

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Originating

House Bill 4739

(BY DELEGATES SHOTT, HANSHAW, IRELAND, KESSINGER,

SOBONYA, FOSTER, ZATEZALO, LANE AND ROWE)

[Originating in the Committee on the Judiciary;

February 27, 2016.]

1 A BILL to amend the Code of West Virginia, 1931, as amended by adding thereto two new
2 sections, designated §33-13D-1 and §33-13D-2, relating to the creation of the Unclaimed
3 Life Insurance Benefits Act; providing definitions; regulating insurer conduct; requiring
4 insurers to perform an annual comparison of its insureds' Policies, Retained Asset
5 Accounts and Account Owners against a Death Master File; providing that the annual
6 comparison of insureds' Policies, Retained Asset Accounts and Account Owners against
7 a Death Master File shall not apply to those accounts for which the insurer is receiving
8 premiums from outside the policy value, by check, bank draft, payroll deduction or any
9 other similar method of payment within eighteen months immediately preceding the Death
10 Master File comparison; requiring reasonable steps to be taken to locate and contact
11 beneficiaries or other authorized representatives regarding the insurer's claims process;
12 and authorizing the Insurance Commissioner to promulgate rules that may be reasonably
13 necessary to implement the Unclaimed Life Insurance Benefits Act.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto two
2 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 terms
7 of the annuity contract to pay death benefits to the beneficiaries of specific plan participants.

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

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

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

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

21 (7) "Policy" means any policy or certificate of life insurance issued in this state that
22 provides a death benefit. The "Policy" means any policy or certificate of life insurance issued in
23 this state that provides a death benefit. The term "Policy" shall not include (i) any policy or
24 certificate of life insurance that provides a death benefit under an employee benefit plan (a)
25 subject to The Employee Retirement Income Security Act of 1974 [29 USC 1002], as periodically
26 amended, or (b) under any Federal employee benefit program, or (ii) any policy or certificate of
27 life insurance that is used to fund a preneed funeral contract or prearrangement, or (iii) any policy
28 or certificate of credit life or accidental death insurance, or (iv) any policy issued to a group master
29 policyholder for which the insurer does not provide Record Keeping services.

30 (8) "Record Keeping Services" means those circumstances under which the insurer has
31 agreed with a group Policy or Contract customer to be responsible for obtaining, maintaining and

32 administering in its own or its agents' systems information about each individual insured under an
33 Insured's group insurance contract (or a line of coverage thereunder), at least the following
34 information: (1) Social Security number or name and date of birth, and (2) beneficiary designation
35 information, (3) coverage eligibility, (4) benefit amount, and (5) premium payment status.

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

§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 most
13 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 any

16 other similar method of active premium payment within the eighteen (18) months immediately
17 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 an
21 insurer learns of the possible death of a Person otherwise, then the insurer shall, within ninety
22 (90) days of a Death Master File Match:

23 (1) Complete a good faith effort, which shall be documented by the insurer, to confirm the
24 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 insurer,
31 to locate and contact the beneficiary or beneficiaries or other authorized representative on any
32 such Policy, Annuity Contract or retained asset account, including but not limited to sending the
33 beneficiary information regarding the insurer's claims process, including the need to provide an
34 official death certificate if applicable under the Policy, Annuity Contract or Retained Asset
35 Account.

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