ENGROSSED SENATE
BILL NO. 298

By: Quinn of the Senate

and

Mulready of the House

An Act relating to insurance; creating the Unclaimed Life Insurance Benefits Act; providing applicability of act; defining terms; directing insurer to compare certain policies and accounts to a Death Master File; providing requirements of insurer upon learning of death of a person; authorizing certain disclosures; prohibiting certain charges; requiring certain interest to be payable to beneficiaries or escheat to the state under certain circumstances; authorizing the Insurance Commissioner to promulgate certain rules; providing certain penalties for violations; authorizing the insurer to report and remit certain proceeds under certain circumstances; exempting insurer from liability in certain circumstances; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4039 of Title 36, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Unclaimed Life Insurance Benefits Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4039.1 of Title 36, unless there is created a duplication in numbering, reads as follows:

The requirements of the Unclaimed Life Insurance Benefits Act shall be applicable only to life insurance policies, annuity contracts and retained asset accounts issued and delivered in this state and which are issued or entered into on or after January 1, 2016.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4039.2 of Title 36, unless there is created a duplication in numbering, reads as follows:

As used in the Unclaimed Life Insurance Benefits Act:

1. "Account owner" means the owner of a retained asset account who is a resident of this state;

2. "Annuity" means an annuity contract issued in this state. The term "annuity" shall not include any annuity contract used to fund an employment-based retirement plan or program where the insurer takes direction from the plan sponsor and plan administrator;

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

4. "Death Master File match" means a search of the Death Master File that results in a match of a person's name and social security number, or the name and date of birth of an insured;

5. "Insurer" means a domestic or foreign life insurance company writing life insurance as defined at Section 702 of Title 36 of the Oklahoma Statutes;

6. "Knowledge of death" means receipt of an original or valid copy of a certified death certificate or a Death Master File match validated by a secondary source by the insurer;

7. "Person" means the policy owner, insured, annuity owner, annuitant or account owner, as applicable under the policy, annuity or retained asset account subject to this act;

8. "Policy" means any policy or certificate of life insurance issued or delivered in this state on or after January 1, 2016. The term "policy" shall not include:

a. any policy or certificate of life insurance that provides a death benefit under an employee benefit plan subject to the federal Employee Retirement Income Security Act of 1974 or under any federal employee benefit program,

b. any policy or certificate of life insurance that is used to fund a preneed funeral contract or prearrangement,

c. any policy or certificate of credit life or accidental death insurance, or

d. any policy issued to a group master policyholder for which the insurer does not provide recordkeeping services;

9. "Recordkeeping services" means those circumstances under which the insurer has agreed with a group policyholder to be responsible for obtaining, maintaining, and administering, in its own system, information about each individual insured under an insured's group insurance contract (or a line of coverage thereunder), which shall include at least the following information:

a. Social Security number or name and date of birth,

b. beneficiary designation information,

c. coverage eligibility,

d. benefit amount, and

e. premium payment status; and

10. "Retained asset account" means any mechanism whereby the settlement of proceeds payable under a policy or annuity is accomplished by the insurer or an entity acting on behalf of the insurer depositing the proceeds into an account with check or draft writing privileges, where those proceeds are retained by the insurer or its agent, pursuant to a supplementary contract not involving annuity benefits other than death benefits.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4039.3 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. An insurer shall perform a comparison of its in-force policies, annuities, and retained asset accounts issued in this state against a Death Master File, on at least a semiannual basis, to identify potential Death Master File matches.

1. An insurer may comply with the requirements of this section by using the full Death Master File once and thereafter using the Death Master File update files for future comparisons.

2. Nothing in this section shall limit the insurer from requesting a valid death certificate as part of any claims validation process.

B. If an insurer learns of the possible death of a person, through a Death Master File match or otherwise, then the insurer shall, within ninety (90) days:

1. Complete a good-faith effort, which shall be documented by the insurer, to confirm the death of the person against other available records and information;

2. Review its records to determine whether the deceased person had purchased any other products with the insurer;

3. Determine whether benefits may be due in accordance with any applicable policy, annuity or retained asset account;

4. If the beneficiary or other authorized representative has not communicated with the insurer within the ninety-day period, take reasonable steps, which shall be documented by the insurer, to locate and contact the beneficiary or beneficiaries or other

authorized representative on any such policy, annuity or retained asset account, including, but not limited to, sending the beneficiary information regarding the insurer's claims process and the need to provide an official death certificate if applicable under the policy, annuity or retained asset account; and

5. In the event the insurer is unable to confirm the death of a person following a Death Master File match, an insurer may consider such policy, annuity or retained asset account to be in force in accordance with its terms.

C. To the extent permitted by law, an insurer may disclose minimum necessary personal information about a person or beneficiary to a person who the insurer reasonably believes may be able to assist the insurer in locating the beneficiary or a person otherwise entitled to payment of the claims proceeds.

D. An insurer or its service provider shall not charge any beneficiary or other authorized representative any fees or costs associated with a Death Master File search or verification of a Death Master File match conducted pursuant to this section.

E. The benefits from a policy, annuity or retained asset account, plus any applicable accrued contractual interest, shall first be payable to the designated beneficiaries or owners and, in the event said beneficiaries or owners cannot be found, shall escheat to the state as unclaimed property as provided in the Uniform Unclaimed Property Act contained in Sections 651 through 688 of Title 60 of the Oklahoma Statutes. Interest payable under Section 4030.1 of Title 36 of the Oklahoma Statutes shall not be payable as unclaimed property under Section 653 of Title 60 of the Oklahoma Statutes.

F. This act requires the complete and proper disclosure, transparency and accountability relating to any method of payment for life insurance policies, annuities and retained assets regulated by the Insurance Department for those currently in force and those issued and delivered on or after January 1, 2016. This act shall not restrict the state or its agent from assisting the insurer in locating beneficiaries or persons otherwise entitled to payment of claim proceeds for policies issued and delivered before January 1, 2016, as provided in the Uniform Unclaimed Property Act.

G. The Insurance Commissioner may adopt such rules and regulations as may be reasonably necessary to implement the provisions of this section.

H. The Insurance Commissioner may in his or her reasonable discretion, after compliance with the Oklahoma Administrative Procedures Act, make an order:

1. Limiting an insurer's Death Master File comparisons required under subsection A of this section to the insurer's electronic searchable files or approving a plan and timeline for conversion of the insurer's files to electronic searchable files; and

2. Phasing-in compliance with this section according to a plan and timeline approved by the Commissioner.

I. Failure to meet any requirement of this section with such frequency as to constitute a general business practice which forms a pattern is a violation of the Unfair Practices and Frauds Act. Nothing herein shall be construed to create or imply a private cause of action for a violation of this section.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4039.4 of Title 36, unless there is created a duplication in numbering, reads as follows:

In the event that an insurer:

1. Has identified a person as deceased through a Death Master File match through a search described in subsection A of Section 4 of this act or other information source;

2. Has validated such information through a secondary information source; and

3. Is unable to locate a beneficiary located in Oklahoma under the policy, annuity or retained asset account after conducting reasonable search efforts during the period of up to one (1) year after the insurer's validation of the Death Master File match or, if no beneficiary, if the person, as applicable for unclaimed reporting purposes, has a last-known address in this state, then the insurer is authorized to report and remit the proceeds of such policy, annuity or retained asset account due to the State of Oklahoma on an

early reporting basis, without further notice or consent by the State of Oklahoma, after attempting to contact such beneficiary pursuant to subsection B of Section 4 of this act. Once reported and proceeds remitted, the insurer shall be relieved and indemnified from any and all additional liability to any person relating to the proceeds reported and remitted, including, but not limited to, any liability under Section 664 of Title 60 of the Oklahoma Statutes for all proceeds reported and remitted to the State of Oklahoma pursuant to this section. This indemnification from liability shall be in addition to any other protections provided by law.

SECTION 6. This act shall become effective November 1, 2015.

Passed the Senate the 12th day of March, 2015.

____
Presiding Officer of the Senate

Passed the House of Representatives the ____ day of __________, 2015.

____
Presiding Officer of the House of Representatives