

AMENDING THE LIFE INSURANCE ACT OF THE
DISTRICT OF COLUMBIA

M E S S A G E

FROM

THE PRESIDENT OF THE UNITED STATES

RETURNING

WITHOUT APPROVAL, H.R. 7482, TO AMEND THE LIFE INSURANCE
ACT OF THE DISTRICT OF COLUMBIA APPROVED JUNE 19, 1934,
AS AMENDED

SEPTEMBER 26, 1961.—Referred to the Committee on the District of Columbia
and ordered to be printed.

To the House of Representatives:

I return herewith, without my approval, H.R. 7482, to amend the Life Insurance Act of the District of Columbia approved June 19, 1934, as amended.

This legislation would allow District of Columbia life insurance companies to establish special voting and management procedures with respect to variable annuity contracts. It represents an attempt to reconcile conflicting requirements of the District of Columbia Life insurance Act and the Investment Company Act of 1940, with a view to permitting District of Columbia life insurance companies to sell both variable annuities and conventional types of life insurance.

The purchaser of a variable annuity depends largely upon the efficiency and skill of the management in selecting and managing the underlying portfolio securities for the return upon his investment. Under these circumstances it is important, as the Investment Company Act of 1940 recognizes, that he have a voice in the control of his company. H.R. 7482 fails to give adequate recognition to this basic principle.

Even approval of H.R. 7482 would not free life insurance companies to sell variable annuities without complying with the Investment

Company Act. The problems under that act are left wholly unresolved by H.R. 7482. Furthermore, in an effort to solve a local District of Columbia problem, the bill could have unfortunate consequences. Although an effort was made in the legislative history to avoid the possibility that the measure might mislead some States into assuming that it was a satisfactory solution, that danger still exists.

The Securities and Exchange Commission has been studying the problem of reconciling with the provisions of the Investment Company Act the operations of life insurance companies which desire to sell variable annuities. I am confident that in the near future the Commission will be in a position to offer a suggested program for solution of this problem.

JOHN F. KENNEDY.

THE WHITE HOUSE, September 26, 1961.

H.R. 7482

EIGHTY-SEVENTH CONGRESS OF THE UNITED STATES OF AMERICA AT THE FIRST SESSION BEGUN AND HELD AT THE CITY OF WASHINGTON ON TUESDAY, THE THIRD DAY OF JANUARY, ONE THOUSAND NINE HUNDRED AND SIXTY-ONE

AN ACT To amend the Life Insurance Act of the District of Columbia approved June 19, 1934, as amended

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter III of the Life Insurance Act, as amended (sec. 35-501, et seq., D.C. Code, 1951 ed.), is amended by adding a new section 42 as follows:

"SEC. 42. (a) Every domestic life insurance company which has established one or more separate accounts in connection with contracts providing for payments which vary directly according to investment experience may provide in its articles of incorporation that variable contract owners shall have the right to vote on:

"(i) the annual election of a committee of variable contract owners, provided that each member of such committee shall own one or more variable contracts but not own capital stock of such company;

"(ii) the filling of vacancies on such committee;

"(iii) the approval, amendment, continuance or termination of any investment advisory contract with respect to investments of separate accounts;

"(iv) the employment of an independent public accountant for such accounts; and

"(v) any change in the fundamental policies with respect to such accounts set forth in any prospectus relating to variable contracts issued by such company.

Except as provided in paragraph (c) of this section, the voting rights of variable contract owners under such articles of incorporation shall be limited to the foregoing matters. For purposes of this section, variable contract owners shall mean owners of contracts the current cash value of which varies according to the investment experience of any such separate account and persons entitled currently to receive payments which vary directly according to the investment experience of any such separate account. Such articles of incorporation may exclude stockholders and/or policyholders who are not variable contract owners as defined in the preceding sentence from the right to vote on the foregoing matters.

"(b) On every matter as to which a variable contract owner shall be granted voting rights pursuant to paragraph (a) of this section he shall be entitled to such number of votes as equals the gross valuation reserve less indebtedness on his contract divided by an amount not to exceed \$10: *Provided*, That no fraction of a vote shall be recognized: *And provided further*, That every group contract shall entitle the owner thereof to one vote only. As used herein, valuation reserve shall mean reserve as determined on the basis employed by the company for such contracts in computing the aggregate reserve for such contracts as shown in its annual statement to the Superintendent of Insurance pursuant to section 8 of chapter II (sec. 35-407, D.C. Code, 1951 ed.).

“(c) The provisions of paragraph (a) of this section shall not limit the voting rights to which a variable contract owner who is a policyholder of a mutual company shall be entitled pursuant to section 1(f) of chapter III (sec. 35-501(f), D.C. Code, 1951 ed.). Notwithstanding the provisions of the last sentence of such section 1(f), a stock company granting voting rights to variable contract owners pursuant to this section need not grant voting rights to other policyholders, and in the event a stock company grants voting rights to other policyholders the term ‘policyholders’ appearing in the last clause of such sentence shall not be deemed to include variable contract owners.

“(d) The articles of incorporation of any company referred to in paragraph (a) of this section may grant authority to the committee of variable contract owners, subject to voting rights reserved to variable contract owners pursuant to such paragraph (a) to:

“(i) fill any vacancy occurring on such committee by the remaining members thereof;

“(ii) act on any investment advisory contract with respect to investments of separate accounts; and

“(iii) approve the employment of any independent public accountant for such accounts;

but any such action pursuant to subparagraphs (ii) and (iii) of this paragraph shall be subject to approval by the board of directors of such company. Such articles of incorporation may also provide that investment decisions relating to assets in separate accounts must be made by a majority of the members of such committee, but any such investment decision must, before becoming effective also be approved by the board of directors or by a committee designated by the board. If the committee of variable contract owners fails or refuses to act on a proposed investment decision within thirty days after the submission thereof to such committee by the company or its investment advisor, the board of directors of the company or a committee designated by the board may take final action on such investment decision. With respect to any matter over which the committee of variable contract owners is granted authority pursuant to this paragraph (d), the members of such committee shall be subject to the fiduciary responsibilities which would apply to them if they were members of the board of directors of the company. The term ‘investment decisions’ as used in this paragraph means investing in, purchasing, selling, or disposing of securities or other property.”

JOHN W. McCORMACK,

Speaker pro tempore of the House of Representatives.

LYNDON B. JOHNSTON,

*Vice President of the United States and
President of the Senate.*

[Endorsement on back of bill:]

I certify that this Act originated in the House of Representatives.

RALPH R. ROBERTS, *Clerk.*

