

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
90th General Assembly  
Regular Session, 2015

*As Engrossed: S3/18/15*  
**A Bill**

SENATE BILL 768

By: Senator Rapert  
*By: Representative Collins*

### **For An Act To Be Entitled**

AN ACT TO REGULATE THE PAYMENT OF LIFE INSURANCE  
DEATH BENEFITS; TO ESTABLISH THE UNCLAIMED LIFE  
INSURANCE BENEFITS ACT; AND FOR OTHER PURPOSES.

### **Subtitle**

TO ESTABLISH THE UNCLAIMED LIFE INSURANCE  
BENEFITS ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 23, Chapter 81, is amended to add an additional subchapter to read as follows:

#### Subchapter 9 – Unclaimed Life Insurance Benefits Act

##### 23-81-901. Title.

This subchapter shall be known and may be cited as the “Unclaimed Life Insurance Benefits Act”.

##### 23-81-902. Legislative intent.

The General Assembly intends for this subchapter to:

(1) Recognize the escheat or unclaimed property statutes under the Unclaimed Property Act, § 18-28-201 et seq.; and

(2) Require the complete and proper disclosure, transparency, and accountability for any method of payment of death benefits under a life insurance policy that is subject to regulation by the State Insurance



Department.

23-81-903. Definitions.

As used in this subchapter:

(1)(A) "Contract" means an annuity contract.

(B) "Contract" does not include an annuity contract used to fund an employment-based retirement plan or program in which an insurer:

(i) Does not perform recordkeeping services; or

(ii) Is not required to pay death benefits to the beneficiaries of a specific plan participant by terms of the annuity contract;

(2) "Death master file" means a comprehensive database or source of death information used to verify the death of an individual maintained by the Division of Vital Records of the Department of Health, the United States Social Security Administration, or other database or service;

(3) "Death master file match" means locating a Social Security number or the name and date of birth of an insured, annuity owner, or retained asset account holder in a search of a death master file;

(4) "Knowledge of death" means:

(A) Receipt of an original or valid copy of a death certificate issued by the state or a political subdivision of the state; or

(B) A death master file match validated by an insurer under § 23-81-904(c)(1)(A);

(5)(A) "Policy" means a policy or certificate of life insurance issued in this state that provides a death benefit.

(B) "Policy" does not include:

(i) A policy or certificate of life insurance that provides a death benefit under:

(a) A defined employee benefit pension plan, as defined in Section 3(35) of the Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406; or

(b) Any federal employee benefit program;

(ii) A policy or certificate of life insurance that is used to fund a preneed funeral contract or prearrangement;

(iii) A policy or certificate of credit life or accidental death insurance; or

(iv) A policy issued to a group master policyholder for which the insurer does not provide recordkeeping services;

(6) "Recordkeeping services" means services under a group policy or contract between an insurer and a group policy or contract customer to obtain, maintain, and administer on behalf of the insured a list of the individuals who are insured under a group insurance contract or a line of coverage including an individual's:

(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

(7) "Retained asset account" means a mechanism to deposit the settlement of proceeds payable under a policy or contract into a deposit account where the proceeds are retained by the insurer or its agent under a supplementary contract that only involves death benefits.

23-81-904. Insurer conduct.

(a) An insurer shall make a good faith effort to determine the death of an insured upon receipt of knowledge of death.

(b)(1) An insurer shall compare an in-force policy, contract, and retained asset account against a death master file to identify a potential match to an insured covered under the policy, contract, and retained asset account by using the full version of the death master file.

(2) An insurer shall perform the comparison under subdivision (b)(1) of this section semiannually by using the death master file update.

(c)(1) For a potential match that is identified as a result of a death master file match, the insurer shall within ninety (90) days of a death master file match:

(A) Make and document a good faith effort to confirm the death of the insured or retained asset account holder against other available records and information;

(B) Determine if death benefits are due under an applicable policy or contract; and

(C) If death benefits are due under the applicable policy or contract:

(i) Make a good faith effort to document and locate any beneficiary or beneficiaries; and

(ii) Provide the beneficiary or beneficiaries the necessary claim form or instructions to make a claim under the policy or contract including submitting a death certificate issued by the state or any political subdivision of the state if required under the policy or contract.

(2) If an insurer is unable to confirm the death of an individual under subdivision (c)(1) of this section, the policy, annuity, or retained asset account may be considered by an insurer to be in force according to the terms of the policy, annuity, or retained asset account.

(3) An insurer is required to confirm a possible death of an insured under a group life insurance if the insurer maintains for an individual covered under a policy or certificate an insured's:

(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.

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

(d) An insurer shall not charge a beneficiary or the beneficiary's authorized representative a fee or charge any costs associated with a death master file search or verification of a death master file match performed under this section.

(e)(1) A benefit or any accrued contractual interest under a policy, contract, or a retained asset account is payable to the designated beneficiary or owner.

(2) If a beneficiary or owner cannot be found, the benefit or any accrued contractual interest shall escheat to the state as unclaimed property under the Unclaimed Property Act, § 18-28-201 et seq.

(3) Interest payable under § 23-81-118 shall not be payable as unclaimed property under the Unclaimed Property Act, § 18-28-201 et seq.

(f) An insurer shall notify the Auditor of State upon the expiration

of the statutory time period for escheat that:

(1) A beneficiary under a life insurance policy, contract, or retained asset account holder has not submitted a claim with the insurer; and

(2) The insurer has complied with subsection (b) of this section and has documented its good faith effort to locate and notify a beneficiary or retained asset account holder but has been unsuccessful.

(g) Upon delivery of a notice under subsection (f) of this section, an insurer shall submit immediately any unclaimed benefits under a policy, contract, or retained asset account, plus any applicable interest, to the Auditor of State.

23-81-905. Unfair trade practices.

(a) If an insurer fails to comply with this subchapter so frequently as to be a general business practice, then it is a violation of this subchapter and may be subject to the Trade Practices Act, § 23-66-201 et seq.

(b) A violation of this subchapter does not create a private right of action.

SECTION 2. DO NOT CODIFY. Effective Date. Section 1 of this act is applicable to policies issued after June 30, 2016.

*/s/Rapert*