

Amendment No. 1 to SB2516

Johnson
Signature of Sponsor

AMEND Senate Bill No. 2516

House Bill No. 2427*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, is amended by adding the following language as a new part 34:

56-7-3401. This part shall be known as the "Unclaimed Life Insurance Benefits Act."

56-7-3402. Nothing in this part shall supersede the Uniform Disposition of Unclaimed Property Act, compiled in title 66, chapter 29, part 1.

56-7-3403.

As used in this part:

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

(2) "Annuity" means any active annuity contract issued in this state other than an annuity used to fund an employment-based retirement plan or program where the insurer is not committed by terms of the annuity contract to pay death benefits to the beneficiaries of specific plan participants or that is used to fund a pre-need funeral contract as defined in § 62-5-403;

(3) "Asymmetric conduct" means an insurer's use of the DMF prior to July 1, 2015, in connection with searching for information regarding whether annuitants under the insurer's annuities might be deceased, but not in connection with whether the insureds under its policies might be deceased;

(4) "Beneficiary" means an individual or other entity entitled to benefits under a policy or annuity;

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(5) "Death master file" or "DMF" means the death master file from the United States social security administration or any other database or service that an insurer may determine is substantially as inclusive as the death master file for determining that a person has reportedly died;

(6) "Death master file match" or "DMF match" means a search of a DMF that results in a match of a person's social security number or name and date of birth;

(7) "Insurer" means any insurance company authorized to transact life insurance business in this state;

(8) "Person" means the policy insured, annuity owner, annuitant, or account owner, as applicable under the policy, annuity, or retained asset account subject to this part;

(9) "Policy" means any policy or certificate of life insurance issued in this state, but does not include any policy or certificate of life insurance that provides a death benefit under:

(A) An employee benefit plan subject to the Employee Retirement Income Security Act of 1974, as periodically amended, compiled at 29 U.S.C. § 1002 et seq.;

(B) Any federal employee benefit program;

(C) Government plans or church plans as defined in the Employee Retirement Income Security Act of 1974, as periodically amended, compiled at 29 U.S.C. § 1002 et seq.;

(D) A policy or certificate of life insurance that is used to fund a pre-need funeral contract as defined in § 62-5-403; or

(E) A policy or certificate of credit life or accident and health insurance.

(10) "Record keeping services" means those circumstances under which the insurer has agreed with a group life insurance policyholder to be responsible for obtaining, maintaining, and administering in its own systems information about each individual insured under the policyholder's group life insurance contract at least the following information:

(A) Individual insured's social security number or name and date of birth;

(B) Beneficiary designation information;

(C) Coverage eligibility;

(D) Benefit amount; and

(E) Premium payment status.

56-7-3404.

(a) To the extent that an insurer's records of its in-force policies, annuities, and account owners are available electronically, an insurer shall perform a comparison of such in-force policies, annuities, and account owners against a death master file, on a semi-annual basis, to identify potential death master file matches. To the extent that an insurer's records of its in-force policies, annuities, and account owners are not available electronically, an insurer shall perform a comparison of such in-force policies, annuities, and account owners against a death master file, on a semi-annual basis, to identify

potential death master file matches, using the records most easily accessible by the insurer.

(1) This section shall not apply to policies or annuities for which the insurer has received premiums from outside the policy value, by check, bank draft, payroll deduction, or any other similar method of active premium payment, within the eighteen (18) months immediately preceding the death master file comparison.

(2) 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.

(3) An insurer that has not engaged in asymmetric conduct prior to July 1, 2015, shall not be required to comply with the requirements of this section with respect to any policies, annuities or retained asset accounts issued or delivered prior to July 1, 2015; provided, however, that an insurer, regardless of whether it has engaged in asymmetric conduct, shall comply with the requirements of this section for all policies, annuities, or retained asset accounts issued after July 1, 2015.

(b) If an insurer learns of the possible death of a person, through a DMF match or otherwise, then the insurer shall within ninety (90) days complete a good faith effort, which shall be documented by the insurer, to:

(1) Confirm the death of such person against other available records and information;

(2) Review its records to determine whether such 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) Locate the beneficiary or beneficiaries; and

(5) Provide the appropriate claims forms or instructions to the beneficiary to make a claim, and notify the beneficiary of the actions necessary to submit a valid claim.

(c) Except as prohibited by law, an insurer may disclose only the minimum necessary identifying personal information about such an insured, annuitant, account owner 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) In the event an insurer is unable to confirm the death of a person following a DMF match, an insurer may determine that no further good faith efforts, as described in subsection (b), are required of it with respect to such policy, annuity or retained asset account.

(e) An insurer or its service provider shall not charge any beneficiary or other person who may be entitled to benefits any fees or costs associated with a DMF search or the verification of a DMF match conducted pursuant to this section.

(f) The benefits from life insurance policies, annuities or retained asset accounts, plus any applicable accrued contractual interest, shall first be payable to the beneficiaries or account owners as provided for in such policies, annuities or retained asset accounts, and in the event said beneficiaries or account owners cannot be found, shall escheat to the state as unclaimed property pursuant to § 66-29-105.

(g) The commissioner may exempt an insurer from the DMF comparisons required under subsection (a) if the insurer demonstrates to the commissioner's satisfaction that compliance would result in hardship to the insurer.

(h) Nothing in this section limits an insurer from requiring a valid death certificate as part of any claims validation process or otherwise requiring compliance with the terms and conditions of the policy or annuity relative to filing and payment of claims.

56-7-3405. A pattern of failures to meet the requirements of this part may constitute an unfair claims settlement practice under chapter 8 of this title. Nothing in this part shall be construed to create or imply a private cause of action for a violation of this part.

56-7-3406.

(a) An insurer is authorized in its discretion, but is not required, to report and remit the proceeds of an unclaimed policy, annuity, or retained asset account to the appropriate state when the insurer, through good faith efforts as evidenced by appropriate documentation, has:

- (1) Identified a person as deceased through a DMF match through a search described in § 56-7-3404, or other information source;
- (2) Validated such information through a secondary information source;
- (3) Conducted reasonable search efforts for the beneficiary within ninety (90) days after the insurer's validation of the DMF match; and
- (4) Determined that no beneficiary can be located within one (1) year of the conclusion of search efforts described in subdivision (a)(3).

(b) By remitting the proceeds of an unclaimed policy, annuity or retained asset account to the state pursuant to this section or pursuant to title 66, chapter 29, part 1, an insurer shall be relieved from all liability to any person relating to such proceeds. This relief from liability shall be in addition to any other protections provided by law.

(c) An insurer shall pay unclaimed proceeds of a policy, annuity or retained asset account no later than the end of the period specified by § 66-29-105; however, an insurer may pay the unclaimed proceeds of a policy, annuity or retained asset account prior to the end of the period specified by § 66-29-105.

SECTION 2. The commissioner of commerce and insurance is authorized to promulgate rules to implement this act, provided such rules shall not impose any duty or requirements not stated in this act. All such rules shall be promulgated in accordance with Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 3. For the purpose of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2015, the public welfare requiring it.