

INSURANCE (40 PA.C.S.) - UNCLAIMED LIFE INSURANCE BENEFITS
Act of Nov. 3, 2016, P.L. 1043, No. 132 **Cl. 40**
Session of 2016
No. 2016-132

HB 1403

AN ACT

Amending Title 40 (Insurance) of the Pennsylvania Consolidated Statutes, providing for unclaimed life insurance benefits.

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

Section 1. Title 40 of the Pennsylvania Consolidated Statutes is amended by adding a chapter to read:

CHAPTER 37
UNCLAIMED LIFE INSURANCE BENEFITS

Sec.

- 3701. Purpose of chapter.
- 3702. Definitions.
- 3703. Death master file comparison.
- 3704. Applicability.
- 3705. Enforcement.
- 3706. Regulations.

§ 3701. Purpose of chapter.

The purpose of this chapter is to require the complete and proper disclosure, transparency and accountability relating to a method of payment for life insurance death benefits regulated by the Insurance Department.

§ 3702. Definitions.

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

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

"Commissioner." The Insurance Commissioner of the Commonwealth.

"Contract." An annuity contract. The term shall not include an annuity used to fund an employment-based retirement plan or program where:

- (1) the insurer does not perform the recordkeeping services; or
- (2) the insurer is not committed by terms of the annuity contract to pay death benefits to the beneficiaries of specific plan participants.

"Death master file." The Social Security Administration's death master file or any other database or service that is at least as comprehensive for determining that an individual has reportedly died.

"Death master file match." A search of the death master file that results in a match of the Social Security number or the name and date of birth of an insured, annuity owner or retained asset account holder.

"Department." The Insurance Department of the Commonwealth.

"Insured." An individual covered by a life insurance policy.

"Insurer." A person licensed in this Commonwealth to sell life insurance policies or annuity contracts as any of the following:

- (1) A single insurance entity.

(2) An insurer under a parent organization that sells annuities using a different charter. The term as used in this chapter shall not include a fraternal benefit society.

"Knowledge of death." Either of the following:

(1) receipt of an original or valid copy of a certified death certificate; or

(2) a death master file match validated by the insurer in accordance with section 3703(a) (relating to death master file comparison).

"Policy." A policy or certificate of life insurance that provides a death benefit. The term shall not include:

(1) a policy or certificate of life insurance that provides a death benefit under an employee benefit plan subject to the Employee Retirement Income Security Act of 1974 (Public Law 93-406, 88 Stat. 829), as periodically amended, or under any Federal employee benefits program;

(2) a policy or certificate of life insurance that is purchased in conjunction with a preneed funeral contract or prearrangement;

(3) a policy or certificate of credit life or accidental death insurance; or

(4) a policy issued to a group master policyholder for which the insurer does not provide recordkeeping services.

"Recordkeeping services." Those circumstances under which an insurer has agreed with a group policy or contract customer to be responsible for obtaining, maintaining and administering in its own or its agents' systems at least the following information about each individual insured under an insured's group insurance contract, or a line of coverage under the contract:

(1) Social Security number or name and date of birth;

(2) beneficiary designation information;

(3) coverage eligibility;

(4) benefit amount; and

(5) premium payment status.

"Retained asset account." A mechanism whereby the settlement of proceeds payable under a policy or contract is accomplished by the insurer or an entity acting on behalf of the insurer depositing the proceeds into an account with check or draft writing privileges, where those proceeds are retained by the insurer or its agent, pursuant to a supplementary contract not involving annuity benefits other than death benefits.

§ 3703. Death master file comparison.

(a) Comparison.--An insurer shall implement procedures for performing a comparison of its insureds' in-force life insurance policies, contracts and retained asset accounts against the same death master file, on at least a semiannual basis, by using the full death master file once and thereafter using the death master file update files for future comparison to identify potential matches of its insureds. For a potential match identified as a result of a death master file match, all of the following shall apply:

(1) Within 90 days of a death master file match the insurer shall:

(i) complete a good faith effort to confirm the death of the insured or retained asset account holder against other available records and information. The effort shall be documented by the insurer; and

(ii) determine whether benefits are due in accordance with the applicable policy or contract, and if benefits are due:

(A) use good faith efforts to locate the beneficiary or beneficiaries, which shall be documented by the insurer; and

(B) provide the appropriate claims forms or instructions to the beneficiary or beneficiaries to make a claim, including instructions on the need to provide an official death certificate, if applicable under the policy or contract.

(2) The insurer shall implement procedures to account for:

(i) common nicknames, initials used in lieu of a first or middle name, use of a middle name, compound first and middle names and interchanged first and middle names;

(ii) compound last names, maiden or married names and hyphens, blank spaces or apostrophes in last names;

(iii) transposition of the month and date portions of the date of birth; and

(iv) incomplete Social Security numbers.

(3) To the extent permitted by law, the insurer may disclose minimum necessary personal information about the insured or beneficiary to a person who the insurer reasonably believes may be able to assist the insurer with locating the beneficiary or a person otherwise entitled to payment of the claims proceeds.

(b) Costs.--An insurer or its service provider may not charge an insured, a retained asset account holder, a beneficiary or other authorized representative for costs associated with a search or verification conducted in accordance with subsection (a).

(c) Payment.--

(1) The benefits from a policy, contract or retained asset account, plus applicable accrued contractual interest, shall first be paid to the designated beneficiaries or owners.

(2) If the beneficiary cannot be found, the benefits shall escheat to the Commonwealth as unclaimed property pursuant to Article XIII.1 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, and, notwithstanding the provisions of section 1301.4(a)1 of The Fiscal Code, shall be due and reportable to the Commonwealth three years after knowledge of death of the insured.

(d) Group life insurance.--An insurer shall confirm the possible death of an insured if the insurer maintains at least the following information regarding those covered under a policy or certificate:

(1) Social Security number or name and date of birth;

(2) beneficiary designation information;

(3) coverage eligibility;

(4) benefit amount; and

(5) premium payment status.

(e) Exceptions and exemptions.--At the written request of an insurer, the commissioner may make an order to:

(1) limit the insurer's death master file comparisons required under this section to the insurer's electronic searchable files or approve a plan and timeline for conversion of the insurer's files to searchable electronic files, upon a demonstration of hardship by the insurer;

(2) exempt the insurer from the death master file comparisons required under this section or permit the insurer to perform the comparisons less frequently than annually, upon a demonstration of hardship by the insurer; or

(3) phase in compliance with this section according to a plan and timeline submitted by the insured and approved by the commissioner.

§ 3704. Applicability.

This chapter 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.

§ 3705. Enforcement.

(a) Actions.--Upon a determination by hearing that an insurer has violated this chapter, 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 the commissioner under this section shall be preceded by a hearing in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and shall be subject to review and appeal in accordance with 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

§ 3706. Regulations.

The commissioner may promulgate rules and regulations to administer the provisions of this chapter.

Section 2. This act shall take effect in 360 days.

APPROVED--The 3rd day of November, A.D. 2016.

TOM WOLF