

**CONSENT CALENDAR**

**April 20, 2022**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on Commerce and Consumer Affairs to  
which was referred SB 208,**

**AN ACT relative to life insurance. Having considered  
the same, report the same with the recommendation  
that the bill OUGHT TO PASS.**

**Rep. John Hunt**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

<b>Committee:</b>	<b>Commerce and Consumer Affairs</b>
<b>Bill Number:</b>	<b>SB 208</b>
<b>Title:</b>	<b>relative to life insurance.</b>
<b>Date:</b>	<b>April 20, 2022</b>
<b>Consent Calendar:</b>	<b>CONSENT</b>
<b>Recommendation:</b>	<b>OUGHT TO PASS</b>

### STATEMENT OF INTENT

This bill is an update and modernization of New Hampshire's regulations related to life insurance, as drafted by the Insurance Department. A previous year's attempt to undertake this re-write project was sidelined due to the pandemic. The language proposed in the bill not only strips out the old statutory provisions but also revises the remaining provisions to bring them up to date, resulting in a proposal to repeal and re-enact RSA 408. The statute is over 170 years old and has not been amended in over a decade. As such, this bill removes antiquated terms and better accounts for other statutes that have been enacted since the adoption of this statute in 1850.

Vote 18-0.

Rep. John Hunt  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## **CONSENT CALENDAR**

### **Commerce and Consumer Affairs**

**SB 208**, relative to life insurance. **OUGHT TO PASS.**

Rep. John Hunt for Commerce and Consumer Affairs. This bill is an update and modernization of New Hampshire's regulations related to life insurance, as drafted by the Insurance Department. A previous year's attempt to undertake this re-write project was sidelined due to the pandemic. The language proposed in the bill not only strips out the old statutory provisions but also revises the remaining provisions to bring them up to date, resulting in a proposal to repeal and re-enact RSA 408. The statute is over 170 years old and has not been amended in over a decade. As such, this bill removes antiquated terms and better accounts for other statutes that have been enacted since the adoption of this statute in 1850. **Vote 18-0.**

**Original: House Clerk**

**Cc: Committee Bill File**

**HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS**

**EXECUTIVE SESSION on SB 208**

**BILL TITLE:** relative to life insurance.

**DATE:** April 20, 2022

**LOB ROOM:** 302-304

**MOTIONS:** OUGHT TO PASS

Moved by Rep. Hunt

Seconded by Rep. Fargo

Vote: 18-0

**CONSENT CALENDAR: YES**

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep Keith Ammon, Clerk



2022 SESSION

## Commerce and Consumer Affairs

 Bill #: SB 2008 Motion: OTP AM #: \_\_\_\_\_ Exec Session Date: 9/20/22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Hunt, John B. Chairman	10		
Potucek, John M. Vice Chairman	1		
Osborne, Jason M.	2		
Ammon, Keith M. Clerk	3		
Abramson, Max			
Ham, Bonnie D.	4		
Depalma IV, Joseph	5		
Greeson, Jeffrey	6		
Johnson, Dawn M.	7		
Terry, Paul A.	8		
Bartlett, Christy D.	9		
Abel, Richard M.	10		
Herbert, Christopher J.	11		
Van Houten, Constance	12		
Fargo, Kristina M.	13		
Weston, Joyce	14		
Beaulieu, Jane E.	15		
Burroughs, Anita D.	16		
McAleer, Chris R.	17		
<b>TOTAL VOTE:</b>	10	0	

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

SUBCOMMITTEE WORK SESSION on SB 208

BILL TITLE: relative to life insurance.

DATE: 4/7/22

Subcommittee Members: Reps. Hunt, Potucek, Ammon, Osborne, Abramson, Ham, Depalma IV, Greeson, Johnson, Terry, Bartlett, Abel, Herbert, Van Houten, Fargo, Weston, Beaulieu, Burroughs and McAleer

Comments and Recommendations:

Three horizontal lines for writing comments and recommendations.

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr) (Please circle one)

Moved by Rep. Hunt Seconded by Rep. Fargo AM Vote: 5-0

Adoption of Amendment # \_\_\_\_\_

Moved by Rep. \_\_\_\_\_ Seconded by Rep. \_\_\_\_\_ Vote: \_\_\_\_\_

Amendment Adopted Amendment Failed

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr) (Please circle one)

Moved by Rep. \_\_\_\_\_ Seconded by Rep. \_\_\_\_\_ AM Vote: \_\_\_\_\_

Adoption of Amendment # \_\_\_\_\_

Moved by Rep. \_\_\_\_\_ Seconded by Rep. \_\_\_\_\_ Vote: \_\_\_\_\_

Amendment Adopted Amendment Failed

Respectfully submitted,

Rep. [Signature] Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS  
**SUBCOMMITTEE WORK SESSION** on SB 208

**BILL TITLE:** relative to life insurance.

**DATE:** April 7, 2022

**Subcommittee Members:** Reps. Hunt, Greeson, Terry, Fargo and Burroughs

**Comments and Recommendations:**

**MOTIONS:** OUGHT TO PASS

Moved by Rep. Rep. Hunt

Seconded by Rep. Rep. Fargo

Vote: 5-0

Respectfully submitted,

Rep. John Hunt  
Subcommittee Chairman

HOUSE COMMITTEE ON COMMERCE & CONSUMER AFFAIRS

PUBLIC HEARING on Bill # SB208

BILL TITLE:

DATE: 4/6/2022

ROOM: Zoom

Time Public Hearing Called to Order: 1:02 PM

Time Adjourned: 1:13 PM

(please bold if present)

**Committee Members:** Reps. **Hunt, Potucek, Ammon, Osborne, Abramson, Ham, Depalma IV, Greeson, Johnson, Terry, Bartlett, Abel, Herbert, Van Houten, Fargo, Weston, Beaulieu, Burroughs and McAleer**

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

**Sen Kevin Kavanaugh**

I'm introducing Senate bill 208 at the request of the insurance department to update and modernize RSA 408, which regulates life insurance. This rewrite project has been ongoing for a couple years in 2020. The department requested Senate bill 664. That was stripped out and out the outdated and obsolete provisions of RSA 408. That bill passed the Senate on a voice belt, but then was tabled in the house because of the when the pandemic hit the language proposed in Senate bill 208, not only strips out the old provisions, but also revises the remaining provisions to bring them up to date resulting in a proposal to repeal and reenact RSA 408. The department provided a legend to committee members that references the proposed changes section by section Michelle Heaton is here from the insurance department to walk you through it.

**Michelle Heaton - NH Ins Dept**

I'm the health law policy legal counsel at the insurance department. So the insurance department has been working for several years to update new Hampshire's life insurance statute and to bring it into modern times, the current 408 or RSA 408 contains several outdated provisions, which were first enacted as far back as 1850. The department originally sought to update for RSA four oh Y into two phases first by removing all the outdated and duplicative provisions. And then the second phase would be to update and expand the remaining provisions as necessary. As Senator Kavanaugh already let you know that first phase started going and then the pandemic hit. So it got tabled. And then we decided we're just gonna do it all as one. One repeal and reenactment at 408. So since 2020, we have now completed a proposal for updating and modernizing the life insurance statue. So this legend here that's being passed around because it's a complete repeal and reenactment helps guide people. The left-hand side is what the current 408 is. And then there's the re the reasons why it's either repealed or where it got moved to in the new 408 or or how it's been amended as well. So as you'll see, a lot of the provisions have been repealed as they're either no longer necessary or they're covered by other statutes, for example there, the old 4085 or the current 485 relating to agents is



we don't need that in 4 0 8 because we it's already covered by RSA 4 0 2 J, which is specific to insurance producers. So there's a lot of duplicative provisions in the current 4 0 8 right now. So we want to move those out to make it easier for people to find, because if you're looking at statutes to insurance producers, you would not think to look in the insurance, the life insurance statute, you would look in the producer section. So there's a lot of things that have been repealed because they're in, they're covered in other sections of the title three seven relating to insurance. We've also for the stuff that's remaining, we've also updated the language to bring it into modern times. And some of the provisions that are based off of N IIC models, we have also updated that language because the model may have been adopted, you know, 20, 30 years ago. And the model has since been amended. We're just adding in that new language to so better lines with the current versions of the N a I C models. So rather than walking through every single change that we've made, because it's quite extensive I'd be happy to answer any questions.

**Q: Rep Terry**

No, he's not here. this is Terry. Paul Is not here. Representative Terry, thank you. Since you are utilizing, this is a complete rewrite, it sounds like from existing laws going back as far as 1850, right? Yes. is, is this primarily the N IC model that you're using? And I guess what I'm asking is would you, would you be able to highlight any particular sections of this of this bill that are New Hampshire specific peculiar to New Hampshire?

**A:** So there isn't an N a I C model that's just for life insurance. Okay. And that would be, that would incorporate everything that's in 4 0 8, there are multiple models that have been incorporated into different sections of 4 0 8. So for example, there's a model about group life insurance. So those provisions are included in our rewrite, but that would only be one an AIC model. So there are certain things I'm trying to think like our form, our form filings and review, that's basically how most states operate. I'm not sure that there's necessarily an N a I C model on it. So that might be a little bit specific. Some of those time periods could be specific to New Hampshire. I'm trying to think of something else. There's various aspects of different models that get incorporated in here. So I'm not sure which one

**Q: Rep Terry -** Quick follow further the question major. Sure. So, so there there's, there's nothing here with reference to the reference materials that you utilized and incorporated into this rewrite that were either changed because of, of New Hampshire specific concerns relative to the other states. Yes, sir. Do I, are you getting me

**A:** Kind of, yeah.

**Q: Rep Terry -** Here's another way of putting this. Could, could, could this bill, if Pennsylvania were in the same position as New Hampshire with respect to the need to do a rewrite, which you acknowledge are there any substantial sections of this bill that would be different

**A:** Not knowing Pennsylvania law? I would say no in that every, every state, their laws are slightly different. We didn't change anything that was in 4 0 8 to make it more New Hampshire specific. There could have been things that were already in 4 0 8 that we didn't take out, but we may have tweaked it to better align with the national standard or with the NEIC guidelines.

**Q: Rep Terry -** Okay. There's nothing peculiar to New Hampshire.

**A:** No.

**Q: Rep Hunt** - And I would venture to say that you cuz given there how much case law might be driven by the statute, you really don't want to change anything in terms of actual legal process because you, you don't want to upset the cart when it comes to the courts having to say we have to change it because it was changed by the statute.

**A:** No, as we were going through the rewrite, if there was something, if there was some kind of case law, and I'm not thinking of anything specific to 4 0 8, right. But had there been some kind of case law that interpreted 4 0 8 in a particular way, we may have clarified the language in 4 0 8 to be consistent with what that legal precedent was.

Respectfully submitted,

Rep. Keith Ammon, Clerk



## House Remote Testify

Commerce and Consumer Affairs Committee Testify List for Bill **SB208** on 2022-04-06

Support: 0 Oppose: 0 Neutral: 0 Total to Testify: 0

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SB 208 - AS INTRODUCED

2022 SESSION

22-2933

11/05

SENATE BILL        **208**

AN ACT            relative to life insurance.

SPONSORS:        Sen. Cavanaugh, Dist 16; Sen. Bradley, Dist 3; Rep. Hunt, Ches. 11; Rep. Abel,  
Graf. 13

COMMITTEE:      Commerce

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ANALYSIS

This bill repeals and reenacts RSA 408 relative to life insurance.

This bill is a request of the insurance department.

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Explanation:      Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struckthrough.~~]  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT relative to life insurance.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 Life Insurance. RSA 408 is repealed and reenacted to read as follows:

2 CHAPTER 408

3 LIFE INSURANCE

4 General Requirements

5 408:1 Power of Commissioner. Notwithstanding any other provision of law, the commissioner  
6 shall have sole authority to regulate the issuance and sale of life insurance, annuities, and variable  
7 products thereof. The commissioner may adopt rules as necessary to implement the provisions of  
8 this chapter. The commissioner may promulgate rules relating to protecting against the exploitation  
9 of the elderly and in home solicitation for life insurance policies and annuity contracts.

10 408:2 Certificate of Authority. No person may issue a life insurance policy or annuity contract  
11 without first obtaining a certificate of authority from the commissioner.

12 408:3 Insurable Interest.

13 I. For the purpose of life insurance and annuities:

14 (a) An individual has an unlimited insurable interest in his or her own life, body, and  
15 health, and may lawfully take out a policy of insurance on his or her own life, body, and health, and  
16 have the policy made payable to whomsoever he or she pleases, regardless of whether the beneficiary  
17 designated has an insurable interest.

18 (b) A policyholder has an insurable interest in the life of an individual if such  
19 policyholder has a lawful and substantial interest in the continued life of the insured, as  
20 distinguished from an interest that would arise only from, or would be enhanced in value by, the  
21 death of the individual insured.

22 (c) An organization which qualifies for a charitable deduction under the Internal  
23 Revenue Code has an insurable interest in the life of any person who consents in writing to the  
24 organization's ownership or purchase of that insurance.

25 (d) A life insurance policy or annuity may be issued to a business entity as the owner  
26 and beneficiary on the life of a key employee or partner if there exists a reasonable and substantial  
27 expectation of pecuniary benefit or advantage, direct or indirect, in the continued life of the other  
28 person.

29 (e) A trustee, sponsor, or custodian of assets held in any plan governed by the Employee  
30 Retirement Income Security Act of 1974, 29 U.S.C. 1001 et seq., or in any other retirement or  
31 employee benefit plan has an insurable interest in the lives of its employees, former employees and

1 retirees for the purpose of funding, in the aggregate, all or part of the entity's cost for preretirement  
2 and postretirement medical, death, disability and pension benefits to its employees, former  
3 employees, retirees or their beneficiaries, as long as an insurance program used to finance these  
4 employee benefits includes former employees, retirees or a broad class of employees selected by  
5 objective standards related to service, or category of employment and that the proceeds created by  
6 that insurance program are used for the sole purpose of funding the corporation's preretirement or  
7 postretirement benefit programs covering at least a broad class of employees.

8 (1) Employers shall notify eligible employees of their proposed participation in the  
9 plan and the employees shall be given an opportunity to refuse to participate. On a prospective  
10 basis, employers shall obtain written consent of each individual being insured. Consent shall  
11 include an acknowledgment that the employer may maintain the life insurance coverage even after  
12 the insured individual's employment has terminated and the employee may not revoke their consent.

13 (2) An employer shall not retaliate in any manner against an employee or a retired  
14 employee for refusing to consent to be insured.

15 (3) For non-key or non-managerial employees, the amount of coverage shall be  
16 reasonably related to the benefits provided to the employees.

17 (4) With respect to employer provided pension and welfare benefit plans, the life  
18 insurance coverage purchased to finance the plans should only be allowed on the lives of those  
19 employees and retirees who, at the time their lives are first insured under the plan, would be eligible  
20 to participate in the plan.

21 II. An insurable interest shall exist at the time the policy or contract is issued. No policy or  
22 annuity can exist without an insurable interest.

23 III. No life insurance policy or annuity contract may be issued unless the insured has  
24 consented in writing to the issuance of such policy. The insured shall have the right to revoke their  
25 consent at any time, except for plans issued as described in subparagraph I(e).

26 IV. If the beneficiary, assignee, or other payee under any contract made in violation of this  
27 section receives from the insurer any benefits thereunder accruing upon the death, disablement, or  
28 injury of the individual insured, the individual insured, or his or her executor or administrator, as  
29 the case may be, may maintain an action to recover those benefits from the person so receiving them.

30 V. Any device, scheme, or artifice designed to give the appearance of an insurable interest  
31 where there is no legitimate insurable interest violates this title and shall constitute insurance  
32 fraud.

33 408:4 Form Review.

34 I. No policy, contract, certificate, document, or other form related to life insurance or  
35 annuities shall be issued or delivered to any person in this state until a copy thereof has been  
36 submitted to the commissioner for review to determine whether it is in compliance with Title  
37 XXXVII and rules adopted thereunder.

1           II. The commissioner may, within 30 days after the filing of any such form, disapprove such  
2 form:

3           (a) If it contains a provision or provisions which are unjust, unfair, inequitable,  
4 misleading, deceptive, or encourage misrepresentation of such policy; or

5           (b) If it does not comply with the requirements of Title XXXVII or rules adopted  
6 thereunder.

7           III. If the commissioner disapproves a form, it shall be unlawful thereafter for the insurer to  
8 issue the form or use it in connection with any policy, contract, or certificate. The commissioner  
9 shall issue a notice of disapproval, specify the reasons for disapproval in the notice, and state that a  
10 hearing shall be granted in accordance with RSA 400-A:17 upon request in writing by the insurer.

11           408:5 Subsequent Withdrawal of Approval. The commissioner may at any time, after a hearing  
12 noticed in accordance with RSA 400-A:18, withdraw approval of any such form that does not comply  
13 with the requirements of Title XXXVII or rules adopted thereunder. It shall be unlawful for the  
14 insurer to issue the form or use it in connection with any policy after the effective date of such  
15 withdrawal of approval.

16           408:6 Third Party Proceeds from Death Benefits. The lawful beneficiary of a life insurance  
17 policy or annuity contract death benefit shall be entitled to its proceeds and all other benefits against  
18 creditors and representatives of the insured person provided that, subject to the statute of  
19 limitations, the amount of any premiums for said insurance paid in fraud of creditors, with interest  
20 thereon, shall inure to the creditors' benefit from the proceeds of the policy.

21           408:7 Intent to Defraud. If it appears that the life insurance policy or annuity contract was  
22 procured with the intent and effect of defrauding creditors of the person procuring the same, the  
23 party receiving the money secured by the policy shall be liable to such creditors for the amount of all  
24 premiums paid for such insurance with interest thereon. The company issuing the policy shall be  
25 discharged of all liability thereon by payment of its proceeds in accordance with its terms, unless  
26 before such payment, the company shall have written notice, by or on behalf of a creditor, of a claim  
27 to recover for certain premiums paid in fraud of creditors with the certification of the amount  
28 claimed.

29           408:8 Penalty. Any person who violates any provision of this chapter or any rule adopted  
30 thereunder shall be subject to penalties as provided under RSA 400-A:15, III.

31           408:9 Retained Asset Accounts.

32           I. "Retained asset account" means any mechanism whereby the settlement of death benefits  
33 payable under a life insurance policy or annuity contract is accomplished pursuant to a disclosure  
34 document with the beneficiary, or the beneficiary's legal representative, by the insurer, or an entity  
35 acting on behalf of the insurer, depositing the proceeds into an account with check or draft writing  
36 privileges pursuant to a disclosure document.



1           II. An insurer may not transfer funds to a retained asset account unless the beneficiary or  
2 the beneficiary's legal representative has elected to receive funds through a retained asset account  
3 after receiving written information describing the settlement options available under the policy or  
4 contract and any other option available to the beneficiary for the receipt of proceeds.

5           III. The insurer shall provide written disclosures to the beneficiary, or the beneficiary's legal  
6 representative, of the death benefit that clearly provides the rights of the beneficiary and the  
7 obligations of the insurer before the retained asset account is selected. Such disclosures shall  
8 include the following:

9           (a) Payment of the full benefit amount is accomplished by delivery of the draft book or  
10 check book;

11           (b) One draft or check may be written to access the entire amount, including interest, of  
12 the retained asset account at any time;

13           (c) Whether other available settlement options are preserved until the entire balance is  
14 withdrawn or the balance drops below the insurer's minimum balance requirements;

15           (d) A statement identifying the account as either a checking account or a draft account  
16 and an explanation of how the account works;

17           (e) Information about the account services provided and contact information where the  
18 beneficiary may request and obtain more details about such services;

19           (f) A description of services provided at no charge and which services involve a fee, if  
20 applicable;

21           (g) The frequency of statements showing the current account balance, the interest  
22 credited, drafts or checks written, and any other account activity;

23           (h) The minimum interest rate to be credited to the account and how the actual interest  
24 rate will be determined;

25           (i) The interest earned on the account may be taxable;

26           (j) Retained asset account funds held by insurance companies are not insured by the  
27 Federal Deposit Insurance Corporation but are guaranteed by the state guaranty association. The  
28 beneficiary should be advised to contact the National Organization of Life and Health Insurance  
29 Guaranty Associations via the association's website to learn more about the coverage limitations to  
30 the account under a state guaranty association;

31           (k) A description of the insurer's policy regarding retained asset accounts that become  
32 inactive;

33           (l) The contact information, including Internet website address, a telephone number,  
34 and address, where the beneficiary may obtain additional information and answers to any questions;

35           (m) The recommendation to consult a tax, investment, or other financial advisor  
36 regarding tax liability and investment options; and

1 (n) A beneficiary for the account may be designated if no designation has previously  
2 been made.

3 IV. The insurer shall deliver periodic statements to the beneficiary at least quarterly  
4 detailing the account balance and any transactions.

5 408:10 Change in Beneficiary. Any change in beneficiary in a life insurance policy or annuity  
6 contract shall comply with RSA 471-C:7, VII.

7 408:11 Interest Payment on Claims for Death Benefits.

8 I. Any policy or contract containing a death benefit shall contain a provision for the payment  
9 of interest on the death benefit, as follows:

10 (a) Interest shall accrue and be payable from the date of death.

11 (b) Interest shall accrue at the rate or rates applicable to the policy for funds left on  
12 deposit or, if the company has not established a rate for funds left on deposit, at the Two Year  
13 Treasury Constant Maturity Rate as published by the Federal Reserve. In determining the effective  
14 annual rate or rates, the company shall use the rate in effect on the date of death.

15 (c) Interest shall accrue at the effective annual rate determined in subparagraph (b),  
16 plus additional interest at a rate of 10 percent annually, beginning with the date that is 31 calendar  
17 days from the latest of dates identified in subparagraph (1) or (2), to the date the claim is paid,  
18 where it is:

19 (1) The date that due proof of death is received by the company; or

20 (2) The date the company receives sufficient information to determine its liability,  
21 the extent of the liability, and the beneficiary legally entitled to the proceeds.

22 II. The insurer has a duty to pay all claims in a timely manner. Nothing in this section shall  
23 be construed to allow any life insurance company doing business in this state to withhold payment of  
24 money payable under a life insurance policy or annuity contract death benefit to any beneficiary for  
25 a period longer than reasonably necessary to transmit such payment.

26 III. In any case in which interest on the proceeds of, or payments under, any individual or  
27 group policy of life insurance or annuity contract death benefit becomes payable pursuant to  
28 paragraph I, the insurer shall notify each named beneficiary at the last known address, as evidenced  
29 by the business records of the insurer, that interest will be paid on the proceeds of, or payments  
30 under, such policy from the date of death of the named insured, if the company does not pay the  
31 proceeds of, or payments under, the policy within 30 days of the insured's death. Such notice shall  
32 specify the rate of interest to be paid.

33 408:12 Electronic Mail. Any notice or document required by this chapter to be mailed may be  
34 transmitted to the recipient electronically in lieu of mail in accordance with RSA 420-Q:2.

35 Life Insurance

36 408:13 General Policy Requirements for Life Insurance. Every life insurance policy subject to  
37 this chapter shall comply with the following:

1 I. Payment of premiums. There shall be a provision relating to the time and place of  
2 payment of premiums.

3 II. Grace period. There shall be a provision that the policyholder is entitled to a grace period  
4 for the premium due, except the first, during which grace period the death benefit coverage shall  
5 continue in force, unless the policyholder has given the insurer written notice of discontinuance in  
6 advance of the date of discontinuance and in accordance with the terms of the policy. The policy may  
7 provide that the policyholder shall be liable to the insurer for the payment of a pro rata premium for  
8 the time the policy was in force during such grace period. The commissioner may adopt rules to  
9 establish the length of the grace period.

10 III. Entire contract. There shall be a provision that the policy, together with a copy of the  
11 signed and completed application, shall constitute the entire contract between the parties.

12 IV. Incontestability. There shall be a provision that the policy shall be incontestable by the  
13 insurer after it has been in force for 2 years during the lifetime of the insured. However, any  
14 increase in the amount of the policy's death benefits subsequent to the policy issue date, which  
15 occurred upon a new application or request of the owner and was subject to satisfactory proof of the  
16 insured's insurability, shall be incontestable after the increase has been in force, during the lifetime  
17 of the insured, for 2 years from the date of issue of increase.

18 V. Misstatement. If there is a misstatement of age or gender in the policy, the amount of  
19 the death benefit shall be that which would be purchased by the most recent mortality charge at the  
20 correct age or gender. The commissioner may approve other methods which are deemed satisfactory.

21 VI. Suicide. If the policy includes a suicide exclusion, such exclusion shall not apply after  
22 the second anniversary of the effective date of the policy.

23 408:14 Group Life Insurance; Definitions. No policy or certificate of group life insurance shall  
24 be issued or delivered in this state unless the policy is issued to a group that conforms to one of the  
25 following descriptions:

26 I. A policy issued to an employer, or to the trustees of a fund established by an employer,  
27 which employer or trustees shall be deemed the policyholder, to insure employees of the employer for  
28 the benefit of persons other than the employer, subject to the following requirements:

29 (a) The employees eligible for insurance under the policy shall be all of the employees of  
30 the employer or all of any class or classes thereof, determined by conditions pertaining to their  
31 employment. The policy may provide that the term "employees" shall include the employees of one  
32 or more subsidiary corporations and the employees, individual proprietors, and partners of one or  
33 more affiliated corporations, proprietors, or partnerships, if the business of the employer and of such  
34 affiliated corporations, proprietors, or partnerships is under common control through stock  
35 ownership, contract, or otherwise. The policy may provide that the term "employees" shall include  
36 the individual proprietor or partners, if the employer is an individual proprietor or a partnership.  
37 The policy may provide that the term "employees" may include retired employees, former employees,

1 and directors of a corporate employer. A policy issued to insure the employees of a public body may  
2 provide that the term "employee" shall include elected or appointed officials.

3 (b) The premium for the policy shall be paid by the policyholder, either from the  
4 employer's funds, or from funds contributed by the insured employees, or from both. A policy on  
5 which no part of the premium is to be derived from funds contributed by the insured employees shall  
6 insure all eligible employees, or all except any as to whom evidence of individual insurability is not  
7 satisfactory to the insurer.

8 II. A policy issued to a creditor or its parent holding company or to the trustees of a fund  
9 established by one or more creditors, which creditor or trustees shall be deemed the policyholder, to  
10 insure debtors of the creditor or creditors, subject to the following requirements:

11 (a) The debtors eligible for insurance under the policy shall be all the debtors of the  
12 creditor or creditors or all of any class or classes thereof. The policy may provide that the term  
13 "debtors" shall include:

14 (1) Borrowers of money or purchasers or lessees of goods, services, or property for  
15 which payment is arranged through a credit transaction;

16 (2) The debtors of one or more subsidiary corporations; and

17 (3) The debtors of one or more affiliated corporations, proprietors, or partnerships, if  
18 the business of the policyholder and of such affiliated corporations, proprietors, or partnerships is  
19 under common control through stock ownership, contract, or otherwise.

20 (b) The premium for the policy shall be paid by the policyholder, either from the creditor  
21 or creditors' funds, or from charges collected from the insured debtors, or from both. A policy on  
22 which no part of the premium is to be derived from funds contributed by insured debtors specifically  
23 for their insurance shall insure all eligible debtors, or all except any as to whom evidence of  
24 individual insurability is not satisfactory to the insurer.

25 (c) The amount of insurance on the life of any debtor shall at no time exceed the greater  
26 of the scheduled or actual amount of unpaid indebtedness to the creditor.

27 (d) The insurance shall be payable to the policyholder. Such payment shall reduce or  
28 extinguish the unpaid indebtedness of the debtor to the extent of the payment and any excess of the  
29 insurance shall be payable to the estate of the insured.

30 (e) Notwithstanding the provisions of subparagraphs (a)-(d), insurance on agricultural  
31 credit transaction commitments may be written up to the amount of the loan commitment on a non-  
32 decreasing or level term plan. Insurance on educational credit transaction commitments may be  
33 written up to the amount of the loan commitment less the amount of any repayments made on the  
34 loan,

35 III. A policy issued to a labor union or similar employee organization, which shall be deemed  
36 the policyholder, to insure members of such union or organization for the benefit of persons other

1 than the union or any of its officials, representatives, or agents, subject to the following  
2 requirements:

3 (a) The members eligible for insurance under the policy shall be all of the members of  
4 the union or organization, or all of any class or classes thereof determined by conditions pertaining  
5 to their employment, or to membership in the union or organization, or both.

6 (b) The premium for the policy shall be paid by the policyholder, either wholly from the  
7 union's or organization's funds or partly from such funds and partly from funds contributed by the  
8 insured members specifically for the insurance. A policy on which no part of the premium is to be  
9 derived from funds contributed by the insured members specifically for their insurance shall insure  
10 all eligible members, or all except any as to whom evidence of individual insurability is not  
11 satisfactory to the insurer.

12 IV. A policy issued to the trustees of a fund established by 2 or more employers in the same  
13 industry or by one or more labor unions or similar employee organizations, which trustees shall be  
14 deemed the policyholder, to insure employees of the employers or members of the union(s) or  
15 organizations for the benefit of persons other than the employers or the unions, subject to the  
16 following requirements:

17 (a) The persons eligible for insurance shall be all of the employees of the employers or all  
18 of the members of the unions, or all of any class or classes thereof determined by conditions  
19 pertaining to their employment, or to membership in the unions, or to both. The policy may provide  
20 that the term "employees" shall include the individual proprietor or partners if an employer is an  
21 individual proprietor or a partnership. The policy may provide that the term "employees" shall  
22 include the trustees or their employees, or both, if their duties are principally connected with such  
23 trusteeship. The policy may provide that the term "employees" shall include retired employees,  
24 former employees, and directors of a corporate employer.

25 (b) The premiums for the policy shall be paid by the policyholder either wholly from  
26 funds contributed by the employers of the insured persons or partly from such funds and partly from  
27 funds contributed by the insured employees. A policy on which no part of the premium is to be  
28 derived from funds contributed by the insured members specifically for their insurance shall insure  
29 all eligible members, or all except any as to whom evidence of individual insurability is not  
30 satisfactory to the insurer.

31 V. A policy issued to a credit union or to the trustees of a fund established by one or more  
32 credit unions, which credit union or trustees shall be deemed the policyholder to insure members of  
33 such credit union or credit unions for the benefit of persons other than the credit union or credit  
34 unions or trustees or any of their officials, subject to the following requirements:

35 (a) The members eligible for insurance shall be all of the members of the credit union or  
36 credit unions, or all of any class or classes thereof determined by conditions pertaining to  
37 membership in the credit union or credit unions.

1 (b) The premium for the policy shall be paid by the policyholder, either wholly from the  
2 funds of the credit union or credit unions, or partly from such funds and partly from funds  
3 contributed by the insured members specifically for their insurance, or wholly from funds  
4 contributed by the insured members specifically for their insurance. A policy on which no part of the  
5 premium is to be derived from funds contributed by the insured members specifically for their  
6 insurance shall insure all eligible members, or all except any as to whom evidence of individual  
7 insurability is not satisfactory to the insurer.

8 VI. A policy issued to an association or trust of public employees formed for purposes other  
9 than obtaining insurance, which association shall be deemed the policyholder, to insure members of  
10 such association for the benefit of persons other than the association or any of its officials, subject to  
11 the following requirements:

12 (a) The persons eligible for insurance under the policy shall be all of the members of the  
13 association, or all of any class or classes thereof determined by conditions pertaining to their  
14 employment, or to membership in the association, or both.

15 (b) The premium for the policy shall be paid by the policyholder, either from the  
16 association's own funds, or charges collected from the insured members specifically for insurance, or  
17 from both. A policy on which no part of the premium is to be derived from funds contributed by the  
18 insured members specifically for their insurance shall insure all eligible members, or all except any  
19 as to whom evidence of individual insurability is not satisfactory to the insurer.

20 (c) As used herein, "public employees" means employees of the United States  
21 government, or of any state, county, municipality, or political subdivision, or instrumentality of any  
22 of them.

23 VII.(a) A policy or certificate issued to a resident of this state under a group life insurance  
24 policy may be issued to a group other than one described in paragraphs I through VI provided the  
25 commissioner finds that:

26 (1) The issuance or delivery of the policy or certificate is not contrary to the best  
27 interest of the public.

28 (2) The issuance or delivery of the policy or certificate would result in economies of  
29 acquisition or administration.

30 (3) The benefits are reasonable in relation to the premiums charged.

31 (4) The premium for the policy shall be paid either from the policyholder's funds or  
32 from funds contributed by the covered persons, or from both, and shall insure all eligible covered  
33 persons, or all except any as to whom evidence of individual insurability is not satisfactory to the  
34 insurer.

35 (b) If the commissioner has approved a discretionary group, it shall be the responsibility  
36 of the insurer to verify that the group continues to meet the discretionary group requirements.

1 (c) Any filing made in relation to a discretionary group life insurance policy or certificate  
2 that was approved by the department prior to July 1, 2009 shall be deemed to meet the requirements  
3 of this paragraph, unless the commissioner acts at any time to revoke such approval after a hearing  
4 pursuant to RSA 400-A:17.

5 (d) The commissioner may, after a hearing held pursuant to RSA 400-A:17, withdraw  
6 approval of a discretionary group if the commissioner finds such a group no longer meets the  
7 requirement of this paragraph.

8 VIII. Notwithstanding the above, any such policy of group life insurance issued pursuant to  
9 paragraphs I-VII may be extended to provide group life insurance for an employee, or other member  
10 of the group, his or her spouse, child or children, or other dependents.

11 408:15 Group Standard Provisions. No policy or certificate of group life insurance, or any form  
12 attached to a policy or certificate of group life insurance, shall be delivered or issued for delivery in  
13 this state to a resident of this state unless it contains in substance the following provisions, or  
14 provisions which in the opinion of the commissioner are more favorable to the persons insured, or at  
15 least as favorable to the persons insured and more favorable to the policyholder or certificate holder,  
16 provided, however, that (a) provisions in paragraphs II-VIII inclusive shall not apply to policies  
17 issued to a creditor to insure debtors of such creditor or to policies issued to a credit union to insure  
18 members of such credit union; and (b) if the group life insurance policy is on a plan of insurance  
19 other than the term plan, it shall contain a nonforfeiture provision or provisions which, in the  
20 opinion of the commissioner, is or are equitable to the insured persons and to the policyholder or  
21 certificate holder, but nothing herein shall be construed to require that group life insurance policies  
22 and certificates contain the same nonforfeiture provisions as are required for individual life  
23 insurance policies:

24 I. A provision setting forth the conditions, if any, under which the insurer reserves the right  
25 to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to  
26 the insurer as a condition to part or all of his or her coverage.

27 II. A provision that any sum becoming due, by reason of the death of the person insured,  
28 shall be payable to the beneficiary designated by the person insured, subject to the provisions of the  
29 policy. In the event there is no living designated beneficiary as to all or any part of such sum at the  
30 death of the person insured, the insurer may, subject to any right reserved by the insurer in the  
31 policy and set forth in the certificate, pay at its option a part of such sum, not exceeding \$2,000, to  
32 any person appearing to the insurer to be equitably entitled thereto by reason of having incurred  
33 funeral or other expenses incident to the last illness or death of the person insured.

34 III. A provision that the insurer will issue to the policyholder, for delivery to each person  
35 insured, an individual certificate setting forth a statement as to the insurance protection to which he  
36 or she is entitled, to whom the insurance benefits are payable, and the rights and conditions set forth  
37 in paragraphs IV, V, VI, and VII following.

1 IV. A provision that if the insurance, or any portion of it, on a person covered under the  
2 policy, or on the dependent of a person covered, ceases because of termination of employment or of  
3 membership in the class or classes eligible for coverage under the policy, such person shall be  
4 entitled to a right of conversion. The right of conversion entitles such person to have an individual  
5 life insurance policy issued by the insurer, without evidence of insurability and without disability or  
6 other supplementary benefits.

7 (a) Application for the individual policy shall be made, and the first premium paid to the  
8 insurer, within 31 days after such termination.

9 (b) The individual policy shall, at the option of such person, be on any one of the forms,  
10 except term insurance, then customarily issued by the insurer at the age and for the amount applied  
11 for.

12 (c) The individual policy shall be in an amount not in excess of the amount of life  
13 insurance which ceases because of such termination, provided that any amount of insurance which  
14 shall have matured, on or before the date of such termination, as an endowment payable to the  
15 person insured, whether in one sum or in installments in the form of an annuity, shall not, for the  
16 purposes of this provision, be included in the amount which is considered to cease because of such  
17 termination.

18 (d) The premium on the individual policy shall be at the insurer's then customary rate  
19 applicable to the form and amount of the individual policy, to the class of risk to which such person  
20 then belongs, and to the person's age attained on the effective date of the individual policy. Subject  
21 to the same conditions set forth in subparagraphs (a)-(c), the conversion privilege shall be available:

22 (1) To a surviving dependent, if any, at the death of the employee or member, with  
23 respect to the coverage under the group policy that terminates by reason of the death; and

24 (2) To the dependent of the employee or member upon termination of coverage of the  
25 dependent, while the employee or member remains insured under the group policy, by reason of the  
26 dependent ceasing to be a qualified family member under the group policy.

27 (e) The suicide provision of the individual policy shall no longer apply after the second  
28 anniversary of the effective date of the group life insurance from which the conversion was made.

29 (f) The individual policy shall not be contestable after the second anniversary of the  
30 effective date of the group life insurance from which conversion was made.

31 V. A portability option, including for term insurance, may be offered, in addition to and not  
32 in lieu of the conversion right, when coverage ceases because of termination of employment or of  
33 membership in the class or classes eligible for coverage under the group policy, provided the  
34 subsequent policy, certificate, and group meet all the requirements in this chapter. The portability  
35 option, if offered, shall be made available to all employees or members, without evidence of  
36 insurability and regardless of the reason for the termination of employment or of membership in the  
37 class or classes eligible for coverage. Portability may be provided through a group life portability



1 trust, established and maintained in New Hampshire and solely for the purpose of making ported  
2 life insurance available to employees or members whose coverage would terminate under the group  
3 life policy, provided it meets the requirements of a discretionary group as provided under RSA  
4 408:14, VII and is approved by the commissioner.

5 VI. A provision that, if the group policy terminates or is amended so as to terminate the  
6 insurance of any class of insured persons, every person insured thereunder at the date of such  
7 termination whose insurance terminates, including the insured dependent of a covered person, and  
8 who has been so insured for at least 5 years prior to such termination date shall be entitled to have  
9 issued by the insurer an individual policy of life insurance, subject to the same conditions and  
10 limitations as are provided by paragraph IV, except that the group policy may provide that the  
11 amount of such individual policy shall not exceed the smaller of:

12 (a) The amount of the person's life insurance protection ceasing because of the  
13 termination or amendment of the group policy, less the amount of life insurance for which he or she  
14 is or becomes eligible under any group policy issued or reinstated by the same or another insurer  
15 within 31 days after such termination, or

16 (b) \$10,000.

17 VII. If an individual insured under a group life insurance policy hereafter delivered in this  
18 state becomes entitled under the terms of the policy to have an individual policy or ported coverage  
19 certificate of life insurance issued without evidence of insurability, subject to making an application  
20 and payment of the first premium within the period specified in the policy, and if the individual is  
21 not given notice of the existence of the right at least 15 days prior to the expiration date of the  
22 period, then in that event, the individual shall have an additional period within which to exercise the  
23 right, but nothing herein contained shall be construed to continue any insurance beyond the period  
24 provided in the policy. This additional period shall expire 15 days after the individual is given  
25 notice, but in no event shall the additional period extend beyond 60 days after the expiration date of  
26 the period provided in the policy. It shall be the responsibility of the insurer to notify the individual  
27 of the right to elect conversion coverage. Written notice presented to the individual or mailed by the  
28 policyholder to the last known address of the individual or mailed by the insurer to the last known  
29 address of the individual as furnished by the policyholder shall constitute adequate notice for the  
30 purpose of this paragraph.

31 VIII. A provision that if a person insured under the group policy dies during the period  
32 within which he or she would have been entitled to have an individual policy or ported coverage  
33 certificate issued to him or her in accordance with paragraph IV, V, or VI, and before such coverage  
34 shall have become effective, the amount of life insurance which he or she would have been entitled to  
35 have issued to him or her shall be payable as a claim under the group policy, whether or not  
36 application for the individual policy or the payment of the first premium therefor has been made.

1 IX. Whenever any policy of group life insurance extends group life insurance to the spouse,  
2 child or children, or other dependents of an employee, or other member of the group, and if the  
3 coverage of any dependent of any employee or member of the group insured by such policy who is  
4 mentally or physically incapable of earning a living on the date as of which such dependent's status  
5 as a covered family member would otherwise expire because of age, shall continue under such policy  
6 while such policy remains in force or is replaced by another group policy as long as such incapacity  
7 continues and as long as the dependent remains chiefly financially dependent on the employee or  
8 member of the group or the employee or the employee's estate is chargeable for the care of the  
9 dependent, provided that due proof of such incapacity is received by the insurer within 31 days of  
10 such expiration date. If such coverage is continued in accordance with this paragraph, such  
11 dependent shall be entitled upon termination of such incapacity to a converted policy in accordance  
12 with and subject to the terms and conditions of the conversion privilege clause, if such privilege is  
13 afforded by the policy, provided that such dependent has not attained the limiting age, if any, for  
14 conversion of adults specified in the policy.

15 408:16 Assignment of Interest. Subject to the terms of the policies relating to assignment of  
16 incidents of ownership thereunder, a person whose life is insured under a group life insurance policy  
17 may assign any and all incidents of ownership granted him or her under such policy or by law,  
18 including but not limited to the right to designate a beneficiary, to exercise the conversion privilege,  
19 to have an individual policy issued to him or her, and to pay premiums. This provision shall be  
20 construed as declaring the law as it existed prior to its enactment and not as modifying it.

21 408:17 Continuation of Coverage During Labor Disputes. Any employee whose compensation  
22 includes group life insurance, the premiums for which are paid in full or in part by an employer,  
23 including the state of New Hampshire, its political subdivisions, or municipal corporations, or paid  
24 by payroll deduction, may pay the premiums as they become due directly to the policyholder  
25 whenever the employee's compensation is suspended or terminated directly or indirectly, as the  
26 result of a strike, lockout, or other labor dispute, for a period not exceeding 6 months and at the rate  
27 and coverages as the policy provides.

28 I. During said 6-month period, the policy may not be altered or changed, except that nothing  
29 in this section shall be deemed to impair the right of the insurer to make normal decreases or  
30 increases of the premium rate upon expiration and renewal of the policy, in accordance with the  
31 provisions of the policy.

32 II. When the employee's compensation is so suspended or terminated, the employee shall be  
33 notified immediately by the policyholder in writing, by mail addressed to the last address on record  
34 with the policyholder, that the employee may pay the premiums to the policyholder as they become  
35 due as provided in this section.

36 III. The policyholder shall remit any premiums paid by the employees on a timely basis to  
37 the insurer.

1 IV. Nothing herein shall be deemed to require the continuation of any such group coverage  
2 to any individual employee beyond the time that he or she takes full-time employment with another  
3 employer, nor shall anything herein be deemed to require continuation of the group coverage more  
4 than 6 months after compensation is suspended or terminated as the result of a labor dispute, nor to  
5 require the insurer to continue coverage as to any employee for whose coverage premiums have not  
6 been remitted in accordance with the provisions of the policy.

7 V. After said 6-month period, if the group insurance coverage is no longer available, then the  
8 employee shall have the right to convert to an individual policy in accordance with the provisions of  
9 RSA 408:15, IV.

10 408:18 Prohibited Provisions. No group life insurance policy or certificate shall contain any  
11 provision that reduces or denies any benefit otherwise payable because a pre-existing medical or  
12 health condition contributed to the death or disability of the insured. No group life insurance policy  
13 or certificate shall contain any provisions that exclude benefits for specified illnesses or medical  
14 conditions of the insured or which impose additional waiting periods for pre-existing conditions or  
15 specified illnesses or medical conditions of the insured. An insurer may require that an insured be  
16 actively at work in order to be eligible for any benefits of the policy or certificate.

17 Annuities

18 408:19 General Contract Requirements for Annuities. Every annuity contract subject to this  
19 chapter shall comply with the following:

20 I. Payment of premiums. There shall be a provision relating to the time and place of  
21 payment of premiums.

22 II. Grace period. There shall be a provision that the contract holder is entitled to a grace  
23 period for the premium due, except the first, during which grace period the death benefit coverage  
24 shall continue in force, unless the contract holder gives the insurer written notice of discontinuance  
25 in advance of the date of discontinuance and in accordance with the terms of the contract. The  
26 contract may provide that the contract holder shall be liable to the insurer for the payment of a pro  
27 rata premium for the time the contract was in force during such grace period. The commissioner  
28 shall adopt rules to establish the length of the grace period.

29 III. Entire contract. There shall be a provision that the annuity contract, together with a  
30 copy of the signed and completed application, shall constitute the entire contract between the  
31 parties.

32 IV. Incontestability. A provision that the contract shall be incontestable by the insurer after  
33 it has been in force for 2 years during the lifetime of the insured. However, any increase in the  
34 amount of the contract's death benefits subsequent to the contract issue date, which occurred upon a  
35 new application or request of the owner and was subject to satisfactory proof of the insured's  
36 insurability, shall be incontestable after the increase has been in force, during the lifetime of the  
37 insured, for 2 years from the date of issue of increase.

1 V. Misstatement. If there is a misstatement of age or gender in the contract, the amount of  
2 the death benefit shall be that which would be purchased by the most recent mortality charge at the  
3 correct age or gender. The commissioner may approve other methods which are deemed satisfactory.

4 408:20 Group Annuities Defined. No group annuity may be delivered or issued for delivery in  
5 this state to a group which does not meet the definition of group annuity as defined in rules. The  
6 commissioner may promulgate rules defining groups for annuities.

7 Separate Accounts

8 408:21 Definitions.

9 I. "Separate account" shall mean a segregated investment account maintained by an  
10 insurance company.

11 II. "Variable products " shall mean any life insurance policy or annuity contract issued by an  
12 insurance company which provides that the dollar amount of benefits or other contractual payments  
13 thereunder may vary according to the investment experience of any separate account or accounts  
14 maintained by the insurance company in which amounts received in connection with such policies or  
15 contracts have been placed. Variable products shall not be deemed subject to RSA 421-B.

16 408:22 Authorization. A domestic life insurance company may establish one or more separate  
17 accounts, and may allocate thereto amounts, including, without limitation, proceeds applied under  
18 optional modes of settlement or under dividend options, to provide for life insurance or annuities and  
19 benefits incidental thereto, payable in fixed or variable amounts or both.

20 408:23 Operation of Separate Accounts.

21 I. The income, gains, and losses, realized or unrealized, from assets allocated to a separate  
22 account shall be credited to or charged against the account, without regard to other income, gains, or  
23 losses of the company.

24 II. Notwithstanding any inconsistent provision in this chapter or in any section of the  
25 general statutes, the amounts allocated to any separate account and accumulations thereon may be  
26 invested and reinvested without regard to any requirements or limitations prescribed by the laws of  
27 this state governing the investments of life insurance companies, and the investments in such  
28 separate account or accounts shall not be taken into account in applying the investment limitations  
29 otherwise applicable to the investments of the company.

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

35 IV. Unless otherwise approved by the commissioner, assets allocated to a separate account  
36 shall be valued at their market value on the date of valuation, or if there is no readily available  
37 market, then as provided under the terms of the contract or the rules or other written agreement

1 applicable to the separate account, provided that, unless otherwise approved by the commissioner,  
2 the portion, if any, of the assets of the separate account equal to the company's reserve liability, with  
3 regard to the guaranteed benefits and funds referred to in paragraph III, shall be valued in  
4 accordance with the rules otherwise applicable to the company's assets.

5 V. No sale, exchange, or other transfer of assets may be made by a company between any of  
6 its separate accounts or between any other investment account and one or more of its separate  
7 accounts unless, in case of a transfer into a separate account, the transfer is made solely to establish  
8 the account or to support the operation of the contracts, with respect to the separate account to  
9 which the transfer is made, and unless the transfer, whether into or from a separate account, is  
10 made by a transfer of cash or by a transfer of securities having a readily determinable market value,  
11 provided that the transfer of securities is approved by the commissioner. The commissioner may  
12 approve other transfers among the accounts if, in his or her opinion, the transfers would not be  
13 inequitable.

14 408:24 Insurance Company Not a Trustee. Amounts allocated by an insurance company to  
15 separate accounts in the exercise of the power granted by this chapter shall be owned by the  
16 insurance company, and the insurance company shall not be, or hold itself out to be, a trustee in  
17 respect to such amounts. To the extent so provided under the applicable contracts, that portion of  
18 the assets of any such separate account equal to the reserves and other contract liabilities, with  
19 respect to the account, shall not be chargeable with liabilities arising out of any other business the  
20 insurance company may conduct.

21 408:25 Managing Business of Separate Account. To the extent the insurance company deems it  
22 necessary to comply with any applicable federal or state laws, the insurance company, with respect  
23 to a separate account, including, without limitation, any separate account that is a management  
24 investment company or a unit investment trust, may provide for persons, having an interest therein  
25 appropriate, voting and other rights and special procedures for the conduct of the business of the  
26 account, including, without limitation, special rights and procedures relating to investment policy,  
27 investment advisory services, selection of independent public accountants, and the selection of a  
28 committee, the members of which need not be otherwise affiliated with the company, to manage the  
29 business of the account.

30 Variable Products

31 408:26 Qualification of Companies; Subsidiaries and Affiliates.

32 I. No company shall issue for delivery within this state variable products unless it is  
33 licensed to do so in this state.

34 II. A variable product license will only be issued to a company licensed in this state to  
35 conduct life insurance and annuity business if the commissioner is satisfied that the life insurance  
36 company's condition or method of operation in connection with the issuance of variable products will

1 not render its operation hazardous to the public or its policyholders in this state. In this connection,  
2 the commissioner shall consider, among other things:

3 (a) The history and financial condition of the company;

4 (b) The character, responsibility, and fitness of the officers and directors of the company;

5 and

6 (c) The law and regulation under which the company is authorized in the state of  
7 domicile to issue variable products. The state of entry of an alien company shall be deemed its place  
8 of domicile for this purpose.

9 III. If the company is a subsidiary of an admitted life insurance company, or affiliated with  
10 such company through common management or ownership, it may be deemed by the commissioner  
11 to have met the provisions of this section if either it or the parent or the affiliated company meets  
12 the requirements hereof.

13 408:27 Certificate. Upon licensure of any insurance company to issue variable products, a  
14 certificate shall be issued stating the name and the fact that the company has been licensed as a life  
15 insurance company authorized to issue variable products. The certificate shall be in such form as  
16 the commissioner may determine but shall state in bold type that the commissioner does not  
17 recommend and assumes no responsibility for variable products offered by the licensee. Certified  
18 copies of this certificate shall be furnished to the licensee for a fee as specified in RSA 400-A:29.

19 408:28 Variable Product Provisions. Any variable product issued or delivered in this state, and  
20 any certificate evidencing variable benefits issued pursuant to any such product on a group basis,  
21 shall contain a statement of the essential features of the procedure to be followed by the insurance  
22 company in determining the dollar amount of the variable benefits, or other contractual payments or  
23 values thereunder, and shall state in clear terms that such amount may decrease or increase  
24 according to such procedure. Any such product issued or delivered in this state and any such  
25 certificate shall contain on its first page, in a prominent position, a clear statement that the benefits,  
26 or other contractual payments or values thereunder, are on a variable basis.

27 408:29 Variable Products and Separate Accounts. Any domestic life insurance company which  
28 issues variable products shall establish one or more separate accounts known as variable product  
29 accounts. Variable product accounts shall comply with all the requirements of separate accounts,  
30 pursuant to RSA 408:21-25.

31 408:30 Limitations. Investments and liabilities of a variable product account shall at all times  
32 be clearly identifiable and distinguishable from the other investments and liabilities of the company.  
33 No investments of a variable product account shall be pledged or transferred as collateral for a loan.

34 408:31 Investments.

35 I. The assets of a variable product account may be invested in any real estate or tangible or  
36 intangible personal property which is a legal investment for a life insurance company, and, in  
37 addition, such assets may be invested wholly or partly in common stock, in preferred stocks, or in

1 other equities which are, at the time of their purchase, either listed or admitted to trading on a  
2 security exchange located in the United States of America or Canada, or are publicly traded on the  
3 over-the-counter market and as to which market quotations are available, provided that no more  
4 than 5 percent of the assets in any variable product account may be invested in the securities of any  
5 one company and not more than 10 percent of any class of securities of any company shall be  
6 acquired.

7 II. Unless otherwise approved by the commissioner, assets allocated to a variable product  
8 account shall be valued at their market value on the date of valuation or, if there is no readily  
9 available market, as provided under the terms of the contract or policy, or the rules or other written  
10 agreement applicable to such variable product account, provided that, unless otherwise approved by  
11 the commissioner, the portion, if any, of the assets of such variable product account equal to the  
12 company's reserve liability, with regard to the guaranteed benefits and funds referred to in RSA  
13 408:32, shall be valued in accordance with the rules otherwise applicable to the company's assets.

14 408:32 Reserves. Except with the approval of the commissioner and under such conditions as to  
15 investments and other matters as he or she may prescribe, which shall recognize the guaranteed  
16 nature of the benefits provided, reserves for (a) benefits guaranteed as to dollar amount and  
17 duration and (b) funds guaranteed as to principal amount or stated rate of interest shall not be  
18 maintained in a variable product account. The reserve liability for variable products shall be  
19 established by the insurance commissioner pursuant to the requirements of RSA 410, the standard  
20 valuation law, in accordance with actuarial procedures that recognize the variable nature of the  
21 benefits provided.

22 408:33 Deposit of Securities. Any company organized under the laws of this state, which has  
23 been authorized by the commissioner to issue variable products, shall deposit all securities  
24 representing the assets of a segregated fund for a variable product account, and all uninvested cash  
25 of such a fund, with a custodian which shall be a bank or trust company, either within or without the  
26 state of New Hampshire, approved by the commissioner.

27 408:34 Advertising.

28 I. Only a life insurance company licensed to issue variable products in this state may, in this  
29 state, by direct solicitation or through agents or producers, or by letter, circular, or advertising, sell,  
30 offer for sale, or invite offers for or inquiries about variable products and only if it is licensed to do so  
31 under the provisions of this chapter.

32 II. No insurance company or producer authorized to issue variable products shall advertise  
33 publicly the fact of his or her license or use such fact or the license certificate in connection with any  
34 sale or effort to sell variable products, except by statement of the fact or by exhibiting the certificate  
35 or a certified copy thereof.

36 408:35 Prohibiting Sales. If the commissioner is of the opinion that any variable product is of  
37 such a character that there is a serious financial danger to the purchaser in buying it, or that the

1 circulars and advertisements do not disclose pertinent facts sufficient to enable intending purchasers  
2 to form a correct judgment of the nature and value of the variable product, the commissioner may  
3 prohibit the sale or advertisement of said variable product.

4 408:36 Qualification of Variable Products. Except for RSA 409:2, in the case of a variable life  
5 insurance policy, and except as otherwise provided in this chapter, all pertinent provisions of Title  
6 XXXVII shall apply to separate accounts and products relating thereto. Any variable life insurance  
7 or annuity contract delivered or issued for delivery in this state shall comply with all respective  
8 requirements of this chapter.

9 408:37 False Statement.

10 I. Whoever violates any provisions of RSA 408:26-36, inclusive, or knowingly files with the  
11 commissioner, or furnishes to him or her any false or misleading statements or information, shall be  
12 guilty of a class B felony, if a natural person, or guilty of a felony if any other person.

13 II. Any false or misleading statements or information furnished to the commissioner shall be  
14 evidence that any sales of such variable products made thereafter were made on false representation  
15 in a suit to recover damages on account of loss sustained through the purchase thereof.

16 2 New Hampshire Trust Code; Reference Change. Amend RSA 564-B:5-505(d)(1) to read as  
17 follows:

18 (1) The proceeds and any other benefits of a policy of life or endowment insurance  
19 effected by a settlor, a trustee, or any other person on the settlor's life or another individual's life as  
20 provided in RSA ~~[408:2]~~ 408:6; or

21 3 Fraternal Benefit Societies; Reference Change. Amend RSA 418:31, II to read as follows:

22 II. Any person who acts in violation of this section shall, in addition to any penalties or  
23 forfeiture with the power of the commissioner, be subject to the provisions of RSA 402-J ~~[and RSA~~  
24 ~~408:8]~~.

25 4 Long-Term Care Insurance Act; Reference Changed. Amend RSA 415-D:9, VI to read as  
26 follows:

27 VI. In the event of the death of the insured, this section shall not apply to the remaining  
28 death benefit of a life insurance policy that accelerates benefits for long-term care. In this situation,  
29 the remaining death benefits under these policies shall be governed by RSA ~~[408:10]~~ 408:13. In all  
30 other situations, this section shall apply to life insurance policies that accelerate benefits for long-  
31 term care.

32 5 Regulation of Small Loans, Title Loans, and Payday Loans; Reference Change. Amend RSA  
33 399-A:15, XII to read as follows:

34 XII. Credit life insurance, credit accident and health insurance, and credit involuntary  
35 unemployment insurance may be issued in connection with a loan or other credit transaction  
36 authorized by this chapter in compliance with the provisions of RSA ~~[408:15, II]~~ 408:14 and the cost  
37 of such insurance and any commission, benefit, or return to the lender therefrom shall not be



1 deemed a violation of any provision of this chapter; provided, however, that if there is more than one  
2 borrower or obligor on any such loan or credit transaction, credit life insurance providing a single  
3 benefit may cover both borrowers or obligors.

4 6 Producer Licensing; Reference Change. Amend RSA 402-J:1, II to read as follows:

5 II. This chapter applies to all persons required to be a licensed producer pursuant to the  
6 provisions of RSA 402:15; RSA 405:15; RSA 405:24; RSA 405:44-a; RSA 405:44-b; RSA 406-C:3; RSA  
7 407-C:3; ~~RSA 408:42;~~ RSA 416-A:15; RSA 418:31; RSA 420-A:7; RSA 420-B:18; RSA 420-F:3; and  
8 New Hampshire code of administrative rules Ins 2501.03.

9 7 Effective Date. This act shall take effect January 1, 2023.