

**61A.275 SEPARATE ACCOUNTS; PENSION PLANS.**

Subdivision 1. **Establishment.** Any domestic life insurance company, by adoption of a resolution by its governing body, may establish one or more separate accounts and may allocate thereto, in accordance with the terms of a written agreement, any amounts which are paid to or held by the company in connection with a pension, retirement, or profit-sharing plan described under section 401, 414(d), or 457 of the Internal Revenue Code of 1954, as amended through December 31, 1981. In connection with the separate accounts, the company may issue, subject to the terms of the written agreement, group policies or contracts with benefits payable in fixed or variable amounts.

The assets held in a separate account pursuant to this section shall be owned by the company. The company shall not be, nor hold itself out to be, a trustee with respect to the assets.

Subd. 2. **Allocations, credits, or charges.** The income, if any, and gains or losses realized or unrealized on each separate account may be credited to or charged against the amount allocated to that separate account in accordance with the written agreement, without regard to the other income, gains, or losses of the company.

Subd. 3. **Transfer of assets.** 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:

(1) in case of a transfer into a separate account, the transfer is made solely to establish the account or to support the contractual obligations of the company with respect to the separate account to which the transfer is made; or

(2) in case of a transfer from a separate account, the transfer would not cause the remaining assets of the account to become less than the reserves and other contract liabilities with respect to that separate account. A transfer, whether into or from a separate account, shall be made by a transfer of cash, or by a transfer of securities having a readily determinable market value, if the transfer of securities is approved by the commissioner. The commissioner may approve other transfers among separate accounts if, in the commissioner's opinion, the transfers would not be inequitable.

Except as the commissioner may otherwise approve, where a company transfers assets into a separate account for the purpose of establishing the account, the transfer shall be in the form of cash and shall be made only from its surplus. Not more than five percent of its surplus may be so invested in its separate accounts.

Subd. 4. **Application of investment law.** Notwithstanding any inconsistent provision in the company's charter or other law, the amounts allocated to separate accounts and accumulations thereon may be invested and reinvested in any class of loans and investments. The loans and investments shall not be included in applying any of the limitations provided in section 61A.28. However, unless otherwise approved by the commissioner, a portion of the assets of each separate account equal to the company's reserve liability with regard to the guaranteed benefits and funds, if any, shall be invested in accordance with the requirements otherwise applicable to the company's general assets.

Subd. 5. **Valuation of assets.** Unless otherwise approved by the commissioner, 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 as provided under the terms of the contract or the

requirements or other written agreement applicable to the separate account. However, unless otherwise approved by the commissioner, a portion of the assets of each separate account equal to the company's reserve liability with regard to the guaranteed benefits and funds, if any, shall be valued in accordance with the requirements otherwise applicable to the company's general assets.

Subd. 6. **Other laws.** No separate account established pursuant to this section shall be subject to the provisions of sections 61A.13 to 61A.21, nor shall any of the provisions of this section be construed to have any application to separate accounts established pursuant to sections 61A.13 to 61A.21.

**History:** 1982 c 555 s 3; 1986 c 444