



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4633

by Rep. Robert F. Martwick

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.

LRB099 18214 JLS 44479 b

1 AN ACT concerning business.

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 this State.

12 Section 10. Definitions. In this Act:

13 "Account holder" means the owner of a retained asset
14 account.

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

21 "Annuity contract owner" means the owner of an annuity
22 contract.

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

5 "Date of death" means the date on which an insured died.

6 "Date of death notice" means the date the insurer first has
7 notice of the date of death of an insured. "Date of death
8 notice" includes, but is not limited to, the date the insurer
9 received information or gained knowledge of a Death Master File
10 match or any other source or record maintained or located in
11 insurer records of the death of an insured.

12 "Death Master File" means the United States Social Security
13 Administration's Death Master File or any other database or
14 service that is at least as comprehensive as the United States
15 Social Security Administration's Death Master File for
16 determining that a person has reportedly died.

17 "Death Master File match" means a search of the Death
18 Master File that results in a match of the social security
19 number or the name and date of birth of an insured.

20 "Insured" means an individual identified in a policy,
21 retained asset account, or annuity contract whose death
22 entitles a beneficiary or other person to file a claim for, or
23 otherwise receive proceeds in accordance with the terms of the
24 policy, retained asset account, or annuity contract.

25 "Insurer records" means information regarding in-force and
26 certain lapsed policies, annuity contracts, and retained asset

1 accounts maintained on the insurer's administrative systems or
2 the administrative systems of any third-party retained by the
3 insurer. "Insurer records" does not include (1) such
4 information maintained by a group life insurance customer or
5 other third-party retained by the group customer or (2) lapsed
6 policies that have been compared against the Death Master File
7 within the 18 months following the lapse date of the applicable
8 policy.

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

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

22 "Recordkeeping" means maintaining the information
23 contained in the insurers records necessary to process a claim
24 including, without limitation, the insured's full name,
25 address, date of birth, telephone number, social security
26 number, coverage eligibility, premium payment status, benefit

1 amount, and beneficiary information including, without
2 limitation, the beneficiary's full name, address, date of
3 birth, telephone number, and social security number.

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

12 "Thorough search" means good faith efforts to identify a
13 beneficiary, determine a current address for the beneficiary,
14 and contact the beneficiary. At a minimum, a thorough search
15 shall include:

16 (1) attempting to identify and obtain contact
17 information for beneficiaries by searching all insurer
18 records, online search and locator tools, and other sources
19 including, without limitation, records of agents or
20 producers appointed by the insurer and associated with the
21 policy, death certificates, or funeral home records;

22 (2) at least 2 attempts to contact the beneficiary in
23 writing at the last known address maintained in the insurer
24 records, or, if the proceeds are \$100 or less, at least one
25 attempt to contact the beneficiary in writing at the last
26 known address maintained in the insurer records;

1 (3) at least 2 attempts to contact the beneficiary by
2 telephone;

3 (4) an attempt to contact the beneficiary by e-mail;

4 (5) use of a national online search or locator tool to
5 attempt to locate a more updated or accurate mailing
6 address if mail sent to the beneficiary is returned
7 undeliverable; and

8 (6) at least 2 attempts to contact the beneficiary in
9 writing at the address found by that search or locator
10 tool.

11 In the event that the beneficiary is unknown or there is no
12 last known address for the beneficiary, the insurer shall use
13 the last known address for the insured maintained in the
14 insurer records in conducting a thorough search. A thorough
15 search shall not include additional attempts to contact the
16 beneficiary at an address already confirmed not to be current.

17 Section 15. Insurer conduct.

18 (a) An insurer shall implement the following policies and
19 procedures for performing a comparison of its policies, annuity
20 contracts, and retained asset accounts against the Death Master
21 File:

22 (1) The insurer shall compare all insureds of its
23 policies, annuity contracts, and retained asset accounts
24 in its insurer records against the complete Death Master
25 File annually, and against any updates to the Death Master

1 File at least quarterly thereafter. The insurer shall have
2 no responsibility for errors, omissions, or delays in
3 information contained in the Death Master File or any
4 update files.

5 (2) If the insurer has only a partial name, social
6 security number, date of birth, or a combination thereof in
7 the insurer records for the insured, then the insurer shall
8 use the available information in performing the
9 comparisons against the Death Master File.

10 (3) The insurer shall implement reasonable procedures
11 to account for common variations in data that would
12 otherwise preclude an exact match against the Death Master
13 File. At a minimum, the insurer shall implement procedures
14 to account for: (i) common nicknames, initials used in lieu
15 of a first or middle name, use of a middle name, compound
16 first and middle names, and interchanged first and middle
17 names; (ii) compound last names, maiden or married names,
18 and hyphens, blank spaces, or apostrophes in last names;
19 (iii) transposition of the month and date portions of the
20 date of birth; and (iv) incomplete social security numbers.

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

24 (5) Within 120 days after the receipt of a date of
25 death notice, if the insurer has not been contacted by a
26 beneficiary, the insurer shall promptly commence a

1 thorough search, which shall be completed within one year
2 after the date of death notice.

3 (6) The insurer shall maintain documentation of all of
4 its thorough search efforts.

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

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

23 (9) In the event the insurer fails to locate a
24 beneficiary following a thorough search, the insurer shall
25 report and remit the proceeds in accordance with the
26 Uniform Disposition of Unclaimed Property Act.

1 (10) The obligation to conduct a thorough search shall
2 not abrogate the obligation of the insurer to complete any
3 due diligence within the timeframe required by any
4 applicable law.

5 Nothing in this Section shall be construed to supersede the
6 insurer's right to maintain effective procedures and resources
7 to deter and investigate fraudulent insurance acts as required
8 by applicable law.

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

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

23 Section 20. Rulemaking authority. The Department of
24 Insurance may adopt rules to administer and implement this Act.

1 Section 25. Application. The requirements imposed by this
2 Act apply to all life insurance policies, annuity contracts,
3 and retained asset accounts in force on the effective date of
4 this Act and to all life insurance policies, annuity contracts,
5 and retained asset accounts created or entered into on and
6 after that date.

7 Section 90. Severability. The provisions of this Act are
8 severable under Section 1.31 of the Statute on Statutes.

9 Section 95. The Illinois Insurance Code is amended by
10 changing Section 424 as follows:

11 (215 ILCS 5/424) (from Ch. 73, par. 1031)

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

16 (1) The commission by any person of any one or more of
17 the acts defined or prohibited by Sections 134, 143.24c,
18 147, 148, 149, 151, 155.22, 155.22a, 155.42, 236, 237, 364,
19 and 469 of this Code.

20 (2) Entering into any agreement to commit, or by any
21 concerted action committing, any act of boycott, coercion
22 or intimidation resulting in or tending to result in
23 unreasonable restraint of, or monopoly in, the business of

1 insurance.

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

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

15 (5) Making or charging any rate for insurance against
16 losses arising from the use or ownership of a motor vehicle
17 which requires a higher premium of any person by reason of
18 his physical disability, race, color, religion, or
19 national origin.

20 (6) Failing to meet any requirement of the Unclaimed
21 Life Insurance Benefits Act with such frequency as to
22 constitute a general business practice.

23 (Source: P.A. 99-143, eff. 7-27-15.)