

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1403 Session of 2015

INTRODUCED BY M. QUINN, DeLUCA, PICKETT, BROWNLEE, COHEN, COX, EVERETT, GILLEN, HARHAI, JAMES, MAHONEY, READSHAW, SAMUELSON, SAYLOR, THOMAS, WATSON AND KORTZ, JUNE 25, 2015

SENATOR WHITE, BANKING AND INSURANCE, IN SENATE, AS AMENDED, SEPTEMBER 27, 2016

AN ACT

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

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

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

CHAPTER 37

UNCLAIMED LIFE INSURANCE BENEFITS

9 Sec.

10 3701. Purpose of chapter.

11 3702. Definitions.

12 3703. Death master file comparison.

13 3704. Notice of unclaimed policy benefits. <--

14 3705 3704. Applicability. <--

15 3706 3705. Enforcement. <--

16 3706. REGULATIONS. <--

1 § 3701. Purpose of chapter.

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

6 § 3702. Definitions.

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

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

12 "Commissioner." The Insurance Commissioner of the  
13 Commonwealth.

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

17 (1) the insurer does not perform the recordkeeping  
18 services; or

19 (2) the insurer is not committed by terms of the annuity  
20 contract to pay death benefits to the beneficiaries of  
21 specific plan participants.

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

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

30 "Department." The Insurance Department of the Commonwealth.

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

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

5 (1) A single insurance entity.

6 (2) An insurer under a parent organization that sells  
7 annuities using a different charter.

8 The term as used in this chapter shall not include a fraternal  
9 benefit society.

10 "Knowledge of death." Either of the following:

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

13 (2) a death master file match validated by the insurer  
14 in accordance with section 3703(a)(1) (relating to death  
15 master file comparison).

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

18 (1) a policy or certificate of life insurance that  
19 provides a death benefit under an employee benefit plan  
20 subject to The Employee Retirement Income Security Act of  
21 1974 (Public Law 93-406, 88 Stat. 829), as periodically  
22 amended, or under any Federal employee benefits program;

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

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

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

30 "Recordkeeping services." Those circumstances under which an

1 insurer has agreed with a group policy or contract customer to  
2 be responsible for obtaining, maintaining and administering in  
3 its own or its agents' systems at least the following  
4 information about each individual insured under an insured's  
5 group insurance contract, or a line of coverage under the  
6 contract:

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

8 (2) beneficiary designation information;

9 (3) coverage eligibility;

10 (4) benefit amount; and

11 (5) premium payment status.

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

19 § 3703. Death master file comparison.

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

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

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

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

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

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

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

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

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

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

26                   (iv) incomplete Social Security number.

27           (3) To the extent permitted by law, the insurer may  
28 disclose minimum necessary personal information about the  
29 insured or beneficiary to a person who the insurer reasonably  
30 believes may be able to assist the insurer with locating the

1 beneficiary or a person otherwise entitled to payment of the  
2 claims proceeds.

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

8 (c) Payment.--The benefits from a policy, contract or  
9 retained asset account, plus applicable accrued contractual  
10 interest, shall first be paid to the designated beneficiaries or  
11 owners. If the beneficiary cannot be found, the benefits shall  
12 escheat to the Commonwealth as unclaimed property pursuant to  
13 Article XIII.1 of the act of April 9, 1929 (P.L.343, No.176),  
14 known as The Fiscal Code.

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

- 19 (1) Social Security number or name and date of birth;  
20 (2) beneficiary designation information;  
21 (3) coverage eligibility;  
22 (4) benefit amount; and  
23 (5) premium payment status.

24 ~~§ 3704. Notice of unclaimed policy benefits.~~ <--

25 ~~(a) Notice. An insurer shall notify the State Treasurer~~  
26 ~~upon the expiration of the statutory time period for escheat~~  
27 ~~that:~~

28 ~~(1) the beneficiary has not submitted a claim with the~~  
29 ~~insurer; or~~

30 ~~(2) the insurer has complied with section 3703 (relating~~

~~to death master file comparison) and has been unable, after a good faith effort documented by the insurer, to contact the beneficiary.~~

~~(b) Submission. Upon issuing notice under subsection (a), an insurer shall immediately submit the unclaimed policy, plus any applicable accrued contractual interest, to the State Treasurer.~~

(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.

~~§ 3705 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.

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

3    ~~§ 3706~~ 3705. Enforcement.

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4           (a) Actions.--Upon a determination by hearing that an  
5           insurer has violated this chapter, the commissioner may pursue  
6           one or more of the following courses of action:

7                   (1) issue an order requiring the insurer to cease and  
8                   desist from engaging in the violation or suspend, revoke or  
9                   refuse to issue the certificate of qualification or license  
10                   of the offending insurer.

11                   (2) impose a civil penalty of not more than \$5,000 for  
12                   each violation.

13           (b) Additional remedies or penalties.--The enforcement  
14           remedies imposed under this section shall be in addition to any  
15           other remedies or penalties imposed by statute.

16           (c) Administrative procedure.--An action or adjudication of  
17           the commissioner under this section shall be preceded by a  
18           hearing in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to  
19           practice and procedure of Commonwealth agencies) and shall be  
20           subject to review and appeal in accordance with 2 Pa.C.S. Ch. 7  
21           Subch. A (relating to judicial review of Commonwealth agency  
22           action).

23    ~~§ 3706.~~ REGULATIONS.

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24           THE COMMISSIONER MAY PROMULGATE RULES AND REGULATIONS TO  
25           ADMINISTER THE PROVISIONS OF THIS CHAPTER.

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