

AN ACT concerning insurance.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Insurance Code is amended by changing Section 245.21 as follows:

(215 ILCS 5/245.21) (from Ch. 73, par. 857.21)

Sec. 245.21. Establishment of separate accounts by domestic companies organized to do a life, annuity, or accident and health insurance business. A domestic company, including for the purposes of this Article all domestic fraternal benefit societies, may, for authorized classes of insurance, establish one or more separate accounts, and may allocate thereto amounts (including without limitation proceeds applied under optional modes of settlement or under dividend options) to provide for life, annuity, or accident and health insurance (and benefits incidental thereto), payable in fixed or variable amounts or both, subject to the following:

(1) 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 company.

(2) Except as may be provided with respect to reserves for guaranteed benefits and funds referred to in paragraph (3) of

this Section (i) amounts allocated to any separate account and accumulations thereon may be invested and reinvested without regard to any requirements or limitations of Part 2 or Part 3 of Article VIII of this Code and (ii) the investments in any separate account or accounts may not be taken into account in applying the investment limitations otherwise applicable to the investments of the company.

(3) Except with the approval of the Director and under the conditions as to investments and other matters as the Director may prescribe, that must recognize the guaranteed nature of the benefits provided, reserves for (i) benefits guaranteed as to dollar amount and duration and (ii) funds guaranteed as to principal amount or stated rate of interest may not be maintained in a separate account.

(4) Unless otherwise approved by the Director, 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, then as provided in the contract or the rules or other written agreement applicable to the separate account. Unless otherwise approved by the Director, the portion, if any, of the assets of the separate account equal to the company's reserve liability with regard to the guaranteed benefits and funds referred to in paragraph (3) of this Section must be valued in accordance with the rules otherwise applicable to the company's assets.

(5) Amounts allocated to a separate account under this

Article are owned by the company, and the company may not be, nor hold itself out to be, a trustee with respect to those amounts. The assets of any separate account equal to the reserves and other contract liabilities with respect to the account may not be charged with liabilities arising out of any other business the company may conduct, unless the separate account is subject to guarantees, in which case the assets shall be charged with liabilities arising out of other business of the company, unless the contract specifies that the assets are insulated.

(6) No sale, exchange or other transfer of assets may be made by a company 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, the 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 the transfer, whether into or from a separate account, is made (i) by a transfer of cash, or (ii) by a transfer of securities having a readily determinable market value, if the transfer of securities is approved by the Director. The Director may approve other transfers among those accounts if, in his or her opinion, the transfers would not be inequitable.

(7) To the extent a company considers it necessary to comply with any applicable federal or state laws, the company, with respect to any separate account, including without

limitation any separate account which is a management investment company or a unit investment trust, may provide for persons having an interest therein appropriate voting and other rights and special procedures for the conduct of the business of the account, including without limitation special rights and procedures relating to investment policy, investment advisory services, selection of independent public accountants, and the selection of a committee, the members of which need not be otherwise affiliated with the company, to manage the business of the account.

(Source: P.A. 90-381, eff. 8-14-97; 90-418, eff. 8-15-97; 90-655, eff. 7-30-98.)

Section 99. Effective date. This Act takes effect upon becoming law.