

**304.15-390 Pension, retirement, profit-sharing, life insurance, or annuity agreements -- Separate accounts.**

- (1) A domestic life insurer may establish one (1) or more separate accounts, and may allocate thereto, in accordance with the terms of a written contract or agreement, any amounts paid to the insurer in connection with a pension, retirement or profit-sharing plan, life insurance, or an annuity which are to be applied to provide benefits payable in fixed or in variable dollar amounts or in both.
- (2) The income, if any, and gains and losses, realized or unrealized, on each such account shall be credited to or charged against the amounts allocated to the account in accordance with the agreement, without regard to other income, gains or losses of the insurer.
- (3) 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 in accordance with the terms of the applicable contract or agreement; except, that the portion of the assets of such separate account at least equal to the insurer's reserve liability with regard to the guaranteed benefits and funds referred to in subsection (1) of this section, if any, shall be valued in accordance with rules otherwise applicable to the insurer's assets.
- (4) If the agreement provides for payment of benefits in variable amounts, the contract shall contain a statement of the essential features of the procedure to be followed by the insurer in determining the dollar amount of such variable benefits. Any such contract and any certificate issued thereunder shall state that such dollar amount may decrease or increase and shall contain on its first page a statement that the benefits thereunder are on a variable basis.
- (5) No domestic life insurer, and no other authorized life insurer, shall be authorized to deliver within this state any such contract or agreement providing benefits in variable amounts until the insurer has satisfied the commissioner that its condition or methods of operation in connection with the issuance of such contracts or agreements will not render its operation hazardous to the public or its policyholders in this state. In determining the qualification of an insurer requesting such authority, the commissioner shall consider, among other things:
  - (a) The history and financial condition of the insurer;
  - (b) The character, responsibility and general fitness of the officers and directors of the insurer; and
  - (c) In the case of an insurer other than a domestic insurer, whether the statutes or regulations of the jurisdiction of its incorporation provide a degree of protection to policyholders and the public which is substantially equal to that provided by this section and the rules and regulations issued thereunder.
- (6) Amounts allocated by domestic life insurers to separate accounts in the exercise of the power granted by this section shall be owned by the insurer and the insurer shall not be, or hold itself to be, a trustee, in respect to such amounts.
- (7) The commissioner shall have sole authority to regulate the issuance and sale of such agreements, and to make rules and regulations for the effectuation of this section.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 1188, effective July 15, 2010. --  
Amended 1986 Ky. Acts ch. 437, sec. 20, effective July 15, 1986. -- Created 1970  
Ky. Acts ch. 301, subtit. 15, sec. 39, effective June 18, 1970.