

1 House BILL NO. 594
2 INTRODUCED BY Rasmussen (by request)

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ADOPT THE MODEL
5 VARIABLE CONTRACT LAW."

6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
8 Section 1. Short title. This act may be cited as "The
9 Montana Variable Contract Law".

10 Section 2. Separate accounts for life insurance or
11 annuities. A domestic life insurance company may establish
12 one or more separate accounts, and may allocate thereto
13 amounts (including without limitation proceeds applied under
14 optional modes of settlement or under dividend options) to
15 provide for life insurance or annuities (and benefits
16 incidental thereto), payable in fixed or variable amounts or
17 both, subject to the following: (1) The income, gains and
18 losses, realized or unrealized, from assets allocated to a
19 separate account shall be credited to or charged against the
20 account, without regard to other income, gains or losses of
21 the company.

22 (2) Except as may be provided for reserves for
23 guaranteed benefits and funds in subsection (3) of this
24 section:

25 (a) Amounts allocated to a separate account and

1 accumulations thereon, may be invested and reinvested in any
2 class of investment authorized under Title 40, chapter 31,
3 R.C.M. 1947, provided, that limitations under section
4 40-3105, on investments in stocks is not applicable.

5 (b) The investments in the separate account or
6 accounts shall not be taken into account in applying the
7 investment limitations otherwise applicable to the
8 investments of the company.

9 (3) Except with the approval of the commissioner of
10 insurance and under conditions as to investments and other
11 matters as he prescribes, which shall recognize the
12 guaranteed nature of the benefits provided, reserves for
13 benefits guaranteed as to dollar amount and duration, and
14 for funds guaranteed as to principal amount or stated rate
15 of interest may not be maintained in a separate account.

16 (4) Unless otherwise approved by the commissioner,
17 assets allocated to a separate account shall be valued at
18 their market value on the date of valuation, or if there is
19 no readily available market, then as provided under the
20 terms of the contract or the rules or other written
21 agreement applicable to that separate account; provided,
22 that unless otherwise approved by the commissioner, the
23 portion if any of the assets of that separate account equal
24 to the company's reserve liability with regard to the
25 guaranteed benefits and funds referred to in section 2(3) of

1 this act shall be valued in accordance with the rules
2 otherwise applicable to the company's assets.

3 (5) Amounts allocated to a separate account in the
4 exercise of the power granted by this act shall be owned by
5 the company, and the company shall not be, nor hold itself
6 out to be, a trustee with respect to those amounts. If and
7 to the extent provided under applicable contracts, that
8 portion of the assets of a separate account equal to the
9 reserves and other contract liabilities with respect to the
10 account are not chargeable with liabilities arising out of
11 any other business the company may conduct.

12 (6) No sale, exchange, or other transfer of assets may
13 be made by a company between any of its separate accounts or
14 between any other investment account and one or more of its
15 separate accounts unless, in case of a transfer into a
16 separate account, the transfer is made solely to establish
17 the account or to support the operation of the contracts
18 with respect to the separate account to which the transfer
19 is made, and unless the transfer, whether into or from a
20 separate account, is made by a transfer of cash, or by a
21 transfer of securities having a readily determinable market
22 value, provided that the transfer of securities is approved
23 by the commissioner. The commissioner may approve other
24 transfers among these accounts if, in his opinion, transfers
25 would not be inequitable.

1 (7) To the extent a company considers it necessary to
2 comply with any applicable federal or state laws, the
3 company, with respect to any separate account, including
4 without limitation any separate account which is a
5 management investment company or a unit investment trust,
6 may provide for persons having an interest therein
7 appropriate voting and other rights and special procedures
8 for the conduct of the business of that account, including
9 without limitation; special rights and procedures relating
10 to investment policy, investment advisory services,
11 selection of independent public accountants, and the
12 selection of a committee, the members of which need not be
13 otherwise affiliated with the company, to manage the
14 business of that account.

15 Section 3. Contract shall state essential features. A
16 contract providing benefits payable in variable amounts
17 delivered or issued for delivery in this state shall contain
18 a statement of the essential features of the procedures to
19 be followed by the insurance company in determining the
20 dollar amount of the variable benefits. A contract under
21 which the benefits vary to reflect investment experience,
22 including a group contract and a certificate in evidence of
23 variable benefits issued thereunder, shall state that the
24 dollar amount will vary and shall contain on its first page
25 a statement to the effect that the benefits thereunder are

1 on a variable basis.

2 Section 4. Requirements for doing business. (1) No
3 company may deliver or issue for delivery within this state
4 variable contracts unless it is licensed or organized to do
5 life insurance or annuity business in this state, and the
6 commissioner is satisfied that its condition or method of
7 operation in connection with the issuance of contracts will
8 not render its operation hazardous to the public or its
9 policyholders in this state. In this connection, the
10 commissioner shall consider among other things:

11 (a) the history and financial condition of the
12 company;

13 (b) the character, responsibility and fitness of the
14 officers and directors of the company; and

15 (c) the law and regulation under which the company is
16 authorized in the state of domicile to issue variable
17 contracts. The state of entry of an alien company shall be
18 considered its place of domicile for this purpose.

19 (2) If the company is a subsidiary of an admitted life
20 insurance company, or affiliated with that company through
21 common management or ownership, it may be considered by the
22 commissioner to have met the provisions of this section if
23 either it or the parent or the affiliated company meets the
24 requirements hereof.

25 Section 5. Powers of commissioner. Notwithstanding

1 any other provision of law, the commissioner shall have sole
2 authority to regulate the issuance and sale of variable
3 contracts, and to promulgate rules to carry out the purposes
4 and provisions of this act.

5 Section 6. Variable contracts to meet insurance
6 contract requirements. Except for sections 40-3804, 40-3812,
7 and 40-3823, for variable annuity contracts, and sections
8 40-3819, 40-3824, 40-3831, 40-3809, and 40-3811, for life
9 insurance policies and as provided in this act, all
10 pertinent provisions of Title 40, R.C.M. 1947, and other
11 laws relating to insurance apply to separate accounts and
12 their related contracts. Any individual variable life
13 insurance contract, or annuity contract delivered or issued
14 for delivery in this state shall contain grace and
15 reinstatement provisions appropriate to the contract.
16 Individual variable life insurance contracts shall contain
17 nonforfeiture provisions appropriate to those contracts.
18 The reserve liability for variable contracts shall be
19 established in accordance with actuarial procedures that
20 recognize the variable nature of benefits provided and
21 mortality guarantees.

-End-

Approved by Committee
on Judiciary

1 HOUSE BILL NO. 594
 2 INTRODUCED BY RASMUSSEN
 3 (BY REQUEST)
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ADOPT ~~THE--MOBBS~~ A
 6 VARIABLE CONTRACT LAW AUTHORIZING LIFE INSURANCE COMPANIES
 7 TO ESTABLISH SEPARATE ACCOUNTS TO PROVIDE FOR VARIABLE LIFE
 8 INSURANCE POLICIES AND VARIABLE ANNUITY CONTRACTS."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Short title. This act may be cited as "The
12 Montana Variable Contract Law".

13 Section 2. Separate accounts for life insurance or
 14 annuities. A domestic life insurance company may establish
 15 one or more separate accounts, and may allocate thereto
 16 amounts (including without limitation proceeds applied under
 17 optional modes of settlement or under dividend options) to
 18 provide for life insurance or annuities (and benefits
 19 incidental thereto), payable in fixed or variable amounts or
 20 both, subject to the following: (1) The income, gains and
 21 losses, realized or unrealized, from assets allocated to a
 22 separate account shall be credited to or charged against the
 23 account, without regard to other income, gains or losses of
 24 the company.

25 (2) Except as may be provided for reserves for

1 guaranteed benefits and funds in subsection (3) of this
2 section:

3 (a) Amounts allocated to a separate account and
 4 accumulations thereon, may be invested and reinvested in any
 5 class of investment authorized under Title 40, chapter 31,
 6 R.C.M. 1947, provided, that limitations under section
 7 40-3105, on investments in stocks is not applicable.

8 (b) The investments in the separate account or
 9 accounts shall not be taken into account in applying the
 10 investment limitations otherwise applicable to the
 11 investments of the company.

12 (3) Except with the approval of the commissioner of
 13 insurance and under conditions as to investments and other
 14 matters as he prescribes, which shall recognize the
 15 guaranteed nature of the benefits provided, reserves for
 16 benefits guaranteed as to dollar amount and duration, and
 17 for funds guaranteed as to principal amount or stated rate
 18 of interest may not be maintained in a separate account.

19 (4) Unless otherwise approved by the commissioner OF
 20 INSURANCE, assets allocated to a separate account shall be
 21 valued at their market value on the date of valuation, or if
 22 there is no readily available market, then as provided under
 23 the terms of the contract or the rules or other written
 24 agreement applicable to that separate account; provided,
 25 that unless otherwise approved by the commissioner, the

1 portion if any of the assets of that separate account equal
 2 to the company's reserve liability with regard to the
 3 guaranteed benefits and funds referred to in section 2(3) of
 4 this act shall be valued in accordance with the rules
 5 otherwise applicable to the company's assets.

6 (5) Amounts allocated to a separate account in the
 7 exercise of the power granted by this act shall be owned by
 8 the company, and the company shall not be, nor hold itself
 9 out to be, a trustee with respect to those amounts. If and
 10 to the extent provided under applicable contracts, that
 11 portion of the assets of a separate account equal to the
 12 reserves and other contract liabilities with respect to the
 13 account are not chargeable with liabilities arising out of
 14 any other business the company may conduct.

15 (6) No sale, exchange, or other transfer of assets may
 16 be made by a company between any of its separate accounts or
 17 between any other investment account and one or more of its
 18 separate accounts unless, in case of a transfer into a
 19 separate account, the transfer is made solely to establish
 20 the account or to support the operation of the contracts
 21 with respect to the separate account to which the transfer
 22 is made, and unless the transfer, whether into or from a
 23 separate account, is made by a transfer of cash, or by a
 24 transfer of securities having a readily determinable market
 25 value, provided that the transfer of securities is approved

1 by the commissioner. The commissioner OF INSURANCE may
 2 approve other transfers among these accounts if, in his
 3 opinion, transfers would not be inequitable.

4 (7) To the extent a company ~~considers-it-necessary~~ IS
 5 REQUIRED to comply with any applicable federal or state
 6 laws, the company, with respect to any separate account,
 7 including without limitation any separate account which is a
 8 management investment company or a unit investment trust,
 9 may SHALL provide for persons having an interest therein
 10 appropriate voting and other rights and special procedures
 11 for the conduct of the business of that account, including
 12 without limitation; special rights and procedures relating
 13 to investment policy, investment advisory services,
 14 selection of independent public accountants, and the
 15 selection of a committee, the members of which need not be
 16 otherwise affiliated with the company, to manage the
 17 business of that account.

18 Section 3. Contract shall state essential features. A
 19 contract providing benefits payable in variable amounts
 20 delivered or issued for delivery in this state shall contain
 21 a statement of the essential features of the procedures to
 22 be followed by the insurance company in determining the
 23 dollar amount of the variable benefits. A contract under
 24 which the benefits vary to reflect investment experience,
 25 including a group contract and a certificate in evidence of

1 variable benefits issued thereunder, shall state that the
2 dollar amount will vary and shall contain on its first page
3 a statement to the effect that the benefits thereunder are
4 on a variable basis.

5 Section 4. Requirements for doing business. (1) No
6 company may deliver or issue for delivery within this state
7 variable contracts unless it is licensed or organized to do
8 life insurance or annuity business in this state, and the
9 commissioner OF INSURANCE is satisfied that its condition or
10 method of operation in connection with the issuance of
11 contracts will not render its operation hazardous to the
12 public or its policyholders in this state. In this
13 connection, the commissioner shall consider among other
14 things:

15 (a) the history and financial condition of the
16 company;

17 (b) the character, responsibility and fitness of the
18 officers and directors of the company; and

19 (c) the law and regulation under which the company is
20 authorized in the state of domicile to issue variable
21 contracts. The state of entry of an alien company shall be
22 considered its place of domicile for this purpose.

23 (2) If the company is a subsidiary of an admitted life
24 insurance company, or affiliated with that company through
25 common management or ownership, it may be considered by the

1 commissioner OF INSURANCE to have met the provisions of this
2 section if either it or the parent or the affiliated company
3 meets the requirements hereof.

4 Section 5. Powers of commissioner OF INSURANCE.
5 Notwithstanding any other provision of law, the commissioner
6 OF INSURANCE shall have sole authority to regulate the
7 issuance and sale of variable contracts, PURSUANT TO TITLE
8 40, R.C.M. 1947, and to promulgate rules to carry out the
9 purposes and provisions of this act.

10 Section 6. ~~Variable---contracts---to---meet---insurance~~
11 ~~contract-requirements. Except-for-sections-40-3004,40-3012,~~
12 ~~and-40-3023,-for-variable-annuity--contracts,--and--sections~~
13 ~~40-3019,--40-3024,--40-3031,--40-3009,-and-40-3011,-for-life~~
14 ~~insurance--policies--and--as--provided--in--this--act,--all~~
15 ~~pertinent--provisions--of--Title--40,-R.C.M.-1947,-and-other~~
16 ~~laws-relating-to-insurance-apply-to--separate--accounts--and~~
17 ~~their--related--contracts,--Any--individual--variable--life~~
18 ~~insurance-contract,or-annuity-contract-delivered-or--issued~~
19 ~~for--delivery---in--this--state--shall--contain--grace--and~~
20 ~~reinstatement--provisions--appropriate--to---the---contract.~~
21 ~~Individual--variable--life-insurance-contracts-shall-contain~~
22 ~~nonforfeiture-provisions--appropriate--to--those--contracts.~~
23 ~~The--reserve--liability--for--variable--contracts--shall--be~~
24 ~~established-in-accordance--with--actuarial--procedures--that~~
25 ~~recognize--the--variable--nature--of--benefits--provided-and~~

1 ~~mortality-guarantees:~~

2 VARIABLE POLICIES AND CONTRACTS TO MEET INSURANCE
3 REQUIREMENTS. EXCEPT FOR SECTIONS 40-3819 AND 40-3824, FOR
4 VARIABLE ANNUITY CONTRACTS, AND SECTIONS 40-3804, 40-3809,
5 40-3811, 40-3812 AND 40-3831, FOR VARIABLE LIFE INSURANCE
6 POLICIES AND AS PROVIDED IN THIS ACT, ALL PERTINENT
7 PROVISIONS OF TITLE 40, R.C.M. 1947, AND OTHER LAWS
8 RELATING TO INSURANCE APPLY TO SEPARATE ACCOUNTS AND THEIR
9 RELATED POLICIES AND CONTRACTS. ANY INDIVIDUAL VARIABLE
10 LIFE INSURANCE POLICY AND ANNUITY CONTRACT DELIVERED OR
11 ISSUED FOR DELIVERY IN THIS STATE SHALL CONTAIN GRACE AND
12 REINSTATEMENT PROVISIONS APPROPRIATE FOR THE POLICY OR
13 CONTRACT. AN INDIVIDUAL VARIABLE LIFE INSURANCE POLICY
14 SHALL CONTAIN A NON-FORFEITURE PROVISION APPROPRIATE FOR THE
15 POLICY. THE RESERVE LIABILITY FOR VARIABLE POLICIES AND
16 CONTRACTS SHALL BE ESTABLISHED IN ACCORDANCE WITH ACTUARIAL
17 PROCEDURES THAT RECOGNIZE THE VARIABLE NATURE OF THE
18 BENEFITS PROVIDED AND MORTALITY GUARANTEES.

-End-

HOUSE BILL NO. 594

INTRODUCED BY RASMUSSEN

(BY REQUEST)

A BILL FOR AN ACT ENTITLED: "AN ACT TO ADOPT ~~THE--MODEL~~ A VARIABLE CONTRACT LAW AUTHORIZING LIFE INSURANCE COMPANIES TO ESTABLISH SEPARATE ACCOUNTS TO PROVIDE FOR VARIABLE LIFE INSURANCE POLICIES AND VARIABLE ANNUITY CONTRACTS."

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Section 1. Short title. This act may be cited as "The Montana Variable Contract Law".

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(2) Except as may be provided for reserves for

guaranteed benefits and funds in subsection (3) of this section:

(a) Amounts allocated to a separate account and accumulations thereon, may be invested and reinvested in any class of investment authorized under Title 40, chapter 31, R.C.M. 1947, provided, that limitations under section 40-3105, on investments in stocks is not applicable.

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

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

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 2 to the company's reserve liability with regard to the
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 4 this act shall be valued in accordance with the rules
 5 otherwise applicable to the company's assets.

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 7 exercise of the power granted by this act shall be owned by
 8 the company, and the company shall not be, nor hold itself
 9 out to be, a trustee with respect to those amounts. If and
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 14 any other business the company may conduct.

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 16 be made by a company between any of its separate accounts or
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 20 the account or to support the operation of the contracts
 21 with respect to the separate account to which the transfer
 22 is made, and unless the transfer, whether into or from a
 23 separate account, is made by a transfer of cash, or by a
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 25 value, provided that the transfer of securities is approved

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 3 opinion, transfers would not be inequitable.

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 5 REQUIRED to comply with any applicable federal or state
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 9 may SHALL provide for persons having an interest therein
 10 appropriate voting and other rights and special procedures
 11 for the conduct of the business of that account, including
 12 without limitation; special rights and procedures relating
 13 to investment policy, investment advisory services,
 14 selection of independent public accountants, and the
 15 selection of a committee, the members of which need not be
 16 otherwise affiliated with the company, to manage the
 17 business of that account.

18 Section 3. Contract shall state essential features. A
 19 contract providing benefits payable in variable amounts
 20 delivered or issued for delivery in this state shall contain
 21 a statement of the essential features of the procedures to
 22 be followed by the insurance company in determining the
 23 dollar amount of the variable benefits. A contract under
 24 which the benefits vary to reflect investment experience,
 25 including a group contract and a certificate in evidence of

1 variable benefits issued thereunder, shall state that the
2 dollar amount will vary and shall contain on its first page
3 a statement to the effect that the benefits thereunder are
4 on a variable basis.

5 Section 4. Requirements for doing business. (1) No
6 company may deliver or issue for delivery within this state
7 variable contracts unless it is licensed or organized to do
8 life insurance or annuity business in this state, and the
9 commissioner OF INSURANCE is satisfied that its condition or
10 method of operation in connection with the issuance of
11 contracts will not render its operation hazardous to the
12 public or its policyholders in this state. In this
13 connection, the commissioner shall consider among other
14 things:

15 (a) the history and financial condition of the
16 company;

17 (b) the character, responsibility and fitness of the
18 officers and directors of the company; and

19 (c) the law and regulation under which the company is
20 authorized in the state of domicile to issue variable
21 contracts. The state of entry of an alien company shall be
22 considered its place of domicile for this purpose.

23 (2) If the company is a subsidiary of an admitted life
24 insurance company, or affiliated with that company through
25 common management or ownership, it may be considered by the

1 commissioner OF INSURANCE to have met the provisions of this
2 section if either it or the parent or the affiliated company
3 meets the requirements hereof.

4 Section 5. Powers of commissioner OF INSURANCE.
5 Notwithstanding any other provision of law, the commissioner
6 OF INSURANCE shall have sole authority to regulate the
7 issuance and sale of variable contracts, PURSUANT TO TITLE
8 40, R.C.M. 1947, and to promulgate rules to carry out the
9 purposes and provisions of this act.

10 Section 6. ~~Variable---contracts---to---meet---insurance~~
11 ~~contract-requirements. Except-for-sections-40-3884,-40-3812,~~
12 ~~and-40-3823,-for-variable-annuity--contracts,-and--sections~~
13 ~~40-3819,-40-3824,-40-3831,-40-3889,-and-40-3811,-for-life~~
14 ~~insurance-policies--and-as--provided--in--this--act,-all~~
15 ~~pertinent-provisions--of--Title--40,-R.C.M.-1947,-and-other~~
16 ~~laws-relating-to-insurance-apply-to--separate--accounts--and~~
17 ~~their--related--contracts.-Any--individual--variable--life~~
18 ~~insurance-contract,-or-annuity-contract-delivered-or--issued~~
19 ~~for--delivery--in--this--state--shall--contain--grace--and~~
20 ~~reinstatement--provisions--appropriate--to--the--contract.~~
21 ~~Individual--variable--life-insurance-contracts--shall--contain~~
22 ~~nonforfeiture-provisions--appropriate--to--those--contracts.~~
23 ~~The--reserve--liability--for--variable--contracts--shall--be~~
24 ~~established-in-accordance--with--actuarial--procedures--that~~
25 ~~recognize--the--variable--nature--of--benefits--provided--and~~

1 mortality-guarantees:

2 VARIABLE POLICIES AND CONTRACTS TO MEET INSURANCE
3 REQUIREMENTS. EXCEPT FOR SECTIONS 40-3819 AND 40-3824, FOR
4 VARIABLE ANNUITY CONTRACTS, AND SECTIONS 40-3804, 40-3809,
5 40-3811, 40-3812 AND 40-3831, FOR VARIABLE LIFE INSURANCE
6 POLICIES AND AS PROVIDED IN THIS ACT, ALL PERTINENT
7 PROVISIONS OF TITLE 40, R.C.M. 1947, AND OTHER LAWS
8 RELATING TO INSURANCE APPLY TO SEPARATE ACCOUNTS AND THEIR
9 RELATED POLICIES AND CONTRACTS. ANY INDIVIDUAL VARIABLE
10 LIFE INSURANCE POLICY AND ANNUITY CONTRACT DELIVERED OR
11 ISSUED FOR DELIVERY IN THIS STATE SHALL CONTAIN GRACE AND
12 REINSTATEMENT PROVISIONS APPROPRIATE FOR THE POLICY OR
13 CONTRACT. AN INDIVIDUAL VARIABLE LIFE INSURANCE POLICY
14 SHALL CONTAIN A NON-FORFEITURE PROVISION APPROPRIATE FOR THE
15 POLICY. THE RESERVE LIABILITY FOR VARIABLE POLICIES AND
16 CONTRACTS SHALL BE ESTABLISHED IN ACCORDANCE WITH ACTUARIAL
17 PROCEDURES THAT RECOGNIZE THE VARIABLE NATURE OF THE
18 BENEFITS PROVIDED AND MORTALITY GUARANTEES.

-End-