiture provisions appropriate to such a contract.

(3) An insurer shall file with the commissioner a copy of a final prospectus, dated and effective, before it issues or delivers an individual variable life insurance contract or an individual variable annuity contract in this state.

(4) The reserve liability for any variable contract must be established in accordance with actuarial procedures that recognize the variable nature of benefits provided and mortality guarantees.

**NEW SECTION. Section 7. Extension of authority.** Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

**NEW SECTION. Section 8. Codification instruction.** [Sections 1 through 6] are intended to be codified as an integral part of Title 33, chapter 20, and the provisions of Title 33, chapter 20, apply to [sections 1 through 6].

**NEW SECTION. Section 9. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

1        NEW SECTION.   **Section 10.**   Severability.   If a part of  
2   [this act] is invalid, all valid parts that are severable  
3   from the invalid part remain in effect.   If a part of [this  
4   act] is invalid in one or more of its applications, the part  
5   remains in effect in all valid applications that are  
6   severable from the invalid applications.

-End-