



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB3660

Introduced 5/19/2014, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

New Act
215 ILCS 5/424

from Ch. 73, par. 1031

Creates the Unclaimed Life Insurance Benefits Act. Provides that the purpose of the Act is to require all authorized insurers regulated by the Department of Insurance to undertake good faith efforts, as specified in the Act, to locate and pay beneficiaries' proceeds under unclaimed life insurance policies, annuity contracts, and retained asset accounts issued in the State or remit such proceeds as unclaimed property to the appropriate jurisdiction if the beneficiaries are unable to be located or paid. Requires insurers to implement the certain policies and procedures for performing a comparison of its policies, annuity contracts, and retained asset accounts against the United States Social Security Administration's Death Master File. Provides that failure to meet any requirement of the Act is an unfair trade practice under the Illinois Insurance Code, and amends the Illinois Insurance Code to make a corresponding change. Effective immediately.

LRB098 21362 AMC 59663 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Unclaimed Life Insurance Benefits Act.

6 Section 5. Purpose. This Act shall require all authorized
7 insurers regulated by the Department of Insurance to undertake
8 good faith efforts, as specified in this Act, to locate and pay
9 beneficiaries' proceeds under unclaimed life insurance
10 policies, annuity contracts, and retained asset accounts
11 issued in the State or remit such proceeds as unclaimed
12 property to the appropriate jurisdiction if the beneficiaries
13 are unable to be located or paid.

14 Section 10. Definitions. In this Act:

15 "Account holder" means the owner of a retained asset
16 account.

17 "Annuity contract" means a fixed or variable annuity
18 contract other than a fixed or variable annuity contract issued
19 (1) in connection with an employment-based plan subject to the
20 federal Employee Retirement Income Security Act of 1974 or (2)
21 to fund an employment-based retirement plan, including any
22 deferred compensation plans.

1 "Annuity contract owner" means the owner of an annuity
2 contract.

3 "Beneficiary" or "beneficiaries" means the party or
4 parties entitled or contingently entitled to receive the
5 proceeds from a policy, an annuity contract, or a retained
6 asset account.

7 "Insurer records" means in-force and certain lapsed
8 policies and annuity contract and retained asset account
9 information maintained on the insurer's administrative systems
10 or the administrative systems of any third-party retained by
11 the insurer, as opposed to such information being maintained by
12 a group life insurance customer or some other third-party
13 retained by the group customer. "Insurer records" does not
14 include lapsed policies that have been compared against the
15 Death Master File for 18 months following the lapse date of the
16 applicable policy.

17 "Date of death" means the date on which an insured has
18 died.

19 "Date of death notice" means the date the insurer first has
20 notice of the date of death of an insured. "Date of death
21 notice" includes, but is not limited to, the date the insurer
22 received information of a Death Master File match or any other
23 source or record maintained or located in insurer records.

24 "Death Master File" means the United States Social Security
25 Administration's Death Master File or any other database or
26 service that is at least as comprehensive as the United States

1 Social Security Administration's Death Master File for
2 determining that a person has reportedly died.

3 "Death Master File match" means a search of the Death
4 Master File that results in a match of the Social Security
5 number or the name and date of birth of an insured.

6 "Insured" means an individual identified in a policy,
7 retained asset account, or annuity contract whose death
8 entitles a beneficiary or other person to file a claim for, or
9 otherwise receive proceeds in accordance with, the terms of the
10 policy, retained asset account, or annuity contract.

11 "Policy" means any individual life insurance policy or
12 endowment policy or group life insurance policy or certificate
13 of life insurance for which the insurer performs recordkeeping
14 services and provides a death benefit. "Policy" does not
15 include credit or mortgage life insurance policies or
16 certificates issued thereunder, other group life insurance
17 policies or certificates issued thereunder where the insurer
18 does not perform recordkeeping functions, or any benefits
19 payable under accidental death or health coverages, including,
20 but not limited to, disability and long-term care arising from
21 the reported death of a person insured under such coverage.

22 "Proceeds" means the benefits payable under a policy,
23 annuity contract, or retained asset account of the insurer.

24 "Recordkeeping" means maintaining the information
25 contained in the insurer's records necessary to process a
26 claim, including without limitation, the insured's full name,

1 address, date of birth, telephone number, Social Security
2 number, coverage eligibility, premium payment status, benefit
3 amount, and beneficiary's information, including without
4 limitation, the beneficiary's full name, address, date of
5 birth, telephone number, and Social Security Number.

6 "Retained asset account" means any mechanism whereby the
7 settlement of proceeds payable under a policy or individual
8 annuity contract, including, but not limited to, the payment of
9 cash surrender value, is accomplished by the insurer or an
10 entity acting on behalf of the insurer establishing an account
11 with check or draft-writing privileges, where those proceeds
12 are retained by the insurer, pursuant to a supplementary
13 contract not involving annuity benefits.

14 "Thorough search" means good faith efforts to identify a
15 beneficiary, determine a current address for the beneficiary,
16 and contact the beneficiary. At a minimum, a thorough search
17 shall include (i) at least 2 attempts to contact the
18 beneficiary in writing at the last known address maintained in
19 the insurer records, or, if the proceeds are \$100 or less, at
20 least one attempt to contact the beneficiary in writing at the
21 last known address maintained in the insurer records and (ii)
22 use of a national online search or locator tool to attempt to
23 locate a more updated or accurate mailing address if mail sent
24 to the beneficiary is returned undeliverable. In the event that
25 the beneficiary is unknown or there is no last known address
26 for the beneficiary, the insurer shall use the last known

1 address for the insured maintained in the insurer records in
2 conducting a thorough search. The insurer shall maintain
3 documentation of all of its thorough search efforts.

4 Section 15. Insurer conduct.

5 (a) An insurer shall implement the following policies and
6 procedures for performing a comparison of its policies, annuity
7 contracts, and retained asset accounts against the Death Master
8 File:

9 (1) The insurer shall compare all insureds of its
10 policies, annuity contracts, and retained asset accounts
11 in its insurer records against the complete Death Master
12 File annually, and against any updates to the Death Master
13 File at least quarterly thereafter. The insurer shall have
14 no responsibility for errors, omissions, or delays in
15 information contained in the Death Master File or any
16 update files.

17 (2) If the insurer has only a partial name, Social
18 Security number, date of birth, or a combination thereof in
19 the insurer records for the insured, then the insurer shall
20 use the available information in performing the
21 comparisons against the Death Master File.

22 (3) The insurer shall implement reasonable procedures
23 to account for common variations in data that would
24 otherwise preclude an exact match against the Death Master
25 File.

1 (4) For each Death Master File match, the insurer shall
2 identify any proceeds under the policy, annuity contract,
3 or retained asset account.

4 (5) If the insurer identifies proceeds and the insurer
5 has not been contacted by a beneficiary within 120 days
6 after the date of death, then the insurer shall promptly
7 commence a thorough search, which shall be completed within
8 one year after the date of death notice.

9 (6) In the event that one of the insurer's lines of
10 business conducts a search for matches of its insureds
11 against the Death Master File at intervals more frequently
12 than quarterly, then all lines of the insurer's business
13 shall conduct searches for matches against the Death Master
14 File with the same frequency.

15 (7) In the event that the insurer is able to contact
16 the beneficiary as a result of a thorough search, the
17 insurer shall provide the appropriate claim forms or
18 instructions to the beneficiary to make a claim, including
19 instructions as to the need to provide an official death
20 certificate, if consistent with law and the policy, annuity
21 contract, or retained asset account. The insurer may
22 require satisfactory confirmation of death, including a
23 death certificate, as due proof of death, before proceeds
24 are paid to a beneficiary or a beneficiary's legal
25 representative, if consistent with applicable law and the
26 policy, annuity contract, or retained asset account.

1 (8) If the beneficiary cannot be located by a thorough
2 search, the insurer shall report and remit the proceeds as
3 unclaimed property to the affected jurisdictions in
4 accordance with the unclaimed property laws of the affected
5 jurisdiction. The obligation to conduct a thorough search
6 shall not abrogate the obligation of the insurer to
7 complete any due diligence within the timeframe required by
8 any applicable law.

9 Nothing in this Section shall be construed to supersede the
10 insurer's right to maintain effective procedures and resources
11 to deter and investigate fraudulent insurance acts as required
12 by applicable law.

13 (b) To the extent permitted under applicable law, the
14 insurer may disclose the minimum necessary personal
15 information about an insured or beneficiary to a person whom
16 the insurer reasonably believes may be able to assist the
17 insurer to locate the insured or beneficiary or a person
18 otherwise entitled to payment of the proceeds, provided that
19 the insurer shall not implement policies or practices that will
20 or may diminish the rights of or amounts of proceeds due to
21 beneficiaries under its policies, annuity contracts, or
22 retained asset accounts.

23 (c) An insurer or its service provider shall not charge
24 insureds, annuity contract owners, account holders, or
25 beneficiaries for any fees or costs associated with a search or
26 verification conducted pursuant to this Section.

1 Section 20. Unfair trade practices. Failure to meet any
2 requirement of this Act is an unfair trade practice under
3 Section 424 of the Illinois Insurance Code.

4 Section 25. Rulemaking authority. The Department of
5 Insurance may adopt rules to administer this Act.

6 Section 90. The Illinois Insurance Code is amended by
7 changing Section 424 as follows:

8 (215 ILCS 5/424) (from Ch. 73, par. 1031)

9 Sec. 424. Unfair methods of competition and unfair or
10 deceptive acts or practices defined. The following are hereby
11 defined as unfair methods of competition and unfair and
12 deceptive acts or practices in the business of insurance:

13 (1) The commission by any person of any one or more of the
14 acts defined or prohibited by Sections 134, 143.24c, 147, 148,
15 149, 151, 155.22, 155.22a, 155.42, 236, 237, 364, and 469 of
16 this Code.

17 (2) Entering into any agreement to commit, or by any
18 concerted action committing, any act of boycott, coercion or
19 intimidation resulting in or tending to result in unreasonable
20 restraint of, or monopoly in, the business of insurance.

21 (3) Making or permitting, in the case of insurance of the
22 types enumerated in Classes 1, 2, and 3 of Section 4, any

1 unfair discrimination between individuals or risks of the same
2 class or of essentially the same hazard and expense element
3 because of the race, color, religion, or national origin of
4 such insurance risks or applicants. The application of this
5 Article to the types of insurance enumerated in Class 1 of
6 Section 4 shall in no way limit, reduce, or impair the
7 protections and remedies already provided for by Sections 236
8 and 364 of this Code or any other provision of this Code.

9 (4) Engaging in any of the acts or practices defined in or
10 prohibited by Sections 154.5 through 154.8 of this Code.

11 (5) Making or charging any rate for insurance against
12 losses arising from the use or ownership of a motor vehicle
13 which requires a higher premium of any person by reason of his
14 physical handicap, race, color, religion, or national origin.

15 (6) Failing to meet any requirement of the Unclaimed Life
16 Insurance Benefits Act.

17 (Source: P.A. 97-527, eff. 8-23-11.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.