

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

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Legislative Document

No. 1158

H. P. 870

House of Representatives, February 26, 1973

Referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Cottrell of Portland.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

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**AN ACT to Revise the Maine Insurance Code as Related to Separate  
Accounts Established by Insurance Companies.**

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Be it enacted by the People of the State of Maine, as follows:

**Sec. 1. R. S., T. 24-A, § 1128, repealed and replaced.** Section 1128 of Title 24-A of the Revised Statutes, as enacted by section 1 of chapter 132 of the public laws of 1969, is repealed and the following enacted in place thereof:

§ 1128. Special investments; separate accounts

1. Except as may be provided with respect to reserves for guaranteed benefits and funds referred to in subsection 2:

A. Amounts allocated to any separate account established by the insurer pursuant to section 2537 (separate accounts) and accumulations thereon may be invested and reinvested without regard to any requirements or limitations prescribed by this chapter; and

B. The investments in such separate account or accounts shall not be taken into account in applying the investment limitations otherwise applicable to the investments of the insurer.

2. Except with the approval of the commissioner and under such conditions as to investments and other matters as he may prescribe, which shall recognize the guaranteed nature of the benefits provided, reserves shall not be maintained in a separate account for:

A. Benefits guaranteed as to dollar amount and duration; and

B. Funds guaranteed as to principal amount or stated rate of interest.

**Sec. 2. R. S., T. 24-A, § 2501, amended.** Section 2501 of Title 24-A of the Revised Statutes, as enacted by section 1 of chapter 132 of the public laws of 1969, is amended to read as follows:

**§ 2501. Scope of chapter**

This chapter applies only to contracts of life insurance and annuities, other than reinsurance, group life insurance and group annuities, except that section 2537 (separate accounts) shall also apply as to **group life insurance and group annuity contracts.**

**Sec. 3. R. S., T. 24-A, § 2537, sub-§ 1, amended.** Subsection 1 of section 2537 of Title 24-A of the Revised Statutes, as enacted by section 1 of chapter 132 of the public laws of 1969 and as amended by section 40 of chapter 177 of the public laws of 1969, is further amended to read as follows:

1. Any domestic insurer may establish one or more separate accounts, including that type known as a unit investment trust, as defined by the Investment Company Act of 1940, Stat. 789, 15 U.S.C. § 80a, et seq., as amended, and may allocate to such separate accounts, in accordance with the terms of a written contract or agreement or annuity or pension, profitsharing or retirement plan, whether or not qualified under the applicable provisions of the Internal Revenue Code, 68A Stat. 1, 26 U.S.C. § 1, et seq., as amended, with any individual or any group, any amounts, **including without limitation proceeds applied under optional modes of settlement or under dividend options, paid or remitted to or held by the insurer which are to be applied to provide for life insurance or annuities and benefits incidental thereto, or other benefits** payable in fixed and guaranteed or variable dollar amounts, or both.

**Sec. 4. R. S., T. 24-A, § 2537, sub-§ 2, amended.** Subsection 2 of section 2537 of Title 24-A of the Revised Statutes, as enacted by section 1 of chapter 132 of the public laws of 1969, is amended by adding a new sentence at the end to read as follows:

**Amounts allocated to a separate account in the exercise of the power granted by this section shall be owned by the insurer, and the insurer shall not be, nor hold itself out to be, a trustee with respect to such amounts.**

**Sec. 5. R. S., T. 24-A, § 2537, sub-§ 3, amended.** The 2nd sentence of subsection 3 of section 2537 of Title 24-A of the Revised Statutes, as enacted by section 1 of chapter 132 of the public laws of 1969, is amended to read as follows:

**If and to the extent so provided under the applicable contracts, ~~That~~ that portion of the assets of any such separate account equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the insurer may conduct.**

**Sec. 6. R. S., T. 24-A, § 2537, sub-§ 4, amended.** Subsection 4 of section 2537 of Title 24-A of the Revised Statutes, as enacted by section 1 of chapter 132 of the public laws of 1969, is amended to read as follows:

**4. Unless otherwise approved by the commissioner, ~~Assets~~ 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 in accordance with the terms of the contract or the rules or other written agreement applicable to such separate account; except, that **unless otherwise approved by the commissioner**, the portion of the assets of such separate account at least equal to the insurer's reserve liability with regard to the guaranteed benefits and funds referred to in section 1128, if any, shall be valued in accordance with rules otherwise applicable to the insurer's assets.

**Sec. 7. R. S., T. 24-A, § 2537, sub-§ 5, amended.** The 2nd sentence of subsection 5 of section 2537 of Title 24-A of the Revised Statutes, as enacted by section 1 of chapter 132 of the public laws of 1969, is amended to read as follows:

Any such contract or agreement, **under which the benefits vary to reflect investment experience**, including a group agreement and any certificate in evidence of **variable benefits** issued thereunder, shall state that such dollar amount ~~may decrease or increase~~ **will so vary** and shall contain on its first page a statement that the benefits thereunder are on a variable basis.

**Sec. 8. R. S., T. 24-A, § 2537, sub-§ 6, ¶ C, repealed and replaced.** Paragraph C of subsection 6 of section 2537 of Title 24-A of the Revised Statutes, as enacted by section 1 of chapter 132 of the public laws of 1969, is repealed and the following enacted in place thereof:

**C. The law and regulation under which the insurer is authorized in the state of domicile to issue variable contracts.**

**Sec. 9. R. S., T. 24-A, § 2537, sub-§ 6, amended.** The last paragraph of subsection 6 of section 2537 of Title 24-A of the Revised Statutes, as enacted by section 1 of chapter 132 of the public laws of 1969, is amended to read as follows:

An insurer which issues variable contracts and which is a subsidiary of, or affiliated through common management or ownership with, another life insurer authorized to transact business in this State shall be deemed by the **commissioner** to have met the provisions of this subsection, if either it or the parent or affiliated insurer meets the requirements hereof.

**Sec. 10. R. S., T. 24-A, § 2537, sub-§ 8, amended.** Subsection 8 of section 2537 of Title 24-A of the Revised Statutes, as enacted by section 1 of chapter 132 of the public laws of 1969, is amended to read as follows:

8. 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, in case of a transfer into a separate account, such transfer is made solely to establish the account or to support the operation of the contracts with respect to the separate account to which the transfer is made, and unless such transfer, whether into or from a separate account, ~~to which the transfer~~ is made.

A. By a transfer of cash, or

B. By a transfer of securities having a readily determinable market value, **provided that such transfer of securities** is approved by the commissioner.

The commissioner may approve other transfers among such accounts if, in his opinion, such transfers would not be inequitable.

**Sec. 11. R. S., T. 24-A, § 2537, sub-§ 12, repealed and replaced.** Subsection 12 of section 2537 of Title 24-A of the Revised Statutes, as enacted by section 1 of chapter 132 of the public laws of 1969, is repealed and the following enacted in place thereof:

12. Except for sections 2505, 2510, 2511, 2512, 2528 to 2534 and 2614, in the case of a variable life insurance policy and except as otherwise provided in this section, all pertinent provisions of this Title shall apply to separate accounts and contracts relating thereto. Any individual variable life insurance contract, delivered or issued for delivery in this State, shall contain grace, reinstatement and nonforfeiture provisions appropriate to such a contract. Any individual variable annuity contract, delivered or issued for delivery in this State, shall contain grace and reinstatement provisions appropriate to such a contract. Any group variable life insurance contract, delivered or issued for delivery in this State, shall contain grace provisions appropriate to such a contract. The reserve liability for variable contracts shall be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

#### STATEMENT OF FACT

The purpose of this bill is to conform the Maine Insurance Code sections dealing with separate accounts established by insurance companies to the substance of the Model Variable Contract Law as recognized by the National Association of Insurance Commissioners.