

CHAPTER 751—H. F. No. 1790

[Coded]

An act relating to the state board of education; permitting allocation of compensation to purchase retirement annuities for employees; authorizing deposit of funds in the state treasury; and appropriating money therefrom.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. [121.48] **State board of education; employees; tax sheltered annuities.** Subdivision 1. At the request of an employee, the state board of education may negotiate and purchase an individual annuity contract from a company licensed to do business in the state of Minnesota for an employee for retirement or other purposes and may allocate a portion of the compensation otherwise payable to the employee as salary for the purpose of paying the entire premium due or to become due under such contract. The allocation shall be made in a manner which will qualify the annuity premiums, or a portion thereof, for the benefit afforded under section 403 (b) of the current federal internal revenue code or any equivalent provision of subsequent federal income tax law. The employee shall own such contract and his rights thereunder shall be nonforfeitable except for failure to pay premiums.

Subd. 2. All amounts so allocated shall be deposited in an annuity account which is hereby established in the state treasury. There is annually appropriated from the annuity account in the state treasury to the state board of education all moneys deposited therein for the payment of annuity premiums when due or for other application in accordance with the salary agreement entered into between the employee and the state board of education. The moneys in the annuity account in the state treasury are not subject to the budget, allotment, and incumbrance system provided for in Minnesota Statutes, Chapter 16, and any act amendatory thereof.

Approved May 26, 1969.

CHAPTER 752—H. F. No. 1875

[Coded in Part]

An act relating to insurance; regulating companies selling contracts on a variable basis; amending Minnesota Statutes 1967, Sec-

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tions 61A.13, Subdivision 1; 61A.14, Subdivisions 1, 3, and 4 as added, 5 as added, 6 as added, and by adding new subdivisions thereto; 61A.15; 61A.16; 61A.17; 61A.18; 61A.19; 61A.20, as amended; 61A.21; 80.01, Subdivision 4; and 60A.17, by adding a new subdivision thereto; repealing Minnesota Statutes 1967, Section 61A.13, Subdivision 2.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1967, Section 61A.13, Subdivision 1, is amended to read:

61A.13 Insurance; variable basis contracts; definitions. Subdivision 1. **Contract on a variable basis.** When used in sections 61A.13 to 61A.21, "contract on a variable basis" means any contract on either a group or an individual basis issued by a life insurance company providing for the dollar amount of benefits or other contractual payments or values thereunder to vary so as to reflect investment results of a separate account in which amounts received in connection with any such contracts have been placed. *Such contracts may also provide benefits or values incidental thereto payable in fixed or variable dollar amounts, or both.*

Sec. 2. Minnesota Statutes 1967, Section 61A.14, Subdivision 1, is amended to read:

61A.14 Companies entitled to issue contracts; accounts; investments. Subdivision 1. **Separate accounts.** Any domestic life insurance company ~~which has satisfied the commission that its financial condition and methods of operation will not be prejudicial to residents of this state shall have authority to may, by or pursuant to resolution of its governing body,~~ establish and operate one or more separate accounts and issue contracts on a variable basis, subject to the provisions of sections 61A.13 to 61A.21. ~~and (except as to the contracts referred to in section 61A.20) to the provisions of Minnesota Statutes, Chapter 80, as amended.~~

Sec. 3. Minnesota Statutes 1967, Section 61A.14, Subdivision 3, is amended to read:

Subd. 3. **Investments.** ~~All amounts allocated to such accounts, and accumulations thereon, may be invested and reinvested in any class or classes of loans and investments authorized for domestic life insurance companies; provided that investments in corporate stocks, bonds, notes, and other evidences of indebtedness as authorized by section 61A.28, subdivision 6; shall not be subject to (1) the limitations or requirements specified in subdivision 6 of said section 61A.28; or (2) the percentage limitations specified in subdivision 12~~

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of said section 61A.28. No sale, transfer, exchange, or substitution of investments may be made between a separate account and any other investment account of a company. Except as hereinafter provided, amounts allocated to any separate account and accumulations thereon may be invested and reinvested without regard to any requirements or limitations prescribed by the laws of this state governing the investments of life insurance companies; provided, that to the extent that the company's reserve liability with regard to (a) benefits guaranteed as to amount and duration, and (b) 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, except as the commissioner may otherwise approve, invested in accordance with the laws of this state governing the investments of life insurance companies and shall be segregated from the other assets in the separate account.

Sec. 4. Minnesota Statutes 1967, Section 61A.14, Subdivision 4, as added by Laws 1969, Chapter 7, Section 21, is amended to read:

Subd. 4. **Other investments.** For purposes of determining whether the capital, surplus and other funds of a domestic life insurance company, other than assets held in a separate account pursuant to *this section, 61A.14* are invested in accordance with sections 60A.11 and 61A.28 to ~~61A.30~~ 61A.31, assets held by the company in a separate account in accordance with *this section 61A.14* shall be disregarded.

Sec. 5. Minnesota Statutes 1967, Section 61A.14, Subdivision 5, as added by Laws 1969, Chapter 7, Section 22, is amended to read:

Subd. 5. **Account ownership.** The assets held in a separate account pursuant to *this section 61A.14* shall be owned by the company, and the company shall not be, nor hold itself out to be, a trustee with respect to such amounts. That portion of the assets of any such separate account equal to reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the company may conduct, but shall be held and applied exclusively for the benefit of the holders of those contracts on a variable basis for which the separate account has been established; *provided, however, that the assets shall always be at least equal to the reserves and other contract liabilities with respect to such account.*

Sec. 6. Minnesota Statutes 1967, Section 61A.14, Subdivision

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6, as added by Laws 1969, Chapter 7, Section 23, is amended to read:

Subd. 6. Compliance with laws. ~~A company which has established or hereafter establishes a separate account or accounts pursuant to section 61A.14 and issues contracts on a variable basis, may provide that the separate account shall be managed by a committee, the members of which need not be otherwise affiliated with the company or its board of directors, and may further grant to the holders of the contracts the voting rights it deems necessary under the Investment Company Act of 1940 of the United States, as amended. To the extent such company deems it necessary to comply with any applicable federal or state laws, such 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 such 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 such company, to manage the business of such account.~~

Sec. 7. Minnesota Statutes 1967, Section 61A.14, is amended by adding a subdivision to read:

Subd. 7. 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 rules or other written agreement applicable to such separate account; provided, that unless otherwise approved by the commissioner, a portion of the assets of such separate account equal to the company's reserve liability with regard to the guaranteed benefits and funds referred to in clauses (a) and (b) of subdivision 3, if any, shall be valued in accordance with the rules otherwise applicable to the company's assets.*

Sec. 8. Minnesota Statutes 1967, Section 61A.14, is amended by adding a subdivision to read:

Subd. 8. 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, (a) in case of a transfer into a separate account, such transfer is made solely to establish the account*

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or to support the contractual obligations of the company with respect to the separate account to which the transfer is made, or (b) in case of a transfer from a separate account, such transfer would not cause the remaining assets of the account to become less than the reserves and other contract liabilities with respect to such separate account. Such 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, provided that such transfer of securities is approved by the commissioner. The commissioner may approve other transfers among such accounts if, in his opinion, such transfers would not be inequitable. Where a company transfers assets into a separate account for the purpose of establishing such account, such transfer shall be in the form of cash and, except as the commissioner may otherwise approve, shall be made only from its surplus, provided that not more than five percent of its surplus may be so invested in such accounts.

Sec. 9. Minnesota Statutes 1967, Section 61A.15, is amended to read:

61A.15 Contract provisions. All contracts on a variable basis issued in this state shall stipulate the expense, mortality, and investment-increment factors to be used in computing (1) in the case of individual contracts, the dollar amount of variable benefits or other contractual payments or values, and (2) in the case of group contracts, the dollar amount payable with respect to a unit of variable benefits purchased thereunder. All such contracts shall guarantee that expense and mortality results shall not affect such dollar amounts adversely. ~~The mortality and investment-increment factors used in~~ *In* computing the dollar amount of variable benefits or other contractual payments or values under an individual contract on a variable basis, ~~shall not produce a larger initial payment than would be produced by use of the 1937 Standard Annuity Mortality Table and an annual investment-increment assumption of three percent, or such other mortality table and investment-increment assumption as the commissioner may designate.~~ *(a) the annual net investment increment assumption shall not exceed five percent, except with the approval of the commissioner, and (b) to the extent that the level of benefits may be affected by mortality results, the mortality factor shall be determined from the Annuity Mortality Table for 1949, Ultimate, or any modification of that table not having a higher mortality rate at any age, or, if approved by the commissioner, from another table. The term "expense", as used in this section, may exclude some or all taxes as stipulated in the contracts and may also exclude any investment management fee which is subject to change with the approval by vote of the holders of such contracts.*

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Sec. 10. Minnesota Statutes 1967, Section 61A.16, is amended to read:

61A.16 Contract provisions. ~~No contract on a variable basis, nor certificate evidencing variable benefits issued pursuant to any such contract on a group basis, shall be issued in this state unless it contains (1) a statement of the essential features of the procedure to be followed by the insurance company in determining the dollar amount of variable benefits or other contractual payments or values thereunder and (2) a statement that such amounts may decrease or increase according to such procedure and (3) a statement in a prominent position on its first page that the benefits or other contractual payments or values thereunder are on a variable basis. Any contract on a variable basis providing benefits payable in variable amounts delivered or issued for delivery in this state shall contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of such variable benefits. Any such contract, including a group contract and any certificate in evidence of variable benefits issued thereunder, shall state the manner in which such dollar amounts will vary and shall contain on its first page a statement to the effect that the benefits thereunder are on a variable basis.~~

Sec. 11. Minnesota Statutes 1967, Section 61A.17, is amended to read:

61A.17 Filing of contracts. ~~No contract on a variable basis shall be issued in this state until a copy of the form thereof (and, in the case of a group contract, the form of any certificate evidencing variable benefits issued pursuant thereto) and any form of application for such contract shall have been filed with the commissioner, and (except as to contracts referred to in section 61A.20) with the commission, as part of the application for the registration of contracts pursuant to the requirements of said chapter 80. After registration of contracts, annual reports shall be furnished each contract holder, giving complete information pertaining to his interests in the contract.~~

Sec. 12. Minnesota Statutes 1967, Section 61A.18, is amended to read:

61A.18 Disapproval of contracts. The commissioner shall have the power *at any time* to disapprove any contract form, application, or certificate (1) if it does not comply with the ~~foregoing~~ provisions of sections 61A.13 to 61A.21; or (2) if it contains provisions which are unjust, unfair, inequitable, ambiguous, or misleading; or ~~(3) if sales of such contract are being solicited by any means of ad-~~

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~~vertising, communication, or dissemination of information which involves misleading or inadequate description of the provisions of the contract. After the commissioner shall have notified a company of his disapproval, it shall be unlawful for that company to issue or use the contract, application or certificate in the form so disapproved.~~

Sec. 13. Minnesota Statutes 1967, Section 61A.19, is amended to read:

~~61A.19 Company requirements. Subject to the provisions of sections 61A.13 to 61A.21 and to the provisions of said chapter 80, any foreign life insurance company which has a certificate of authority to do business in this state and which has been authorized by the laws of its state of domicile to issue contracts on a variable basis may issue such contracts in this state on the same basis permitted domestic companies provided that it has satisfied the commissioner that its financial condition and methods of operation will not be prejudicial to residents of this state. No company shall deliver or issue for delivery within this state contracts on a variable basis unless it is licensed or organized to do a life insurance or annuity business in this state, and the commissioner is satisfied that its condition or method of operation in connection with the issuance of such contracts will not render its operation hazardous to the public or its policyholders in this state. In this connection, the commissioner shall consider among other things:~~

- ~~(a) The history and financial condition of the company;~~
- ~~(b) The character, responsibility and fitness of the officers and directors of the company; and~~
- ~~(c) The law and regulation under which the company is authorized in the state of domicile to issue such contracts.~~

~~A licensed company which issues contracts on a variable basis and which is a subsidiary of, or affiliated through common management or ownership with, another life insurance company authorized to do business in this state may be deemed to have met the provisions of this section if either it or the parent or affiliated company satisfies the aforementioned provisions.~~

Sec. 14. Minnesota Statutes 1967, Section 61A.20, as amended by Laws 1969, Chapter 7, Section 24, is amended to read:

~~61A.20 Rules and regulations. A group contract on a variable basis (1) which meets the requirements of the Federal Internal Revenue Code of 1954, as amended, for qualification of a pension, profit sharing, or annuity plan and (2) which does not permit the allocation to a separate account of any payment or contribution made~~

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by an employee and (3) which covers at least 25 employees at the time of its execution and (4) under which the promised payments are payable in fixed dollar or variable dollar amounts; or both, shall be exempt from the requirement of registration pursuant to the provisions of said chapter 89; and the sale thereof shall be exempt from the licensing requirements of said chapter 80. Notwithstanding any other provision of law, the commissioner shall have sole and exclusive authority to regulate the issuance and sale of contracts on a variable basis and to provide for licensing of persons selling such contracts, and to issue such reasonable rules and regulations as may be appropriate to carry out the purposes and provisions of sections 61A.13 to 61A.21.

Sec. 15. Minnesota Statutes 1967, Section 61A.21, is amended to read:

61A.21 Application of other laws. *The commissioner and the commission may issue such rules and regulations as may be necessary to carry out the purposes of sections 61A.13 to 61A.21. All appropriate provisions of Chapter 61A shall apply to separate accounts and contracts on a variable basis except those which are inconsistent with the provisions contained in sections 61A.13 to 61A.20. The reserve liability for contracts on a variable basis shall be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.*

Sec. 16. Minnesota Statutes 1967, Section 80.01, Subdivision 4, is amended to read:

Subd. 4. Security. "Security" means and includes any stock, share, bond, note, debenture, commercial paper, evidence of indebtedness, investment contract, interest in or under a profit-sharing or participating agreement or scheme, or beneficial interest in a trust or pretended trust. Any interest in any security shall be deemed a security. *"Security" does not include any insurance or endowment policy, annuity contract or contract on a variable basis issued by a life insurance company holding a current certificate of authority authorizing it to do an insurance business in this state.*

Sec. 17. Minnesota Statutes 1967, Section 60A.17, is amended by adding a subdivision to read:

Subd. 12. Agents; variable contracts. (1) License required. *No person shall sell or offer for sale a contract on a variable basis unless prior to making any such solicitation or sale he shall have obtained from the commissioner a license therefor. Such license shall only be granted, upon the written requisition of an insurer, to a*

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qualified person who holds a current license authorizing him to solicit and sell life insurance and annuity contracts in this state. To become qualified, a person shall complete a written application on a form prescribed by the commissioner and shall take and pass an examination prescribed by the commissioner. Prior to the taking of the examination, or upon re-examination, the applicant shall transmit to the commissioner, by money order or cashiers check payable to the state treasurer, an examination fee of \$10. The license issued shall expire on May 31 of each year, unless renewed by written request of the insurer with payment of a renewal fee of \$2.

(2) **Exceptions.** (a) Any officer of a licensed insurer may, without license or other qualification, act in its behalf in the negotiation and consummation of contracts on a variable basis.

(b) Any person who, on the effective date of this act, holds a valid license authorizing him to solicit and sell life insurance and annuity contracts and who also holds a valid license issued by the securities division of the department of commerce authorizing him to sell or offer for sale contracts on a variable basis shall be issued a license by the commissioner of insurance upon application therefor and payment of a \$2 fee, which license shall expire on May 31, 1970, unless renewed by an insurer as provided in clause (1).

(3) **Rules and regulations.** The commissioner may by rules and regulations waive or modify any of the foregoing requirements or prescribe such additional requirements as he may deem necessary for the proper sale and solicitation of contracts on a variable basis.

(4) **Other laws applicable.** The provisions of subdivisions 3, 5, 6, 7, 8, 9 and 11 shall, to the extent not inconsistent with the provisions enumerated herein, be applicable to this subdivision.

Sec. 18. *Minnesota Statutes 1967, Section 61A.13, Subdivision 2, is repealed.*

Sec. 19. *This act shall be effective as of July 1, 1969.*

Approved May 26, 1969.

CHAPTER 753—H. F. No. 2159

An act relating to taxation; service of notice of expiration of period of redemption from tax sales; amending Minnesota Statutes 1967, Section 281.13.

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