

By: Smithee

H.B. No. 1243

A BILL TO BE ENTITLED

AN ACT

relating to the identification and handling of unclaimed life insurance and annuity contract proceeds.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 1109, Insurance Code, is amended by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. DEATH MASTER FILE SEARCH; IDENTIFICATION OF UNCLAIMED PROCEEDS

Sec. 1109.010. DEFINITIONS. In this subchapter:

(1) "Annuity contract" means an annuity contract issued in this state. The term does not include an annuity used to fund an employment-based retirement plan or program for which the insurer:

(A) does not perform the recordkeeping services;
or

(B) is not committed by the terms of the annuity contract to pay death benefits to the beneficiaries of specific plan participants.

(2) "Death Master File" means:

(A) the United States Social Security Administration's Death Master File; or

(B) any other database or service that is at least as comprehensive as the United States Social Security Administration's Death Master File for determining whether a person

1 is dead.

2 (3) "Death Master File match" means a match of the
3 social security number or the name and date of birth of an insured
4 or retained asset account holder resulting from a search of the
5 Death Master File.

6 (4) "Life insurance policy" means a policy or
7 certificate of life insurance issued in this state that provides a
8 death benefit. The term does not include:

9 (A) a policy or certificate of life insurance
10 that provides a death benefit under an employee benefit plan that
11 is:

12 (i) subject to the Employee Retirement
13 Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.); or

14 (ii) under any federal employee benefit
15 program;

16 (B) a policy or certificate of life insurance
17 that is used to fund a pre-need funeral contract or prearrangement;

18 (C) a policy or certificate of credit life or
19 accidental death insurance; or

20 (D) a policy issued to a group master
21 policyholder for which the insurer does not provide recordkeeping
22 services.

23 (5) "Recordkeeping services" means services provided
24 by an insurer, under an agreement with a group policy or contract
25 holder, to obtain, maintain, and administer in the insurer's or the
26 insurer's agents' systems the following information about each
27 individual insured under the group policy or contract or a line of

coverage under that policy or contract:

(A) the social security number or name and date of birth of the insured;

(B) beneficiary designation information;

(C) coverage eligibility;

(D) benefit amount; and

(E) premium payment status.

(6) "Retained asset account" means a mechanism by which the proceeds payable under a life insurance policy or annuity contract are settled by the insurer or an entity acting on behalf of the insurer by depositing the proceeds into an account with check or draft writing privileges, where those proceeds are retained by the insurer or the insurer's agent, under a supplementary contract not involving annuity contract benefits other than death benefits.

Sec. 1109.011. IDENTIFICATION OF DEATH MASTER FILE MATCHES.

(a) An insurer shall compare its in-force life insurance policies, annuity contracts, and retained asset accounts against a Death Master File at least semiannually to identify potential Death Master File matches. The insurer shall perform the first comparison of a policy, contract, or account against a full Death Master File and thereafter against Death Master File update files to identify potential Death Master File matches.

(b) An insurer shall first conduct the comparison required by Subsection (a) electronically to the extent the insurer's records are available in electronic format, and then using the most easily accessible insurer records for any records that are not available electronically.

1 (c) An insurer shall implement procedures for conducting
2 comparisons under this section to account for:

3 (1) common nicknames, initials used in lieu of a first
4 or middle name, use of a middle name, compound first and middle
5 names, and interchanged first and middle names;

6 (2) compound last names, maiden or married names, and
7 hyphens, blank spaces, or apostrophes in last names;

8 (3) transposition of the month and date portions of
9 the date of birth; and

10 (4) an incomplete social security number.

11 (d) This section does not apply to a life insurance policy
12 or annuity contract for which the insurer has received a premium
13 from outside the policy or cash value by check, bank draft, payroll
14 deduction, or any other similar method of active premium payment in
15 the 18 months immediately preceding the Death Master File
16 comparison.

17 Sec. 1109.012. DUTIES REGARDING DEATH MASTER FILE MATCH.

18 (a) For each Death Master File match, the insurer shall, not later
19 than the 90th day after the date the insurer identifies the match:

20 (1) complete a documented good faith effort to confirm
21 the death of the insured or retained asset account holder against
22 other available records and information;

23 (2) review the insurer's records to determine whether
24 the deceased individual had purchased or was otherwise covered by
25 any of the insurer's other products; and

26 (3) determine whether proceeds may be due in
27 accordance with the applicable policy or contract or terms

1 governing the applicable account.

2 **(b) For group life insurance or a group annuity contract, an**
3 **insurer is required to confirm the possible death of an insured or**
4 **retained asset account holder under this section only if the**
5 **insurer provides recordkeeping services for the group policy or**
6 **group annuity contract.**

7 **(c) If the insurer determines under Subsection (a)(3) that**
8 **proceeds may be due and a beneficiary or other authorized**
9 **representative has not communicated with the insurer on or before**
10 **the 90th day after the date the insurer identifies a Death Master**
11 **File match, the insurer shall:**

12 **(1) complete a documented good faith effort to locate**
13 **and contact each beneficiary or other authorized representative on**
14 **the relevant policy, contract, or account; and**

15 **(2) provide to the beneficiary or authorized**
16 **representative the appropriate claim forms, instructions, or**
17 **information to make a claim, including information about any need**
18 **to provide an official death certificate or show proof of death**
19 **under the applicable policy or contract or terms governing the**
20 **applicable account.**

21 **(d) If an insurer is unable to confirm the death of an**
22 **insured or retained asset account holder after the insurer**
23 **identifies a Death Master File match, the insurer may consider the**
24 **relevant policy, contract, or account to remain in force according**
25 **to its terms.**

26 **(e) To the extent permitted by law, the insurer may disclose**
27 **minimum necessary personal information about the insured, retained**

1 asset account holder, or beneficiary to a person the insurer
2 reasonably believes may be able to assist the insurer in locating a
3 person entitled to payment of the claim proceeds.

4 (f) An insurer or the insured's service provider may not
5 charge an insured, retained asset account holder, beneficiary, or
6 authorized representative any fees or costs associated with
7 conducting a Death Master File comparison under this subchapter or
8 verifying a Death Master File match under this subchapter.

9 Sec. 1109.013. PRESUMPTION OF UNCLAIMED PROCEEDS; REPORT
10 AND DELIVERY OF PROCEEDS. (a) The proceeds of a life insurance
11 policy, annuity contract, or retained asset account, and any
12 accrued contractual interest, are first payable to each designated
13 beneficiary or owner as provided by the applicable policy or
14 contract or terms governing the applicable account.

15 (b) If a Death Master File match is confirmed, the proceeds
16 of the relevant policy, contract, or account are considered
17 unclaimed proceeds for purposes of this chapter on the third
18 anniversary of the date on which, according to the insurer's
19 records, the insurer completed a good faith effort as required by
20 Section 1109.012(c) that failed to locate a beneficiary or
21 authorized representative if the proceeds remain unpaid and no
22 beneficiary or authorized representative has submitted a claim for
23 the proceeds to the insurer before that date.

24 (c) An insurer shall report unclaimed proceeds as required
25 by Section [1109.051](#).

26 (d) An insurer shall deliver unclaimed proceeds to the
27 comptroller as required by Section [1109.052](#).

1 (e) For purposes of this section, unclaimed proceeds do not
2 include any accrued contractual interest.

3 Sec. 1109.014. RULEMAKING AUTHORITY. The commissioner may
4 adopt rules to implement this subchapter.

5 Sec. 1109.015. AUTHORITY TO ISSUE CERTAIN ORDERS. The
6 commissioner may issue an order:

7 (1) limiting the Death Master File comparisons
8 required by this subchapter to only those files the insurer
9 maintains in searchable electronic format or approving a plan and
10 timeline for an insurer to convert the insurer's files to
11 searchable electronic format;

12 (2) exempting an insurer from the Death Master File
13 comparisons required by this subchapter or permitting an insurer to
14 perform the comparisons less frequently than required by this
15 subchapter on a showing of hardship to the insurer; or

16 (3) permitting an insurer to phase in compliance with
17 this subchapter according to a plan and timeline approved by the
18 commissioner.

19 Sec. 1109.016. AUTHORITY TO REQUEST DEATH CERTIFICATE.
20 Nothing in this subchapter limits an insurer's right to request a
21 death certificate as part of a claim validation process.

22 Sec. 1109.017. APPLICATION WITH OTHER LAW; CONFLICTS. This
23 subchapter applies to proceeds in addition to the other provisions
24 of this chapter and the provisions of Chapter 74, Property Code. In
25 the event of a conflict between this subchapter and one of those
26 provisions, this subchapter prevails.

27 SECTION 2. Subchapter A-1, Chapter 1109, Insurance Code, as

1 added by this Act, applies only to an insurance policy or annuity
2 contract delivered, issued for delivery, or renewed on or after
3 January 1, 2018, or a retained asset account established in
4 connection with the insurance policy or annuity contract. An
5 insurance policy or annuity contract delivered, issued for
6 delivery, or renewed before that date, or a retained asset account
7 established in connection with the insurance policy or annuity
8 contract, is governed by the law as it existed immediately before
9 the effective date of this Act, and that law is continued in effect
10 for that purpose.

11 SECTION 3. This Act takes effect September 1, 2017.