

WEST VIRGINIA LEGISLATURE

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Originating

House Bill 4739

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[Originating in the Committee on the Judiciary]

A BILL to amend the Code of West Virginia, 1931, as amended by adding thereto a new article, designated §33-13D-1 and §33-13D-2, relating to the creation of the Unclaimed Life Insurance Benefits Act; providing definitions; regulating insurer conduct; requiring insurers to perform an annual comparison of its insureds' Policies, Retained Asset Accounts and Account Owners against a Death Master File; requiring the Insurance Commissioner to promulgate rules requiring a comparison against a Death Master File to be completed on policies issued prior to 2000 if the Commissioner determines that reliable technology and data exist to make such comparison accurate and cost-effective; providing that the annual comparison of insureds' Policies, Retained Asset Accounts and Account Owners against a Death Master File shall not apply to those accounts for which the insurer is receiving premiums from outside the policy value, by check, bank draft, payroll deduction or any other similar method of payment within eighteen months immediately preceding the Death Master File comparison; requiring reasonable steps to be taken to locate and contact beneficiaries or other authorized representatives regarding the insurer's claims process; and authorizing the Insurance Commissioner to promulgate rules that may be reasonably necessary to implement the Unclaimed Life Insurance Benefits Act.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto two new sections, designated §33-13D-1 and §33-13D-2, all to read as follows:

CHAPTER 33. INSURANCE.

ARTICLE 13D. UNCLAIMED LIFE INSURANCE BENEFITS ACT.

§33-13D-1. Definitions.

- 1 (a) Definitions. --- For purposes of this section:
 2 (1) "Account Owner" means the owner of a retained asset account who is a resident of
 3 this state.

4 (2) “Annuity Contract” means an annuity contract. The term “Annuity Contract” shall not
5 include an annuity used to fund an employment-based retirement plan or program where (1) the
6 insurer does not perform the Record Keeping Services or (2) the insurer is not committed by
7 terms of the annuity contract to pay death benefits to the beneficiaries of specific plan
8 participants.

9 (3) “Death Master File” means the United States Social Security Administration’s Death
10 Master File or any other database or service that is at least as comprehensive as the United
11 States Social Security Administration’s Death Master File for determining that a person has
12 reportedly died.

13 (4) “Death Master File Match” means a search of the Death Master File that results in a
14 match of the a Person’s name and social security number or the name and date of birth of an
15 insured, annuity
16 owner, or retained asset account holder.

17 (5) “Knowledge of Death” shall, for the purposes of this section mean (a) receipt of an
18 original or valid copy of a certified death certificate or (b) a Death Master File Match validated by
19 the insurer in accordance with Section 2 of this article.

20 (6) “Person” means the Policy insured, Annuity Contract owner, annuitant or Account
21 Owner, as applicable under the Policy, Annuity Contract or retained asset account at issue in
22 this Act.

23 (7) “Policy” means any policy or certificate of life insurance issued in this state that
24 provides a death benefit. The “Policy” means any policy or certificate of life insurance issued in
25 this state that provides a death benefit. The term “Policy” shall not include (i) any policy or
26 certificate of life insurance that provides a death benefit under an employee benefit plan (a)
27 subject to The Employee Retirement Income Security Act of 1974 [29 USC 1002], as
28 periodically amended, or (b) under any Federal employee benefit program, or (ii) any policy or
29 certificate of life insurance that is used to fund a preneed funeral contract or prearrangement, or

30 (iii) any policy or certificate of credit life or accidental death insurance, or (iv) any policy issued
31 to a group master policyholder for which the insurer does not provide Record Keeping services.

32 (8) "Record Keeping Services" means those circumstances under which the insurer has
33 agreed with a group Policy or Contract customer to be responsible for obtaining, maintaining
34 and administering in its own or its agents' systems information about each individual insured
35 under an Insured's group insurance contract (or a line of coverage thereunder), at least the
36 following information: (1) Social Security number or name and date of birth, and (2) beneficiary
37 designation information, (3) coverage eligibility, (4) benefit amount, and (5) premium payment
38 status.

39 (9) "Retained Asset Account" means any mechanism whereby the settlement of
40 proceeds payable under a Policy or Annuity Contract is accomplished by the insurer or an entity
41 acting on behalf of the insurer depositing the proceeds into an account with check or draft
42 writing privileges, where those proceeds are retained by the insurer or its agent, pursuant to a
43 supplementary contract not involving Annuity Contract benefits other than death benefits.

44

§33-13D-2. Insurer Conduct.

1 (a) An insurer shall perform a comparison of its insureds' in-force Policies, Annuity
2 Contracts, and Account Owners against a Death Master File, on at least an annual basis, by using
3 the full Death Master File once and thereafter using the Death Master File update files for future
4 comparisons to identify potential Death Master File Matches. The comparison using the full Death
5 Master File should be completed within two years of the effective date of this article and must be
6 completed on policies issued from 2000 to the present: *Provided, That the Insurance*
7 Commissioner shall promulgate legislative rules requiring that the comparison against a Death
8 Master File be completed on policies issued at earlier times if the Commissioner determines that
9 reliable technology and data exist to make such comparison accurate and cost-effective to match
10 to the established Master Death Database.

11 (b) The insurer comparison of Policies, Annuity Contracts, and Account Owners shall be
12 conducted first to the extent that such records are available electronically and then using the
13 most easily accessible insurer records for records that are not available electronically.

14 (c) This Section shall not apply to Policies or Annuity Contracts for which the insurer is
15 receiving premiums from outside the policy value, by check, bank draft, payroll deduction, or
16 any other similar method of active premium payment within the eighteen (18) months
17 immediately preceding the Death Master File comparison.

18 (d) Nothing in this Section shall limit the insurer from requesting a valid death certificate
19 as part of any claims validation process.

20 (e) For those potential matches identified as a result of a Death Master File Match, or if
21 an insurer learns of the possible death of a Person otherwise, then the insurer shall, within
22 ninety (90) days of a Death Master File Match:

23 (1) Complete a good faith effort, which shall be documented by the insurer, to confirm
24 the death of the Person against other available records and information;

25 (2) Review its records to determine whether the deceased Person had purchased any
26 other products with the insurer;

27 (3) Determine whether benefits may be due in accordance with any applicable
28 Policy, Annuity Contract or Retained Asset Account.

29 (f) If the beneficiary or other authorized representative has not communicated with the
30 insurer within the 90 day period, take reasonable steps, which shall be documented by the
31 insurer, to locate and contact the beneficiary or beneficiaries or other authorized representative
32 on any such Policy, Annuity Contract or retained asset account, including but not limited to
33 sending the beneficiary information regarding the insurer's claims process, including the need to
34 provide an official death certificate if applicable under the Policy, Annuity Contract or Retained
35 Asset Account.

36 (g) To the extent permitted by law, the insurer may disclose minimum necessary
37 personal information about a Person or beneficiary who the insurer reasonably believes may be
38 able to assist the insurer in locating the beneficiary or a person otherwise entitled to payment of
39 the claims proceeds.

40 (h) An insurer or its service provider shall not charge any beneficiary or other authorized
41 representative for any fees or costs associated with a Death Master File Search or verification of
42 Death Master File Match conducted pursuant to this section.

43 (i) The benefits from a Policy, Annuity Contract or a Retained Asset Account, plus any
44 applicable accrued contractual interest shall first be payable to the designated beneficiaries or
45 owners and in the event said beneficiaries or owners cannot be found, shall be paid to the state
46 as unclaimed property pursuant to article eight, Chapter thirty-six of this Code.

47 (j) The West Virginia Offices of the Insurance Commissioner may adopt such rules and
48 regulations as may be reasonably necessary to implement the provisions of this section.

49 (k) The commissioner may, in his or her reasonable discretion, make an order:

50 (1) Limiting an insurer's Death Master File comparisons required under subsection A to
51 the insurer's electronic searchable files or approving a plan and timeline for conversion of the
52 insurer's files to electronic searchable files;

53 (2) Exempting an insurer from the Death Master File comparisons required under
54 subsection a or permitting an insurer to perform such comparisons less frequently than annually
55 upon a demonstration of hardship by the insurer; or

56 (3) Phasing-in compliance with this section according to a plan and timeline approved by
57 the commissioner.

NOTE: The purpose of this bill is to create the "Unclaimed Life Insurance Benefits Act."

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.