

been imprisoned pending the appeal shall be deducted from the term for which he was theretofore sentenced to the penitentiary, if the judgment against him be affirmed.

NEW SECTION. Sec. 2. There is added to chapter 4, Laws of 1963 and to chapter 36.63 RCW a new section to read as follows:

Any person imprisoned in a county jail pending the appeal of his conviction of a felony and who has not obtained bail bond pending his appeal shall be transferred after thirty days but within forty days from the date judgment was entered against him to a state institution for felons designated by the director of the department of institutions: PROVIDED, That when good cause is shown, a superior court judge may order the prisoner detained in the county jail beyond said forty days for an additional period not to exceed ten days.

Passed the House March 3, 1969
 Passed the Senate March 11, 1969
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CHAPTER 104
 [Engrossed House Bill No. 208]
 INSURANCE--VARIABLE
 CONTRACT ACT

AN ACT Relating to variable contracts; adding a new chapter to Title 48 RCW; repealing sections 14 through 18, chapter 70, Laws of 1965 ex. sess. and RCW 48.13.370 through 48.13.410; and providing an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Section 1. This act shall be known as the "Variable Contract Act" and is intended to authorize the sale of both individual and group variable contracts.

NEW SECTION. Sec. 2. A domestic life insurer may, by or pursuant to resolution of its board of directors, establish one or more separate accounts, and may allocate thereto amounts to provide for annuities and other benefits 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 shall be credited to or charged against the account, without regard to other income, gains or losses of the insurer.

(2) (a) Except as hereinafter provided, amounts allocated to any separate account and accumulation thereon may be invested and re-invested 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 (i) benefits guaranteed as to dollar amount and duration, and (ii) 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. The investments in such separate account or accounts shall not be taken into account in applying the investment limitations applicable to the investments of the company.

(b) With respect to seventy-five percent of the market value of the total assets in a separate account no company shall purchase or otherwise acquire the securities of any issuer, other than securities issued or guaranteed as to principal or interest by the United States, if immediately after such purchase or acquisition the market value of such investment, together with prior investments of such separate account in such security taken at market value, would exceed ten percent of the market value of the assets of said separate account: PROVIDED, That the commissioner may waive such limitation if, in his opinion, such waiver will not render the operation of such separate account hazardous to the public or the policyholders in this state.

(c) No separate account shall be invested in the voting securities of a single issuer if such investment would result in the insurer owning an amount in excess of ten percent of the total issued and outstanding voting securities of such issuer: PROVIDED, That the

foregoing shall not apply with respect to securities held in separate accounts, the voting rights in which are exercisable only in accordance with instructions from persons having interests in such accounts.

(d) The limitations provided in paragraphs (b) and (c) of this subsection shall not apply to the investment with respect to a separate account in the securities of an investment company registered under the United States Investment Company Act of 1940: PROVIDED, That the investments of such investment company shall comply in substance therewith.

(3) 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 insurer's reserve liability with regard to the guaranteed benefits and funds referred to in subsection (2) of this section, if any, shall be valued in accordance with the rules otherwise applicable to the insurer's assets.

(4) Amounts allocated to a separate account in the exercise of the power granted by this act shall be owned by the insurer and the insurer 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 the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the insurer may conduct.

(5) No sale, exchange or other transfer of assets may be made by an insurer 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, such 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 such transfer, whether into or from a

separate account, is made (a) by a transfer of cash, or (b) 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.

(6) To the extent such insurer deems it necessary to comply with any applicable federal or state law, such insurer, 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 interest therein, as may be 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 insurer, to manage the business of such account.

NEW SECTION. Sec. 3. (1) Every variable contract 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 insurer in determining the dollar amount of such variable benefits. Any such variable contract, including a group contract and any certificate in evidence of variable benefits issued thereunder, shall state that such dollar amount will vary to reflect investment experience and shall contain on its first page a statement to the effect that the benefits thereunder are on a variable basis.

(2) Variable contracts delivered or issued for delivery in this state may include as an incidental benefit provision for payment on death during the deferred period of an amount not in excess of the greater of the sum of the premiums or stipulated payments under the contract or the value of the contract at time of death. For this purpose such benefit shall not be deemed to be life insurance and

therefore not subject to any statutory provisions governing life insurance contracts. Provision for any other benefits on death during the deferred period will be subject to such insurance provisions.

NEW SECTION. Sec. 4. No insurer shall deliver or issue, for delivery within this state, contracts under this act unless it is licensed or organized to do a life insurance or annuity business in this state, and unless 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:

- (1) The history and financial condition of the insurer;
- (2) The character, responsibility and fitness of the officers and directors of the insurer; and
- (3) The law and regulation under which the insurer is authorized in the state of domicile to issue variable contracts.

An insurer which issues variable contracts and which is a subsidiary of, or affiliated through common management or ownership with, another life insurer 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 meets the requirements hereof: PROVIDED, That no insurer may provide variable benefits in its contracts unless it is an admitted insurer having and continually maintaining a combined capital and surplus of at least one million dollars.

NEW SECTION. Sec. 5. The provisions of RCW 48.23.140 through 48.23.240, 48.23.360, and the provisions of chapter 48.24 RCW shall be inapplicable to variable contracts; nor shall any provision in the code requiring contracts to be participating be deemed applicable to variable contracts. Except as otherwise provided in this act, all pertinent provisions of the insurance code shall apply to separate accounts and contracts relating thereto. The reserve liability for variable annuities shall be established in accordance with actuarial procedures that recognize the variable nature of the benefits provid-

ed and any mortality guarantees.

NEW SECTION. Sec. 6. No person shall be or act as an agent for the solicitation or sale of such policies or contracts except while duly appointed and licensed under the insurance code as a life insurance agent with respect to the insurer, and while duly licensed as a security salesman or securities broker under a license issued by the Administrator of Securities pursuant to the Securities Act of this state.

NEW SECTION. Sec. 7. Notwithstanding any other provision of law, the commissioner shall have sole and exclusive authority to regulate the issuance and sale of variable contracts; except for the examination, issuance or renewal, suspension or revocation, of a security salesman's license issued to persons selling variable contracts. To carry out the purposes and provisions of this act he may independently, and in concert with the state securities administrator, issue such reasonable rules and regulations as may be appropriate.

NEW SECTION. Sec. 8. Sections 1 through 7 of this 1969 act are each added to Title 48 RCW as a new chapter.

NEW SECTION. Sec. 9. Sections 14 through 18, chapter 70, Laws of 1965 ex. sess. and RCW 48.13.370 through 48.13.410 are each repealed.

NEW SECTION. Sec. 10. This 1969 act shall take effect July 1, 1969.

Passed the House March 5, 1969.
Passed the Senate March 11, 1969.
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CHAPTER 105
[Engrossed House Bill No. 13]
VOCATIONAL REHABILITATION--RETARDED,
HANDICAPPED, DISADVANTAGED, PERSONS

AN ACT Relating to vocational rehabilitation; amending section 8, chapter 118, Laws of 1967, as amended by section 46, chapter 8, Laws of 1967 ex. sess. and RCW 28.10.080; adding a new section to chapter 8, Laws of 1967 ex. sess. and to chapter 28.10 RCW; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON: