



General Assembly

February Session, 2008

Raised Bill No. 155

LCO No. 1446

01446_____AGE

Referred to Committee on Select Committee on Aging

Introduced by:
(AGE)

**AN ACT PROHIBITING THE SALE OF VARIABLE ANNUITY
CONTRACTS TO SENIORS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-433 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2008*):

3 (a) A domestic life insurance company, including for the purposes
4 of this section all domestic fraternal benefit societies which operate on
5 a legal reserve basis, may establish one or more separate accounts and
6 may allocate thereto amounts, including without limitation proceeds
7 applied under optional modes of settlement or under dividend
8 options, to provide for life insurance or life or period-certain annuities,
9 and benefits incidental thereto, payable in fixed or variable amounts or
10 both, or to accumulate funds which are paid to or held by such
11 company pursuant to section 38a-459, subject to the following: [(i)] (1)
12 The income, gains and losses, realized or unrealized, from assets
13 allocated to a separate account shall be credited to or charged against
14 the account, without regard to other income, gains or losses of the
15 company; [(ii)] (2) except as may be provided with respect to reserves
16 for guaranteed benefits and funds referred to in subdivision [(iii)]

17 hereof] (3) of this subsection, amounts allocated to any separate
18 account and accumulations thereon may be invested and reinvested in
19 any class of loans and investments, and such loans and investments
20 shall not be included in applying the limitations provided in sections
21 38a-102 to 38a-102h, inclusive; [(iii)] (3) except with the approval of the
22 commissioner and under such conditions as to investments and other
23 matters as he may prescribe, which shall recognize the guaranteed
24 nature of the benefits provided, reserves for [(1)] (A) benefits
25 guaranteed as to dollar amount and duration, and [(2)] (B) funds
26 guaranteed as to principal amount or stated rate of interest shall not be
27 maintained in a separate account; [(iv)] (4) unless otherwise approved
28 by the commissioner, assets allocated to a separate account shall be
29 valued at their market value on the date of valuation, or if there is no
30 readily available market, then as provided under the terms of the
31 contract or the rules or other written agreement applicable to such
32 separate account, provided, that unless otherwise approved by the
33 commissioner, the portion, if any, of the assets of such separate
34 account equal to the company's reserve liability with regard to the
35 guaranteed benefits and funds referred to in subdivision [(iii) hereof]
36 (3) of this subsection, shall be valued in accordance with the rules
37 otherwise applicable to the company's assets; [(v)] (5) amounts
38 allocated to a separate account in the exercise of the power granted by
39 this section shall be owned by the company, and the company shall not
40 be, nor hold itself out to be, a trustee with respect to such amounts. If,
41 and to the extent so provided under the applicable contracts, that
42 portion of the assets of any such separate account equal to the reserves
43 and other contract liabilities with respect to such account shall not be
44 chargeable with liabilities arising out of any other business the
45 company may conduct; [(vi)] (6) no sale, exchange or other transfer of
46 assets may be made by a company between any of its separate
47 accounts or between any other investment account and one or more of
48 its separate accounts unless, in case of a transfer into a separate
49 account, such transfer is made solely to establish the account or to
50 support the operation of the contracts with respect to the separate

51 account to which the transfer is made, and unless such transfer,
52 whether into or from a separate account, is made [(1)] (A) by a transfer
53 of cash, or [(2)] (B) by a transfer of securities having a readily
54 determinable market value, provided that such transfer of securities is
55 approved by the commissioner. The commissioner may approve other
56 transfers among such accounts if, in his opinion, such transfers would
57 not be inequitable; [(vii)] (Z) to the extent such company deems it
58 necessary to comply with any applicable federal or state laws, such
59 company, with respect to any separate account, including without
60 limitation any separate account which is a management investment
61 account or a unit investment trust, may provide for persons having an
62 interest therein appropriate voting and other rights and special
63 procedures for the conduct or the business of such account, including
64 without limitation special rights and procedures relating to investment
65 policy, investment advisory services, selection of independent public
66 accountants, and the selection of a committee, the members of which
67 need not be otherwise affiliated with such company, to manage the
68 business of such account. The provisions of this subsection shall apply
69 notwithstanding any inconsistent provision in the charter of any such
70 domestic life insurance company or in the general statutes.

71 (b) Any contract providing benefits payable in variable amounts
72 delivered or issued for delivery in this state shall contain a statement
73 of the essential features of the procedures to be followed by the
74 insurance company in determining the dollar amount of such variable
75 benefits. Any such contract under which the benefits vary to reflect
76 investment experience, including a group contract and any certificate
77 in evidence of variable benefits issued thereunder, shall state that such
78 dollar amount will so vary and shall contain on its first page a
79 statement to the effect that the benefits thereunder are on a variable
80 basis.

81 (c) Except to the extent permitted under section 38a-459, no
82 domestic, foreign or alien insurance company or fraternal benefit
83 society shall deliver or issue for delivery in this state any such

84 contracts or annuities until the Insurance Commissioner licenses it to
85 do so. Such annuities or other contracts and the sale thereof, and such
86 insurance companies, shall be subject to the exclusive regulatory
87 authority of the Insurance Commissioner and shall not be subject to
88 The Connecticut Securities Act.

89 (d) Except for sections 38a-78 and 38a-440 in the case of a variable
90 annuity contract and section 38a-78 in the case of a variable life
91 insurance policy and except as otherwise provided herein, all pertinent
92 provisions of sections 38a-61, 38a-77, 38a-78, 38a-81, 38a-82, 38a-284,
93 38a-287, 38a-430 to 38a-454, inclusive, and 38a-458 and, with respect to
94 fraternal benefit societies, sections 38a-595 to 38a-626, inclusive, 38a-
95 631 to 38a-640, inclusive, and 38a-800, shall apply to separate accounts
96 and contracts relating thereto. The reserve liability for variable
97 contracts shall be established in accordance with actuarial procedures
98 that recognize the variable nature of the benefits provided and any
99 mortality guarantees.

100 (e) The commissioner shall have power to enforce the provisions of
101 this section, and may adopt, in accordance with the provisions of
102 chapter 54, such regulations as he deems necessary for that purpose,
103 covering, but not limited to, the form of life insurance or annuity
104 contracts providing for benefits payable in fixed or variable amounts
105 by domestic life insurance companies or domestic fraternal benefit
106 societies operating on a legal reserve basis; separation of the assets of
107 contract accounts; accounting of the income, gains and losses of
108 contract accounts; distribution of the proceeds of accounts; sale,
109 exchange or transfer of assets between accounts; guaranteed benefits;
110 investment and reinvestment of contract or account assets, loans or
111 investments; reserve liabilities; valuation of account assets; voting and
112 other rights and special procedures affecting accounts, including
113 investment policy, advisory services and the management, generally,
114 of accounts.

115 (f) On and after January 1, 2009, no insurance company shall sell a

116 policy or contract that provides for annuities payable in variable
117 amounts to a person who is sixty-five years of age or older.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2008	38a-433

Statement of Purpose:

To prohibit the sale of variable annuity policies or contracts to seniors to protect seniors from fraud.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]