

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1937 Session of 2014

INTRODUCED BY QUINN, BARRAR, BOBACK, V. BROWN, CALTAGIRONE, CARROLL, CLYMER, COHEN, CUTLER, M. DALEY, DeLUCA, EVERETT, FARRY, FLECK, FREEMAN, GILLEN, GINGRICH, HESS, KORTZ, KULA, MILLARD, R. MILLER, MURT, PAINTER, PETRI, PICKETT, READSHAW, SWANGER AND SAMUELSON, JANUARY 6, 2014

AS REPORTED FROM COMMITTEE ON INSURANCE, HOUSE OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 24, 2014

AN ACT

~~Amending the act of May 17, 1921 (P.L.789, No.285), entitled, as amended, "An act relating to insurance; establishing an insurance department; and amending, revising, and consolidating the law relating to the licensing, qualification, regulation, examination, suspension, and dissolution of insurance companies, Lloyds associations, reciprocal and inter insurance exchanges, and certain societies and orders, the examination and regulation of fire insurance rating bureaus, and the licensing and regulation of insurance agents and brokers; the service of legal process upon foreign insurance companies, associations or exchanges; providing penalties, and repealing existing laws,"~~

AMENDING THE ACT OF MAY 17, 1921 (P.L.682, NO.284), ENTITLED "AN ACT RELATING TO INSURANCE; AMENDING, REVISING, AND CONSOLIDATING THE LAW PROVIDING FOR THE INCORPORATION OF INSURANCE COMPANIES, AND THE REGULATION, SUPERVISION, AND PROTECTION OF HOME AND FOREIGN INSURANCE COMPANIES, LLOYDS ASSOCIATIONS, RECIPROCAL AND INTER-INSURANCE EXCHANGES, AND FIRE INSURANCE RATING BUREAUS, AND THE REGULATION AND SUPERVISION OF INSURANCE CARRIED BY SUCH COMPANIES, ASSOCIATIONS, AND EXCHANGES, INCLUDING INSURANCE CARRIED BY THE STATE WORKMEN'S INSURANCE FUND; PROVIDING PENALTIES; AND REPEALING EXISTING LAWS," providing for unclaimed life insurance benefits.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

~~Section 1. The act of May 17, 1921 (P.L.789, No.285), known~~

1 ~~as The Insurance Department Act of 1921, is amended by adding an~~
2 ~~article to read:~~

3 SECTION 1. THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN <--
4 AS THE INSURANCE COMPANY LAW OF 1921, IS AMENDED BY ADDING AN
5 ARTICLE TO READ:

6 ARTICLE VI-B IV-C <--

7 UNCLAIMED LIFE INSURANCE BENEFITS

8 Section 601-B 401-C. Purpose. <--

9 The purpose of this article is to require all of the <--
10 following:

11 (1) Recognition of Article XIII.1 of the act of April 9,
12 1929 (P.L.343, No.176), known as The Fiscal Code.

13 (2) The THE complete and proper disclosure, <--
14 transparency and accountability relating to a method of
15 payment for life insurance death benefits regulated by the
16 Insurance Department.

17 Section 602-B 402-C. Definitions. <--

18 The following words and phrases when used in this article
19 shall have the meanings given to them in this section unless the
20 context clearly indicates otherwise:

21 "Beneficiary." A person designated to receive the proceeds
22 from a life insurance policy or retained asset account. <--

23 "Death master index FILE." The Social Security <--
24 Administration's Death Master File or its equivalent ANY OTHER <--
25 DATABASE OR SERVICE THAT IS AT LEAST AS COMPREHENSIVE for
26 determining that an individual has reportedly died.

27 "Death master index FILE match." A search of the death <--
28 master index FILE that results in a match of the Social Security <--
29 number or the name and date of birth of an insured, annuity <--
30 owner or retained asset account holder.

1 "Department." The Insurance Department of the Commonwealth.
2 "Insured." An individual covered by a life insurance policy.
3 "Insurer." A person licensed in this Commonwealth to sell
4 life insurance policies or annuity contracts as any of the
5 following:

6 (1) A single insurance entity.
7 (2) An insurer under a parent organization that sells
8 annuities using a different charter.

9 "Policy." A policy or certificate of life insurance that
10 provides a death benefit.

11 ~~"Retained asset account." A mechanism by which:~~ <--

12 ~~(1) The settlement of proceeds payable under a life~~
13 ~~insurance policy or the payment of cash surrender value is~~
14 ~~accomplished by the insurer or an entity acting on behalf of~~
15 ~~the insurer depositing the proceeds into a transaction~~
16 ~~account.~~

17 ~~(2) The proceeds under paragraph (1) are retained by the~~
18 ~~insurer, pursuant to a supplementary contract.~~

19 Section 603-B 403-C. Death master index FILE comparison. <--

20 (a) Comparison.--Except as provided for in subsection (b), <--

21 an AN insurer that utilizes a death master index FILE to <--

22 determine if an insurer's annuity owner is deceased shall

23 implement procedures for performing a comparison of its

24 insureds' in--force life insurance policies and retained asset <--

25 accounts against the same death master index FILE, on at least a <--

26 quarterly SEMIANNUAL basis, using criteria reasonably designed <--

27 to identify potential matches. For a potential match identified

28 as a result of a death master index FILE match, all of the <--

29 following apply:

30 (1) No later than 45 90 days from the identification, <--

1 the insurer shall make a good faith effort to confirm the
2 death of the insured or retained asset account holder against <--
3 other available records and information. The effort shall be
4 documented by the insurer.

5 ~~(2) No later than 15 days from a confirmation of death~~ <--
6 ~~or notification of death from another source and a~~
7 ~~determination that the benefits are due in accordance with~~
8 ~~the policy or retained asset account, the insurer shall:~~

9 ~~(i) make a good faith effort to locate the~~

10 (2) (I) THE INSURER SHALL: <--

11 (A) make a good faith effort to locate the
12 beneficiary, which shall be documented by the
13 insurer; and

14 ~~(ii) (B) provide the appropriate claims forms or~~ <--
15 instructions to the beneficiary to make a claim.

16 ~~(b) Exception. An insurer may not require additional proof~~ <--
17 ~~of a loss or notification of a claim under subsection (a) when~~
18 ~~it has actual knowledge that the insured or retained asset~~
19 ~~account holder has died.~~

20 (II) AN INSURER SHALL BE DEEMED TO SATISFY THE GOOD <--
21 FAITH EFFORT UNDER SUBPARAGRAPH (I) (A) BY:

22 (A) AT LEAST TWO ATTEMPTS TO CONTACT A
23 BENEFICIARY IN WRITING AT THE LAST KNOWN ADDRESS
24 MAINTAINED IN THE INSURER'S RECORDS OR, IF THE
25 PROCEEDS ARE \$100 OR LESS, AT LEAST ONE ATTEMPT; AND

26 (B) USE OF A NATIONAL ONLINE SEARCH OR LOCATOR
27 TOOL TO ATTEMPT TO LOCATE A MORE UPDATED OR ACCURATE
28 MAILING ADDRESS, IF MAIL SENT TO A BENEFICIARY IS
29 RETURNED UNDELIVERABLE.

30 ~~(c) (B) Costs.--An insurer OR ITS SERVICE PROVIDER may not~~ <--

1 charge an insured, a retained asset account holder or a
2 beneficiary, ~~either directly or indirectly,~~ for costs associated <--
3 with a search or verification conducted in accordance with
4 subsection (a).

5 ~~(d)~~ (C) Payment.--The benefits from a policy or retained <--
6 asset account, plus APPLICABLE accrued interest, shall be paid <--
7 to the beneficiary. If the beneficiary cannot be found, the
8 benefits shall escheat to the Commonwealth as unclaimed property
9 pursuant to Article XIII.1 of the act of April 9, 1929 (P.L.343,
10 No.176), known as The Fiscal Code.

11 (D) GROUP LIFE INSURANCE.--AN INSURER SHALL CONFIRM THE <--
12 POSSIBLE DEATH OF AN INSURED IF THE INSURER MAINTAINS AT LEAST
13 THE FOLLOWING INFORMATION OF THOSE COVERED UNDER A POLICY OR
14 CERTIFICATE:

15 (1) SOCIAL SECURITY NUMBER OR NAME AND DATE OF BIRTH.

16 (2) BENEFICIARY DESIGNATION INFORMATION.

17 (3) COVERAGE ELIGIBILITY.

18 (4) BENEFIT AMOUNT.

19 (5) PREMIUM PAYMENT STATUS.

20 Section ~~604-B~~ 404-C. Notice of unclaimed policy benefits. <--

21 (a) Notice.--An insurer shall notify ~~the department and the~~ <--
22 State Treasurer upon the expiration of the statutory time period
23 for escheat that:

24 (1) the beneficiary has not submitted a claim with the
25 insurer; or

26 (2) the insurer has complied with section 603-B and has
27 been unable, after a good faith effort documented by the
28 insurer, to contact the beneficiary.

29 (b) Submission.--Upon issuing notice under subsection (a),
30 an insurer shall immediately submit the unclaimed policy, plus

any applicable accrued interest, to the State Treasurer.

Section 605-B 405-C. Applicability.

<--

This article ~~may~~ SHALL not apply to all of the following:

<--

(1) An annuity contract that does not require the insurer to pay benefits to the beneficiary of the policy.

(2) A policy that provides a death benefit under the Employee Retirement Income Security Act of 1974 (Public Law 93-406, 88 Stat. 829).

(3) A Federal employee benefit program.

(4) A policy to fund funeral or burial services.

(5) A policy of credit life insurance or health and accident insurance.

~~Section 606-B. Unfair trade practices.~~

<--

~~Failure to meet a requirement of this article is a violation of the act of December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and Consumer Protection Law.~~

SECTION 406-C. ENFORCEMENT.

<--

(A) ACTIONS.--UPON A DETERMINATION BY HEARING THAT THIS ARTICLE HAS BEEN VIOLATED BY AN INSURER, THE COMMISSIONER MAY PURSUE ONE OR MORE OF THE FOLLOWING COURSES OF ACTION:

(1) ISSUE AN ORDER REQUIRING THE INSURER TO CEASE AND DESIST FROM ENGAGING IN THE VIOLATION OR SUSPEND, REVOKE OR REFUSE TO ISSUE THE CERTIFICATE OF QUALIFICATION OR LICENSE OF THE OFFENDING INSURER.

(2) IMPOSE A CIVIL PENALTY OF NOT MORE THAN \$5,000 FOR EACH VIOLATION.

(B) ADDITIONAL REMEDIES OR PENALTIES.--THE ENFORCEMENT REMEDIES IMPOSED UNDER THIS SECTION SHALL BE IN ADDITION TO ANY OTHER REMEDIES OR PENALTIES IMPOSED BY STATUTE.

(C) ADMINISTRATIVE PROCEDURE.--AN ACTION OR ADJUDICATION OF

1 THE COMMISSIONER UNDER THIS SECTION SHALL BE PRECEDED BY A
2 HEARING IN ACCORDANCE WITH 2 PA.C.S. CH. 5 SUBCH. A (RELATING TO
3 PRACTICE AND PROCEDURE OF COMMONWEALTH AGENCIES) AND SHALL BE
4 SUBJECT TO REVIEW AND APPEAL IN ACCORDANCE WITH 2 PA.C.S. CH. 7
5 SUBCH. A (RELATING TO JUDICIAL REVIEW OF COMMONWEALTH AGENCY
6 ACTION).

7 Section 2. This act shall take effect in ~~60~~ 180 days.

<--