

17:35A-9

May 5, 1971

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LEGISLATIVE NOTES ON R.S. 17:35A-9
(Life insurance companies - provide variable benefits to
individuals based on investment results)

L. 1970, Chapter 161 - A461
Introduced January 29 by Hurley and Cafiero.
Not amended during passage.
Bill has statement (copy enclosed).

No hearings or reports were located.

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ASSEMBLY, No. 461

STATE OF NEW JERSEY

INTRODUCED JANUARY 29, 1970

By Assemblymen HURLEY and CAFIERO

Referred to Committee on Insurance

AN ACT to amend "An act providing for the establishment and operation by any life insurance company of variable contract accounts, the regulation thereof, and the investment of assets of such accounts," approved June 18, 1959 (P. L. 1959, c. 123) as said title was amended by chapter 200 of the laws of 1967.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 4 of P. L. 1959, c. 123 (C. 17:35A-9) is amended to
2 read as follows:

3 4. (a) The assets held in a variable contract account, or any part
4 thereof, may be invested in

5 (i) Common stock or shares of any investment company
6 specified in the contract or contracts participating in such
7 variable contract account, and registered under the Invest-
8 ment Company Act of 1940, whether or not such stock or
9 shares satisfy the dividend or earnings history requirements
10 now or hereafter contained in the provisions of Title 17 of
11 the Revised Statutes that regulate investments by domestic
12 life insurance companies; provided that, at the time of the
13 first purchase of such stock or shares of any such investment
14 company, the life insurance company which maintains such
15 account, or a subsidiary or affiliate of such insurance com-
16 pany, shall be the investment manager or investment adviser
17 of such investment company and, as long as such life insurance
18 company which maintains such account, or any subsidiary or
18A affiliate of such life insurance company, shall continue as such
18B investment manager or investment adviser, the investments
19 acquired by such investment company shall be such as would
20 be eligible for investment of variable contract account assets

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

21 by domestic life insurance companies under the provisions of
22 this section excluding this clause (i);

23 (ii) Other investments made eligible for investment by
24 domestic life insurance companies by the provisions of Title
25 17 of the Revised Statutes that regulate investments by domes-
26 tic life insurance companies, except for investments made
27 eligible by the provision of chapter 24 of said Title which
28 permits a domestic life insurance company to make loans or
29 investments not otherwise expressly qualified or permitted up
30 to 2% of total admitted assets, as such provision may be
31 amended from time to time, or any similar or superseding
32 provision corresponding in substance thereto; and

33 (iii) Investments authorized, specifically or by classes or
34 otherwise by the commissioner as appropriate to the nature
35 and purpose of such variable contract account;

36 provided that (A) any common stock or shares, other than common
37 stock or shares referred to in clause (i) of this subsection issued
38 by an open-end investment company, shall be (1) common stock
39 or shares which are listed or admitted to trading on a securities
40 exchange in the United States of America or Canada, or (2) com-
41 mon stock or shares which are included on the National Associa-
42 tion of Securities Dealers' national price listings of "over-the-
43 counter" securities, or (3) other common stock or shares which
44 the commissioner shall have determined are publicly held and
45 traded and as to which market quotations shall be available; (B)
46 the quantitative investment limitations now or hereafter contained
47 in Title 17 of the Revised Statutes regulating investment by
48 domestic life insurance companies shall not be applicable to vari-
49 able contract account investments, subject to the qualification that
50 the provision contained in said Title limiting the percentage of
51 voting stock of any one corporation that may be purchased or
52 acquired by a domestic life insurance company, as such provision
53 may be amended from time to time, or any similar or superseding
54 provision corresponding in substance thereto, shall apply (subject
55 to the provisions of section 3 of chapter 24 of said Title as such
56 provisions may be amended from time to time, or any similar or
57 superseding provisions corresponding in substance thereto), with
58 respect to the aggregate of the voting stock of any one corpora-
59 tion held in all accounts of such life insurance company except
60 for all such stock that may be voted at the direction of a person
61 or persons, other than such life insurance company or any sub-
62 sidiary or affiliate of such life insurance company; and provided

63 further that, subject to the next succeeding paragraph of this
64 subsection, no domestic life insurance company shall purchase
65 for any variable contract account any security (other than com-
66 mon stock or shares referred to in clause (i) of this subsection
67 issued by an open-end investment company) of any corporation, if
68 after such purchase more than 10% of the market value of the
69 assets of such variable contract account would be invested in the
70 securities of such corporation.

71 Notwithstanding the foregoing provisions of this section or any
72 other provision of law, a domestic life insurance company may (i)
73 invest the assets, or any part thereof, held in a variable contract ac-
74 count established and maintained solely for [a single group contract
75 holder or solely for] *one or more* group contracts [that do not pro-
76 vide variable benefits to individuals based on the investment re-
77 sults of such account] in any investment or investments authorized
78 by the contract or contracts participating in such account, subject
79 only to clause (B) of the proviso in the next preceding paragraph of
80 this subsection relating to the percentage of voting stock of any one
81 corporation that may be purchased or acquired, and (ii) vote any
82 stock or shares held in such an account in accordance with the
83 instructions of such person or persons designated pursuant to such
84 contract or contracts participating in such account. For the purpose
85 of this paragraph, a [single] group contract [holder does] *shall*
86 not include, (1) *a contract which provides benefits to individuals*
87 *based upon the investment results of the variable contract account*
88 *in which such contract participates unless such contract implements*
89 *a plan which covers at least 100 individuals at the time of execution*
90 *of such contract and offers each individual covered by the plan one*
91 *or more alternatives to having the contributions made by him, if*
92 *any, under the plan credited to such account, if such crediting would*
93 *affect his benefits under the plan; or, except with the consent*
94 *of the commissioner, (2) a contract, the holder of which is an*
95 *association of individuals[.] or the representative thereof[., as*
96 *the holder of a contract in which individual participation is*
97 *voluntary[.]*.

98 Except as otherwise provided in this subsection, the investments
99 held in the variable contract accounts of any domestic life insur-
100 ance company shall be disregarded in determining whether the
101 other investments of such life insurance company comply with the
102 provisions of Title 17 of the Revised Statutes that regulate invest-
103 ments by domestic life insurance companies as such provisions may
104 be amended from time to time, or any similar or superseding pro-
105 visions corresponding in substance thereto.

106-108 (b) Notwithstanding any other provision of law, in order to
109 comply with the Investment Company Act of 1940, a domestic life
110 insurance company may, with respect to any variable contract
111 account or any portion thereof,

112 (i) Exercise any voting rights of any stock or shares in
113 accordance with instructions from the persons having the bene-
114 ficial interests in such account ratably according to their re-
115 spective interests in such account, or

116 (ii) Establish a committee for such account, the members of
117 which may be directors or officers or other employees of such
118 such insurance company, or any combination thereof, who may
119 be elected to such membership by the vote of the persons
120 having the beneficial interests in such account ratably accord-
121 ing to their respective interests in such account. Such com-
122 mittee may have the power, which may be exercisable alone or
123 in conjunction with others, or which may be delegated to such
124 insurance company or any other person, as investment man-
125 ager or investment adviser, to authorize purchases and sales
126 of investments for such account, provided that as long as such
127 life insurance company or any subsidiary or affiliate of such
128 life insurance company shall be the investment manager or
129 investment adviser of such account, the investments of such
130 account shall be eligible under the provisions of subsection (a)
131 of this section. If compliance with the Investment Company
132 Act of 1940 shall involve only a portion of a variable contract
133 account, such insurance company may establish such a com-
134 mittee for only such portion, and its members may be elected
135 by the vote of the persons having the beneficial interests in
136 such portion. Any such committee for only a portion of a
137 variable contract account may be given the further power to re-
138 quire the subdivision of such account into two accounts so that
139 the portion of the account with respect to which such commit-
140 tee shall be acting shall constitute a separate variable contract
141 account. If such committee shall so require, the insurance
142 company shall segregate from the account being so subdivided
143 a portion of each asset held with respect to the reserve liabili-
144 ties of such account. Such portion shall be in the same pro-
145 portion to the total of such asset as the reserve liability for
146 the portion of the account with respect to which such commit-
147 tee is acting bears to the total reserve liability of such ac-
148 count; and notwithstanding any other provision of law, the
149 assets so segregated shall be transferred to a separate variable
150 contract account with respect to which such committee shall act.

151 (c) The investments and liabilities of a variable contract account
152 shall at all times be clearly identifiable and distinguishable from
153 the other investments and liabilities of the corporation. No sale,
154 transfer or exchange of investments may be made between a vari-
154A able contract account and any other investment account of the
155 corporation, except with the prior consent of the commissioner, and
156 no investments of a variable contract account shall be pledged or
157 transferred as collateral for a loan.

158 (d) The term "Investment Company Act of 1940" as used in
159 this section shall mean an Act of Congress approved August 22,
160 1940 entitled "Investment Company Act of 1940" as amended from
161 time to time, or any similar statute enacted in substitution therefor.

1 2. This act shall take effect immediately.

Sponsor

STATEMENT

The purpose of this bill is to extend the greater investment authority now applicable to some separate accounts maintained by domestic life insurance companies to group contract accounts that provide variable benefits to individuals based on investment results.