

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

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER 25, 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. <--

17 § 3701. Purpose of chapter.

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

5 § 3702. Definitions.

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

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

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

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

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

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

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

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

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

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

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

4 (1) A single insurance entity.

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

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

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

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

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

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

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

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

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

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

29 "Recordkeeping services." Those circumstances under which an
30 insurer has agreed with a group policy or contract customer to

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

- 6 (1) Social Security number or name and date of birth;
- 7 (2) beneficiary designation information;
- 8 (3) coverage eligibility;
- 9 (4) benefit amount; and
- 10 (5) premium payment status.

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

18 § 3703. Death master file comparison.

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

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

30 (i) complete a good faith effort to confirm the

1 death of the insured or retained asset account holder
2 against other available records and information. The
3 effort shall be documented by the insurer; and

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

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

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

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

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

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

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

25 (iv) incomplete Social Security number.

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

1 claims proceeds.

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

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

14 (C) PAYMENT.-- <--

15 (1) THE BENEFITS FROM A POLICY, CONTRACT OR RETAINED
16 ASSET ACCOUNT, PLUS APPLICABLE ACCRUED CONTRACTUAL INTEREST,
17 SHALL FIRST BE PAID TO THE DESIGNATED BENEFICIARIES OR
18 OWNERS.

19 (2) IF THE BENEFICIARY CANNOT BE FOUND, THE BENEFITS
20 SHALL ESCHEAT TO THE COMMONWEALTH AS UNCLAIMED PROPERTY
21 PURSUANT TO ARTICLE XIII.1 OF THE ACT OF APRIL 9, 1929
22 (P.L.343, NO.176), KNOWN AS THE FISCAL CODE, AND,
23 NOTWITHSTANDING THE PROVISIONS OF SECTION 1301.4(A)1 OF THE
24 FISCAL CODE, SHALL BE DUE AND REPORTABLE TO THE COMMONWEALTH
25 THREE YEARS AFTER KNOWLEDGE OF DEATH OF THE INSURED.

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

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

- 1 (2) beneficiary designation information;
- 2 (3) coverage eligibility;
- 3 (4) benefit amount; and
- 4 (5) premium payment status.

5 ~~§ 3704. Notice of unclaimed policy benefits.~~ <--

6 ~~(a) Notice. An insurer shall notify the State Treasurer~~
7 ~~upon the expiration of the statutory time period for escheat~~
8 ~~that:~~

9 ~~(1) the beneficiary has not submitted a claim with the~~
10 ~~insurer; or~~

11 ~~(2) the insurer has complied with section 3703 (relating~~
12 ~~to death master file comparison) and has been unable, after a~~
13 ~~good faith effort documented by the insurer, to contact the~~
14 ~~beneficiary.~~

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

19 (E) EXCEPTIONS AND EXEMPTIONS.--AT THE WRITTEN REQUEST OF AN <--
20 INSURER, THE COMMISSIONER MAY MAKE AN ORDER TO:

21 (1) LIMIT THE INSURER'S DEATH MASTER FILE COMPARISONS
22 REQUIRED UNDER THIS SECTION TO THE INSURER'S ELECTRONIC
23 SEARCHABLE FILES OR APPROVE A PLAN AND TIMELINE FOR
24 CONVERSION OF THE INSURER'S FILES TO SEARCHABLE ELECTRONIC
25 FILES, UPON A DEMONSTRATION OF HARDSHIP BY THE INSURER;

26 (2) EXEMPT THE INSURER FROM THE DEATH MASTER FILE
27 COMPARISONS REQUIRED UNDER THIS SECTION OR PERMIT THE INSURER
28 TO PERFORM THE COMPARISONS LESS FREQUENTLY THAN ANNUALLY,
29 UPON A DEMONSTRATION OF HARDSHIP BY THE INSURER; OR

30 (3) PHASE IN COMPLIANCE WITH THIS SECTION ACCORDING TO A

1 PLAN AND TIMELINE SUBMITTED BY THE INSURED AND APPROVED BY
2 THE COMMISSIONER.

3 ~~§ 3705~~ 3704. Applicability. <--

4 This chapter shall not apply to all of the following:

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

7 (2) A policy that provides a death benefit under the
8 Employee Retirement Income Security Act of 1974 (Public Law
9 93-406, 88 Stat. 829).

10 (3) A Federal employee benefit program.

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

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

14 ~~§ 3706~~ 3705. Enforcement. <--

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

18 (1) issue an order requiring the insurer to cease and
19 desist from engaging in the violation or suspend, revoke or
20 refuse to issue the certificate of qualification or license
21 of the offending insurer.

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

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

27 (c) Administrative procedure.--An action or adjudication of
28 the commissioner under this section shall be preceded by a
29 hearing in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to
30 practice and procedure of Commonwealth agencies) and shall be

1 subject to review and appeal in accordance with 2 Pa.C.S. Ch. 7
2 Subch. A (relating to judicial review of Commonwealth agency
3 action).

4 § 3706. REGULATIONS.

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5 THE COMMISSIONER MAY PROMULGATE RULES AND REGULATIONS TO
6 ADMINISTER THE PROVISIONS OF THIS CHAPTER.

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