TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL MEMORANDUM

HB 2427 - SB 2516

March 4, 2014

SUMMARY OF ORIGINAL BILL: *Creates the Unclaimed Life Insurance Benefits Act* (act). Requires insurance companies to semiannually compare its in-force policies, annuities, and account owners against a death master file (DMF) in order to identify potential DMF matches. Exempts this requirement from applying 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 18 months immediately preceding the DMF comparison. If an insurer learns of the possible death of a person through a DMF match or otherwise, then the insurer is required, within 90 days, to complete a good faith effort to:

- Confirm the death of such person against other available records and information;
- Review its records to determine whether such deceased person had purchased any other products with the insurer;
- Determine whether benefits may be due in accordance with any applicable policy, annuity, or retained asset account; and
- 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.

An insurer may only disclose the minimum identifying information about an insured, annuitant, account owner, or beneficiary to a person who the insurer believes may be able to assist the insurer in locating the beneficiary of a person otherwise entitle to the payment of the claims proceeds. If an insurer is unable to confirm the death of a DMF match, nothing else is required with respect to such policy, annuity or retained asset account. Insurers are prohibited from charging a fee or any cost to someone to perform a DMF search or the verification of a DMF match.

The benefits and any accrued interest of a life insurance policy, annuity, or retained asset account shall first be payable to the designated beneficiaries or account owners and in the event such beneficiaries cannot be found, shall escheat to the state as unclaimed property. The Commissioner of Commerce and Insurance may exempt an insurer from the DMF comparisons requirements of the act if the insurer demonstrates to the Commissioner's satisfaction that the compliance would result in hardship to the insurer. A pattern of failure by an insurer to meet the requirements of the act may constitute an unfair claims settlement practice.

Authorizes an insurer to report and remit the proceeds of an unclaimed policy, annuity, or retained asset account to the appropriate state when the insurer has:

- Identified a person as deceased through a DMF search or other information search;
- Validated such information through a secondary information search;
- Conducted reasonable search efforts for the beneficiary within 90 days after the insurer's validation of the DMF match; and
- Determined that no beneficiary can be located within one year of the conclusion of such search efforts.

Upon remitting any such funds to the appropriate state, the insurer is removed from all liability to any person relating to such proceeds. This act shall take effect July 1, 2015.

CORRECTED FISCAL IMPACT OF ORIGINAL BILL:

> Other Fiscal Impact – Under current law, the Department of Treasury anticipates the state would receive a one-time increase in revenue of at least $41,000,000, beginning in FY15-16, and extending over an indefinite period of time. As a result of this bill, such funds would not be collected.

CORRECTED IMPACT TO COMMERCE OF ORIGINAL BILL:

> Other Impact - Small insurance providers may experience an increase in business expenditures in order to gain the ability to run DMF searches. Due to a number of unknown factors, such increase cannot be reasonably determined.

SUMMARY OF AMENDMENT (013467): Deletes all language after the enacting clause and rewrites the bill. Specifies that an insurer that has not engaged in asymmetric conduct shall not be required to comply with the requirements of this section with respect to policies, annuities or retained asset accounts issued or delivered prior to July 1, 2015. Defines "asymmetric conduct," which 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 insured individuals under its policies might be deceased.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

> **Unchanged from the corrected fiscal note.**

Assumptions for the bill as amended:

- According to the Department of Treasury, this requirement to match policies and annuities with the death match file only applies to policies and annuities issued in this state after July 1, 2015 and does not apply to a policy that provides a death benefit under the following:
  - The Employee Retirement Income Security Act of 1974 (ERISA);
  - Any federal employee benefit program;
  - Government plan;
  - Church plan;
  - A policy used to fund a pre-need funeral contract;
  - A policy or certificate of credit life insurance;
  - A policy or certificate of accident insurances, or
  - A policy or certificate of health insurance;
- If, after a year, a life insurance company cannot find a beneficiary of a deceased policy holder, such company will not be required to remit such proceeds and applicable interest to the Unclaimed Property Division.
- According to Treasury, since 2011, life insurance companies have voluntarily submitted such proceeds to the Division.
- Upon receiving the proceeds, the Division will then try an locate anyone who will be entitle to the property
- Treasury estimates that it will no longer receive the proceeds and interest from policies and annuities issued prior to July 1, 2015.
- In addition, interest on industrial policies will no longer be submitted to the Division.
- From 2011 through 2013, the Division has collected approximately $40.9 million from audits of 10 insurance companies where the policy owners were deceased.
- The Division currently has 37 insurance companies under audit.
- Based on an estimate of the total number of policies written in Tennessee and the percentage of policies that have been reported to the Division, the Division estimates there is an additional $64 million dollars of unclaimed property in the form of proceeds from policies and annuities where the policy owners are deceased.
- According to the Division, $41 million of the $64 million are from the 37 companies that the Division is currently auditing.
- Exempting those insurers which have not engaged in asymmetric conduct may result in an increase in the amount of foregone revenue experience by the Division.
- There will be an increase in foregone revenue to the Division, beginning in FY15-16, to exceed $41 million.
- According to the Department of Commerce and Insurance, the department will be responsible for the enforcement of the bill. Any increase in expenditures incurred for the administration and enforcement of the bill will be minimal and can be accommodated within existing resources.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

Unchanged from the corrected fiscal note.

Assumptions for the bill as amended:

- 37 Insurance companies will no longer submit proceeds and interest from policies and annuities, issued prior to July 1, 2015, in which the beneficiary is deceased.
- According to the Division of Unclaimed Property, this amount would exceed $41,000,000.
- It is unknown how the 37 insurance companies will use this $41,000,000; however, it is estimated that principal and interest on such proceeds will exceed $41,000,000.
- Most large, national insurance providers already provide DMF searches.
- Many small insurance providers will likely experience an increase in operational expenses in gaining the ability to run a DMF search. Due to a number of unknown factors, this amount cannot be reasonably estimated.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Lucian D. Geise, Executive Director

/jdb