

Senate Bill 507

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CHAPTER 338, LAWS OF 1967

AN ACT to amend 206.385 (1) to (4) and (8); and to create 189.02 (1a), 206.34 (1) (et), 206.385 (5c) and (5m), 206.386 and 208.03 (5) of the statutes, relating to the investments and separate accounts of domestic life insurance companies.

The people of the State of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 189.02 (1a) of the statutes is created to read:

189.02 (1a) Notwithstanding sub. (1), the term "security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or for some other specified period.

SECTION 1m. 206.34 (1) (et) of the statutes is created to read:

206.34 (1) (et) In shares of open-end investment companies registered under the federal investment company act of 1940 (mutual funds). The aggregate of the company's investments under this paragraph, determined at the cost thereof, shall not exceed 5% of its admitted assets.

SECTION 2. 206.385 (1) to (4) of the statutes are amended to read:

206.385 (1) Any domestic life insurance company may establish one or more separate accounts, and allocate to such separate accounts, in accordance with the terms of a written agreement, any amounts paid or remitted to *or held by* the company in connection with a pension, retirement or profit sharing plan which are to be applied to provide income benefits payable in fixed and guaranteed or variable dollar amounts, or both, and other benefits incidental to such income benefits. Such separate accounts may also be established in connection with amounts received under s. 206.39 (2).

(2) The amounts allocated to each such account and accumulations thereon may be invested and reinvested in any class of investments which are authorized in the written agreement without regard to any requirements or limitations prescribed by s. 206.34; but to the extent that the company's reserve liability, with regard to benefits guaranteed as to principal amount and duration and funds guaranteed as to principal amount or stated rate of interest, is maintained in any separate account, a portion of the assets of such separate account at least equal to such reserve liability shall be invested in accordance with s. 206.34. The investments in such separate accounts shall not be taken into account in applying the investment limitations set forth in s. 206.34 which are applicable to other investments of the company.

(3) All income, gains and losses, realized or unrealized, on each account shall be credited to or charged against the amounts allocated to the account in accordance with the written agreement contract providing for such benefits, without regard to other income, gains or losses of the company.

(4) 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 applicable written agreement contract; but the portion of the assets of such separate account at least equal to the company's reserve liability with regard to the guaranteed benefits and funds referred to in sub. (2), if any, shall be valued

in accordance with the rules otherwise applicable to the company's assets. *No securities valuation reserve or other reserve for fluctuation in the value of securities need be maintained.*

SECTION 3. 206.385 (5c) and (5m) of the statutes are created to read:

206.385 (5c) To the extent it deems necessary to comply with the federal investment company act of 1940, as amended, the company may, with respect to any separate account or any portion thereof, provide for the benefit of persons having beneficial interests therein special voting and other rights and special procedures for the conduct of the business and affairs of such separate account or portion thereof, including without limitation special rights and procedures relating to investment policy, investment advisory services, selection of certified public accountants, and selection of a committee, the members of which need not be otherwise affiliated with the company, to manage the business and affairs of such separate account or portion thereof.

(5m) The assets of a separate account shall not be chargeable with any liabilities arising out of any other separate account or any other business of the life insurance company.

SECTION 4. 206.385 (8) of the statutes is amended to read:

206.385 (8) ~~If the agreement~~ *Any contract issued under this section which provides for payment of benefits in variable amounts, any contract delivered in this state providing for such variable benefits shall be on a group basis. Any such group contract shall contain a statement of the essential features of the procedure to be followed by the company in determining the dollar amount of such variable benefits. Any such group individual contract and any group certificate issued thereunder under any such group contract shall state that such dollar amount may decrease or increase and shall contain on its first page, in a prominent position, a statement that the benefits thereunder are on a variable basis. No person shall sell such variable benefit contracts in this state except a licensed life insurance agent whose qualification to do so has been certified by the commissioner. The commissioner shall certify only those agents who pass a written examination prescribed by the commissioner.*

SECTION 5. 206.386 of the statutes is created to read:

206.386 RELATED FUNCTIONS; SUBSIDIARIES. Any domestic life insurance company may, directly or through one or more subsidiaries including a subsidiary life insurance company, perform any or all functions with respect to the conduct of the business and affairs of any separate account established by it or by any of its subsidiaries under s. 206.385 or of any investment company in whose shares it has invested under s. 206.34 (1) (et), including without limitation the functions of acting as investment adviser, underwriter, principal underwriter or manager, and may take such action as it deems necessary to comply with the federal investment company act of 1940 and securities exchange act of 1934 and other applicable federal and state laws.

SECTION 6. 208.03 (5) of the statutes is created to read:

208.03 (5) Sections 206.385, 206.386 and 206.39 shall apply to fraternal benefit societies.

Approved January 18, 1968.