

AN ACT relating to unclaimed benefits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 304.15-420 is amended to read as follows:

- (1) The General Assembly declares the purpose of this section shall be to require recognition of the escheat statute, as found in KRS 393.062, and to require complete and proper disclosure, transparency, and accountability relating to any method of payment for annuity, retained asset, or life insurance death benefits regulated by the Department of Insurance.
- (2) As used in this section:
 - (a) "Contract" means an annuity contract. The term "contract" shall not include 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;
 - (b) "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;
 - (c) "Death Master File match" means a search of the Death Master File that results in a match of the Social Security number or the name and date of birth of an insured, annuitant, or retained asset account holder; and
 - (d) "Policy" means any policy or certificate of life insurance that provides a death benefit. The term "policy" shall not include:
 1. 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 defined by 29 U.S.C. sec. 1002(3);

- b. A governmental plan as defined by 29 U.S.C. sec. 1002(32);
 - c. A church plan as defined by 29 U.S.C. sec. 1002(33); or
 - d. Any federal employee benefit program;
2. Any policy or certificate of life insurance that is used to fund a preneed funeral contract or prearrangement as defined in KRS 304.12-240(1)(a);
or
 3. Any policies or certificates of insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction, or any group policy issued to a creditor to insure the lives of the creditor's debtors and any certificates issued under such policies.

All other terms used in this section shall be interpreted in a manner consistent with the definitions used in KRS Chapter 304.

- (3) (a) An insurer shall perform a comparison of its insureds' in-force life insurance policies, contracts, and retained asset accounts against a Death Master File, on at least a semiannual basis, to identify potential matches of its insureds. An insurer may comply with the requirements of this section by using the entire Death Master File once, and for all comparisons thereafter, an insurer may utilize the Death Master File updates.
- (b) For those potential matches identified as a result of a Death Master File match, the insurer shall within ninety (90) days of a Death Master File match:
 1. Complete a good-faith effort, which shall be documented by the insurer, to confirm the death of the insured, annuitant, or retained asset account holder against other available records and information; and
 2. Determine whether benefits are due in accordance with the applicable policy or contract and, if benefits are due in accordance with the applicable policy or contract:
 - a. Use good-faith efforts, which shall be documented by the insurer,

- to locate the beneficiary or beneficiaries; and
- b. Provide the appropriate claims forms or instructions to each beneficiary to make a claim, including the need to provide an official death certificate if applicable under the policy, contract, or retained asset account.
 - (c) With respect to group life insurance, insurers are required only to confirm the possible death of an insured when the insurers provide full recordkeeping services to the group policy holder.
 - (d) To the extent permitted by law, the insurer may disclose minimum necessary personal information about the insured or beneficiary to a person who the insurer reasonably believes may be able to assist the insurer locate the beneficiary or a person otherwise entitled to payment of the claims proceeds.
- (4) An insurer shall not charge insureds, account holders, or beneficiaries for any fees or costs associated with a search or verification conducted pursuant to this section.
 - (5) The benefits from a life insurance policy, contract, or a retained asset account, plus any applicable accrued interest, shall first be payable to the designated beneficiaries or owners and, in the event those beneficiaries or owners cannot be found, shall escheat to the state as unclaimed property pursuant to KRS 393.062.
 - (6) An insurer shall notify the State Treasurer upon the expiration of the statutory time period for escheat that:
 - (a) A life insurance policy or contract beneficiary or retained asset account holder has not submitted a claim with the insurer; and
 - (b) The insurer has complied with subsection (3) of this section and has been unable, after good-faith efforts documented by the insurer, to contact the retained asset account holder or any beneficiary.
 - (7) Upon such notice, an insurer shall submit, on its next unclaimed property report due to the State Treasurer, the unclaimed life insurance benefits or unclaimed retained

asset accounts, plus any applicable accrued interest, to the State Treasurer.

- (8) Failure to meet any requirement of this section with such frequency as to constitute a general business practice shall constitute a violation of Subtitle 12 of KRS Chapter 304.
- (9) Nothing in this section shall be construed to create or imply a private cause of action for a violation of this section. An insurer that is making a good-faith effort to comply with this section shall not be subject to any fees, fines, penalties, or interest for failure to perform a comparison of its in-force life insurance policies, contracts, and retained asset accounts prior to July 15, 2014.
- (10) The commissioner shall have exclusive authority and jurisdiction in his or her reasonable discretion based upon a demonstration of hardship to the insurer to issue an order allowing an insurer to phase in compliance with this section for a time period not to exceed one (1) year, according to a plan and timeline approved by the commissioner.
- (11) **This section shall only apply to life insurance policies, annuity contracts, and retained asset accounts which are issued and delivered in this state and which are issued or entered into on or after January 1, 2013.**
- (12)** This section shall be known as the Unclaimed Life Insurance Benefits Act.