

LEGISLATIVE BILL 137

Approved by the Governor April 27, 2017

Introduced by Lindstrom, 18; Watermeier, 1.

A BILL FOR AN ACT relating to life insurance; to adopt the Unclaimed Life Insurance Benefits Act; and to provide an operative date.
Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 6 of this act shall be known and may be cited as the Unclaimed Life Insurance Benefits Act.

Sec. 2. For purposes of the Unclaimed Life Insurance Benefits Act:

(1) Beneficiary means the party entitled or contingently entitled to receive proceeds from a policy or retained asset account;

(2) Death master file means the United States Social Security Administration's Death Master File or any other data base or service that is at least as comprehensive as the United States Social Security Administration's Death Master File for determining that a person has reportedly died;

(3) Death master file match means 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;

(4) Policy means any policy or certificate of life insurance that provides a death benefit or any annuity contract, except that such term does not include:

(a) Any policy or certificate of life insurance that provides a death benefit under an employee benefit plan that is (i) subject to the Employee Retirement Income Security Act of 1974 or (ii) part of a federal employee benefit program;

(b) Any policy or certificate of life insurance that is used to fund a pre-need funeral contract or prearrangement;

(c) Any policy or certificate of credit life or accidental death insurance;

(d) Any policy issued to a group master policyholder for which the insurer does not provide record-keeping services; or

(e) An annuity used to fund an employment-based retirement plan or program if (i) the insurer does not perform the record-keeping services or (ii) the insurer is not committed by terms of the annuity contract to pay death benefits to the beneficiaries of specific plan participants;

(5) Record-keeping services means services provided by an insurer for a group policy customer pursuant to an agreement under which the insurer is responsible for obtaining, maintaining, and administering, in its own or its agent's systems, at least the following information about each individual insured under the group policy or a line of coverage thereunder:

(a) Social security number or name and date of birth;

(b) Beneficiary designation information;

(c) Coverage eligibility;

(d) Benefit amount; and

(e) Premium payment status; and

(6) Retained asset account means any mechanism whereby the settlement of proceeds payable under a policy 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.

Sec. 3. (1) An insurer shall perform a comparison of its insureds' in-force policies and retained asset accounts against a death master file to identify potential matches of its insureds. The comparison shall be done on at least a semi-annual basis by using the full death master file for the initial comparison and thereafter using the death master file update files for subsequent comparisons. For any potential match identified as a death master file match, the insurer shall, within ninety days after the death master file match:

(a) Complete a good faith effort, which shall be documented by the insurer, to confirm the death of the insured or retained asset account holder using other available records and information; and

(b) Determine whether benefits are due in accordance with the applicable policy or retained asset account. If benefits are due under the policy or retained asset account, the insurer shall:

(i) Complete a good faith effort, which shall be documented by the insurer, to locate the beneficiary; and

(ii) Provide the appropriate claim forms or instructions to the beneficiary to make a claim, including the need to provide an official death certificate if applicable under the policy.

(2) With respect to group life insurance, an insurer is required to confirm the possible death of an insured under subdivision (1)(a) of this section if the insurer maintains at least the following information on those covered under the policy:

(a) Social security number or name and date of birth;

(b) Beneficiary designation information;

(c) Coverage eligibility;

(d) Benefit amount; and

(e) Premium payment status.

(3) Every insurer shall implement procedures to account for:

(a) 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;

(b) Compound last names, maiden or married names, and hyphens, blank spaces, or apostrophes in last names;

(c) Transposition of the month and date portions of a date of birth; and

(d) Incomplete social security numbers.

(4) Nothing in this section shall be construed to limit the ability of an insurer to request a valid death certificate as part of any claims validation process.

(5) To the extent permitted by law, an insurer may disclose minimum necessary personal information about an insured, a beneficiary, or the owner of a policy or retained asset account to a person who the insurer reasonably believes may be able to assist the insurer in locating the beneficiary or a person otherwise entitled to payment of the claim proceeds.

(6) An insurer or its service provider shall not charge any beneficiary or other authorized representative any fees or costs associated with a death master file search or verification of a death master file match conducted pursuant to this section.

Sec. 4. (1) If an insurer determines under section 3 of this act that benefits are due to a beneficiary, the benefits from the applicable policy or retained asset account, plus any applicable accrued contractual interest, shall be payable to the designated beneficiary. If such beneficiary cannot be found, the insurer shall comply with section 69-1303 with respect to such benefits and accrued contractual interest. Interest otherwise payable under section 44-3,143 shall not be considered unclaimed funds under section 69-1303.

(2) Once the benefits and accrued contractual interest are presumed abandoned under section 69-1303, the insurer shall notify the State Treasurer, as part of the report sent under section 69-1310, that:

(a) A beneficiary has not submitted a claim with the insurer; and

(b) The insurer has complied with section 3 of this act and has been unable, after good faith efforts documented by the insurer, to contact the beneficiary.

Sec. 5. The Director of Insurance may, at his or her discretion, make an order:

(1) Limiting an insurer's death master file comparisons required under section 3 of this act to the insurer's electronic searchable files or approving a plan and timeline for conversion of the insurer's files to electronic files;

(2) Exempting an insurer from death master file comparisons required under section 3 of this act or permitting an insurer to perform such comparisons on only certain policies or retained asset accounts or to perform such comparisons less frequently than semi-annually upon a demonstration of hardship by the insurer; or

(3) Phasing in compliance with the Unclaimed Life Insurance Benefits Act according to a plan adopted and published by the director.

Sec. 6. Failure to meet any requirement of the Unclaimed Life Insurance Benefits Act shall be an unfair trade practice in the business of insurance subject to the Unfair Insurance Trade Practices Act.

Sec. 7. This act becomes operative on January 1, 2018.