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Authorizing the Establishment of Separate Accounts by Domestic Life Insurance Companies Issuing Contracts on a Variable Basis and Granting Authority to Such Companies to Invest the Assets Held in Such Separate Accounts in Preferred and Common Stock.

Colorado General Assembly

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CHAPTER 152

INSURANCE

REGULATION OF FINANCIAL AFFAIRS

[72-2-14 et seq.]

(Senate Bill No. 289. By Senators Wells and S. Taylor.)

AN ACT

AUTHORIZING THE ESTABLISHMENT OF SEPARATE ACCOUNTS BY DOMESTIC LIFE INSURANCE COMPANIES ISSUING CONTRACTS ON A VARIABLE BASIS AND GRANTING AUTHORITY TO SUCH COMPANIES TO INVEST THE ASSETS HELD IN SUCH SEPARATE ACCOUNTS IN PREFERRED AND COMMON STOCK.

Be It Enacted by the General Assembly of the State of Colorado:

Section 1.—Investment contract funds in separate account.—Every domestic life insurance company which issues contracts providing for payments which vary directly according to investment experience shall establish one or more separate accounts in connection with contracts, as directed by the commissioner of insurance. All amounts received by the company which are required by contract to be applied to provide such variable payments shall be added to the appropriate separate account, and the assets of any such separate account shall not be chargeable with liabilities arising out of any other business the company may conduct. Any surplus or deficit which may arise in any such separate account by virtue of mortality experience shall be adjusted by withdrawals from or additions to such account so that the assets of such account are always equal to the assets required to satisfy the company's obligations for such variable payments.

Section 2.—Variable basis contract requirements.—No domestic or foreign life insurance company shall undertake the issuance of any contract on a variable basis until said company has shown to the satisfaction of the commissioner that it has engaged in the business of transacting life insurance for a period of at least two years and that its condition and method of operation in con-

nection with the issuance of such contracts on a variable basis will not be such as to render its operation hazardous to the public or its policyholders in this state. In determining the qualifications of a company requesting authority to issue or deliver contracts on a variable basis within the state, the commissioner shall consider among other things the history and financial condition of the company, and in the case of a foreign or alien company, whether the regulation provided by the laws of its state of domicile provides a degree of protection to policyholders and the public substantially equal to that provided by the laws of this state.

Section 3.—Statement of procedure required.—Any contract on a variable basis delivered or issued for delivery in this state, and any certificate evidencing variable benefits issued pursuant to any such contract on a group basis, shall contain a statement of the essential features of the procedure to be followed by the insurance company in determining the dollar amount of variable benefits or other contractual payments or values thereunder and shall state in clear terms that such amount may decrease or increase according to such procedure. Any such contract delivered or issued for delivery in this state, and any such certificate, shall contain on its first page, in a prominent position, a clear statement that the benefits or other contractual payments or values thereunder are on a variable basis.

Section 4.—Investments authorized.—A domestic life insurance company which issues contracts providing for payments which vary directly according to investment experience and which has established a separate account or accounts in connection with such contracts, may invest the assets held by such company in such separate account in the securities and investments authorized by sections 72-2-8 and 72-2-10, CRS 1953, and in the following securities:

(1) Preferred stock of any solvent corporation where such corporation has not failed in any one of the three fiscal years next preceding such investment to have earned a sum applicable to dividends on such preferred stock equal at least to three times the amount of dividends due in that year, or where in case of issuance of new preferred stock, such earnings applicable to dividends are equal to at least three times the amount of pro-forma annual dividend requirements after giving effect to such new financing; provided that no more than three per centum of the assets held by the life insurance company shall be invested in any one issue of preferred stock.

(2) Common stock of any solvent corporation which shall have paid common dividends in cash for not less than five years next preceding the purchase of such stock; provided that no more than three per centum of the assets held by the life insurance company shall be invested in any one issue of common stock.

Section 5.—Sales not prohibited.—The provisions of section 72-3-19, CRS 1953, shall not prohibit the sale and issuance by life insurance companies of contracts providing for payments which vary directly according to investment experience in connection with the sale and issuance by such life insurance companies of other forms of life insurance and annuities as are provided for in chapter 72, CRS 1953.

Section 6.—Safety clause.—The General Assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 1, 1961