

1-1 By: Hancock S.B. No. 561
 1-2 (In the Senate - Filed January 20, 2017; February 8, 2017,
 1-3 read first time and referred to Committee on Business & Commerce;
 1-4 April 6, 2017, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 6, 2017,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

| | Yea | Nay | Absent | PNV |
|--------------------------|-----|-----|--------|-----|
| 1-8 Hancock | X | | | |
| 1-9 Creighton | X | | | |
| 1-10 Campbell | X | | | |
| 1-11 Estes | X | | | |
| 1-12 Nichols | X | | | |
| 1-13 Schwertner | X | | | |
| 1-14 Taylor of Galveston | X | | | |
| 1-15 Whitmire | X | | | |
| 1-16 Zaffirini | X | | | |

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 561 By: Hancock

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the identification and handling of unclaimed life
 1-22 insurance and annuity contract proceeds.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Chapter 1109, Insurance Code, is amended by
 1-25 adding Subchapter A-1 to read as follows:

1-26 SUBCHAPTER A-1. DEATH MASTER FILE SEARCH; IDENTIFICATION OF
 1-27 UNCLAIMED PROCEEDS

1-28 Sec. 1109.010. DEFINITIONS. In this subchapter:

1-29 (1) "Annuity contract" means an annuity contract
 1-30 issued in this state. The term does not include an annuity used to
 1-31 fund an employment-based retirement plan or program for which the
 1-32 insurer:

1-33 (A) does not perform the recordkeeping services;

1-34 or

1-35 (B) is not committed by the terms of the annuity
 1-36 contract to pay death benefits to the beneficiaries of specific
 1-37 plan participants.

1-38 (2) "Death Master File" means:

1-39 (A) the United States Social Security
 1-40 Administration's Death Master File; or

1-41 (B) any other database or service that is at
 1-42 least as comprehensive as the United States Social Security
 1-43 Administration's Death Master File for determining whether a person
 1-44 is dead.

1-45 (3) "Death Master File match" means a match of the
 1-46 social security number or the name and date of birth of an insured
 1-47 or retained asset account holder resulting from a search of the
 1-48 Death Master File.

1-49 (4) "Life insurance policy" means a policy or
 1-50 certificate of life insurance issued in this state that provides a
 1-51 death benefit. The term does not include:

1-52 (A) a policy or certificate of life insurance
 1-53 that provides a death benefit under an employee benefit plan that
 1-54 is:

1-55 (i) subject to the Employee Retirement
 1-56 Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.); or

1-57 (ii) under any federal employee benefit
 1-58 program;

1-59 (B) a policy or certificate of life insurance
 1-60 that is used to fund a pre-need funeral contract or prearrangement;

2-1 (C) a policy or certificate of credit life or
 2-2 accidental death insurance; or
 2-3 (D) a policy issued to a group master
 2-4 policyholder for which the insurer does not provide recordkeeping
 2-5 services.

2-6 (5) "Recordkeeping services" means services provided
 2-7 by an insurer, under an agreement with a group policy or contract
 2-8 holder, to obtain, maintain, and administer in the insurer's or the
 2-9 insurer's agents' systems the following information about each
 2-10 individual insured under the group policy or contract or a line of
 2-11 coverage under that policy or contract:

2-12 (A) the social security number or name and date
 2-13 of birth of the insured;

2-14 (B) beneficiary designation information;

2-15 (C) coverage eligibility;

2-16 (D) benefit amount; and

2-17 (E) premium payment status.

2-18 (6) "Retained asset account" means a mechanism by
 2-19 which the proceeds payable under a life insurance policy or annuity
 2-20 contract are settled by the insurer or an entity acting on behalf of
 2-21 the insurer by depositing the proceeds into an account with check or
 2-22 draft writing privileges, where those proceeds are retained by the
 2-23 insurer or the insurer's agent, under a supplementary contract not
 2-24 involving annuity contract benefits other than death benefits.

2-25 Sec. 1109.011. IDENTIFICATION OF DEATH MASTER FILE MATCHES.

2-26 (a) An insurer shall compare its in-force life insurance policies,
 2-27 annuity contracts, and retained asset accounts against a Death
 2-28 Master File at least semiannually to identify potential Death
 2-29 Master File matches. The insurer shall perform the first
 2-30 comparison of a policy, contract, or account against a full Death
 2-31 Master File and thereafter against Death Master File update files
 2-32 to identify potential Death Master File matches.

2-33 (b) An insurer shall first conduct the comparison required
 2-34 by Subsection (a) electronically to the extent the insurer's
 2-35 records are available in electronic format, and then use the most
 2-36 easily accessible insurer records for any records that are not
 2-37 available electronically.

2-38 (c) Each subsequent comparison made under this section
 2-39 shall include all in-force life insurance policies, annuity
 2-40 contracts, and retained asset accounts and any policies, contracts,
 2-41 or accounts that have lapsed since the previous comparison.

2-42 (d) An insurer shall implement procedures for conducting
 2-43 comparisons under this section to account for:

2-44 (1) common nicknames, initials used in lieu of a first
 2-45 or middle name, use of a middle name, compound first and middle
 2-46 names, and interchanged first and middle names;

2-47 (2) compound last names, maiden or married names, and
 2-48 hyphens, blank spaces, or apostrophes in last names;

2-49 (3) transposition of the month and date portions of
 2-50 the date of birth; and

2-51 (4) an incomplete social security number.

2-52 Sec. 1109.012. DUTIES REGARDING DEATH MASTER FILE MATCH.

2-53 (a) For each Death Master File match, the insurer shall, not later
 2-54 than the 90th day after the date the insurer identifies the match:

2-55 (1) complete a documented good faith effort to confirm
 2-56 the death of the insured or retained asset account holder against
 2-57 other available records and information;

2-58 (2) review the insurer's records to determine whether
 2-59 the deceased individual had purchased or was otherwise covered by
 2-60 any of the insurer's other products; and

2-61 (3) determine whether proceeds may be due in
 2-62 accordance with the applicable policy or contract or terms
 2-63 governing the applicable account.

2-64 (b) For group life insurance or a group annuity contract, an
 2-65 insurer is required to confirm the possible death of an insured or
 2-66 retained asset account holder under this section only if the
 2-67 insurer provides recordkeeping services for the group policy or
 2-68 group annuity contract.

2-69 (c) If the insurer determines under Subsection (a)(3) that

3-1 proceeds may be due and a beneficiary or other authorized
3-2 representative has not communicated with the insurer on or before
3-3 the 90th day after the date the insurer identifies a Death Master
3-4 File match, the insurer shall:

3-5 (1) complete a documented good faith effort to locate
3-6 and contact each beneficiary or other authorized representative on
3-7 the relevant policy, contract, or account; and

3-8 (2) provide to the beneficiary or authorized
3-9 representative the appropriate claim forms, instructions, or
3-10 information to make a claim, including information about any need
3-11 to provide an official death certificate or show proof of death
3-12 under the applicable policy or contract or terms governing the
3-13 applicable account.

3-14 (d) If an insurer is unable to confirm the death of an
3-15 insured or retained asset account holder after the insurer
3-16 identifies a Death Master File match, the insurer may consider the
3-17 relevant policy, contract, or account to remain in force according
3-18 to its terms.

3-19 (e) To the extent permitted by law, the insurer may disclose
3-20 minimum necessary personal information about the insured, retained
3-21 asset account holder, or beneficiary to a person the insurer
3-22 reasonably believes may be able to assist the insurer in locating a
3-23 person entitled to payment of the claim proceeds.

3-24 (f) An insurer or the insurer's service provider may not
3-25 charge an insured, retained asset account holder, beneficiary, or
3-26 authorized representative any fees or costs associated with
3-27 conducting a Death Master File comparison under this subchapter or
3-28 verifying a Death Master File match under this subchapter.

3-29 Sec. 1109.013. PRESUMPTION OF UNCLAIMED PROCEEDS; REPORT
3-30 AND DELIVERY OF PROCEEDS. (a) The proceeds of a life insurance
3-31 policy, annuity contract, or retained asset account, and any
3-32 accrued contractual interest, are first payable to each designated
3-33 beneficiary or owner as provided by the applicable policy or
3-34 contract or terms governing the applicable account.

3-35 (b) If a Death Master File match is confirmed, the proceeds
3-36 of the relevant policy, contract, or account are considered
3-37 unclaimed proceeds for purposes of this chapter on the third
3-38 anniversary of the date on which, according to the insurer's
3-39 records, the insurer completed a good faith effort as required by
3-40 Section 1109.012(c) that failed to locate a beneficiary or
3-41 authorized representative if the proceeds remain unpaid and no
3-42 beneficiary or authorized representative has submitted a claim for
3-43 the proceeds to the insurer before that date.

3-44 (c) An insurer shall report unclaimed proceeds as required
3-45 by Section 1109.051.

3-46 (d) An insurer shall deliver unclaimed proceeds to the
3-47 comptroller as required by Section 1109.052.

3-48 (e) For purposes of this section, unclaimed proceeds do not
3-49 include any statutory interest under Section 1103.104.

3-50 Sec. 1109.014. RULEMAKING AUTHORITY. The commissioner may
3-51 adopt rules to implement this subchapter.

3-52 Sec. 1109.015. AUTHORITY TO ISSUE CERTAIN ORDERS. The
3-53 commissioner may issue an order:

3-54 (1) limiting the Death Master File comparisons
3-55 required by this subchapter to only those files the insurer
3-56 maintains in searchable electronic format or approving a plan and
3-57 timeline for an insurer to convert the insurer's files to
3-58 searchable electronic format;

3-59 (2) exempting an insurer from the Death Master File
3-60 comparisons required by this subchapter or permitting an insurer to
3-61 perform the comparisons less frequently than required by this
3-62 subchapter on a showing of hardship to the insurer; or

3-63 (3) permitting an insurer to phase in compliance with
3-64 this subchapter according to a plan and timeline approved by the
3-65 commissioner.

3-66 Sec. 1109.016. AUTHORITY TO REQUEST DEATH CERTIFICATE.
3-67 Nothing in this subchapter limits an insurer's right to request a
3-68 death certificate as part of a claim validation process.

3-69 SECTION 2. Subchapter A-1, Chapter 1109, Insurance Code, as

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

4-11 SECTION 3. This Act takes effect September 1, 2017.

4-12

* * * * *