

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: S3/18/15

A Bill

SENATE BILL 768

5 By: Senator Rapert
6 *By: Representative Collins*
7

For An Act To Be Entitled

9 AN ACT TO REGULATE THE PAYMENT OF LIFE INSURANCE
10 DEATH BENEFITS; TO ESTABLISH THE UNCLAIMED LIFE
11 INSURANCE BENEFITS ACT; AND FOR OTHER PURPOSES.
12
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Subtitle

15 TO ESTABLISH THE UNCLAIMED LIFE INSURANCE
16 BENEFITS ACT.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code Title 23, Chapter 81, is amended to add an
22 additional subchapter to read as follows:
23

24 Subchapter 9 – Unclaimed Life Insurance Benefits Act

25
26 23-81-901. Title.

27 This subchapter shall be known and may be cited as the “Unclaimed Life
28 Insurance Benefits Act”.
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30 23-81-902. Legislative intent.

31 The General Assembly intends for this subchapter to:

32 (1) Recognize the escheat or unclaimed property statutes under
33 the Unclaimed Property Act, § 18-28-201 et seq.; and

34 (2) Require the complete and proper disclosure, transparency,
35 and accountability for any method of payment of death benefits under a life
36 insurance policy that is subject to regulation by the State Insurance



1 Department.

2
3 23-81-903. Definitions.

4 As used in this subchapter:

5 (1)(A) "Contract" means an annuity contract.

6 (B) "Contract" does not include an annuity contract used
7 to fund an employment-based retirement plan or program in which an insurer:

8 (i) Does not perform recordkeeping services; or

9 (ii) Is not required to pay death benefits to the
10 beneficiaries of a specific plan participant by terms of the annuity
11 contract;

12 (2) "Death master file" means a comprehensive database or source
13 of death information used to verify the death of an individual maintained by
14 the Division of Vital Records of the Department of Health, the United States
15 Social Security Administration, or other database or service;

16 (3) "Death master file match" means locating a Social Security
17 number or the name and date of birth of an insured, annuity owner, or
18 retained asset account holder in a search of a death master file;

19 (4) "Knowledge of death" means:

20 (A) Receipt of an original or valid copy of a death
21 certificate issued by the state or a political subdivision of the state; or

22 (B) A death master file match validated by an insurer
23 under § 23-81-904(c)(1)(A);

24 (5)(A) "Policy" means a policy or certificate of life insurance
25 issued in this state that provides a death benefit.

26 (B) "Policy" does not include:

27 (i) A policy or certificate of life insurance that
28 provides a death benefit under:

29 (a) A defined employee benefit pension plan,
30 as defined in Section 3(35) of the Employee Retirement Income Security Act of
31 1974, Pub. L. No. 93-406; or

32 (b) Any federal employee benefit program;

33 (ii) A policy or certificate of life insurance that
34 is used to fund a preneed funeral contract or prearrangement;

35 (iii) A policy or certificate of credit life or
36 accidental death insurance; or

1 (iv) A policy issued to a group master policyholder
2 for which the insurer does not provide recordkeeping services;

3 (6) "Recordkeeping services" means services under a group policy
4 or contract between an insurer and a group policy or contract customer to
5 obtain, maintain, and administer on behalf of the insured a list of the
6 individuals who are insured under a group insurance contract or a line of
7 coverage including an individual's:

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

9 (B) Beneficiary designation information;

10 (C) Coverage eligibility;

11 (D) Benefit amount; and

12 (E) Premium payment status; and

13 (7) "Retained asset account" means a mechanism to deposit the
14 settlement of proceeds payable under a policy or contract into a deposit
15 account where the proceeds are retained by the insurer or its agent under a
16 supplementary contract that only involves death benefits.

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18 23-81-904. Insurer conduct.

19 (a) An insurer shall make a good faith effort to determine the death
20 of an insured upon receipt of knowledge of death.

21 (b)(1) An insurer shall compare an in-force policy, contract, and
22 retained asset account against a death master file to identify a potential
23 match to an insured covered under the policy, contract, and retained asset
24 account by using the full version of the death master file.

25 (2) An insurer shall perform the comparison under subdivision
26 (b)(1) of this section semiannually by using the death master file update.

27 (c)(1) For a potential match that is identified as a result of a death
28 master file match, the insurer shall within ninety (90) days of a death
29 master file match:

30 (A) Make and document a good faith effort to confirm the
31 death of the insured or retained asset account holder against other available
32 records and information;

33 (B) Determine if death benefits are due under an
34 applicable policy or contract; and

35 (C) If death benefits are due under the applicable policy
36 or contract:

1 (i) Make a good faith effort to document and locate
2 any beneficiary or beneficiaries; and

3 (ii) Provide the beneficiary or beneficiaries the
4 necessary claim form or instructions to make a claim under the policy or
5 contract including submitting a death certificate issued by the state or any
6 political subdivision of the state if required under the policy or contract.

7 (2) If an insurer is unable to confirm the death of an
8 individual under subdivision (c)(1) of this section, the policy, annuity, or
9 retained asset account may be considered by an insurer to be in force
10 according to the terms of the policy, annuity, or retained asset account.

11 (3) An insurer is required to confirm a possible death of an
12 insured under a group life insurance if the insurer maintains for an
13 individual covered under a policy or certificate an insured's:

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

15 (B) Beneficiary designation information;

16 (C) Coverage eligibility;

17 (D) Benefit amount; and

18 (E) Premium payment status.

19 (4) To the extent permitted by law, an insurer may disclose the
20 necessary personal information about an insured or beneficiary to a person
21 who the insurer reasonably believes may be able to assist the insurer in
22 locating a beneficiary or a person entitled to payment of the claims
23 proceeds.

24 (d) An insurer shall not charge a beneficiary or the beneficiary's
25 authorized representative a fee or charge any costs associated with a death
26 master file search or verification of a death master file match performed
27 under this section.

28 (e)(1) A benefit or any accrued contractual interest under a policy,
29 contract, or a retained asset account is payable to the designated
30 beneficiary or owner.

31 (2) If a beneficiary or owner cannot be found, the benefit or
32 any accrued contractual interest shall escheat to the state as unclaimed
33 property under the Unclaimed Property Act, § 18-28-201 et seq.

34 (3) Interest payable under § 23-81-118 shall not be payable as
35 unclaimed property under the Unclaimed Property Act, § 18-28-201 et seq.

36 (f) An insurer shall notify the Auditor of State upon the expiration

1 of the statutory time period for escheat that:

2 (1) A beneficiary under a life insurance policy, contract, or
3 retained asset account holder has not submitted a claim with the insurer; and

4 (2) The insurer has complied with subsection (b) of this section
5 and has documented its good faith effort to locate and notify a beneficiary
6 or retained asset account holder but has been unsuccessful.

7 (g) Upon delivery of a notice under subsection (f) of this section, an
8 insurer shall submit immediately any unclaimed benefits under a policy,
9 contract, or retained asset account, plus any applicable interest, to the
10 Auditor of State.

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12 23-81-905. Unfair trade practices.

13 (a) If an insurer fails to comply with this subchapter so frequently
14 as to be a general business practice, then it is a violation of this
15 subchapter and may be subject to the Trade Practices Act, § 23-66-201 et seq.

16 (b) A violation of this subchapter does not create a private right of
17 action.

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19 SECTION 2. DO NOT CODIFY. Effective Date. Section 1 of this act is
20 applicable to policies issued after June 30, 2016.

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