

# CHAPTER 508A

## VARIABLE ANNUITIES AND LIFE INSURANCE

Referred to in [§87.4](#), [§296.7](#), [§331.301](#), [§364.4](#), [§505.28](#), [§505.29](#), [§510.11](#), [§669.14](#), [§670.7](#)

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### 508A.1 Basic requirements.

A domestic life insurance company organized under [chapter 508](#) may establish one or more separate accounts, and may allocate to such accounts amounts, including without limitation proceeds applied under optional modes of settlement or under dividend options, to provide for life insurance or annuities, and benefits incidental to such life insurance or annuities, payable in fixed or variable amounts or both, and may hold and accumulate funds pursuant to funding agreements, 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 company.

2. Except as may be provided with respect to reserves for guaranteed benefits and funds referred to in [subsection 3](#):

a. 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 such life insurance companies; and

b. The investments in such separate account or accounts shall not be taken into account in applying the investment limitations otherwise applicable to the investments of such company.

3. Except with the approval of the commissioner of insurance and under such conditions as to investments and other matters as the commissioner may prescribe, which shall recognize the guaranteed nature of the benefits provided, reserves for benefits guaranteed as to dollar amount and duration and funds guaranteed as to principal amount or stated rate of interest shall not be maintained in a separate account.

4. Unless otherwise approved by the commissioner of insurance, 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; however, unless otherwise approved by the commissioner of insurance, the portion, if any, 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 [subsection 3](#) shall be valued in accordance with the rules otherwise applicable to the company's assets.

5. Amounts allocated to a separate account in the exercise of the power granted by [this chapter](#) 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. Unless it is provided to the contrary under the applicable contracts, 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 company may conduct.

6. No sale, exchange or other transfer of assets may be made by such company 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 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 of insurance. The commissioner of insurance may approve other transfers among such accounts if, in the commissioner's opinion, such transfers would not be inequitable.

7. 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.

8. If the assets of an insurer allocated to and accumulated in a separate account in connection with any policy, annuity, agreement, instrument, or contract, after the satisfaction of any liabilities with regard to the operation of the separate account, are insufficient to fully satisfy the insurer's express obligations under the policy, annuity, agreement, instrument, or contract, then claims for the unsatisfied portions of the insurer's obligations shall be class 2 claims under [section 507C.42, subsection 2](#).

[C75, 77, 79, 81, §508A.1]

[98 Acts, ch 1057, §5](#); [2006 Acts, ch 1117, §32](#)

Referred to in [§507C.2](#), [§507C.42](#), [§508.31A](#), [§508.32](#), [§508.32A](#)

#### **508A.2 Statement of variables.**

Any 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 insurance company in determining the dollar amount of such variable benefits. Any such contract under which the benefits vary to reflect investment experience, including a group contract and any certificate in evidence of variable benefits issued thereunder, shall state that such dollar amount will so vary and shall contain on its first page a statement to the effect that the benefits thereunder are on a variable basis.

[C75, 77, 79, 81, §508A.2]

#### **508A.3 License requirements.**

No company shall deliver or issue for delivery within this state variable contracts unless it is licensed or organized to do a life insurance or annuity business in this state, and the commissioner of insurance 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 of insurance shall consider among other things:

1. The history and financial condition of the company;
2. The character, responsibility and fitness of the officers and directors of the company; and
3. The law and regulation under which the company is authorized in the state of domicile to issue variable contracts. The state of entry of an alien company shall be deemed its place of domicile for that purpose. If the company is a subsidiary of an admitted life insurance company, or affiliated with such company through common management or ownership, it may be deemed by the commissioner of insurance to have met the provisions of [this section](#) if either it or the parent or the affiliated company meets the requirements hereof.

[C75, 77, 79, 81, §508A.3]

#### **508A.4 Authority of commissioner.**

Notwithstanding any other provision of law, the commissioner of insurance shall have sole authority to regulate the issuance and sale of variable contracts, and to issue such reasonable rules and regulations as may be appropriate to carry out the purposes and provisions of [this chapter](#).

[C75, 77, 79, 81, §508A.4]

#### **508A.5 Other provisions applicable.**

Except for [section 508.37](#) and [section 509.2, subsection 1](#), and except as otherwise provided in [this chapter](#), all pertinent provisions of [chapters 508, 509, 511, and 522B](#) shall

apply to separate accounts and contracts relating thereto. Any individual variable life insurance contract, delivered or issued for delivery in this state, shall contain nonforfeiture provisions appropriate to such a contract. Any group variable life insurance contract, delivered or issued for delivery in this state, shall contain a grace provision appropriate to such a contract. The reserve liability for variable contracts shall be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

[C75, 77, 79, 81, §508A.5]

[2001 Acts, ch 16, §7, 37](#)