

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

500.925 Application of amounts paid life insurer to purchase of retirement benefits; income, gains, or losses on accounts; limitations on charges and deductions; investment or amounts allocated; standards; "contract on a variable basis" defined; compliance with investment company act of 1940; identification of investments and liabilities; "investment company act of 1940" defined; rules.

Sec. 925. (1) A life insurer, after adoption of a resolution by its board of directors and certification thereof to the commissioner, may allocate to 1 or more separate accounts, in accordance with the terms of a written agreement or a contract on a variable basis, amounts which are paid to the insurer, in connection with a pension, retirement or profit-sharing plan, or in connection with a contract on a variable basis, whether on an individual or group basis, and which amounts are to be applied to purchase retirement benefits in fixed or in variable dollar amounts, or both, or to provide benefits in accordance with a contract on a variable basis.

The income, if any, and gains or losses realized or unrealized on each such account may be credited to or charged against the amount allocated to such account in accordance with such agreement, without regard to the other income, gains or losses of the insurer. The commissioner may prescribe reasonable limitations on charges against and permissible deductions from the investment experience credited to life insurance contracts on a variable basis. Notwithstanding any other provision in the insurer's articles of incorporation or in this act, the amounts allocated to such accounts and accumulations thereon may be invested and reinvested in any class of loans and investments specified in such agreement, or, with respect to life insurance contracts on a variable basis, as prescribed by the commissioner, and such loans and investments shall not be considered in applying any limitation in this chapter. The commissioner may, with respect to separate accounts for life insurance on a variable basis, establish reasonable standards for procedures to be used in changing investment policy and provisions to safeguard the rights of insured persons and beneficiaries.

(2) "Contract on a variable basis" means a contract issued by an insurer providing for the dollar amount of benefits or other contractual payments or values thereunder to vary so as to reflect investment results of a segregated portfolio of investments or of a designated account in which amounts received in connection with such a contract have been placed and such other contracts as may be approved by the commissioner.

(3) Notwithstanding any other provision of law, a life insurer, if necessary to comply with the investment company act of 1940, with respect to any such account or any portion thereof may:

(a) Exercise the voting rights of the stock or shares or interest in accordance with instructions from the persons having the beneficial interests in such account ratably according to their respective interests in the account.

(b) Establish a committee for the account, the members of which may be directors or officers or other employees of the insurer, or persons having no such relationship to the insurer, or any combination thereof, who may be elected to membership by the vote of the persons having the beneficial interests in the account ratably according to their respective interests in the account. The committee may alone, in conjunction with others, or by delegation to the insurer or any other person, as investment manager or investment adviser, authorize purchases and sales of investments for the account if, as long as the life insurer or any subsidiary or affiliate of the life insurer is the investment manager or investment adviser of the account, the investments of the account are eligible under this section. If compliance with the investment company act of 1940 involves only a portion of the account, the insurer may establish a committee for only that portion, and its members may be elected by the vote of the persons having the beneficial interests in the portion. A committee for only a portion of the account may be given the further power to require the subdivision of the account into 2 accounts so that the portion of the account with respect to which the committee is acting shall constitute a separate account. If the committee so requires, the insurer shall segregate from the account being so subdivided a portion of each asset held with respect to the reserve liabilities of the account. That portion shall be in the same proportion to the total of the asset as the reserve liability for the portion of the account with respect to which the committee is acting bears to the total reserve liability of the account; and notwithstanding any other provision of law, the assets so segregated shall be transferred to a separate account with respect to which the committee shall act.

(4) The investments and liabilities of the account shall at all times be clearly identifiable and distinguishable from the other investments and liabilities of the insurer. A sale, transfer, or exchange of investments shall not be made between any of the separate accounts or between any other investment account of the company and 1 or more of the separate accounts, except for the purpose of (i) conducting the business of the account in accordance with provisions of a "contract on a variable basis", or (ii) making adjustments necessitated by the contract for mortality experience adjustment, and then only if the transfers are made by a

transfer of cash or by a transfer of securities having a valuation which can readily be determined in the market place. The commissioner may require for domestic life insurers that a transfer of cash or investments from a separate account or accounts to the company be approved in advance of the transfer. The commissioner may prescribe reasonable limitations on charges against and permissible deductions from separate accounts for life insurance contracts on a variable basis.

(5) As used in this section, "investment company act of 1940" means the act of congress approved August 22, 1940 entitled "investment company act of 1940" as amended from time to time, or any similar statute enacted in substitution therefor.

(6) The commissioner may promulgate rules pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws, as may be necessary to carry out this section.

History: Add. 1963, Act 48, Eff. Sept. 6, 1963;—Am. 1966, Act 344, Imd. Eff. Oct. 26, 1966;—Am. 1969, Act 318, Eff. Mar. 20, 1970;—Am. 1974, Act 225, Eff. Nov. 1, 1974.

Popular name: Act 218

Administrative rules: R 500.402 et seq. and R 500.841 et seq. of the Michigan Administrative Code.